

WHAT TO CONSIDER AS THE ECONOMY REOPENS

May 14, 2020



MDI DC
Credit Union Association

Engage • Influence • Impact

AGENDA

- Introduction
- Carlos Molina – Risk Manager, CUNA Mutual Group
- Rich Rademacher – Services Manager, Morgan Keller
- John Bredehoft – Kaufman and Canoles, LLC
- Laurie Maddalena – Chief Leadership Consultant, Envision Excellence, LLC

SUPPORT & SOLUTIONS: PANDEMIC GUIDANCE FOR CREDIT UNIONS

MODERATOR:

- **John Bratsakis**
President / CEO
MD|DC Credit Union Association



DISCLAIMER

Credit unions should regularly consult with legal counsel, CDC, OSHA, as well as state and local health departments for the most up-to-date information as guidance continues to evolve.

REOPENING PLANS



State and local governments have different plans for reopening their economies, but **all take a phased-in approach** based on federal guidance.

FEDERAL THREE-PHASE APPROACH



Maximum Social Distancing



No Rebound or Relapse



Return to Public

PHASE ONE REOPENING

As of May 13, 2020



Maryland - May 15

Virginia - May 15, Northern VA May 29

The District - June 8

Delaware - June 1

GUIDANCE FOR OPERATING SAFELY

Credit Unions: Guidance for Operating Safely as the Economy Reopens



As state and local governments begin to ease COVID-19 restrictions and the economy gradually reopens, credit unions need to remain responsive to government requirements while also meeting operational and organizational challenges. The MD|DC Credit Union Association has developed guidance based on recommendations from the Centers for Disease Control and Prevention (CDC), Occupational Safety and Health Administration (OSHA) and other government resources. This document identifies best practices credit unions should consider to protect employees, members and visitors. With a rapidly evolving situation, credit unions should regularly consult with legal counsel, the CDC's website, OSHA's website and state and local health departments to ensure they have the most up-to-date information and guidance.

General Guidance

OSHA recommends, as general guidance, that all employers take the following actions to reduce employees' risk of exposure to COVID-19

- Develop or Update an Infectious Disease Plan:** Such plans should, among other things, consider employees' potential exposure risks, prepare for increased rates of absenteeism, and develop plans for staggered work shifts and other exposure-reducing measures.
- Implement Basic Infection Prevention Measures:** Promote handwashing and use of hand sanitizer (at least 60% alcohol), practice social distancing away from co-workers and members of the public, encourage sick workers to stay home, and maintain routine cleaning and disinfecting practices.
- Develop Policies for Isolating Sick People:** Employees must be informed how to appropriately report symptoms of COVID-19, and human resources personnel should be prepared to isolate and remove sick employees from the workplace.

Credit Unions: Guidance for Operating Safely as the Economy Reopens



Download the pdf at mddccua.org

May 13, 2020

FACILITIES CONSIDERATIONS AS STATES REOPEN



- **Carlos Molina – CUNA Mutual Group**
 - **Senior Consultant – Risk and Compliance Solutions**

A photograph of two men in a professional office environment. One man, wearing a blue shirt and tie, is seated at a desk looking down at a laptop. The other man, wearing a light blue shirt and glasses, is seated next to him, looking down at a notepad. They appear to be engaged in a collaborative discussion or review. The background shows large windows and office furniture.

Risk & Compliance Solutions Webinar:

Employee Safety & Reopening the Branch



A much different threat profile now



COVID-19 has led to a quicker adoption & plans to embrace:

- Digital technology
- Remote work arrangements & flexibility
- Branch re-configuration

However, it's more good old-fashioned response to behavior.

This crisis highlights how important digital capabilities and product access are, and how important speed and seamless integration are.

Branch locations definitely still play important roles from an advice and complex transaction perspective.

 **Carlos Molina**
Senior Risk Consultant
CUNA Mutual Group



Return-to-Work exposures



Negligent supervision / management centering on safety

Exposure to virus

Refuse to return to work for health or safety reasons

Wrongful termination related to whistleblowing and safety conditions

Discrimination claims relating to hiring or re-hiring; and disability accommodations

Written administrative policy controls as well as other mandated practices are critical

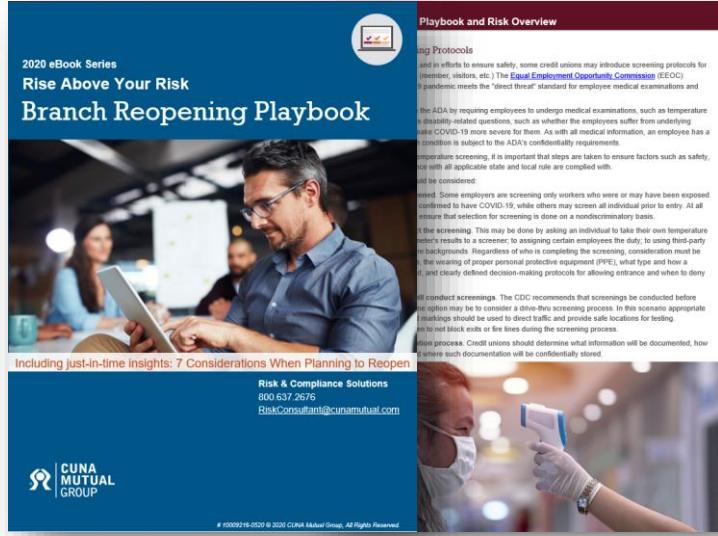
Comply with federal, state & local government orders

- Monitor the lifting of government Shelter-in-Place Orders to determine appropriate time frames, and phases for returning to work
- Efforts should be made to review and comply with CDC and OSHA guidelines on safe practices in the workplace
- Each state and regional reopening pact will be unique and specific conditions and limitations may pertain to credit unions within their borders
- Carefully review state- and locality-specific orders.
- Consult with legal counsel when questions arise



Engage your employees

- Contact staff that are planned to return. Interview / survey to understand issues or concerns prior to returning
- Manage fears as both employees and members consider the ramifications of returning to a branch
- Set expectations that you'll be sharing facts, not opinions related to COVID-19
- Provide assurances that you are reviewing your state(s) data and will implement necessary changes accordingly
- Consider the various employee legal entitlements



Branch Reopening Playbook and Risk Overview

located in the COVID-19 resource page at cunamutual.com

Hierarchy of Controls



Engineering



Administrative



Personal Protective Equipment

Prepping the branch, staff and members



Space Configuration

- Space configuration to allow for 6' separation
- Transition employees back with continued remote work
- Acrylic partitions that allow for visibility & conversation while providing separation
- Consider lobby, drive-through, and back office operations
- Meetings & meeting rooms



Office Hygiene

- Door handles – cleaning / adhesive push pads
- Surface mats for high-touch areas
- Touchscreen overlays – tablets, printers, ATMs, monitors
- Cannister wrap for drive-up pneumatic carriers
- Sanitation stations with wipes and/or hand sanitizer



Health-conscious messaging

- Use of masks, face covers, sanitizing
- Serving members with masks, face covers, etc.
- Social distancing floor markers
- Behavior reminders
- Privacy issues

Pay special attention to providing service to members, community groups, and employees

- Children's areas
- Community rooms / meeting space
- Onsite daycare
- Fitness facilities / workout classes



If you must open access, it is important to emphasize:

- Safe spacing
- Limiting number of individuals
- Use of masks and sanitation stations
- Enhanced cleaning schedules



**Multi-Uses at
Credit Union offices**



Can we request that members / non-members
remove masks for identification purposes?

Face coverings increase robbery risk

Credit unions should not prohibit the wearing of face masks.

Encourage members to use online banking, ATMs, ITMs and drive-throughs if entry into the office is not a necessity.



Some Considerations:

Have sign saying we regret any inconvenience caused, but it is credit union policy to request brief removal of anything blocking the face for safety purposes

Have members wait outside in the vestibule to be identified by staff before being let in or have a greeter at the door identifying members before proceeding

Allow members into the lobby by appointment only.
Request a driver's license or photo ID to confirm individual.

Adhere to Local, State, and Federal laws regulating the wearing of masks.



Do we require all employees to wear a mask at all times, or only if they are dealing with members?



Can we survey members about health/symptoms or perform a temperature check before setting appointments?



What suggestions do you have for deep cleaning for CUs contemplating office re-entry and re-opening?

- CUNA Mutual Group has negotiated a discounted rate with SERVPRO for COVID-19 cleaning for policyholders
- Professionals are trained to perform a proactive cleanup that involves facility or structure cleaning and disinfection
- Cleanup procedures generally include cleaning of porous and non-porous surfaces, disinfecting of non-porous surfaces, cleaning and disinfecting of equipment, tools, and/or supplies used for cleanup process, and disposal of waste

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Q & A



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Select you're a credit union,
then choose option 4



riskconsultant@cunamutual.com



[Ask a Risk Manager](#) interactive form



CUNA MUTUAL GROUP

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FACILITIES CONSIDERATIONS AS STATES REOPEN



- **Rich Rademacher -
Morgan Keller**

INTRODUCTION

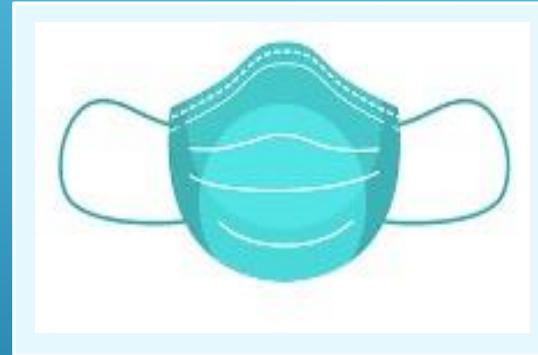
Rich Rademacher, Sr Business Development Associate



HEALTH AND SAFETY MITIGATION PRACTICES

Signage

- Wearing of Masks
- Social Distancing
- Number of members in branch at one time
ie. staggering



HEALTH AND SAFETY MITIGATION PRACTICES

Waiting Areas

- Temporary removal or reconfiguration of furniture in waiting areas?
 - Removal to mitigate additional surfaces that can spread viruses or reconfiguration to help maintain social distancing guidelines



HEALTH AND SAFETY MITIGATION PRACTICES

Floor Decal Delineators

- Help identify traffic flow
- Help identify social distancing guidelines
- Can be done with made to order decals, or be creative with what works for you and your budget



HEALTH AND SAFETY MITIGATION PRACTICES

What we are seeing being implemented now in the marketplace and where businesses are moving to in future:

- Cough Barriers- Lexan or glass barriers between members and MSR's. These can be permanent or temporary
- Handsfree restroom fixtures for toilets/urinals, faucets, soap dispensers and paper towel dispensers
- Hands free door openers, foot pedals
- Disposable equipment covers



CONCLUSION

- Highly recommend having a safety plan in place in the event of Covid-19 exposure to your team and members
- Follow all State and Local Guidelines. There is a lot of information and safety plans out there that can be utilized
- Make sure branch team(s), your members, and vendors are aware of safety prevention and mitigation practices you have set forth to ensure they are followed

LEGAL UPDATE – AS WE REOPEN



- **John Bredehoft – Attorney**
Kaufman & Canoles, P.C.

As we re-open:



Two major themes:

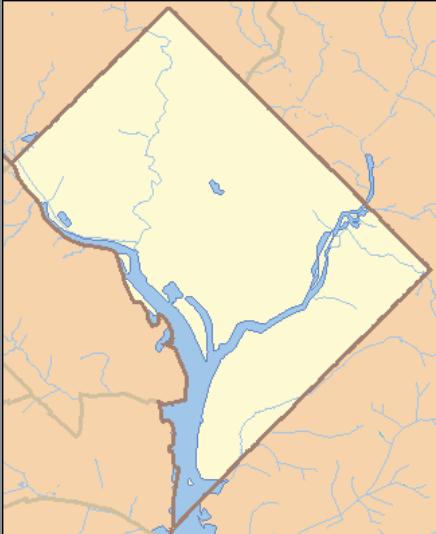
- Minimize legal liability/risks
- Maximize justified member and employee confidence
- They require the same things

But first: where are we?



- Stay-at-Home order to be lifted Friday, **May 15**
- “Safer at Home” public advisory to remain
- Phase I – retail (small shops at half-capacity, salons by appointment only, outdoor or 50% capacity worship)
- PGC and Montgomery keep restrictions

DC



Six feet social distancing still
required by law

- Stay-at-Home order extended through at least **June 8**
- Essential businesses must provide masks for workers not alone, and bar customers not wearing masks / **SIGN REQUIRED**
- Must wear face coverings during essential travel and on public transportation

DE



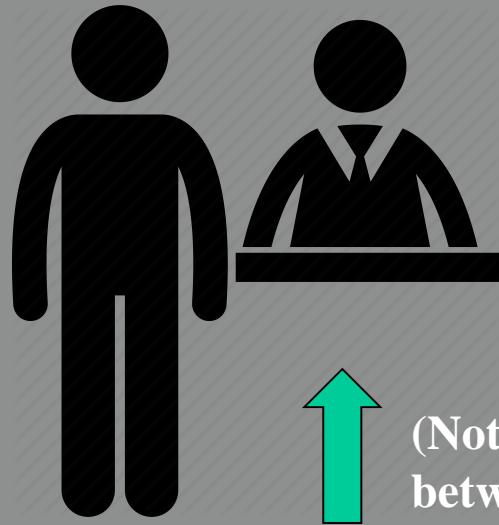
- Phased re-opening
- Phase I anticipated to start **June 1**
- Still some hot spots in the state
- Beaches not likely to be among first to reopen
- As with DC, hundreds of new contact tracers

VA



- Phased re-opening beginning Friday, **May 15**
- Open for outdoor dining at restaurants, shopping at nonessential businesses (social distancing required)
- Northern Virginia closed until at least **May 29**

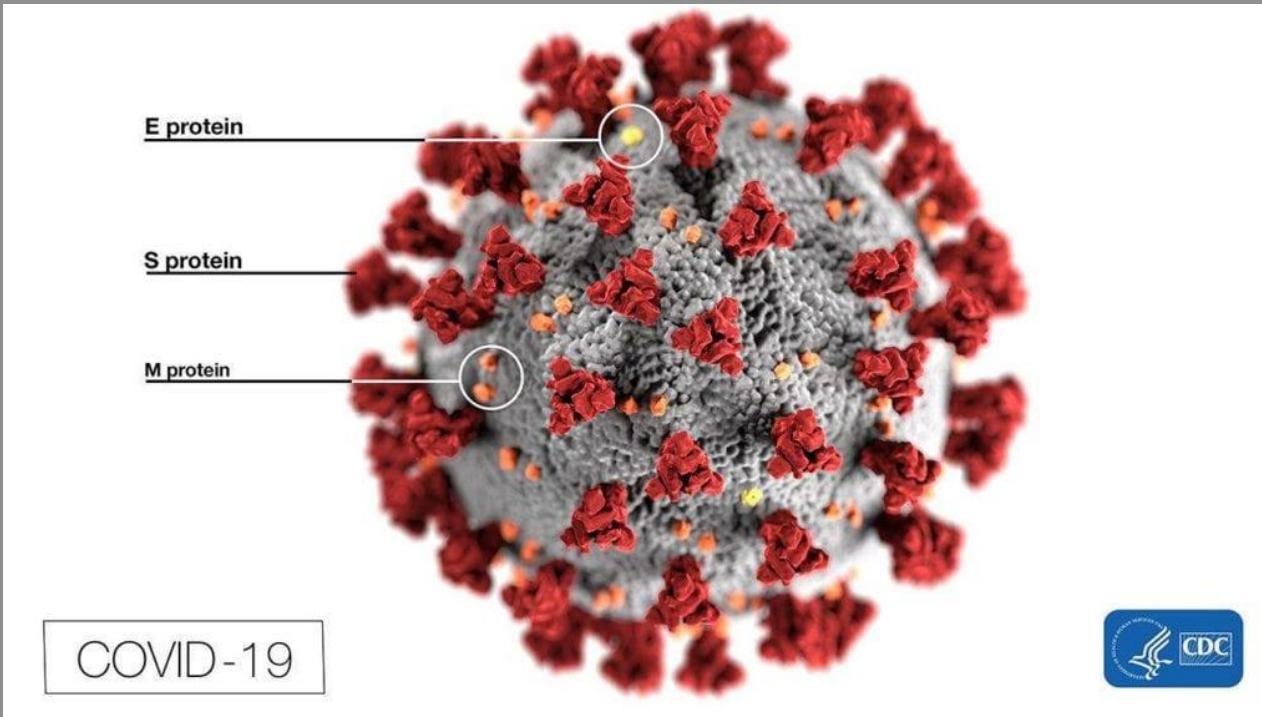
But credit unions have been “open” throughout the crisis.



Our challenge is meeting the changing expectations of our members and employees, as governments ease the legal restrictions elsewhere in the economy

(Note completely invisible force field between member and customer representative)

Know the Enemy!



Good morning employees!

- **OVID-19 Screening Protocol: Survey for employee self-administration (Virginia Department of Health)**
“YES or NO, since your last day of work, or since your last visit to this facility, have you had any of the following:”
 - A new fever (100.4°F or higher) or a sense of having a fever?
 - A new cough that you cannot attribute to another health condition?
 - New shortness of breath that you cannot attribute to another health condition?
 - New chills that you cannot attribute to another health condition?
 - A new sore throat that you cannot attribute to another health condition?
 - New muscle aches (myalgia) that you cannot attribute to another health condition.

And evolving symptomology:

- CDC Guidance now includes the following symptoms of COVID-19:
 - New, otherwise-unexplained loss of taste or smell
 - LESS COMMON are gastrointestinal symptoms such as nausea, vomiting, diarrhea
 - MOST cases (80%) have only mild symptoms

So, things to think about:

1. Basic employee (and member) issues regarding screening, protection, safety
2. Addressing employee issues regarding leave and accommodation requests
3. Addressing employee issues regarding reluctance to return to work

And overarching principles: (You all know this stuff)

- Absolutely non-discriminatory application of rules, guidelines, discretion
- In this economy, some discretion is needed to ensure continuing operations – be fair and PERCEIVED fair.
- Many protected categories – HR knows them all (Race, sex, color, religion, national origin, age, disability, perceived disability, genetic information, sexual orientation, gender identity, personal appearance (including hairstyles), matriculation, etc.). Cannot just tell over-60-years-old to stayhome

1. Protection and Screening

- Executive Orders require some PPE
- CDC recommendations
- OSHA (and state cognates)
 - Personal Protective Equipment standards
 - General Duty Clause

CDC Recommendations:

- Person-to-person spread easy; other means of transmission not so much (cf. WHO)
- Hazard assessment
- Cleaning workplace
- Social distancing
- Daily health checks
- Face coverings “if appropriate”

(As of May 6, 2020)

CDC recommendations, cont'd

- Sick employees should stay home
- No need to close whole facility (7 days or more since use? No need for special cleaning)

OSHA Guidance:

- Low, Medium, High, Very High Risk Groups
- LOW (retail) – additional PPE “not recommended”
 - Non-public administrative and office tasks away from other workers
 - Working in non-public areas
 - Working when facility is closed

OSHA, cont'd

- MEDIUM (retail)
 - High-volume retail environments, POS positions
 - Sneeze guards where feasible
 - “Consider offering face masks to ill employees and customers to contain respiratory secretions until they are able [to] leave the workplace.”
 - DO MORE: face masks for employees; require masks for members when within six feet (the “Masked Man” problem)

OSHA, cont'd

- General Duty Clause (3990 – 3/2020)
 - N95 respirators for those known to be working within six feet of patients with COVID-19
- PPE Regulations 29 CFR 1910.132
 - Not at all written with this in mind
 - Blood-borne pathogens, helmets
 - Written assessment? Good practice. One page probably sufficient

OSHA, cont'd

- “Various combinations” of PPE, safe work practices, and engineering and administrative controls
- POS and customer sanitizer, surface sanitize
- Customer social distancing controls, number of customer restrictions

OSHA, cont'd

- “Most retail workers in critical and high customer-volume environments are unlikely to need PPE beyond what they use to protect themselves during routine job tasks. However, employers should consider whether their hazard and risk assessments warrant the use of items such as gloves or eye and face protection.” (gloves while disinfecting)

Protection and Screening:

- Don't promise more than you can deliver
 - Our workplace is safe / as safe as possible **NO**
 - “We strive to ensure implementation of best practices as set out by CDC and others” **OK**
- Don't make representations not warranted by the circumstances
 - Reliance on what others tell you about their cleaning services, etc., may create false expectations

Protection and Screening: Legal Issues

- About 1,000 “COVID-19” lawsuits filed to date
- Wide variety of claims: “Anyone can sue anyone for anything,” although they should not.
- Wrongful termination: employee forced to violate HIPAA for family members?
- Liability for contracting COVID-19 at work?

Protection and Screening: Legal Issues

- Notification to co-workers of employee illness: do NOT identify individual who is ill (or family)
- OSHA/CDC “close contact” definition fairly rigorous: “being within about six feet of an infected person while not wearing recommended PPE” or “direct contact with infectious secretions while not wearing recommended PPE.” “Close contact generally does not include brief interactions, such as walking past a person.”

Protection and Screening: Legal Issues

- Separate confidential files: ADA/FMLA
- **HIPAA** does not restrict asking employees for health information on COVID-19 status
- **GINA** means be careful about asking for family medical information (“manifestation”) – only in connection with leave based on federal, state, local law OR company policies

Liability for COVID-19?

- Current JMB personal view: unlikely to be held liable if not negligent. Screening, PPE, cleaning supplies. CDC/state/local
- Open question: how to prove causation?
- Open question: covered by workers' comp?
- Open question: contributory negligence (MD, DC, VA still bastions of "pure contributory negligence" while DE is modified comparative negligence/50%)

2. Leave and Accommodation Requests

- Remember two new kinds of federal leave available until end of the year:
 - Emergency Paid Sick Leave (2 weeks)
 - Expanded FMLA Leave (12 or 10 weeks)
 - State and local laws (e.g. DC Declaration of Emergency “DOE” Leave)
- You CAN require that leave or vacation be taken on a specific day or schedule (DOL)

ADA/FMLA

- Using telework now does not necessarily mean telework is always a reasonable accommodation under the ADA in the future (EEOC)
- Pre-existing mental health conditions exacerbated by pandemic?
- Must still engage in interactive process (except for “Expanded FMLA”)

ADA/FMLA, cont'd

- Religious accommodations for PPE?
- Accommodation for higher-risk categories?
 - Employer cannot unilaterally exclude from return to the workplace because of higher risk (“direct threat” in this circumstance is a high burden)
 - If employee does not request accommodation, employer has no obligation to take action
 - If employee wants to stay away from work, employer can make standard medical inquiry (“undue hardship” standard)

ADA/FMLA, cont'd

- Leave is a reasonable accommodation, EEOC says
- Indefinite leave, or leave without a set return date, is not a reasonable accommodation, EEOC says. It is per se an undue hardship.

OK to ask questions:

- EEOC Guidance updated in March and April
- Can ask about any recognized symptoms, and contact with infected persons
- Can take temperature / keep a log
- Can require COVID-19 test (where?)
- Can require doctor's return-to-work note (CDC says not, but EEOC is regulator)

OK to ask questions:

- May disclose employee name to public health agencies; not required to do so

What's not okay?

- National origin discrimination
- Treating older employees worse simply because of age
- Unilaterally forcing pregnant employees to work at home, or not work, against their choice

3. Reluctance to return

- Fear of COVID-19 and request for leave:
 - Emotional or mental disability?
 - Membership in recognized risk group?
 - Generalized concern?
- Unemployment compensation issues:
 - Extra \$600 per week through third week in July
 - Maximum amounts now around \$52,000 per year

What can you do?

- Fear? Treat as ADA or FMLA accommodation request under regular standards
- Unemployment different in different jurisdictions:
 - Virginia: disqualified for refusing available work
 - Maryland: may be analyzed as leaving for good cause

CULTURAL CONSIDERATIONS FOR STATES REOPENING



- **Laurie Maddalena**
Chief Leadership Consultant
– Envision Excellence, LLC

Cultural Considerations of States Reopening



Facilitated by: Laurie Maddalena

Important Focuses

- Serving members
- Safety and cleaning practices
- Plan for staying in compliance
- Economic impact
- Employee emotional, mental and physical well-being

Three Cultural Focuses

Workforce Plan

Creating Clarity

Caretaking the Culture



Workforce/ Staffing Plan

Gradual Return to Office (?)

- What does this look like?
- Phased approach?
- How will you handle if an employee doesn't feel comfortable returning to work in the office?
- How will you handle employees who have children at home and can't return to work?
- Think through the challenges and scenarios—be prepared
- What happens if there is a second wave?



Future Workforce Plan

Strategic plan of future work environment (longer-term)

- What positions could remain remote?
- Do we offer a combination of remote and in-person work?
- Create policies for remote work
(security/technology)
- How will you handle requests for continuing remote work?

Research on Engagement & Remote Work

- Those with remote work *options* have highest employee engagement.
- Those with no option and those who work remotely 100% of the time have somewhat lower employee engagement.

Source: Gallup (2020)



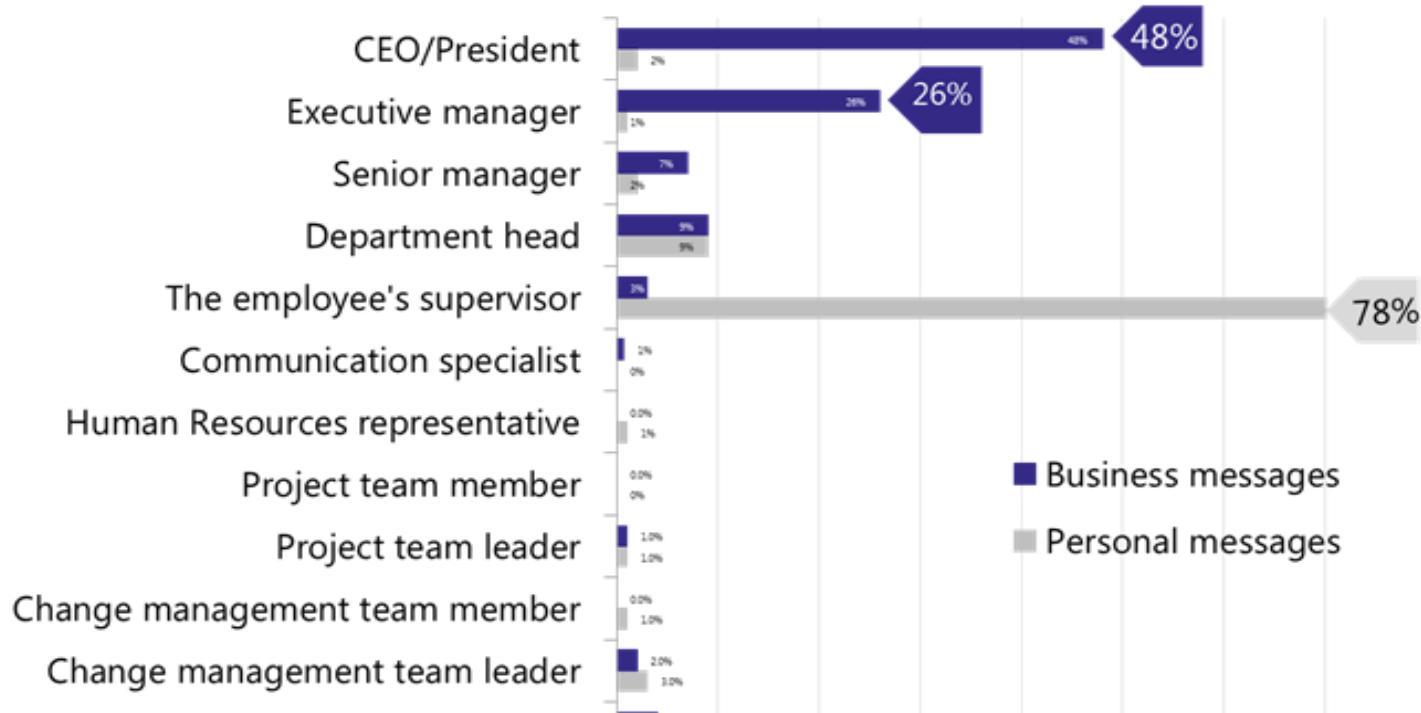
Creating Clarity



In the absence of information, people make things up



Who Should Communicate?



Communication Structures

Virtual Town Hall Meetings (CEO creates clarity)

Updates on intranet or internal portal

Q&A sessions

Coffee Chats

Weekly team meetings

Regular “well-being” check-ins

Caretaking the Culture

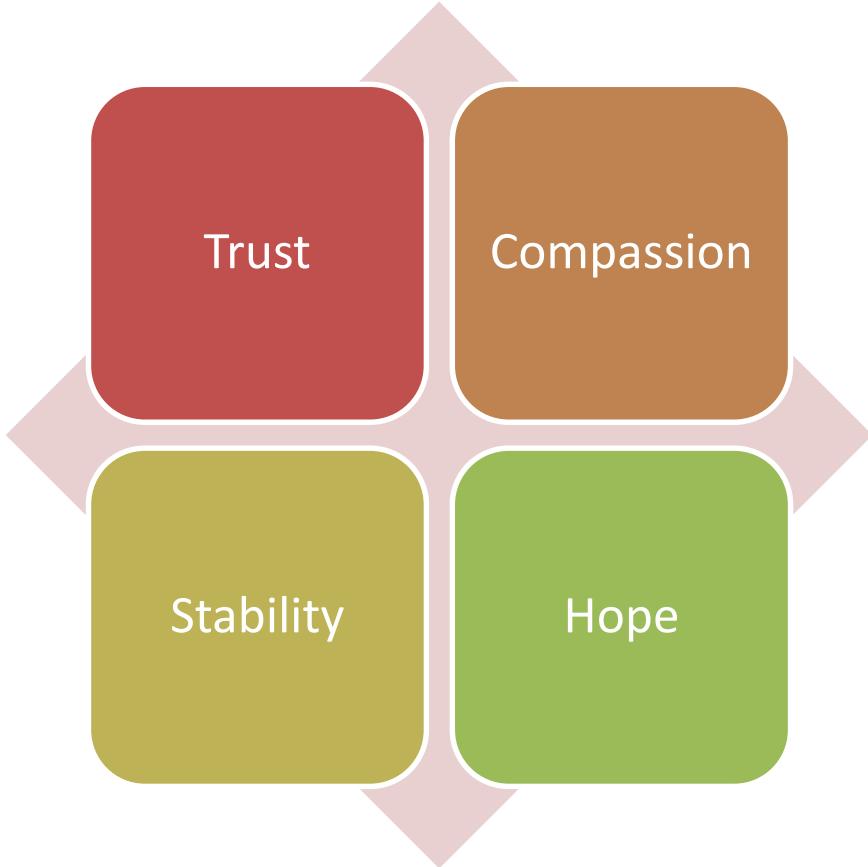


Cultural Health Must Be a Strategic Priority



Source: *The Advantage* by Patrick Lencioni

Four Universal Needs of Followers



Emotional Intelligence

- Compassion
- Flexibility
- Empathy
- Listening
- Acknowledging
- Connection

Not “soft skills”, **essential** skills





Ideal

Reality

- Stress
- Burnout
- Exhaustion
- Lack of focus
- No break
- Dual roles (teacher!)



Caretaking the Culture

- Pulse or “temperature check” survey
- Emotional intelligence—compassion, empathy and flexibility
- Regular connections
- Employee Assistance Program (EAP)
- Help create boundaries
- Mindfulness resources



Leading Virtually

- Do your leaders understand how to lead virtually?
- Just because the work environment has changed, doesn't mean the need for leadership has changed.
- Communication structures are important
- Check-ins to support each individual (connections)
- Team meetings and social sessions



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Website:

- **Credit Union Resource Page:**
 - <https://mddccua.org/index.php/news-cu-community/1681-workplace-guidance-preparing-for-and-responding-to-coronavirus>
- **League Infosight**
 - <https://mddc.leagueinfosight.com/>
- **Consumer Resource Page:**
 - <https://www.mddccua.org/index.php/news-cu-community/1713-consumer-guide-to-credit-unions-serving-maryland-and-dc-area>

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