

Ethical Decision-Making During a Crisis

ETHICS CONNECTION

Making ethical
and objective
decisions during
the COVID-19
pandemic

After some time in our field or current position, we become proficient at daily decision-making. Ethical situations we encounter may not cause distress or require much brain power, as we have past experiences, policies, and resources to help guide us. However, with the new topic of the COVID-19 pandemic, we may encounter unique situations daily.

What should we do about testing? Quarantine? Time off? Employees returning to work after exposure? Immunizations? The list seems endless. This constant decision-making is exhausting and causes decision fatigue.

Since these situations are new to us, now is a good time to use our skills of writing and implementing policies or use resources to guide us, with help from our facility's Human Resources Department. These tools, combined with previous experiences, can support us when making ethical and objective decisions surrounding the pandemic or any future crisis.

Updates and advances with COVID-19 are fluid. Remember that guidance from public health authorities is likely to change as the pandemic evolves. Advances in science and technology, travel, availability of medical care, and virus variants are changing rapidly. In fact, between the time of writing and

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Kristin Klinefelter, MS, RDN, LDN has been practicing in the nutrition and dietetics field since 1998. She was thankful to utilize virtual and remote platforms to continue to communicate with and educate her students and clients throughout the pandemic.

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posting this article, we may have a new scenario to discuss.

In this article, we will review three scenarios surrounding COVID-19 and ethical decisions we might encounter. We can apply the situations to current times, or future natural and disease emergencies.

Please note that this article is no substitute for legal advice. CDM, CFPPs should consult with their HR Department as individual company policies may vary and regulations may change. Additionally, the size of an organization can affect which laws apply.

SCENARIO 1: PERSONAL BELIEFS

Jon, the owner of multiple foodservice operations, has been encouraging his 800 employees to get the COVID-19 vaccination to protect them, as well as their customers. Lucia, his CFO, has decided not to get vaccinated based on personal and religious beliefs. She emailed Jon explaining her beliefs and gave him resources that support her decision.

Question: Can Jon, as owner of the company, make immunizations mandatory?

Answer: No, a business owner, company, or supervisor cannot make immunizations mandatory. They can provide resources, time off to get vaccinated, and facts about

immunizations. In Jon and Lucia's situation, both individuals shared their opinions and beliefs and still respect each other. Job performance or integrity was not compromised and no one felt shamed or blamed. Jon is not crossing the line or violating ethical principles by sharing objective information or even his belief, as long as he is respectful of the opinions of others.

Kim, a foodservice manager in a small school district, shares the pressure she feels to get immunized. "Every week, there are emails for vaccination clinics. I am almost to the point of telling my boss that I did get vaccinated, even though I don't plan on it." Kim feels pressure from her supervisor and school district. It is causing stress and shame, even if that is not the intention of the weekly emails. The pandemic has heightened emotions for most people. Those in leadership roles have a unique responsibility to create a sense of calm, reassuring their employees and avoiding negative emotions such as shame or blame.

Resource to guide decisions about vaccines: Refer employees to current vaccination information on the Centers for Disease Control and Prevention (CDC) website, found at [cdc.gov](https://www.cdc.gov)

SCENARIO 2: TIME OFF TO CARE FOR LOVED ONES

Raul, the part-time morning cook at Lovely Lane Assisted Living, was out for the past two weeks with a positive COVID-19 result. Raul now reports that he needs to stay home to care for his wife, who is having side effects from the virus. He doesn't know when he can return and is concerned about his job and potential loss of income. Myra, the director of the Dining Services Department, has been covering for him, along with dealing with several call-ins each day. To avoid overtime for her other cooks, she would like to hire a new morning cook.

Question: Can Raul receive pay for time off to cover time caring for his wife?

Answer: Between April 1, 2020-December 31, 2020, Raul, as a part-time employee, could have taken paid sick leave for his average number of hours per day for up to a two-week period. After December 31, 2020, the leave policy would be individualized per the facility or company. Raul *may* be eligible to take leave through the Family and Medical Leave Act (FMLA), in which covered employers must provide employees job-protected, unpaid leave for specified family and medical reasons.

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Question: Can Myra replace Raul's position?

Answer: Myra cannot lay off Raul. If an employee is laid off during the period of FMLA leave, the employer must be able to show that the employee would not have been employed at the time of reinstatement (U.S. Department of Labor). Myra can, however, cover Raul's shifts with a temporary or other part-time employee while he is out.

Resource to guide decisions about leave: Fact Sheet #28A: Employee Protections under the Family and Medical Leave Act, found at <https://www.dol.gov/sites/dolgov/files/WHDLegacy/files/whdfs28a.pdf>

SCENARIO 3: GETTING BACK TO WORK

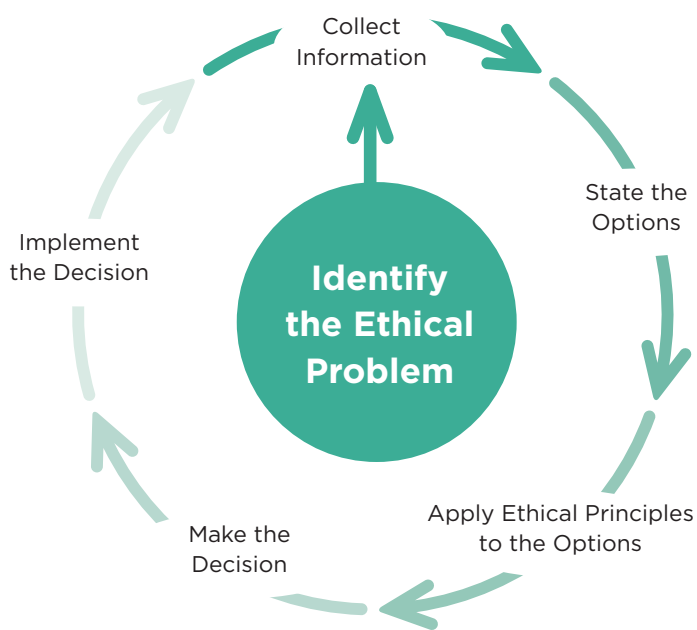
Ka is the Director of Dining Services at a 500-bed hospital. She has 50 employees in her department, 75 percent of whom were out for at least 14 days during the past year due to a positive COVID-19 diagnosis or quarantine. In many cases, waiting for a medical excuse to return to work has extended their leave. Ka would like to change her policy so that employees can come back as long as they don't have symptoms, and forego the medical note altogether.

Question: Would implementation of Ka's new policy be the right thing to do?

Answer: This answer comes directly from the CDC webpage:

"Under the Americans with Disabilities Act, employers are permitted to require a doctor's note from workers to verify that they are healthy and able to return to work. But given potential delays in seeking treatment and demands on the healthcare system, requiring a COVID-19 test result or a healthcare provider's note for workers who are sick to validate their illness or return to work may cause significant delays affecting employers and workers alike. A worker who has recovered from symptoms after testing positive for COVID-19 may continue to test positive for three months or more without being contagious to others. For this reason, these workers should be tested only if they develop new symptoms of possible COVID-19. If they have new symptoms, they should discuss getting tested again with their healthcare provider, especially if they have been in close contact with another person who has tested positive for COVID-19 in the last 14 days. CDC reports that instances of reinfection have so far been infrequent."

Visual of the Ethical Decision-Making Model



Source: *Foodservice Management by Design*, ANFP 2020

Question: Can Ka let employees come back early from quarantine in order to serve her customers?

Answer: No. Employees need to stay home during their entire quarantine period. The length of quarantine should follow current CDC or local health department guidelines. In addition, Ka will want to make sure that her time off and return to work policies do not encourage employees to come to work with symptoms or after close contact with a person who has COVID-19. "Ensure that absence policies are non-punitive. Policies that encourage workers to come to work sick or when they have been exposed to COVID-19 are disfavored." (U.S. Department of Labor).

In any situation, the key is to approach it individually, yet have a strong policy to support your objective decision-making. Engage your HR department and train your staff on what to do if/when they have symptoms. In addition, it is helpful if you have a relationship with your local public health department and medical facilities so your employees "know the drill" when it comes to appropriately responding to symptoms or close-contact exposure.

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YOU CAN:

- Track/trace contacts of co-workers when doing contact tracking (may include watching surveillance video and pulling schedules for the week of contact)
- Permit employees to work from home if their job description allows
- Train on proper PPE and sanitation often
- Ask for a doctor's note from the employee before returning to work
- Arrange a screening/testing/immunization event
- Allow FMLA for eligible employees caring for a family member with COVID-19

YOU CANNOT:

- Mandate immunizations
- Ask for names of family or close contacts who have a diagnosis of COVID-19
- Allow employees to come back before recommended quarantine time is over
- Eliminate positions of employees who are in quarantine or out for illness
- Limit how many times employees call in for quarantine

SUMMING IT UP

We should continue to follow the most current information on maintaining workplace safety. Posting signs that promote positive messaging on reducing the spread and recognizing symptoms is helpful. Unfortunately, people are sometimes misinformed about the pandemic, which may put your employees, customers, and clients at risk and ultimately make it more challenging to run a safe and productive department. Employees look to you for guidance and information. You have the leadership skills, resources, and tools to convey a sense of calm in the sometimes chaotic, stressful days at work. You've got this! So give an air high five to those awesome employees and do what you can every day to keep them—as well as colleagues, customers, and clients—happy. ■

RESOURCES

- Centers for Disease Control COVID-19 Vaccination Information, <https://www.cdc.gov>
- CDC publication: General Business Frequently Asked Questions, <https://www.cdc.gov/coronavirus/2019-ncov/community/general-business-faq.html>
- US Department of Labor, <https://www.dol.gov/agencies/whd/pandemic>
- US Department of Labor Coronavirus resources, <https://www.dol.gov/coronavirus>
- US Equal Employment Opportunity Commission, <https://www.eeoc.gov/>
- Sample COVID-19 Workplace Policy, <https://resources.workable.com/coronavirus-COVID-19-company-policy>
- CDC infographics, <https://www.cdc.gov/coronavirus/2019-ncov/communication/graphics-buttons.html>



CDC Infographics



CE Questions: Ethics Connection



This Level II article assumes that the reader has a foundation of basic concepts of the topic. The desired outcome is to enhance knowledge and facilitate application of knowledge to practice.

Reading *Ethical Decision-Making During a Crisis* and successfully completing these questions online has been approved for 1 hour of continuing education for CDM, CFPPs. CE credit is available ONLINE ONLY. To earn 1 GEN CE hour, access the online CE quiz in the ANFP Marketplace. Visit www.ANFPonline.org/market and select “**CE Articles**” within the Publications Section. If you don’t see your article title on the first page, then search the title, “*Ethical Decision-Making During a Crisis*.” Once on the article title page, purchase the article and complete the CE quiz.

1. People in leadership roles are in a unique position to provide a sense of _____ in their department:
 - A. Panic
 - B. Calm
 - C. Urgency
2. How can accurate, positive messages be shared with employees?
 - A. Posting signs about preventing the spread of viruses
 - B. Holding weekly updates or e-huddles
 - C. Both A and B
3. When it comes to vaccinations, which of the following is *not* advisable or ethical?
 - A. Implement a mandatory department vaccination policy
 - B. Allow employees time off to get their vaccination
 - C. Refer employees to the CDC website for the most current information on vaccinations
4. The requirement that employers provide paid sick leave and expanded family and medical leave that ended December 31, 2020 was called:
 - A. Families First Coronavirus Response Act (FFCRA)
 - B. The COVID-19 Stay At Home Order
 - C. The Pandemic Sick Leave Law
5. Which organization provides up-to-date information on the business and employment questions related to the pandemic?
 - A. The Centers for Disease Control and Prevention (CDC)
 - B. The U.S. Department of Labor
 - C. Both A and B
6. Having a punitive Absence Policy & Procedure may:
 - A. Encourage employees to come to work while sick
 - B. Increase your overtime pay
 - C. Be necessary if you do not have enough employees to cover the shifts
7. What tools are helpful in making ethical, objective decisions?
 - A. The Ethical Decision-Making Model
 - B. Your department or facility Policy and Procedures
 - C. Both A and B

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