



December 8, 2022
Office of General Counsel

Crisis Management and Communication

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Next Month's Presentation

Records Retention Schedules

Presented by Assistant General Counsel Dan McCabe

January 12, 2023

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Crisis Management

Colleges and universities are the subjects of public attention on a daily basis. Crisis management is comprised of two main concerns:

- The problem or incident giving rise to the crisis must be addressed and resolved. This, of course, depends upon the problem.
- The campus must address the ensuing public stakeholder and media attention because of its responsibility to the public and because of possible harm to reputation.



Recognizing and Anticipating the Existence of a Crisis

- Ideally, campus responses to a crisis begin before there is media attention. College and university administrators and key communicators have the responsibility to anticipate and recognize the emergence of a potential crisis.
- You all know the types of problems on college campuses that currently trigger public attention and scrutiny: natural or man-made disasters; campus violence including sexual assault, and especially gun violence; bomb threats; student protests; racial and other discrimination or bias incidents; data breaches and scandal involving campus administration, coaches or athletes.

Communicate

- It is important that persons, who learn of a potential crisis, communicate with those campus employees who are responsible for the particular type of problem. It is everyone's responsibility to know who to call.
- In addition, campus officials should alert appropriate contacts at Minnesota State such as the General Counsel's Office and Marketing and Communications.

Respond to the Incident

- Of course, response to an incident depends upon the subject matter. Because the character of crises are predictable, teams featuring campus experts should be created so that response can be immediate.
- Response teams should have periodic practice sessions. This is increasingly important as acceptable response time grows shorter.
- Campus leadership must speak with one voice.
- Inconsistent or changing responses or factual errors erodes stakeholder trust.
- Solutions and communication of solutions must reflect institutional values.
- You are not alone.

Campus Violence/Active Shooter Scenario

- Safety of students and employees is paramount. Every campus should have an Emergency Operations Plan dealing with the active shooter and other scenarios involving training of students and staff, exercises and responding to emergencies.
- Participation of local law enforcement.
 - Local law enforcement must be alerted
- Mass communication strategy should be in place – text, email, social channels, other messaging.
- Timely warning.

Sexual Assault

Federal and state law require that every campus have procedures in place for the reporting and for addressing sexual assault including an agreement with law enforcement.

- Take all allegations seriously and follow Board Policy 1B.3 and System Procedure 1B.3.1.
- Faculty, staff and students should know where to file a complaint and the identity of the Title IX officer.
- Keep investigations moving.
- Consider/offer services to complainants and respondents (if appropriate) in all cases even if no investigation or discipline.
- Form a relationship with local law enforcement.

Student Protests and Speech

- Consult policies on speech
- Time, place and manner restrictions
 - Protestors must leave by close of business day
 - Some buildings should be off limits because of no public access, threat of injury
- Written permit requirements
- Student Code of Conduct
- Follow existing policies and procedures
- Advice from General Counsel's Office on First Amendment issues
- Consider having a statement ready

Racial Discrimination, Sexual Harassment or Other Significant Discrimination or Bias Incidents

- Racial, sexual harassment or other discrimination or bias incidents can involve student on student, employee on student, employee on employee or unaffiliated member of the public on student or employee.
- Student-on-student problems are addressed through the 1B.1 procedures and the student Code of Conduct.
- Employee on student is addressed in the 1B.1 procedures. An investigation should be started as soon as possible.
- Consider a Bias Incident Response Team.
 - Template available from Equity and Inclusion.
 - Training available.

Racial Discrimination, Sexual Harassment or Other Significant Discrimination or Bias Incidents (2)

- Examine social media.
- Should student or employee remain on campus during an investigation?
- The third scenario (unaffiliated person as respondent) is much more difficult since the perpetrator is not subject to campus remedial processes. Several possible remedies exist:
 - Involve local law enforcement
 - No trespass notice
 - Student education—reaching out to students

Administrator Controversy

- Types
 - Sexual harassment
 - Financial impropriety
 - Ethical lapse
 - Academic fraud
 - Racial or other protected class slurs
 - Prior employment
- Work with HR.
- Address problems when they are small, before they grow up.

Data Security Incident

Security Breach Data Notification Guideline 5.23.1.13

- All system employees must immediately report known or suspected breaches of security to their supervisor or the designated system individual or office (Local Campus Authority “LCA”).
- LCA must notify IT Security immediately (Craig Munson).

Data Security Incident (2)

- OGC (Sarah McGee), with consultation of other personnel, can advise if a data breach has occurred.
- The MGDPA (Minn. Stat. § 13.055) requires notice to affected individuals of a breach of security (unauthorized access) for any private or confidential data (not just SSN or financial information) in any medium (not just computerized).
- If notice is required, Internal Audit will notify the Legislative Auditor as required by Minn. Stat. § 3.971.
- Department of Education requires notification of data breaches and suspected data breaches.

Social Media

- Types of Problems
 - Threats of violence and harassment/discriminatory comments.
 - Impersonation of campus officials, departments, or student groups.
 - Copyright/Trademark infringement.
 - Reputation issues
- Discovering a Problem
 - Monitoring: If you have specific information about a threat, it is appropriate to monitor individual accounts in order to facilitate campus safety and reputation.
 - From a communication standpoint, monitoring is essential.
 - Tools are available to all campuses to monitor social media.
 - Reports from the community.

Social Media (2)

- Ways to Respond?
 - Distinguish between official accounts (e.g. @minnstate.edu or a college's official Facebook page) and non-system owned accounts
- For Official Accounts
 - Rely on the Acceptable Use Policy (5.22.1)
 - Users may not engage in harassment, threats to or defamation of others, stalking and/or illegal discrimination
 - An institution may limit who creates official pages and uses campus logos and trademarks
 - Users may not forge the identification of the person using system information technology
- For Non-system Accounts
 - Counter speech with more speech, as appropriate
 - Consider the poster's influence on social channels
 - Consider terms of use/complaint

Crisis Communication Concerns

- Consider whether and what type of information should be sent to stakeholders
 - Employees
 - Students
 - Alumni
 - Donors
 - Local Community
 - Key or Local Legislators
- Identify a spokesperson for the issue. It is vital that the college or university speak with one voice.

Crisis Communication Concerns (2)

- Media
 - Plan for communication in advance, may develop templates based upon past occurrences.
 - Take responsibility for being understood: opt to be as transparent as possible and as responsive as possible.
- Social Media
 - Planning should take into account social media channels, monitoring and protocol regarding how and if to respond.

Handling a Media Inquiry

- Capture the question accurately
- Tell them you will ensure someone gets back to them
- Ask for their deadline
- Refer the inquiry to your campus communicator to handle.
- Respond within their deadline whenever possible, even if it is to tell them you don't yet have the information or can't obtain the information because it isn't public
- In a crisis (and as a part of crisis planning) instruct non-spokespeople how to handle a surprise media interaction



Legal Issues in Crisis Communications

- Minnesota Government Data Practices Act
 - All government data
- Family Educational Rights and Privacy Act (FERPA)
 - Student records
- Other laws, standards depending on content, defamation
- Option may be to discuss your mission, values, process and policy.

Existence and Status of a Complaint Against an Employee is Public

- Status is open, pending, under investigation, closed.
- Existence does not include nature of complaint or identity of complainant.

Final Disposition of a Disciplinary Action is Public and the Reasons for Discipline are Public

- Discipline is final only if arbitration is complete or time limit has passed.
- Discipline for administrators is complete upon imposition of discipline.
- If no discipline is imposed, data is not public (unless subject is public official).
- Investigation data on a public official is public even if official resigns or is terminated before discipline is imposed.

Questions & Answers

Please Chat in your questions to the host or the panelists.



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