

**DISASTER CONTINGENCY PLANNING  
AND CRISIS MANAGEMENT:  
AN EXPERIENCED EMPLOYER'S CHECKLIST**

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# **DISASTER CONTINGENCY PLANNING AND CRISIS MANAGEMENT: AN EXPERIENCED EMPLOYER'S CHECKLIST**

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## **I. SCOPE OF ARTICLE**

Living and working in “Hurricane Alley,” we’ve never been among those to say, “Disasters are what happen to other people,” and over the course of our combined 30-plus years of practicing labor and employment law, we’ve had more than a brush or two with advising clients through various minor crises. We say “minor crises” because we had never had to deal with anything on the magnitude of what happened in New Orleans and the Gulf South on August 29, 2005. That’s when disaster contingency planning and crisis management for us moved from theory to reality, both in helping manage our law firm and practice group through the crisis, and counseling our clients through the myriad human resources issues churned up in Hurricane Katrina’s wake.

We survived and were able to help our clients survive because we had a plan, but the reality of any disaster contingency plan is that the best it can do for you is to prepare you for the unexpected. That’s the nature of any crisis. You can’t plan for the unexpected; the best you can do is to be prepared — for anything. So while we had a plan, a good plan at that, we still learned from our experience and what we could have done better. Over the course of the now fifteen months since Katrina, we’ve studied our own experience and the experiences of our clients and have improved our plan and helped our clients improve theirs. What follows is a checklist drawn from our experience that we hope will help call attention to the need for disaster planning as well as serve as a model for others in preparing their plans.

## **II. BEFORE THE DISASTER**

### **A. Prepare and Publicize a Written Plan**

Reduce your plan to writing and disseminate it to all employees. A limited distribution list may be proper for certain parts of the plan, such as the steps to be followed by your IT Department to protect and operate technology systems during an evacuation, but all employees should be told what to do when a disaster strikes.

### **B. Include a Timeline and Assign Essential Tasks**

When warning systems are in place for a potential disaster, such as a hurricane or tornado, include a timeline in your plan for certain preparatory tasks to be completed and insure the person responsible for each task understands what is to be completed and the deadline for completing the task.

**C. Practice Makes Perfect**

Conduct periodic drills or “dry runs” to prepare employees for the real thing. Arrange a meeting or conference with executives, department heads, and key managers in advance to review your plan and identify any areas that need adjustment or improvement.

**D. Balance Employees’ Personal Needs**

When you establish your timeline for workplace preparation and closure, consider that employees will need to prepare their families and take care of personal matters as well. Allow enough time for them to execute their personal preparedness plans.

**E. Communication is Key**

Communication following a disaster is critical. In advance, establish a communication plan that will work regardless of the nature of the disaster. For example, consider setting up a toll free number or website, make sure they are operated out of areas that are not disaster-prone and that are located away from your workplace or workplaces, and give employees instructions as to when, how, and what to communicate through these methods following a disaster.

**F. Identify Key Employees**

Identify critical employees and make sure they understand what is expected of them during a disaster. For example, you may need certain employees responsible for IT functions to work during a disaster to protect and re-establish your technology systems. If you need those employees to work remotely, make travel, hotel, and meal arrangements in advance and insure they know what equipment and support they will need to perform their duties.

**G. Maintain Functionality of Payroll, Benefits, and Human Resources**

Develop a plan to allow your payroll, benefits, and human resources functions to operate during a disaster, following a disaster, or during any period in which access to your workplace is restricted. Establish a website that will be operable if your workplace sustains damage or is inaccessible. Provide employees with remote access capability from any computer. Post information about group health plans, retirement plans, employee assistance programs, and other services employees may need. Contact your employee assistance program provider in advance of a disaster or as soon as possible after a disaster to arrange for group sessions at work sites that employees can voluntarily attend.

**H. Provide Essential Supplies for Recovery and Restoration of Operations**

If employees will be required to return to the workplace to assist in the recovery process before all services are restored, obtain an adequate supply of water, non-perishable food, first aid supplies, generators, cleaning supplies, batteries, flashlights, and other necessities.

## **I. Update Employee Contact Information**

Update your employee contact information regularly and always at the beginning of any season during which natural disasters are more likely. Establish a portal on your organization's intranet for this purpose, and require employees to post where they plan to go if evacuation is required and provide addresses and phone numbers where they can be reached.

## **J. Gain an Understanding of any Laws that May Come Into Play**

Consult your labor attorney regarding any state laws that may affect your pay practices during and following a disaster. For example, the Texas Payday Act, which is codified in the Texas Labor Code, requires employers to pay exempt employees at least once each month and non-exempt employees at least twice monthly. TEX. LABOR CODE § 61.011. The Texas Payday Act also requires employers to designate specific paydays and provides that paydays shall be on the first and fifteenth days of each month in the absence of an employer's designation of another day. TEX. LABOR CODE § 61.012. Employees who are terminated involuntarily must be paid not later than the sixth day after employment terminates; and employees who terminate voluntarily ("other than by discharge," in the words of the statute) must be paid not later than the next regularly scheduled payday. TEX. LABOR CODE § 61.014. The statute is silent with regard to an employer's obligations in the event a natural disaster makes it impossible to meet the normal payday schedule. However, the statute provides that if an employee is not paid on a regular payday for any reason, the employee must be paid on "another regular business day on the employee's request." TEX. LABOR CODE § 61.013. The statute also allows payment in a manner and at a time and place agreed upon by the employer and employee in writing. TEX. LABOR CODE § 61.017. Therefore, if a disaster makes it impossible for you to meet your regular payroll schedule, it would be advisable to notify employees as soon as possible through any means available (e.g., e-mail, website) when you will be able to make payroll and ask them when and how they would prefer to be paid.

Federal statutes likely to come into play during a disaster include the Fair Labor Standards Act, the Family and Medical Leave Act, the Occupational Safety and Health Act, and the Uniformed Services Employment and Re-Employment Rights Act (in the event, for example, that any of your employees are called to reserve or national guard duty in the aftermath of a disaster). State workers' compensation and unemployment laws also may be implicated.

## **K. Coordinate Work Schedules**

Know which and how many employees will be working during any evacuation or recovery period, what they will be doing if different from regular activities, and what schedules they will be working. Attempt to schedule employees so as to allow them a reasonable opportunity to tend to personal affairs and also to avoid burn-out.

#### **L. Establish “Recovery Teams”**

If you have a large number of employees or multiple work sites, consider establishing a recovery team or a core group of employees responsible for specific work sites or specific tasks, such as: communicating important information to employees, gathering information from employees, making and monitoring travel, hotel, and meal arrangements for employees, handling payroll, benefits, and similar issues, *etc.*

#### **M. Cross-Train Your Employees**

Hurricanes, tornados, floods, earthquakes, fires and other natural disasters aren't the only crises employers may have to confront. By now, all employers should be aware of the warnings issued by the public health authorities about a possible bird flu pandemic. In the aftermath of natural disasters, the natural tendency is for people to come together to help each other, but a pandemic would introduce a whole other dynamic: people will not want to be around other people. Steps you can take now to help prepare your business for a pandemic include providing resources and training your employees for telecommuting; cross-training employees on multiple jobs; training third, fourth, and fifth understudies instead of just first and second understudies; and establishing leave banks into which employees may donate unused vacation and sick leave for use later by others in times of crisis.

### **II. AFTER THE DISASTER**

#### **A. Communication is Still Key**

Let us repeat — communication following a disaster is critical. Designate one or more employees *as soon as possible* to be responsible for receiving calls, e-mails, and messages from employees and collecting information concerning their whereabouts and plans, and to communicate important information and updates about the business to those employees. It is also critical that you reach out as soon as possible to re-establish communications with your customers or clients and suppliers. If a disaster forces you to relocate, it's important that the people and other organizations with which you do business know where you are and how to communicate with you. Even if you are not required to relocate, it's important that your customers or clients and suppliers know the status of your operations, your business continuity plan, and how you plan to meet their needs and your obligations.

#### **B. Management Team Must be Visible**

Keep your organization's leadership visible and stay firmly in charge. Let employees know who is responsible for particular aspects of your recovery plan and how those people can be reached. Any disaster can throw you a curve ball, something you didn't consider when developing your plan. Don't panic or react rashly. Consider all your options and think them through carefully. You can show compassion and sympathy for employees, but also let them know that the organization's leadership has a plan and will execute it so everyone can get back to their lives and to the organization's business.

**C. Balance the Needs of Your Organization With Those of Your Human Resources**

Give employees the tools and time they need to tend to their personal affairs after a disaster. The sooner they get their personal lives in order, the sooner they can get back to business as usual. This doesn't mean you have to forget about your workplace policies and procedures, but consider how you can help them recover professionally and personally as quickly as possible. For example, consider setting aside a private office with a phone and internet access so employees can take care of personal business, such as dealing with insurance claims, mortgage-holders, *etc.*, during breaks. Consider scheduling meetings for employees with consultants, employee assistance program providers, bank and insurance representatives, aid organizations, and other people employees will need to consult to help sort out their personal affairs. This will go a long way in fostering employee morale and loyalty as well.

**D. Reach Out to Your Community**

Organize community relief or other charitable efforts and allow employees to participate. These activities not only take some of the focus off employees' personal challenges and offer a rewarding experience, but they also help build confidence in the re-establishment of their community and in the recovery efforts of others around them.

**E. Re-evaluate and Reassess Your Plan**

Arrange a meeting with one or more groups of employees, from the highest-ranking executives to the most entry-level employees, following any disaster to review your plan. Identify its successes and failures, and work together to build a better plan for the future. Take advantage of your experiences by learning from them.

**III. CONCLUSION: PLAN NOW TO BE PREPARED**

Remember that disasters don't always happen to other people. They can happen to you at any time without a moment's notice. Being prepared and making disaster preparedness part of your organization's culture will be the difference in how you weather the storm. There's no better time than when you're not in crisis to begin your preparations and make your plan. We speak from experience.