

Managing Forward

Jeff Hornsby

Gary O'Bannon



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Our Session Today

Section 1 // Building an Adaptive Culture (Jeff Hornsby)

Section 2 // Human Resources: Covid-19, Remote Work and the Law (Gary O'Bannon)

Section 1 // Building an Adaptive Culture for Change

Jeff Hornsby, PhD

Executive Director, Regnier Institute

Chair, Entrepreneurship and Management Departments

UM System Curator's Distinguished Professor

Henry W. Bloch Endowed Professor

hornsbyj@umkc.edu



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Elements to Consider

- The Importance of Culture
- Effective Leadership
- Systematic Communication

Culture

What does it mean to have a positive culture?

- **Culture is...** “the integrated pattern of human knowledge, belief and behavior that depends upon the capacity for learning and transmitting knowledge to succeeding generations.”
- **Culture centers on Values** – What the organization “values” as keys to their success
 - When you hear statements like...
 - *People are the key to productivity*
 - *The customer is always right*
 - *We focus on quality!*
- **Culture is positive** when it creates “buy-in” that leads to positive organizational outcome including productivity, quality, retention, etc.

Ingredients for a Strong, Positive Culture

(Entrepreneur Magazine)

1. Start with a purpose
2. Define a common language, values and standards
3. Lead by example
4. Identify your (cultural) ambassadors
5. Be truthful and always communicate
6. Treat people right

Be intentional about your culture or one will develop on its own that may be counter productive to your business strategy and ultimate success.

Leading

Leading Change and Maintaining a Positive Culture

- *Change in business is not new — it's just accelerating due to...*
 - New technology
 - Global competition
 - Legal changes
 - Growth & increased complexity
 - **A Pandemic**

Leading the Adaptive Organization

- Willingness to make change
- Identifies problems quickly
- Internal and external looking (environmental scanning)
- Implements solutions rapidly
- Focus on innovation
- Encourages upward communication
- Builds a culture of trust

Prerequisites for Change

- **Vision:** Develop, articulate and communicate a shared vision of the desired change
- **Need:** A compelling need has been developed and is shared
- **Means:** The practical means to achieve vision: planned, developed and implemented
- **Rewards:** Aligned to encourage appropriate behavior compatible with vision and change
- **Feedback:** Given Frequently

What Effective Change Leaders Do

- Embrace change when it's needed
- Develop a vision for change
- Communicate effectively
- Shake things up by challenging status quo and encouraging others to do the same
- Stay Actively Involved by walking the walk and being visible about it.
- Direct, Review Implementation of change - continued participation - never done attitude. Be in position to notice and coach.

What to expect from change

- Sense of loss, confusion
- Mistrust and a “me” focus
- Fear of letting go of that which led to success in the past
- People hold onto & value the past
- High uncertainty, low stability, high emotional stress
- Perceived high levels of inconsistency
- High energy — often undirected
- Control becomes a major issue
- Conflict increases — especially between groups

Communicating

Communication Tips: Especially in remote environments

- **Be decisive**...”trim your hedges”
- **Be specific**...use specific, descriptive language. Quantify your position whenever possible
- **Be concise**...especially in emails and memos. The primacy effect impacts zoom and other “in person” meetings. Don’t over explain. Say it once, elaborate only if necessary, and leave it be.
- **Be confident**...speak from experience and use examples to emphasize
- **Share information**...Sharing information promotes trust. When you share information, people will open up to you and be more inclined to share valuable information with you.
- **Address concerns**...Make it a two-way process to acknowledge complaints and address concerns so you can diffuse conflict, and guide solutions.
- **Make a common call to action**...Speak to shared or superordinate goals and values for buy in.
- **Listen.Listen.Listen**
- **Close the loop!**...Effective communication is not one-way. You have to check for understanding.
- **Avoid communication “drive bys”** at all costs



Thank You!

Section 2 //

Human Resources: Covid-19

Gary O'Bannon

Assistant Teaching Professor of Management

Bloch School of Management

University of Missouri – Kansas City

obannong@umkc.edu



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Agenda

- Covid-19 and the Law
 - Reasonable accommodations
 - Age discrimination
 - Pregnancy and family responsibilities
 - Establishing a safe workplace
 - Employees' refusal to return to work
 - Navigating unemployment compensation

Reasonable Accommodations

- EEOC allows you to ask about COVID-19 symptoms
 - Must treat information as a confidential medical record
- EEOC also allows you to (temperature check) test
 - Includes those with conditional employment offers
 - Must treat request for alternative test screen due to medical or religious belief as an accommodation
 - Do not take temperature in front of others or announce the results
 - BE CONSISTENT
 - Give workers self-screening forms employees complete each workday and e-mail or call in
 - Hourly employees must be paid for the time it takes to fill out these forms
- Provide clear contact information to employees or candidates for questions
- Cannot use to disqualify a candidate or discipline an employee

EEOC Covid-19 Vaccine Guidance

- Companies may require employees to take vaccine
 - Can ask to show proof
- There continue to be exceptions for disability and religious beliefs reasons
- May want to consider adding flexibility to leave time policies

Age Discrimination

- EEOC reminds you that you can't treat those 65+ less favorably even if for safety reasons
- You can provide additional flexibility to those 65+ even if other younger employees are treated less favorably
- Attempt to identify workers who may be at high risk but be careful
 - Encourage high-risk employees to self-identify BUT DON'T make unnecessary medical inquiries
 - Offer personal protective equipment to everyone

Establishing a Safe Workplace

Incorporate CDC recommended practices:

- Enforce hand washing, using cloth face coverings when around others.
- Clean and disinfect frequently touched surfaces at least daily
 - Avoid use or sharing of items not easily cleaned or disinfected.
- Ensure ventilation systems operate properly and increase circulation of outdoor air as much as possible.
- Consider daily health checks and plan for when an employee becomes ill.
 - If someone shows signs of COVID, you can ask to have their temperature taken or ask the workers to get tested for COVID-19
- Implement flexible sick leave and other flexible policies and practices if feasible.

Employees refusal to return to work

- Determine why—some reasons are legally protected
- Not protected:
 - Those wanting to remain on unemployment
 - Those with generalized concern about contracting virus
- Perhaps protected:
 - Those expressing a reasonable and more specific fear of contracting virus
 - Have an underlying health condition that makes them more susceptible
 - Have a mental disability that causes a more extreme reaction to the potential risks
- Employers should handle as any ADA request for accommodation and any applicable state law
 - Remember: teleworking or a leave of absence may be a reasonable accommodation

Employees' refusal to return to work

- Consider asking for 'volunteers' to return before mandating return
- If directed to return and refused, carefully document:
 - Terms of the return, e.g., same terms & conditions as prior to Covid? If not, note scheduled hours, duties and compensation offered, etc.
 - The employee's rejection of the offer, and reasons given by employee for rejecting
 - Employees refusing to return to significantly modified positions or other reasons deemed legitimate may still be eligible for unemployment
- Under the Paycheck Protection Program (PPP), you're required to keep work records to take advantage of applicable exemption for loan forgiveness

Navigating Unemployment Compensation

- Be careful when defending these cases:
 - information provided can be used against you in litigation
 - e.g. a listing of steps taken to ensure worker safety could be used to demonstrate that the employer did not do enough and/or did not comply with governmental guidance.
 - e.g., be careful claiming a former employee is “lying” or “malingering”
 - e.g., don’t provide details about employees’ medical conditions
- Instead, use former employees’ own statements where possible
 - e.g., quote former employee’s email about why he/she refused to return, without disclosing confidential medical or other information).
 - Use legal counsel when engaging in this process

Best advice:

Stay within EEOC guidelines and follow the recommendations of the CDC—these guidelines and recommendations are as much of a safe harbor as employers can have in these very uncertain times.

Bottom Line Advice: Seek legal assistance whenever you can.

