

## Welcome

While many companies are focusing on cutting costs to remain viable during this economic downturn, the most adept companies are also implementing solid safety plans to ensure their continued success. [Download the 2009–2010 OSHA catalog](#) to see how Georgia Tech can help you strengthen your company and its safety plan.

### New Items:

- New Course: [Construction Health and Safety Technician \(CHST\) Certification Exam Study Course](#) (Nov. 9-13). In this course, you will review the CHST Exam requirements and the four domains covered in the examination.
- The ABIH has assigned renewable CM points to 20 OTI courses offered by the Georgia Tech OSHA Training Institute Education Center. Any CIH/CAIH who takes any approved course can use the unique CM Approval number associated with that course. [View the 20 eligible courses.](#)

### In this issue:

- Explore the value of ethics in conducting training as an Authorized Outreach Trainer.
- Discover ways to protect your organization and employees from the potentially devastating effects of a pandemic or other crisis.
- Find out how strong communication and attention to employee concerns can make your workplace safer, happier, and minimize OSHA inspections, citations, and penalties.
- See our recent [certificate recipients](#).
- View [upcoming courses](#).

## “Authorized Outreach Trainers,” Are your ethical standards questionable?

*By Dr. Myrtle I. Turner*

*Director, GTRI OSHA Training Institute Education Center*

Why should you be ethical in conducting training as an Authorized Outreach Trainer? Perhaps you want to stay out of jail, avoid paying monetary fines, or would rather your family, friends, and co-workers not see your name listed on the OSHA Watch List that was created to strengthen integrity of the OSHA Outreach Training Program. Ethical training reflects on one's core values including, but not limited to, honesty, respect, and trust. Increased competitiveness, changing social values, cultural shifts (new role models), and technological advancements, to name a few, may lead to ethical misconduct. Nevertheless, it is unacceptable.

When training is conducted in an ethical manner, the benefits far outweigh the consequences. Ethical conduct builds trust. It can also build client, employee, and public loyalty. Compliance with the Outreach Program Guidelines will also minimize government intervention and audits of Outreach Training.

An ethical Authorized Outreach Trainer ought to do more than is required and less than is allowed. Let's face it—if you have to think about it, it is probably something that you **should not** be doing.

# Preparing for Pandemic Influenza

*By D. Albert Brannen & Tiffani Hiudt Casey  
FISHER & PHILLIPS LLP*

An influenza pandemic could have a major effect on the economy and all areas of commerce and employment. Business planning for pandemic influenza is essential to minimize a pandemic's impact. In the event of an influenza pandemic, employers will play a critical role in protecting employees' health, safety, and overall well-being.

Responsible employers should take this preventative planning seriously and immediately begin preparing for the day when 40 percent or more of their workforce could be absent due to a pandemic or a similar crisis. Influenza planning should be based upon traditional infection control and industrial hygiene practices, plus non-traditional modifications to employee-related policies and procedures that will assist employees in maintaining their physical and mental health and/or recovery during a period of crisis. Employers need to think outside of the normal paradigms to consider which policies or benefits should be revised. This article outlines a few actions employers should consider in preparing for this scenario:

1. Provide employees with free or discounted flu shots. The primary objective of flu vaccines is to prevent people from getting sick. However, by keeping flu outbreaks to a minimum, we also reduce the possibility that a normal flu virus, which is not very virulent but is easily transmitted between humans, will mutate with a highly contagious, virulent strain of flu and cause a pandemic.

2. Provide employees with free or discounted tetanus shots. Unsafe, toxic conditions caused by last year's floods and hurricanes emphasized the need for employers in high-risk areas or industries to provide employees with free or discounted tetanus shots.

3. Identify the occupational risk of exposure to employees. The level of risk depends, in part, on whether or not specific jobs expose employees to the virus because of close proximity to potentially infected individuals such as co-workers, the general public, children, or patients. The smaller the proximity and more frequent the exposure, the greater the risk. Health care employees, for example, have a very high exposure risk, and an independent contractor working from home would have a very low risk.

4. Educate and encourage employees to use good hygiene and infection control. Some of the most cost-effective and best preventative measures are as simple as teaching employees good hygiene, such as cough etiquette and frequent hand-washing. Influenza is spread by touching objects contaminated with the influenza virus, then transferring the infected material from the hands to the nose, mouth, and eyes. It may also be spread by very small infectious particles in the air within certain distances. The following Web sites have comprehensive information on infection control and hygiene:

- <http://www.pandemicflu.gov/>
- <http://www.who.int/csr/disease/swineflu/en/index.html>
- <http://www.osha.gov/dsg/topics/pandemicflu/index.html>
- <http://www.cdc.gov/h1n1flu/business/>

5. Identify and implement other appropriate control measures. Measures of control will vary depending on the work environment and exposure levels. Relying on consistent employee behavior modification with regard to hygiene and infection control may not be enough. Immediate changes to prepare for a pandemic may include,

among many others, installation of additional hand-washing stations, installation of sneeze guards between employees and customers, increased frequency of housekeeping, conducting meetings via phone or webinar instead of in-person, or increasing space between employee workstations.

6. Review safety and health policies and practices. More than ever, employers should continually strive to adopt the best practices in safety and health for their employees. Some of the changes discussed in this article will require modifications to these policies and practices as well.

7. Identify minimum staffing needs, position reinforcements, and essential facility operations. A pandemic is usually widespread and can be an extended event occurring in multiple waves of outbreaks of six to eight weeks each. Ensure you have an established plan to continue minimum operations with the minimum staff levels. Also, identify appropriate back-up staff trained in critical job areas in the event key personnel are affected by significant absence.

8. Insure short-term disability and salary continuation programs. Many employers have short-term disability or salary continuation programs that are funded completely out of current assets. If 40 percent of the workforce is absent for an extended period, the drain on these programs will be significant and companies may not be able to fund these benefits. Employers can transfer this risk by adopting insured short-term disability benefit programs.

9. Revise attendance and leave policies. Traditional attendance-related policies are designed to penalize employees who are absent or tardy. However, if there is a medical or biological crisis, employers may not want sick or infected employees reporting to work or they may not have the luxury of terminating employees who are absent, even for an extended period. Employers will need to revise their policies to anticipate such crises and to provide practical solutions to these unique problems.

10. Revise vacation or paid-time-off policies. Employers should consider adopting vacation or paid-time-off policies that allow employees to get advances of paid time off or to borrow against expected benefits. Developing programs that allow employees to donate paid time off to other employees may prove beneficial in a pandemic. Revising the notice required before an employee takes vacation or paid time off may also be necessary.

11. Revise “no loans” and “no pay advances” policies. Historically, employers have had policies expressly prohibiting loans and pay advances to employees. Policies relaxing these prohibitions and setting specific limits and conditions on loans and pay advances may also be helpful.

12. Have a disaster and emergency communications policy and system. The 2005 hurricanes taught employers to have a plan for addressing a disaster and communicating with employees in the event of an emergency. The exact plan and communications system will depend on the nature of the business and other factors. However, at a minimum, have backup storage and communications systems, as well as alternative means of communicating with employees if they are not available or if it is not possible for them to come to work. Also, consider having an alternative Web site ready to activate in the event of an emergency.

13. Revise telecommuting policies. With employees not being able or willing to come to work or employers wanting them to stay home, telecommuting may become a more attractive option to all concerned. Employers should start laying the foundation for telecommuting and teleconferencing by investing in hardware and software systems, as well as implementing policies that favor telecommuting.

14. Revise travel policies. Experience with SARS teaches that in the event of biological outbreaks, employees may be prevented from entering or leaving a particular region. Or, they may be stranded away from home. Employers should have policies and contingency plans in place to address the unpredictable travel restrictions and related issues that may arise in a pandemic.

15. Allow loans and hardship withdrawals from 401(k) plans. When out of work due to crises, employees may need to draw upon their retirement savings to pay their day-to-day expenses. To prepare for this contingency, employers should make sure that their plans allow for loans and hardship distributions. Companies should also ensure that employees are aware of these options.

16. Establish an employee assistance program (EAP). In addition to their normal services, EAPs can be especially helpful to provide employees with professional counseling services and steer them to other community resources in the event of a pandemic or other crisis.

17. Engage a professional health care provider, such as a company physician or nurse. Having an on-staff physician or nurse, or at least a continuing relationship with a health care professional, can be helpful in dealing with day-to-day issues. Having a health care professional familiar with the employer's business and available in a pandemic can be invaluable.

18. Review policy statements, handbooks, contracts, insurance-related documents, and collective bargaining agreements for *force majeure* clauses. *Force majeure* clauses relieve parties from the requirements of a contract in the event of an "act of God." For example, an insurance policy may relieve the insurer of the obligation to cover an incident if it could be labeled an act of God. Such provisions could then be used to deny coverage to business or medical losses caused by a pandemic. Similarly, an employer with such a clause in its union contract may have the right to deviate from the contract or to make unilateral changes in the terms and conditions of employment. These clauses and the rights of the parties vary with each situation, but the bottom line is that responsible employers should review all documents to determine whether such a clause should be included, deleted, or revised.

These suggestions are just a few actions that employers should consider taking to prepare for a pandemic or similar crisis in the workforce. This brief list is not intended to be all-inclusive, and there may be other appropriate actions that particular employers should consider.

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D. Albert Brannen is an attorney with the Atlanta-based law firm of Fisher & Phillips LLP, which represents employers across the country in labor, employment, employee benefits, and business immigration matters. Brannen has a depth of experience advising employers on how to stay union-free and in assisting employers with the administration, negotiation, mediation, and arbitration of collective bargaining agreements. Much of his time is devoted to counseling employers about how to avoid workplace crises, comply with all applicable laws, and prevent litigation. He helps prepare all of the documents associated with the employment experience, including employee handbooks, employment contracts, restrictive covenants, ethics and confidentiality agreements, non-competition or non-solicitation agreements, and severance agreements.

Tiffani Hiudt Casey is an attorney with Atlanta-based law firm Fisher & Phillips LLP. Casey advises clients in employee relations and human resources, discrimination and harassment, discipline and termination, and safety and wellness. She helps prepare all of the documents associated with the employment experience, including employee handbooks, employment contracts, restrictive covenants, ethics and confidentiality agreements, non-competition or non-solicitation agreements, and severance agreements, and she conducts related management and employee training.

If you have questions about the information contained in this article, contact Albert Brannen via e-mail, [dabrannen@laborlawyers.com](mailto:dabrannen@laborlawyers.com), or phone, 404-240-4235 or Tiffani Hiudt Casey via e-mail, [tcasey@laborlawyers.com](mailto:tcasey@laborlawyers.com), or phone, 404-240-4238.

## Keeping the Ball in Your Court

By Tiffani Hiudt Casey  
FISHER & PHILLIPS LLP

According to Occupational Safety and Health Administration statistics, nearly 20 percent of all OSHA inspections are prompted by a complaint<sup>1</sup>, typically from a current or former employee. Pending legislation that

proposes dramatic increases in employee involvement in the inspection and citation process threatens to raise this percentage and increase the likelihood of unfavorable inspection results and more severe penalties, as a direct consequence of individual employee input.<sup>2</sup> Proposed whistleblower protections that protect employees from retaliation if they make a complaint or get involved will likely bolster employee confidence to complain and participate in inspections.<sup>3</sup> This increased employee involvement and a change in whistleblower protections, coupled with the anticipated overall swell in OSHA enforcement activity and increased penalties, may potentially expose employers to significantly greater liability for safety infractions than in the past, as well as create substantial employee relations problems.

Even if the proposed legislation does not pass in its current form, labor attorneys anticipate increased employee involvement in OSHA enforcement as the Department of Labor and new Administration continue to focus on and dedicate additional resources to the area of employee safety. If the legislation passes in its current, or even similar form, employees will have significantly more control over how and when OSHA cites employers and handles any given case. As employers who have dealt with OSHA know, the costs involved in addressing a citation and implementing safety-related changes on OSHA's quick timetable and under an area director's scrutiny can be expensive, time consuming, and frustrating. Rather than responding to OSHA, take the time to prepare now and build solid employee relations and a better safety program.

Assessing your safety and health program by focusing on employee-driven issues can help improve safety, minimize inspections and citations, align employees with the company to reduce further employee-driven safety liability, and allow the company to address and improve safety on its own terms. Employers can improve their safety and health program as follows:

1) **Reporting Policies and Procedures.** In many cases, employees who complain have a legitimate concern about a specific safety issue, regardless of whether their safety is actually in jeopardy. Companies should ensure that they have a channel for employees to express these concerns about safety. Employees need to feel that their voices are being heard by management. Reporting policies and procedures should address both reporting procedures for the employee and procedures for how the company will respond to the concerns. Unfortunately, some employees will never be comfortable reporting safety concerns to their supervisors. In their eyes, it is better to avoid being singled out, and instead, they make a report to OSHA, who likely will not divulge the reporting employee's name. To avoid this, companies may wish to consider a hotline or suggestion box for anonymous reports. A strong overall reporting system gives the company the opportunity to address employee safety concerns and any potential safety issues itself, without OSHA becoming immediately involved.

Ensure that your policies and procedures are clearly written, well publicized, and easy to understand. Employees should understand they will not be retaliated against for making such reports and that the company truly values their assistance and input. A good policy and reporting system also encourages employees to provide ideas on how to address any alleged safety issues or make safety improvements. After all, the employee is the person working in that position all day long—it is likely he or she will have some improvement ideas. The policy also should explain that all concerns will be analyzed by the company and any changes or improvements will be made if necessary for safety.

2) **Implementation and Follow-up.** Even the best policy provides little benefit if it is not properly implemented and carried out with consistency and fairness. Once your policy is drafted and implemented, you should be prepared to assess every complaint and take each one seriously. Worse than an employee who does not feel heard is an employee who feels that he or she is being directly ignored. While this change in procedure may be an adjustment from an administrative standpoint, overall, it will benefit the company. And, while every report should be addressed, not every report is one that will require significant follow up or action. The company should consider creating an internal mini-panel of "experts," such as managers, engineers, technicians, and service/maintenance managers, who can initially evaluate reports and determine whether further assessment and change is necessary. Reports that do require additional evaluation should be submitted to a larger safety committee.

Reaching out to employees about safety reporting can be a double-edged sword. Failure to address notice of an actual problem can go beyond employee dissatisfaction and lead to injuries and/or willful OSHA citations.



For this reason, many traditional views argue against asking for or soliciting information about safety concerns from employees. Modern views and progress in the area of employment relations, however, are increasingly moving towards transparency and employee-employer cooperation. Shutting out employees in the critical area of safety, instead of working with employees to make them the company's allies, could ultimately be detrimental to creating a foundation of trust, success, and truly comprehensive safety. The aforementioned pending legislation also proposes making penalties for citations, including willful citation, even more severe than the current standard. Therefore, if your company receives a report, take steps to address it immediately. If you thoroughly evaluate the situation and determine no changes are necessary for employees' safety, you can meet your obligations, but be able to defend your decision-making. You may need to involve a safety expert to support your decisions.

3) **Train Managers.** Most managers and supervisors earn their positions because they were good at the technical aspects of the job they performed. Unfortunately, they may have received little or no training on how to actually manage other people or work-related situations. When it comes to safety, supervisors and managers are the company's first line of defense, and the employee's report may be the first notice of a potential problem to the company. A company must train managers to understand that employee reports about safety, even informal ones, are good and should not be ignored. Reports to the company about safety are good because:

- They make the company aware of potentially hazardous situations.
- They give the company the opportunity to improve safety and address issues before someone gets hurt or OSHA gets involved.
- An employee that reports his or her concerns to management is demonstrating his or her trust towards the company.

Provide a protocol for managers to follow (see procedures above), whereby they can forward an informal safety report or concern to the proper company authority. Managers should understand that their failure to report/address safety issues is a violation of the company's expectations and rules.

4) **Reward Employees.** Let employees know you appreciate their input and role in taking responsibility for their safety and that of their co-workers. Consider rewarding employees for safety performance and for making valuable recommendations for safety improvement. Rewarding employees not only shows appreciation, but gives employees incentive to align themselves with the company and work towards mutual goals.

## Conclusion

By involving employees in their own safety, showing them the company is concerned about their safety and interested in their input, and rewarding them as part of the program, you will establish a mutually beneficial relationship with your employees that ultimately can help minimize OSHA's involvement in your workplace. While not every complaint or employee concern can be eliminated or avoided, following these guidelines is a significant step in the right direction.

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*Tiffani Hiudt Casey is an attorney with the Atlanta-based law firm Fisher & Phillips LLP. Casey advises clients in the areas of overall employee relations and human resources, discrimination and harassment, discipline and termination, and safety and wellness. She prepares policies and procedures handbooks and provides manager training in all areas of human resources. If you have questions about the information contained in this article, contact Casey at [tcasey@laborlawyers.com](mailto:tcasey@laborlawyers.com) or 404-240-4238.*

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<sup>1</sup>Of the 39,324 total inspections performed by OSHA in 2007, 7,055 inspections were the result of complaints.

<sup>2</sup>The Protecting America's Workers Act would: allow workers and their families to hold employers accountable by providing workers and employee representatives the right to contest OSHA's failure to issue citations, classification of its citations, and proposed penalties; give injured workers and their families, as well as families of workers who died in work-related incidents, the right to meet with investigators, receive copies of citations, and to have an opportunity to make a statement before any settlement negotiations; clarify that the time spent by an employee accompanying an OSHA inspector during an investigation is considered time worked, for which a worker must be compensated; prohibits OSHA from designating a citation as an "unclassified citation" where an employer can avoid the potential consequences of a "willful" violation, the

most serious violation; and allow any worker or their representative to object to a modification or withdrawal of a citation, and entitles them to a hearing before the Occupational Safety and Health Review Commission. See H.R. 2067 Protecting America's Workers Act (the "Act"). See also <http://www.govtrack.us> for more information regarding the Act. The Senate passed a similar bill on August 5, 2009.

<sup>3</sup>The Act would increase whistleblower protection by codifying regulations that give workers the right to refuse to do hazardous work; clarifying that employees cannot be discriminated against for reporting injuries, illnesses, or unsafe conditions; align the procedures for investigating and adjudicating discrimination complaints with other safety and health and whistleblower laws; and increase penalties.

## Certificate Details: Learn more about the Safety and Health Certificates

Georgia Tech OSHA certificates emphasize practical safety skills—ones that help you keep your company safe. Build the technical expertise you need to quickly adapt and effectively work in an ever-changing field. Learn more about each certificate:

- [Industrial Safety and Health Certificate](#)
- [Construction Safety and Health Certificate](#)
- [Safety and Health Program Management Certificate](#)
- [Hazardous Materials Management Certificate](#)
- [ADVANCED Industrial Safety and Health Certificate](#)
- [ADVANCED Construction Safety and Health Certificate](#)
- [PREMIER Occupational Safety and Health Certificate](#)

## Certificate Recipients: Georgia Tech Research Institute's OSHA Program Certificate Recipients

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Lisa Foster-Morrow  
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Joseph Allan Heilbroun  
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Loritha Bradford  
Eldridge D. Brown  
Gregory Scott Gooch  
Joseph Allan Heilbroun  
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**Course Information: Upcoming Courses****OTI 500:** Trainer Course in Occupational Safety and Health for the Construction Industry

- Nov. 2-6, 2009 (Atlanta, Ga.)
- Nov. 9-13, 2009 (Columbia, S.C.)
- Dec. 7-11, 2009 (Birmingham, Ala.)
- Jan. 19-22, 2010 (Savannah, Ga.)
- Feb. 8-12, 2010 (Atlanta, Ga.)

**OTI 501:** Trainer Course in Occupational Safety and Health for General Industry

- Nov. 2-6, 2009 (Atlanta, Ga.)
- Dec. 7-11, 2009 (Birmingham, Ala.)
- Jan. 19-22, 2010 (Savannah, Ga.)
- Feb. 8-12, 2010 (Atlanta, Ga.)

**OTI 7505:** Introduction to Accident Investigation

- Nov. 2-20, 2009 (Online)
- Jan. 11, 2010 (Atlanta, Ga.)
- Feb. 1-19, 2010 (Online)

**EST 7007:** Construction Health and Safety Technician (CHST) Certification Exam Study Course

- Nov. 9-13, 2009 (Atlanta, Ga.)

**EST 7000:** Scaffolding Safety

- Nov. 30, 2009 (Atlanta, Ga.)
- Jan. 19-Feb. 9, 2010 (Online)

**OTI 3010:** Excavation, Trenching, and Soil Mechanics

- Dec. 1-4, 2009 (Atlanta, Ga.)

HAZ 1000: 24-Hour Hazmat Technician-Level Emergency Response Course: Industrial Spill and Disaster Response

- Dec. 1-3, 2009 (Smyrna, Ga.)

OTI 2264: Permit-Required Confined Space Entry

- Dec. 1-21, 2009 (Online)

OTI 510: Occupational Safety and Health Standards for the Construction Industry

- Dec. 7-11, 2009 (Atlanta, Ga.)
- Feb. 8-12, 2010 (Atlanta, Ga.)

OTI 511: Occupational Safety and Health Standards for General Industry

- Dec. 7-11, 2009 (Atlanta, Ga.)
- Feb. 8-12, 2010 (Atlanta, Ga.)

HAZ 1002: 8-Hour Annual HAZWOPER Refresher

- Dec. 8, 2009 (Smyrna, Ga.)

OTI 7845: OSHA Recordkeeping Rule Course

- Dec. 11, 2009 (Atlanta, Ga.)
- Feb. 12, 2010 (Atlanta, Ga.)

OTI 7500: Introduction to Safety and Health Program Management

- Jan. 4-22, 2010 (Online)
- Jan. 25, 2010 (Atlanta, Ga.)

OTI 502: Update for Construction Industry Outreach Trainers

- Jan. 12-14, 2010 (Atlanta, Ga.)
- Feb. 16-18, 2010 (Gulfport, Miss.)

OTI 503: Update for General Industry Outreach Trainers

- Jan. 12-14, 2010 (Atlanta, Ga.)

EST 7001: Advanced Safety Management: Principles & Programs

- Jan. 26-29, 2010 (Atlanta, Ga.)

OTI 521: OSHA Guide to Industrial Hygiene

- Feb. 22-26, 2010 (Atlanta, Ga.)

OTI 2045: Machinery and Machine Guarding Standards

- Feb. 15-19, 2010 (Atlanta, Ga.)