

THINKING AHEAD...

TO DELIVER
peace of mind

SOMEONE TESTS POSITIVE FOR COVID-19 IN THE FACILITY

WHAT'S THE PLAN?

Inevitably, a member will contract or be exposed to COVID-19 and will require isolation or quarantine. What's your plan? This resource is created to identify the resources and steps you need to work through in order to utilize resources, create a plan and communicate.

Utilize the resources, information, and guidance from the following to develop your plan:

1. CDC
2. University/college
3. National/International organization
4. Holmes Murphy Fraternal Practice

The reader's digest on "liability" and thoughts to consider.

The type of agreement the House Corporation has the members living in the facility may affect your plan. There are two types of agreements you are likely to encounter: a license and a lease. While some people may use the terms interchangeably, they are legally distinct. The key differences are as follows:

	License	Lease
Legal Interest Conveyed to the Student	Mere permission allowing the student to gain access to the facility on certain terms	Right to exclusively possess the property, subject to the terms of the agreement
Transferability	Not transferable	Transferable unless excluded by the terms of the agreement
Revocability	Usually revocable at any time	Not revocable during the term of the agreement ¹

¹ In a tenancy at will—where the lease conveys the right to the member “until the student or the House Corporation wishes to end the lease” or “for as long as the student desires”—either party can terminate the lease at any time. In the majority of jurisdictions, the terminating party must give 30 days notice.

Regardless of what the parties call the document, courts may still look at the parties' intent and the agreement's terms to determine whether a license or a lease exists.

If the agreement is a license, the House Corporation has more flexibility: If a student tests positive for COVID-19, the House Corporation could revoke the license (depending on the terms of the license) and require the student to move out of the facility. The student would be responsible for any outstanding rent up to the date of the revocation but would not owe the House Corporation any rent moving forward.

If the agreement is a lease, any action the House Corporation takes that is inconsistent with the agreement and substantially interferes with the student's possession or use of the leased space could constitute a breach of the agreement. An alleged breach of the lease would allow the student to sue the House Corporation. In addition to the student no longer being responsible for future rent payments, the court could also award damages, including moving expenses and the difference between the student's new rent rate and the student's rent rate in the facility.

The House Corporation should also research any state residential landlord and tenant acts or local laws. In some states, residential landlords may require a tenant to temporarily leave a rented space when a nonemergency property condition exists. The landlord may then be responsible for the tenant's cost of a comparable rental unit or hotel. The tenant would remain responsible for paying the landlord rent under the terms of the lease.

Before taking any action against a student, the House Corporation should research the existence of any new laws or orders in their city, county, and state regarding COVID-19 and the impact on landlord-tenant laws. Many jurisdictions are continuing to issue orders and new laws to address the impact of COVID-19.

EXECUTE A HOUSING AGREEMENT

HMFP Resource: Housing Agreement Amendment Template

We recommend you utilize the HMFP Housing Agreement Amendment template and have a licensed attorney in your state review and edit based on state laws. This template provides for temporary removal of a member.

- 4.6 ***Right of Temporary Removal.*** *House Corporation may require Student to temporarily move out of the Chapter House if Student's conduct, behavior, or contraction of a communicable disease endangers the rights, safety, or welfare of any other person.*

WHAT ARE THE OPTIONS TO HELP YOU CREATE A PLAN?

1. REMAIN IN THE FACILITY

- Understand the difference between quarantine versus isolation.
<https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/quarantine-isolation.html>
- A protocol should be made available to all individuals involved in the management of isolation spaces and its procedures. (CDC protocol available at <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/care-for-someone.html>)
- The isolation and quarantine rooms should be physically separated from other rooms.

- The rooms should have private bathroom facilities and be stocked with a thermometer, sanitizing wipes, tissues, soap, hand sanitizer, and toiletries.
- Spaces should be labeled externally with appropriate signage that states restricted access (e.g., “Private Quarters” or “Authorized Personnel Only”) but does not state the reason for the restricted access due to concerns about potential for stigma and FERPA/ HIPAA violations. Any signage decisions should be reviewed with general counsel from your organization. Minimally, a select group of individuals (House Director, cleaning personnel, Chapter President) should be aware of the rooms used for isolation.
- Adequate numbers of rooms should be pre-identified to accommodate an increase in need.
- Student health services staff should remotely monitor students on a daily basis (temperature checks and symptom screening) and transfer to an on-or off-campus site for a clinical evaluation if symptoms advance or the patient requests.
- For members in facilities that serve meals, someone should arrange food delivery.
- Counseling services and/or the office of spiritual and religious life should be available remotely to members in isolation or quarantine as needed.
- To the degree possible, members should continue academic activities remotely or be provided with note takers.
- A team of designated people should be on call to assist member with their personal needs (medication pickup, delivery of hygiene supplies, etc.).
- Custodial and maintenance staff and live-in professionals are provided with and required to wear appropriate PPE (as per CDC guidelines) when cleaning or entering isolation and quarantine spaces (available at <https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control-faq.html>).

All Housing Corporations may not have the resources to meet each of these ideal recommendations but at a minimum should assess their capability to provide these accommodations for a member or personnel in isolation or quarantine.

2. ARE THERE UNIVERSITY/COLLEGE OPTIONS?

Is university/college offering on-campus or off-campus options for isolation and quarantine? The American College Health Association has recommended the following to Institutes of Higher Education “It is unreasonable to expect IHEs to provide on-campus isolation and quarantine housing for students who live off campus, but it is recommended that the IHE develop a plan for fielding requests for isolation/quarantine housing for off-campus students.” This reads that IHE might or might not provide options for students who live off-campus.

3. PROVIDE OPTION OFF CAMPUS

Housing Corporation or chapter pays for member to go to alternative housing which could include a hotel, off-campus facility provided by university/college at a fee, a member who has an extra bedroom and can accommodate.

4. ASK MEMBER TO GO “HOME”

Does the member have a “home” to return to? How will the member be transported? Is this the safest and best option for the member? Whether a student is able to continue to pursue their academic pursuits from home should also be considered.

5. OTHER?

OTHER QUESTIONS TO ANTICIPATE FOR YOUR PLAN AS YOU PREPARE TO REOPEN

- **What is your cleaning/disinfecting protocol for the facility?**
<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cleaning-disinfection.html>
- **How to discontinue home isolation?**
CDC: <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html#discontinue-isolation>

ONCE YOU HAVE A PLAN... COMMUNICATE!

It will be critical to communicate the plan to members. The level of parental concern about COVID-19 will be extraordinarily high when the campus reopens, and members return. Including parents in key messaging is an excellent strategy to address their concerns and can be accomplished by inclusion in the message.

ELEMENTS OF EFFECTIVE MESSAGING AND COMMUNICATION

- Has unified content.
- Is consistent and reflects brand identity.
- Addresses the intended audiences' needs and (if appropriate) is delivered in multiple languages.
- Is appropriate in tone to the urgency of the communication. Calmness, confidence, and compassion should be evident in the message.
- Is timely, transparent, and clear.
- Is updated frequently and dated to reflect this timing.
- Is delivered through multiple platforms (website, social media, email, etc.).
- References additional resources (e.g., website, hot lines, FAQs for additional information).
- Is assessed and adjusted as necessary.
- While there are many issues to consider for communication pieces, it can be helpful to address the basics of "Who, What, When, Where, Why, and How."

WHAT IS THE PURPOSE OF THE MESSAGE?

- Define the main message. Including too many key points into a single communication piece makes it overly complex and long, which risks reader fatigue, inattention, and loss of the message.
- Each message should include contact information for email and phone follow-up. Ensure volunteers and officers are prepared to respond to concerns in a timely manner.

Information in this resource is adapted from ACHA resource available at

https://www.acha.org/documents/resources/guidelines/ACHA_Considerations_for_Reopening_IHEs_in_the_COVID-19_Era_May2020.pdf