

COVID-19, employee confidentiality, and running your library

VT Public Library HR minute – JUNE 2020

Dear Library Friends,

According to the [CDC](#), COVID-19 is especially dangerous to those with “co-morbidities,” which include age, heart disease, asthma, diabetes, and compromised immune systems. As you work to provide expanded services to your communities over time, you may be learning new things about the employees, volunteers, and trustees you work with. The personal things you learn and document about your associates are things that might need to remain *confidential*.

Confidentiality is basic in the human resource management function, and it is also a big challenge for supervisors. In libraries across Vermont, the director is usually *THE* human resource department. Or, the HR “department” may be a sub-committee of the trustees. Too often, trustees and directors of Vermont public libraries are left wondering *what is confidential*.

Confidentiality falls into two categories: in some cases it is a **judgement** call, in others it is legally defined. For instance, someone may have told you “in confidence” a personal story or opinion unrelated to work. Building your reputation for trustworthiness means that you don’t repeat what you heard. You know it can lead to people being hurt, bad feelings, or worse.

Confidentiality also has its **legal** side. In an organization or business, certain types of personal information are confidential. This includes:

- social security number,
- marital or partner status,
- job application and reference letters,
- **health records**,
- performance evaluations,
- disciplinary actions,
- formal documents from supervisor, et cetera.

These can’t be discussed with other employees¹, volunteers, or others. Clearly, if an employee or volunteer – please consider volunteers as “unpaid” staff – tells you that they have a condition that would make them higher risk for severe disease if they contract COVID-19, this is a confidential health

issue. You can and should ask for documentation, and you should place it in their personnel file which *must be* in a secure location under lock and key.

But wait! You have a library to run, and this knowledge of an employee may impact how you reopen your library. In an interview² with Johnny Taylor, CEO of the Society for Human Resource Management, Taylor says, “One of the greatest challenges for an HR professional is balancing the sometimes-conflicting responsibility of being a trusted resource for employees and an effective partner for the business.” As a director, you know the truth in those words.

During a recent discussion of this challenging situation with Lara Keenan, State Library Consultant, Governance and Management, VT Department of Libraries, she said directors and trustee chairs “...will need to find a way to accommodate [their] employees’ needs while keeping their personal information confidential – all while drafting a reopening plan with accommodations that you might not be allowed to openly explain.”

In an organization or business, certain types of personal information are legally confidential.

Speaking from a place of familiarity, this is a difficult position to be in as a supervisor, especially when the “other parties” are not knowledgeable in confidentiality rules around managing people. What I’ve experienced in past staffing decisions that I made was that other employees and customers wanted me to explain why I was “running things” the way I was. To compound emotions, I often felt like I wasn’t being forthright in my responses, and my trustworthiness with employees was at risk. The



¹ Ashe-Edmunds, Sam. June 29, 2018. *What is the meaning of confidentiality in the workplace?* <https://work.chron.com/meaning-confidentiality-workplace-21886.html>, accessed June 16, 2020.

² Taylor, Johnny. "Are my talks with HR confidential?" USA Today, 7 Aug. 2018, p. 06B. Gale Academic OneFile, https://link-gale-com.ezproxy.uvm.edu/apps/doc/A549390225/AONE?u=vol_b92b&sid=AONE&xid=b2593f6d. Accessed 15 June 2020.

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truth of the matter is that you are obligated to protect employees' right-to-confidentiality about their health. *Being ethical and following legal protections for employees are the important measures here, not satisfying other peoples' curiosity or wanting to save face or appear "honest."* I mentioned in other writings that being a leader, a supervisor, or a board chair requires courage. Well, this is surely one of those moments. You have to remain true to the law of confidentiality, even in the face of selectboard or other pressures. And you will have to leaven that courage with tact and professionalism.

If you are making accommodations due to the health of an employee or volunteer, I suggest that you pitch the changes to "interested others" simply and consistently. You are following the Vermont Agency of Commerce and Community Development's guidelines for businesses in re-opening, which include statements such as "adopt a phased approach...", "ensure lower contact operations," and "non-profit and government operations must use remote work whenever possible." Be as clear as you can without breaking confidentiality.

To summarize, please consider the following:

- Personal information is confidential, as described.
- Access to personnel files should be limited to *only* those with a right and need to know.
- **Medical records should be filed and stored**



separately from personnel records (e.g., annual evaluations, et cetera, per guidance from the U.S.

Employment Equal Opportunity Commission).

- I recommend that your board create, if one does not exist, a human resources sub-committee. IF confidential information *really* needs to be shared, limit it to a small sub-committee!
- All trustees should be briefed in confidentiality and agree to non-disclosure. Confidentiality in the workplace is a good item to add to employee trainings too!

- During the pandemic, follow Vermont Agency of Commerce and Community Development ([ACCD](#)) and Department of Libraries' guidelines in doing everything possible to accommodate work remotely.
- Additionally, from ACCD "Consider accommodations for employees at higher risk from COVID-19 infection (as currently defined by the CDC) to work remotely or have a job tasks that minimize public interaction." Staggered work shifts, break times, and modifying hours of work is also recommended.

Remember, for Vermont public library updates and expert guidance please visit [Vermont Department of Libraries' COVID-19](#) Internet pages!

Also, for budgeting and human resource guidance, please visit my website at: <https://www.uvm.edu/extension/vermont-public-libraries-educational-program>

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Gary is not an attorney and this does not constitute legal advice.