

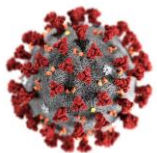
HR Issues in Vermont Libraries During COVID-19

Janette Shaffer, Assistant State Librarian for Advancement

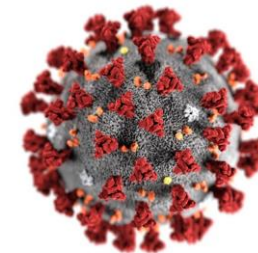
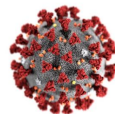
VT Department of Libraries

Gary Deziel, Extension Assistant Professor

UVM Extension



THE UNIVERSITY OF VERMONT
EXTENSION



Department of Libraries
Agency of Administration



COVID or Not - Operational Basics

- ▶ Job descriptions
- ▶ Annual evaluations
- ▶ Periodic formal check-ins on goals
- ▶ Timely and consistent communication (up, down, sideways)
- ▶ Empathy and respect
- ▶ Municipal, non-profit, and/or union? Know when to ask for help.
 - ▶ VT LIB
 - ▶ Trustees
 - ▶ Municipality, VLCT
 - ▶ Attorney



New Ideas and Non-Standard Practice

- ▶ Do your homework, know your rights
- ▶ Make formal proposals- include anticipated pros/cons
- ▶ Come ready to negotiate and see the other side of things
- ▶ Courage



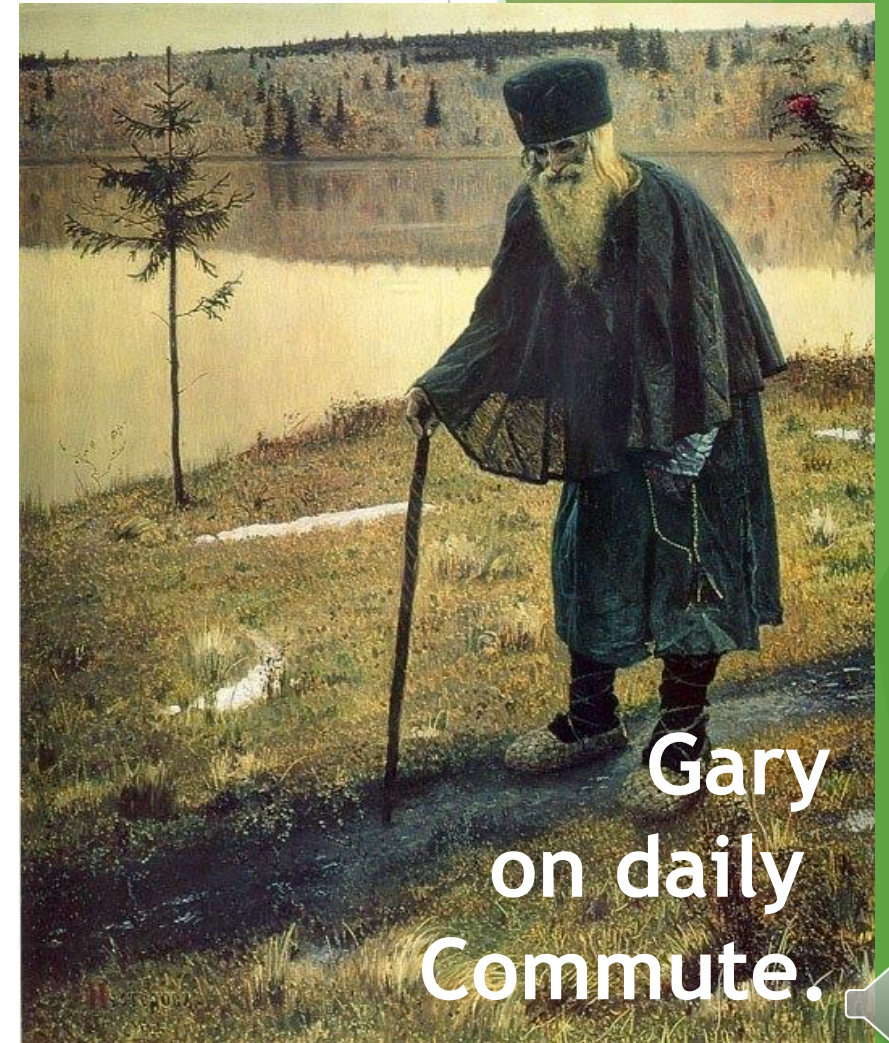
COVID or Not - Operational Basics

- ▶ Vermont is an “at-will” state
- ▶ Medical records are strictly private
- ▶ Don’t make assumptions
- ▶ Consistency
- ▶ Engagement with *interactive* assessment process
- ▶ Documentation; the decision you made; why you made that decision



Human resource laws and regulations that may effect re-opening

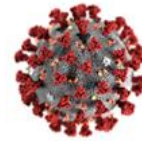
- ▶ Age Discrimination in Employment Act, which prohibits discrimination based on age, 40 or older.
- ▶ V/OSHA, (Occupational Safety and Health Administration) workers are entitled to working conditions that do not pose a risk of serious harm.



Gary
on daily
Commute.



Human resource laws and regulations that may effect re-opening



- ▶ Families First Coronavirus Response Act requires **certain** employers to provide their employees with **paid sick leave** and **expanded family and medical leave** for specified reasons related to COVID-19, from April 1, 2020 through December 31, 2020.
- Municipal, public employees.
- Non-profit corporations.



Human resource laws and regulations that may effect re-opening

- ▶ Americans with Disabilities Act (ADA) and the Rehabilitation Act, which include the requirement for reasonable accommodation and non-discrimination based on disability, and rules about employer medical examinations and inquiries.



ADA

- ▶ A “reasonable accommodation” is a change in the work environment that allows an individual with a disability to have an equal opportunity to perform a job’s essential functions...
- ▶ An accommodation poses an “undue hardship” if it results in significant difficulty or expense for the employer... if so, an employer is not required to provide it but still must consider other accommodations that do not pose an undue hardship. **NEGOTIATION**



ADA

- ▶ The ADA prohibits employee **disability-related inquiries or medical examinations** unless they are job-related; consistent with business necessity.
- ▶ If there's **reasonable belief** that an employee's ability to perform essential job functions will be impaired by a medical condition or an employee will pose a direct threat due to a medical condition. [Based on current guidance, the COVID-19 pandemic **MEETS** the direct threat standard.]



- ▶ Cannot make **assumptions** about older workers or workers with disabilities; exclusionary actions, for instance.
- ▶ **Age.** (ADEA) No accommodation required, but it is not illegal to favor an older worker over a younger worker.
- ▶ **Antibody testing.** Evolving area, based on EEOC and CDC; employer cannot require this test at this time.



- ▶ **Living with someone at high-risk.** ADA does not require employer to accommodate; employer *can offer flexibility* with consistency.
- ▶ **Poor performance.** Employer does not have to continue telework. If telework is ADA related, understand accommodation, review alternatives, document decision and why you are making this decision.



- ▶ **Pregnancy.** Must be treated the same as other employees in their ability or inabilities.
- ▶ **COVID-19 tracing.** Employer can do this; right to privacy & need to know; separate medical record from personnel files.
- ▶ **Ask about pre-existing conditions?** Yes, but NOT specifics, and be consistent.



- ▶ **After vacation quarantine?**
Employers can require;
telework for feasibility.
- ▶ **Fear.** Discuss specific issue with
employee, [VOSHA] general
versus specific; if specific and
covered under ADA.
- ▶ **Mandatory COVID-19 testing.**
Area evolving; CDC released
“five scenarios” Friday July 17,
2020.



STATE OF VERMONT

Agency of Commerce and Community Development

SEARCH

FUNDING AND INCENTIVES

PROGRAMS

RESOURCES

FREQUENTLY ASKED QUESTIONS

NEWS AND EVENTS

Home

COVID-19 Recovery Resource Center

Cross State Travel Information

Economic Recovery Grants



PHASED RESTART WORK SAFE GUIDANCE

All businesses, whether essential or not, must abide by the following health and safety guidance included in the [Phased Restart Work Safe Guidance](https://accd.vermont.gov/content/stay-home-stay-safe-sector-specific-guidance).

<https://accd.vermont.gov/content/stay-home-stay-safe-sector-specific-guidance>



References

- ▶ State of Vermont Agency of Commerce and Community Development, Phased restart work safe guidance, accessed July 7, 2020 <https://accd.vermont.gov/content/stay-home-stay-safe-sector-specific-guidance#municipalities>
- ▶ State of Vermont Department of Labor, Employee rights, accessed July 7, 2020 <https://labor.vermont.gov/vermont-occupational-safety-and-health-administration-vosha/employee-rights>
- ▶ EEOC-NVTA-2009-3. Pandemic Preparedness in the Workplace and the Americans with Disabilities Act. Date Issued; Originally 09-Oct-09; revised 19-Mar-20, accessed July 7, 2020 https://www.eeoc.gov/sites/default/files/2020-04/pandemic_flu.pdf
- ▶ <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws> What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws Technical Assistance Questions and Answers - Updated on June 17, 2020. Accessed July 17, 2020.
- ▶ Responding to Employees' Spouses' Coronavirus Concerns. Allen Smith, July 7, 2020. Society for Human Resource Management, accessed July 9, 2020 <https://www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/responding-to-employee-spouses-coronavirus-concerns.aspx>
- ▶ EEOC Answers More Coronavirus Questions as Employees Return to Work. Lisa Nagele-Piazza, June 12, 2020. <https://www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/eeoc-answers-coronavirus-questions-on-return-to-work.aspx>
- ▶ Families First Coronavirus Response Act: Questions and Answers. US Department of Labor. Accessed July 14, 2020. <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>
- ▶ What to Do When Scared Workers Don't Report to Work Due to COVID-19. Allen Smith, April 20, 2020. <https://www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/coronavirus-when-scared-workers-do-not-report-to-work.aspx>
- ▶ A conversation with EEOC Chair Janet Dhillon. Society for Human Resource Management. June 26, 2020. Accessed July 17, 2020.
- ▶ Families First Coronavirus Response Act: Questions and Answers. Accessed July 17, 2020. <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>



Evaluation link, please submit your thoughts!

<https://www.projectoutcome.org/responses/51722>

