

Successfully Navigating HR Challenges through the Pandemic

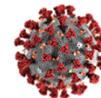
VT LIB 2020 Trustees and Friends Conference

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NOT AN ATTORNEY!



Thank You



Department of Libraries
Agency of Administration

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Learning objectives

- Appreciate that values underpin “it all”.
- Recognize your importance during these trying times.
- Understand that PEOPLE management basics continue to be important, and “new basics” apply!
- Gain a bit of knowledge of laws and regulations that effect employer and employee rights as you successfully run your library.

“It’s complicated.”



What is the Primary Duty of the Trustees?

Well-Being of the Library

YOU'RE THE BOSS!

<https://libraries.vermont.gov/sites/libraries/files/PublicLibraries/Trustees/TRUSTEE%20TRAINING%20BASIC%20TEMPLATE%20LARA.pdf>

Mental health during COVID-19

- 72% of Americans say their life has been disrupted by coronavirus
- 53% of women / 37% of men say the pandemic has affected their mental health
- 19% say COVID-19 has had a “major impact” on their mental health



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Source: Batman, D. and G. Smithson, [Virgin Pulse]. Managing Mental Health During a Pandemic and Beyond (webcast). August 14, 2020. Society for Human Resource Management.

C2

Community
Communication

©



The slide features a large purple 'C2' logo on the left. To its right, the words 'Community' and 'Communication' are stacked vertically in a black sans-serif font. A small copyright symbol '©' is positioned below the 'C2'. On the right side of the slide, there is a decorative graphic consisting of overlapping, semi-transparent geometric shapes in shades of orange and red. Below the text, there is a small icon of a stack of books, with the top one open.

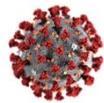
Handrail



The slide is split into two sections. On the left, the word 'Handrail' is written vertically in a bold, orange, sans-serif font. On the right, there is a photograph of a paved path that curves through a dense, green, hilly landscape. A bright yellow handrail runs along the path, following its curve. In the background, a set of concrete stairs with a yellow handrail leads up a hillside.

- Over communicate
- Don't neglect
- Provide resources
- Empathy & care - "you're wanted"
- Routines and planning matter
- Professional development

**WORKER
ENGAGEMENT!**



New COVID basics



- Live your library's mission and values.
- Behavior is modeled from the top.
- Advocate.



- Job descriptions
- Periodic formal check-ins on goals
- Annual evaluations



Basics

- Vermont is an “at-will” state.
- Medical records are strictly private. Keep them separate from personnel file.
- Inform yourself as best you can.



Basics

- Engagement with *interactive* assessment process. Don't make assumptions.
- Consistency!
- Document - what you decided, why you decided it, share with employee, personnel file.
- Courage!



Basics

Know when to ask for help.

- VT LIB
- Trustees
- Municipality, VLCT
- Attorney



Basics

STATE OF VERMONT

Agency of Commerce and Community Development



“All businesses and **non-profit and government** entities shall encourage and facilitate **telework** among those employees with the capacity to work remotely when practical without impeding productivity. Employers **shall accommodate the needs of high risk individuals**, those workers who may have child care needs which cannot be met due to the closure of schools or child care facilities for reasons relating to COVID-19 and those individuals with concerns about personal health circumstances.”

Accessed August 28, 2020. <https://accd.vermont.gov/news/update-new-work-safe-additions-be-smart-stay-safe-order>

Workers' rights laws and regulations that may come into play

- ADEA (age)
- V/OSHA (safety at work)
- FFCRA (COVID-19 & families)
- ADA (disability)

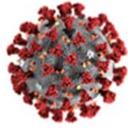


Workers' rights laws and regulations that may come into play

- ▶ 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.



FFCRA



DOL
FFCRA
[WebTool](#)

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

ADA

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



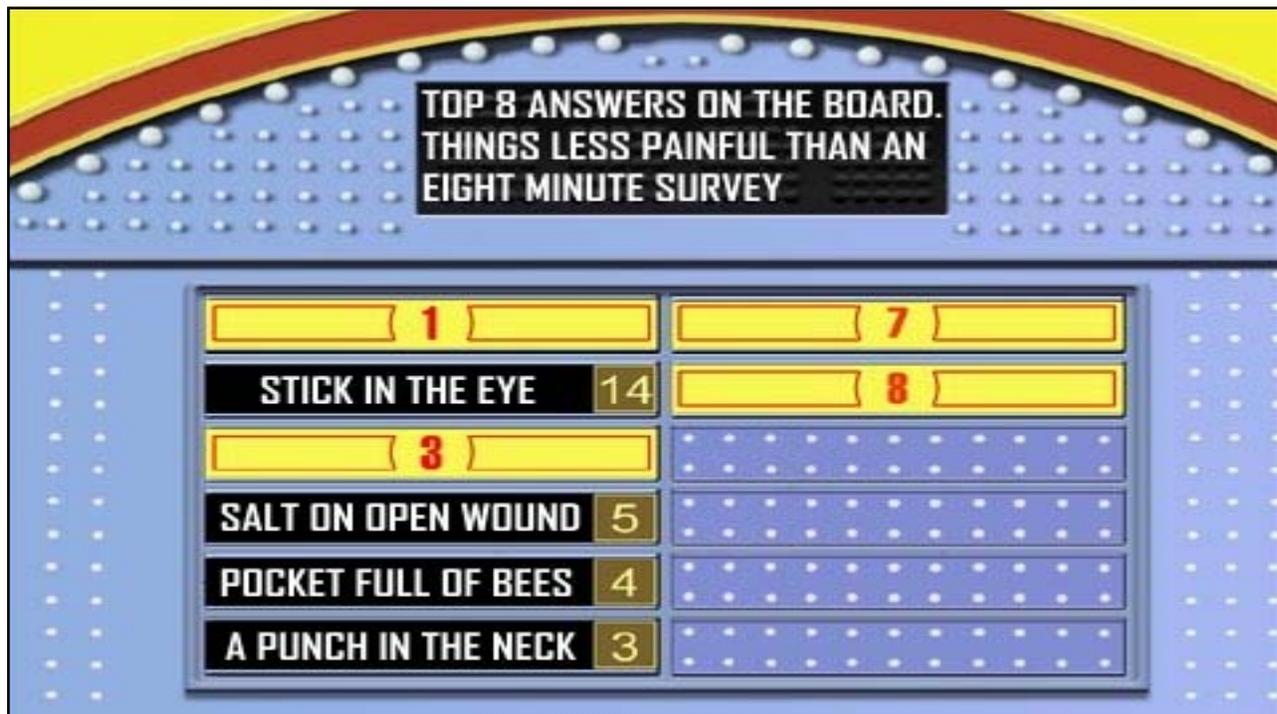
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- The word "ADA" is written in a large, pink, sans-serif font, positioned on the right side of the slide. It is overlaid on a decorative background of overlapping geometric shapes in shades of orange, red, and brown.
- ▶ A “reasonable accommodation” 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...*
 - ▶ However, if an accommodation results in significant difficulty or expense for the employer, the employer may claim an “undue hardship”.
 - ▶ if so, an employer is not required to provide it but still must consider other accommodations that do not pose an undue hardship.
 - ▶ Engage in interactive negotiation.

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- The word "ADA" is written in a large, green, sans-serif font, positioned on the right side of the slide. It is overlaid on a decorative background of overlapping geometric shapes in shades of orange, red, and brown.
- ▶ 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.

1. May I require my 67-year old employee to work from home to protect their safety?
2. If an employee lives with someone who needs "special protection" from COVID-19, do they have the legal right to work remotely?

Q₁₀

0:30



1. May I require my 67-year old employee work from home to protect their safety?

No. Cannot make assumptions about older workers or workers with disabilities; exclusionary actions, for instance.

Q₁₀

2. If an employee lives with someone who needs “special protection” from COVID-19, do they have the legal right to work remotely?

No. ADA does not require employer to accommodate an employee who is living with someone at high-risk. The employer *can offer flexibility* with consistency.

Q₁₀

- ▶ 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.



ADEA

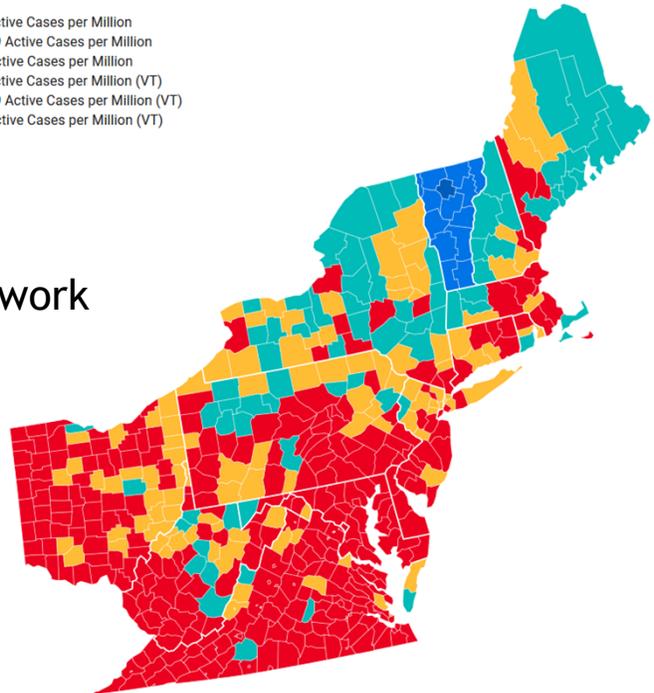
- ▶ Age. (ADEA) No accommodation required, but it is not illegal to favor an older worker over a younger worker.



- ▶ Fear. Discuss specific issue with employee, **general** versus **specific**; if specific ... covered under ADA(?).
- ▶ Ask about pre-existing conditions? Yes, but NOT specifics, and be *consistent* - *every employee*.



- ▶ After vacation quarantine? Employers can require; telework for feasibility.



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