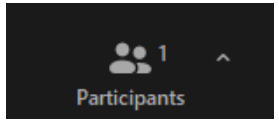
Handling Confidential Information

Patricia Lauten, Deputy City Attorney

Leah Reinardy, Occupational Accommodations Specialist

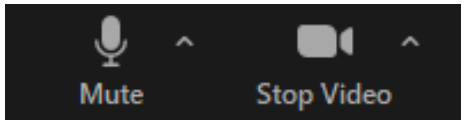
Tech Check

1. Rename Yourself



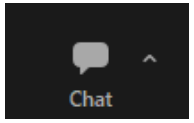
- Participants > Hoover over your name > 3 dots > Rename. Type your Name, Pronouns, and Department.

2. Mic & Video Test



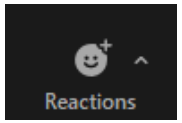
- Select the microphone button to unmute yourself & say hello! Select the video button to go on/off camera.

3. Locate the Chat Feature



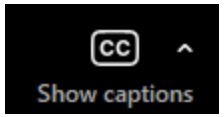
- Select the three dots > Chat to open up the chat box.

4. Raise Hand or Use Reactions



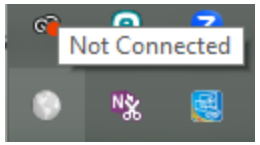
- Select the three dots > Reactions > Raise Hand to raise your hand.

5. Turn on Closed Captioning



- Select Show Captions button, select your preferred language, click Save.

6. Turn off your VPN



7. Grab a Copy of the Learner Workbook / Handouts



- Found in Chat from your facilitator!

Disruption? Try logging out and logging back in again.

Learning Objectives

1. Understand the different types of confidential information you have an obligation to protect as a City employee.

2. Identify best practices you can use in your day-to-day work to protect the confidentiality of your paper and digital files.

3. Practice working through examples of hypothetical situations where confidential information was handled improperly by others.

Types of Confidential Information

What is Confidential Information?

Non-public information about a person or entity that if disclosed could damage the person’s or entity’s financial standing, employability, privacy or reputation.

Discussion

What would you want to be kept confidential about yourself?

Confidential Information: Financial

- Payroll records
- Salary information
- Non-public benefits
- Bank account information
- Social Security Number

Disclosure could result in fraud or identity theft.

Confidential Information: Licenses and Cards

- Driver's License Numbers
- State Identification Numbers
- Passport Numbers
- Credit/Debit Card Numbers

Disclosure could result in fraud or identity theft. Be mindful of name changes.

Confidential Information: Personnel Records

- Criminal background checks
- Work history
- Application materials/references
- Address/phone numbers
- Emergency contact information
- Test scores
- Performance management information
- Discipline
- Race and gender

Disclosure could result in fraud or identity theft, general safety, and is protected by employment law.

Confidential Information: Medical

- FMLA paperwork
- Work excuse
- Return to work notes
- Fitness for duty information
- Worker's Compensation records
- Accident reports
- Police reports
- Disability disclosure forms
- Accommodations information

Disclosure is a HIPAA violation and can also cause employees to not disclose information needed to get assistance.

The Duty To Protect: Fiduciary Duty

A person who has the power and obligation to act for another under circumstances that require total trust, good faith, and honesty.

The Duty To Protect: Legal Duty

- The Federal Privacy Act of 1974 (federal records only)
- State Privacy Laws
- HIPAA (protected health information)
- Patient health care records
- Social Security Numbers
- Driver's Privacy Protection Act
- Attorney-Client Privilege

State and City Privacy Laws

- Unauthorized Acquisition of Personal Information – §134.98
- DOT Disclosure of Personal Identifiers - §85.103
- Mental Health Records - §51.61(1)(n)
- Patient Health Care Records - §146.81 et seq.
- Alcoholism Records - §51.45(14)
- Ambulance Records – §146.50(12)
- APM 2-33 (6)

Right To Privacy: The Right To Be Left Alone

Federal - Equal Protection Clause of the Fourteenth Amendment. Courts interpreted the Equal Protection Clause to prohibit discrimination based on gender which includes sexual orientation.

Wisconsin – Right To Privacy contained in Wis. Stats. §995.90. Protections include:
Intrusion on privacy of another.
Publicity given to a matter concerning the private life of another

Legal Violations – torts
Placing a person in a false light
Publicly disclosing private facts
Intruding on seclusion and solitude

Right To Privacy: Case Law

- Disclosure of private information to one person or a small group may be enough.
- Disclosure of transgender status and relevant medical history may be due process violation and deliberately indifferent.

Protecting Confidential Information

Confidential Information - ADA

- Specific diagnoses are confidential and not shared with supervisors.
- If someone shares medical documentation related to an accommodation the individual should be redirected to Human Resources.
- Supervisors need to keep accommodation information confidential.
- If you are a supervisor working on an accommodations request with City HR – please check before adding others to emails as the ADA requires the City to share information on a "need to know" basis.

FMLA Documentation

Records and documents relating to certifications, re-certifications or medical histories of employees or employees' family members, created for purposes of FMLA, shall be maintained as confidential medical records.

Handling Medical Records

If you are a supervisor and one of your employees would like to hand you a medical note:

- Encourage them to email Accommodations@cityofmadison.com or call 608-267-1156 to determine the best way to send this to the appropriate parties.
- If it is a paper copy, have the employee seal the note in an envelope, label it “Accommodations”, and contact the email/phone number above.

Protecting Electronic Information

- Avoid sending any information via email unless it is encrypted
- Limit storage of confidential information on smart phones, laptops, computer hard drives, USBs
- Secure and protect access passwords
- Use password protection features in Word or Adobe
- Dispose of media in a way that protects confidentiality
- Send faxes with a confidential cover sheet and
- only to known entities
- Send through a secure connection
- Use a privacy filter on your screen or angle your screen away from high traffic areas

What Do You Think?

Subject Line: Serry Severson's Surgery

"Hi,

Our employee, Sherry Severson, just told her coworker she will be having surgery to replace a knee. The coworker is concerned because now that person will have to cover Sherry's job duties for several weeks while she recovers. Can I ask Sherry about her surgery and how long she will be absent?

Also, Sherry has been acting strangely lately and I think that she is mentally ill. Can I ask her to tell me what medications she takes?"

(This email is not a real email and has been created for training purposes.)

Protecting Physical Information

- Do not take confidential information off site.
- Dispose of documents by shredding them.
- Secure and protect confidential information on your
- computer screen if you are leaving your workstation.
- Do not leave on your desk where co-workers or others can see.
- Seal information in a confidential envelope that is clearly labelled for the intended receiver.
- Pick up documents promptly after printing.

Best Practices For Security

- Lock your computer
- Lock offices, desks, and files
- Password protect confidential information
- Do not share or document passwords
- Document who receives confidential information
- Establish departmental policies for who has access to confidential information
- Give copies of documents – not originals

Best Practices for Disclosure

- Do not share confidential information unless required by city policy, job responsibilities or other legal requirement
- Use signed release or authorization
- Be prepared to say “No”
- Do not communicate confidential information unless you know the person is approved to handle the information
- Make sure you know identity of the person you are giving confidential information to

Best Practices for Social Media

- Make sure profile is set to “private.”
- Think about who you want to friend – co-workers, boss?
- Information can be forwarded and go viral before you can stop it.
- Selfies and Snapchat – be aware of your surroundings when you snap. (Who or what is in the background.)
- Keep your passwords private. Internet passwords are protected in Wisconsin (§995.55 Wis. Stats.)

AI and Confidentiality

- The City currently has a moratorium on using AI tools for City work purposes.
  - A primary reason for this is due to potential cybersecurity risks.
  - City employees cannot use AI on work devices or use AI on their personal devices for work purposes.
- If you use AI for personal use, be mindful of the security risks of disclosing certain information to AI.
- There are many case studies across the country already of AI tools discriminating against employees (Meta's recent layoffs) and applicants (Mobley v. Workday)

Best Practices for Event Photography

There are certain expectations of privacy around event photography.

- In general, there need to be photography releases on file if you plan on taking photos at an event.
- If the event is in an indoor space, it is best practice to post a notice on the front doors stating that filming/photography will take place during the event, and that by entering, participants are consenting to being photographed.

Discussion

- What is one strategy from this training you would like to implement and/or check in with your team about?
- Are there strategies we didn't discuss that you would like to share with everyone?

Case Studies

Ripped From The Headlines

- A hospital in New York faced a 2.2 million settlement for letting a reality TV show film patients without their consent.
- Medical technician faced discipline for commenting on a patient's car crash on Facebook.
- Assistant to HR told 2 other employees of an upcoming layoff and named one of the people – who hadn't been told yet.
- Employee who processed WC claims posted on her Facebook page: "Isn't it amazing how Jimmy experienced a 5-way heart bypass just one month ago and is back to work, especially when you consider George Shoun's shoulder injury kept him away from work for 11 months and now he is trying to sue us." Judge held employer could be liable for employee's post. *Shoun v Best Formed Plastics, Inc*.

Exercise: Case Scenario Discussions

- We will review 4 case scenarios as a full group.
- For each case, feel free to unmute your microphone or share in chat what you would do.
- Disclaimer: The cases presented in this section of the training are not real cases at the City, though they may be inspired by true stories that Patti has experienced throughout her HR/Legal career.

Case Scenario 1

You are a manager of a small store. Your employee has been hospitalized for cutting their wrists. You visited the employee in the hospital. The employee is coming back to work. They are not a danger to themselves, their co-workers or the public and they have no work restrictions. They do not need any accommodations. You are meeting with the other employees……

- What do you do?
- Would it make a difference if meeting was only managers/supervisors?

Case Scenario 2

The Deputy City Attorney comes to see you with a hot steaming cup of coffee and a smile. She wants to see an employee's medical file that you have access to.

- What do you do?
- Would your answer be different if it was a department head? A supervisor? A better cup of coffee?

Case Scenario 3

You are the supervisor of Dave. Three of Dave's co-workers come to you and tell you they think Dave is a transgender man.

- What do you do?
- Do you confirm the co-worker perception?
- What do you say to the co-workers?

Case Scenario 4

You are sitting in your office, and you overhear co-workers talking about an employee's medical condition. The conversation is work related but can be easily overheard.

- What do you do?
- Would your answer be different if the conversation was in an office? Out at the front desk? Involved the HR Director or other manager?

Questions?

What questions do you all have?

Contact Us

Patricia Lauten, Deputy City Attorney

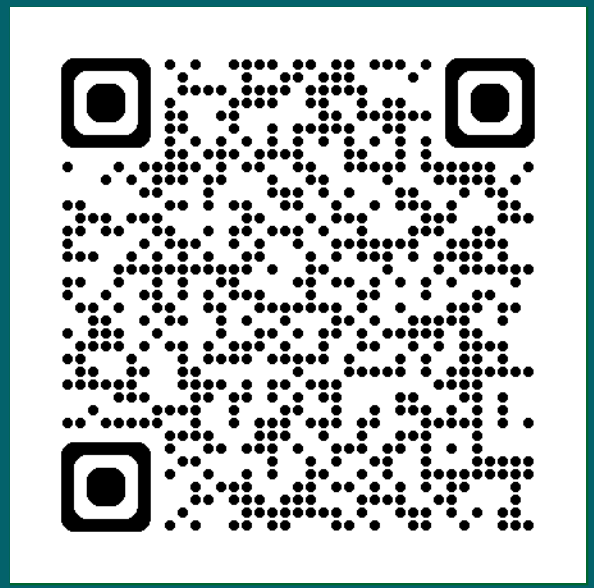
608-266-4511

Leah Reinardy, Occupational Accommodations Specialist

608-267-1156

Accommodations@CityOfMadison.com

Thanks for Joining!



Please participate in our Course Evaluation Survey – your feedback is important!