Considering the HR Implications for a Work-at-Home Workforce

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*T*he Digital Theological Library (DTL), where the co-authors both work, is a unique library. The DTL operates on a co-ownership model to create one shared library that is bigger and better than any of its member institutions could ever hope to create on their own. By working together, the DTL's co-owning seminaries can enjoy access to a world-class research library in religious studies at prices that are realistic for small seminaries. Given the mission of the DTL, from its beginning the DTL was envisioned to be an entirely cloud-based library with no circulating print collections. Because of the DTL's entirely digital approach to librarianship, the library has operated with a nonresidential workforce from its inception.

In this chapter, we will draw upon our experience and research related to the management and human resources (HR) implications of managing a largely remote workforce. At the time of our writing, the DTL employs professionals in five states in the United

States (California, Idaho, Utah, Pennsylvania, and Ohio); the DTL also works with one independent contractor in Washington. The following reflections are based on our experience and research regarding this context. While the DTL is unique in many ways, managing a distributed workforce is increasingly common in the seminary library world. We hope that the advice below applies to many different institutions from a wide range of contexts.

Classifying Workers

For librarians who work at small seminaries with little or no professional HR assistance, it is very important to know the legal requirements regarding persons who perform work for the institution. Government entities at all levels have created a substantial body of legislation designed to protect workers from exploitation by their employers, and violations of labor law can carry stiff penalties. Misidentifying workers or failing to comply with applicable legislation—even unintentionally—can open an institution to a class action lawsuit with harsh implications for finances and reputation. More fundamentally, morality and the law are not the same. Moral employers should not settle for legally required minimum standards alone. Also note that religious organizations, like churches, mosques, temples and synagogues, are typically exempt from most labor laws, but as educational institutions, seminaries are not exempt from labor laws (National Labor Relations Board n.d.).

Paid or Unpaid?

Unpaid workers can provide valuable assistance to a library. However, it is important to understand that most governments recognize two different kinds of unpaid workers: volunteers and interns. Volunteers typically serve the organization out of a sense of altruism and commitment to the organization. However, labor laws were written to protect workers from being exploited by unscrupulous employers. Therefore, most government entities, including the U.S. federal government, prohibit volunteers from doing any work that is also performed by paid employees. So, for example, a volunteer could not perform reference assistance if paid employees also

sometimes provided reference assistance. When both paid employees and unpaid volunteers have overlapping job responsibilities, that volunteer's work falls under the legal category of "uncompensated labor," and the library is guilty of "wage theft" under federal law.[1] These labor restrictions apply even if the worker is volunteering for a nonprofit and even if the volunteer has signed a waiver. The work of volunteers and paid employees (and outside contractors) cannot overlap.

The regulations regarding interns require that any work performed by an intern must be designed "primarily for the benefit of" the intern and not the benefit of the library. The two customary tests for determining who is receiving the primary benefit of the intern's work are if (*a*) the work is being performed for the sake of the intern's training or skills acquisition or (*b*) the intern is getting academic credit for the internship (U.S. Department of Labor Wage and Hour Division 2018). Interns can do any kind of work (unlike volunteers) if they acquire professional skills or get academic credit for the internship.

For libraries, the decision is simple: Allow volunteers to do only those tasks paid personnel never perform and employ only interns who earn academic credit for the internship or are learning new library-related skills. (In the United States, unpaid internships are limited to six months unless the intern is earning academic credit.) Our advice is not to use volunteers at all and to use only interns who are receiving academic credit for the internship.

Employee or Contractor?

Regarding paid workers, both the U.S. federal government and individual states make important legal distinctions between "employees" and "contractors." This distinction is key to the U.S. Fair Labor Standards Act.[2] Employers are obligated to pay an array of federally mandated expenses related to employees, including overtime, sick leave, disability and unemployment insurance, and half of an employee's social security taxes. Contractors do not have to be paid these benefits.

Because the legal obligations to employees are higher than the obligations to contractors, it is usually to the worker's advantage to be designated as an employee. The authors advise any professional librarian or paraprofessional library technician should be treated

as an employee and given employee benefits even if they work from home. The key legal distinctions between an employee and a contractor are multifaceted and imprecise, but generally speaking, anyone who meets one of the following criteria should be classified as an employee: (1) the person works exclusively for the same organization; (2) the work being performed is directly related to the organization's "core business;" (3) the employer sets the work hours; (4) the employer supplies the "tools," including software programs, used to complete the work; (5) the worker is paid by the hour, rather than by the task; and (6) the worker supervises employees.[3] In nearly every case, any person who is paid by the hour to perform basic library work (e.g., cataloging, reference, collection curation, digital resource management) should be treated as an employee and given the benefits of an employee. The organization should never have contractors and employees doing essentially the same tasks.

Hourly or Salary?

Like unpaid workers, employees fall into two categories: hourly and salary. The key distinctions between hourly (nonexempt) and salary (exempt) employees are how their work is defined and how they are paid. On the one hand, hourly employees are paid by the hour, and their work is defined by the amount of time they work. Hourly employees must be paid for each minute they work (even if that "work" is simply answering a text,) and hourly employees must be paid overtime (their hourly wage plus 50%) for any work beyond 40 hours in one week or more than 8 hours in one day (in most U.S. states; Vilos 2015). On the other hand, salary employees are paid for the work they do, not for the time it takes them to perform that work. Thus, a salaried employee's job performance and pay cannot be linked to their work time. Salaried employees do not earn overtime (i.e., they are "exempt" from overtime pay), but they also cannot be penalized for working partial days (as long as their job functions are being accomplished). In most states, exempt (salary) employees must be paid at least twice the minimum wage.

Most of your employees will be hourly in libraries, but this means they must be paid for every minute they work. Do not allow people to "do a little work" (like answering emails or fixing a few broken links) when they are "off the clock." Our advice for hourly employees is either to use entirely flexible hours (allowing people to work

whenever they wish) or a combination of some designated work times and some flexible hours.

Reimbursement for Work-Related Expenses

In most situations, it is a best practice for employers to reimburse employees for any goods or services that are "necessary" for those employees to complete their duties. These necessary expenses must be actual costs incurred by the employee. They must be documented, but they include a wide range of goods and services, most notably: internet services, software licenses, computers and electronic devices, travel costs, cell phone service, expenses related to working at home, training or education costs, and home office equipment. If a job requires a computer and internet access, the employer is responsible for paying for these "necessary" costs of employment. Employees should never be encouraged "to use their own" computer, internet account, or software license to complete work for the employer. As an additional health and safety concern (and as a legal requirement in most locations), employers should ensure that employees have ergonomically appropriate spaces and furniture in their home work environments. It is wise to provide a stipend, allowance, or pattern of reimbursement for workers to create such spaces. In short, libraries should provide remote workers with the same worker support in terms of furnishings, software, connectivity, and equipment as they would to the worker on site.

Accountability and Productivity

A significant amount of research demonstrates that workers are more productive in most tasks from remote sites, particularly because of less time spent in meetings and informal chat sessions. However, research also suggests that managers need to be particularly sensitive to the possibility of workers becoming socially isolated and losing a sense of collaboration and collective employee insight. The most important factor for avoiding worker detachment is the response times from their supervisors. Supervisors must be very present and immediately responsive to every inquiry.

Assuming that supervisors are fulfilling their support and communication responsibilities, those who supervise remote workers need to be particularly mindful of accountability and productivity standards for their employees. Benchmarking is essential. Clearly define what work needs to be completed, when that work needs to be completed, and how the employee and work will be evaluated. Clearly defined expectations benefit both libraries (which need to ensure that work is being completed) and employees (who consistently report their desire for clear expectations). Wise library administrators will emphasize that the expectations they deliver to their employees are intended to serve both the staff and the library, not solely the library.

Cybersecurity

Maintaining cybersecurity is difficult with a single site and one central point of employee contact with outside systems. However, these perennial security challenges are made exponentially more difficult when employees are working from home, over networks that may not be secure, and on devices that are not directly maintained by the site IT professionals. As a first step, the employer should provide work devices for all employees and establish clear policies for how company-owned "at-home" devices can and cannot be used. The employer should also provide secure web connections for remote workers. To be clear, given security and liability issues (what if an employee's device is hacked and personnel information is stolen?), it is wise to require all employees to use a company-issued device for all work, regardless of where that work occurs. Libraries should assign a person to perform routine cybersecurity audits of all devices used by remote employees.

In-Person Gathering

In the absence of the informal and serendipitous encounters that naturally occur in the traditional workplace, workers can become distant from one another and cease to give one another the benefit of the doubt in often brief (and potentially terse) digital communications

between colleagues. An overwhelming amount of research has demonstrated the importance of bringing all remote and residential workers together regularly (at least annually) for face-to-face interaction. These meetings should include both structured and unstructured interactions. Joint attendance at professional conferences and continuing education events is wise. In times of tight budgets, it may seem indulgent to make in-person gatherings a budgetary priority, but it is a false economy to underinvest in employee relationships.

Worker Satisfaction

In traditional libraries, library administrators naturally observe the colleagues they supervise and intuitively sense when workers are dissatisfied. Supervisors cannot rely upon such intuitive and informal means of discerning worker satisfaction when supervising a remote workforce. Even though HR surveys demonstrate that remote employees report liking the flexibility that remote work provides for them, any dissatisfaction on the part of remote work can be difficult to determine in the absence of the supervisor's willful and intentional collection of data about worker satisfaction (Pattnaik and Jena 2020, 873–74). Supervisors cannot merely presume that everyone is happy in the absence of direct complaints. Instead, supervisors must devise tools—surveys, third-party inquiries, and other forms of routine reporting—to measure worker satisfaction. Remote workers who are dissatisfied with their work can easily disengage (causing poor productivity) or simply resign to pursue other opportunities. In situations with a blended workforce (some remote workers and some on-site workers), remote workers can feel like they are left out of the library's culture, and on-site workers can feel disproportionately burdened. The same benchmarks should be used to measure the productivity of all workers—remote and on-site. Promotions should be equally available to all employees. Proactive engagement and fairness are both essential to maintaining worker satisfaction.

Conclusions

So, with this brief introduction in mind, what should a library know about managing a remote workforce?

Classify your workforce correctly. Ensure the people performing the work in your library are correctly classified as employees or contractors and that the employees are correctly classified (and treated as) hourly or exempt. Avoid relying on volunteers and limit internships to people earning academic credit.

Reimburse in compliance with the law. Buy every remote worker a "work" computer, and give these employees a (nontaxable) allowance sufficient to cover their internet, additional utilities, and incidental expenses. Your institution may need to set up an employee task force of on-site and remote workers to develop a reasonable reimbursement plan for remote workers.

Create safe workspaces everywhere. Make sure that every remote and on-site worker has an appropriate desk, chair, and ergonomic workspace.

Clarify communication and time expectations. Ensure hourly employees are only permitted to engage with office work and communications when they are "on the clock" and being paid by the library. Do not unwittingly engage in wage theft.

Clarify performance expectations. In addition to clarifying expectations for hourly employees, set clearly stated benchmarks for exempt employees. Use the same benchmarks for all employees.

Be mindful of network security. After providing company technology for all employees, insist that all library business—and only company business—be performed on those devices.

Gather regularly. People need to know their colleagues personally.

Survey employees. Seek out information about satisfaction levels among remote and on-site workers. Is there a perception of inequality on any front?

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Endnotes

1   For this US example, see: Application of the Fair Labor
    Standards Act to Employees of State and Local Governments,
    29 CFR §553.101.

2   *89 FR 1638 (Jan. 10, 2024)*.

3   *89 FR 1638 (Jan. 10, 2024)*.