

CLEVELAND PUBLIC LIBRARY

Human Resources Committee Report
October 15, 2009

PROPOSED REVISIONS TO THE HUMAN RESOURCES MANUAL

In accordance with Section 121.2 of the Human Resources Manual which reads, "No changes may be made in the provisions of this Manual without the approval of the Board of Trustees," the following recommendations are submitted for approval:

Section 200 – Employment Practices**Add New Section:****Layoff of Non-Bargaining Unit Employees – 233**

Layoff of non-bargaining unit employees is handled in the sole discretion of CPL. Layoff decisions are not based solely on seniority with CPL.

Add New Sub-Section:

233.1 - CPL may, in its sole discretion, consider some or all of the following factors in making layoff decisions for non-bargaining unit employees: work performance, job skills, education, work history, attendance and punctuality, interpersonal communication skills, years of service, the business needs of the Library and any other consideration not prohibited by federal, state or local law.

Recall of non-bargaining unit employees is handled in the sole discretion of CPL.

Tenure - 234

Reads: Every full time and part time regular employee, at the end of his/her probationary period, shall be assured continuous and permanent employment (tenure) so long as his/her assigned duties are performed satisfactorily and in accordance with the policies of the Board of Trustees. Hourly paid employees, including pages, will not be eligible to receive tenure.

Change to:**Termination of Employment of Full-Time and Part-Time Regular Employees - 234**

All full-time and part-time regular employees who have completed their probationary period and are not covered by a collective bargaining agreement are employed at-will; however, they are entitled to the rights outlined below

Subsection 234.1**Reads:**

No tenured employee may be dismissed without due process, including the filing of written charges and a formal hearing before the Director (or his/ her designee) at which the employee shall have the right to Legal Counsel. The ruling which results from the hearing shall be in writing, and may be appealed to the Board of Trustees. This procedure may be halted at any time by the resignation of the employee concerned.

Change to:

Pre-Termination Hearing and Arbitration Procedure – 234.1

No full-time or part-time regular employee may be dismissed without due process, including the filing of written charges and a formal hearing before the Director or his or her designee. The employee has the right to legal counsel during this hearing. A written decision will be issued within seven days of the close of the hearing.

If the hearing results in the decision to terminate employment, the employee may appeal to neutral arbitration. The employee must give CPL written notice of the appeal within seven days of the issuance of CPL's written decision to terminate. The arbitration will be conducted by the American Arbitration Association ("AAA") in accordance with AAA's rules and regulations that are applicable as of the day CPL receives the written notice of appeal.

The termination will remain in effect unless and until the results of the arbitration are issued. If an employee receives a favorable arbitration decision, CPL will comply with the arbitrator's decision and a record of the disposition of the case will be made a part of the employee's personnel file.

In the event the matter proceeds to arbitration, the arbitrator will have jurisdiction only over the matter(s) submitted.

234.11 - Hourly, casual and seasonal employees, including pages and substitutes, are employed at-will. They are not entitled to due process rights or the pre-termination hearing and arbitration procedure.

Subsection 234.2

Reads:

Circumstances which are sufficient cause for dismissal must be clearly evident and substantiated. They shall include, but not be limited to, the following: criminal, dishonest or immoral acts; intoxication while on duty; physical violence against another individual in the Library; gross insubordination; falsification of any Library record which requires a signature verifying that the information contained in that record is true and correct; unsatisfactory quantity or quality of work; excessive absence, poor work habits, or the inability to get along with patrons or staff; physical or mental conditions as may render an employee unable to perform his/her duties; sexual harassment; unlawful manufacture, distribution, dispensation, possession or use of a controlled substance.

Change to:

Non-Exclusive List of Terminable Offenses – 234.2

Reasons for termination may include, but are not limited to, the following:

- actual or attempted theft, fraud or misappropriation of property, including the aiding and abetting of such misconduct;
- assault, fighting, horseplay or other disorderly, disruptive or unruly conduct;
- criminal, dishonest or immoral acts;

Non-Exclusive List of Terminable Offenses – 234.2

- falsification of any CPL record or documents, including time cards or records;
- gambling, conducting games of chance or using or possessing gambling equipment on CPL premises;
- inability to work with CPL patrons or staff;
- insubordination or refusal to perform job duties or instructions of a manager or supervisor;
- intoxication or drinking alcohol while on duty;
- loitering, loafing or sleeping on the job, excessive visiting or wasting time;
- misuse of a CPL authorized credit card, expense account or cash;
- negligent or deliberate destruction of CPL property or the abuse, misuse or unauthorized use of CPL property;
- overall unacceptable performance or work record;
- physical or mental conditions making an employee unable to perform the essential functions of his/her duties with or without reasonable accommodation;
- physical violence or threats of physical violence on CPL property or toward CPL employees or patrons;
- theft, destruction or unauthorized use or removal of CPL materials or equipment;
- threatening, intimidating, coercing or using abusive language to others;
- unauthorized use, disclosure, possession or removal of CPL records or confidential information;
- unexcused absenteeism or tardiness;
- unlawful harassment, discrimination or retaliation toward CPL patrons or staff;
- unlawful manufacture, distribution, dispensation, possession or use of a controlled substance;
- unsatisfactory work performance including, but not limited to, poor quantity or quality of work or unacceptable work habits;
- use of profanity, obscenities, abusive or other inappropriate language;
- violation of any CPL policies or procedures, in CPL's sole discretion.

Subsection 234.3

Reads:

Lay-off of tenured employees (if required for budgetary reasons) shall be in reverse order of seniority within each service group (professional, non-professional, maintenance, and page). No new employees may be hired until all laid-off employees have been recalled. The Library will assume the responsibility for the payment of a laid-off employee's PERS, hospitalization and group insurance premiums during the first three months of the layoff. Employees refusing to be recalled or resigning during a lay-off will lose their tenure, but will be paid whatever benefits they may have earned. Lay-offs must be approved by the Board of Trustees and may not be appealed.

Delete Subsection 234.3

Be it resolved that the proposed revisions to the Human Resources Manual be approved by the Library Board of Trustees, to become effective immediately.