

**CLEVELAND PUBLIC LIBRARY**

**Human Resources Committee**

January 19, 2016

**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:

**COMPENSATION PRACTICES – 300**

**Time Allowances with Pay – 390**

(Change #214)

**Authorized Leaves of Absence – 391**

Leave of absence without pay may be granted to full-time employees for any of the following reasons: military duty, extended illness, maternity, family leave, family medical or critical personal circumstances, and military caregiver leave. Maternity leave is available for the time of medical disability. Leaves of absences occasionally may be granted to full-time employees (upon the recommendation of a department or agency head and with the approval of the Director and/or his/her designee) for special study or extended travel.

**391.1 -** Requests for leave of absence should be made on **Request for Leave of Absence form #421**. This form should be forwarded to the Human Resources Department, after approval by the department or agency head, together with any supporting documentation.

Employees applying for leave under the Family & Medical Leave Act will be required to contact the Library's FMLA contracted administrator.

**391.2 -** An unpaid leave of absence for any reason (including pregnancy and FMLA leave), shall not commence until all earned time allowances have been exhausted.

**391.3 -** All employees returning on time from an authorized leave of absence shall report to the Human Resources Department for reinstatement. If the leave of absence was for an extended illness including maternity, a doctor's

written authorization to return to work may be required. **(See Section 222).**

- 391.4 -** Extension of a leave of absence must be approved by the Director or his/her designee at least five working days in advance of the original expiration date of existing approved leave. Failure to return within five working days after the expiration date of the existing approved leave without notifying the Human Resources Department will result in termination of employment.

### **Family and Medical Leave**

**391.5 -** Under the Family and Medical Leave Act of 1993, as amended (FMLA), employees may be eligible for a period of job-protected unpaid leave for certain family and medical reasons as described below. To be eligible for FMLA leave under this Policy, an employee must have worked at the Library for at least 12 months and must have worked at least 1,250 hours during the 12-month period prior to the commencement date of any leave requested under this Policy. Eligibility will be determined as of the date the FMLA leave commences.

**391.51 --** An eligible employee may take up to 12 weeks of unpaid leave during a rolling 12-month period (measured backward from the date an employee uses FMLA leave) for the following reasons:

1. the birth of the employee's child and to bond with the child; or for placement through adoption or foster care and to bond with the newly placed child. Such leave must be concluded no later than 12 months after the birth or placement of the child with the employee;
2. to care for an immediate family member (spouse, child under 18 years old or a child 18 and over who is incapable of self-care because of a disability, or parent) with a serious health condition as defined by the FMLA;
3. because of a serious health condition as defined by the FMLA, which renders the employee unable to perform the functions of his/her job; or
4. because of any qualifying exigency arising out of the fact that an employee's spouse, son (of any age), daughter (of any age) or parent,

who is serving in any branch of the military (including the National Guard or Reserves), has been deployed or called to active duty in a foreign country ("Active Duty Leave").

**391.52 – Military Caregiver Leave**

An employee also may be eligible for Military Caregiver Leave to care for a spouse, son (of any age), daughter (of any age), parent or next of kin who is: (1) a current member of the Armed Forces, including the National Guard or Reserves, and who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness, which is incurred in the line of duty (or for a pre-existing injury or illness that is aggravated in the line of duty) and that renders the service member medically unfit to perform the duties of his or her office, grade, rank or rating, or (2) a veteran who was a member of any branch of the Armed Forces, including the National Guard or Reserves, and who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness that occurred in the line of duty (or for a pre-existing injury or illness that was aggravated in the line of duty) at any time within 5 years preceding the treatment, recuperation or therapy. A covered service member incurs a serious illness or injury for purposes of this paragraph when one of the following occurs:

- a) The injury or illness makes him or her medically unfit to perform the duties of his or her office, grade, rank or rating.
- b) It causes the service member to have a VA Service Disability Rating of 50% or greater.
- c) He or she has a mental or physical condition that substantially impairs his or her ability to obtain gainful employment.
- d) The VA enrolls the employee in the Department of Veteran Affairs Program of Comprehensive Assistance for Family Caregivers.

Eligible employees are entitled to a total of 26 weeks of unpaid Military Caregiver Leave during a single 12-month period. This single 12-month period begins on the first day an eligible employee takes Military Caregiver Leave (as long as it is within 5 years of the covered service member's active duty) and ends 12 months after that date. Military Caregiver Leave applies on a per-covered service member, per-injury basis, so that an employee may be eligible to take more than one 26-week period of Military Caregiver Leave, but no more than 26 weeks of leave may be taken during any one 12-month period.

An eligible employee is entitled to a combined total of 26 workweeks of leave for all FMLA-qualifying reasons during the single 12-month period described above. For example, if an

employee takes 10 weeks of FMLA leave due to his/her own serious health condition, the employee may take only 16 weeks of Military Caregiver Leave during that same 12-month period.

**391.53 - Definitions**

- A. A "serious health condition" as referred to above means an illness, injury, impairment, or physical or mental condition that involves:
1. in-patient care (*i.e.*, an overnight stay) in a hospital or other medical care facility (including any period of incapacity or any subsequent treatment in connection with such in-patient care);
  2. a period of incapacity of more than three (3) consecutive full calendar days, and any subsequent treatment or period of incapacity relating to the same condition that also involves: (i) treatment two (2) or more times by a health care provider or under the supervision of a health care provider the first being within seven (7) days of the onset of the incapacity and the second being within thirty (30) days of the start of the incapacity, or (ii) treatment by a health care provider on at least one (1) occasion within seven (7) days of the start of the incapacity which results in a regimen of continuing treatment under the supervision of a health care provider;
  3. any period of incapacity or treatment due to pregnancy, or for prenatal care;
  4. any period of incapacity or treatment due to a chronic serious health condition requiring periodic visits of at least twice a year for treatment by a health care provider;
  5. a period of incapacity or treatment that is permanent or long-term due to a condition for which treatment may not be effective, during which the employee (or family member) must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider; or
  6. any period of absence to receive multiple treatments by a health care provider or under the supervision of a health care provider, either for restorative surgery after an accident or other injury, or for a condition that will likely result in a period of incapacity of more than three (3) consecutive calendar days in the absence of medical intervention or treatment.

## **EXHIBIT 14**

- B. A “qualifying exigency” referenced above under “Active Duty Leave” refers to the following circumstances:
7. Short-notice deployment: to address issues arising when the notification of a call or order to active duty is seven (7) days or less;
  8. Military events and related activities: to attend official military events or family assistance programs or briefings;
  9. Childcare and school activities: for qualifying childcare and school related reasons for a child, legal ward or stepchild of a covered military member;
  10. Care of the covered military member’s parent if the parent is incapable of self care;
  11. Financial and legal arrangements: to make or update financial or legal affairs to address the absence of a covered military member;
  12. Counseling: to attend counseling provided by someone other than a health care provider for oneself, for the covered military member, or child, legal ward, or stepchild of the covered military member;
  13. Rest and recuperation: to spend up to fifteen (15) calendar days for each period in which a covered military member is on a short-term rest leave during a period of deployment; or
  14. Post-deployment activities: to attend official ceremonies or programs sponsored by the military for up to 90 days after a covered military member’s active duty terminates or to address issues arising from the death of a covered military member while on active duty.

### **391.54 – When Spouses Work Together**

If spouses are both employed by the Library, they are limited to a combined total of 12 weeks of leave within the applicable 12-month period if the leave is taken for birth of the employee's son or daughter or to care for the child after birth, for placement of a son or daughter with the employee for adoption or foster care or to care for the child after placement, or to care for the employee's parent with a serious health condition.

With respect to military caregiver leave, as described in section 391.52, spouses who are both employed by the Library are limited to a combined total of 26 weeks of leave within the applicable 12-month period if leave is taken for birth of the employee's son or daughter or to care for the child after birth, for placement of a son or daughter with the employee for

adoption or foster care or to care for the child after placement, to care for the employee's parent with a serious health condition, or to care for a covered service member with a serious injury or illness.

The spousal limitation does not apply if the reason for leave is the serious health condition of the employee or the employee's spouse or child.

**391.55 – Notice of Need for FMLA Leave**

If FMLA applies or is believed to possibly apply, the employee will be required, thereafter, to contact the Library's contracted FMLA administrator to complete a request for leave. The employee will be required to fill out prescribed forms requesting leave.

To avoid a delay in FMLA protection, the employee must give notice—as soon as possible and practicable under the circumstances—of enough facts to advise the person receiving the information that FMLA may apply. Employees are required to give advance notice as soon as practicable, but, except for instances of active duty leave, an employee is not required to provide more than thirty (30) days advance notice.

If an employee fails to give the required notice with no reasonable excuse, FMLA coverage may be delayed for a period of time. This can result in discipline for absences taken prior to FMLA coverage commencing.

Employees should make every reasonable effort to schedule foreseeable medical treatments and appointments so as not to disrupt the ongoing operations of the Library.

Employees are required to follow normal call-in policies and/or procedures and notify the person an employee would normally notify of his/her FMLA absence. Failure to adhere to standard Library call-in procedures may result in discipline at the Library's sole discretion, as with any other type of leave. In addition, employees are required to report all FMLA time off to the Library's contracted FMLA administrator.

**391.56 – Substitution of Paid Leave for Unpaid FMLA Leave**

Employees must concurrently exhaust any sick time, short-term disability benefits, workers compensation benefits, accrued vacation time, or any other form of applicable paid leave for FMLA leave. All substituted paid leave that is being concurrently exhausted will be counted against an eligible employee's FMLA leave entitlement. Unpaid leave shall not commence until all available paid time earned has been exhausted.

**391.57 – Intermittent FMLA Leave**

Intermittent or reduced schedule leave is leave taken at varying times for the same qualifying condition. Intermittent leave or reduced schedule leave may be available if the need for leave is due to an employee's serious health condition or an employee's immediate family member's serious health condition and when the need for intermittent or

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reduced schedule leave is certified by a health care provider. Intermittent or reduced schedule leave is not available for the birth or placement of a child for adoption or foster care, unless the Library agrees. Military Caregiver Leave may be taken intermittently or on a reduced leave schedule when medically necessary. Active Duty Leave may also be taken on an intermittent or reduced leave schedule.

Employees who take foreseeable intermittent or reduced schedule leave must attempt to schedule their intermittent or reduced schedule leaves so as not to disrupt the operations of the Library and, in some instances, the Library may require employees taking foreseeable intermittent or reduced schedule leaves to transfer temporarily to an alternative position for which the employee is qualified and that better accommodates the employee's leave schedule. Pay will not be affected by a change to an alternate position. Time worked in the alternate position will not count towards the employee's FMLA leave entitlement.

Employees taking unforeseeable intermittent leaves must follow the Library's standard call-in procedures. Failure to adhere to standard Library call-in procedures may result in discipline, at the Library's sole discretion, as with any other type of leave.

### **391.58 – Documentation Supporting FMLA Leave**

An employee requesting leave for a serious health condition must provide a completed FMLA Certification of Health Care Provider Form ("Certification") supporting the need for the leave. A request for reasonable documentation of family relationship verifying the legitimacy of a request for FMLA Leave may also be required.

The employee will have fifteen (15) days in which to return a completed Certification following the Library's request for the Certification. If the employee fails to provide timely Certification after being required to do so, covered leave may be delayed moving forward until the Certification form is submitted. Absences counted against the employee for a late Certification without notice of circumstances preventing the employee from submitting Certification on time will not be reversed. If an employee never returns the completed Certification, the FMLA will be denied and the absences will be unprotected. If the Certification is incomplete or insufficient, an employee will be given written notification of the information needed and will be given a period of seven (7) days to provide the necessary information.

In some circumstances, a second opinion, at the expense of the Library, related to the health condition may be required. If the original Certification and the second opinion differ, a third opinion, at the expense of the Library, may be required. The opinion of the third health care provider, which the Library and the employee jointly select, will be the final and binding decision.

A request for Active Duty Leave must be supported by the Certification of Qualifying Exigency for Military Family Leave form as well as appropriate documentation, including the covered military member's active duty orders.

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A request for Military Caregiver Leave must be supported by the Certification for Serious Injury or Illness of Covered Service member form or Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave form as well as any necessary supporting documentation.

Providing false information to the Library in an attempt to obtain FMLA leave will result in no FMLA protection, and it may also constitute a policy violation and result in discipline up to and including discharge.

Once the Library has received a complete and sufficient Certification form from the employee, the Library will advise the employee whether he or she has been approved or denied FMLA leave and, if possible, will advise how much FMLA is expected to be used according to the Certification provided.

### **391.59 – Recertification**

In the following circumstances, the Library may, in its sole discretion, require recertification of the qualifying reason for FMLA: (1) where the employee needs more leave than the original certification provided; (2) where circumstances and facts cast doubt on the employee's need for FMLA; or (3) when the need for FMLA extends beyond 6 calendar months. In these situations, the employee will have fifteen (15) days in which to provide a completed Recertification form.

### **391.510 – Restoration To Position And Benefits**

The Library will maintain group healthcare benefits while an employee is on FMLA leave. For all other benefits, they will be maintained similarly to others on similar forms of leave (paid/unpaid).

Employees are permitted to return from FMLA leave to whatever position they would have held had they not taken FMLA leave. Generally, this means employees returning from FMLA leave within 12 weeks will be returned to the job position they held when they went on leave, or a substantially similar one. If the employee would have lost his or her position even if he or she had not taken the leave, then there exists no reinstatement right. For example, if the employee's position is eliminated because of a reduction in force, then no reinstatement right exists.

If an eligible employee fails to pay his or her portion of the required premium payments for benefit coverage, and the Library elects to make the employee's portion of premium payments to keep benefit coverage in effect during a period of paid or unpaid FMLA leave for medical, vision, and dental benefits, and/or a period of unpaid FMLA leave for other benefits, the Library may recover the amount of the premium payment from the employee regardless of whether the employee returns to work. The Library may recover its own share of the premiums paid for maintaining an employee's medical, vision, and dental benefit coverage during any period of unpaid FMLA leave if the employee fails to return from leave after entitlement has expired, provided the employee's failure to return to work for a reason



other than the continuation, recurrence, or onset of a serious health condition was unrelated to the qualifying reason the employee took FMLA leave.

**391.511 – Return To Work**

Employees on FMLA leave must periodically inform the Human Resources Department of their status and intent to return to work while on FMLA leave. Employees returning from FMLA leave must be able to assume all of the essential functions of their jobs upon return unless he or she has been granted an accommodation under the Americans with Disabilities Act or as otherwise required by state or federal law. The Library will provide time for the employee to learn of any changes or new technology implementations. As a condition to restoring an employee whose leave was based on the employee's own serious health condition, the employee may be required to provide certification from the employee's health care provider stating that the employee is able to resume work. If safety issues exist, the Library may require a return to work statement every thirty days.

**391.512 – Failure To Return From Leave**

Unless required otherwise by law, an employee granted a leave of absence under these provisions who fails to return to work upon expiration of the leave and who fails to secure an extension of leave per section 391.4 will not be protected and will be subject to dismissal.

**391.513 – Key Employees**

An employee who qualifies as a "key employee" may be denied restoration of employment after a period of FMLA leave if holding the employee's position would cause the Library grievous economy injury. A "key employee" is an employee who is salaried and is among the highest paid ten percent of the work force within 75 miles of the place where the employee reports to work. Upon requesting FMLA leave, an employee will be notified by the Library of his/her status as a "key employee" if there is a possibility that the Library may deny reinstatement after leave.

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

## COMPENSATION PRACTICES – 300

### Time Allowances with Pay – 390

(Change #214)

#### Authorized Leaves of Absence – 391

Leave of absence without pay may be granted to full-time employees for any of the following reasons: military duty, extended illness, maternity, family leave, family medical or critical personal circumstances, and military caregiver leave. Maternity leave is available for the time of medical disability. Leaves of absences occasionally may be granted to full-time employees (upon the recommendation of a department or agency head and with the approval of the Director and/or his/her designee) for special study or extended travel.

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- 391.4 -** Extension of a leave of absence must be approved by the Director or his/her designee at least five working days in advance of the original expiration date of existing approved leave. Failure to return within five working days after the expiration date of the existing approved leave without notifying the Human Resources Department will result in termination of employment.

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**391.5 -** Under the Family and Medical Leave Act of 1993, as amended (FMLA), employees may be eligible for a period of job-protected unpaid leave for certain family and medical reasons as described below. To be eligible for FMLA leave under this Policy, an employee must have worked at the Library for at least 12 months and must have worked at least

1,250 hours during the 12-month period prior to the commencement date of any leave requested under this Policy. Eligibility will be determined as of the date the FMLA leave commences.

**391.51** -- An eligible employee may take up to 12 weeks of unpaid leave during a rolling 12-month period (measured backward from the date an employee uses FMLA leave) for the following reasons:

1. the birth of the employee's child and to bond with the child; or for placement through adoption or foster care and to bond with the newly placed child. Such leave must be concluded no later than 12 months after the birth or placement of the child with the employee;
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3. because of a serious health condition as defined by the FMLA, which renders the employee unable to perform the functions of his/her job; or
4. because of any qualifying exigency arising out of the fact that an employee's spouse, son (of any age), daughter (of any age) or parent, who is serving in any branch of the military (including the National Guard or Reserves), has been deployed or called to active duty in a foreign country ("Active Duty Leave").

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- a) The injury or illness makes him or her medically unfit to perform the duties of his or her office, grade, rank or rating.
- b) It causes the service member to have a VA Service Disability Rating of 50% or greater.

- c) He or she has a mental or physical condition that substantially impairs his or her ability to obtain gainful employment.
- d) The VA enrolls the employee in the Department of Veteran Affairs Program of Comprehensive Assistance for Family Caregivers.

Eligible employees are entitled to a total of 26 weeks of unpaid Military Caregiver Leave during a single 12-month period. This single 12-month period begins on the first day an eligible employee takes Military Caregiver Leave (as long as it is within 5 years of the covered service member's active duty) and ends 12 months after that date. Military Caregiver Leave applies on a per-covered service member, per-injury basis, so that an employee may be eligible to take more than one 26-week period of Military Caregiver Leave, but no more than 26 weeks of leave may be taken during any one 12-month period.

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### **391.53 - Definitions**

- A. A "serious health condition" as referred to above means an illness, injury, impairment, or physical or mental condition that involves:
  - 1. in-patient care (*i.e.*, an overnight stay) in a hospital or other medical care facility (including any period of incapacity or any subsequent treatment in connection with such in-patient care);
  - 2. a period of incapacity of more than three (3) consecutive full calendar days, and any subsequent treatment or period of incapacity relating to the same condition that also involves: (i) treatment two (2) or more times by a health care provider or under the supervision of a health care provider the first being within seven (7) days of the onset of the incapacity and the second being within thirty (30) days of the start of the incapacity, or (ii) treatment by a health care provider on at least one (1) occasion within seven (7) days of the start of the incapacity which results in a regimen of continuing treatment under the supervision of a health care provider;
  - 3. any period of incapacity or treatment due to pregnancy, or for prenatal care;
  - 4. any period of incapacity or treatment due to a chronic serious health condition requiring periodic visits of at least twice a year for treatment by a health care provider;

5. a period of incapacity or treatment that is permanent or long-term due to a condition for which treatment may not be effective, during which the employee (or family member) must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider; or
  6. any period of absence to receive multiple treatments by a health care provider or under the supervision of a health care provider, either for restorative surgery after an accident or other injury, or for a condition that will likely result in a period of incapacity of more than three (3) consecutive calendar days in the absence of medical intervention or treatment.
- B. A “qualifying exigency” referenced above under “Active Duty Leave” refers to the following circumstances:
1. Short-notice deployment: to address issues arising when the notification of a call or order to active duty is seven (7) days or less;
  2. Military events and related activities: to attend official military events or family assistance programs or briefings;
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  4. Care of the covered military member’s parent if the parent is incapable of self care;
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  6. Counseling: to attend counseling provided by someone other than a health care provider for oneself, for the covered military member, or child, legal ward, or stepchild of the covered military member;
  7. Rest and recuperation: to spend up to fifteen (15) calendar days for each period in which a covered military member is on a short-term rest leave during a period of deployment; or
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### **391.54 – When Spouses Work Together**

If spouses are both employed by the Library, they are limited to a combined total of 12 weeks of leave within the applicable 12-month period if the leave is taken for birth of the employee's son or daughter or to care for the child after birth, for placement of a son or daughter with the

employee for adoption or foster care or to care for the child after placement, or to care for the employee's parent with a serious health condition.

With respect to military caregiver leave, as described in section 391.52, spouses who are both employed by the Library are limited to a combined total of 26 weeks of leave within the applicable 12-month period if leave is taken for birth of the employee's son or daughter or to care for the child after birth, for placement of a son or daughter with the employee for adoption or foster care or to care for the child after placement, to care for the employee's parent with a serious health condition, or to care for a covered servicemember with a serious injury or illness.

The spousal limitation does not apply if the reason for leave is the serious health condition of the employee or the employee's spouse or child.

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To avoid a delay in FMLA protection, the employee must give notice—as soon as possible and practicable under the circumstances—of enough facts to advise the person receiving the information that FMLA may apply. Employees are required to give advance notice as soon as practicable, but, except for instances of active duty leave, an employee is not required to provide more than thirty (30) days advance notice.

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### **391.57 – Intermittent FMLA Leave**

Intermittent or reduced schedule leave is leave taken at varying times for the same qualifying condition. Intermittent leave or reduced schedule leave may be available if the need for leave is due to an employee's serious health condition or an employee's immediate family member's serious health condition and when the need for intermittent or reduced schedule leave is certified by a health care provider. Intermittent or reduced schedule leave is not available for the birth or placement of a child for adoption or foster care, unless the Library agrees. Military Caregiver Leave may be taken intermittently or on a reduced leave schedule when medically necessary. Active Duty Leave may also be taken on an intermittent or reduced leave schedule.

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Employees taking unforeseeable intermittent leaves must follow the Library's standard call-in procedures. Failure to adhere to standard Library call-in procedures may result in discipline, at the Library's sole discretion, as with any other type of leave.

### **391.58 – Documentation Supporting FMLA Leave**

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A request for Active Duty Leave must be supported by the Certification of Qualifying Exigency for Military Family Leave form as well as appropriate documentation, including the covered military member's active duty orders.

A request for Military Caregiver Leave must be supported by the Certification for Serious Injury or Illness of Covered Servicemember form or Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave form as well as any necessary supporting documentation.

Providing false information to the Library in an attempt to obtain FMLA leave will result in no FMLA protection, and it may also constitute a policy violation and result in discipline up to and including discharge.

Once the Library has received a complete and sufficient Certification form from the employee, the Library will advise the employee whether he or she has been approved or denied FMLA leave and, if possible, will advise how much FMLA is expected to be used according to the Certification provided.

### **391.59 – Recertification**

In the following circumstances, the Library may, in its sole discretion, require recertification of the qualifying reason for FMLA: (1) where the employee needs more leave than the original certification provided; (2) where circumstances and facts cast doubt on the employee's need for FMLA; or (3) when the need for FMLA extends beyond 6 calendar months. In these situations, the employee will have fifteen (15) days in which to provide a completed Recertification form.

### **391.510 – Restoration To Position And Benefits**

The Library will maintain group healthcare benefits while an employee is on FMLA leave. For all other benefits, they will be maintained similarly to others on similar forms of leave (paid/unpaid).

Employees are permitted to return from FMLA leave to whatever position they would have held had they not taken FMLA leave. Generally, this means employees returning from FMLA leave within 12 weeks will be returned to the job position they held when they went on leave, or a substantially similar one. If the employee would have lost his or her position even if he or she had not taken the leave, then there exists no reinstatement right. For example, if the employee's position is eliminated because of a reduction in force, then no reinstatement right exists.

If an eligible employee fails to pay his or her portion of the required premium payments for benefit coverage, and the Library elects to make the employee's portion of premium payments to keep benefit coverage in effect during a period of paid or unpaid FMLA leave for medical, vision, and dental benefits, and/or a period of unpaid FMLA leave for other benefits, the Library may recover the amount of the premium payment from the employee regardless of whether the employee returns to work. The Library may recover its own share of the premiums paid for maintaining an employee's medical, vision, and dental benefit coverage during any period of unpaid FMLA leave if the employee fails to return from leave after entitlement has expired,



provided the employee's failure to return to work for a reason other than the continuation, recurrence, or onset of a serious health condition was unrelated to the qualifying reason the employee took FMLA leave.

### **391.511 – Return To Work**

Employees on FMLA leave must periodically inform the Human Resources Department of their status and intent to return to work while on FMLA leave. Employees returning from FMLA leave must be able to assume all of the essential functions of their jobs upon return unless he or she has been granted an accommodation under the Americans with Disabilities Act or as otherwise required by state or federal law. The Library will provide time for the employee to learn of any changes or new technology implementations. As a condition to restoring an employee whose leave was based on the employee's own serious health condition, the employee may be required to provide certification from the employee's health care provider stating that the employee is able to resume work. If safety issues exist, the Library may require a return to work statement every thirty days.

### **391.512 – Failure To Return From Leave**

Unless required otherwise by law, an employee granted a leave of absence under these provisions who fails to return to work upon expiration of the leave and who fails to secure an extension of leave per section 391.4 will not be protected and will be subject to dismissal.

### **391.513 – Key Employees**

An employee who qualifies as a "key employee" may be denied restoration of employment after a period of FMLA leave if holding the employee's position would cause the Library grievous economy injury. A "key employee" is an employee who is salaried and is among the highest paid ten percent of the work force within 75 miles of the place where the employee reports to work. Upon requesting FMLA leave, an employee will be notified by the Library of his/her status as a "key employee" if there is a possibility that the Library may deny reinstatement after leave.