

LOCUST VALLEY LIBRARY

FAMILY AND MEDICAL LEAVE POLICY

The Family and Medical Leave Act of 1993 (“FMLA”) applies to private employers that employ 50 or more employees at a worksite or within 75 miles. The Library employs fewer than 50 employees and, therefore, the FMLA is not applicable to the Library. However, the Library Board wishes to voluntarily extend the following Family and Medical Leave (“FML”) policy to all full time Library employees.

Consistent with the federal Family and Medical Leave Act of 1993 (“FMLA”), as amended, the Locust Valley Library (“Library”) wishes to entitle eligible employees to unpaid family and medical leave for up to twelve (12) weeks during any twelve (12) month period or twenty-six (26) weeks during a twelve (12) month period to care for a member of the military who was injured in the line of duty.

It is the intent of the Library to voluntarily comply with the FMLA, as amended. The Library posts the FMLA Notice on the employee bulletin board and, upon hire, provides all new employees with notices required by the U.S. Department of Labor (DOL) on Employee Rights and Responsibilities under the Family and Medical Leave Act.

This policy deals only with employee benefits under the FML; it does not include any additional benefits afforded to Library employees under other federal and state laws, local ordinances and laws, or Library policies. Applicable federal and state laws, local ordinances and laws, and Library policies must be consulted in order to coordinate them with an employee's FML leave. In the event of any conflict between this policy and an applicable law, employees will be afforded all rights required by law.

If you have any questions, concerns, or disputes with this policy, you must immediately contact the Library Director.

A. General Provisions

Under this policy, the Library will grant up to 12 weeks (or up to 26 weeks of military caregiver leave to care for a covered service member with a serious injury or illness) during a 12-month period to eligible employees. The leave may be paid, unpaid or a combination of paid and unpaid leave, depending on the circumstances of the leave and as specified in this policy.

B. Eligibility

To qualify to take family or medical leave under this policy, the employee must meet all of the following conditions:

- (i) The employee must have worked for the Library for 12 months or 52 weeks. The twelve (12) months of Library employment need not have been consecutive months

provided that employment periods prior to a break in service of seven years or more need not be counted. Employment periods preceding a break in service of more than seven years must be counted toward determining FML eligibility if the break in service is occasioned by the fulfillment of the employee's Uniformed Services Employment and Reemployment Rights Act (USERRA) covered service obligation. In determining if an employee has worked for the Library for twelve (12) months, if the employee was maintained on the payroll for part of a week, including any periods of paid or unpaid leave (sick, vacation) during which other benefits or compensation are provided, the Library will count the entire week.

(ii) The employee must have worked at least 1,250 hours during the 12-month period immediately before the date when the leave is requested to commence. The principles established under the Fair Labor Standards Act (FLSA) determine the number of hours worked by an employee. The FLSA does not include time spent on paid or unpaid leave as hours worked. Consequently, these hours of leave should not be counted in determining the 1,250-hours eligibility test for an employee under FML. Pursuant to USERRA, an employee returning from fulfilling his or her USERRA-covered service obligation shall be credited with the hours of service that would have been performed but for the military service to determine if the employee performed the 1,250 hours of service.

Exceptions to the eligibility criteria may be made by the Board of Trustees upon a recommendation of the Library Director.

C. Type of Leave Covered

To qualify as FML leave under this policy, the employee must be taking leave for one of the reasons listed below:

(1) Family Leave – An employee may take leave due to the birth of a child and in order to care for that child. Further, an employee may take leave for the placement of a child for adoption or foster care and to care for the newly placed child.

(2) Medical Leave – An employee may take leave to care for a spouse, child or parent with a serious health condition. In addition, an employee may take leave because of the employee's own serious health condition that makes the employee unable to perform the functions of the employee's position.

A serious health condition is defined as a condition that requires inpatient care at a hospital, hospice or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care or a condition that requires continuing care by a health care provider.

This policy covers illnesses of a serious and long-term nature, resulting in recurring or lengthy absences. Generally, a chronic or long-term health condition that would result in a period of three consecutive days of incapacity with the first

visit to the health care provider within seven days of the onset of the incapacity and a second visit within 30 days of the incapacity would be considered a serious health condition. For chronic conditions requiring periodic health care visits for treatment, such visits must take place at least twice a year.

Employees with questions about what illnesses are covered under this FML policy or under the Library's sick leave policy are encouraged to consult with the Library Director.

If an employee takes paid sick leave for a condition that progresses into a serious health condition and the employee requests unpaid leave as provided under this policy, the Library may designate all or some portion of related leave taken as leave under this policy, to the extent that the earlier leave meets the necessary qualifications.

(3) Exigency Leave – Eligible employees may take FML leave for a qualifying exigency while the employee's spouse, son, daughter, or parent (the military member or member) is on covered active duty or call to covered active duty status (or has been notified of an impending call or order to covered active duty). For details of qualifying exigencies please refer to FMLA and/or the Library's Director.

(4) Military Caregiver Leave– Eligible employees are entitled to FML leave to care for a covered service member with a serious illness or injury. For details of qualifying military caregiver leave, please refer to FMLA and/or the Library's Director.

D. Amount of Leave

An eligible employee can take up to 12 weeks for a Family Leave, Medical Leave and/or an Exigency Leave (as defined above) under this policy during any 12-month period. The Library will measure the 12-month period as a rolling 12-month period measured backward from the date an employee uses any leave under this policy. Each time an employee takes leave, the Library will compute the amount of leave the employee has taken under this policy in the last 12 months and subtract it from the 12 weeks of available leave, and the balance remaining is the amount the employee is entitled to take at that time.

An eligible employee can take up to 26 weeks for a Military Caregiver Leave (as defined above) during a single 12-month period. For this military caregiver leave, the Library will measure the 12-month period as a rolling 12-month period measured forward. FML leave already taken for other FML circumstances will be deducted from the total of 26 weeks available.

If, during a single 12 month period, an eligible employee is in a position to combine FML and Military Care Giver Leaves, in no event may the total leave exceed 26 weeks and in no event may the FML leave exceed 12 weeks.¹

E. Employee Status and Benefits During Leave

While an employee is on leave, the Library will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work.

If the employee chooses not to return to work for reasons other than a continued serious health condition of the employee or the employee's family member or a circumstance beyond the employee's control, the Library will require the employee to reimburse the Library the amount it paid for the employee's health insurance premium during the leave period.

If, under current Library policy the employee pays a portion of his/her health care premium, while on paid leave the employer will continue to make payroll deductions to collect the employee's share of the premium. While on unpaid leave, the employee must continue to make this payment, either in person or by mail. The payment must be received by the Library by the first day of each month. If the payment is more than 30 days late, the employee's health care coverage may be dropped for the duration of the leave upon 15 days' written notice.

If the employee contributes to a life insurance or disability plan, the employer will continue making payroll deductions while the employee is on paid leave. While the employee is on unpaid leave, the employee may request continuation of such benefits and pay his or her portion of the premiums, or the employer may elect to maintain such benefits during the leave and pay the employee's share of the premium payments. If the employee does not continue these payments, the employer may discontinue coverage during the leave. If the employer maintains coverage, the employer may recover the costs incurred for paying the employee's share of any premiums, whether or not the employee returns to work.

The Library shall ensure that all eligible employees who use FML leave:

- (i) shall have their health benefits continued during the leave so long as the employee makes the required contributions on a timely basis;
- (ii) shall not have any previously accrued benefits altered (other than any accrued paid vacation, personal or any other relevant leave that the employee may be required to take); and

¹ For example, an eligible employee may, during the “single 12-month period,” take 16 weeks of FML leave to care for a covered service member and 10 weeks of FML leave to care for a newborn child. However, the employee may not take more than 12 weeks of FML leave to care for the newborn child during the “single 12-month period,” even if the employee takes fewer than 14 weeks of FML leave to care for a covered service member.

(iii) shall be returned to the same or equivalent position according to established Library practices and policies, provided the former position or equivalent position was not eliminated and the employee would not have been affected by the elimination.

F. Employee Status After Leave

An employee who takes leave under this policy may be asked to provide a fitness for duty (FFD) clearance from the health care provider. This requirement will be included in the employer's response to the FML request. Generally, an employee who takes FML leave will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms. The position will be the same or one which is virtually identical in terms of pay, benefits and working conditions. The Library may choose to exempt certain key employees from this requirement and not return them to the same or similar position

G. Use of Paid and Unpaid Leave

An employee who is taking FML leave because of the employee's own serious health condition or the serious health condition of a family member must use all paid vacation, personal or sick leave prior to being eligible for unpaid leave. Sick leave may be run concurrently with FML leave if the reason for the FML leave is covered by the established sick leave policy.

Disability leave for the birth of the child and for an employee's serious health condition, including workers' compensation leave (to the extent that it qualifies), will be designated as FML leave and will run concurrently with FML. For example, if an employer provides six weeks of pregnancy disability leave, the six weeks will be designated as FML leave and counted toward the employee's 12-week entitlement. The employee may then be required to substitute accrued (or earned) paid leave as appropriate before being eligible for unpaid leave for what remains of the 12-week entitlement. An employee who is taking leave for the adoption or foster care of a child must use all paid vacation, personal or family leave prior to being eligible for unpaid leave.

An employee who is using military FML leave for a qualifying exigency must use all paid vacation and personal leave prior to being eligible for unpaid leave. An employee using FML military caregiver leave must also use all paid vacation, personal leave or sick leave (as long as the reason for the absence is covered by the Library's sick leave policy prior to being eligible for unpaid leave.

H. Intermittent Leave or a Reduced Work Schedule

The employee may take FML leave in 12 consecutive weeks, may use the leave intermittently (take a day periodically when needed over the year) or, under certain circumstances, may use the leave to reduce the workweek or workday, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of 12 work weeks (or 26 work weeks to care for an injured or ill service member over a 12-month period).

For the birth, adoption or foster care of a child, the Library and the employee must mutually agree to the schedule before the employee may take the leave intermittently or work a reduced

hour schedule. Leave for birth, adoption or foster care of a child must be taken within one year of the birth or placement of the child.

If the employee is taking leave for a serious health condition or because of the serious health condition of a family member, the employee should try to reach agreement with the Library before taking intermittent leave or working a reduced hour schedule. If this is not possible, then the employee must prove that the use of the leave is medically necessary.

I. Certification for the Employee's Serious Health Condition

The Library will require certification for the employee's serious health condition. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. Medical certification will be provided using the Department of Labor form entitled "Certification of Health Care Provider for Employee's Serious Health Condition."

J. Certification for the Family Member's Serious Health Condition

The Library will require certification for the family member's serious health condition. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. Medical certification will be provided using the Department of Labor form entitled "Certification of Health Care Provider for Family Member's Serious Health Condition."

K. Certification of Qualifying Exigency

The Library will require certification of the qualifying exigency for military family leave. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. This certification will be provided using the Department of Labor form entitled "Certification of Qualifying Exigency for Military Family Leave."

L. Certification for Serious Injury or Illness of Covered Service member for Military Family Leave

The Library will require certification for the serious injury or illness of the covered service member. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. This certification will be provided using either the Department of Labor form entitled "Certification for Serious Injury or Illness of a Current Service member" or the Department of Labor form entitled "Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave."

M. Recertification

The Library may request recertification for the serious health condition of the employee or the employee's family member no more frequently than every 30 days and only when circumstances have changed significantly, or if the employer receives information casting doubt on the reason given for the absence, or if the employee seeks an extension of his or her leave. Otherwise, the Library may request recertification for the serious health condition of the employee or the employee's family member every six months in connection with an FML absence. The Library may provide the employee's health care provider with the employee's attendance records and ask whether need for leave is consistent with the employee's serious health condition.

N. Procedure for Requesting FML Leave

All employees requesting FML leave must provide verbal or written notice of the need for the leave to the Library Director. Within five business days after the employee has provided this notice, the Library will complete and provide the employee with the Department of Labor form entitled "Notice of Eligibility and Rights & Responsibilities."

When the need for the leave is foreseeable, the employee must provide the employer with at least 30 days' notice. When an employee becomes aware of a need for FML leave less than 30 days in advance, the employee must provide notice of the need for the leave either the same day or the next business day. If such leave is not foreseeable, then the employee shall give such notice as soon as is practical.

O. Designation of FML Leave

Within five business days after the employee has submitted the appropriate certification form, the Library will complete and provide the employee with a written response to the employee's request for FML leave using the Department of Labor form entitled "Designation Notice."

P. Intent to Return to Work from FML Leave

The Library may require an employee on FML leave to report periodically on the employee's status and intent to return to work. Employees are required to notify the Department when they will return from a family or medical leave as soon as they know the date of their return, if less than the time originally requested by the employee.

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