

**COOK MEMORIAL PUBLIC LIBRARY DISTRICT
413 N. MILWAUKEE AVENUE
LIBERTYVILLE, ILLINOIS 60048**

April 13, 2021

Virtual Special Board Meeting
6:30 p.m.

A special meeting of the Board of Library Trustees of the Cook Memorial Public Library District has been scheduled for Tuesday, April 13, 2021 and will be held virtually as authorized by Illinois Public Act 101-0640.

To join the meeting via computer or smart device, click on this link:
<https://us02web.zoom.us/j/86740517451>
and enter Passcode: 068221

To join the meeting via telephone, dial (312) 626-6799,
enter Meeting ID: 867 4051 7451 and Passcode: 068221

1. Call to order.
2. Roll call.
3. Public Comment.
To submit public comment, send an email with your comments to info@cooklib.org at any time prior to start of the meeting. All comments will be read aloud during the public comment period.
4. Review and Discussion of Library Policies.
 - a. Ethics Policy
 - b. Email Communications Policy
 - c. FMLA Policy
5. Adjournment.

Wendy Vieth, President
Board of Library Trustees

April 8, 2021



Cook Memorial Public Library District

SPECIAL LIBRARY BOARD MEETING AGENDA SUPPLEMENT

MEETING DATE: March 13, 2021

FROM: David Archer, Library Director

AGENDA ITEM: Review of Policies

Klein, Thorpe and Jenkins attorney Anne Skrodzki will be attending this evening's meeting in place of Jim Ferolo to review updates to the Ethics Policy, Email Communications Policy and FMLA Policy. A final version of the Ethics policy will be formatted to reflect the style and layout of our other policies. As a reminder, here is the process for the review, revision and approval of library policies:

1. Staff and library legal counsel present a new policy or proposed changes to existing policies. The Board President will poll Trustees to determine support of these changes for each policy. If a majority approve of the changes, the policy is drafted with the updated language for approval at a future regular board meeting
2. Trustees may propose additional revisions to each policy. The Board President will poll Trustees for each revision proposed to determine support. If a majority approve of a revision, the policy is drafted with the updated language for approval at an upcoming regular board meeting.
3. At the regular board meeting, Trustees will consider approval for each of the revised policies by resolution.

COOK MEMORIAL PUBLIC LIBRARY DISTRICT ETHICS POLICY

The integrity of the Cook Memorial Public Library District ("Library") rests solidly on the foundation of several general rules of ethical behavior which are set forth in this Ethics Policy. These rules form fundamental values to be understood and honored by all Library Officers and employees. It is hereby declared to be the standard of ethical service to the Cook Memorial Public Library District that all Library Officers and employees avoid conflicts between their private interests and those of the general public whom they serve. To enhance the faith of the people and to assure the integrity and impartiality of all Officers and Employees of the Library, it is necessary that adequate guidelines be provided for separating their roles as private citizens from their roles as public servants. Being a Public Officer or Employee of the Library is a public trust and any effort to realize personal gain through official conduct is a violation of that trust. The ethical standards established herein are intended to eliminate, to the fullest extent possible, violations of ethical conduct and to ensure that such are investigated and punished where applicable.

ARTICLE I
DEFINITIONS

Section 1. For purposes of this policy, the following terms shall be given these definitions:

"Campaign for elective office" means any activity in furtherance of an effort to influence the selection, nomination, election, or appointment of any individual to any federal, State, or local public office or office in a political organization, or the selection, nomination, or election of Presidential or Vice-Presidential electors, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action, (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official duties.

"Candidate" means a person who has filed nominating papers or petitions for nomination or election to an elected office, or who has been appointed to fill a vacancy in nomination, and who remains eligible for placement on the ballot at a regular election, as defined in section 1-3 of the Election Code (10 ILCS 5/1-3).

"Collective bargaining" has the same meaning as that term is defined in Section 3 of the Illinois Public Labor Relations Act (5 ILCS 315/3).

"Compensated time" means, with respect to an employee, any time worked by or credited to the employee that counts toward any minimum work time requirement imposed as a condition of his or her employment, but for purposes of this Policy, does not include any designated holidays, vacation periods, personal time, compensatory time off or any period when the employee is on a leave of absence. With respect to officers or employees whose hours are not fixed, "compensated time" includes any period of time when the officer is on premises under the control of the employer and any other time when the officer or employee is executing his or her official duties, regardless of location.

"Compensatory time off" means authorized time off earned by or awarded to an employee to compensate in whole or in part for time worked in excess of the minimum work time required of that employee as a condition of his or her employment.

"Conflict of Interest" – an interest that competes with or is adverse to a legitimate interest of the Library.

"Contribution" has the same meaning as that term is defined in Section 9-1.4 of the Election Code (10 ILCS 5/9-1.4).

"Employee" means a person employed by the Cook Memorial Public Library District, whether on a full-time or part-time basis or pursuant to a contract (5 ILCS 430/70-5(c)).

"Employer" means the Cook Memorial Public Library District.

"Gift" means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to government employment or the official position of an officer or employee.

"Leave of absence" means any period during which an employee does not receive (i) compensation for employment, (ii) service credit towards pension benefits, and (iii) health insurance benefits paid for by the employer.

"Officer" means a person who holds, by election or appointment, an office created by statute or policy, regardless of whether the officer is compensated for service in his or her official capacity (5 ILCS 430/70-5(c)).

"Political activity" means any activity in support of or in connection with any campaign for elective office or any political organization, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action, (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official duties.

"Political organization" means a party, committee, association, fund, or other organization (whether or not incorporated) that is required to file a statement of organization with the State Board of Elections or a county clerk under Section 9-3 of the Election Code (10 ILCS 5/9-3), but only with regard to those activities that require filing with the State Board of Elections or a county clerk.

"Prohibited political activity" means:

(1) Preparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event.

- (2) Soliciting contributions, including but not limited to the purchase of, selling, distributing, or receiving payment for tickets for any political fundraiser, political meeting, or other political event.
- (3) Soliciting, planning the solicitation of, or preparing any document or report regarding anything of value intended as a campaign contribution.
- (4) Planning, conducting, or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.
- (5) Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.
- (6) Assisting at the polls on election day on behalf of any political organization or candidate for elective office or for or against any referendum question.
- (7) Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls.
- (8) Initiating for circulation, preparing, circulating, reviewing, or filing any petition on behalf of a candidate for elective office or for or against any referendum question.
- (9) Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office.
- (10) Preparing or reviewing responses to candidate questionnaires.
- (11) Distributing, preparing for distribution, or mailing campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question.
- (12) Campaigning for any elective office or for or against any referendum question.
- (13) Managing or working on a campaign for elective office or for or against any referendum question.
- (14) Serving as a delegate, alternate, or proxy to a political party convention.
- (15) Participating in any recount or challenge to the outcome of any election.

"Prohibited source" means any person or entity who:

- (1) is seeking official action (i) by an officer or (ii) by an employee, or by the officer or another employee directing that employee;
- (2) does business or seeks to do business (i) with the officer or (ii) with an employee, or with the officer or another employee directing that employee;
- (3) conducts activities regulated (i) by the officer or (ii) by an employee, or by the officer or another employee directing that employee; or
- (4) has interests that may be substantially affected by the performance or non-performance of the official duties of the officer or employee.

Potential conflict of interest – a situation whereby the interests of the Library and the interests of someone else will, may, or might become in conflict in the ordinary course of events.

ARTICLE II **PROHIBITED POLITICAL ACTIVITIES**

Section 1. Prohibited political activities.

- (1) No officer or employee shall intentionally perform any prohibited political activity during any compensated time, as defined herein. No officer or employee shall intentionally use any property or resources of the Cook Memorial Public Library District in connection with any prohibited political activity.
- (2) At no time shall any officer or employee intentionally require any other officer or employee to perform any prohibited political activity (i) as part of that officer or employee's duties, (ii) as a condition of employment, or (iii) during any compensated time off (such as holidays, vacation or personal time off).
- (3) No officer or employee shall be required at any time to participate in any prohibited political activity in consideration for that officer or employee being awarded additional compensation or any benefit, whether in the form of a salary adjustment, bonus, compensatory time off, continued employment or otherwise, nor shall any officer or employee be awarded additional compensation or any benefit in consideration for his or her participation in any prohibited political activity.
- (4) Nothing in this Section prohibits activities that are permissible for an officer or employee to engage in as part of his or her official duties, or activities that are undertaken by an officer or employee on a voluntary basis which are not prohibited by this Policy.

(5) No person either (i) in a position that is subject to recognized merit principles of public employment or (ii) in a position the salary for which is paid in whole or in part by federal funds and that is subject to the Federal Standards for a Merit System of Personnel Administration applicable to grant-in-aid programs, shall be denied or deprived of employment or tenure solely because he or she is a member or an officer of a political committee, of a political party, or of a political organization or club.

ARTICLE III GIFT BAN

Section 1. Gift ban. Except as permitted by this Article, no officer or employee, and no spouse of or immediate family member living with any officer or employee (collectively referred to herein as "recipients"), shall intentionally solicit or accept any gift from any prohibited source, as defined herein, or which is otherwise prohibited by law or policy. No prohibited source shall intentionally offer or make a gift that violates this Section.

Section 2. Exceptions. Section 3-1 is not applicable to the following:

(1) Opportunities, benefits, and services that are available on the same conditions as for the general public.

(2) Anything for which the officer or employee, or his or her spouse or immediate family member, pays the fair market value.

(3) Any (i) contribution that is lawfully made under the Election Code or (ii) activities associated with a fundraising event in support of a political organization or candidate.

(4) Educational materials and missions.

(5) Travel expenses for a meeting to discuss business.

(6) A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, and including the father, mother, grandfather, or grandmother of the individual's spouse or civil partner and the individual's fiancé or fiancée.

(7) Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient or his or her spouse or immediate family member and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as: (i) the history of the relationship between the individual giving the gift and the recipient of the gift,

including any previous exchange of gifts between those individuals; (ii) whether to the actual knowledge of the recipient the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iii) whether to the actual knowledge of the recipient the individual who gave the gift also at the same time gave the same or similar gifts to other officers or employees, or their spouses or immediate family members.

(8) Food or refreshments not exceeding \$75 per person in value on a single calendar day; provided that the food or refreshments are (i) consumed on the premises from which they were purchased or prepared or (ii) catered. For the purposes of this Section, "catered" means food or refreshments that are purchased ready to consume which are delivered by any means.

(9) Food, refreshments, lodging, transportation, and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the official duties of an officer or employee), if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee, and are customarily provided to others in similar circumstances.

(10) Intra-governmental and inter-governmental gifts. For the purpose of this Act, "intra-governmental gift" means any gift given to an officer or employee from another officer or employee, and "inter-governmental gift" means any gift given to an officer or employee by an officer or employee of another governmental entity.

(11) Bequests, inheritances, and other transfers at death.

(12) Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than \$100.

Each of the exceptions listed in this Section is mutually exclusive and independent of every other.

Section 3-3. Disposition of gifts. An officer or employee, his or her spouse or an immediate family member living with the officer or employee, does not violate this Policy if the recipient promptly takes reasonable action to return a gift from a prohibited source to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as now or hereafter amended, renumbered, or succeeded.

ARTICLE IV **OTHER PROHIBITED ACTIVITIES**

Section 4-1. Prohibited activities. The following acts, actions, inactions, and attempted acts constitute a violation of the ethical standards of conduct for Library Officers and Employees. These include but are not necessarily limited to these specific references but, rather, are intended as providing examples of actions and inactions that are prohibited by this Policy.

(1) Gratuities

No Library Officer or Employee shall intentionally solicit, or accept, any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which the gift is intended to influence him or her in the performance of his or her official duty/duties or is intended as a reward for any official action on their part.

(2) Preferential treatment

No Library Officer or Employee shall use or attempt to use their official position to unreasonably secure, request or grant, any privileges, exemptions, advantages, contracts, or preferential treatment for themselves or their immediate family.

(3) Use of Information

- A. No Library Officer or Employee who acquires information in the course of his or her official duties, which information by law or policy is not available at the time to the general public, shall use such information to further the private interests of themselves or anyone else.
- B. No Library Officer or Employee shall obtain or use Library records, documents, communications, or other written or electronic records of the Library or those under the control of the Library which records by law or policy is not available at the time to the general public, to further the private interests of themselves or anyone else.

(4) Full Disclosure

No Library Officer or Employee shall participate, as an agent or representative of the Library, in recommending or otherwise acting upon any matter in which he or she has an interest. Such Officer or Employee must disclose the full nature and extent of their interest. Such a disclosure must be made before the time to perform their duty or concurrently with that performance. If the Officer is a member of a decision making or advisory body, the disclosure must be made to the Chairman and other members of the body on the official record.

- A. Whenever any Library Officer or employee has an ownership, employment, financial, family interest or other interest in a proposed contract, business or transaction with the Library which interest is allowed under this Policy, such Officer or employee shall file with the Library a written disclosure of interest statement in such form as the Library may hereafter prescribe.
- B. Such written disclosure of interest statement shall be filed with the Library not later than the call to order of the meeting at which action is contemplated or, where there is no such meeting, within forty-eight (48) hours of the Officer's learning of an interest allowed under this Ethics Policy.

(5) Use of Library Property

No Library Officer or Employee shall, make use of or permit others to make use of Library property, equipment, vehicles, or supplies of any kind for purely personal gain.

ARTICLE V INCORPORATION OF STATUTES AND GUIDELINES

Section 5-1. Incorporation of Illinois Statutes and Local Laws.

The Library Board embraces all statutes enacted by the State of Illinois and all applicable laws and ordinances regulating the conduct of officials appointed to governing boards.

Section 5-2. Incorporation of Library Guidelines. The Library Board adopts and incorporates into the Library's policy those ethics statements recommended by the American Library Association; United for Libraries: the Association of Library Trustees, Advocates, Friends, and Foundations; and the Illinois Library Association to the extent permitted by law.

The American Library Association Code of Ethics, last amended January 22, 2008, is hereby incorporated into and made a part of the Library's Ethics Policy. The ALA Code of Ethics is as follows:

1. We provide the highest level of service to all library users through appropriate and usefully organized resources; equitable service policies; equitable access; and accurate, unbiased, and courteous responses to all requests.
2. We uphold the principles of intellectual freedom and resist all efforts to censor library resources.
3. We protect each library user's right to privacy and confidentiality with respect to information sought or received and resources consulted, borrowed, acquired, or transmitted.
4. We recognize and advocate balance between the intellectual property rights and the rights of information users.
5. We treat co-workers and other colleagues with respect, fairness, and good faith, and advocate conditions of employment that safeguard the rights and welfare of all employees of our institutions.
6. We do not advance private interests at the expense of library users, colleagues, or our employing institutions.
7. We distinguish between our personal convictions and professional duties and do not allow our personal beliefs to interfere with fair representation of the aims of our institutions or the provision of access to their information resources.
8. We strive for excellence in the profession by maintaining and enhancing our own knowledge and skills, by encouraging the professional

development of co-workers, and by fostering the aspirations of potential members of the profession.

The Public Library Trustees Ethics Statement from United for Libraries: The Association of Library Trustees, Advocates, Friends and Foundations, dated January 2012, is hereby incorporated into and made a part of the Library's Ethics Policy. The Public Library Trustees Ethics Statement is as follows:

Public library trustees are accountable for the resources of the library as well as to see that the library provides the best possible service to its community. Every trustee makes a personal commitment to contribute the time and energy to faithfully carry out his/her duties and responsibilities effectively and with absolute truth, honor and integrity.

1. Trustees shall respect the opinions of their colleagues and not be critical or disrespectful when they disagree or oppose a viewpoint different than their own.
2. Trustees shall comply with all the laws, rules and regulations that apply to them and to their library.
3. Trustees, in fulfilling their responsibilities, shall not be swayed by partisan interests, public pressure or fear of criticism.
4. Trustees shall not engage in discrimination of any kind and shall uphold library patrons' rights to privacy in the use of library resources.
5. Trustees must distinguish clearly in their actions and statements between their personal philosophies and attitudes and those of the library, acknowledging and supporting the formal position of the Board even if they disagree.
6. Trustees must respect the confidential nature of library business and not disclose such information to anyone. Trustees must also be aware of and in compliance with Freedom of Information Laws.
7. Trustees must avoid situations in which personal interests might be served or financial benefits gained as a result of their position or access to privileged library information, for either themselves or others.
8. A trustee shall immediately disqualify him/herself whenever the appearance of or a conflict of interest exists.
9. Trustees shall not use their position to gain unwarranted privileges or advantages for themselves or others from the library or from those who do business with the library.
10. Trustees shall not interfere with the management responsibilities of the Director or the supervision of Library staff.
11. Trustees shall support the efforts of librarians in resisting censorship of library materials by groups or individuals.

ARTICLE IV
PENALTIES

Section 6-1. Enforcement and Penalties.

- (1) Any alleged violations of this policy may be referred to the States' Attorney.
- (2) The penalties for violations of this policy shall be those as determined applicable and provided by law. In addition, any employee who violates this policy shall be subject to appropriate discipline by the Board up to dismissal.

**BOARD OF TRUSTEE
E-MAIL COMMUNICATIONS POLICY AND
ADMINISTRATIVE PROCEDURES**

Article I: Policy.

It is the goal of the Board of Library Trustees of the Cook Memorial Public Library District [“Library”] to keep its members, as well as the Library Director, informed about matters affecting the Board’s work. However, the Board must all be mindful of the requirements imposed by the Illinois Open Meetings Act, Freedom of Information Act and the Local Records Act, particularly as they apply to communication among board members outside normal library board meetings.

- A. Generally, trustees shall not use email to conduct Library business (see Article II, Paragraph F). Under no circumstances shall trustees use electronic M[m]essaging [of any kind] to discuss among themselves public business that is required to be discussed in an open meeting according to the Open Meetings Act.
- B. Email communication to, by and between Board members is permitted on a limited basis for non-substantive matters such as:
 - 1. Agenda item suggestions;
 - 2. Reminders regarding meeting times, dates, and places;
 - 3. Board Meeting agenda or public record information concerning agenda items;
or
 - 4. Responses to questions posed by the community, administration or staff, subject to this policy’s first section.
- C. Emails sent between and among trustees regarding such non-substantive matters shall be copied to the Library Director. There is no expectation of privacy for any messages sent or received by email.
- D. Under the Freedom of Information Act (FOIA), electronic messages that have been prepared, or have been or are being used, received, possessed or under the control of any public body and that pertain to the transaction of public business are public records. As such, the messages will be subject to disclosure in response to a FOIA request, unless an exemption applies. Messages may also be subject to disclosure in the context of litigation or in response to a court

order. **[If trustees have used personal e-mail accounts or personal devices to participate in electronic messaging or communications, those accounts and/or devices may be subject to search for disclosure in response to a FOIA request.]**

Article II: Procedure.

The Board of Library Trustees hereby adopts the following procedures with regard to the use of email and similar electronic forms of communication to assist in our efforts to comply with the Open Meetings Act.

- A. The Board finds that electronic “chat rooms” are inherently detrimental to the open meetings process and will not utilize “chat rooms” to conduct library business or deliberations. **[This does not include the “chat” feature of Zoom or a similar video conferencing system in the event that one is utilized to conduct remote meetings.]**
- B. “Bulletin boards” or other similar formats, which permit the development of “discussion threads” among board members, also will not be utilized; however, board members may read the comments of others who are not board members as they see fit.
- C. The Library Director may provide information relating to library business to board members using email, attachments or other electronic methods. Any response from board members regarding these communications must be sent only to the Library Director (i.e., no “reply to all” responses). An appropriate record of these communications will be maintained in the district files to assure compliance with state law.
- D. A board member may send email items to all other board members with items of passing interest provided that no response is requested or required. Such emails should clearly state that no response should be made. It is required that any such emails be sent to the Library Director for storage.
- E. A board member may send emails to all other board members regarding scheduling issues. Board members may reply to the sender provided only that their response is limited to the subject of the original message and does not cross over to items of substance.
- F. Board members may correspond between themselves if such correspondence would not constitute a violation of the Open Meetings Act.

Example 1: On a committee of three trustees, communications between two trustees on this committee about substantive committee business constitutes a violation of the Open Meetings Act.

Example 2: Any communication among three trustees about substantive Library business constitutes a violation of the Open Meetings Act (three trustees constitute a majority of a quorum of a seven-member Board).

Example 3: Two trustees (not members of a committee) may correspond between themselves on substantive Library business without violating the Open Meetings Act.

- G. Emails to the Board will be copied to all trustees and the Library Director. When emails from the public require Board response, the President or designee will respond, and will copy the other trustees and the Library Director.
- H. Any item of business for a Board agenda shall be directed to the President and the Library Director so that it may be included in the Board's agenda according to normal procedures. Action items shall be prepared and distributed by the Library Director in accordance with the Board's established procedures.
- I. The Library Director shall maintain a separate email file to store official email records as described herein. This record shall be maintained indefinitely. If software changes require this record to be transferred to paper, the records shall be maintained for ten years or such other time period as may be established by the State of Illinois.

Date

Secretary

Adopted: 10/21/03
Revised: 12/16/03
Revised: 12/15/09
Revised: 04/19/16
Revised: 00/00/21

FAMILY AND MEDICAL LEAVE ACT POLICY

Article I: Statement of Policy.

In accordance with the Family and Medical Leave Act [of 1993 (29 U.S.C. 2601 *et seq.*)], the Cook Memorial Public Library District (the “Library”) will grant to eligible employees unpaid family and medical leave that, together with other paid leaves earned by the employee, totals 12 weeks per 12-month period for any one or more of the following reasons:

- A. The birth and care of a child of the employee or the placement of a child with the employee for adoption or foster care (leave for this reason must be taken and completed within the 12-month period following the child's birth or placement with the employee); or
- B. To care for [the] employee's spouse, [child,] or parent with a serious health condition; or
- C. An employee's own serious health condition which renders the employee unable to perform the functions of his/her position.
- D. Because of any qualifying exigency arising out of the fact that the spouse, or a child, or a parent of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces in support of a contingency operation. Qualifying exigencies, as defined by Federal regulations, include: short notice deployment, military events and related activities, childcare and school activities, financial and legal arrangements, counseling, rest and recuperation, post-deployment activities, providing parental care for a parent of a military service member who is incapable of self-care, and additional activities not encompassed in the other categories but agreed to by the Library and employee.

In addition, an eligible employee who is a spouse, child, parent or next of kin (i.e., the nearest blood relative) of a covered service member shall be entitled to a total of twenty-six (26) work weeks of leave during a twelve-month period to care for the service member (“Military Caregiver Leave”). Military Caregiver Leave shall only be available during a single twelve (12) month period. During the single twelve-month period described in this paragraph, an eligible employee shall be entitled to a combined total of twenty-six (26) work weeks of leave under this paragraph and the general FMLA leave for the reasons set forth above in paragraphs (A) through (C). Nothing in this paragraph shall be construed to limit the availability of general FMLA leave under paragraphs (A) through (C) during any other twelve (12) month period.

Article II: Definitions.

- A. "12-Month Period" - means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken (i.e., each time an employee takes FMLA leave, the remaining leave entitlement would be the balance, if any, of the 12 weeks that has not been used during the immediately preceding 12 months).
- B. "Spouse" - Spouse means a husband or wife. For purposes of this definition, husband or wife refers to the other person with whom an individual entered into marriage as defined or recognized under state law for purposes of marriage in the State in which the marriage was entered into or, in the case of a marriage entered into outside of any State, if the marriage is valid in the place where entered into and could have been entered into in at least one State. This definition includes an individual in a same-sex or common law marriage that either:
1. was entered into in a State that recognizes such marriages; or
 2. if entered into outside of any State, is valid in the place where entered into and could have been entered into in at least one State.
- B. "Child" - means a child either under 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee's "child" is one for whom the employee has actual day-to-day responsibility for care and includes a biological, adopted, foster or step-child.
- D. "Serious Health Condition" - means an illness, injury, impairment, or a physical or mental condition that involves:
1. Inpatient care (i.e. an overnight stay) in a hospital, hospice or residential medical care facility, including any period of incapacity, or any subsequent treatment in connection with such inpatient care; or
 2. Continuing treatment by a health care provider. A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:
 - a. A period of incapacity of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition that also involves:
 - i. Treatment two or more times by a health care provider within 30 days of the first day of incapacity, unless extenuating circumstances exist or,

- ii. Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.
- b. Any period of incapacity due to pregnancy or prenatal care;
- c. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition;
- d. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective;
- e. Any period of absence to receive multiple treatments by a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days without medical intervention or treatment.

The determination as to whether or not a condition is a “serious health condition” as that term is defined in the Family and Medical Leave Act and the federal regulations promulgated thereunder shall be made by the Library on a case-by-case basis.

E. Covered active duty or “call to covered active duty status” for purposes of Qualified Exigency Leave means duty during deployment with the Armed Forces to a foreign country and, in the case of a member of the Reserve components of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a Federal call or order to active duty in support of a contingency operation pursuant to Sections 688, 12301(a), 12302, 12304, 12305, 12406, or chapter 15 of Title 10 of the United States Code or any other provision of law during a war or during a national emergency declared by the President or Congress as long as it is in support of a contingency operation.

F. A covered service member is defined as (1) a member of the Armed Forces, including the National Guard or Reserves, 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; or (2) a veteran who is undergoing medical treatment, recuperation or therapy for a serious injury or illness and who was a member of the Armed Forces, including the National Guard or Reserves, and was discharged or released under conditions other than dishonorable at any time during the period of five (5) years prior to the first date the eligible employee takes FMLA leave to care for the covered veteran. For an individual who was a member of the Armed Forces and who was discharged or released under conditions other than dishonorable prior to March 8, 2013, the period between October 28, 2009 and March 8, 2013 shall not count towards the determination of the five-year period for covered veteran status.

G. "Serious injury or illness" for purposes of Military Caregiver Leave is defined as an injury or illness that the covered member incurs in the line of duty on active duty in the Armed Forces (or that existed before the covered service member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating. In the case of a veteran, a serious injury or illness means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces or that existed before the beginning of the member's active duty and was aggravated by the service in the line of duty on active duty in the Armed Forces and manifested itself before or after the member became a veteran and is (1) a continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the service member unable to perform the duties of the service member's office, grade, rank, or rating; (2) a physical or mental condition for which the covered veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating (VASRD) of 50 percent or greater, and such VASRD rating is based, in whole or in part, on the condition precipitating the need for military caregiver leave; (3) a physical or mental condition that substantially impairs the covered veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment; or (4) an injury, including a psychological injury, the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

Article III: Coverage and Liability.

- A. To be eligible for family/medical leave, an employee must:
 - 1. Have worked for the Library for at least 12 months; and
 - 2. Have worked at least 1,250 hours over the previous 12- month period immediately preceding the commencement of the leave.
- B. Months and hours that reservists of the National Guard members would have worked if they had not been called up for military service counts towards the staff member's eligibility for FMLA/Military Caregiver Leave.

Article IV: Intermittent or Reduced Leave.

- A. An employee may take unpaid leave intermittently (a few days or half days at a time) or on a reduced leave schedule to care for an immediate family member with a serious health condition, including Military Caregiver Leave, or because of a serious health condition of the employee when "medically necessary."

1. "Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule.
 2. At the sole discretion of the Library the employee may be required to transfer temporarily to a position with equivalent pay and benefits that better accommodates recurring periods of leave when the leave is planned based on scheduled medical treatment.
 3. Increments will be limited to the shortest period of time that the Library's payroll system uses to account for absences. An employee may take leave in increments less than a ½ hour only with the Library's consent.
- B. For part-time employees and those who work variable hours, the family and medical leave entitlement is calculated on a pro rata basis. A weekly average of the hours worked over the 12 weeks prior to the beginning of the leave should be used for calculating the employee's normal workweek.

Article V: Substitution of Paid Leave.

- A. An employee will be required to exhaust all accrued paid leave, e.g., vacation leave, personal days, and/or sick leave and comp time, if applicable, for any part of a family/medical leave taken for any reason.
- B. When an employee has used accrued paid vacation leave, personal days, and/or sick leave if applicable, for a portion of family/medical leave, the employee may request an additional period of unpaid leave to be granted so that the total of paid and Family unpaid leave provided equals 12 weeks.

Article VI: Notice Requirement.

- A. An employee is required to give 30 days notice prior to taking leave under this policy. A "Request for Family/Medical Leave" form (see attached) should be completed by the employee. The employee should submit a written request to the appropriate Department Manager who will then forward it to the Library Director. Where the need for leave is unexpected or unforeseeable, an employee should provide as much notice as is practicable, usually verbal notice within one or two business days of when the need for leave becomes known, followed by a written request.
- B. If an employee fails to give 30 days notice for a foreseeable leave with no reasonable excuse for the delay, the leave may be denied or delayed.
- C. In any instance where the necessity for leave arises from any qualifying exigency due to a spouse, child, or parent of the employee being on active duty in the Armed Forces or for Military Caregiver Leave and is foreseeable, whether because the spouse, child

or parent is on active duty, or because of notification of an impending call or order to active duty in support of a contingency operation, or for planned medical treatment, the employee shall provide such notice to the library as is reasonable and practicable.

Article VII: Employee Certifications.

Section 1 Medical.

- A. For leave taken because of an employee's, or a covered family member's serious health condition, the employee must submit a completed Certification of Health Care Provider, DOL Form WH-380 or DOL Form WH-380-F, submitted to the Department Manager who will then forward it to the Library Director. Medical certification must be provided by the employee within 15 days after requested, or as soon as is reasonably possible.
- B. The Library may require:
1. Additional medical information/verification (at the Library's own expense).
 2. Periodic status reports on the condition of the employee or the covered family member.
 3. Periodic status reports on the employee's intent to return to work.
 4. A fitness-for-duty report before the employee returns to work.
- C. All documentation related to the employee's or family member's medical condition will be held in confidence and maintained in the employee's medical records file.

Section 2 Military Caregiver.

Eligible employees who apply for Military Caregiver Leave must submit DOL Form (WH-385; "Certification for Serious Injury or Illness of Covered Service Member – for Military Family Leave" or WH-385-V, "Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave". The form may be completed by a Department of Defense (DOD) health care provider, Veterans Affairs health care provider, a DOD TRICARE network authorized private health care provider, a DOD non-network TRICARE authorized private health care provider or any health care provider as defined by Section 825.125 of the Code of Federal Regulations, 29 C.F.R. 825.125.

Additionally, with respect to Military Caregiver Leave, the Library will accept the submission of an Invitational Travel Order (ITO) or Invitational Travel Authorization (ITA), in lieu of the DOL Form, for the time period specified in the ITO or ITA. The ITO or ITA submitted by the employee need not list the employee as the named recipient of the ITO/ITA, provided the employee is the spouse, parent, **[child,]** or next of kin of the covered service member. If the covered service member's need for care extends beyond the expiration date specified in the ITO or ITA, the employee is responsible for submitting the DOL Form for the remainder of the employee's leave

period. The Library will also accept, with respect to Military Caregiver Leave, documentation indicating the service member's enrollment in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers, regardless of whether the employee is the named caregiver in the documentation. Employees are advised that the Director may seek authentication and clarification of such documentation.

Section 3 Active Duty.

Eligible employees who apply for FMLA leave for "Qualifying Exigency Leave" must submit DOL Form WH-384; "Certification of Qualifying Exigency for Military Family Leave". Specifically, the first time the employee requests Qualifying Exigency Leave, the employee must provide a copy of the qualifying family member's covered active duty orders or other documentation issued by the military that indicates that the qualifying family member is on covered active duty or call to covered active duty status, and the dates of the qualifying family member's covered active duty service. Additionally, each time that the employee requests leave for one of the qualifying exigencies listed in Article I, paragraph D, the employee must certify the exigency necessitating leave. Such certification supporting leave for a qualifying exigency includes:

- A. Appropriate facts supporting the need for leave, including any available written documentation supporting the request and the type of qualifying exigency;
- B. The approximate date on which the qualifying exigency commenced or will commence, and, if requested for a single, continuous period of time, the beginning and end dates for such absence;
- C. Where leave will be needed on an intermittent basis, an estimate of the frequency and duration of the qualifying exigency;
- D. Appropriate contact information if the exigency involves meeting with a third party and a brief description of the purpose of the meeting; and
- E. If the qualifying exigency involves Rest and Recuperation leave, a copy of the military member's Rest and Recuperation orders or other documentation issued by the military which indicates that the military member has been granted Rest and Recuperation leave and the dates of such leave.

Employees are advised that if the qualifying exigency involves a meeting with a third party, the Director may verify the schedule and purpose of the meeting with the third party. Also, the Director may contact the appropriate unit of the Department of Defense to confirm that the qualifying family member is on covered active duty or call to covered active duty status.

All of the certifications identified above must be submitted by the employee within fifteen (15) calendar days after the Library provides the employee with the applicable DOL Form unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts. An employee may not be held liable for administrative delays in the issuance of military documents, despite the employee's diligent, good faith efforts to obtain such documents.

Article VIII: Effect on Benefits.

- A. An employee granted a leave under this policy will continue to be covered under the Library group health insurance plan under the same conditions as coverage would have been provided if they had been continuously employed during the leave period.
- B. If required prior to leave, employee contributions will continue to be required either through payroll deduction or by direct payment to the Library from the employee. The employee will be advised in writing at the beginning of the leave period as to the amount (if any) and method of payment. Employee contribution amounts are subject to any change in rates that occurs while the employee is on leave.
- C. If any employee's contribution is more than 30 days late, the Library Director may terminate the employee's insurance coverage.
- D. If at its sole discretion the Library pays any employee contributions missed by the employee while on leave, the employee will be required to reimburse the Library for delinquent payments (on a payroll deduction schedule) upon return from leave. The employee will be required to sign a written statement at the beginning of the leave period authorizing the payroll deduction for delinquent payments.
- E. If the employee fails to return from unpaid family/medical leave for reasons other than (1) the continuation of a serious health condition of the employee or a covered family member, or (2) circumstances beyond the employee's control (certification required within 30 days of failure to return for either reason), the Library may seek reimbursement from the employee for the portion of the premiums paid by the Library on behalf of that employee during the period of leave.
- F. An employee is not entitled to seniority or benefit accrual during periods of unpaid leave but will not lose anything accrued prior to leave except as required by State and Federal law.

Article IX: Job Protection.

- A. If the employee returns to work at the end of the family/medical leave, the employee will be reinstated to his/her former position or an equivalent position with equivalent pay, benefits, status and authority.

- B. The employee's restoration rights are the same as they would have been had the employee not been on leave. Thus, if the employee's position would have been eliminated or the employee would have been terminated but for the leave, the employee would not have the right to be reinstated upon return from leave.

Article X: Family/Medical Leave Forms to Be Submitted By the Employee.

Employees seeking to use FMLA leave are required to provide:

- A. 30-day advance notice when the need is foreseeable;
- B. Written request for family/medical leave;
- C. Certifications supporting the leave request.

Date

Secretary

Adopted: 03/16/99

Revised: 03/20/01

Revised: 07/15/03

Revised: 12/18/07

Revised: 12/17/13

Revised: 10/17/17

Revised: 00/00/21

REQUEST FOR FAMILY/MEDICAL LEAVE

Employee Name: _____ Date of Request: _____

Department: _____ Position Title: _____

I request a Family/Medical Leave for the following reason (check one):

- _____ A. The birth of a child and in order to care for such child or the placement of a child for adoption or foster care. **[(Must be taken within one year of such birth or placement)]**
- _____ B. In order to care for an immediate family member if such family member has a serious health condition. Circle one: CHILD - SPOUSE - PARENT (Must submit "Certification of Health Care Provider" within 15 days)
- _____ C. Employee's own serious health condition that makes the employee unable to perform the functions of his/her position. (Must submit "Certification of Health Care Provider", within 15 days)
- _____ D. Because of any qualifying exigency arising out of the fact that the (Circle one: CHILD SPOUSE – PARENT) of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces in support of a contingency operation. (Must submit "Certification of Health Care Provider", within 15 days)
- _____ E. Military Caregiver Leave (Must submit "Certification of Health Care Provider", within 15 days)

Method of Leave Requested

- _____ A. Consecutive Leave
- _____ B. Intermittent or Reduced Leave Schedule

Date leave is to begin: _____ Expected duration of leave: _____

If the duration of my family/medical leave (total of paid and unpaid time) does not exceed 12 weeks, I will be returned to my same or equivalent position. I understand that if I exceed my family/medical leave allowance, there is no continued entitlement to any position with the Library.

Employee Signature

Date

Supervisor Signature

Date

Director Signature

Date