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April 3, 2009

MLJ Hardin County library
Attn: Shirley Barrett
325 East Columbus Street
Kenton, Ohio 43326

Re: Can the Library Trustees permit an employee a one-time unpaid leave of absence for 90 days?

Dear Shirley,

The above stated concerns the approval of a request by a specific employee of the Library to unpaid leave of absence benefit. The answer to the above stated question is no.

Under R.C. 3375.40 (G) & (H) the library trustees are empowered to make the rules and regulations governing the employees of the Library. The trustees may designate what fringe benefits the employees are to receive. The trustees have the authority to designate which status of employees are to receive such benefits and as long as **the policy is uniformly applied**. Since the compensation of the library employees is fixed by the Library Trustees the Trustees have the authority to establish the benefits of such employees.

The board of library trustees of a county library district is authorized to "[a]ppoint and fix the compensation of all of the employees of the free public library under its jurisdiction." R.C. **3375.40(G)**.

In review of the information provided by the library there seems to be no distinct leave of absence policy in place that deals directly with this situation. However, from discussions with Shirley Barrett the library has allowed employees to take a single day off work as a leave of absence without pay. This in and of itself has set a precedence in the awarding of the fringe benefit of allowing the employees of the library to a single day off from work and classify it as a leave of absence without pay. The particular employee in question has requested 90 days off as leave of absence without pay. Since there is no policy in place for leave of absence without pay the Board of Trustees of the library will have to implement a policy for leave of absence without pay.

The policy, if the trustees wish to implement one for leave of absence without pay, will have to be uniformly applied to all employees of the library. The Trustees have, as stated above, allowed all of the employees to be able to take a single day off as a leave of absence without pay. The implication of allowing only one employee to have 90 days off as leave of absence without pay may create a situation that may result in discrimination if another employee wishes to have the same right to the 90 days off.

This is a situation that the trustees need to avoid and it is the opinion of this office that unless the policy is uniformly applied to all of the employees of the library then the request from this single employee should be denied. All leave of absence without pay policies should be reduced to written format.

Please feel free to contact this office if you have any questions.

Sincerely,

Bradford W. Bailey, Prosecutor

Larry A. Gossard, Paralegal, Office Manager