

BOSTON FREE LIBRARY ASSOCIATION

CONFLICT OF INTEREST POLICY

ARTICLE I. PURPOSE

The purpose of this conflict of interest policy is to protect the interest of the Boston Free Library Association (the “Library”) when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer, trustee, Key Person, or member of a committee with powers delegated by the Board of Trustees of the Library. It provides guidelines for handling perceived, potential or actual Conflicts of Interest and addresses procedures and disclosures of Related Party Transactions. This policy is intended to supplement but not replace any applicable state and federal laws governing Conflict of Interest applicable to nonprofit and charitable organizations.

ARTICLE II. DEFINITIONS

2.1 Interested Person: An Interested Person is any trustee, officer, employee, or member of a committee with powers delegated by the Board of Trustees, who (1) has a direct or indirect financial interest, as defined below, and/or (2) is a Related Party, as defined below.

2.2 Disinterested Trustee: A Disinterested Trustee is any trustee who is not an Interested Person.

2.3 Relative: A Relative of an individual means his or her spouse or domestic partner as defined in Section 2994-a of the Public Health Law, ancestors, brothers and sisters (whether whole or half blood), children (whether natural or adopted), grandchildren; great-grand-children, and spouses or domestic partners of brothers, sisters, children, grandchildren and great-grandchildren.

2.4 Financial Interest: A person has a Financial Interest if the person has, directly or indirectly, through business, investment, or a Relative:

- A. An ownership or investment interest in any entity with which the Boston Free Library has a transaction or arrangement;
- B. A compensation arrangement with the Boston Free Library or with any entity or individual with which the Library has a transaction or arrangement;
- C. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Boston Free Library is negotiating a transaction or arrangement;
- D. Competes with the Boston Free Library in the rendering of services or in any other contract or transaction with a third party;
- E. Has a material financial interest in or is serving as a director, officer, employee, agent, partner, trustee, personal representative, receiver, guardian, custodian, conservator, or other legal

- representative of, or consultant to an entity or individual that competes with the Boston Free Library in the provision of services or in any other contract or transaction with a third party;
- F. Receives gifts, gratuities and/or entertainment including accepting gifts, entertainment or other favors from any individual or entity that:
- a. Does or is seeking to do business with, or is a competitor of the Library;
 - b. Has received, is receiving or is seeking to receive a loan or grant, or to secure other financial commitments from the Library; or
 - c. Under circumstances where it might be inferred that such action was intended to influence or possibly would influence the Interested Person in the performance of his or her duties. This does not preclude the acceptance of items of nominal or insignificant value or entertainment of nominal or insignificant value which are not related to any particular transaction or activity of the Library.

1. Compensation

Any direct and indirect remuneration as well as gifts or favors that are not insubstantial.

2. Conflict of Interest

A financial interest is not necessarily a conflict of interest. Except in the case of a Related Party, under Article III, Section 2, a person who has a financial interest may have a conflict of interest only if the Board of Trustees or the appropriate committee decides that a conflict of interest exists.

3. Family Member

A Family Member shall include a spouse, parent, child, or spouse of a child, brother, sister or spouse of a trustee, officer, administrator, or member of a committee.

4. Key Employee

A Key Employee is any person who is in a position to exercise substantial influence over the affairs of the Boston Free Library.

ARTICLE III.
Disclosure

1. Duty to Disclose

Prior to the initial appointment or hiring, and annually thereafter, a trustee, officer, member of a committee with powers delegated by the Board, or Key Employee shall complete, sign and submit to the secretary of the Boston Free Library, a written disclosure Statement, attached as Appendix A, identifying, to the best of his or her knowledge, the following information:

(A) any entity of which such person is an officer, trustee, member, owner (either as a sole proprietor or a partner), or employee and with which the Boston Free Library has a relationship; and

(B) any transaction in which the Boston Free Library is a participant and in which such person might have a Financial Interest that may give rise to a Conflict of Interest or Related Party Transaction.

The secretary shall provide a copy of all completed Disclosure Statements to the President of the Board.

Section 3.2 Continuing Duty. All trustees, officers, committee members, and Key Employees have a continuing duty to disclose by oral or written statement the existence of and material facts surrounding any Financial Interest at the time an actual or possible Conflict of Interest or Related Party Transaction arises.

Section 3.3 Violations. Any trustee, officer, committee member, or Key Employee who fails to comply with the disclosure obligations under this Article III or otherwise violates this Conflict of Interest Policy, may be subject to appropriate disciplinary and corrective action, up to and including referral to the New York State Board of Regents for possible removal of a Trustee, pursuant to New York State Education Law section 226

2. Determining Whether a Conflict of Interest Exists

After disclosure of the financial interest and all material facts, and after any discussion with the Interested Person, he/she shall leave the Board of Trustees meeting or the committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining Board or committee members shall decide if a conflict of interest exists, provided however that, if the person is determined to be a Related Party, such a conflict will be presumed and addressed as set forth below.

3. Procedures for Addressing the Conflict of Interest

- A. An Interested Person may make a presentation at the Board of Trustees or committee meeting, but after the presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.
- B. The chairperson of the Board of Trustees or the committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
- C. After exercising due diligence, the Board of Trustees or the committee shall determine whether the Library can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.
- D. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the Board of Trustees or the committee shall determine by a majority vote of the disinterested trustees whether the transaction or arrangement is in the Library's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination it shall make its decision as to whether to enter into the transaction or arrangement.

4. Violations of the Conflict of Interest Policy

- A. If the Board of Trustees or the committee has reasonable cause to believe that a trustee, officer, administrator or member of a committee has failed to disclose an actual or possible conflict of interest, it shall inform such person of the basis for such belief and afford him or her an opportunity to explain the alleged failure to disclose.
- B. If, after hearing such person's response and after making further investigation as warranted by the circumstances, the Board of Trustees or the committee determines the member has failed to disclose an actual or possible conflict or interest, it shall take appropriate disciplinary and corrective action.

ARTICLE IV. RECORDS OF PROCEEDINGS

The minutes of the Board of Trustees and all of the committees with powers delegated by the Board of Trustees shall contain:

- A. The names and persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the Board's or committee's decision as to whether a conflict of interest in fact existed.
- B. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussions, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

ARTICLE V. Procedures

Section 4.1. General Prohibitions. An Interested Person shall not:

- (A) be present at or participate in any Board deliberation or vote related to the transaction or arrangement giving rise to a Conflict of Interest or Related Party Transaction; nor
- (B) directly or indirectly attempt to influence improperly the deliberation or voting on the transaction or arrangement giving rise to the conflict.

Notwithstanding the foregoing, the Board of Trustees may request that an Interested Person present information to the Board prior to the commencement of deliberations or voting relating thereto.

Section 4.2. Initial Determination. After the disclosure required under Article III, the remaining Board shall decide and document in the meeting minutes whether the transaction or arrangement is a Related Party Transaction, including whether any such transaction involves a Substantial Financial Interest, or a Conflict of Interest.

Section 4.3. Consideration of Alternatives. If the transaction or arrangement is a Related Party Transaction in which the Related Party has a Substantial Financial Interest, then the Board must consider alternatives to the proposed transaction or arrangement. If the transaction or arrangement is a Conflict of Interest, then the Board may, but is not required, to consider alternatives.

Section 4.4. Board Decision. The Board of Trustees shall compare the alternatives, if any, with the proposed transaction or arrangement and determine whether the Boston Free Library can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a Conflict of Interest or Related Party Transaction. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a Conflict of Interest or Related Party Transaction, the Board of Trustees shall determine:

(A) by a majority vote of the Board, whether the proposed transaction or arrangement is in the Boston Free Library's best interest, for the Boston Free Library's own benefit, and whether it is fair and reasonable; and if so, then

(B) whether to enter into the transaction or arrangement, in accordance with the Boston Free Library's bylaws. Note that if the transaction or arrangement involves a Related Party Transaction in which the Related Party has a Substantial Financial Interest, then at least a majority of the Board members present at the meeting is required to approve such transaction.

Section 4.5. Documentation Required. The Board of Trustees shall document in the minutes of the meeting at which such determinations are made the following:

(A) The existence of a Conflict of Interest or Related Party Transaction;

(B) The resolution of the Board with respect to such Conflict of Interest or Related Party Transaction, including the determination as to whether the transaction or arrangement is fair, reasonable and in the Boston Free Library's best interest.

(C) The basis for approving the transaction or arrangement which gives rise to the Conflict of Interest or Related Party Transaction, including consideration of any alternatives.

ARTICLE VI

Oversight

A designated Committee of the Board comprised solely of Independent Trustees, as defined in the New York Not-For-Profit Corporation Law (the "Overseeing Committee") shall oversee the adoption of, implementation of, and compliance with this Conflict of Interest policy. If there is no such Overseeing Committee, then the Board, shall oversee the adoption of, implementation of, and compliance with this Conflict of Interest policy, and only those trustees who qualify as Independent Trustees shall be eligible to deliberate and vote on matters relating to the Policy.

ARTICLE VII.

ANNUAL STATEMENTS

Each trustee, officer, member of a committee with powers delegated by the Board of Trustees and administrator shall annually sign a statement which affirms such person:

- A. Has received a copy of the conflict of interest policy;
- B. Has read and understands the policy;
- C. Has agreed to comply with the policy; and
- D. Understands the Library is charitable and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

ARTICLE VIII. PERIODIC REVIEWS

To ensure the Library operates in a manner consistent with its charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

- A. Whether compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's length bargaining.
- B. Whether partnerships, joint ventures, and arrangements with management organizations conform to the Library's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in impermissible or excessive benefit.

ARTICLE IX. USE OF OUTSIDE EXPERTS

When conducting the periodic reviews as provided for in Article VIII, the Library may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the Board of Trustees of its responsibility for ensuring periodic reviews are conducted

(September 2014)

Appendix A

BOSTON FREE LIBRARY ASSOCIATION

**DISCLOSURE STATEMENT
AND
CONFLICT OF INTEREST POLICY**

The undersigned, being a trustee, officer, committee member or Key Employee of the Newstead Public Library, hereby acknowledges and confirms the following:

(1) I have received, read and understand the Boston Free Library's Conflict of Interest Policy in effect as of the date written below, and I agree to comply with the Conflict of Interest Policy.

(2) I understand that the Boston Free Library is charitable and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

(3) **Personal Interests & Relationships.** I am an officer, director, trustee, member, owner (either as a sole proprietor or a partner), or an employee of the following entities with which the Boston Free Library has a relationship: *[If none, please write "None." If such interests exist, please specify the capacity in which you hold such an interest (for example, employee, director, or owner). If an owner, please specify your percentage ownership].*

(4) **Interests & Relationships of Relatives.** A Relative (spouse or domestic partner, ancestors, brothers and sisters (whether whole or half blood), children (whether natural or adopted), grandchildren; great-grandchildren, and spouses of brothers, sisters, children, grandchildren and great-grandchildren) of mine is an officer, director, trustee, member, owner (either as a sole proprietor or a partner), or an employee of the following entities with which the Boston Free Library has a relationship: *[If none, please write "None." If such interests exist, please specify the Relative (for example, sibling or spouse) and the Relative's position (for example, employee, director, or owner). If an owner, please specify the percentage ownership].*

(5) **Transactions.** The Boston Free Library is a participant in the following transactions in which I or my Relative may have a Financial Interest that may give rise to a Conflict of Interest or Related Party Transaction, as defined in the Conflict of Interest Policy. *[If none, please write "None." If such transaction(s) exists, please specify the transaction and the potential financial interest involved and whether you or a Relative has such an interest for any such transaction(s). Please specify the Relative and their position, if applicable.]*

I certify that the above statements are true and correct to the best of my knowledge.

Name: _____

Position: _____

Signature: _____

Date: _____