

Mid-Hudson Library System  
**CONFLICT OF INTEREST POLICY**

**ARTICLE I**

**Purpose**

The purpose of this Conflict of Interest Policy is to protect the Mid-Hudson Library System (MHLS) when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer, trustee, or employee of MHLS. 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 organizations, as well as the Bylaws of the Mid-Hudson Library System Board of Trustees (Board), Article XI, Conflict Of Interest.<sup>1</sup>

**ARTICLE II**

**Definitions**

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

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

Section 2.3. Relative. A Relative of an individual means his or her 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.

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<sup>1</sup> BYLAWS OF THE MID-HUDSON LIBRARY SYSTEM  
ARTICLE XI CONFLICT OF INTEREST

Sec. 1. A conflict of interest exists when a matter to be acted upon by the Board confers a direct, substantial benefit to any trustee, business or agency from which a trustee of the Board derives an income or has authority in governance.

Sec. 2. A trustee shall abstain from voting on any matter before the Board, which places him or her in a conflict of interest.

Section 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 MHLS has a transaction or arrangement;
- (B) A compensation arrangement with MHLS or with any entity or individual with which MHLS has a transaction or arrangement; or
- (C) A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which MHLS is negotiating a transaction or arrangement.

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

Section 2.5. Substantial Financial Interest. A Financial Interest in a Related Party Transaction is a "Substantial Financial Interest" if, in the discretion of the Board after giving due consideration to the material facts and circumstances of the Financial Interest as presented, the Board determines that such Financial Interest is substantial.

Section 2.6. Related Party. A Related Party includes:

- (A) any trustee, officer or employee of MHLS;
- (B) any relative of any trustee, officer or employee of MHLS; or
- (C) any entity in which any individual described in clauses (A) and (B) of this section has a thirty-five percent or greater ownership or beneficial interest or, in the case of a partnership or professional corporation, a direct or indirect ownership interest in excess of five percent.

Section 2.7. Employee. An employee is any person who is employed by MHLS.

Section 2.9. Related Party Transaction. A Related Party Transaction means any transaction, agreement or any other arrangement in which a Related Party has a Financial Interest and in which MHLS is a participant.

Section 2.10. Conflict of Interest. A Conflict of Interest exists if an outside interest or activity influences or appears to influence the ability of an individual to exercise objectivity or impair the individual's ability to perform his or her responsibility in the best interests of MHLS.

## ARTICLE III

### **Disclosure**

Section 3.1. **Initial Disclosure.** Prior to the initial election of any trustee, officer, or member of a committee with powers delegated by the Board or hiring of any employee, the prospective trustee, officer, committee member, or employee shall complete, sign and submit to the President of the Board 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 prospective trustee, officer, committee member, or employee is an officer, trustee, member, owner (either as a sole proprietor or a partner), or employee and with which MHLS has a relationship; and
- (B) any transaction in which MHLS is a participant and in which the prospective trustee, officer, committee member, or employee might have a Financial Interest that may give rise to a Conflict of Interest or Related Party Transaction.

Section 3.2 **Annual Disclosure.** Each trustee officer, member of a committee with powers delegated by the Board, and employee shall annually submit to the President of the Board the written Disclosure Statement, attached as Appendix A, in which such person:

- (A) identifies, to the best of his or her knowledge, the information specified in Paragraphs (A) and (B) of Section 3.1 of this Article;
- (B) affirms that he or she has received a copy of the Conflict of Interest Policy, read and understands the policy, agrees to comply with the policy, and understands MHLS is nonprofit 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.

Section 3.3 **Continuing Duty to Disclose.** In connection with any actual or possible Conflict of Interest or Related Party Transaction which may arise in the ordinary course of the year and within Board or committee meetings, an Interested Person must disclose the existence of the Financial Interest and be given the opportunity to disclose all material facts to the Board. Such disclosure may be made in a written statement or orally at a meeting of the Board, provided that such oral disclosure must be documented in the minutes of the meeting at which such disclosure is made and given to the President of the Board for review by the MHLS Board Executive Committee in accordance with Article IV, Section 4.2.

## ARTICLE IV

### **General Procedures**

#### Section 4.1. General Prohibitions.

- (A) An Interested Person is precluded from being present at or participating in any Board or committee deliberation or vote related to the transaction or arrangement giving rise to a Conflict of Interest or Related Party Transaction. Notwithstanding the foregoing, the MHLS Board or Board Executive Committee may request that an Interested Person present information to the Board or Board Executive Committee prior to the commencement of deliberations or voting relating thereto.
- (B) An Interested Person shall not directly or indirectly attempt to influence improperly the deliberation or voting on the transaction or arrangement giving rise to the conflict.

#### Section 4.2. Determining Whether a Conflict of Interest or Related Party Transaction Exists.

- (A) After the Interested Person's disclosure of the existence of and all material facts relating to his or her Financial Interest as required under Article III, and after any discussion among the remaining members of the Board or the Board Executive Committee and the Interested Person regarding the facts and circumstances of the Financial Interest, the Board Executive Committee shall discuss and make a recommendation to the Board as to each of the determinations required by Paragraphs (C) and (D) of this Section 4.2. Alternatively, if the existence of the Financial Interest initially arises at a meeting of the Board, then the Board can directly make the determinations required without seeking recommendations from the Executive Committee, provided the Interested Person leaves the meeting while the remaining members of the Board discusses the information disclosed.
- (B) Upon due discussion and consideration of the Board Executive Committee recommendations, the Board shall make each of the determinations required by Paragraphs (C) and (D) of this Section 4.2.=
- (C) Upon discussion, the remaining Board members shall decide and document in the meeting minutes if the transaction or arrangement constitutes a Related Party Transaction as defined in Article II, Section 2.9. If so, then the Board must also determine and document in the meeting minutes whether the Related Party has a Substantial Financial Interest, as defined in Article II, Section 2.5, in the proposed Related Party Transaction. Regardless of whether or not the Financial Interest is a Substantial Financial Interest, a Related Party Transaction is subject to the procedures set forth in Article V.
- (D) If the transaction or arrangement does not constitute a Related Party Transaction as defined in Article II, Section 2.9, then the remaining Board members in their discretion shall decide if a

Conflict of Interest, as defined in Article II, Section 2.10, exists nonetheless, after giving due consideration to the material facts and circumstances presented. If the Board determines that the transaction or arrangement involves a Conflict of Interest, then such transaction or arrangement is subject to the procedures set forth in Article V.

## **ARTICLE V**

### **Procedures for Addressing Conflicts of Interest & Related Party Transactions.**

#### **Section 5.1. Consideration of Alternatives.**

- (A) If the transaction or arrangement is a Related Party Transaction in which the Related Party has a Substantial Financial Interest, then consideration of alternatives in accordance with this section is mandatory. For Conflicts of Interest, consideration of alternatives is within the discretion of the Board.
- (B) After disclosure and discussions with the Interested Person, the Board of Trustees may appoint a Disinterested Trustee or committee of Disinterested Directors to investigate alternatives to the proposed transaction or arrangement. Alternatives must be presented to the Board and must be documented in the minutes of the meeting at which the determination is made.
- (C) If alternatives are investigated and presented to the Board, then after exercising due diligence and giving due consideration for any such alternative transactions presented, the Board shall determine whether MHLS 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.

#### **Section 5.2. Board Decision.**

- (A) If alternatives are considered, whether mandatory or discretionary, and if the Board determines that a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a Conflict of Interest or Related Party Transaction, the Board shall determine by a majority vote of the Board whether the transaction or arrangement is in the best interest of MHLS, and whether it is fair and reasonable.
- (B) In conformity with the above determination, and in accordance with Board Bylaws and policies, the Board shall make its decision as to whether to enter into the transaction or arrangement.
- (C) If the transaction or arrangement involves a Related Party Transaction in which the Related Party has a Substantial Financial Interest, then a majority of the Board members present at the meeting is required to approve such transaction.

Section 5.3. Documentation Required. In connection with all actual or possible Conflicts of Interest and Related Party Transactions, the Board shall document in the minutes of the meeting at which such determinations are made the following:

- (A) The names of the persons who disclosed or otherwise were found to have a Financial Interest in connection with an actual or possible Conflict of Interest or Related Party Transaction, the nature of the Financial Interest, any action taken to determine whether a Conflict of Interest or Related Party Transaction was present, and the Board's decision as to whether a Conflict of Interest, Related Party Transaction or Substantial Financial Interest in a Related Party Transaction 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 at the meeting regarding the proposed transaction or arrangement, including the alternatives to the proposed transaction or arrangement considered, if any.
- (C) The determination as to whether the transaction or arrangement is fair, reasonable and in the best interest of MHLS.
- (D) The determination as to whether to enter into the transaction or arrangement which gives rise to the Conflict of Interest or Related Party Transaction. If the Board of Trustees approves a Related Party Transaction in which the Related Party has a Substantial Financial Interest, then the minutes must also include the basis for such approval.
- (E) A record of any votes taken in connection with the proceedings.

## **ARTICLE VI**

### **Oversight & Reviews**

Section 6.1. Oversight Responsibility. The designated Board Executive Committee, as defined in the Board Bylaws, shall oversee the adoption of, implementation of, and compliance with this Conflict of Interest Policy in accordance with the procedures contained herein and within the process and authority granted under the Bylaws.

Section 6.2. Violation of the Conflict of Interest Policy.

- (A) If the Board Executive Committee has reasonable cause to believe a trustee, officer or employee has failed to disclose an actual or possible Conflict of Interest or Related Party Transaction, it shall inform such person of the basis for such belief and afford such person an opportunity to explain the alleged failure to disclose.

- (B) If, after hearing the response of the trustee, officer or employee and after making further investigation as warranted by the circumstances, the Board Executive Committee determines that the trustee, officer or employee has failed to disclose an actual or possible Conflict of Interest or Related Party Transaction, it shall recommend to the Board appropriate disciplinary and corrective action, up to and including dismissal or termination, and referral to the New York State Board of Regents for possible removal of a trustee, pursuant to New York State Education Law Section 226.

Section 6.3. Periodic Reviews. To ensure MHLS operates in a manner consistent with its nonprofit purposes and does not engage in activities that could jeopardize its tax-exempt status, the Board shall conduct periodic reviews. The periodic reviews shall, at a minimum, include the following subjects reviewed by Board committees:

- (A) Whether compensation arrangements and benefits are reasonable, based on competent survey information, reviewed by the Personnel and Planning Committee.
- (B) Whether partnerships, joint ventures, and arrangements with other organizations conform to MHLS written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further nonprofit purposes and do not result in impermissible or excessive benefit, reviewed by the Finance Committee.

Section 6.4. Use of Outside Experts. When conducting the periodic reviews as provided for in Article VI, Section 6.3, MHLS may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the Board of its responsibility for ensuring periodic reviews are conducted.

*Adopted - Mid-Hudson Library System Board of Trustees at a public meeting held on October 24, 2014.*