

Conflict of Interest Policy

Southeastern NY Library Resources Council Conflict of Interest Policy	Approved by the Board of Trustees: 10/20/2016 Revised 3/19/2020
Position(s) responsible for Compliance: Executive Director, Board	To be reviewed: Annually

CONFLICT OF INTEREST POLICY

OF

Southeastern NY Library Resources Council (the “Corporation”)

(ADOPTED AS OF THE 19 DAY OF March, 2020)

ARTICLE I

Purpose

The purpose of the conflict of interest policy is to protect the Corporation when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director of the Corporation or might result in a possible Conflict of Interest or Related Party Transaction. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable corporations.

ARTICLE II

Definitions

Section 2.1. Interested Person. Any director, officer, Committee Member or Key Employee who has a direct or indirect Financial Interest with respect to a contemplated transaction or arrangement.

Section 2.2. Disinterested Director. Any director who is not an Interested Person with respect to a contemplated transaction or arrangement.

Section 2.3. Financial Interest.

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

(1) An ownership or investment interest in any entity with which the Corporation has a transaction or arrangement;

(2) A compensation arrangement with the Corporation or with any entity or individual with which the Corporation has a transaction or arrangement; or

(3) A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Corporation is negotiating a transaction or arrangement.

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

(C) A Financial Interest is not necessarily a Conflict of Interest. A person who has a Financial Interest may have a Conflict of Interest only if the Board or the appropriate committee decides that a Conflict of Interest exists.

Section 2.4. Substantial Financial Interest. A Financial Interest in a Related Party Transaction is a Substantial Financial Interest if, 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 2.5. Related Party. A Related Party includes:

(A) Any director, officer or Key Employee of the Corporation or any Affiliate of the Corporation;

(B) Any Relative of any director, officer or Key Employee of the Corporation or any Affiliate of the Corporation; or

(C) Any entity in which any individual described in clauses (A) and (B) of this section has a thirty-five percent (35%) 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 (5%).

Section 2.6. Committee Member. Any person who is a member of a committee with powers delegated by the Board.

Section 2.7. Key Employee. A current employee who is in a position to exercise substantial influence over the affairs of the Corporation. It includes the president, chief executive officer, chief operating officer, treasurer, chief financial officer, and any other person who has ultimate responsibility for implementing the decisions of the governing body, supervising the management, administration, or operation of the organization, or managing the finances of the organization. A person may also be a Key Employee if his or her compensation is primarily based on revenues derived from activities of the organization, or of a particular department or function of the organization, that the person controls; if the person has or shares authority to control or determine a substantial portion of the organization's capital expenditures, operating budget, or compensation for employees; or if the person manages a discrete segment or activity of the organization that represents a substantial portion of the activities, assets, income, or expenses of the organization.

Section 2.8. Affiliate of the Corporation. Any entity controlled by, in control of, or under common control with the Corporation.

Section 2.9. Related Party Transaction. Any transaction, agreement or other arrangement in which a Related Party has a Financial Interest and in which the Corporation or any Affiliate of the Corporation is a participant.

Section 2.10. Conflict of Interest. A Conflict of Interest exists if an outside interest or activity, including a Financial Interest, 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 the Corporation.

Section 2.11. 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 the spouses or domestic partners of his or her brothers, sisters, children, grandchildren and great-grandchildren

Article III. **Disclosure**

Section 3.1. Initial Disclosure. Prior to the initial election of any director, officer, Committee Member or the hiring of any Key Employee, the prospective director, officer, Committee Member or Key Employee shall complete, sign and submit to the Secretary of the Corporation a written Disclosure Statement, attached as Appendix A, identifying, to the best of his or her knowledge, the following information:

- (A) Any entity in which such person is an officer, director, member, owner (either as a sole proprietor or a partner), or employee and with which the Corporation has a relationship; and
- (B) Any transaction in which the Corporation 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.

Section 3.2. Annual Disclosure. Each director, officer, Committee Member, Key Employee shall annually submit to the Secretary of the Corporation the written Disclosure Statement, attached as Appendix A, in which such person:

- (A) Identifies, to the best of the his or her knowledge, the information specified in Paragraphs (A) and (B) of Section 3.1; and
- (B) Affirms that they has received a copy of the Conflict of Interest Policy, read and understands the policy, agrees to comply with the policy and understands that the Corporation 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.

Section 3.3. Submission of Disclosure Statements. The Secretary of the Corporation shall provide a copy of all statements completed pursuant to Sections 3.1 and 3.2 to the Chair of the Audit Committee or, if there is no Audit Committee, to the Chair of the Board.

Section 3.4. Continuing Duty to Disclose. In connection with any actual or possible Conflict of Interest or Related Party Transaction, an Interested Person must disclose the existence of the Financial Interest and be given the opportunity to disclose all material facts to the Board or committee when he/she becomes aware of the potential Conflict of Interest or Related Party Transaction before the Board or committee enters into any transaction that may result in a Conflict of Interest or Related Party Transaction. Such disclosure may be made in a written statement or orally at a meeting of the Board or the committee, provided that such oral disclosure must be documented in the minutes of the meeting at which such disclosure is made.

Article IV

General Prohibitions – Interested Persons

Section 4.1. Presence. 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 Board or committee may request that an Interested Person present information to the Board or committee prior to the commencement of deliberations or voting relating thereto.

Section 4.2. Influence. 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.

Article V

Determining Whether a Conflict of Interest or Related Party Transaction Exists

Section 5.1. Request for Determination. After disclosure of the Financial Interest and all material facts, and after any discussion with the Interested Person, a committee of the Board comprised of Independent Directors (as defined in the Corporation's By-laws) ("Independent Director Committee") shall determine and report to the Board or committee as to each of the determinations required by Section 5.2.

Section 5.2. Independent Director Committee Determinations. Upon receipt of a request for determination from the Board or a committee, the Independent Director Committee shall make the following determinations and report such determinations back to the Board or committee.

(A) The Independent Director Committee shall decide and document in the meeting minutes if the transaction or arrangement constitutes a Related Party Transaction. If so, then the Independent Director Committee must also determine and document in the meeting minutes whether the Related Party has a Substantial Financial Interest in the proposed Related Party Transaction.

(B) If the transaction or arrangement does not constitute a Related Party Transaction then the Independent Director Committee in its discretion shall decide if a Conflict of Interest exists nonetheless, after giving due consideration to the material facts and circumstances presented.

Article VI

Procedures for Addressing Conflicts of Interest and Related Party Transactions

Section 6.1. Application of Procedures. In accordance with the Independent Director Committee determinations made under Section 5.2, the Board or committee shall follow the procedures set forth in this Article VI for all Conflicts of Interest and Related Party Transactions, regardless of whether or not the Financial Interest in the Related Party Transaction is a Substantial Financial Interest. To the extent the Independent Director Committee reports its determinations under Section 5.2 to a committee of the Corporation, such committee will be required to make recommendations to the Board and the Board shall be required to decide as to the matters set forth in this Article VI.

Section 6.2. 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. Otherwise, consideration of alternatives is within the discretion of the Board or committee.

(B) The Chairperson of the Board or committee shall, if appropriate, appoint a Disinterested Director or committee to investigate alternatives to the proposed transaction or arrangement. Alternatives must be presented to the Board or committee and must be documented in the minutes of the meeting at which the determination is made.

(C) After exercising due diligence, the Board or committee shall determine whether the Corporation 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 6.3. Board or Committee Decision.

(A) 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 or committee shall determine by a majority vote of the Disinterested Directors whether the transaction or arrangement is in the Corporation's best interest, for its own benefit, and whether it is fair and reasonable.

(B) In conformity with the above determination, the Board or committee 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 or committee members present at the meeting is required to approve such transaction.

Section 6.4. Documentation Required. In connection with all actual or possible Conflicts of Interest and Related Party Transactions, the minutes of the Board and all committees shall contain:

(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 Independent Director Committee's decision as to whether a Conflict of Interest or Related Party Transaction, including whether such Related Party Transaction involved a Substantial Financial 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 discussion, including any alternatives to the proposed transaction or arrangement.

(C) The determination as to whether the transaction or arrangement is fair, reasonable and in the Corporation's best interest.

(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 or committee approves a Related Party Transaction in which the Related Party has a Substantial Financial Interest, then the minutes must also including the basis for such approval, including consideration of alternatives.

(E) A record of any votes taken in connection with the proceedings.

Article VII

Oversight

Section 7.1. Oversight Responsibility. The Audit Committee of the Board, or if there is no such Audit Committee, then a Committee of the Board comprised of Independent Directors, as defined in the Bylaws, shall oversee the adoption of, implementation of, and compliance with this Conflict of Interest Policy.

Section 7.2. Violations of the Conflicts of Interest Policy.

(A) If the Audit Committee, or if there is no such Audit Committee, then the Board has reasonable cause to believe a director, officer, Committee Member or Key Employee has failed to disclose actual or possible Conflicts of Interest or a 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 disclosure.

(B) If, after hearing the response of the director, officer, Committee Member or Key Employee and after making further investigation as warranted by the circumstances, the Audit Committee, or if there is no such Audit Committee, then the Board determines such person has failed to disclose an actual or possible Conflict of Interest or Related Party Transaction, it shall take appropriate disciplinary and corrective action.

Article VIII

Periodic Reviews

Section 8.1. Periodic Reviews. To ensure the Corporation operates in a manner consistent with 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 Corporations conform to the Corporation's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in inurement, impermissible private benefit, or in an excess benefit transaction.

Section 8.2. Use of Outside Experts. When conducting the periodic reviews as provided for in Section 8.1, the Corporation may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the governing board of its responsibility for ensuring that periodic reviews are conducted.

Article VIII **Standards of Conduct**

Directors, officers, and key employees shall discharge their duties with respect to conflicts of interest and disclosure, reporting, and conflict mitigation obligations in good faith and with the care an ordinarily prudent person in a like position would exercise under similar circumstances.