

## CONFLICT OF INTEREST

Public policy is designed to prevent public officials from acting in circumstances in which their personal interest conflicts with that of the public whose interest they have been selected to represent. The action of the Board of Trustees of the Westhampton Free Library shall be governed by applicable provisions of the General Municipal Law, Education Law, Local Finance Law and any other applicable law and the Code of Ethics established pursuant to Board Policy.

Pursuant to the General Municipal Law, no Library Trustee, Officer or employee may have an interest, direct or indirect, in any contract with the Library, when such officer or employee, individually or as a member or as a member of the Board, has the power or duty to (a) negotiate, prepare, authorize or approve the contract, or authorize or approve payment thereunder; (b) audit bills or claims under the contract; or (c) appoint an officer or employee who has any of the powers or duties set forth above. No Library Treasurer may have an interest, direct or indirect, in a bank or trust company designated as a depository or paying agent or for investment of funds of his/her district. This, however, does not preclude payment of lawful compensation and necessary expenses of a Library employee in one or more public offices or positions of employment, the holding of which is not prohibited by law.

### Exceptions to Law

The General Municipal Law enumerates a number of exceptions to its general rule. Specifically, the statute provides that its prohibition on conflict of interest does NOT apply to:

- a) The designation of a bank or trust company as a depository, paying agent, registration agent or for investment of funds of a municipality except when the chief fiscal officer, treasurer, or his/her deputy or employee, has an interest in such bank or trust company; provided, however, that where designation of a bank or trust company outside the municipality would be required because of the foregoing restriction, a bank or trust company within the municipality may nevertheless be so designated;
- b) A contract with a person, firm, corporation or association in which a municipal officer or employee has an interest which is prohibited solely by reason of employment as an officer or employee thereof, if the remuneration of such employment will not be directly affected as a result of such contract and the duties of such employment do not directly involve the procurement, preparation or performance of any part of such contract;
- c) The designation of a newspaper, including but not limited to an official newspaper, for the publication of any notice, resolution, ordinance or other proceeding where such publication is required or authorized by law;
- d) The purchase by a municipality of real property or an interest therein, provided the purchase and the consideration therefore is approved by order of the supreme court upon petition of the governing board;
- e) The acquisition of real property or an interest therein, through condemnation proceedings according to law;

- f) A contract with a membership corporation or other voluntary non-profit corporation or association;
- g) The sale of lands and notes pursuant to Section 60.10 of the local finance law;
- h) A contract in which a municipal officer or employee has an interest if such contract was entered into prior to the time he/she was elected or appointed as such officer or employee, but this does not authorize a renewal of any such contract;
- i) A contract with a corporation in which a municipal officer or employee has an interest by reason of stockholdings when less than five percent of the outstanding stock of the corporation is owned or controlled directly or indirectly by such officer or employee;
- j) A contract for the furnishing of public utility services when the rates or charges therefore are fixed or regulated by the public service commission;
- k) A contract for the payment of a reasonable rental of a room or rooms owned or leased by an officer or employee when the same are used in the performance of his/her official duties and are so designated as an office;
- l) A contract in which a municipal officer or employee has an interest if the total consideration payable thereunder, when added to the aggregate amount of all consideration payable under contracts in which such person had an interest during the first year, does not exceed the sum of one hundred dollars;
- m) A contract with a member of private industry council established in accordance with the federal job training partnership act or any firm, corporation or association in which such member holds an interest, provided the member discloses such interest to the Board and the member does not vote on the contract.

#### Express Prohibitions

In addition, the law clearly states that a Library Trustee, Officer or employee may not;

- a) Directly or indirectly, solicit any gift, or accept or receive any gift having a value of \$75 or more, whether in the form of money, service, loan, travel, entertainment, hospitality, thing, or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to or could reasonably be expected to influence him/her in the performance of his/her official duties, or was intended as a reward for any official action on his/her part;
- b) Disclose confidential information acquired in the course of his/her official duties or use such information to further his/her personal interests;
- c) Receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before the Board: or
- d) Receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before the Board whereby the compensation is to be dependent or contingent upon any action by the agency. This does not prohibit the fixing of fees based upon the reasonable value of services rendered.

### Penalties

Any contract willfully entered into by or with the Library in which there is a prohibited interest is void and unenforceable. In addition, any officer or employee who willfully and knowingly violates the foregoing provisions shall be guilty of a misdemeanor.

It should be noted that competitive bidding does not cure the prohibition against having any interest in a contract when the officer or the employee has the power to approve the contract.

The law further authorized, in addition to any other penalty imposed, that any person who knowingly and intentionally violates the above may be fined, suspended, or removed from office or employment in the manner provided by law.

### Restrictions on Employment and Nepotism

There are additionally certain strictures imposed by law on employment of Board members and relatives of Board members.

As a general principle of law, a Board member cannot hold another public office which is incompatible with his/her status as a Board member. The Commissioner of Education has held that the mere possibility of conflict does not disqualify that person from retaining his/her position, although if a conflict situation does occur, the office holder should refrain from participating in any way.

The law expressly prohibits a Board member from being an employee of the Board.

### Disclosure of Interests

The Legislature has also enacted various disclosure requirements, in an effort to protect the public and to publicize conflict of interest, so that both the public and the governing body might take appropriate account of any personal interests in appraising the public benefit of a personal transaction.

Any Board officer or employee who has, will have, or later acquires an interest in any actual or proposed contract with the Board must publicly disclose the nature and extent of such interest in writing to the Board as soon as he/she has knowledge of it.

Although certain interests may not be prohibited by law, they are still subject to disclosure requirements. Legal counsel should be sought concerning any question regarding disclosure of specific items. The law requires that written disclosure be made part of and set forth in the minutes of the Board. Once made, no further disclosures with respect to additional contracts with the same party during the remainder of the fiscal year need be made.

Adopted by Board of Trustees: July 21, 2009

Amended: June 2010