

DeWitt Community Library Association (DCLA)

Conflicts of Interest Policy

Article I Purpose

We believe that the trust and confidence of the community, including our donors and other supporters, depend on our continuing to maintain the highest standards of ethical and lawful conduct. It is the DCLA's position that all of individuals involved with its mission must comport themselves so that there is not even the appearance of conflict between personal interests and those of the DCLA. To ensure the continuity of its high standards of conduct, the DCLA desires to set forth the common understandings that must exist among the members of its community regarding practices.

This policy is intended to assist in understanding the DCLA's policies and practices relating to business transactions, to clarify principles that must guide its conduct, and to provide guidance in resolving ethical and legal questions that might arise. The purpose of the Conflict of Interest Policy is to protect DCLA's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of a trustee or key employee of the DCLA.

The policy is designed to ensure that all institutional decisions are made solely to promote the best interests of DCLA without favor or preference based on personal considerations, and to ensure the highest ethical conduct. This policy is intended to supplement, but not replace any applicable New York State or federal laws governing conflicts of interest applicable to nonprofit DCLAs.

Article II Duty of Loyalty and General Requirements

1. **The Law.** Conflict-of-interest statutes are contained in the New York Not-for-Profit Corporation Law and focus primarily on the duty of loyalty of board of director ("Board") members. This duty broadly commands Board members to be faithful to an organization's best interests and to refrain from using their organizational position or knowledge to advance a personal agenda at the organization's expense.

2. **Basis of Decisions.** All institutional decisions are to be made solely to promote the best interests of DCLA without favor or preference based on personal considerations, and to ensure the highest ethical conduct. Accordingly, with respect to their personal economic interests, DCLA Board members and employees should not be allowed to participate actively and aggressively as advocates in their own behalf (or on behalf of other organizations in which they have a personal interest), either formally at Board or committee meetings or informally through private contact, communication, and discussion. Similarly, Board members or employees may not obtain for themselves, their relatives, or their friends a material benefit of any kind from their association with the DCLA, or from the knowledge gained therefrom. The fairness of transactions involving potential conflicting interests is usually analyzed by comparing them with similar transactions negotiated by parties dealing at "arm's length" - that is,

parties that have no other relationship and are presumed to base their decisions on rational economic interests.

3. Confidential Information.

- a. In addition, one of the DCLA's most valuable assets is its confidential information, which includes donor lists, patron data, financial data and computer software and equipment information. The security and integrity of all confidential data must be diligently protected. Accordingly, officers, Board members and employees should not disclose or use any confidential information involving DCLA for personal benefit or for non- DCLA related purposes.
- b. Officers, Board members and employees will respect the confidential nature of library business while being aware of and in compliance with applicable laws governing open meetings and the freedom of information.

Article III Definitions

1. Interested Person.

- a. Any person serving as a member of the DCLA Board of Trustees or a Board Committee or a DCLA Key Employee who could potentially have a personal or financial interest that is in conflict with the interests of the DCLA.
- b. The relative or spouse of any person listed in Paragraph III (1)(a) above, or any relative of such spouse, who is living in the same home as a person listed in Paragraph III (1)(a) above.
- c. Any entity which is not a 501(c)(3) organization and in which any person listed in Paragraph III (1)(a) or Paragraph III (1) (b) above serves as an officer, director, trustee, partner, or in which any such person has an ownership interest other than a modest ownership interest in a publicly-traded company as a regular investor.
- d. Any entity wherein any person listed in Paragraph III (1) (a), (b), or (c) above would have a financial interest if a Business Transaction were carried out, regardless of the person's role with the entity.

2. Independent Board Member. A member of the Board of Directors (the "Board") who:

- a. Has not been an employee of the DCLA or an Affiliate of the DCLA within the last three years; does not have a Relative who has been a Key Employee of the DCLA or an Affiliate of the DCLA within the last three years; has not received and does not have a Relative who has received more than \$10,000 in compensation directly from the DCLA or an Affiliate of the DCLA in any of

the last three years (not including reasonable compensation or reimbursement for services as a Director, as set by the DCLA);

- b. Does not have a substantial Financial Interest in and has not been an employee of, and does not have a Relative who has a substantial Financial Interest in or was an Officer of any entity that has made payments to or received payments from, the DCLA or an Affiliate of the DCLA in excess of the lesser of: (a) \$25,000 or (b) 2% of the DCLA's consolidated gross revenue over the last three years (payment does not include charitable contribution);
 - c. Is not in an employment relationship under control or direction of any Interested Person and does not receive payments subject to approval of an Interested Person;
 - d. Does not approve a transaction providing economic benefits to any Interested Person who in turn has approved or will approve a transaction providing economic benefits to the Director.
3. **Key Employee**. A Key Employee is a person who is, or has within the last five years, been in a position to exercise substantial influence over the affairs of the DCLA. This includes, but is not limited to:
- a. Voting members of the Board;
 - b. Executive director, executive officers, chief operating officers or employee of any other title with similar responsibilities;
 - c. Treasurers and chief financial officers or employee of any other title with similar responsibilities; or
 - d. A "highly compensated" employee, within the meaning of section 4958 of the Internal Revenue Code and guidance issued by the Internal Revenue Service, who is in a position to exercise substantial influence over the affairs of the DCLA.
2. **Financial Interest**. A person has a financial interest, if a person has, directly or indirectly, through business, investment or family:
- a. an ownership or investment interest in any entity with which DCLA has a transaction or arrangement;
 - b. a compensation arrangement with DCLA or with any entity or individual with which DCLA has a transaction or arrangement; or
 - c. a potential ownership or investment interesting, or compensation arrangement with, any entity or individual with which DCLA is negotiating a transaction or arrangement.

3. Compensation. Compensation includes direct and indirect remuneration as well as gifts or favors which are substantial in nature.

Article IIV Procedures

1. Disclosure. Any Interested Person shall disclose in good faith all material facts of his or her Financial Interest to the Board.

2. Non-Participation and Review. All transactions, agreements or any other arrangements between the DCLA and an Interested Person, and any other transactions which may involve a potential conflict of interest, shall be reviewed by the Independent Members of the Board. All Interested Parties with a Financial Interest shall leave the room in which such deliberations are conducted. The Independent Board Members will then determine whether the contemplated transaction is fair, reasonable, and in the best interests of the DCLA at the time of such determination. The DCLA will not enter into any Interested Person Transaction unless it is determined to be fair, reasonable and in the best interest of the DCLA at the time of such determination.

3. Procedures to Address Conflict of Interest. The following procedure shall be taken:

- a. The Independent Members of the Board will investigate alternatives to the proposed transaction or arrangement. All Interested Persons with a Financial Interest must not be present for deliberations and voting on the transaction or arrangement in which he or she has a Financial Interest. However, Interested Persons are not prohibited from providing information regarding the transaction to the Board prior to the Board's deliberations.
- b. After exercising due diligence, the Independent Members of the Board will determine whether DCLA can obtain a more advantageous transaction or arrangement with reasonable efforts from a person or entity that would not give rise to a conflict of interest.
- c. If a more advantageous transaction or arrangement is not reasonably attainable under circumstances that would not give rise to a conflict of interest, the Independent Members of the Board will determine by a majority vote of the Independent Members of the Board whether the transaction or arrangement is in DCLA's best interest and for its own benefit and whether the transaction is fair and reasonable to DCLA and shall make its decision as to whether to enter into the transaction or arrangement in conformity with such determination. No trustee shall vote, act, or attempt to influence improperly the deliberations on any matter in which he or she has been determined by the Board to have a Financial Interest. Any attempt to vote, act, or improperly influence deliberations by an Interested Person on any matter with which such person has a Financial Interest may be grounds for removal from the Board or termination from the DCLA.

4. Violation of Conflict of Interest Policy.

- a. If the Independent Board Members have a reasonable cause to believe that a Member of the Board or Key Employee of DCLA has failed to disclose actual or possible conflicts of interest, it shall inform the person of the basis of such belief and afford the person an opportunity to explain the alleged failure to disclose.
- b. If, after hearing the response of the person and making such further investigation as may be warranted in the circumstances, the Independent Board Members determined that the person has in fact failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action as is needed in the circumstances, including removal from office.

1. Committee Review

- a. The Board may delegate a Board Committee, which shall be composed solely of Independent Board Members, for the adoption, implementation of and compliance with this policy.
- b. The Board may delegate to this committee review and approval of any Interested Person transaction involving an Interested Person and the DCLA, as contained in this Policy; provided that if the Interested Person transaction is of a magnitude that would otherwise require full Board approval, the Committee shall submit the Interested Person transaction to the Board for consideration, providing its recommendation as to whether or not to approve it.
- c. In the event the Board delegates the review and approval of Interested Person transactions to a committee, all references to Board in this Policy shall be deemed to refer to such Committee and all references to a majority of the Board shall be deemed to refer to a majority of such Committee.

Article IV Records of Proceedings

1. The minutes of the Board or the Committee of Independent Board Members shall contain the following information:

- 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;
- b. the nature of the financial interest;
- c. any action taken to determine whether a conflict of interest was present;

- d. the Board's or committee's decision as to whether a conflict of interest in fact existed;
- e. the names of the persons who were present for discussions and votes relating to the transaction or arrangement;
- f. the content of the discussion, including any alternative to the proposed transaction or arrangement; and,
- g. a record of any votes taken in connection with the matter.

Article VII Disclosure Statement

- 1. Prior to a Board Member's initial election to the Board, or a Key Employee's employment at the DCLA, and thereafter on an annual basis, all Trustees and Key Employees shall disclose in writing to the Secretary of the DCLA Board a statement which affirms that such person:
 - a. has received a copy of the Conflict of Interests Policy;
 - b. has read and understands the policy;
 - c. has agreed to comply with the policy; and,
 - d. understands that the DCLA is a charitable organization and that in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax exempt purposes.
- 2. Any Board Member or Key Employee who may benefit from an Interested Person transaction must disclose the interest in the transaction before it is approved.
 - a. The Interested Person may not wait until submission of the annual disclosure statement to reveal the conflict.
- 3. A copy of each disclosure statement shall be kept in DCLA's files and made available to any Trustee or Key Employee upon request.

Article VIII Ethics Statement

- 1. Board members understand that the function of the Board is to set broad policy direction and monitor adherence to policy while keeping in mind the Board's fiscal responsibility to the taxpayers in our served area. It is the Director's job to employ and evaluate the staff and manage the day-to-day operation of the library, and Board members will not interfere with that.

2. Trustees will attend meetings and participate fully in deliberations. They will keep well-informed of developments relevant to items coming before the Board, reading all materials sent me prior to the meeting at which they will be discussed. If they are unable to attend meetings regularly or complete work delegated to me, I will resign so that an active member can be elected.
3. Trustees will listen carefully to other Trustees and treat them with respect even if I disagree with their point of view.
4. Trustees will commit to attaining and maintaining a level of competency appropriate to library trustees and will continually work to learn to do my job better.

Approved by the DCLA Board of Trustees in the Board Meeting of 8_21_2014