

BOARD

“Although the relationship between the library board and the library staff is primarily through the (director), the more positive the relationship between the library board and library staff—the more effective the board will be in achieving its objects.”

—Southern Ontario Library System, *Trustee Tips*, March 1996

PERSONNEL POLICIES

The most valuable resource your library has is its staff. Quality library service can only be accomplished if your library’s team is motivated and positive about their working environment. The boards’ involvement in the creation, revision and review of the library’s personnel policy can have a significant influence on the customer service delivered to your community by creating a cooperative and mutually understanding environment.

A personnel policy will also insure objectivity when written policies and procedures are in place. This will inform staff of what the rights and conditions of employment are and demonstrate fairness and equity.

Personnel policy is also a crucial element for risk management. According to the Council of Community Services of New York State (CCSNYS) more than 85 percent of all lawsuits brought against nonprofit organizations in New York are personnel related. Your policy is the first line of defense.

ELEMENTS OF A PERSONNEL POLICY

WORKER DEFINITIONS

The Fair Labor Standards Act (FLSA) requires that employers classify jobs as either exempt or nonexempt. Positions in your library are categorized based on a test* to identify who meets the defined criteria for exempt, *i.e.* executive, administrative or professional work; or nonexempt, *i.e.* salaried. The definition of an exempt worker is one who:

[1] is “engaged in work which is primarily intellectual, managerial, or creative,” and “which requires exercise of discretion and independent judgment,” and

[2] is paid a monthly salary equivalent to at least twice the state minimum wage for full time employees. (FindLaw)

*To access the tests to fully explore which positions at your library are exempt, use the “Duties Tests” links on the MHLS web site (<http://midhudson.org>) under Trustee Resources • Personnel.

These classifications define employees’ rights in the area of wage and hour standards under FLSA: Non-exempt employees are entitled to the minimum wage and to overtime compensation when working over forty hours in a workweek. Employees who meet defined criteria are exempt from the basic wage and hour standards.

Beyond minimum wage and overtime compensation, other FLSA rights and protections are related to restrictions on child labor, and the prohibition of sex discrimination in wages paid to men and women.

INDEPENDENT CONTRACTOR OR EMPLOYEE?

For federal tax purposes it is important to know the difference between an *independent contractor* and *employee*. You must withhold income tax, social security and Medicare for a person who is an employee or be liable for those monies at a later date.) There are three categories of determination:

• BEHAVIORAL CONTROL

☞ A worker is an employee if the library has the right to direct and control the worker. For example, if the person is told which hours to work and what work to do within those hours on a regular basis they are an employee.

• FINANCIAL CONTROL

☞ If a person is not reimbursed for some or all business expenses they may be an independent contractor.

☞ If a person can realize a profit or incur a loss this suggests they are in business for themselves and therefore would be an independent contractor.

• RELATIONSHIP OF THE PARTIES

☞ If a worker receives benefits, they are an employee. An independent contractor would need to fill out a Form W-9 so you can report what you paid them to the IRS on Form 1099-MISC.

OTHER GENERAL DEFINITIONS

• Your policy should locally define the length of the workweek and workday, lunches and breaks; a list of holidays the library is closed; and emergency closing notification procedure.

• Local definitions for what constitutes part-time and full-time at your library should be included. (May be different from FLSA definition.) Civil Service libraries — all libraries except Association libraries — need to check with their county civil service commissions for this definition.

• Citing law: Personnel policy should cover personnel law—such as the Fair Labor Standards Act (FLSA) and the American’s With Disabilities Act (ADA)—but should not restate law, just refer to it. This will help protect your policy from being out of step with particulars of a law that has changed while you weren’t looking.

• Your personnel policy and the director’s job description should include a statement of authority in relation to hiring and firing. As the director is the on-site administrator of the organization, he or she acts on the board’s behalf to do such things as revise job descriptions, fill vacancies, select candidates and make offers of employment.

BENEFITS

All libraries, regardless of size offer some benefits to their staff whether it’s just vacation and sick days or a full complement of health and retirement benefits. Benefits need to be spelled out in your personnel policy to ensure it is clear who receives benefits and at what rate. Creating a structure for dealing with all types of leave will help your director treat everyone fairly.

TRAINING

Training and development give employees the skills and knowledge they need to perform effectively at their jobs. Your policy should create an environment conducive to both new and long-time employees receiving the continuing education they need. Equally important is to budget for training for staff. This includes paying staff for the time they spend in training, traveling to training, and providing funds for coverage for the staff person out of the building for training.

STANDARDS OF BEHAVIOR

Just as you have expectations of patron behavior in your library, you have expectations of staff behavior as well. Part of ensuring that quality library service is provided in the way you hope it will be is to define standards of behavior for staff in relation to patrons and co-workers. Items often included in this section of the policy are:

TIPS

[1] You are required to have workers’ compensation and short-term disability insurance.

[2] You are not required to carry long-term disability insurance.

[3] The *Family Medical Leave Act* applies to public agencies (municipal, special district and school district public libraries regardless of staff size; and to association libraries employing over 50 employees). For small association libraries, this law can help you make leave decisions related to pregnancy, family and personal illness for your library. Check out the details from the MHLS Trustee Resources page: <http://midhudson.org> • Trustee Resources • Personnel.

[4] CDPHP (health plan provider) has partnered with NYLA to offer Organizational Members Health Insurance.

- General rules of conduct that help define acts which will result in disciplinary action up to and including discharge. Examples:
 - ☞ Violation of law.
 - ☞ Knowingly violating any library, OSHA, or state regulations, guidelines, or rules governing workplace safety.
 - ☞ Direct violation of library policy and procedures.
 - ☞ Removing, sending, or furnishing to unauthorized persons library records or information.
 - ☞ Possessing, using, buying, or selling alcohol or illegal drugs, or being under the influence of alcohol or illegal drugs while at work.
 - ☞ Repeated absences or tardiness.
 - ☞ Allowing unauthorized person(s) access to library's non-public areas.
 - ☞ Possessing, firearms of any type while on library property.
 - ☞ Sleeping or dozing on the job.
 - ☞ Insubordination: the refusal to perform all job requirements or service outlined by the library as stated in job description.
- Personal use of telephone, email and Internet during scheduled workhours.
- General housekeeping.

PERFORMANCE EVALUATION

While the board is only responsible for directly evaluating one employee, the director, it is important that a culture of evaluation is infused throughout your organization. Including a staff evaluation schedule in your personnel policy gives your director the framework and board support for staff evaluations. Evaluations provide the opportunity for an employee and supervisor to have a forthright discussion about job expectations and to either encourage a good employee to continue the good work or to help a struggling employee improve. There should be an evaluation at the end of a new hire's introductory period (*suggested length of introductory period: 90 days*) and annually thereafter.

PROGRESSIVE DISCIPLINE

When an employee is not doing well at their job or is violating library policy it is important that the personnel policy define disciplinary action. Progressive Discipline (PD) is a process for dealing with employee behavior that does not meet stated expectations. PD is a stepped approach:

- [1] Verbal warning
- [2] Two written warnings* (saved in the employees personnel file) that define
 - a. Steps needed to rectify the situation
 - b. A timeframe within which those steps need to be completed
- [3] Optional: Suspend benefits; dock pay; suspend without pay
- [4] Termination

Using a corrective, active approach to a problem employee helps protect your investment of time, energy and money in that person. PD also helps your director create the necessary paper trail to demonstrate a pattern of problem behavior that could be called upon in the case of firing an employee. The burden of proof is on the library, even though New York is an "employment at-will" state.

*template can be found at <http://midhudson.org> ☞ Trustee Resources

Other items that should be included in your policy:

- Grievance procedure that is clear and fair to all sides.
- Workers' Compensation Information and Procedures (when there is an injury or accident on the job; what is covered under Worker's Compensation)
- Payroll procedures (*i.e.* what day of the week is pay day; time sheet procedure)
- Statement on existence of job descriptions
- Resignation procedure
- Jury duty policy
- Whistleblower protection (sample available on MHLS web site)
- Hostile work environment policy (includes sexual harassment), including a procedure for an employee to use when their direct supervisor is the harasser. (Sample available on MHLS web site.)
- Personnel Records: kinds of materials retained, how long they are kept, and who has access:
 - ☞ Suggested contents: *Employment application, I-9 Form, letters to employee, evaluation forms, written warnings or counseling letters, incident report forms, training records.*
- If you do background checks on employees it should be stated in your policy.
- A statement about whether or not there are restrictions on the employment of trustees, family members of trustees, and family members of current employees.
- A section on volunteers: *job descriptions, to whom responsible, liability insurance, reimbursement for expenses.*
- A clear statement that the personnel policy does not constitute an employment contract, that employees serve at the will of the library, and that the board of trustees may amend the personnel policy at any time.
- A sign-off sheet that all employees should sign to indicate they received and read the policy. Save the sign-off sheet in the employee's personnel file.

Personnel Policy Development Tips and Samples are available on the MHLS Trustee Resources page under Personnel or Policies (<http://midhudson.org> ☞ Trustee Resources). Give us a call at 845.471.6060 if you have any questions.

ADVOCACY '08

If the System didn't exist, every community with a public library would have to pay an estimated 33% more for the level of library service they currently receive.

That's an organization worth fighting for—**RIGHT?**

STEP UP & SPEAK UP IN 2008!

State legislators need to hear from trustees and Friends about the value of the public library system to local libraries.

- Make a call or write a letter expressing what the system means to your library and therefore your community.
- Invite your state legislators to your library for a tour of your building and services.

OUR MESSAGE: *Make Permanent...*

- \$8 million in supplemental system aid included in the 2007–2008 Budget.
- \$14 million for public library construction.

LIBRARY AID INCREASES...

Book Aid

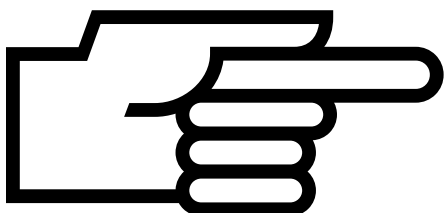
- \$7.5 million increase in aid to public libraries across New York State to purchase books and materials.

Operating Aid

- \$7.4 million in additional operating aid for library systems to bring every library system up to the **20% increase needed** to close the gap created by inflation and years without any increase.

NOVELny

- \$5 million annually to expand NOVEL.



SAVE THE DATE: TUESDAY MARCH 11th ■ LIBRARY LOBBY DAY ■ ALBANY, NEW YORK

Join the **MHLS Advocacy Network** to stay up-to-date on the status of library funding from the state, and to find out when your efforts will be most effective.

E-mail Rebekkah Smith Aldrich, MHLS Coordinator of Member Information at rsmith@midhudson.org to join.