

HANDBOOK FOR LIBRARY TRUSTEES OF NEW YORK STATE

2015 Edition

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Looking for an Index?

Use the online version of the handbook, available through the New York State Library's website: <http://www.nysl.nysed.gov/libdev/trustees/handbook/index.html>. Simply use the "CTRL F" function on your computer keyboard to find what you are looking for.

INTRODUCTION

Welcome to the 2016 revision of the *Handbook*. This year we have included links to several new webinars that will help you do your job as a trustee. The State Library is constantly adding to this valuable resource and we suggest you check it out from time to time. (<http://www.nysl.nysed.gov/libdev/webinars/index.html>). In addition to some minor edits we have attempted to clarify questions regarding the Library Treasurer and Library District Clerk positions. Though not available in the print version we are pleased to offer this revision online and as a pdf. We invite your continued questions and comments!

The purpose of this *Handbook* is to assist both the new and experienced public library trustee in New York State to better understand their job and to present the basic information they need to provide quality library service to their community. It offers advice on the philosophy of governing a library and on the practical, nuts-and-bolts aspects of responsible trusteeship. The information provided is based on the laws and regulations governing public libraries in our state and on the proven “best practices” in the field. **A brief rundown of what’s new in this edition is available at:** <http://www.nysl.nysed.gov/libdev/trustees/webinars.htm#160614>.

This is but an introduction to the many aspects of trusteeship and should be considered simply as one of the many resources necessary to do the job well. Please be advised that it should not be considered as the final authority on any legal or financial aspects of library administration. Library Boards should consult with their attorney and/or certified public accountant on any legal or fiscal issue before them. All commentary on library law is based on the actual law or established opinion by State agencies.

The *Handbook* is intended to be kept in a binder or folder along with other important documents such as the Library’s Bylaws, Policy Manual, and Long-Range Plan, so that updated information can be added as needed. The online version (<http://www.nysl.nysed.gov/libdev/trustees/handbook/index.html>) includes live web links and is searchable using the (CTRL F) function on your keyboard. It is an important companion to this Handbook.

All trustees should be aware that the New York State Library provides information on a range of topics on their website (<http://www.nysl.nysed.gov/>). The New York State Library Division of Library Development website deals specifically with public library issues (<http://www.nysl.nysed.gov/libdev/>). This site includes links to a number of informative webinars specifically designed for the public library trustee: (<http://www.nysl.nysed.gov/libdev/webinars/index.html>).

The Library Trustees Association of New York State (LTA) (LibraryTrustees.org) and the Mid-Hudson Library System (<http://midhudson.org/topics/trustees>), both provide excellent and continually evolving resources for trustee training. Your regional public library system's website (<http://www.nysl.nysed.gov/libdev/libs/publibs/1pls.htm>) will also provide you with critical information that will help you do your job.

The effective trustee must be well versed in good governance practices that will enable them to meet the challenges presented by a rapidly changing political, social and cultural environment. Public libraries in our state are faced with an increasingly complex regulatory environment, contradictory laws and regulations, new technologies and emerging competitors for the library's customers. At the same time they have never been more vital to the well-being of our society. It is indeed an exciting time to be a library trustee.

Many individuals and organizations across New York State share the goal of improving and extending library service; but individual trustees, acting as part of a library board of trustees in partnership with the Library Director, ultimately bear the responsibility for achieving that goal. This manual is intended to provide an introduction to the practical and philosophical information that trustees will need to augment the common sense and good judgment they exercise in the course of their service.

Oath of Office

Trustees and officers (including the Library Treasurer and Library District Clerk) of municipal, school district, and special legislative district public libraries, and trustees of cooperative and federated library systems are required to file the oath of office specified in the New York State Constitution:

“I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the constitution of the State of New York, and that I will faithfully discharge the duties of the office of trustee of the _____Library, according to the best of my ability.”

The oath may be given by any officer of the court (judge, attorney, notary public), or the library's board president or district clerk if they have taken an oath of office, and must be filed in the local county clerk's office (or with the town clerk for town library trustees). Failure to do so in a within 30 days of commencing the term of office will vacate the position. (<http://www.nysl.nysed.gov/libdev/trustees/oath.htm>)

For libraries with an appointed or elected board it is good practice for the board to request a formal letter or certificate of appointment or election for each new trustee from the body that made the appointment or conducted the election.

Collective Authority

Under New York State law, a library board has broad authority to manage the affairs of the library, but it is a collective authority. Individual trustees, regardless of their position on the board, do not have the power to command the services of a library staff member, nor to speak or act on behalf of the library, unless they have been specifically granted that authority by a vote of the board.

An important corollary to this concept of collective authority is the need for the board to speak with one voice once a decision has been made. Debate, discussion, and even disagreement over an issue are an important part of policy development and the decision making process. However, every trustee has an ethical obligation to publicly support an adopted board decision.

Special legislative district libraries should refer to their enabling legislation for clarification. In the case of school district libraries, the school district treasurer is required to act in this capacity unless the library board appoints its own Treasurer.

Municipal libraries that exercise their right under Education Law § 259 (1) (a) to request their tax appropriations be paid over to the library are strongly advised to appoint an independent Treasurer. In the case of municipal libraries where tax funds are held, and invoices are paid by the municipality, the Treasurer of the municipality serves in this capacity.

The State Comptroller has repeatedly opined that the doctrine of “incompatibility of office” applies to school district, municipal and special legislative district libraries (according to their enabling legislation). This is often applied to the appointment of a board member to the office of Treasurer. In such cases it is considered a best practice to appoint (hire) an independent Treasurer and appoint a trustee as the board’s “Finance Officer” who would oversee the regular audit of claims, chair the board budget committee and otherwise serve in such a capacity.

Also see: [The Role of the Public Library Treasurer; Appendix page 95.](#)

Many libraries, either by choice (School District Public Libraries) or legislation (Special District Public Libraries) appoint a **Library District Clerk**. The primary duty of the district clerk is to oversee the annual trustee and budget vote. Many district clerks also perform “secretarial” duties at Board meetings; taking minutes which they submit to the Board Secretary for review and submission to the Board.

This position is often filled by a library employee but is considered a separate appointment, answerable to the Board, with a stipend in addition to any other duties.

As an “officer of the corporation” the district clerk must take an Oath of Office.

Neither the Library Treasurer nor District Clerk are part of the competitive class of civil service but, as part time Library employees, must still comply with local civil service rules.

Association libraries are not governed by these restrictions and may appoint a trustee as Treasurer to oversee the receipt and disbursement of library funds, report to the board and otherwise fulfill the duties of Treasurer.

Resources:

- Oaths of Office [New York State Library]
<http://www.nysl.nysed.gov/libdev/trustees/oath.htm>
- Sturgis, Alice. *The Standard Code of Parliamentary Procedure*. Fourth revised edition. New York: McGraw-Hill, 2001

Related Documents and Policies:

- Code of Ethics/Conduct
- Conflict of Interest Policy
- Library Board Bylaws
- Removal of a Trustee

Resources:

- Chait, Richard P., William P. Ryan and Barbara E. Taylor. *Governance as Leadership: Reframing the Work of Nonprofit Boards*, Hoboken, N.J. : John Wiley & Sons, 2005
- Local Management Government Guide [Office of the State Comptroller]
<http://www.osc.state.ny.us/localgov/pubs/listacctg.htm#lmgm>
- Open Meetings Law Advisory Opinions [Committee on Open Government, NYS Department of State] http://www.dos.ny.gov/coog/oml_listing/oindex.html
- *Webinar: What Every Trustee Should Know*: <https://vimeo.com/134973499>

Related Policies and Documents:

- Audit/Review Schedule
 - Board Meeting Procedures (including Public Expression Procedure)
 - Claims Audit Process
 - Library Board Bylaws
-

Though the board must ultimately approve all appointments, titles and salaries, and so note in their minutes, often simple staff appointments such as pages or part time support staff cannot wait until the next board meeting. In such cases retroactive appointments are commonly made. Likewise, public library boards will often approve an appointment “pending civil service approval” in an effort to streamline the sometimes awkward formalities of civil service rules.

Typically, the board will review the credentials of candidates recommended for higher level staff positions such as department head or assistant director in order to be familiar with the library’s leadership. **This would also apply to the positions of Treasurer and District Clerk.**

Selecting the Library Director

The most important responsibility of a library board of trustees is to select a qualified library director who can work effectively with the Board, professionally manage the institution and reflect the ideals of the institution and the community it serves. All libraries are required to comply with Education Department Regulations (8NYCRR) § 90.8 governing the minimum qualifications for library director. Public libraries must also conform to the Civil Service rules for employment in their jurisdiction and in the State of New York. (See the Appendix *Civil Service 101* for more information.)

When embarking on this process, it is appropriate for the Board to ask themselves a number of critical questions about the library, the library board and the type of leadership they require. Each of these should be considered in light of the library’s mission, long range and strategic planning documents and recent assessments of community needs. Such questions might include:

- What qualities do you value in your Library Director?
- What are the most important skills your Director must possess?
- What roles do you see the Director playing with the Board, the staff and the community?

Fundraising

Association library boards, as private not-for-profit corporations, are permitted to engage in fundraising activities for the benefit of the library in their capacity as board members. **Of course the library director must be an important part of your fundraising team.**

Public library boards generally take care to separate private fundraising efforts (such as direct personal solicitations, as opposed to seeking grants from foundations or government agencies) from normal library operations and board activities since there are restrictions on the appropriate use of public funds. Many boards entrust the fundraising role to Library Friends and/or Foundations. Of course, trustees are private citizens too and may certainly work to raise money for the library as individuals. Please refer to the chapter on Library Friends and Foundations later in this Handbook.

Resources:

- *Webinar: Public Library Finance and the Trustee's Fiduciary Responsibilities:* <https://vimeo.com/115021246>
- Governmental Accounting Standards Board <http://gasb.org/>
- Grant Administration, Dormitory Authority of the State of New York (DASNY) <http://dasny.org/finance/grantadministration.aspx>
- Investing and Protecting Public Funds [Office of the State Comptroller] <http://osc.state.ny.us/localgov/pubs/listacctg.htm#investing>
- Local Government Management Guides [Office of the State Comptroller] <http://www.osc.state.ny.us/localgov/pubs/listacctg.htm#lmgm>
- Public Library Districts: An Introduction [New York State Library] <http://www.nysl.nysed.gov/libdev/libs/pldtools/index.html>
- Public Library Vote Toolbox [Mid-Hudson Library System] <http://vote.midhudson.org/>
- Real Property Tax Cap – Local Governments [Office of the State Comptroller] <http://osc.state.ny.us/localgov/realprop/localgovernments.htm>

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The Role of the Public Library Treasurer Background Information and FAQs

A Supplement to the Handbook for Library Trustees of New York State

Though there have been recent efforts to clarify the role of the “Treasurer” in New York State public libraries much confusion still exists. This document is intended to assist public library boards to comply with the law, understand “best practices” and adhere to established accounting standards in order to protect their public funds.

Please Note: *This document is for advisory purposes only and should not be considered as legal or accounting advice. As always, consult with your Library attorney and independent auditor to determine the best policies and practices for your particular institution.*

Background Information

The Handbook for Library Trustees of New York State; 2015 Edition states:

*“The office of **Treasurer** varies greatly, depending upon the library’s legal structure. **School district and most special legislative district libraries** must appoint (hire) an independent Treasurer who is not a member of the Board. Under the provisions of Education Law § 259 (1) (a) this independent officer reports to the board and is responsible for the receipt and disbursement of tax monies after Board approval.*

Special legislative district libraries should refer to their enabling legislation for clarification. In the case of school district libraries, the school district treasurer is required to act in this capacity unless the library board appoints its own Treasurer.

***Municipal libraries** that exercise their right under Education Law § 259 (1) (a) to request their tax appropriations be paid over to the library are strongly advised to appoint an independent Treasurer. In the case of municipal libraries where tax funds are held, and invoices are paid by the municipality, the Treasurer of the municipality serves in this capacity.*

The State Comptroller has repeatedly opined that the doctrine of ‘incompatibility of office’ applies to school district, municipal and special legislative district libraries (according to their enabling legislation). This is often applied to the appointment of a board member to the office of Treasurer.

In such cases it is considered a best practice to appoint (hire) an independent Treasurer and appoint a trustee as the board's 'Finance Officer' who would oversee the regular audit of claims, chair the board budget committee and otherwise serve in such a capacity.

***Association libraries** are not governed by these restrictions and may appoint a trustee as Treasurer to oversee the receipt and disbursement of library funds, report to the board and otherwise fulfill the duties of Treasurer." (P.23-24.)*

In recent audits that focused on the functions of the Treasurer, the Office of the State Comptroller noted:

A school district public library board of trustees has the power to appoint library officers and employees, including a library treasurer. The treasurer is responsible for depositing and disbursing library funds, maintaining appropriate accounting records and providing a monthly treasurer's report to the board. Because the typical duties of a library treasurer include the custody and disbursement of public funds, they carry with them a high degree of public trust.

New York State Public Officers Law requires public officers to take and file an oath of office prior to performing their official duties.

[Middle County Public Library; 2016]

Bank reconciliations should be prepared by an employee or official who is independent³ of the Library's accounting functions and does not have access to cash. Where it is not possible to segregate these duties, a supervisor, or a designated Board member, should review accounting entries and bank reconciliations on a monthly basis.

³ An employee or official who is independent of the Library's accounting functions does not have the ability to record receipts, disbursements or journal entries in the financial system.

The Board should:

- 1. Ensure that bank reconciliations are performed by someone who is independent of the accounting functions.*
- 2. Designate a Board member or Library official who is independent of the accounting function to review bank reconciliations.*

3. Require the Treasurer to provide bank reconciliations and supporting documentation with the Treasurer's monthly report to the Board.

[Shelter Rock Public Library; 2015]

Frequently Asked Questions

What are the typical duties of a public library Treasurer?

The Treasurer is a separate officer of a public library corporation and is appointed by the Board of Trustees. They are required to take an Oath of Office and perform their duties as defined in state law. **Association Libraries are not covered by this law.**

The public library Treasurer is responsible for depositing and disbursing library funds, maintaining appropriate accounting records and providing a monthly Treasurer's report to the board. Typical duties include:

- Reconciliation of bank statements
- Preparation of Monthly Report to the Board of Receipts & Disbursements
- Signing checks for payment after Board approval
- Oversight of Investments

What duties should the Treasurer not perform?

The Treasurer should be independent of the Library's accounting functions and should not have the ability to record receipts, disbursements or journal entries in the financial system.

May a Board member serve as library Treasurer?

Only Association Libraries may allow a Library Trustee to perform the duties of a Treasurer. Public (i.e. Municipal, School District and Special District) libraries must appoint an independent Treasurer to oversee the receipt and disbursement of the public library's funds.

Public library boards are still required to provide fiscal oversight of the Library. Though a trustee may not serve as Treasurer it is still best practice to designate a board member as "Finance Officer" or such similar title, to thoroughly review all the library financial statements and expenditures prior to the Board meeting. At every Board meeting all trustees should review the monthly financial reports and expenditures, including the warrants/vouchers. Remember, every member of the board has a fiduciary responsibility to the community.

Is a public library Board required to appoint a Treasurer?

School district libraries- The Treasurer of the local school district is required to serve as Treasurer of the school district library. However, the school district library is authorized by law to appoint their own Treasurer, should they desire. (Education Law § 259.1a)

Special district library- Generally Special District Libraries are required to appoint a Treasurer unless otherwise specified in their enabling legislation.

Municipal library- In many cases the Treasurer of the municipality serves as the Library Treasurer. This would be typical of a municipal Library where the municipality (Village, City, Town or County) maintains control of the expenditure of Library funds. In cases where the municipality transfers control of such funds to the Library, the Board should appoint an independent Treasurer in order to fulfill its fiduciary responsibilities. (www.osc.state.ny.us/localgov/audits/libraries/2015/walworthseely.htm)

Can the Board appoint a staff member to the position of Treasurer?

Yes, however, in order to comply with the accounting principle of “*segregation of incompatible duties*”¹ such a staff member may not:

- Have access to cash
- Record receipts or disbursements
- Record journal entries in the financial system.

What is the relationship between the Treasurer and the Director?

The Board appoints the Treasurer, as they do the Library Director. As an “officer of the Board,” the Treasurer answers directly to the Board of Trustees and serves at their pleasure. Therefore, to avoid conflict, it is “best practice” not to call on a library staff member for this function but to use a community member with expertise in finance and bookkeeping practices. Generally this is a paid position but there is no stipulation against using a community volunteer. As a Board Officer this position is not covered by the classified/competitive sections of New York State Civil Service Law.

Who typically serves as an independent Library Treasurer? How much work is involved?

Many municipalities and special districts in New York State require a separate Treasurer. Quite often libraries utilize the services of qualified individuals who serve in this capacity for their local fire district, water district, school district or other municipality. The job generally requires a few hours two or three days per month. The Treasurer must prepare a report of receipts and disbursements along with statement of bank account reconciliations. The Treasurer is not required to attend the Board meeting, but certainly may do so at the pleasure of the Board.

¹ For detailed explanation of this concept see: **Office of the New York State Comptroller. The Practice of Internal Controls. 2010. p.3: <http://osc.state.ny.us/localgov/pubs/lgmg/practiceinternalcontrols.pdf>**

Can the Board appoint an independent accounting firm or CPA?

According to the Office of the State Comptroller (OSC) the Library Board has the power to appoint the Treasurer, who serves as an officer of the library corporation. Recent audits have stated that the Treasurer must be an individual appointed by the Board who takes an Oath of Office. (www.osc.state.ny.us/localgov/audits/libraries2016/middlecountry.htm. p.4). It appears therefore, in order to comply with current OSC opinions it would be necessary to appoint a specific member of the selected firm to serve in the capacity of Library Treasurer.

Is an Oath of Office required for the Treasurer?

Yes. The Treasurer is an Officer of the Library Corporation and is therefore required to take an Oath of Office. ([Public Officers Law §10.](#))

Can anyone else sign checks?

Yes. The Board may appoint an Assistant Treasurer. Please note: It is also common practice that two Board members are designated as check signers. Though we have found no specific guidance from OSC, this practice certainly complies with the principle of “segregation of incompatible duties”, unless of course, the individual Trustees are the recipients of any such checks.

What should the Treasurer’s Report contain?

The Treasurer’s monthly Report to the Library Board should show the reconciliation of all bank statements and report actual revenues and expenditures compared to the Library budget. This summary report should not be confused with the detailed monthly line item financial report from the Library’s business office.

The Treasurer prepares a monthly report on bank reconciliations and overall revenues and expenditures. Can the Library staff prepare the detailed monthly budget report?

Yes. Under the direction of the Library Director the Library’s business staff should prepare a monthly report on the revenues and expenditures on a line item (detailed) basis as compared with the Library’s annual budget and year-to-date expenditures and encumbrances for Board review. This should reconcile with the independent Treasurer’s summary report to the Board.

Who should open the bank statements?

The Library Treasurer must have access to the original bank statements in order to prepare the monthly Board report. This function may be delegated to staff or an independent accounting firm who do not have access to cash nor the ability to record receipts, disbursements or journal entries in the financial system (www.osc.state.ny.us/localgov/audits/libraries/2015/shelterrock.htm p.2).

However, it is the Treasurer's responsibility to oversee this process and prepare the Board report.

Must the Treasurer attend Board meetings?

No, unless required to do so by the Board. However, a Treasurer's Report must be presented at the meeting and reviewed by the Board.

Is the treasurer a voting member of the board?

No.

Must the Treasurer physically deposit, transfer and invest funds? Or may they "oversee" this function?

The Treasurer is "responsible" for such actions. Though they may not personally perform such transactions they must be aware and oversee the process. The principle of "*segregation of incompatible duties*" should always be considered in the handling of library assets.

Should the Treasurer be bonded?

Yes! As should other staff with the responsibility for handling public and private funds on behalf of the Library.

We are a very small library with limited staff and resources. We simply cannot afford to hire the additional staff to fully meet these requirements. What should we do?

As custodians of public funds it is the library board's responsibility to provide fiscal oversight of the Library. Every reasonable effort should be made to comply with the guidelines provided by OSC. Where full compliance is not practical the Board is advised to closely follow the accounting principles of "*segregation of incompatible duties*" in the handling and reporting of the Library's assets. The advice of an independent Certified Public Accountant (CPA) should be sought to assist the Board in such a situation.

For further information:

Office of the New York State Comptroller. Local Government Links:

<http://www.osc.state.ny.us/localgov/pubs/listacctg.htm#ic>

The Practice of Internal Controls:

<http://osc.state.ny.us/localgov/pubs/lgmng/practiceinternalcontrols.pdf>

Bank Reconciliations: <http://osc.state.ny.us/localgov/pubs/techbull/0403.pdf>

Investing and Protecting Public Funds:

<http://osc.state.ny.us/localgov/pubs/lgmng/investingpublicfunds.pdf>

What questions are asked on the exam for library directors?

The exam for directors is not a traditional “exam” as you may envision it. It is called a “training and experience” exam, or “T&E” exam, and is basically a form that asks questions about a candidate’s education and experience relevant to the job specifications.

What job protections are offered to employees under Civil Service Law in New York?

Section 75 of the Civil Service Law provides due process in removal and other disciplinary actions to every post-probationary permanent employee. Due process will include a hearing at which the employee must be proved guilty of misconduct or incompetence. Library collective bargaining agreements may modify these procedures.

For more information:

- “A Librarian’s Guide to Civil Service in New York State,” a publication of the New York Library Association’s Leadership & Management Section (LAMS):
<http://www.nyla.org/max/userfiles/uploads/Guide%20to%20Civil%20Service.pdf>
- “Field Guide for Libraries Subject to Civil Service,” New York Library Association:
https://www.nyla.org/max/4DCGI/cms/review.html?Action=CMS_Document&DocID=1982&MenuKey=nomenucms
- New York State Department of Civil Service <https://www.cs.ny.gov/commission/>

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