

**Nevada Department of Employment, Training and Rehabilitation
(DETR)
Workforce Innovation and Opportunity Act (WIOA)
State Compliance Policy (SCP)**

Policy Number: 4.6

Originating Office: DETR; Workforce Investment Support Services (WISS)

Subject: Conflict of Interest/Nepotism

Issued: New, May 2019 replacing Workforce Investment Act (WIA) SCP 4.6

Purpose: As the stewards of federal funds, recipients must be committed to maintaining the highest of standards of ethical conduct and to guard against problems arising from real, perceived, or potential conflict of interest. All partners at all levels of participation in the Workforce System funded by the Workforce Innovation and Opportunity Act (WIOA) are expected to read, understand and apply this policy to ensure system integrity and effective oversight. Local areas must refrain from the appearance of favoritism in decisions made concerning individuals, especially decisions concerning eligibility and services provided.

State Imposed Requirements: This directive may contain some state-imposed requirements. These requirements are printed in **bold, italic type**.

Authorities/References: Workforce Innovation and Opportunity Act (P.L. 113-128), 2 CFR § 200.112; 20 CFR §679.430; 20 CFR 683.200; Nevada Revised Statutes (NRS) 281.210(1); Nevada Administrative Code (NAC) 284.

ACTION REQUIRED: Upon issuance bring this guidance to the attention of all WIOA service providers, Local Workforce Development Board (LWDB) members and any other concerned parties. Any LWDBs policies, procedures, and or contracts affected by this guidance are required to be updated accordingly.

Background:

This policy communicates the need to ensure that individuals employed by or representatives of organizations entrusted with public funds and their family members will not personally or professionally benefit from the award or expenditure of such funds. This policy provides that each grant recipient and sub-recipient must guarantee that no individual in a decision-making capacity engages in any activity if a conflict of interest (real, implied, apparent, or potential) is involved. This includes decisions involving the selection, award, or administration of a grant, sub-grant or contract supported by WIOA funds, Eligible Training Provider List, Program Eligibility and Participation.

Chief Local Elected Officials, LWDBs (board members and staff), designated fiscal agents, administrative and program provider staff must help meet the objectives of WIOA through effective policies, procedures, and safeguards that ensure the integrity of these public funds. Throughout the Local Workforce Development Areas safeguards must be in place, ensuring that all those served in the program are not only eligible but also detached from being part of the perception of impropriety or conflict of interest. Local areas need to establish a policy on conflict of interest addressing the provisions identified in this policy as well as ensure their local WIOA Plan addresses the requirements set forth in this policy.

Policy and Procedure:

Local organizations often function simultaneously in a variety of roles, including local fiscal agent, local board staff, One-Stop operator, and direct provider of career services or training services. Any organization that has been selected or otherwise designated to perform more than one of these functions must develop a written agreement with the local board and chief elected official to clarify how the organization will carry out its responsibilities while demonstrating compliance with WIOA and corresponding regulations, relevant Office of Management and Budget circulars, and this policy. **(20 CFR §679.430)**

If the grant recipient and sub-recipient has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the grant recipient and sub-recipient must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest mean that because of relationships with a parent company, affiliate, or subsidiary organization, the grant recipient and sub-recipient is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization. **(2 CFR §200.318(c)(2))**

In accordance with 20 CFR §200.112 of the Uniform Guidance, recipients of federal awards must disclose in writing any potential conflict of interest to the Department of Labor. Sub-recipients must disclose in writing any potential conflict of interest to the recipient of grant funds to the State. **(20 CFR §200.112)**

Nepotism: (20 CFR §683.200(g))

- (1) No individual may be placed in a WIOA employment activity if a member of that person's immediate family is directly supervised by or directly supervises that individual.
- (2) To the extent that an applicable State or local legal requirement regarding nepotism is more restrictive than this provision, such State or local requirement must be followed.

One-Stop Operators/Case Managers/Career Coach/Job Developer/Supervisor/Program Manager/ etc.:

Any program staff, case managing or supervisory, dealing with the public, cannot enroll, case manage, supervise or otherwise directly work with family member as participants, applicants/registrants or employees. When a family member of any staff, is in need of WIOA services, that person must be assigned to another staff member in order to avoid a real, perceived or apparent conflict of interest. This could include the necessity of referring the applicant to another WIOA Service Provider. Additionally, programs must disclose any potential conflicts of interest arising from the relationships of operators with particular training service providers or other service providers. (WIOA Section 121 (d)(4)(A))

Contact your LWDB representative should there be questions to appropriateness of any given practice. LWDBs may contact WISS for counsel as necessary.

Governors Workforce Development Board (GWDB) and LWDBs (20 CFR §683.200):

A member of the GWDB, a LWDB, or a standing committee must neither cast a vote on, nor participate in any decision-making capacity, on the provision of services by such member (or any organization which that member directly represents), nor on any matter which would provide any direct financial benefit to that member or a member of his or her immediate family. ANY conflict of interest by ANY board member must be declared and then abstained from voting on that agenda item.

A local board member who is also an employer who wants to use services on a fee-for-service basis would be prohibited from voting to approve the use of local area services, facilities, or equipment for employment and training activities to such board member's incumbent workers.

Neither membership on the State board, a local board, or a standing committee, nor the receipt of WIOA funds to provide training and related services, by itself, violates these conflict of interest provisions. Reference LWDB/GWDB policy, 2 CFR §200.318 and SCP 1.0.

Procurement; Related to Employees (2 CFR §200.318):

Each grant recipient and sub-recipient must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the grant recipient and sub-recipient may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, grant recipients and subrecipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the grantee or grant recipient and sub-recipient. (2 CFR §200.318 (c)(1))

NOTE: An individual may not be placed into a position that will create a supervisory or managerial relationship or a direct line of authority to an employee if the employee is:

- A spouse, child, parent or sibling of the individual;
- The spouse of a child, parent or sibling of the person;
- An aunt, uncle, niece, nephew, grandparent, grandchild or first cousin of the individual, or the same relation by marriage or domestic partnership; or
- In a dating relationship with the individual.

Except as otherwise provided in NRS 281.210 or NAC 284.375.

Definitions:

Domestic Partnership - the social contract between two persons that is described in NRS 122A.100 or is recognized pursuant to NRS 122A.500. A valid domestic partnership is registered in the State of Nevada when two persons who satisfy the requirements of NRS 122A.100 subsection 2.

Conflict of Interest - Conflict between the official responsibilities and the private interests of a person or entity that is in a position of trust. A conflict of interest would arise when an individual or organization has a financial or other interest in or participates in the selection or award of funding for an organization. Financial or other interest can be established either through ownership or employment.

Family Member - including a spouse, child, parent, sibling, aunt, uncle, niece, nephew, grandparent, grandchild, or first cousin or the same relation by marriage or domestic partnership.

Immediate Family - Immediate Family consists of the individuals' parents (including step-parents), spouse, domestic partner, children (including step-children), siblings, grandchildren, grandparents, and any relative by marriage (an "in-law")

Individual - (1) an individual; i.e., officer, or agent, or (2) any member of the individual's immediate family (spouse, partner, child, or sibling), or (3) the individual's business partner.

Organization - A for-profit or not-for-profit entity that employs, or has offered a job to, an individual defined above. An entity can be a partnership, association, trust, estate, joint stock company, insurance company, or corporation, whether domestic or foreign, or a sole proprietor.

Dating relationship - is defined as an intimate association primarily characterized by the expectation of affectional or sexual involvement. The term does not include a casual relationship or an ordinary association between persons in a business or social context.

LWDB Requirements:

All sub-recipients (Boards/programs) must have written policy addressing conflict of interest and nepotism across the workforce arena. The policy must describe the procedure, reporting and documentation requirements for alleviating the conflict.