

**South Central Workforce Development Board (SCWDB)**



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**POLICY: CONFLICT OF INTEREST POLICY**

**EFFECTIVE DATE: JULY 1,2018**

**POLICY NUMBER: 2018-25**

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**SUBJECT: CONFLICT OF INTEREST POLICY FOR WORKFORCE DEVELOPMENT BOARD MEMBERS, STAFF AND VENDORS**

**PURPOSE:**

To provide guidance on maintaining the highest level of ethical standards for members of the Workforce Development Board (WDB) staff, and any vendors funded under the Workforce Innovation and Opportunity Act (WIOA) and/or with any funds provided by the WDB or the non-profit entity.

**EFFECTIVE DATE:** July 1, 2018

**ACTION REQUIRED:**

To ensure accountability this policy will be provided to any new board member upon entering the duties of office, any new staff person upon employment, and any new vendors upon contract execution.

**BACKGROUND:**

A Conflict of Interest Policy is required in order to ensure that individuals or representatives of organizations entrusted with public funds will not personally or professionally benefit from the award or expenditure of such funds.

Grantees, subrecipients, and contractors funded under the Workforce Innovation and Opportunity Act (WIOA), whether in whole or in part, must abide by the Workforce Innovation and Opportunity Act of 2014 the WIOA Regulations, all applicable Office of Management and Budget (OMB) circulars, and any Commonwealth of Kentucky WIOA policies regarding conflict of interest.

**POLICY:**

Conflict of interest, real or perceived, will not be tolerated. Any duality of interest or real or perceived conflict of interest on the part of any WDB members, non-profit entity Board members, staff and vendors shall be disclosed to the Chair of WDB or the Executive Director and made a matter of record, when the interest becomes a matter of Board action. A member must publicly declare that a possible conflict of interest exists before the agenda item in question is introduced. A member must disclose the nature of the conflict. The person chairing the meeting will then acknowledge the declaration. Members involved in an acknowledged

conflict of interest must refrain from all discussion and abstain from all voting relative to the affected agenda item. The minutes of the meeting shall reflect that a disclosure was made and the abstention from voting and the discussion.

The conflict of interest policy shall be reviewed annually at a meeting of the Board to provide information and guidance to the members. Any new members of the Board shall be advised of the policy upon entering the duties of his/her office.

**Definitions:**

"Conflict of Interest" refers to the conflict between the public obligation and the private interests of the persons or entities identified in the Purpose Section of this Policy.

"Member" refers to a member of WDB., unless otherwise specified.

"Employee" refers to an employee of the WDB and/or a non-profit entity, unless otherwise specified.

"Financial interest" includes possible disadvantage to a competitor of the business or nonprofit entity which the member represents.

"Gratuities, favors, and anything of monetary value" is defined as anything in excess of \$200 on an annual basis from any one entity. In addition, no matter the value, acceptance is acceptable of an item that is equally offered to all attendees at a conference or an event because no one individual board member will be unduly influenced.

**Requirements:**

1. No individual in a decision-making capacity shall engage in any activity, including participation in the selection, award, or administration of a subgrant or contract supported by the organization's funds, if a conflict of interest (real, implied, or apparent) would be involved.
2. A Board member 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 immediate family. The U.S. Department of Labor's Final Rule defines to "participate in a decision-making capacity" includes to discuss an issue and to influence, or try to influence, other WDB members or staff to take a position for or against an issue.
3. A conflict of interest under paragraph 1 and 2 would arise when:
  - An individual; i.e., employee, officer, or agent,
  - Any member of the individual's immediate family (partners, spouse, children, or siblings),
  - The individual's partner, or
  - An organization which employs or is about to employ an individual (individual has received a job offer from the organization) who has financial or other interest, either through ownership or employment, and participates in the selection or award of funding for that organization or firm.
4. Members of the Board will neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements. The Board may set minimum rules where the gift is an unsolicited item of nominal intrinsic value.

5. Neither membership on the Board nor the receipt of WIOA funds to provide training or other services shall be construed, by itself, to violate these conflict of interest provisions of the Act or Regulations.
6. Members shall not be financially interested in any contract made by them in their official capacity or in any contract made by the WDB. If a member has a remote interest in a contract that member shall disclose such interest to the WDB Chair so that the interest can be noted in the official records; shall not influence or try to influence another member to enter into the contract or not enter into the contract; and shall not vote concerning whether the WDB or a non-profit entity should enter into the contract.
7. Each employee will follow Kentucky laws and regulations regarding financial disclosure and conflict of interest
8. Each vendor will follow Kentucky laws and regulations regarding financial disclosure and conflict of interest
9. When the WDB Director determines that s/he should not make a governmental decision because s/he has a disqualifying interest in that decision, the WDB Director shall disclose his/her determination and disqualifying interest in writing to the chairperson of the WDB, in addition to following any state requirements.
10. When an employee (other than the WDB Director) or a consultant determines that s/he should not make a governmental decision because s/he has a disqualifying interest in that decision, that person shall disclose his/her determination and disqualifying interest in writing to the WDB Director.
11. If an employee is notified or becomes aware that a potential conflict of interests exists with respect to a member, employee, or vendor the employee will so inform the WDB Director. If the potential conflict involves an employee, the WDB Director will dismiss the employee from all matters related to the potential conflict. If the potential conflict involves a member, the Director will consult with the chairperson of the WDB.
13. Any member who believes a conflict of interest exists with respect to another member can declare so during the appropriate meeting. If the issue is challenged or disputed by the affected member, the chairperson of the meeting will refer the matter to the organization's Counsel for final determination, and the agenda item will be tabled pending final opinion from counsel.
14. All instances of nonparticipation due to declared conflicts of interest shall be duly recorded in the minutes of the appropriate board or committee meeting and shall serve as documentation of compliance with this Policy. Instances in which a member has chosen not to be present at a meeting where a conflict of interest might arise shall likewise be recorded in the minutes.
15. A WDB member must not engage in any activity determined to constitute a conflict of interest by the Commonwealth of Kentucky's Executive Branch Ethics Commission.
16. All board members and staff must participate in the annual Conflict of Interest and Ethics training provided by the SCWDB.
17. All board members must sign, on an annual basis, the Conflict of Interest Disclosure Form attached to this policy.

#### **REFERENCES:**

##### **WIOA Conflict of Interest**

107(h) Conflict of Interest - A member of a local board, or a member of a standing committee, may not

(1) vote on a matter under consideration by the local board—

(A) regarding the provision of services by such member (or by an entity that such member represents); or

- (B) that would provide direct financial benefit to such member or the immediate family of such member; or
- (2) engage in any other activity determined by the Governor to constitute a conflict of interest as specified in the State plan.

**29 CFR 97 – Uniform Administrative Requirements for Procurement**

The Uniform Administrative Requirements are government-wide standards around procurement that all Federal grantees must follow, including standards for conflict of interest. These requirements describe specific instances which would constitute a conflict of interest.

**The Executive Branch Ethics Commission**

Enabling statute is embodied in [Kentucky Revised Statute Chapter 11A](#). The laws setting out the Code of Ethics are contained in Kentucky Revised Statute Chapter 11A and [Title 9 of the Kentucky Administrative Regulations](#), as well as [Executive Order 2008-454](#), its amendment, [Executive Order 2009-882](#), and [Executive Order 2016 - 377](#).

**Approved:**

1-11-19  
Date of WDB Approval

12-19-18  
Date of Governance  
Committee Approval

**Signed by:**

  
Robert Boone, WDB Director

  
Chair, Governance Committee

## SCENARIOS

Board members are community leaders. Many of them are active in their communities in various capacities, including boards and committees. Being an active leader in multiple roles can create both actual and apparent conflict of interests. These can, and regularly occur through membership, employment, family or business connections. It is important that each board member recognize their conflict of interest, actual or apparent.

Two common scenarios are:

- A member of a service provider is also a voting member of a WDB. The next WDB meeting has on its agenda 5 training providers wanting to be on the certified training provider list to be discussed. Three of those training providers offer programs of the service provider. This is an actual conflict. This voting member of the WDB must disclose the conflict and **abstain from any discussion and vote** on these training providers.
- A community agency responds to the WDB's competitive process. One of the WDB members is connected to the agency through employment or board involvement, but not within the scope of the service being offered. If this is not an actual conflict, it certainly is an apparent conflict in which an agency that the WDB member is affiliated can benefit from the influence of this individual. The WDB member should disclose the conflict and **abstain from any discussion and vote**. If the conflict is not disclosed, any decision that the WDB makes can be perceived by the community to have been misleading, raising how open and fair the process really was.
- An example from an actual audit finding stated "*The entity did not take any actions to separate functions, roles, or responsibilities of key staff involved in the management, award, and administration of all ETA funds; nor did it create and implement any internal controls to mitigate the 'real and apparent' conflicts.*"

**SOUTH CENTRAL WORKFORCE DEVELOPMENT BOARD**

**CONFLICT OF INTEREST DISCLOSURE**

Board members owe a high fiduciary duty to the organization. No Board member shall engage in any activity violating the Board's Conflict of Interest Policy as stated in this Policy #2018-25.

\_\_\_\_\_ (Initial) I have received and read a copy of the Conflict of Interest Policy (copy attached).

\_\_\_\_\_ (Initial) Since being appointed to the Board, neither I, nor to the best of my knowledge, any member of my immediate family has engaged in any of the conduct prohibited by the Conflict of Interest Policy.

OR

\_\_\_\_\_ (Initial) Since my appointment to the Board, neither I, nor to the best of my knowledge, any member of my immediate family has engaged in any of the conduct prohibited by the Conflict of Interest Policy, except as fully disclosed below:

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Violations of the Conflict of Interest Policy may result in a request to the CLEO that the Board member be removed and that a new appointment be made.

I certify that my above responses are accurate to the best of my knowledge.

Print name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_