Workforce Services Policy - Conflict of Interest
TN-WIOA (17-2)

Subject
Conflict of Interest Policy under Workforce Innovation and Opportunity Act (WIOA) governing WIOA Program Operators, American Job Centers, Local Workforce Development Board/Chief Local Elected Officials, other elected officials (WIOA Section 107(h)).

Purpose
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. This policy is established to provide direction for subrecipients, contractors, staff and board members of Tennessee's Local Workforce Development Boards in order that business can be conducted within guidelines that will prevent actual, potential, or questionable conflicts of interest.

Scope
Office of the Governor; Title I- Adult Education and Family Literacy Act Program (AE); Title II-Adult, Dislocated Worker, and Youth Programs; Title III-Wagner-Peyser Act Program (WP); Title IV-Vocational Rehabilitation Program (VR); Tennessee Department of Labor and Workforce Development (TDLWD); Division of Workforce Services (WFS); Tennessee Department of Economic and Community Development (ECD); Tennessee Department of Education (TNED); Tennessee Department of Human Services (DHS); Tennessee Secretary of State; State Workforce Development Board (SWDB); Regional Planning Council (RPC); American Job Center (AJC); One-Stop Operator (Operator); Workforce Innovation and Opportunity Act (WIOA); Local Workforce Development Boards (LWDBs); Local Workforce Development Areas (LWDAs); Workforce System Subrecipients (Subrecipients); Workforce
System Partners (Partners); Tennessee Eligibility Training Providers (TETP).

References
Title I of the Workforce Innovation and Opportunity Act (WIOA) of 2014, Pub. L. 113-128; WIOA Section 107 (c)(3)(A)(i); 20 CFR Part 683.400(c); 20 CFR Part 679.430; 20 CFR 679.410(a)(3) and 20 CFR 679.410(c); 20 CFR 684.630(b)-(c); 29 CFR 97.36(b)(3); 20 CFR 683.200(c)(5)(i-iii) refers to 2 CFR 200.318.

Background
A conflict of interest situation arises when an individual or organization has a financial or other personal interest in, and participates in, the selection of awarding of funds for an organization. One of the key responsibilities of TDLWD is to ensure that individuals or representatives of organizations, entrusted with public funds, will not personally or professionally benefit from such awards, administration, or expenditures of such funds. Safeguards must be in place, ensuring that all those served in the program are not only eligible and suitable but also protected from being part of the perception of impropriety or conflict of interest.

Instructions
The State Workforce Development Board shall have a conflict of interest policy that, at a minimum, meets the following requirements:

A. Each grant recipient and subrecipient must abide by a written code of standards governing the performance of those engaging in the awarding and administration of WIOA contracts and subgrants. 20 CFR 683.200(c)(5)(i-iii) refers to 2cfr 200.318.

B. Each grant recipient and subrecipient must ensure that no individual, in a decision-making capacity, engages in any activity if a conflict of interest is involved even in perception of impropriety or conflict of interest. This includes decision-making that involves the selection, awarding, or administrating of a grant, subgrant or contract supported by WIOA funds.

Providing Services to Participants Funded under the WIOA Program:
The WIOA program is not an entitlement program. Still, it should be accessible to any individual, in any local area, who is eligible and suitable for available services subject to Local Workforce Development Board (LWDB) policies and procedures. However, when applicants have a close relationship with WIOA staff members, management, and other specific stakeholders of the Workforce Development System, access to program services should not be based on such relationships or based on political influence. It is possible that, even without any intention to misuse WIOA funds, that a decision to enroll an individual in the program could be perceived as improper. Such a perception could cause noncompliance with state and/or federal law.
All subrecipients of WIOA funds must abide by WIOA Section 102(a) and Section 132(b)

(1). Funding Integrity

General authorization for providing funds to participants will comply with the standards of conduct for maintaining the integrity of the program and avoiding any conflict of interest in its administration.

Chief Local Elected Officials, Local Workforce Development Boards, designated fiscal agents, and administrative officials 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 and suitable but also detached from being part of the perception of impropriety or conflict of interest.

(2). Program Integrity

Local Workforce Development Boards must establish a disclosure statement on the eligibility or intake form or a document showing that any of the following entities of the Workforce Development system will not provide direct service during the intake or eligibility determination of a family member or close acquaintance. No workforce staff or member will have a personal or business relationship with, or a positive bias for, or a special interest in, that particular applicant. Such workforce members are:

- Chief Local Elected Officials
- Local Workforce Development Board members
- Local Workforce Development Board subcommittee members
- WIOA executive staff and supervisors
- WIOA employees
- Job center partner staff
- WIOA subrecipients and/or contractors

Any WIOA form that determines applicant eligibility and grants or confers a benefit (training, gas card, money etc.) to an applicant should include a uniformed disclosure stating the staff member making determination and signing the form is not related to the applicant or a close personal acquaintance of the applicant.

Documentation of such disclosures, including the name of the person providing intake and eligibility determination and including the nature of the relationship, must be maintained in the participant's file. When such a relationship exists, it must be disclosed at the time of application to the program.

Local Workforce Development Boards are encouraged to develop agreements or memorandums of understanding with other Local Workforce Development Boards in
other counties. Such agreements and memorandums should include accepting referrals for an eligibility determination and an assessment of appropriateness to receive services. When referring a WIOA applicant, the following questions should be asked:

Is this applicant a family member or a close acquaintance of a:
- A staff of the American Job Center?
- Local Workforce Development Board or subcommittee member?
- WIOA executive staff member or supervisor?

By having another Local Workforce Development Board in another office conduct determinations and/or assessments of eligibility and appropriateness for service, a Local Workforce Development Board might avoid a situation giving rise to suggestions that certain decisions were influenced by the wrong parties.

(3). Documentation and Tracking
Local areas must provide a list of Workforce entities, who have disclosed any of these close relationships, to WIOA staff, to management, or to other specific stakeholders of the Workforce Development System. This list should be given to the Program Accountability Review Team (PAR) program monitors at the onset of all monitoring visits.

(4). Monitoring for Compliance.
Local Workforce Development Boards are required to provide training concerning internal conflicts of interest and must document proof of training and make that documentation available for review and audit purposes. This training should involve any of the entities mentioned who will directly be involved with making assessments and determining the eligibility of participants. Local Workforce Development Boards must also ensure that all new staff members and providers are informed about this policy.

Local Workforce Development Boards
All Local Workforce Development Boards (and youth standing committees) shall at a minimum meet the following requirements.

1). Voting on Matters under Consideration by the Local Board
- A Local Workforce Development Board member may not cast votes or participate in any decision making about providing services by such member (or by any organization which that member directly represents).

This includes:
- Regarding any provision of services by such member (or by an entity that such member represents); or
• Any action which gives direct financial benefit to such member or to the immediate family of such member or any organization the member is or a member represents.

2). Engaging in other activities that might pose a conflict of interest
• A Local Workforce Development Board member may not cast votes or participate in any decision-making on any matter that would provide any direct financial benefit to that member or to that member's organization.

Duties of State Workforce Development Board members and Local Workforce Development Board Members
• Recuse themselves from their official board duties if they are involved in a conflict of interest
• Advise the board of any potential conflicts of interest
• Ask the board for an opinion if there are any doubts whether or not specific situations involve a conflict of interest.
• Provide the local board chairperson with a written declaration of all substantial business interests or relationships such board members, or their immediate families, have with all businesses or organizations that have received, currently receive, or are likely to receive contracts or funding from the local board. Such provisions should be made to the local board prior to members' taking office.
• Appoint an individual to review the disclosure information in a timely manner and to advise the local board chairperson and appropriate members of potential conflicts.
• Ensure members disclose the nature and extent of the interests or relationships and abstain from discussions and voting on, or refrain in any other way from participating in, decisions on such matters. This should be done prior to discussions, votes, or decisions on any matters before a local board. If such members, or persons in the immediate family of such members, have substantial interests in or relationships to business entities, organizations, or properties that would be affected by any official local board action. All such abstentions must be recorded.
• Select or designate an organization to perform duties related to WIOA such as developing a written agreement with the Local Workforce Development Board and Chief Local Elected Officials. This agreement is to clarify how the organization will carry out its multiple responsibilities while demonstrating compliance with WIOA, corresponding regulations, relevant Office Management and Budget circulars and with this conflict of interest policy. This agreement is also to: limit conflict of interest, minimize fiscal risk, and develop appropriate steps within the single entity performing multiple functions.
• Ensure that Local Workforce Development Boards and their contractors make this information available to appropriate staff members to make certain that these staff
members are familiar with it and its requirements in order to prepare state or local plans and the conflict of interest policy.

- Ensure that the Local Workforce Development Board and its members, or its administrative staff members do not directly control the daily activities of its workforce service providers, its workforce system partners, or its contractors.
- Make sure that any Local Workforce Development Board, selected as a One-Stop operator, establishes sufficient “firewalls” and conflict-of-interest policies and procedures that are consistent with this policy. See CFR 20 679.410(a).

**Penalty**
If any of the entities mentioned in Program Integrity section of this policy are not in compliance with this conflict of interest policy, Workforce Services may temporarily withhold cash payments pending correction of the deficiencies reported by Program Accountability Review Team.

**Contact:**
For any questions related to this policy, please contact Nicholas Bishop - Director of Compliance and Policy for Workforce Services at Nicholas.Bishop@tn.gov

**Effective Date:** February 10, 2017  
**Duration:** Indefinite

Sterling VanDerSpuy, Administrator of Workforce Services