



Paul R. LePage
GOVERNOR

STATE OF MAINE
DEPARTMENT OF LABOR
BUREAU OF EMPLOYMENT SERVICES
55 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0055

Jeanne S. Paquette
COMMISSIONER

Policy Subject:	CONFLICT OF INTEREST	Policy No.:	PY15-07
To:	<ul style="list-style-type: none"> Chief Elected Officials Workforce Development Boards WIOA Financial Administrators/ Fiscal Agents CareerCenter Managers & Staff One-Stop Operators 	From:	Richard Freund Acting Director - Bureau Employment Services & Deputy Commissioner of Labor
Issuance Date:	• March 8, 2016	Status:	ACTIVE
Reference/ Authority:	<ul style="list-style-type: none"> WIOA Public Law 113-128 enacted July 22, 2014 TEGL 27-14 WIOA §§ 101(f) ♦ 102(b)(E)(i) ♦ 107(h) ♦121 (d)(4)(A) NPRMs 20 CFR §§ 679.430 ♦683.200 (c)(5) & (g) & (h) 2 CFR 200.112 & 200.318 		

Purpose:

This purpose of this policy is to inform entities within Maine’s Workforce Development System, who are involved in oversight, administration, and/or provision of one-stop system services, about the requirements pertaining to conflict of interest. This policy is intended to supplement but not replace any applicable State or Federal laws governing conflict of interest.

Background:

The integrity of, and public trust in, Maine’s one-stop delivery system relies on the good character of all entities entrusted with funds and responsibility for guiding, overseeing, and/or delivering services. It is incumbent upon those in such positions to avoid even the perceived appearance of conflict of interest. This guidance is to safeguard that any individual with decision-making capacity will not engage in any activity for which a conflict of interest (*real, implied, apparent, or potential*) is involved. This includes decisions involving the selection, award, or administration of grants, subgrants, or contracts, or any parts thereof, that are supported by Federal or State funds.

POLICY

Board and Committee Members:

No State or Local Board member, or standing committee member shall cast a vote on, nor participate in any decision-making capacity, on the provision of services by such member (or any organization that member directly represents), nor on any matter which would provide any direct financial or personal benefit to that member or a member of his/her immediate family. In such instances, a board member shall abstain from voting. The abstention must be reflected in the official minutes of the meeting. Neither membership on such board or standing committee, nor the receipt of WIOA funds to provide training and related services by itself violates these conflict of interest provisions.

Board and committee members and chief elected officials must be informed of and educated about situations that could be perceived as a conflict of interest and the requirements of this policy and must sign a statement affirming their understanding of these requirements and their agreement to formally disclose any potential conflict of interest while performing their duties.

Awardees/Contractors/One-Stop Operators

Awardees, contractors, and grant recipients of WIOA funds must disclose, in writing, any potential conflict of interest, including any conflict of interest arising from the relationships of the one-stop operator with any particular training service provider or other service provider.

Staff Members:

State Agency or Service Provider staff members serving in a case management capacity, must not enroll, case manage, or otherwise work directly with family members as participants, applicants, or registrants. When a family member is in need of services, he or she must be assigned to a different caseworker/case manager (preferably at a different service site) to avoid any real or perceived conflict of interest. Family includes any staff members' spouse, parents, children, brothers or sisters and spouses of such parents, children, brothers or sisters.

Duty to Disclose:

Any individual subject to this policy who suspects that his or her personal or financial advantage may be considered a conflict of interest, real or perceived, must disclose all material facts to the appropriate director and/or members of the relevant board or committee or appropriate agency manager. If the facts demonstrate that a real or perceived conflict of interest exists, the director, board chair or agency manager may require that the individual recuse him or herself from involvement in, or discussion or vote on, the matter at hand and will ensure that such recusal is documented in the official minutes of the meeting or other pertinent agency document file.

Multiple Roles

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 that clarifies how it will carry out its responsibilities while demonstrating compliance with WIOA regulations, relevant OMB circulars, and this conflict of interest policy.

Nepotism is the practice among those with power or influence of favoring relatives and friends by giving them jobs. NPRM 20 CFR 683.200(g) states that: "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. To the extent that a local requirement regarding Nepotism is more restrictive than this provision the local requirement must be followed. "

Competitive Selection/ Procurement

As required under 2 CFR 200.318, entities authorized to award contracts on a competitive basis must maintain written standards of conduct covering conflicts of interest and governing the activities of its employees and/or members engaged in the selection, award or administration of a contract funded with Federal funds. No employee, officer or agent may participate in the selection, award, or administration of a contract if he or she has a real or apparent conflict of interest. Such conflict arises when the employee, officer, or agent or any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of these parties, has a financial or other interest in or gains a tangible personal benefit from such contract.

Entities with decision making authority over WIOA funds, State and local entities from all four core partners must not solicit or personally accept gratuities, favors, or anything of monetary value from any actual or potential contractor, subgrantee, vendor or participant. However, entities may set standards for situations in which the financial interest is not substantial, the consideration is not related to the procurement activity, and/or the gift is an unsolicited item of nominal value. Entities or members knowingly violating this policy may be subject to disciplinary action that may range from formal reprimand, to dismissal and, depending upon degree of violation, debarment, suspension or termination of awardee status.

Mandatory Disclosure:

All recipients of Federal awards must disclose, as required under 2 CFR 200.113, in a timely manner, in writing to the awarding agency or pass-through entity, any and all violations of Federal criminal law involving fraud, bribery,

or gratuity violations potentially affecting the Federal award. Failure to make required disclosures can result in temporary withholding of cash payments, disallowed costs, suspension or termination of the award, and other remedies for non-compliance including suspension and debarment.

Local Board Policy Requirements:

Local Boards must implement a conflict of interest policy that meets these requirements and must obtain a signed conflict of interest form, from each board member and chief elected official, that is dated and that affirms their understanding of and agreement to the requirement to formally disclose any potential conflict of interest and to abstain from voting or participating in the selection or awarding of contracts to service providers should such conflict of interest, perceived or real, be evident.

Sample Conflict of Interest Policy Acknowledgement Form

I have read and understand the Conflict of Interest Policy adopted by the _____ Local Workforce Development Board and understand my responsibility as a voting board member or staff member to the board to formally disclose any perceived or real conflict of interest that may arise during my duties as a board member or staff member to the board.

Name _____ Title _____

Signature: _____ Date: _____

Sample Conflict of Interest Disclosure Form for Board Members and Officers

Are you aware of any relationship or transaction of the _____ Local Workforce Development Board which involves or could ultimately harm or benefit financially or otherwise:

- Yourself
- Any member of your immediate family (defined as your spouse, parents, children, brothers, sisters and spouses of these individuals); or
- Any organization in which you or an immediate family member is a director, trustee, officer, member, or partner. [Volunteer service on a board or not-for-profit corporation need not be disclosed].

If yes, please list all such relationships or transactions, including specific information concerning the essential financial terms of any contract or transaction (description of services, duration, consideration, or price) and whether approval of the transaction has been obtained from the board of directors.

Please fill out completely or indicate "None":

- a. Listed below are all corporations, partnerships or other business entities in which I am a director, officer, member, partner or manager, or in which I or any member of my immediate family has a substantial financial interest.

<u>Entity</u>	<u>Position</u>	<u>Self or Family</u>
---------------	-----------------	-----------------------

- b. All other not-for-profit institutions of which I am a trustee, director, or officer which have a substantial likelihood of being harmed or benefited by any action or policy of this board or agency.

<u>Entity</u>	<u>Position</u>
---------------	-----------------

- c. All trusts of which I am a trustee, or which benefit me or any member of my immediate family, which have a substantial likelihood of being harmed or benefited by any action or policy of this board or agency.

<u>Entity</u>	<u>Trustee/Beneficiary</u>	<u>Self or Family</u>
---------------	----------------------------	-----------------------

For more information contact:

Ginny Carroll, Director
 Division of Policy & Evaluation
Virginia.A.Carroll@maine.gov
 (207) 623-7974 TTY Users Call Maine Relay 711
 MDOL/BES 55 SHS, Augusta, ME 04333-0055