

EAWDB Conflict of Interest Policy 04 17

Effective Date: September 19, 2023

Modification # 1

Recissions: None

Board Chair Signature: *Derry J. Christerson* **Date:** 09/19/2023

REFERENCES:

Public Law 113-128 Section 101(f) - State Board Conflict of Interest
Public Law 113-128 Section 102(b) (2) (E) - State Plan Conflict of Interest Assurance
Public Law 113-128 Section 107(h) - Local Board Conflict of Interest
Public Law 113-128 Section 121(d) (4) - One-Stop Operators
Final Rules 20 CFR 679.430 and 679.130(f) (1) through (3) - Criteria to certify One Stops
Final Rules 20 CFR 679.410(a) (3) and (c) - Local board must avoid inherent conflict of interest
Final Rules 20 CFR 679.430 - Entities performing multiple functions
Final Rules 20 CFR 683.200(c) (5) - Administrative Rules, Costs, Limitations – Title I WIOA and Wagner-Peyser
29 CFR 97.36(3)
2 CFR Part 200.112 and 200.318 and Part 2900 - Office of Management and Budget Uniform Guidance on administrative, cost, and audit provisions for federal grants

PURPOSE:

The Eastern Area Workforce Development Board (EAWDB) is 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, providers, and one-stop operators at every level 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 of the Workforce System.

Standards of conduct covering conflicts of interest governing the performance of EAWDB employees may be found in EAWDB's Employee Handbook.

I. BACKGROUND

All Grantees, sub-recipients and contractors funded under WIOA must implement codes of conduct and conflict of interest policies and procedures as stipulated in WIOA law, regulations, and guidance; Office of Management and Budget (OMB) Circulars; State regulations; and State WIOA policies. A conflict of interest policy is required to ensure that individuals or representatives of organizations entrusted with public funds will not personally or professionally benefit from the award, administration, or expenditure of such funds.

In addition, the EAWDB recognizes that by its very composition, conflicts of interest and issues concerning the appearance of fairness may arise. Therefore, it is essential for the Board members and Board staff to be sensitive and err on the side of caution when potential or real conflict or matters of fairness occur. To accomplish these purposes, the EAWDB establishes the following definitions, actions, and guidelines for interpretation.

CODE OF CONDUCT:

During the performance of duties, individuals' actions are a reflection upon the EAWDB. It is ~~extremely important~~ essential that all Board and committee members, board staff, service providers, one-stop operators, partners, and any other contractors act in a courteous, friendly, helpful, and prompt manner in dealing with both our internal stakeholders (partners, staff, providers, operators, etc.) and external stakeholders (the public, customers, and officials).

ETHICAL PRINCIPLES:

Compliance with the Law: It is the EAWDB's policy to be knowledgeable of and comply with all applicable laws and regulations of the United States and the State of New Mexico in a manner that will reflect a high standard of ethics. Compliance does not comprise one's entire ethical responsibility; rather it is a minimum, and an essential condition for adherence to mission and duties.

Professional Standards: It is the EAWDB's policy that its representatives be knowledgeable of emerging issues and professional standards in the field and conduct themselves with professional competence, fairness, efficiency, and effectiveness.

GUIDELINES FOR INTERPRETATION:

Areas of concern are those actions or lack of actions which may lead to conflict of interest or the appearance of conflict of interest or to a perception of unfairness related to EAWDB business outside Board and Committee meetings. Specific

areas which may pose problems include but are not limited to, comments made in public, information sharing, and disclosure of associations.

COMMENTS MADE IN PUBLIC:

EAWDB and committee members are encouraged to act in a public relations capacity for the EAWDB. This includes public speaking engagements and comments in a public forum. Because there is interest in EAWDB actions, members should differentiate between descriptive comments, which relate to actions already taken by the Board, and statements, which imply future EAWDB decision-making, or the ability to influence decision-making.

INFORMATION SHARING:

EAWDB and committee members are encouraged to share information with the community about EAWDB activities. To the extent possible, access to information regarding procurement of services should be available at the same time and under the same circumstances to all parties. Such information includes the local plan, request for proposals, notice of meetings, meeting minutes, and policies.

DISCLOSURES OF ASSOCIATIONS:

EAWDB members and committee members have professional and personal associations throughout the community. Such associations have been and will continue to be of significant benefit to the EAWDB. Where a direct or indirect financial conflict of interest exists, an EAWDB or committee member may not vote or serve on a rating an evaluation team. When associations raise the appearance of fairness as an issue, EAWDB and committee members should qualify statements in public by disclosing the association and minutes of the meeting should reflect the disclosure.

II. DEFINITIONS:

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 interests can be established either through ownership or employment.

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")

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.

III. ACTIONS:

1. Each grant recipient and sub-recipient and contractor must maintain a written code of standards or conduct governing the performance of persons engaged in the award and administration of WIOA contracts and sub grants.
2. No individual in a decision-making capacity shall engage 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 sub grant or contract supported by Workforce Innovation and Opportunity Act (WIOA) or any other federal funds.
3. A EAWDB member or a member of a EAWDB committee cannot cast a vote or participate in any decision-making about providing services by such member (or by any organization that member directly represents) or on any matter that would provide any direct financial benefit to the member or to the member's organization. If the member represents an organization that may be a recipient of WIOA funds such as On the Job, customized or incumbent worker training, the member must request a waiver from the board to allow for participation in those services. The waiver must be requested annually.
4. Before any public discussions regarding the release of a Request for Proposal, or any matter regarding the release of funding or the provision of services, a EAWDB member or a member of a EAWDB committee must disclose any real, implied, apparent, or potential conflicts of interest before engaging in the discussion. Any meeting minutes

should reflect the disclosure.

5. EAWDB members or a member of a EAWDB committee or agents of the agencies making awards cannot solicit or accept gratuities, favors, or anything of monetary value from awardees, potential awardees, or other parties to agreements. However, the EAWDB allows for situations where the gift is an unsolicited item of nominal value worth \$50.00 or less.
6. Disciplinary actions may be taken up to and including termination of board membership for violation of this policy by any individual. The EAWDB Executive Committee may evaluate any violations of these provisions on a case-by-case basis and recommend to the entire board, if and what penalties, sanctions or other disciplinary action are appropriate.
7. Individuals shall not use for their personal gain, for the gain of others, or for other than officially designated purposes, any information obtained as a result of their committee, board or working relationships with the EAWDB where that information is not available to the public at large or divulge such information in advance of the time decided by the EAWDB for its release.
8. One Stop Operators must disclose any potential conflicts of interest arising from relationships with training providers and other service providers [WIOA Section 121 (d)(4)]. In the event EAWDB board staff acts in the capacity as the one stop operator, staff must disclose any potential conflicts of interests arising from relationships with training providers and other service providers. In addition to the requirement for conflict disclosure the one stop operator may not perform any of the following: convening system stakeholders to assist in the development of the local plan; be responsible for oversight of itself; manage or significantly participate in the competitive selection process for one- stop operators; select or terminate one-stop operators, career services, and youth providers; negotiate local performance accountability measures; or develop and submit budget for activities of the EAWDB.
9. Any organization, including EAWDB board staff, that has been selected or otherwise designated to perform more than one function related to WIOA must develop a written plan that specifies how the organization will carry out its multiple responsibilities while demonstrating compliance with WIOA, corresponding regulations, relevant Office of Management and Budget circulars, and this conflict of interest policy. This plan must limit conflict of interest or the appearance of conflict of interest, minimize fiscal risk, and develop appropriate firewalls within that single entity performing multiple functions. The plan must be agreed to by both the EAWDB, the Executive Committee and CEOs.
10. Membership on the EAWDB or being a recipient of WIOA funds to provide training or other services, is not itself a violation of conflict of interest provisions of WIOA or corresponding regulations.