

Subject: Conflict of Interest

Policy No: 2015-36

Effective Date: 1/2017

Revised: 4/2019, 3/22/2021, 2/5/2024

1. Purpose:

This policy is to ensure system integrity and effective oversight of the Benton-Franklin Workforce System in order to comply with federal laws, regulations, guidance and state laws.

2. Background:

This conflict of interest policy is to ensure that since our agency is trusted with public funds that no one will personally or professionally benefit from the award, administration, or expenditure of such funds.

POLICY

A. Requirements:

1. The Benton-Franklin Workforce Development Council (BFWDC), and all subrecipients, shall each maintain a written code of standards or conduct governing the performance of persons engaged in the award and administration of Workforce Innovation and Opportunity Act (WIOA) contracts and subgrants. (See Code of Conduct – Attachment A)
2. No individual in a decision-making capacity will 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 subgrant or contract supported by WIOA funds.
3. No board or committee member can cast a vote or participate in any decision-making about providing services by such member (or by any organization that the member directly represents).
4. No board or committee member can cast a vote or participate in any decision-making on any matter that would provide any direct financial benefit to the member or the member's organization.
5. Officers of the board, employees, or agents of the agencies and members of the board committees making awards cannot solicit or accept gratuities, favors, or anything of monetary value from awardees, potential awardees, or other parties to agreements.
6. The recipient or subrecipient code of conduct shall contain penalties, sanctions, or other disciplinary actions in accordance with state and local law for violations of provisions about conflict of interest.
7. Should a conflict of interest, real or perceived, be identified involving the BFWDC Executive Director, the BFWDC Board Chair shall act as the signing authority.

B. Any organization that has been selected or otherwise designated to perform more than one function related to WIOA shall develop a written plan that clarifies 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 shall 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 BFWDC and the local Chief Elected Officials.

C. The One-Stop Operator shall disclose any potential conflicts of interest arising from relationships with training providers and other service providers, as specified in this policy.

- D. Any organization that has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian Tribe, shall maintain written standards of conduct covering ‘organizational conflicts of interest’.
- E. Membership on the BFWDC Board or being a recipient of WIOA funds to provide career services, training services, or other services, is not by itself a violation of conflict-of-interest provisions of WIOA or corresponding regulations.
- F. Political Activity Restrictions and Disclosure Requirements

State and local organizations that receive federal or state funds, including staff and partners for these organizations, are prohibited from using federal grant or contract money for political activities. These organizations are also prohibited from receiving reimbursements from federal contracts or grants for the costs of such activities.

Entities that do not receive federal funds, including but not limited to WorkSource partners, are also prohibited from participating in political activities when these activities take place under the auspices of the WorkSource system or within its environment (i.e. at a WorkSource Center or Affiliate Site or in the service delivery environment of WorkSource).

Prohibited political activities include, but are not limited to, the following:

- Attempts to influence the outcomes of any federal, state, or local election, referendum, initiative, or similar procedure, through in kind or cash contributions, endorsements, publicity, or similar activity,
- Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of elections.

Certification statements are required in all grant and contract general conditions to ensure compliance with these requirements concerning the use of federal funds. A disclosure form (Disclosure of Lobbying Activities) must be filed for political activities (allowable within the specific funding source) that have been, or will be, paid for with funds other than state or federal funds. This requirement applies to the BFWDC and subrecipients, and the BFWDC should submit the disclosure form to Employment Security Department (ESD) on behalf of any disclosures within their Workforce Development Area (WDA).

G. Definitions:

Appearance of Fairness – The issue of the appearance of fairness arises out of associations, past, present, and future. While not a financial issue, as in conflict of interest, the association may appear to the public. Associations which may cause an unfair appearance are memberships on boards of directors, advisory boards, professional and personal associations, and membership-like associations. No individual in a

decision-making capacity shall engage in any activity, including participating in the selection, award, or administration of a sub-grant or contract supported by WIOA funds, if a conflict of interest (real, implied, or apparent) arises by being a member of an association that might benefit from the decision.

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.

Individual – (1) an individual, i.e., employee, 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.

Immediate Family – Immediate family consists of the individual's parents (including stepparents), spouse, domestic partner, children (including stepchildren), siblings, grandchildren, grandparents, and any relative by marriage (and 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.

Organizational Conflicts of Interest – Because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

Political Activities - Lobbying or advocating for legislative programs or changes; and campaigning for, endorsing, or contributing to political candidates or parties.

Organizations that Receive Federal Funds - Entities that receive federal funds by way of grants, contracts, or cooperative agreements. This includes ESD, LWDBs, LWDB subrecipients, and WorkSource Partners.

WorkSource Service Delivery Environment - Any location in which WorkSource-identified services are delivered. The service delivery environment includes but is not limited to WorkSource offices, affiliate sites, and other locations where services identified as a WorkSource service or paid for, in whole or in part, by federal funding, are provided.

H. References:

- Public Law 13-128 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
- 20 CFR 679, 130(f)(1) through (3) – State board must use criteria to certify One Stops to avoid inherent conflict of interest
- 20 CFR 679.410(a)(3) and (c) – Local board must avoid inherent conflict of interest
- 20 CFR 679.430 – Entities performing multiple functions
- 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 and Part 2900 – Office of Management and Budget Uniform Guidance on administrative, cost, and audit provisions for federal grants
- 2 CFR 200.318
- Revised Code of Washington (RCW) 42.20.070 – Misappropriation and falsification of accounts by a public officer
- RCW 42.20.080 – Other violations by officers
- RCW 42.52.160 – Use of persons, money or property for private gain
- Congressional Research Service (CRS) Report for Congress “Political” Activities of Private Recipients of Federal Grants or Contracts October 21, 2008
- 2 CFR 200.444 General Cost of State, Local, and Indian Tribal Governments
- 2 CFR 200.400 Subpart E Cost Principles
- 48 CFR 31.205-22 Lobbying and political activity costs Page 3 of 3
- RCW 42.17A.635 Legislative activities of state agencies, other units of government, elective officials, employees • RCW 42.52.180 Use of Public Resources for Political Campaigns
- TEGL 2-12 Employment and Training Administration (ETA) Grant Recipient Responsibilities for Reporting Instances of Suspected Fraud, Program Abuse and Criminal Conduct
- 29 CFR Part 93.100 New Restrictions on Lobbying
- Disclosure of Lobbying Activities Form and Instruction

Attachment A

Code of Conduct

The Benton-Franklin Workforce Development Council (BFWDC) is committed to maintaining the highest of standards of ethical conduct. All BFWDC representatives are expected to read, understand and apply this policy.

The BFWDC recognizes that by its very composition conflicts of interest and issues concerning the appearance of fairness may arise. Therefore, it is essential for BFWDC representatives to be sensitive and err on the side of caution when potential or real conflict or fairness matters occur.

The BFWDC recognizes that many members of the board are selected because of their expertise and involvement in youth, adult and dislocated worker services, training, education, employment, and employer services. Members should have every opportunity to share their talent, knowledge, and experience within the parameters of fairness. The BFWDC representatives may have professional and/or personal associations which could lead to conflicts of interest or unfairness – real or apparent.

The BFWDC is required to guard against problems arising from real, perceived, or potential conflicts of interest and to maintain an appearance of fairness. To accomplish these purposes, the following guidelines have been established for problem resolutions.

Guidelines:

During the performance of duties, your actions are a reflection upon the BFWDC as well as a reflection upon you. It is extremely important that all BFWDC representatives act in a courteous, friendly, helpful, and prompt manner in dealing with the public, customers, other employees, supervisors, officials, and members of both internal and external organizations.

No board member shall cast a vote on the provision of services by that member (or by any organization with which that member is directly affiliated) or vote on any matter which would provide direct or indirect financial benefit to that member or their immediate family (or to any agency with which that member is affiliated).

Whenever a board member or staff is in doubt about a possible problem with appearance of fairness, he/she will disclose the association from which the problem arises. Disclosure of association(s) does not prohibit a board member from voting or participating in other BFWDC business unless prohibited by the Board of Directors. Associations are those which pertain to memberships in organizations or contractual agreements such as those between partners, stockholders, or employers and employees as well as those which arise out of custom, shared interests, friendships, or other relationships.

Ethical Principles:

All BFWDC representatives will conduct themselves in an honest and ethical manner, including the ethical handling of perceived, potential, and actual conflicts of interest between BFWDC interests and the personal or financial interests of a BFWDC representative.

- 1. Compliance with the Law:** It is the BFWDC's policy to be knowledgeable of and comply with all applicable laws and regulations of the United States and the State of Washington 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.
- 2. Professional Standards:** It is the BFWDC'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.
- 3. Responsibility to BFWDC Staff:** BFWDC is committed to treating staff with honesty and respect, and to providing a safe and healthy work environment. The BFWDC fully supports all relevant laws to protect and safeguard the rights and opportunities of all people to seek, obtain, and hold employment without regard to race, religion, sexual orientation, marital status, disability, age, national origin, or other protected status. The intent is to provide an environment free of unlawful harassment and discrimination.

Standards of Policy:

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 BFWDC business or the actions of BFWDC representatives outside meetings. Specific areas which may pose problems include, but are not limited to, comments made in public, information sharing, and disclosure of associations.

- 1. Comments Made in Public:** BFWDC representatives are encouraged to act in a public relations capacity. This includes public speaking engagements and comments in a public forum. BFWDC representatives should differentiate between descriptive comments, which relate to actions already taken by the BFWDC, and statements, which imply future decision-making, or the ability to influence decision-making.
- 2. Information Sharing:** BFWDC representatives are encouraged to share information with the community about BFWDC activities. It is important to protect against implying that actions taken by a specific interested party may result in favorable consideration by the BFWDC. 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 Strategic and Operations Plans, Requests for Proposals, Notice of Meetings, Meeting Minutes and Policies.
- 3. Disclosure of Associations:** BFWDC representatives have professional and personal associations throughout the community. Such associations have been and will continue to be of significant benefit. Where a direct or indirect financial conflict of interest exists, a BFWDC representative may not vote or serve on a rating team. BFWDC representatives must disclose all such associations. When associations raise the appearance of fairness

as an issue, BFWDC representatives should qualify statements in public by disclosing the association: minutes of the meeting should reflect the disclosure. BFWDC staff shall not serve on boards of directors or advisory boards of organizations which are sub-recipients of BFWDC funds.

Procedures for Resolution:

The BFWDC recognizes that the above guidelines do not address all areas of possible interpretation of conflict of interest and appearance of fairness. BFWDC representatives are encouraged to seek further guidance as the need arises. The goal is to resolve such issues informally whenever possible as outlined in the following procedures.

1. **Verbal Concern:** Any concerns about the actions of a BFWDC representative should be expressed verbally to the Executive Director (ED). The ED will interpret these guidelines or offer other resolutions as appropriate. If no acceptable resolution is found, a written concern may be addressed to the ED.
2. **Written Concern:** The ED will review the written concern and may elect to offer a verbal resolution, a written recommendation for resolution, or convene an ad hoc committee to study and resolve the concern. If an ad hoc committee is convened, it will issue a written resolution. If no acceptable resolution is reached, or if the concern is regarding the ED, the matter will be referred to the Executive Committee.
3. **Executive Committee's Concern:** If the matter is referred to the Executive Committee, the Executive Committee shall have responsibility for taking steps to achieve resolution which may include mediation or other action as appropriate. If no resolution is achieved, the matter will be referred to the Board of Directors for consideration and resolution.

Sanctions:

1. Willful violations by a board member may result in removal from the Board.
2. All violations by staff shall be subject to the Personnel Policies and Handbook after a determination by the Executive Committee that the violation was willful.