



**Monitoring and Oversight Policy No. MP-301, Change 2**

**Subject: Code of Conduct (Including Conflict of Interest) Policy**

**Effective: PY21, -02/28/2022**

**BACKGROUND:**

The Workforce Connection of Central New Mexico (WCCNM) 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 & Opportunity Act (WIOA) are expected to read, understand and apply this policy to ensure system integrity and effective oversight of the Workforce System.

WCCNM 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, perceived, or real conflict or matters of fairness occur.

Based on the 2014 release of new Uniform Administrative Guidance<sup>1</sup>, WIOA expands the definition of “conflict of interest,” from “*direct or indirect*” under WIA, to “*real, apparent or organizational*” conflict of interest. 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.

**PURPOSE:**

The purpose of this policy is to establish a Code of Conduct Policy for WIOA Program Operators, designated fiscal agent and administrative entity, American Job Centers, Local Workforce Development Board and Chief Elected Officials, and other elected officials, contractors, sub-recipients and committees,, in accordance with the Workforce Innovation and Opportunity Act,

2014.

**POLICY:**

**A. Prevention of Fraud and Abuse.** Fraud, under this policy, refers to the intentional misrepresentation or distortion of factual data or other information in order to obtain an illicit benefit and/or to attempt to conceal such activity. Abuse, under this policy, refers to the intentional misuse of program funds and services.

- 1) The WCCNM, its agents, contractors, and sub-reipients shall establish, maintain, and implement internal management procedures for activities funded in whole or in part under the WIOA program.
- 2) In addition to the requirements imposed elsewhere in this policy, the WCCNM, its agents, contractors, and sub-reipients shall insure that sufficient, auditable and otherwise adequate records are maintained to support the expenditures of all funds received through the WIOA program. Such records shall be sufficient to allow the United States Department of Labor USDOL, New Mexico Department of Workforce Solutions (NMDWS), also known as the State Administrative Entity or SAE) to audit and monitor the WCCNM, its agents and contractors. The records will include financial and participant data systems maintained in accordance with WIOA and applicable federal, state and WCCNM regulations and policies attendant to procurement, audit record keeping, reporting and related requirements.
- 3) The WCCNM, its agents and contractors, shall establish and implement their own monitoring and control systems sufficient to ensure compliance with the WIOA, applicable federal, state laws, regulations, WCCNM policies and procedures pertaining to financial and participant records management, procurement and reporting requirements.
- 4) The WCCNM will periodically monitor its agents', contractors', and sub-reipients' activities. Monitoring activities may include management (data) and on-site and/or remote reviews of all program activities. The USDOL, NMDWS and WCCNM reserves the right to request and review all pertinent records, data, observe program activities, interview WCCNM members, agents, contractors, staff, and program participants, review training and worksite activities, and conduct related monitoring functions to ensure compliance with all subgrant provisions and program requirements.
- 5) The WCCNM, its agents, contractors, and sub-reipients shall be notified in writing of any suspected fraud, abuse, or misapplication of WIOA funds upon discovery of such.

**B. Conflict of Interest**

The WCCNM establishes the following definitions, actions, and guidelines for interpretation:

- 1) **Compliance with the Law:** It is the WCCNM’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.
- 2) **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 WCCNM business, 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:** Central Region Local Workforce Development Board (LWDB) and Committee Members are encouraged to act in a public relations capacity for the LWDB. This includes public speaking engagements and comments in a public forum. Because there is interest in LWDB Member’s actions, members should differentiate between descriptive comments, which relate to actions already taken by the Board, and statements, which imply future LWDB decision-making, or the ability to influence decision-making.

**Information Sharing:** LWDB and committee members are encouraged to share information with the community about WCCNM 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.

**Disclosure of Associations:** LWDB 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 WCCNM. Where a direct or indirect financial conflict of interest exists, a LWDB or committee member may not vote or serve on a rating team. When associations raise appearance of fairness as to an issue, LWDB and committee members should qualify statements in public by disclosing the association and minutes of the meeting should reflect the disclosure.

3) **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 real, or actual* 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. Financial or other interest can be established either through ownership or employment. As defined by USDOL, the “*appearance*” of conflict of interest is when there are circumstances that would cause a reasonable person with knowledge of the relevant facts to question the individual's impartiality in the official matter. *Organizational conflict of interest* focuses on the *institution or entity* (and everyone within the institution): because of other activities or relationships, the *institution* is unable to:

- 1) render impartial assistance or advice,
- 2) cannot perform work in an objective way, or
- 3) has an unfair competitive advantage compared to other entities.

**4. Providing Services to Participants Funded under the WIOA Program:** The WIOA program should be accessible to any individual, in any local area, who is eligible and suitable for available services subject to WCCNM 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 non-compliance with state and/or federal law.

**5. 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.

**6. 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:

1. Chief Local Elected Officials
2. WCCNM LWDB Executive Committee Members
3. WCCNM LWDB Members
4. WCCNM LWDB - Committee Members
5. WCCNM LWDB AE & Fiscal Staff and Supervisors
6. WCCNM LWDB Sub-recipient Employees
7. Job Center Partner Staff
8. WCCNM LWDB 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.

**7. Documentation and Tracking.** Local areas must maintain 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.

**8. Monitoring for Compliance.** WCCNM is 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. WCCNM must also ensure that all new staff members and providers are informed about this policy.

**9. CONFLICT OF INTEREST POLICY IMPLEMENTATION FOR LOCAL WORKFORCE DEVELOPMENT BOARD, WORKFORCE CONNECTION OF CENTRAL NEW MEXICO:**

- a. 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 WIOA or any other federal funds.
- b. WCCNM members may not vote on any matter that would provide direct financial benefit to the member of the WCCNM member's immediate family, or on matters of the provision of services by the WCCNM member or the entity the WCCNM member represents.
- c. WCCNM members must avoid even the appearance of a conflict of interest.
- d. WCCNM member should ask the board for an opinion if there are any doubts whether or not specific situations involve a conflict of interest.
- e. WCCNM members shall monitor potential conflicts of interest and bring them to the WCCNM's attention in the event a WCCNM member does not make a self-declaration.
- f. WCCNM members shall sign the WCCNM Conflict of Interest Code Form and Statement of Financial Interests (included in Conflict-of-Interest Questionnaire/Information form) and update annually or within 30 days to reflect any changes in such business interests or relationships.
- g. The WCCNM shall appoint an individual to timely review the disclosure information and advise the WCCNM Chairperson and appropriate WCCNM members of potential conflicts. Signed Conflict of Interest Code Forms shall be maintained by the WCCNM AE and be made available for review.
- h. Prior to discussion, vote, or decision on any matter before the WCCNM, if a member, or a person in the immediate family of such member, has a substantial interest in or relationship to a business entity, organization, or property that would be affected by any official WCCNM action, the WCCNM member shall disclose

the nature and extent of the interest or relationship and shall abstain from discussion and voting on or in any other way participating in the decision on the matter. All disclosures and abstentions shall be recorded in the minutes of the WCCNM meetings and shall be maintained as part of the official record.

- i. The WCCNM shall ensure that the WCCNM members, administrative staff, fiscal agent, and fiscal agent staff do not direct, and are not involved in, the daily activities of workforce service providers, workforce system partners or contractors.
- j. WCCNM members shall not receive compensation for their services on the WCCNM. WCCNM members may submit a request for reimbursement of reasonable and allowable expenditures for special circumstances in accordance with the Act and applicable federal and state regulations on a case-by-case basis.
- k. A WCCNM member or a member of a WCCNM 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.
- l. WCCNM members or a member of a WCCNM 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 WCCNM allows for situations where the gift is an unsolicited item of nominal value worth \$50.00 or less.
- m. The WCCNM and their contractors, and sub-recipients shall make this information and policy available to appropriate staff members to ensure that these staff members are familiar with it and its requirements in order to prepare state or local plans, provide services, and implement the conflict-of-interest policy.
- n. The WCCNM shall not enter into any procurement contract for services, construction or items of personal tangible property with a WCCNM member or with a business in which the WCCNM member has an interest unless the WCCNM member has disclosed their interest and unless the contract is awarded in accordance with the competitive bidding or proposal provisions of the Procurement Code and WCCNM policy. Any contract awarded to any WCCNM member must be approved by the CEOs.
- o. WCCNM members and their organizations may receive services as a customer of a local workforce service provider or workforce system partner.
- p. Membership on the WCCNM, 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.

**10.PENALTIES OR DISCIPLINARY ACTIONS:** Violations of this policy may be taken up to and including termination of board membership for violation of this policy by any individual. If any related entities or organizations are not in compliance with this conflict-of-interest policy, cash payments may be withheld pending correction of the deficiencies. The LWDB 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.

C. **Nepotism.** For purposes of this policy, nepotism refers to the bestowing of special favors or showing of favoritism to a relative (wife, husband, father, mother, son, daughter, grandparent, brother, sister, aunt, uncle, niece, nephew, step child and in-law) by providing benefits or giving an appointive position on the basis of such relationship. The WCCNM, its agents, contractors, and sub-reipients assures that it will adhere to applicable funding rules or policies prohibiting nepotism or appearance of nepotism in the awarding of WIOA funds, and in its sub-granting or contracting practices.

D. **Child Labor.** The WCCNM, its agents, contractors, and sub-reipients shall comply with applicable federal, state and local Child Labor laws.

E. **Bribes, Gratuities, and Kickbacks. Members, officials, employees, or agents of the WCCNM, members of Committees, contractors, and sub-reipients are prohibited from soliciting or accepting gratuities, favors, or anything of monetary value from any actual or potential recipient or supplier. The state Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and misdemeanor criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kick-backs.**

F. **Political Activity.** A participant in a WIOA program may not participate in any political activity while participating in the WIOA program, and may not be solicited, or rewarded for any political activity, whether such political activity is partisan or nonpartisan. The WCCNM, its agents, contractors, and sub-reipients, and Committees shall comply with all prohibitions on political activity as specified under 5 USC 15 (referred to as the Hatch Act), and any applicable SAE and WCCNM policies.

- 1) The practice of selecting or advancing employees as a reward for political service or patronage, or advancing/selecting in employment based on a person's political affiliation or beliefs is discriminatory and is prohibited. This prohibition also applies to the selection and referral of WIOA applicants and participants for employment and training activities or services. This prohibition is extended, but not limited, to the following situations:
  - a) Participant or employee participation in partisan or nonpartisan political activities during work hours;
  - b) Participant or employee participation in partisan or nonpartisan political activities in which such participant or employee represents himself/herself as a spokesperson for a WIOA program;
  - c) Employing or out stationing participants in offices of political officials including the offices of Congresspersons, state legislators, or legislative committees or staffs for the purpose of conducting political activities including campaigning on behalf of such officials; and

- d) Employing or out stationing participant(s) in the offices of any elected executive officers, chief elected officers, or officers of a state or unit of general local government, for the purpose of conducting political activities including campaigning on behalf of such officials.
- 2) Persons employed in the administration of a WIOA funded program shall not engage, in any manner, in the conduct of any political activities prohibited under the Hatch Act, nor shall WIOA funds be used for such purposes.
- 3) Funds provided under the WIOA shall not be used to attempt to influence in any manner, a member of Congress to favor or oppose any legislation or appropriation by Congress, or for lobbying with a state or local legislature. The WCCNM, its agents, sub-recipients, contractors, and WCCNM's Committees must provide to the NMDWS SAE, or applicable funding authority, a USDOL Lobbying Disclosure Certification.

**G. Unionization/Anti-Unionization Activities.** The WCCNM, its agents, contractors, sub-recipients and the committees are prohibited from any promotion of, or involvement in, unionization or anti-unionization activities. Specifically:

- 1) Funds administered under the WIOA program may not be used in any way to either promote or oppose unionization;
- 2) Individuals will not be required to join or become members of a union as a condition for enrollment in a program funded under the WIOA program; and
- 3) Participants may not be placed or remain working in any position affected in labor disputes involving a work stoppage.

**H. Criminal Provision.** This provision pertains to the theft, embezzlement from WIOA funds, improper inducement and obstruction of investigations. The WCCNM, its agents, contractors, sub-receipients and the committees, shall be aware of and held accountable for complying with the criminal provisions of Section 665 of Title 18 USC as amended, and any applicable state statutes.

## REFERENCES :

- □ Section 10-16-1 et seq. NMSA 1978
- □ 29 CFR 97.36(3) Procurement
- □ 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
- □ 20 CFR 679.430
- □ 20 CFR 683.200(c)(5)



➤  WIOA Section 121(d)(4)

➤  WIOA Section 107(h)

**APPLICABILITY:**

WCCNM Board, officers, committees, , contractors, sub-reipients, AE and Fiscal Agent staff..

**ATTACHMENT:**

**WCCNM Conflict of Interest Questionnaire/Information form**

**INQUIRIES:**

WIOA Program Manager 505-724-3629

This Policy has received approval by the Workforce Connection of Central New Mexico Board.



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WCCNM Board Chair

**WORKFORCE CONNECTION OF CENTRAL NEW MEXICO  
CONFLICT OF INTEREST QUESTIONNAIRE \ INFORMATION**

This questionnaire must be completed by all members of the WCCNM Board and WCCNM Contractors. This information is required to ensure that the WCCNM remains transparent regarding any real, perceived or potential conflict of interest. It is important to identify any substantial business interests or relationships that may exist of all businesses or organizations that have received, currently receive, or are likely to receive contracts or funding from the WCCNM local board or its representatives (i.e., Service Providers, One-Stop Operator, Administrative Entity or Fiscal Agent). These disclosures must be updated annually or within 30 days to reflect any changes in such business interests or relationships. Your assistance is greatly appreciated.

Please answer all questions. If the answer is “yes”, please include additional details. An affirmative response does not imply that the relationship is improper or that it should be terminated.

Transactions includes but are not limited to: Contracted Professional Services; WIOA Services - Customized Training, Incumbent Worker Training, Individual Training Account, On-The-Job Training Contract, Paid Internship, Work Experience, Apprenticeships, or; purchase \ lease of equipment or other tangible product(s).

1. Have you had any material interest, direct or indirect in any transaction in prior years or currently to which WCCNM or its representatives was, or will be, a party to the transaction?     Yes     No

If yes, describe the interest:

2. Do you have any material interest, direct or indirect, in any pending or incomplete transaction to which WCCNM or its representatives is, or will be, a party to the transaction?     Yes     No

If yes, describe the interest:

3. Will you or your immediate family members financially benefit from any transaction with, or decision of, WCCNM in which you are involved?  Yes  No

If yes, indicate the person, his or her relationship to you and that person's interest:

**Board Member Signature:**

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date