



EMPLOYEE CONFLICT OF INTEREST POLICY AND PROCEDURE

Effective Date:
7/21/2015

Version. 3

Revision Date:
05/01/2025

1. PURPOSE

The purpose of this policy and procedure is to ensure that NLACRC's employees, contractors, agents and consultants adhere to conflict-of-interest standards and procedures and make decisions relative to the regional center, which are in its best interest. These rules have been outlined in the Welfare and Institutions Code Section 4600 et seq. and The California Code of Regulations Section 54500 et seq. Such decisions shall be made without regard to the personal interests of the employee, contractor, agent or consultant, his or her "family member" or any organization with which they are interested.

2. SCOPE

This policy applies to NLACRC's employees, contractors, agents or consultants.

3. RESPONSIBILITY

Human Resources, the executive director and NLACRC's board of trustees have the overall responsibility to ensure that the regional center complies with this policy and procedure. All employees, contractors, agents and consultants of the regional center must ensure that they comply with this policy as outlined below.

4. DEFINITIONS

- 4.1 "Regional Center Employee" means any person who performs services for wages, salary or a fee under a contract of employment, express or implied, with the regional center...a business entity, entity or provider as defined herein is not a regional center employee." (CCR Section 54505(k).)
- 4.2 "Family member" includes the individual's spouse, domestic partner, parents, step parents, grandparents, siblings, step-siblings, children, step-children, grandchildren, parents-in-law, brothers-in-law, sisters-in-law, sons-in-law and daughters-in-law. (CCR Section 54505(f)).

- 4.3 "Potential conflict of interest" means a situation which, based upon circumstances reasonably expected to occur at a point in the future, may result in a conflict of interest, as specified in these regulations. (CCR Section 54505(h).)
- 4.4 "Present conflict of interest," means a conflict of interest, as specified in these regulations, which currently exists. (CCR Section 54505(i).)
- 4.5 "Decision or Policy-Making Authority" means the authority an individual possesses whenever the individual:

1. exercises discretion or judgment, without significant intervening substantive review, in making, advising, or recommending a decision or in making a final decision; or
2. may compel a decision or may prevent a decision either by reason of an exclusive power to initiate the decision or by reason of a veto which may or may not be overridden; or
3. makes substantive recommendations which are, and over an extended period of time have been, regularly approved without significant amendment or modification by another person or entity or provider; or
4. votes on matters, obligates or commits his or her entity to any course of action, or enters into, modifies, amends, or renews any contractual agreement on behalf of his or her entity, or has authority to obligate resources; or
5. votes to approve, appoint or ratify, or approves, appoints, ratifies, assigns, elects, selects, designates, names, creates, confirms, contracts or hires any director, trustee, member of the board, member of a board committee, officer, agent, employee, contractor, or consultant for his or her entity or any other business entity or provider.

Decision or policy-making authority does not include actions of individuals which are solely ministerial, secretarial, or clerical. (CCR Section 54505(d).)

- 4.6 "Business entity, entity or provider" means any individual, business venture, or state or local governmental entity from whom or from which the regional center purchases, obtains, or secures goods or services to conduct its operations.

These entities or providers include, but are not limited to, residential facilities, intermediate care facilities, skilled nursing facilities, supported and independent living services, hospitals, medical groups, activity centers, housing providers, entities formed in support of the regional center, infant programs, clinics, laboratories, pharmacies, drug stores, ambulance services, furniture stores, equipment and supply stores, physicians, psychologists, nurses, therapists, teachers, social workers, and contract case managers. For

purposes of these conflict-of-interest regulations "business entity, entity or provider" does not include a consumer or family member of a consumer who receives vouchers for consumer services.

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5. POLICY

- 5.1. NLACRC employees, contractors, agents or consultants shall not work or serve in a position that creates a conflict of interest. A conflict of interest exists when a regional center employee with decision or policy making authority, or a contractor, agent or consultant with authority to act on behalf of the regional center, or family member of such person is any of the following for a business entity, entity, or provider:
1. a governing board member
 2. a board committee member
 3. a director
 4. an officer
 5. an owner
 6. a partner
 7. a shareholder
 8. a trustee
 9. an employee
 10. an agent
 11. a contractor
 12. holds any position of management
 13. has decision or policy-making authority (CCR Section 54526.)

These conflict-of-interest positions are in addition to the conflicts identified In WIC Sections 4626 and 4627.

- 5.2 A regional center employee, contractor, agent or consultant shall not "make, participate in making or in any way use his or her position to influence a regional center decision in which he or she knows or has reason to know that he or she, or his or her family member, has a financial interest." CCR Section 54527 The term "financial interest" is defined in CCR Section 54527(b).

- 5.3 Regional center employees, contractors, agents and consultants shall be "guided solely by the interests of the regional center and its consumers and not by their financial interests when participating in the making of contracts in their official capacity," and shall not be "financially interested in any contract in which they participate in making in their official capacity." Finally, regional center employees, contractors, agents or consultants shall not make any contract which is financially beneficial to a family member, unless the benefits associated with the contract are equally available to regional center consumers or their families generally. (CCR Section 54528 and WIC Sections 4626 and 4627) The term "financially interested" is defined in CCR Section 54528(b)(1).
- 5.4 Regional center employees, contractors, agents and consultants are obligated to "discharge their responsibilities with integrity and fidelity and are prohibited from placing themselves in a position where their private, personal interests may conflict with their official duties" and must "exercise the powers conferred upon him or her with disinterested skill, zeal, and diligence and for the benefit of the regional center and its consumers." The employee shall be disqualified from participating in matters where, "a present or potential personal conflict of interest exists as to a particular transaction or decision." (CCR Section 54529)
- 5.5 A conflict exists where regional center employees, contractors, agents or consultants "participate in the evaluation of an application for employment or bid for position or contract at the regional center that is submitted by a family member of such person." Further a "potential conflict of interest exists" when a regional center supervisor who is an employee, contractor, agent or consultant acting on behalf of the regional center supervises a family member who is also a regional center employee contractor agent or consultant. (CCR Section 54530)
- 5.6 Regional center senior management employees are prohibited from hiring relatives at the regional center or any ancillary foundation and organization. ("Relatives" as defined in WIC Section 4626.5 and CCR Section 54505(f).)
- 5.7 Regional center employees are prohibited from accepting a gift or gifts from a service provider, consumer, or consumer's family member valued over fifteen dollars (&15) per year. ("Family member" as defined in WIC Section 4626.5 and CCR Section 54505(f).)

6. PROCEDURE

- 6.1 "Each regional center employee, contractor, agent, and consultant who has authority to act on behalf of the regional center or who has decision or

policy-making authority," shall complete and file a standard Conflict of Interest Reporting Statement. Conflict of Interest Reporting Statements shall be filed (1) annually by August 1 of each year, (2) within 30 calendar days of assuming a new position, (3) within 30 calendar days of "any change of status that creates a present or potential conflict of interest." (CCR Section 54531)

- 6.2 "The executive director or the acting executive director of the regional center shall review the completed Conflict of Interest Reporting Statement of each regional center employee, contractor, agent, and consultant required to file a Conflict of Interest Reporting Statement within 10 calendar days of receipt of the completed Conflict of Interest Reporting Statement and shall determine whether the statement identifies a present or potential conflict of interest." (CCR Section 54531(e))

7. REPORTING

- 7.1 When the executive director identifies a conflict of interest for a regional center employee, contractor, agent or consultant, the regional center shall submit a copy of the completed Conflict of Interest Reporting Statement and a proposed Conflict Resolution Plan for eliminating or mitigating and managing the present or potential conflict of interest within 30 calendar days of receipt of the completed conflict of interest statement. (CCR Section 54533(b))
- 7.2 When DDS identifies a present or potential conflict of interest of an employee contractor, agent or consultant, it shall notify the regional center executive director of the conflict. The executive director shall submit a copy of the completed Conflict of Interest Reporting Statement and a proposed Conflict Resolution Plan for eliminating or mitigating and managing the present or potential conflict to DDS within 30 calendar days or receipt of DDS's notification. (CCR Section 54533(c))
- 7.3 The regional center shall post on its website each completed Conflict of Interest Reporting Statement that identifies a present or potential conflict of interest that cannot be resolved within 30 days. The statement shall remain on the website until the conflict has been eliminated. (CCR Section 54533(f))

8. ENFORCEMENT

- 8.1 The area board, state council and DDS must review and resolve any conflicts of interest. The Conflict Resolution Plan shall be approved, in writing, by the Department, and the Conflict Resolution Plan fully implemented prior to the

individual engaging in the otherwise prohibited conduct. (CCR Section 54534(d))

- 8.2 If an employee, contractor, agent or consultant's Conflict Resolution Plan has been denied by DDS, the individual has 30 calendar days from the date of the receipt of DDS's written denial in which to take the necessary action to eliminate the conflict of interest or resign his or her position. (CCR Section 54534(g))
- 8.3 DDS may sanction the regional center for violations of the provisions of this article. (CCR Section 54535)

9. REFERENCES/FORMS

- 9.1 Conflict of Interest Reporting Statement.
- 9.2 Conflict Resolution Plan. The requirements for this plan are further outlined in CCR Section 54533(9).