

LOCAL POLICY



Effective Date: November 29, 2017

Policy # 2017-02

CONFLICT OF INTEREST AND CODE OF CONDUCT POLICY

EXECUTIVE SUMMARY

Grantees and subrecipients funded under the Workforce Innovation and Opportunity Act (WIOA) of 2014 must implement standards of conduct and conflict of interest policies and procedures as provided in WIOA law, regulations and guidance; federal Office of Management and Budget (OMB) Circulars; state regulations; and state WIOA policies. The SBCWDB Bylaws provide that SBCWDB board members shall comply with applicable government ethics laws, including but not limited to the Political Reform Act, Government Code section 18100 et seq. and California Government Code section 1090 et seq.

The SBCWDB adopts this Conflict of Interest and Code of Conduct policy to ensure that its board members and employees, who are entrusted with oversight of WIOA funds, will not personally or professionally benefit from the award, administration, or expenditure of such funds and that they otherwise comply with applicable ethics laws. The SBCWDB further adopts this Conflict of Interest and Code of Conduct policy to ensure that board members and employees conduct themselves in a professional manner that safeguards WIOA system integrity and engenders public confidence in the SBCWDB.

Every SBCWDB board member and employee is expected to read and comply with this policy.

REFERENCES

WIOA –29 U.S.C. section 3122 (h) – Local Board Conflict of Interest; 20 C.F.R. section 683.200 California Fair Political Practices Commission (FPPC) regulations, 2 Cal. Code of Regulations section 18000 et seq.; Workforce Services Information Notice (WSIN) 15-17, Subject: Conflict of Interest Code Requirements for Local Boards (November 17, 2015); the Political Reform Act, Government Code section 18100 et seq.; and Government Code section 1090 et seq.

BACKGROUND

SBCWDB board members are selected based on their personal expertise in education, employment, employer services, training, and/or youth services. SBCWDB board members and employees also have professional and/or personal associations which further WIOA goals. This expertise and associations, while valuable to the SBCWDB, can lead to unfairness or self-dealing or the appearance of the same. This policy is intended to ensure that board members and employees can utilize their unique expertise and professional associations to achieve WIOA goals, while maintaining legal compliance.

The San Benito County Workforce Development Board is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.

PROCEDURAL GUIDANCE

Definitions:

1. **Conflict of Interest** – A conflict of interest exists if it is reasonably foreseeable that the outcome of participating in a governmental decision will have a material impact on a SBCWDB board member’s or employee’s economic interest, which is distinguishable from benefit to the public generally.
2. **Immediate Family** – Immediate Family consists of an individuals’ parents (including step-parents), spouse, domestic partner, children (including step-children), siblings, grandchildren, grandparents, and any relative by marriage (an “in-law”).
3. **Meeting** – All meetings of the San Benito County Workforce Development Board and its subcommittees.
4. **Organization** – A for-profit or not-for-profit entity. An entity can be a partnership, association, trust, estate, joint stock company, insurance company, or corporation, whether domestic or foreign, or a sole proprietor. Organization does not include government entities.

PROHIBITED CONDUCT:

- **Financial Benefit:** A SBCWDB board member or employee cannot cast a vote, cannot discuss, and cannot otherwise participate in a SBCWDB decision where the MCWDB’s decision could provide financial benefit to the board member or employee. No SBCWDB board member or employee can have a personal financial interest in any SBCWDB contract or decision as further explained below.
 - This prohibition applies to the selection of service providers, to selection of WIOA grantees and operators, to selection of physical premises and locations for SBCWDB activities, and to all other SBCWDB decisions which financially benefit or could financially benefit the SBCWDB board member or employee.
 - This prohibition applies to decisions that financially benefit or could financially benefit a SBCWDB board member’s or employee’s economic interests, including real property, investments, and other sources of income.
 - This prohibition applies where a SBCWDB decision provides or could provide financial benefit to the immediate family of the SBCWDB board member or employee.
 - This prohibition applies when a SBCWDB decision provides or could provide financial benefit to an organization or the employee of an organization that the SBCWDB member or employee represents.
 - This prohibition applies to SBCWDB contracts and agreements of any nature, include contracts for grants or donations to the SBCWDB.
 - This prohibition does not prevent a SBCWDB board member from fulfilling his/her duty to speak on behalf of the constituencies that he or she is specifically appointed to represent, e.g., labor, business, education, etc., so long as a SBCWDB decision does not have a unique effect on the SBCWDB board member’s interests.

It is the responsibility of each SBCWDB board member and employee to identify and disclose when financial benefit, as described above, is present or possible. Before public discussions take place at a SBCWDB meeting, the board member or employee must disclose that fact and shall recuse him or herself from voting, as required by law. The minutes of the meeting shall reflect the disclosure and recusal. The SBCWDB member or employee shall depart the meeting during the time in which the SBCWDB decision is discussed.

Identification and disclosure of financial benefit, as described above, may also be made through written correspondence to the Chair, as soon as practicable. SBCWDB employees shall identify and disclose financial benefit, as described above, as soon as practicable to the Executive Director of the SBCWDB.

- **Gratuities:** SBCWDB board members and employees cannot solicit and cannot accept professional favors, gratuities, free services, discounts, or anything of monetary or professional value from an individual or entity conducting business with the SBCWDB or participating in SBCWDB activities.
 - This prohibition applies to things of monetary and professional value offered by SBCWDB awardees or potential awardees, offered by SBCWDB service providers or suppliers, offered by any party or potential party to a SBCWDB agreement, offered by WIOA or other SBCWDB program participants, and offered by recipients and potential recipients of SBCWDB services.
 - This prohibition does not apply where a gift to a SBCWDB member or employee is unsolicited and is of nominal value worth \$50.00 or less.

Where a SBCWDB Board member or employee is offered a thing of monetary or professional value, as described, he or she shall decline to accept, or, if already delivered, shall arrange to return the item to the donor. Further, he or she shall advise either the Chair or the SBCWDB Executive Director of the offer and his/her rejection of the offer.

- **Other Organization Leadership:** SBCWDB board members and employees shall not seek to serve on boards of directors, advisory boards, or other leadership positions of organizations which are existing SBCWDB sub-grantees or subrecipients or contractors, as those terms are defined under the WIOA.
If SBCWDB board members and employees currently serve in such capacities in other organizations, and if such organizations seek to become SBCWDB service providers, grantees, or similar, they shall disclose that relationship to the Chair or to the SBCWDB Executive Director as soon as practicable.

Further, SBCWDB board members and employees who serve on boards of directors, advisory boards, or other leadership positions of organizations which seek to become SBCWDB service providers, grantees, or similar, shall not cast a vote, shall not discuss, and shall not otherwise participate in a SBCWDB decision concerning these organizations.

- **Information Access:** SBCWDB board members and employees may become, in the course of performing their duties, aware of information which is not yet available to the public at large. Such information shall be utilized by SBCWDB board members and employees for official SBCWDB purposes only. Where information is not yet available to the public at large, SBCWDB board members and employees shall not use such information for their personal or professional gain.
 - This prohibition applies to the use of such information for the personal or professional gain of the immediate family of the SBCWDB board member or employee.
 - This prohibition applies to the use of such information for the benefit of any organization that the SBCWDB member or employee represents and to any organization on which the SBCWDB member or employee serves on the board of directors, advisory boards, or other leadership position.

SBCWDB board members and employees shall not divulge such information in advance of the time decided by the SBCWDB for its release.

- **Provision of Services:** SBCWDB board members and employees shall not directly participate in either the decision to provide, or in the actual provision of, SBCWDB services, programs and benefits to their immediate family or to members and employees of organizations which the SBCWDB employee represents. SBCWDB board members and employees shall advise the Executive Director of the SBCWDB promptly, if these circumstances are present so that another SBCWDB member or employee can make the determination to provide, or provide the SBCWDB service.

Where an SBCWDB board member or employee has a personal relationship with an actual or potential recipient of SBCWDB services, even if that relationship is not one of immediate family or association with an organization which the member or employee represents, he or she shall disclose the same to the Chair and/or to the Executive Director. The Chair and Executive Director will determine whether the decision to provide or actual provision of SBCWDB services to that individual should be made by another person, in order to preserve the integrity of SBCWDB in the public eye.

Examples of prohibited conduct include, but are not limited to, determining eligibility for SBCWDB services and making referrals to employers for possible employment.

CODE OF CONDUCT:

- **Civility:** In the performance of their duties, SBCWDB board member and employee actions reflect on the SBCWDB. To ensure public confidence in the SBCWDB, board members and employees shall interact with the public, program participants, government officials and members of associated organizations in a courteous, helpful and prompt manner.
- **Accountability:** SBCWDB board members and employees shall conduct themselves in an honest, open and transparent manner, including handling perceived and actual conflicts of interest as specified in this policy.
- **Legal Compliance:** SBCWDB board members and employees shall be knowledgeable about and shall comply with applicable WIOA laws and regulations. To familiarize themselves with the laws governing ethics in government, SBCWDB board members and employees shall take the ethics training specified in Government Code section 53234 et. seq. at least every two years.
- **Public Speaking:** Because there is interest in SBCWDB activities, SBCWDB board members and employees are encouraged to act in a public relations capacity for the SBCWDB. In public speaking engagements, SBCWDB board members and employees may describe and explain actions already taken by the SBCWDB, and may describe generally the possibility of future SBCWDB activities.

SBCWDB board members and employees shall not promise any particular SBCWDB decision or shall not assert their personal ability to deliver a particular SBCWDB decision.

- **Sharing Information:** SBCWDB board members and employees are encouraged to share information with the community about SBCWDB activities in a manner that ensures fair and equal access by all. For example, access to information regarding the MCWDB's procurements for services shall be available at the same time and in the same manner to all potential bidders. Information shall not be individually provided to individual potential bidders because it could lead to that bidder's unfair advantage over others seeking to provide services.

Most documents reflecting the MCWDB's activities is public and subject to disclosure under the California Public Records Act. Because that law imposes specific disclosure requirements and provides for exemptions from disclosure, requests for SBCWDB information received by SBCWDB members and employees shall be directed to the Chair, who will disclose requested SBCWDB records in accordance with the law, as guided by the advice of counsel.

SBCWDB board members and employees shall not reveal attorney-client privileged communications, personnel information, or other confidential or legally protected information to the public.

- **Disclosure of Associations:** SBCWDB board members and employees have professional and personal associations that yield significant benefit to the SBCWDB. When these associations raise the possibility of unfairness or conflict of interest in connection with a particular SBCWDB activity or decision, SBCWDB board members and employees shall take the initiative and shall disclose their association at a regularly convened, public SBCWDB meeting or committee meeting. Minutes of SBCWDB or committee meetings shall reflect such disclosures. If disclosure at a regularly scheduled SBCWDB or committee meeting is not practicable, such disclosures should be made in writing, as soon as possible, to the Chair.

If a SBCWDB board member or employee is in doubt about whether his or her association poses a fairness or conflict of interest issue, they shall err on the side of disclosure.

Disclosure of associations does not prohibit a SBCWDB member from voting or participating in other, unrelated SBCWDB business and decisions.

- **Sanctions:** Where SBCWDB board members violate this policy, disciplinary action may be imposed, up to and including termination of board membership. The SBCWDB Executive Committee shall evaluate possible violations on a case-by-case basis and shall recommend to the full SBCWDB, if and what penalties, sanctions or other disciplinary actions are appropriate. Discipline, if any, shall be implemented by a majority vote of the SBCWDB at a meeting at which a quorum is present.

Where SBCWDB employees violate this policy, the question of discipline, if any, shall be referred to the San Benito County Human Resources Department for appropriate action

INQUIRIES

If you have questions please contact staff at (831) 796-6434. This policy is posted on the WDB website located at: www.montereycountywdb.org/policies/

CHRIS DONNELLY, Executive Director
San Benito County Workforce Development Board