

ALAMEDA COUNTY WORKFORCE INVESTMENT BOARD (WIB)

CONFLICT OF INTEREST POLICY

1. This Conflict of Interest Code (“Code”) is adopted pursuant to the requirements of California Government Code Section 87300, Title 2 California Code of Regulations (CCR) Section 18730, and 29 Code of Federal Regulations (CFR) Section 97.36(b)(3).
2. “Member” refers to a member of the Alameda County Workforce Investment Board (WIB) or the Youth Council, unless otherwise specified. “Employee” refers to an employee of the WIB or the Youth Council, unless otherwise specified. “WIB Director” refers to the Executive Director of the Workforce Investment Board. “Immediate family” refers to the spouse and dependent children of a member or employee, including children for whom the member or employee is a legal guardian. Workforce Investment Act of 1998, 29 U.S.C. 2801 et seq. P.L. 105-220, 112 Stat. 936 et seq. (“WIA”) Section 101; Government Code Sec. 87100 et seq.
3. A WIB member may not vote on a matter under consideration by the WIB regarding the provision of services by such member (or by an entity that such member represents), or that would provide direct financial benefit to such member or the immediate family of such member. WIA Section 117(g)(1).
4. A WIB member must not engage in any activity determined by the Governor to constitute a conflict of interest as specified in the State plan. WIA Section 117(g)(2).
5. A WIB member or Youth Council member must neither cast a vote on, nor participate in, any decision-making capacity on the provision of services by such member (or any organization which that member directly represents), nor on any matter which would provide any direct financial benefit to that member or a member of his immediate family. Department of Labor (DOL) Interim Final Rule, 20 CFR 667.200(a)(4)(i). To “participate in a decision-making capacity” includes to discuss an issue and to influence, or try to influence, other WIB or Youth Council members or staff to take a position for or against an issue.
6. Neither membership on the WIB or the Youth Council nor the receipt of WIA funds to provide training and related services, by itself, violates these conflict of interest provisions. Department of Labor (DOL) Interim Final Rule, 20 CFR 667.200(a)(4)(i).
7. No employee, officer, or agent of the WIB or Youth Council shall participate in selection, or in the award or administration of a contract supported by federal funds, if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the employee, officer or agent, any member of his immediate family, his or her partner, or an organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. Uniform Administrative Requirements for Grants (29 CFR 97.36(b)(3)).
8. Officers, employees, and agents of the WIB and Youth Council will neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subagreements. The WIB may set minimum rules where the gift is an unsolicited item of nominal intrinsic value. Uniform Administrative Requirements for Grants (29 CFR 97.36(b)(3)). Such minimum rules must be in compliance with state law, including the

California California Political Reform Act of 1974, Government Code Section 81000 et seq., and Title 2, Code of Regulations, Section 18100 et. seq.

9. Members shall not be financially interested in any contract made by them in their official capacity or in any contract made by the WIB. Government Code Section 1090. This requirement shall not apply to any contract or grant made by the WIB except where both of the following conditions are met: (a) the contract or grant directly relates to services to be provided by any member of the WIB or the entity the member represents, or financially benefits the member or the entity s/he represents; (b) the member fails to recuse him/herself from making, participating in making, or in any way attempting to use his/her official position to influence a decision on the grant or contract. Government Code Section 1091.2, as amended by AB 2876 (chaptered July 10, 2000).
10. "Financial interest" includes possible disadvantage to a competitor of the business or nonprofit entity which the member represents.
11. If a member has a remote interest in a contract, as defined by Government Code Section 1091, that member shall disclose such interest to the WIB or Youth Council so that the interest can be noted in the official records; shall not influence or try to influence another member to enter into the contract or not enter into the contract; and shall not vote concerning whether the WIB should enter into the contract. Government Code Section 1091; 78 Ops.Cal.Atty.Gen. 230, 237 (1995).
12. Each member and employee shall comply with the California Political Reform Act of 1974, Government Code Section 81000 et seq. This Conflict of Interest Code incorporates by reference Government Code Section 87100 et. seq. and Title 2, California Code of Regulations, Section 18700 et. seq. and Section 18730 et seq., and any amendments to these regulations which are duly adopted by the California Fair Political Practices Commission (FPPC). Pursuant to Government Code Section 87100 et seq., no member or employee shall make, participate in making, or in any way attempt to use his official position to influence a decision of the WIB or Youth Council in which s/he knows or has reason to know s/he has a financial interest. A member or employee has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the member or staff, a member of his/her immediate family, or on his/her interests in a business entity, real property, a source of income, or a donor of a gift, each of which interests is defined more specifically in Government Code Section 87103. Whether a member or employee has a financial interest shall be determined pursuant to Title 2 CCR Section 18700 et seq. For purposes of compliance with Government Code Section 87100 et seq., salary received from a federal, state or government entity is not income. Government Code Section 82030(b)(2); Title 2 C.C.R. Sec. 18705(c)(1).
13. Each member and employee of the WIB is required to disqualify him/herself from participation in a decision which may foreseeably have a material financial impact on his/her financial interests. Government Code Section 87302(a) et seq; 2 CCR Section 18730.
14. Appendix 1 to this Code lists "designated officials" who must comply with disclosure requirements. Government Code Section 87302(a) et seq; 2 CCR Section 18730.

15. Each designated official shall file a Statement of Economic Interests, using FPPC Form 700, with the Clerk of the Board of Supervisors of Alameda County, at the following times: within 30 days after approval of this Code by the Alameda County Board of Supervisors, or within 30 days after appointment or hiring; annually on April 1; and within 30 days of leaving the designated position. Appendix 2 to this Code assigns each designated official to a Disclosure Category and lists the interests which must be disclosed. Government Code Section 87302(b); 2 CCR Section 18730.
16. In addition to the disclosure requirements set forth above, members must disclose in writing any conflict of interest that might arise as a result of their membership and affiliations with outside organizations, individuals, and affected parties. The disclosure document must include the member's place of employment and membership on any boards, commissions, or affiliations with public agencies, community-based organizations, or nonprofit organizations. This declaration must be submitted to the WIB Director within 30 days after appointment (or within 30 days after adoption of this Code) and updated as changes in employment and other circumstances warrant.
17. A designated official shall not accept any honorarium from any source if s/he would be required to report the receipt of income or gifts from that source on his/her Statement of Economic Interests. Title 2 CCR Section 18730(b)(8)(A).
18. A designated official shall not accept gifts with a total value of \$300 from any single source if s/he would be required to report the receipt of income or gifts from that source on his/her Statement of Economic Interests. Title 2 CCR Section 18730(b)(8.1)(A).
19. When a member determines that s/he should not make a governmental decision because s/he has a disqualifying interest in that decision, the member shall disclose his/her determination and disqualifying interest, and this disclosure shall be made part of the official record of the WIB or Youth Council. Title 2 CCR Section 18730(b)(10). A member must publicly declare that a possible conflict of interest exists before the agenda item in question is introduced. The person chairing the meeting will then acknowledge the declaration. Members involved in an acknowledged conflict of interest must refrain from all discussion and abstain from all voting relative to the affected agenda item.
20. When the WIB Director determines that s/he should not make a governmental decision because s/he has a disqualifying interest in that decision, the WIB Director shall disclose his/her determination and disqualifying interest in writing to the chairperson of the WIB and to the Director of the Alameda County Social Services Agency. Title 2 CCR Section 18730(b)(10).
21. When an employee (other than the WIB Director) or a consultant determines that s/he should not make a governmental decision because s/he has a disqualifying interest in that decision, that person shall disclose his/her determination and disqualifying interest in writing to the WIB Director. Title 2 CCR Section 18730(b)(10).
22. If an employee is notified or becomes aware that a potential conflict of interests exists with respect to a member or employee, the employee will so inform the WIB Director. If the potential conflict involves an employee, the WIB Director will dismiss the employee from all matters related to the potential conflict. If the potential conflict involves a member, the Director will consult with the chairperson of the WIB or Youth Council as appropriate.

23. Any member who believes a conflict of interest exists with respect to another member can declare so during the appropriate meeting. If the issue is challenged or disputed by the affected member, the chairperson of the meeting will refer the matter to County Counsel for final determination, and the agenda item will be tabled pending final opinion from counsel.
24. All instances of nonparticipation due to declared conflicts of interest shall be duly recorded in the minutes of the appropriate board or committee meeting, and shall serve as documentation of compliance with this Code. Instances in which a member has chosen not to be present at a meeting where a conflict of interest might arise shall likewise be recorded in the minutes.

Appendix 1 to WIB Conflict of Interest Code: Designated Positions

Position	Disclosure Category
Member, Workforce Investment Board	1
Member, Youth Council	1
Director, Workforce Investment Board	1
Assistant Director, Workforce Investment Board	1
Other staff ¹	1
Consultants ²	1

¹Any WIB staff who participates in a decision-making process that may foreseeably have a material impact on his/her financial interests.

²The WIB Chairperson may determine in writing that a particular consultant, although a designated position, is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements incorporated in the Conflict of Interest Code. Such written determination shall include a description of the consultant's duties, and based upon that description, a statement of the extent of disclosure requirements. The Chairperson's determination is a public record and shall be retained for public inspection in the same manner and location as the Conflict of Interest Code. See 2 CCR Sec. 18701(A)(2)

Appendix 2 to WIB Conflict of Interest Code: Disclosure Categories

Disclosure Category 1

Definition: The “Workforce Investment Area” consists of Alameda County, exclusive of Oakland.

Designated officials in Disclosure Category 1 must disclose;

- (1) All sources of income located or doing business in the Workforce Investment Area.
- (2) All interests in real property located in the Workforce Investment Area, or located within two miles of the boundary of the Workforce Investment Area, or within two miles of land owned or used by the WIB.
- (3) All investments and business positions in business entities located in, or doing business in, the Workforce Investment Area.

Source: Government Code Section 82035, 87302(a); Title 2 CCR Sec. 18730 et seq.

Approved as to form:
Richard Winnie, County Counsel

By _____