

WESTSIDE REGIONAL CENTER CONFLICT OF INTEREST

STANDARDS STATEMENT FOR REGIONAL CENTER EMPLOYEES

The Board of Directors of the Westside Regional Center (the “board”) places a very high priority on ensuring that regional center board members and employees act in the course of their duties solely in the best interest of the regional center clients and their families, without regard to the interests of any other organization with which they are associated or persons to whom they are related. Board members, employees, and others acting on the regional center’s behalf shall be free from conflicts of interest that could adversely influence their judgment, objectivity or loyalty to the regional center, its clients, or its mission.

The Welfare & Institutions Code (“WIC”) and Title 17 of the California Code of Regulations (“Title 17”) prohibit regional center employees from having any financial interest which might pose an actual or potential conflict of interest with regional center operations. If you have any questions about whether any of these laws or regulations present a conflict of interest or potential conflict of interest for you, it is extremely important that you bring them to the attention of the Executive Director. Your failure to do so could result in sanctions against the Regional Center by the Department of Developmental Services and in termination of your employment. In addition, if it is determined that you knowingly misstated a conflict or potential conflict of interest, you could face a possible fine of up to \$50,000.

Every regional center employee, without exception, must complete and submit a conflict of interest reporting statement within 30 days of assuming his or her position and within 30 days of any change in status that creates a potential or present conflict of interest. (WIC § 4626, subd. (f).) These status changes include, but are not limited to, changes in financial interests, legal commitment, regional center position or duties, or both, or outside position or duties, or both, whether the employee is paid for them or not. (WIC § 4626, subd. (h).)

Title 17 § 54521 sets forth the factors for determination of conflicts of interest or potential conflicts of interest for regional center employees as follows:

“(1) A conflict of interest exists when a regional center employee or a family member of such person is a governing board member, director, officer, owner, partner, shareholder, trustee, or employee of any business entity or provider, holds any position of management in any business entity or provider, or has decision or policy-making authority in such an entity or provider, or makes a decision regarding regional center operations involving a business entity or provider in which he or she has a financial interest.

“For the purpose of this section, an employee has a financial interest in regional center operations if it is reasonably foreseeable that the employee's interest or the employee's decision regarding that interest will have a material financial effect, as distinguished from its effect on the regional center's clients and/or their families generally, on:

“(A) Any business entity or provider in which the employee has a direct or indirect investment worth more than one thousand dollars (\$1000).

“(B) Any real property in which the employee has a direct or indirect interest worth more than one thousand dollars (\$1000).

“(C) Any source of income, other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to employee status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the employee within 12 months prior to the time when the decision is made.

“For purposes of this section, “indirect investment” or “interest” means any investment or interest owned by the spouse or dependent child of an employee, by an agent on behalf of an employee, or by a business entity or provider or trust in which the employee, the employee's agent, spouse, or dependent children own directly, indirectly, or beneficially a ten percent interest or greater.

“The financial effect is material if it will result in a benefit, detriment, gain, loss, or profit to the employee, entity, or provider.

“(2) A conflict of interest exists when a regional center employee devotes less than his or her full-time attention and effort to his or her regional center employment for that period for which he or she is being reimbursed.

“(3) A conflict of interest exists when a regional center employee provides services for salary, honorarium, or compensation of any kind in such fashion that the employee is receiving dual compensation for the same period of time. This subsection does not apply to regional center employees while officially off duty.

“(4) A conflict of interest exists when a regional center employee participates in the evaluation of an application for employment at the regional center when the applicant is a member of the employee's family, or when an employee acts as a supervisor of another regional center employee who is a member of the supervisor's family.

“(A) For the purpose of this subsection, supervisors shall include those individuals who serve as reviewing officer for reports of performance.

“(B) For the purpose of this subsection, family members shall include: spouse, children, stepchildren, parents, stepparents, brothers, sisters, grandchildren, grandparents, or inlaws.

“(b) No regional center employee shall continue employment with the regional center where the employee has a conflict of interest in violation of those provisions, unless the employee eliminates the conflict of interest or obtains a waiver pursuant to these regulations.”

Title 17 § 54505 states definitions of terms used in Section 54521, above, as follows:

“(c) ‘Business Entity, Entity or Provider’ means any individual or business venture from whom or from which the regional center purchases/obtains 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, hospitals, medical groups, activity centers, independent living facilities, 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.”

“(e) ‘Decision or Policy-Making Authority’ means the authority an individual possesses whenever the individual:

“(1) makes 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, appoints or hires people, obligates or commits his or her agency to any course of action, or enters into any contractual agreement on behalf of his or her agency.

“This authority does not include actions of the individuals which are solely secretarial or clerical.”

“(h) ‘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 Sections 54520 or 54521 of these regulations, at that time.’

“(i) ‘Present Conflict of Interest’ means a conflict of interest, as specified in Sections 54520 or 54521 of these regulations, which currently exists.:

“(k) ‘Regional Center’ means a diagnostic, counseling, and service coordination center for persons with developmental disabilities and their families which is established and operated pursuant to Chapter 5 of Division 4.5 of the Welfare and Institutions Code by a private nonprofit corporation acting as a contracting agency.”

“(l) ‘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. For purposes of these regulations, a business entity, entity or provider as defined in Section 54505(c) herein, is not a regional center employee.”

“(m) ‘Regional Center Operations’ means those activities or services which regional centers are required by law, regulation, or contract with the State to provide, obtain, or purchase. Such activities include, but are not limited to: case finding, outreach, prevention, intake and assessment, individual program planning, case management, community programs, program development, and client advocacy and protection.”

Title 17 § 54522 provides clarification on the conflict of interest statement as follows:

“(a) Within 60 calendar days of the effective date of this Article, each regional center employee who has decision or policy-making authority, as defined in Section 54505(e) herein, and each member of the governing board, including the board member designated by the regional center provider advisory committee pursuant to Welfare and Institutions Code, Section 4622(a)(7), shall prepare and file an initial conflict of interest statement pursuant to these regulations. Employees shall file their statements with their respective regional center and governing board members shall file their statements with their regional center governing board. Subsequent statements shall be filed thereafter whenever a change in status would create a present or potential conflict of interest situation as defined in these regulations. Individuals serving in any capacity under a waiver granted pursuant to Section 54523 of these regulations shall be required to file a conflict of interest statement with each waiver renewal as required pursuant to Section 54524(b)(3) of these regulations. The regional center and governing board shall designate the individual who is responsible for receiving, processing, and maintaining the initial and subsequent annual statements for their own respective agency. Such individual, however, may not review his or her own filed statement. The initial conflict of interest statement and all subsequent annual statements shall be dated, signed, and contain a declaration, under penalty of perjury, that the governing board member or employee has:

“(1) No present or potential conflict of interest;

“(2) A present conflict of interest; or

“(3) A potential conflict of interest pursuant to these regulations.

“The individual shall specify the factual basis for that determination and provide full and complete disclosure relative to any present or potential conflict of interest, including a description of the nature of the conflict of interest. For the board member designated by the regional center provider advisory committee pursuant to Welfare and Institutions Code, Section 4622(a)(7), the disclosure shall include, to the extent not otherwise disclosed, a list of the member's financial interest as required by Welfare and Institutions Code, Section 4622(a)(9)(C).

“(b) If a present or potential conflict of interest exists, the statements of regional center employees and governing board members, including the board member designated by the regional center provider advisory committee pursuant to Welfare and Institutions Code, Section 4622(a)(7), shall if desired by the governing board member or regional center employee, also contain a request for waiver of the prohibitions of any present or potential conflict of interest, and a suggested plan of action for resolution of the present or potential conflict of interest, including limitations on the governing board member or regional center employee which will enable him or her to avoid actions involving the conflict of interest during the period the waiver request is being reviewed pursuant to Section 54523 of these regulations.

“(c) The regional center or regional center governing board shall review, respectively, the waiver requests of all regional center employees and governing board members, and determine, in its discretion, whether to submit the request

pursuant to the regulations, or require the individual to eliminate the conflict of interest or resign his or her position as stated therein.

“(d) If a present or potential conflict of interest exists and no waiver is requested, or if the regional center or regional center governing board elects not to submit such a request in accordance with these regulations, the regional center employee or governing board member, and the board member designated by the regional center provider advisory committee pursuant to Welfare and Institutions Code, Section 4622(a)(7), shall have thirty (30) calendar days from the date of filing the conflict of interest statement or the date of notification by the regional center or its governing board in which to either take whatever action is necessary to eliminate the conflict of interest, or resign his or her position as a regional center employee or governing board member. During the thirty (30) calendar day period, the employee or board member shall avoid all involvement with or participation in regional center activities involving the conflict of interest in question.

“(e) If no conflict of interest is declared at the time of filing the initial statement or subsequent statements, no further action is required by the governing board member or regional center employee unless or until such time as that individual's status changes, so that he or she is in a present or potential conflict of interest situation. Upon such a change in status, a new statement shall be filed immediately with the member's governing board or the employee's regional center, specifying the factual basis for that determination and providing full and complete disclosure relative to the present or potential conflict of interest in accordance with provisions of subsection (a) above.”

Title 17 § 54523 specifies the method to request a waiver of a conflict of interest or potential conflict of interest as follows:

“(a) If the conflict of interest statement filed by the regional center governing board member or the regional center employee indicates that a present or potential conflict of interest exists and a waiver is being requested, then within thirty (30) calendar days of receipt of such a statement, the governing board or regional center shall, unless it has elected to do otherwise pursuant to Section 54522(c), submit the request for waiver packet in accordance with the procedures set forth in this section.

“(b) All requests for waiver packets must be submitted to the Department. In addition, copies of requests for waiver packets involving governing board members must also be sent to the area board in the area and to the State Council.

“(c) Requests for waiver packets shall include:

“(1) A copy of the board member's or employee's conflict of interest statements;

“(2) The request for waiver;

“(3) The plan of action for resolution of his or her conflict of interest and the time frames for doing so; and

“(4) Any limitations proposed by the governing board or regional center to be applied to the board member or employee during the term of the waiver. Limitations may include, but are not limited to:

“(A) Abstention by the person from voting on the conflict of interest situations;

“(B) Nonparticipation by the person, individually or as part of a group, in the preparation, presentation, formulation or approval of reports, plans, policies, analyses, opinions or recommendations regarding the conflict of interest situation, when the exercise of judgment is required and the purpose is to influence the decision;

“(C) Noninvolvement of the person in the negotiation, obligation, or commitment of the regional center to a course of action involving the conflict of interest situation;

“(D) Reassignment of the person to duties or responsibilities where no conflict of interest exists; and

“(E) Establishment of an independent review and prior approval procedure by supervisors or administrative staff regarding purchase of service and other decisions made by the person with respect to the conflict of interest situation.

“(5) The individual(s) responsible for ensuring that the above plan of action or limitations are applied and monitored;

“(6) Any other information which the employee or board member feels is pertinent to his or her request.

Title 17 § 54524 sets forth the Department and the Area Board’s and the State Council’s response requirements to a request for waiver of a conflict of interest as follow:

“(a) Within twenty (20) calendar days after the area board in the area and the State Council receive copies of a request for waiver packet regarding a regional center governing board member, the area board in the area and the State Council, respectively, shall provide to the Department their written approval or disapproval of such request. The Department may not approve the request for waiver of a regional center governing board member without the approval of both the area board in the area and the State Council.

“(b) Within sixty (60) calendar days after the Department receives a request for waiver packet the Department will respond to the request for waiver in writing:

“(1) Explaining the outcome of its review including approval or denial of the request, where appropriate, and the rationale for the decision;

“(2) Specifying the actions, if any, by the governing board or regional center which the Department deems necessary in order to resolve the conflict of interest; and

“(3) Stating the duration of the waiver, if approved, according to the following:

“(A) For the members of the governing boards who are subject to those regulations, the duration of the waiver may not exceed one year;

“(B) For the regional center employee, the duration of the waiver will be determined by the Department.

“(c) If the request for waiver is denied by the Department and/or the State Council or area board in the area pursuant to subsections (a) and (b) herein, the governing board member or regional center employee shall have thirty (30) calendar days from the date of receipt of the denial in which to either take whatever action is necessary to eliminate the conflict of interest or resign his or her position as a governing board member or regional center employee. During this thirty (30) calendar day period, the board member or employee shall avoid all involvement with and participation in the conflict of interest in question.”