

Area 14 Workforce Development Board

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Serving Applicants with a Close Relationship to the Workforce Innovation and Opportunity Act (WIOA) Program

Area 14 Policy 14.15-05

Effective: May 15, 2019



I. Purpose

The purpose of this policy is to outline requirements and procedures that ensure all individuals receiving services through the Workforce Innovation and Opportunity Act (WIOA) in Area 14 have been determined eligible, assessed, and served in an ethical manner that is free from any real or perceived conflict of interest

II. Effective:

Immediately

III. Background

The WIOA program, while not an entitlement, should be accessible to any individual who is eligible and suitable for services available in Area 14, subject to the policies and procedures of the Area 14 Workforce Development Board. However, when applicants have a close relationship to WIOA staff, management, and other specific stakeholders of the workforce development system, attention must be given to ensure access to program services is not based upon this relationship or political influence. It is possible that even without an intention to misuse WIOA funds, the decision to enroll an individual in the program could be perceived as improper and cause potential non-compliance with state and/or federal law.

All sub recipients of WIOA funds agree, through rule 5101:9-31-01 of the Administrative Code (entitled, 'General requirements for use and expenditures of WIOA funds for local areas'), that they will comply with the standards of conduct for maintaining the integrity of the program and avoid any conflict of interest in its administration including, but not limited to, 29 U.S.C. 2832 (g), chapter 6301 of the Revised Code, and Ohio ethics law.

IV. Definitions

Bright-line test: an objective rule that resolves a legal issue in a straightforward, predictable manner

Close relationship: the applicant's prior and/or present social interactions and/or business dealings with stakeholders of the workforce development system gives a reasonable observer cause to believe that the applicant's access to WIOA program services would be based upon this relationship, as opposed to demonstrated need.

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Close family member: parents, step parents, spouse, domestic partner, children, step-children, foster children, siblings, grandchildren, grandparents, and any immediate relatives by blood or marriage (i.e., in-laws, cousins, nieces, nephews, aunts, and uncles).

Stakeholders: individuals not related but have direct or indirect management or responsibility for managing the WIOA workforce system (including WIOA executive staff, supervisors, local elected officials, contractors (e.g., adult, dislocated worker, or youth program providers), WDB and subcommittee members, WIOA employees, and OhioMeansJobs center partner staff).

V. Policy

When applicants have a close relationship to WIOA staff, management, and other specific stakeholders of the workforce development system, attention must be given to ensure access to program services is not based upon this relationship or political influence. Although this determination may be simple if the applicant is a close family member or friend, it may be more difficult if the applicant has a close relationship with WIOA staff, management, and other stakeholders.

In the absence of a bright-line test to highlight these “close” relationships, WIOA staff, management, and other participants in the Area 14 workforce development system will avoid the appearance of impropriety by abstaining from directly assisting and/or influencing the application process of friends, close family members, former and/or present colleagues, and persons with whom they have an ongoing social or business relationship. Likewise, decisions relating to approving training, supportive services, job referrals, or other service needs must be made by workforce partners with no such relationship to the applicant. Stakeholders identified in this issuance shall not use their position to influence a decision to enroll an individual in the WIOA program.

Disclosure and Documentation

Area 14 program operators shall incorporate into their application/assessment for WIOA services a process for immediate disclosure of a potential conflict between the applicant and any of the following stakeholders of the workforce development system:

- a. Local elected officials;
- b. WDB members, including Executive Director of the board;
- c. WDB sub-committee members
- d. WIOA executive staff and supervisors;
- e. Ohio Means Jobs center staff
- f. Procured WIOA “Career” and “Youth” program operator staff
- g. WIOA sub-recipients and/or contractors; and
- h. County JFS employees (as CCMEP lead agency in each county in Area 14)

All individuals applying for services in the WIOA program are required to indicate whether or not a relationship exists that is covered by this policy. Documentation of the disclosure, including the name of the person and the nature of the relationship, must be maintained in the participant's file and on the Close Relationship List kept in each county. When a relationship exists, it must be disclosed at the time of application to the program.

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Process

An "arms-length determination" of eligibility must be conducted by a staff member that has no relationship with the applicant.

When an application is received and a conflict exists with either a local elected official, WDB or Subcommittee member, or WDB Executive Director, the application will be forwarded to another Ohio local workforce development area for eligibility determination, provided Area 14 has entered into an agreement with another Ohio local workforce development area for this arrangement. If no such arrangement exists, eligibility, appropriateness and service approval will be determined by unanimous agreement from each of the following:

- a. WDB Director (unless subject to the conflict)
- b. Procured WIOA "Career" or "Youth" program operator Directors or designees, as applicable (from counties without relationship to applicant)
- c. WIOA Supervisors (from counties without relationship to applicant)

When an application is received and a conflict exists with either WIOA employees, Ohio Means Jobs center partner staff, WIOA sub-recipients and/or contractors, or county JFS employees, the application will be forwarded to another WIOA Supervisor in Area 14 for determination of eligibility and appropriateness. These requests may be sent to either of the two other counties, but will generally follow this rotation:

Perry County applications sent to Meigs County

Meigs County applications sent to Athens County

Athens County applications sent to Perry County

Determinations of eligibility and appropriateness will be in writing to the originating county, will include determination of eligibility for all possible WIOA programs (in-school, out of school, adult and/or dislocated worker), and may be provided via email. A copy of the email will be placed in the applicant's file. The applicant's name will be put on a Close Relationship list created by each county that will include the participant's name, date of application, date of approval, nature of the relationship and name and county of the program officer approving or denying the application.

After eligibility and appropriateness determinations have been made for individuals subject to this policy, subsequent service determinations, including training and supportive services, may be handled in the county of application, provided all determinations are made by staff with an "arms-length" distance from the applicant. However, each funded service must be pre-approved by the eligibility-determining county prior to authorization. Attachment A will be used to document each pre-approval.

When a conflict exists, the WDB Executive Director will be notified of the conflict and the eligibility and appropriateness determinations by email.

In the event that the conflict arises from an Ohio Means Jobs center partner staff, provider staff, etc. that operate in multiple counties, the Executive Director of the WDB will assign eligibility, appropriateness and service determination to individuals whom, using the best judgement of the Director, can make these determinations without the appearance of a conflict.

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Tracking

All providers within the Area 14 workforce development system must provide a list of all participants who have disclosed that a close relationship to WIOA staff, management, or other specific stakeholders of the workforce development system exists to ODJFS program monitors, auditors and or WDB Director at the onset of all monitoring visits.

Area 14 is required to provide training on this policy to persons directly involved with the assessment and determinizing eligibility of participants. Area 14 must ensure that all new staff members and providers are informed of this policy.

Real or perceived violations of this policy shall result in referral, including but not limited to the Ohio Ethics Commission or prosecuting authority for investigation.

Monitoring

The Area 14 Workforce Development Board and/or contracted monitor will conduct oversight of the close relationship participants to ensure that participants enrolled in the programs are eligible and that eligibility has been properly documented. Program Operators are required to make available to the board and/or contracted monitors all relevant participant files, documents and paperwork as well as the Close Relationship list that each county should be keeping.