

## **ALAMEDA COUNTY WORKFORCE DEVELOPMENT BOARD CONFLICT OF INTEREST POLICY**

1. This Conflict of Interest Code ("Code") is adopted pursuant to the requirements of Title 2 Code of Federal Regulations (CFR) 200.112, Title 2 CFR 200.318 (a) through (c), Title 20 CFR 683.200 (c)(5), Title 29 CFR Section 97.36(b)(3), California Government Code Section 87300, and Title 2 California Code of Regulations (CCR) Section 18730.
2. "Member" refers to a member of the Alameda County Workforce Development Board (ACWDB), unless otherwise specified. "Employee" refers to an employee of the ACWDB, unless otherwise specified. "ACWDB Director" refers to the Executive Director of the Alameda County Workforce Development 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 Innovation and Opportunity Act (WIOA) Public Law 113-128, section 107; Government Code Sec. 87100.
3. A Member may not vote on a matter under consideration by the ACWDB 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. WIOA Section 107(h)(l).
4. A Member must not engage in any activity determined by the Governor to constitute a conflict of interest as specified in the State plan. WIOA Section 107(h)(2).
5. A 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 their immediate family. Title 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 Members or staff to take a position for or against an issue.
6. Neither membership on the ACWDB nor the receipt of WIOA funds to provide training and related services, by itself, violates these conflict-of-interest provisions. Title 20 CFR 667.200(a)(4)(i).
7. No Employee, or Member of the ACWDB 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 their immediate family, their 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 Grantees (29 CFR 97.36(b)(3)).

8. Members or Employees of the ACWDB will neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements. The ACWDB 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 comply with state law, including the California Political Reform Act of 1974, Government Code Section 81000 et seq., and Title 2 Code of Regulations, Section 18100.
9. Members shall not be financially interested in any contract made by them in their official capacity or in any contract made by the ACWDB. Government Code Section 1090. This requirement shall not apply to any contract or grant made by the ACWDB 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 ACWDB or the entity the Member represents, or financially benefits the Member or the entity they represents; (b) the Member fails to recuse themselves from making, participating in making, or in any way attempting to use their 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).et seq.
10. "Financial interest" includes possible disadvantage to a competitor of the business or non-profit 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 ACWDB so that the interest can be noted in the official records; shall not influence or try to influence another Member to enter the contract or not enter the contract; and shall not vote concerning whether the ACWDB 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 their official position to influence a decision of the ACWDB in which they know or have reason to know they have 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 their immediate family, or on their 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 ACWDB is required to disqualify themselves from participation in a decision which may foreseeably have a material financial impact on their 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 ACWDB 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 they would be required to report the receipt of income or gifts from that source on their 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 they would be required to report the receipt of income or gifts from that source on their Statement of Economic Interests. Title 2 CCR Section 18730(b)(8.1)(A).
19. When a Member determines that they should not make a governmental decision because they have a disqualifying interest in that decision, the Member shall disclose their determination and disqualifying interest, and this disclosure shall be made part of the official record of the ACWDB. 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 ACWDB Director determines that they should not make a governmental decision because they have a disqualifying interest in that decision, the ACWDB Director shall disclose their determination and disqualifying interest in writing to the chairperson of the ACWDB and to the Director of the Alameda County Social Services Agency or designee. Title 2 CCR Section 18730(b)(10).

21. When an Employee (other than the ACWDB Director) or a consultant determines that they should not make a governmental decision because they have a disqualifying interest in that decision, that person shall disclose their determination and disqualifying interest in writing to the ACWDB 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 ACWDB Director.
23. If the potential conflict involves an Employee, the ACWDB Director will dismiss the Employee from all matters related to the potential conflict. If the potential conflict involves a Member, the ACWDB Director will consult with the chairperson of the ACWDB as appropriate.
24. 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.
25. All instances of non-participation 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- Designated Officials**

<b>Position</b>	<b>Disclosure Category</b>
Member, Alameda County Workforce Development Board	1
Director, Alameda County Workforce Development Board	1
Assistant Director, Alameda County Workforce Development Board	1
Management Analyst, Alameda County Workforce Development Board	1
Consultants <sup>1</sup>	1

---

<sup>1</sup> The ACWDB Director 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 ACWDB Director'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 - Disclosure Categories


### **Disclosure Category 1**

Definition: The "Workforce Development Area" consists of County of Alameda, outside the city of Oakland.

Designated officials in Disclosure Category 1 must disclose:

1. All sources of income located or doing business in the Workforce Development Area.
2. All interests in real property located in the Workforce Development Area or located within two miles of the boundary of the Workforce Development Area, or within two miles of land owned or used by the ACWDB.
3. All developments and business positions in business entities located in, or doing business in, the Workforce Development Area.

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



Bethany McCormick  
Alameda County Workforce Development  
Board Chair

6/27/22  
Date



Keith Carson  
President of the Board of Supervisors  
County of Alameda

8/22/2022  
Date

Approved as to Form

DONNA R. ZIEGLER, County Counsel

By Victoria Wu

Print Name VICTORIA WU