

Washington State

Workforce Innovation and Opportunity Act Title I-B Policy

Policy Number: 5411, Revision 1

Policy Title: Employment Security Department Segregation of Duties, Disclosure and Recusal

Effective Date: July 1, 2016

1. **Purpose:**

It is the policy of the Employment Security Department (ESD) that divisions and employees engaged in the administration, oversight, and operation of federal Workforce Innovation and Opportunity Act (WIOA) grant programs minimize organizational conflicts of interest through segregation of duties, disclosure, and recusal in order to foster public and partner confidence.

2. **Background:**

ESD's multiple roles under WIOA involve state administrative functions (fiscal, program, and administrative policy development; grants/contracts administration, oversight, and monitoring; data systems; federal performance reporting); mandated participation on state and local boards that develop strategic workforce direction and policies; and local grant/contract sub-recipients and service providers. These roles can create conflicts of interest.

3. **Policy:**

a. **Segregation of Duties**

i. **ESD will establish and maintain the following segregation of duties among its internal divisions as it relates to responsibilities under WIOA:**

1. **Financial and Administrative Services Division (FASD).** Responsible for advising on fiscal policy; pursuing grant opportunities; developing and allocating resources for grants and contracts with Local Workforce Development Boards (LWDBs); reviewing invoices and reimbursing expenditures related to those contracts; monitoring those contracts for fiscal and programmatic performance and compliance with the federal law, rules, guidance, and state policy; and submitting federal financial reports to the U.S. Department of Labor (DOL).
2. **Labor Market and Performance Analysis (LMPA).** Responsible for producing labor market and workforce data and reports used by the agency, LWDBs, and others to analyze performance, apply for grants, and identify potential projects and for submitting quarterly and annual performance reports to DOL.

3. **Workforce Initiatives (WI).** Responsible for aligning agency activities with strategic goals and managing the agency's relationship with the State Workforce Development Board (SWDB) and LWDBs.
4. **Employment System Policy (ESP) Division.** Responsible for developing state WIOA, WorkSource System, and Unemployment Insurance policies and guidance for agency staff, LWDBs, and LWDB contractors as well as serving as final approver of WIOA-related grants and contracts.
5. **Employment Connections (EC) Division.** Responsible for operational management of the agency's field structure to deliver program services, including those to provide local WIOA Title I services when ESD is a successful bidder.
6. **Internal Audit Unit.** Responsible for reviewing divisional compliance with this policy.

ii. **The following procedures will be implemented to further segregate duties and minimize conflicts of interest among the organizational entities cited above:**

1. **Separating Strategy and Administration:** WI will develop strategic initiatives in consultation with LWDBs; FASD will review subsequent proposals and negotiate and recommend funding of LWDBs; ESP will serve as the approver of the FASD recommendations; and FASD will provide post-approval administration of grants and contracts, including performance-related corrective actions.
2. **Grant Proposals:** For grant applications/proposals developed on behalf of LWDBs, FASD will use criteria developed in collaboration with the Washington Workforce Association (WWA) to determine which LWDBs are included in the proposals.
3. **Data Sharing/Availability:** FASD and LMPA will make WIOA-related financial, participant, and performance data (including federal reports) available to all requesting entities (within the limits of [RCW 50.13](#) and other confidentiality provisions) when those entities are competing for the same contracts or grants.
4. **Signature/Approval Authority:** ESP will have signature/approval authority for all WIOA grants and contracts, including those for which EC is a local service provider.
5. **Grants Administration Protocol:** ESD staff responsible for administration of WIOA grants and contracts will only engage designated LWDB sub-grantees/contractors. They will not engage sub-sub-grantees/sub-contractors unless explicitly requested by LWDBs in writing.

b. Disclosure

Potential conflicts of interest arise from ESD's required membership on the SWDB and LWDBs that establish strategic direction and policy and issue and approve competitive requests for proposals which ESD may pursue. It is the policy of the agency that employees who serve on such boards as members or proxy members do the following:

- i. Disclose conflicts of interest and recuse themselves from discussions or decisions related to these issues.
- ii. Ensure that disclosures of conflict of interest made during board meetings be documented in meeting proceedings and in approved minutes.
- iii. Contact ESD's Internal Audit Unit with questions regarding possible conflicts of interest.

c. Recusal/Abstention

- i. State and Local Board Activities: ESD employees who serve as members or proxy members of the SWDB or LWDBs must recuse themselves from involvement in discussions or decisions in which the agency has a conflict of interest. It is the policy of the agency that employees who serve on such boards do the following:
 1. Abstain from offering motions and/or voting on matters wherein ESD has disclosed a conflict of interest, to include physically leaving the room when such discussions are underway so as not to influence deliberations.
 2. Abstain from activities that could unduly influence the outcome of the award process (e.g., participating in board discussion, development of Requests for Proposal or RFP, serving on review and scoring panels or committees).

- ii. State Oversight Activities: ESD employees engaged as WIOA Title I subrecipients (youth, adult or dislocated worker program service providers) and subcontractors (e.g., one-stop operators, National Dislocated Worker Grants, Governor's statewide contracts) are prohibited from communicating directly with ESD state oversight entities on issues, concerns, or findings identified in the course of monitoring and/or grants and contracts review. Communication in these matters will be coordinated by and through LWDBs, which are responsible for overseeing and monitoring the activities of their subrecipients and subcontractors.

d. Nondisclosure

ESD employees who serve as members or proxy members of the SWDB or LWDBs are prohibited from sharing with their organization any advanced, non-public information related to RFPs that will be issued by those boards and for which ESD may be a respondent to avoid providing an unfair advantage to the agency in the RFP process.

e. Reporting and Resolving Conflicts of Interest

ESD employees who identify a possible violation of this policy must report it to their direct supervisor and division director (if they are not the same) and ESD's Internal Audit Unit. The division director will work with the Internal Audit Unit to resolve the conflict. The Internal Audit Unit will render a determination and recommend corrective action if a conflict exists and the policy has been violated.

f. Annual Disclosure and Compliance Statements

ESD employees who serve as members or proxy members of the SWDB or LWDBs or are WIOA Title I subrecipients must annually sign a statement ([Attachment A](#)) affirming that they:

- i. Read and understood this policy.
- ii. Were provided with a signed and dated copy of the statement.
- iii. Had an opportunity to discuss this policy with their supervisor and/or the Director of Internal Audit.

- iv. Had an opportunity to ask questions about the policy and had those questions answered.
- v. Agree to adhere to the standards and requirements set forth in this policy.

The original signed and dated documents must be mailed to ESD's Human Resources Division where they will be retained in employees' personnel files for a time not less than the required federal retention period.

If at any time during the year, an ESD employee's status changes such that this policy now applies, the employee must submit an annual disclosure form.

g. Annual Audit

The Internal Audit Unit will review this policy annually and provide a report to the ESD Executive Leadership Team that identifies violations of the policy, resolution of those violations and recommendations for updating or strengthening the policy as needed.

4. Definitions:

Conflict of Interest – Conflict between the official responsibilities and the private interests of a person or entity that is in a position of trust. A conflict of interest would arise when an individual or organization has a financial or other interest in or participates in the selection or award of funding for an organization. Financial or other interest can be established either through ownership or employment.

5. References:

- [20 CFR 679.430](#) - Entities performing multiple functions
- [20 CFR 683.200\(c\)\(5\)](#) - Administrative Rules, Costs, Limitations – WIOA Title I and Wagner-Peyser
- [29 CFR 97.36\(3\)](#) - Procurement
- [2 CFR 899 Part 200 and Part 2900](#) - Office of Management and Budget Uniform Guidance on administrative, cost, and audit provisions for federal grants
- [Revised Code of Washington \(RCW\) 42.50](#) - Ethics in Public Service
- [WIOA Title I Policy 5405 – Conflict of Interest](#)

6. Supersedes:

WIOA Title I Policy 5411

7. Website:

[Workforce Professionals Center](#)

8. Action:

Local Workforce Development Boards and their contractors must distribute this policy broadly throughout the system to ensure that WorkSource System staff are familiar with its content and requirements.

9. Attachments:

[Attachment A](#) – WIOA Title I Policy 5411 (Segregation of Duties, Disclosure, and Recusal)
Acknowledgement Form

Direct Inquiries To:

*Office of Internal Audit
Employment Security Department
P.O. Box 9046
Olympia WA 98506-9046
ESDGPInternalAudit@esd.wa.gov*

Direct Other Inquiries To:

*Employment System Administration and Policy
Employment System Policy and Integrity Division
Employment Security Department
P.O. Box 9046
Olympia, WA 98507-9046
SystemPolicy@esd.wa.gov*

ATTACHMENT A

Employment Security Department

WIOA Title I Policy 5411 - Segregation of Duties, Disclosure, and Recusal

By my signature, I acknowledge the following:

- I have read and understand this policy.
- I will be provided with a signed and dated copy of this attachment.
- I have been given the opportunity to discuss this policy with my supervisor and/or the Director of Internal Audit.
- I have had the opportunity to ask any questions I have about the policy and those questions have been answered.
- I agree to adhere to the standards and requirements set forth in this policy.

Printed Employee Name	Employee's Signature	Date
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By my signature, I acknowledge that I have discussed this policy with this employee and have answered his/her questions. I am satisfied that the employee understands this policy.

Supervisor/Manager Signature	Title	Date
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