



August 10, 2009

**Workforce Investment Act Policy Letter No. 08-13.1**

To: WIA Local Workforce Investment Boards (WIBs), Fiscal Agents,  
Administrative Entities, and One-Stop Operators

From: Douglas E. Lumpkin, Director

Subject: Serving Immediate Family Members, Close Acquaintances, and  
Other Stakeholders in the Workforce Investment Act (WIA)  
Program

**I. Purpose**

To require local Workforce Investment Boards (WIBs) to establish policies and procedures that ensure all individuals enrolled in the WIA program have been determined eligible, assessed, and served in an ethical manner that is free from any real or perceived conflict of interest.

**II. Effective Date**

Immediately

**III. Background**

Although WIA is not an entitlement program, access to needed services by eligible and suitable individuals is essential in order to fulfill the goals and objectives of the legislation. Local elected officials, WIBs, designated fiscal agents, and administrative entities must help meet these objectives through effective policies, procedures, and safeguards that ensure the integrity of these public funds. Safeguards must be in place throughout the State that ensure all individuals served in the program are not only eligible and suitable, but also served in manner that is free from the perception of any impropriety or conflict of interest.

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#### IV. Requirements

All subrecipients of WIA funds agree through OAC Rule 5101:9-31-01, General Requirements for use and expenditures of WIA funds for local areas, that in administering its local areas, 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), ORC chapter 6301 and Ohio ethics law.

The WIA program, while not an entitlement, should be accessible to any individual who is eligible and suitable for services available at the local area, subject to local WIB policies and procedures. However, when applicants have a close relationship to WIA staff, management, and other specific stakeholders of the workforce investment 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 WIA 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.

Effective immediately, all local WIBs must establish policies and procedures for determining eligibility and service needs of immediate family or close personal relations of local elected officials, WIB members, Youth Council members, WIA executive staff and employees, and One-Stop partners.

In no instance shall any person determine eligibility, assess, or directly serve a member of his or her immediate family member or an individual with whom a close personal relationship exists. Likewise, stakeholders identified in this issuance shall not use their position to influence a decision to enroll an individual in the WIA program.

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.

When a relationship exists, it must be disclosed at the time of application to the program, and documented for the record. Thereafter, the local policy that describes how the individual will be determined eligible, assessed, and served (if appropriate) in the WIA program must be followed.

An arms-length determination of eligibility and assessment must be conducted by a staff member that has no relationship to the individual. Likewise, decisions related to approving training, supportive services, or other service needs must be made by an authorized manager with no such relationship to the applicant.

The WIB Chair or the WIB Fiscal Agent may sign in lieu of the Executive Director if an Executive Director is not available.

Local areas must provide a list of all individuals subject to this policy to ODJFS program monitors and auditors at the onset of all monitoring visits.

### **A. WIB Policy Requirements**

Local policy and procedures must include, at a minimum, the following requirements:

1. Require immediate disclosure and documentation of the relationship between the applicant and any of the following parties/stakeholder of the workforce investment system:
  - a. Local elected officials
  - b. WIB members
  - c. WIB committee or subcommittee members
  - d. Youth Council members
  - e. WIA executive staff and supervisors
  - f. WIA employees
  - g. One-Stop partners
  - h. Contractors
  - i. County employees
2. Describe the internal process that will ensure that a transparent and arms-length assessment of the individual applicant's eligibility, and any corresponding development of the individual employment plan, has been conducted by staff with no personal relationship, bias, special interest, or prejudice.
3. Describe the approval process for authorizing an individual subject to this policy to be served in the local WIA program, including how training and supportive service decisions are made.
4. Describe how individuals subject to this policy will be tracked by the local WIB.
5. Describe the process and frequency by which the local WIB will monitor compliance with the local policy.

Local WIBs are required to provide training on the local WIB approved policy to persons directly involved with assessments and determining eligibility of participants.

Local WIBs are required to develop agreements or memorandums of understanding with other Ohio WIBs to accept referrals for eligibility determination, and suitability and/or assessment to receive services when the referring WIB's applicant is a family member of an elected official, WIB or Youth Council member, or WIA executive staff or supervisor, in order to avoid situations that give rise to a suggestion that any decision was influenced by these parties.

The local WIB policies and procedures must be submitted to the Ohio Department of Job & Family Services, Office of Workforce Development (OWD) for review and approval within 45 days of the issuance of this policy. The submission must include the board's resolution or board meeting minutes that state that the policy has been adopted by the board. Policies must be emailed to ODJFS/OWD [WIAQNA@JFS.OHIO.GOV](mailto:WIAQNA@JFS.OHIO.GOV) with "Serving Family, Friends and Stakeholders" in the subject line. A representative from OWD will review the local WIB policy for compliance to the minimum specifications described in this policy. The approved policy will be added to the local business plan on file with OWD and will be included in monitoring by ODJFS program and financial auditors.

## **B. Definitions**

Close Family Member:	Include parents, children, siblings, spouses and domestic partners. (As defined by the State of Ohio Governor's Executive Order 2007-01S)
Immediate and other family:	Consists of the individual's parents (including step-parents), spouse, domestic partner, children (including 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 to WIA agency staff or management, that have direct or indirect management or responsibility for managing the WIA workforce system, including WIA executive staff, supervisors, local elected officials, contractors, WIB and Youth Council members, WIA employees, and One-Stop partners.
Close Relationship:	An applicant has a "close relationship" to WIA staff, management or other specified stakeholders of the workforce investment system if and when the applicant's prior and/or present social interactions and/or business dealings with the stakeholder would give a reasonable observer cause to believe that the applicant's access to program services was based upon this relationship, as opposed to a demonstrable need. Although

there is no bright line test for the determination of such a relationship, WIA staff, management and other workforce investment systems stakeholders are advised to avoid the appearance of impropriety by abstaining from directly assisting and/or influencing the application process of friends, former and/or present colleagues and persons with whom they have an ongoing social or business relationship.

## **V. Technical Assistance**

For additional information, you may send your questions to the Office of Workforce Development: [WIAQNA@JFS.OHIO.GOV](mailto:WIAQNA@JFS.OHIO.GOV).

## **VI. References**

Workforce Investment Act of 1998, Public Law 105-220 et. al.  
Workforce Investment Act Final Rules, 20 CFR Part 652, Section § 667  
OAC Rule 5101:9-31-01, General Requirements for use and expenditures of WIA funds for local areas  
ORC-Chapter 102-Ohio Ethics Law, Public Officers-Ethics  
29 CFR 95.42 - Codes of conduct  
29 CFR 97.36(b)(3) - Uniform Administration Requirements-Post-Award Requirements  
ODJFS, FAPMTL 248  
Governor's Executive Order 2007-1S  
ODJFS Administrative Procedure Manual Transmittal Letter number 248