

EMPLOYERS' TRAINING RESOURCE

**1600 E. Belle Terrace
Bakersfield, CA 93307**

POLICY BULLETIN: #ETR 09d-19

TO: All ETR and *Subrecipients*
FROM:  **Teresa Hitchcock, Assistant County Administrative Officer**
DATE: May 9, 2019
SUBJECT: Policy for Nepotism, Favoritism and Conflict of Interest

**This Policy Bulletin Supersedes Any Previously Issued Policy Statements Concerning
Nepotism, Favoritism, and Conflict of Interest**

The following policy is prepared to act as a guideline for conduct in working with our program customers and with other program staff.

The goal of Employers' Training Resource (ETR) is to give our customers the best program quality possible. This means that our customers know that:

- They are treated fairly,
- Our staff **and subrecipients** act in the most professional way possible, and
- Staff conduct meets the highest ethical standard for public service.

It is the policy of ETR that all program customers will be provided the highest quality of service and treated with respect and courtesy in the highest professional manner while showing no:

- Favoritism,
- Nepotism,
- Conflict of interest,
- Violation of confidentiality or privacy rights, or
- Special treatment given to anyone except for valid legal reasons.

Under the Workforce Innovation and Opportunity Act (WIOA) regulations, General Procurement Standards under Uniform Guidance 2 CFR 200.318, General Procurement Standards, regarding Conflict of Interest must be adhered to by grant recipients and subrecipients.

20 CFR § 683.200 (g) Nepotism: (1) No individual may be placed in a WIOA employment activity if a member of that person's immediate family is directly supervised by or directly supervises that individual. (2) To the extent that an applicable State or local legal requirement regarding nepotism is more restrictive than this provision, such State or local requirement must be followed.

For this policy, the definition of “relative” (i.e. family) was taken from the Kern County Administrative Policy and Procedures Manual’s Nepotism Policy, Attachment E (see Attachment 4).

Definitions:

Conflict of interest exists when staff, *including the staff of a subrecipient*, use WIOA-subsidized time or resources for private gain or advantage. ***ETR’s contract with subrecipients may also utilize this definition when non-WIOA funds are used to contract for services.***

Nepotism exists when staff acts in a way that affects services for a relative or person of interest.

A relative is a relative by blood, marriage, or adoption, including the following relationships: spouse, child, stepchild, parent, stepparent, grandparent, ***grandchild***, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, parent-in-law, daughter-in-law, son-in-law, ***brother-in-law***, ***sister-in-law***, and first cousin.

A person of interest may include, but is not limited to, persons such as a cousin, a friend, or a person of close but non-marital relationship.

Standards of Conduct

The following ***standards*** apply to ETR and its ***subrecipients***:

- General assurances: Every reasonable course of action will be taken to maintain the integrity of this expenditure of public funds and to avoid favoritism and questionable or improper conduct. This agreement will be administered in an impartial manner, free from efforts to gain personal, financial or political gain. ETR and its ***subrecipients*** will avoid situations that suggest that any decision was influenced by prejudice, bias, special interest, or desire for personal gain.
- Conducting business involving relatives: No relative by blood, adoption or marriage of any ETR employee or its ***subrecipients*** will receive favorable treatment when considered for employment or enrollment in programs provided by ETR or its ***subrecipients***.
- Conducting business involving close personal friends and associates: Executives and employees of ETR or its ***subrecipients*** will be particularly aware of the varying degrees of influence that can be exerted by personal friends and associates and, in administering the agreement, will exercise due diligence to avoid situations which appear that favorable treatment is being granted to friends or associates.

Subrecipient requirement: Subrecipient staff that become aware of any potential or enrolled participant in their program who is related to an employee must provide this information to ETR immediately. The staff employee that is a relative of the participant may not enroll, case manage or supervise any aspect of that participant's activities. In addition, no individual may be placed in a WIOA employment activity if a member of that person's immediate family is directly supervised by or directly supervises that individual.

ETR staff will strive to meet the highest standards of professional ethical conduct. Therefore, all staff shall:

- Review this "Policy for Nepotism, Favoritism, and Conflict of Interest,"
- State by signature that they have done so and will act according to this policy, and
- Understand that disciplinary action may result for failure to comply with the policy.

The following are provided **to ETR staff** as a guide for policy application:

1. When **an ETR** staff member becomes aware that the potential for a policy violation exists for her/himself, s/he is to alert her/his supervisor so that appropriate action can be taken immediately. In this way, the potential for the appearance of a conflict of interest or nepotism is removed, trust between the worker, co-worker and supervisor is maintained and reinforced, and the highest ethical standards met and reinforced.
2. When **an ETR** staff member becomes aware that the potential for a policy violation exists for a co-worker, s/he is to alert the co-worker so that s/he can take appropriate action. In this way, trust between workers will be maintained and the highest ethical standards met and reinforced.
3. If **an ETR** staff member is unaware that a potential for a policy violation has occurred, no violation has occurred.
4. In no instance will **an ETR** staff member access records of a close relative or person of interest.
5. In no instance will the County employ a relative or co-habiting employee in the same unit or department if one has direct authority to hire, supervise, transfer, reward, discipline or otherwise affect working terms and conditions of the other. A co-habiting employee means an employee of the County sharing a residence with another employee of the same County department. This applies only to regular assignments or terms of more than 80 hours in a fiscal year. One must be reassigned, otherwise one of these relatives or cohabiting employees must choose to resign within 120 days or the employee with least seniority will be terminated.

In addition to 2 CFR 200.318 and 20 CFR § 683.200, ETR staff must adhere to Kern County Ordinance Code and the Kern County Administrative Policy and Procedures Manual regarding conflict of interest and nepotism (see Attachments).

Attachments:

1. Employers' Training Resource (ETR) annual employee signature form regarding compliance with ETR's Policy for Nepotism, Favoritism, and Conflict of Interest
2. Kern County Ordinance Code, Title 2 Administration, Chapter 2.02 Conflict of Interest, 2.02.010 Acts constituting conflict of interest
3. Kern County Ordinance Code, Title 2 Administration, Chapter 2.02 Conflict of Interest, 2.02.020 Departmental regulations to implement chapter provisions
4. Kern County **Administrative** Policy and Procedures Manual, Chapter 1 **Human Resources**, Exhibit E Nepotism Policy

INQUIRIES: If you have questions, *subrecipients* please contact your assigned *Departmental* Analyst. *ETR staff should contact their supervisor or Deputy Director.*

EMPLOYERS' TRAINING RESOURCE
POLICY FOR NEPOTISM, FAVORITISM, AND CONFLICT OF INTEREST

All employees must comply with the Employers' Training Resource Policy for Nepotism, Favoritism, and Conflict of Interest dated **May 9, 2019** including the Kern County Ordinance Code Sections 2.02.01-.02 regarding Conflict of Interest, and the Kern County **Administrative** Policy and Procedures Manual, Exhibit E Nepotism **Policy**.

By signing and dating below, I acknowledge that I have received, read, understood and will abide by the Employers' Training Resource Policy for Nepotism, Favoritism, and Conflict of Interest.

Name (Please Print): _____

Signature: _____ Date: _____

KERN COUNTY ORDINANCE CODE

Title 2: ADMINISTRATION

Chapter 2.02: CONFLICT OF INTEREST

2.02.010 Acts constituting conflict of interest.

A. No appointed officer or employee of the county of Kern shall engage in any employment, activity or enterprise which results in any of the following:

1. Using the prestige or influence of a county office or employment for the officer's or employee's private gain or advantage, or the private gain or advantage of another;
2. Using county time, facilities, equipment or supplies for the officer's or employee's private gain or advantage, or the private gain or advantage of another;
3. Using confidential information acquired by virtue of county employment for the officer's or employee's private gain or advantage, or the private gain or advantage of another;
4. Receiving or accepting money or any other consideration from anyone other than the county for the performance of an act which the officer or employee would be required or expected to render in the regular course or hours of his county employment or as a part of his duties as a county officer or employee;
5. Performance of an act in other than his capacity as a county officer or employee knowing that such act may later be subject, directly or indirectly, to the control, inspection, review, audit or enforcement by the officer or employee or by the department or agency by which he is employed;
6. Make, participate in making or in any way attempt to use his official position to influence a governmental decision (other than a decision affecting the officer's or employee's wages, hours, or working conditions) in which he knows or has reason to know he has a financial interest. The provisions of Government Code Sections 87100 through 87103.5, as amended from time to time, including, but not limited to, the definition of what constitutes "financial interest," and the regulations of the California Fair Political Practices Commission shall be controlling.

For purposes of this subsection an officer 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 officer or employee or a member of his immediate family or on:

- a. Any business entity in which the officer or employee has a direct or indirect investment worth one thousand dollars (\$1,000.00) or more.
- b. Any real property in which the officer or employee has a direct or indirect interest worth one thousand dollars (\$1,000.00) or more.
- c. Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250.00) or more in value provided to, received by or promised to the officer or employee within twelve (12) months prior to the time when the decision is made.
- d. Any business or entity in which the officer or employee is a director, officer, partner, trustee, employee, or holds any position of management.
- e. Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250.00) or more in value provided to, received by or promised to the officer or employee within twelve (12) months prior to the time when the decision is made.

"Indirect investment or interest" means any investment or interest owned by the spouse or dependent child of the officer or employee, by an agent on behalf of the officer or employee, or by a business

entity or trust in which the officer or employee, the officer's or employee's agents, spouse, and dependent children own directly, indirectly, or beneficially a ten percent (10%) interest or greater.

7. Non-county employment or self-employment outside of regular county working hours which involves such time demands or services of such a character as to impair effectiveness in county office or employment.

B. Any violation of the provisions contained in this section shall constitute sufficient grounds for immediate dismissal, suspension or reduction in rank or compensation of any appointed officer or employee of the county, subject to the right of officers and employees in the classified service to appeal such action in accordance with the provisions of Rule 1700 of the Rules of the Civil Service Commission of the county.

(Ord. G-4647 § 2, 1988: Prior code § 991)

KERN COUNTY ORDINANCE CODE

Title 2: ADMINISTRATION

Chapter 2.02: CONFLICT OF INTEREST

2.02.020 Departmental regulations to implement chapter provisions.

- A. Each officer and employee having charge of a department or institution in Kern County government shall review the activities of personnel in their respective departments or agencies and promulgate departmental regulations determining and proscribing employments, activities, and enterprises which are prohibited as being inconsistent, incompatible, in conflict with or inimical to their duties as employees in such departments under the provisions of Section 2.02.010 and other applicable provisions of law. Such regulations shall be consistent with the provisions of Section 2.02.010 and other applicable ordinances and general law, and are intended to facilitate employees' understanding of the basic policy contained in said provisions and accomplish its effective implementation within the respective departments of county government.
- B. Each department and agency head shall file a copy of such departmental regulations with, and the same are subject to review and modification by, the board of supervisors or such county officer as it may designate.
- C. Departmental regulations shall be re-examined and revised from time to time as necessary to facilitate compliance of department and agency personnel and to make such regulations more specific and definite with reference to the particular activities and functions of the department or agency.
- D. Any appointed officer or employee may engage in any employment, activity or enterprise which is not incompatible, inconsistent, or in conflict with or inimical to his office or duties subject to the prior approval of his appointing authority. Any appointed officer or employee denied approval to engage in such employment, activity, or enterprise by his appointing authority may submit a written appeal of such denial to the board of supervisors or its designee within ten (10) days of notice of such denial. The board of supervisors, or designee, shall consider the submitted appeal and the reasons for denial and render a decision, which decision shall be final.

(Ord. G-4647 § 3, 1988: Prior code § 992)

NEPOTISM POLICY

Purpose: To establish policy for the employment of immediate relatives in order to assure employment fairness consistent with the Civil Service Ordinance.

Policy: It is the County's policy not to discriminate in its employment and personnel actions with respect to its employees and applicants on the basis of marital, familial, or residential cohabitation status. Notwithstanding this policy, the County will not appoint a person to a position in the same department, division or facility where:

1. A relative and/or person cohabitating with an employee would have the direct authority to hire, supervise, transfer, suspend, layoff, recall, promote, discharge, assign, reward, discipline, or evaluate the performance of another relative or cohabitating employee.
2. One relative or cohabitating employee would be responsible for auditing the work of the other.
3. Other circumstances exist which place the relatives or cohabitating employees in a situation of conflict between the County's interest and their own.
4. This policy would apply only to the employee's permanent or regular assignment and not to any temporary or incidental assignment of the employee.

Definitions: *Relatives* means individuals who are related by blood, marriage or adoption including the following relationships: spouse, child, stepchild, parent, stepparent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, parent-in-law, daughter-in-law, son-in-law, brother-in-law, sister-in-law, and first cousin.

Cohabiting Employees means a County employee sharing a residence with another County employee or other County employees.

Application: All full- and part-time appointments to positions in the County service and appointments of extra-help employees and contract employees when the expected duration of the appointment is in excess of 80 hours in a fiscal year are subject to this policy. This policy also applies to persons related by blood or marriage residing in an employee's home.

Existing

Employees: When two existing employees marry or begin cohabitating, and a determination has been made that the relationship is subject to this policy, if reasonable accommodation cannot be made to reassign one of the employees, then one of the two employees must separate from County service within 120 days of the marriage or the onset of cohabitating living arrangements. The choice of who shall separate from County service is the employees'. In the event the employees do not agree with respect to which one shall resign, the employee with the least seniority, as defined in Civil Service Rules, shall be terminated.

In the event existing employees are working in capacities that are subject to this policy on the date of its effect, the department head shall notify the County Administrative Officer of names of the employees, and describe the employees' relationship and current work situation. The department head is responsible for achieving compliance with this policy at the earliest possible opportunity through reassignment of one employee to another work unit or facility, or other reasonable means. The department head shall annually submit a status report showing progress towards achieving compliance with this policy.