

~~BARCLAYS OFFICIAL~~ CALIFORNIA CODE OF REGULATIONS
TITLE 17. PUBLIC HEALTH
DIVISION 2. HEALTH AND WELFARE AGENCY -DEPARTMENT OF
DEVELOPMENTAL SERVICES
REGULATIONS
CHAPTER 3. COMMUNITY SERVICES
SUBCHAPTER 3. REGIONAL CENTER ADMINISTRATIVE PRACTICES AND
PROCEDURES
ARTICLE 1. REGIONAL CENTER CONFLICT OF INTEREST STANDARDS
AND PROCEDURES

§ 54500. Authority and Scope.

These regulations prescribe conflict of interest standards and procedures for all members of the regional center governing boards, and employees, and those acting on the regional center's behalf of the regional center to ensure that such persons make decisions relative to the regional center which are in the best interests of the center's consumers ~~clients~~ and families pursuant to authority provided in ~~§~~section 4627 of the Welfare and Institutions Code. ~~Members serving on the governing board of a regional center on January 1, 1982 are subject to these regulations to the extent not prohibited by Welfare and Institutions Code, Section 4626.~~

Note: Authority cited: Sections 4626 and 4627, Welfare and Institutions Code.
Reference: Sections 4626, ~~4626.5~~ and 4627, Welfare and Institutions Code.

§ 54505. Definitions.

As used in Article 1 of this subchapter, the following words and phrases have the specified meanings:

(a) "Area Board" means the organization of individuals established and constituted according to Welfare and Institutions Code, Section 454670 et seq.

~~(b) "Board Member" or "Member of the Governing Board" means an individual serving on a governing board of a regional center.~~

~~(b)(c)~~ (b)(e) "Business Entity, Entity or Provider" means any individual or business venture from whom or from which the regional center purchases, obtains, or secures goods or services to conduct its operations. These entities or providers include, but are not limited to, residential facilities, intermediate care facilities, skilled nursing facilities, facilities, supported and independent living services, hospitals, medical groups, activity centers, independent living facilities, housing providers, entities formed in support of the regional center, infant programs, clinics, laboratories, pharmacies, drug stores, ambulance services, furniture

stores, equipment and supply stores, physicians, psychologists, nurses, therapists, teachers, social workers, and contract case managers. For purposes of these conflict-of-interest regulations "business entity, entity or provider" does not include a consumer or family member of a consumer who receives vouchers for consumer services.

~~(c)~~(d) "Client" means the individual described in ~~Section 56551(e), Chapter 3, Subchapter 4, Article 1, Title 17, California Administrative Code~~ "Consumer" means an individual who has been determined by a regional center to meet the eligibility criteria of the Welfare and Institutions Code Section 4512, and of Title 17, California Code of Regulations, Sections 54000, 54001 and 54010, or Government Code Section 95014, and Title 17, California Code of Regulations 52020 and 52022, and for whom the regional center has accepted responsibility.

~~(d)~~(e) "Decision or Policy-Making Authority" means the authority an individual possesses whenever the individual:

(1) ~~makes a final decision~~ exercises discretion or judgment, without significant intervening substantive review, in making, advising or recommending, a decision or in making a final decision; or

(2) may compel a decision or may prevent a decision either by reason of an exclusive power to initiate the decision or by reason of a veto which may or may not be overridden; or

(3) makes substantive recommendations which are, and over an extended period of time have been, regularly approved without significant amendment or modification by another person or entity or provider; or

(4) votes on matters, ~~appoints or hires people,~~ obligates or commits his or her agency entity to any course of action, or enters into, modifies, amends, or renews, any contractual agreement on behalf of his or her agency entity, or has authority to obligate resources; or-

(5) votes to approve, appoint or ratify, or the individual approves, appoints, ratifies, assigns, elects, selects, designates, names, creates, confirms, contracts or hires; any director, trustee, member of the board, member of a board committee, officer, agent, employee, contractor, or consultant, for his or her entity or any other business entity or provider.

Decision or policy-making This authority does not include actions of the individuals which are solely ministerial, secretarial, or clerical.

~~(e)~~(f) "Department" means the Department of Developmental Services.

(f) "Family Member" includes the individual's spouse, domestic partner, parents, stepparents, grandparents, siblings, step-siblings, children, stepchildren, grandchildren, and in-laws parents-in-law, brothers-in-law, sisters-in-law, sons-in-law, and daughters-in-law.

(g) ~~"Governing Board" means the board of directors of a private nonprofit corporation which contracts with the State for the purpose of establishing and operating a regional center and which is constituted in accordance with Section 4622 of the Welfare and Institutions Code.~~ "Member of the Board" or "Member" means an individual serving as a member of the governing board, board of directors or board committee of a business entity, entity, or provider as defined herein.

(h) "Potential Conflict of Interest" means a situation which, based upon circumstances reasonably expected to occur at a point in the future, may result in a conflict of interest, as specified in ~~Sections 54520 or 54521 of these regulations,~~at that time.

(i) "Present Conflict of Interest" means a conflict of interest, as specified in ~~Sections 54520 or 54521 of these regulations,~~ which currently exists.

~~(j) "Prospective Client" means any person who has presented himself or herself, at the regional center, as requiring services for the developmentally disabled but who has not yet gone through the initial intake and assessment process.~~

~~(j)(k)~~ "Regional Center" means a diagnostic, counseling, and service coordination center for persons with developmental disabilities and their families which is established and operated pursuant to Chapter 5 of Division 4.5 of the Welfare and Institutions Code and Title 14 of the Government Code, by a private nonprofit corporation acting as a contracting agency.

~~(k)(l)~~ "Regional Center Employee" means any person who performs services for wages, salary or a fee under a contract of employment, express or implied, with the regional center. For purposes of these regulations, a business entity, entity or provider as defined in Section 54505(e) herein, is not a regional center employee.

(l) "Regional Center Governing Board" means the board of directors of a private nonprofit corporation which contracts with the State for the purpose of establishing and operating a regional center and which is constituted in accordance with section 4622 of the Welfare and Institutions Code.

(m) "Regional Center Operations" means those activities or services which regional centers are required by law, regulation, or contract with the State to provide, obtain, or purchase. Such activities include, but are not limited to, case finding, outreach, prevention, intake and assessment, individual program planning, case management, community programs, program development, and consumer ~~client~~ advocacy and protection.

(n) "State Council" means the organization of individuals established and constituted pursuant to Welfare and Institutions Code, Section 4520 et seq.

Note: Authority cited: Sections 4626 and 4627, Welfare and Institutions Code. Reference: Sections 4512, 4520, 4525, 4543, 4546, et seq., 4570 et seq., 4620, 4621, 4622, 4626, 4626.5, and 4627, 4641, 4642, 4643, 4644, 4646, 4647 and 4648, Welfare and Institutions Code.

§ 54520. Conflict of Interest Standards for Regional Center Governing Board Members. Positions Creating Conflicts of Interest for Regional Center Governing Board Members and Executive Directors.

(a) ~~The following constitute conflicts of interest for regional center governing board members:~~(1) A conflict of interest exists when a regional center member of the governing board member, executive director, or a family member of such person is any director, officer, owner, partner, shareholder, trustee or employee of any business entity or provider, holds any position of management in any business entity or provider, or has decision or policy-making authority in such an entity or provider, of the following for a business entity, entity, or provider as defined in section 54505 of these regulations, except to the extent such position is permitted by Welfare and Institutions Code, sSections 4622 and 4626-(a)(3) and (b). These conflict of interest provisions are in addition to those stated in Welfare and Institutions Code, Sections 4622(a)(9) and 4626.

- (1) a governing board member
- (2) a board committee member
- (3) a director
- (4) an officer
- (5) an owner
- (6) a partner
- (7) a shareholder
- (8) a trustee
- (9) an agent
- (10) an employee
- (11) a contractor
- (12) a consultant
- (13) a person who holds any position of management; or
- (14) a person who has decision or policy making authority

(b) An employee or contractor of a state or local government entity, which provides services to regional center consumers, who works in a position having no relation to providing those services to regional center consumers, does not have a conflict of interest as a result of his or her position. This exception does not apply to an employee of the Department of Developmental Services.

(c) There is no conflict of interest for purposes of these regulations where a consumer receives employment services through a regional center provider, and

the consumer's family member is a governing board member or executive director of the regional center, or the consumer's family member holds a position described in subsection (a)(1) to (14) with the provider providing the employment services, if the employment service is made equally available to all eligible consumers of the regional center in question.

(d) These conflict of interest provisions are in addition to those conflicts identified in Welfare and Institutions Code sections 4622 and 4626.

~~(2) A conflict of interest exists when the advisory committee board member, appointed pursuant to Welfare and Institutions Code, Section 4622(a)(7), is an employee or member of the governing board of a provider from which the regional center purchases client services and engages in the activities prescribed in Welfare and Institutions Code Section 4622(a)(9). Such member is therefore prohibited from serving as an officer of the regional center governing board and from voting on the matters or issues described in Section 4622(a)(9). Furthermore, the member is subject to disclosure under Section 54522 of these regulations in addition to providing a list of his or her financial interests, as defined in Government Code Section 87103. Fiscal matters, as used in Welfare and Institutions Code Section 4622(a)(9) include, but are not limited to, setting purchase of service priorities, transferring funds to the purchase of service budget, and establishing policies and procedures with respect to payment for services.~~

~~(3) A conflict of interest exists when a governing board member is any individual described in Welfare and Institutions Code Section 4626. A financial interest in regional center operations, as used in Welfare and Institutions Code Section 4626(a)(4), exists if it is reasonably foreseeable that the member's interest, or the member's decision regarding that interest, will have a material financial effect, on the board member's interest in, or relationship with, the business entity or provider pursuant to Government Code, Section 87103. The financial effect is material if the decision will result in a benefit, detriment, gain, loss or profit to the member, entity or provider.~~

~~(b) The regional center governing board shall not enter or authorize the regional center to enter into any contract or any other type of agreement for pecuniary gain with any entity or provider in which a member has a conflict of interest as set forth in subsection (a)(1) and (a)(3) above, nor shall the board or board member allow the regional center to refer a client or prospective client to such an entity or provider.~~

~~(c) No regional center governing board member who has a conflict of interest shall continue to serve as a board member in violation of these provisions unless the board member has eliminated the conflict of interest or obtained a waiver~~

~~pursuant to these regulations. This prohibition does not apply to the extent it is precluded by Welfare and Institutions Code, Sections 4626(a)(3) and (b).~~

Note: Authority cited: ~~Chapter 722, Statutes of 1992, Section 147; Sections 4622, 4626, and 4627 and 4791(i), Welfare and Institutions Code. Reference: Sections 4620.3, 4622, 4626, 4626.5 and 4627 and 4791, Welfare and Institutions Code and Section 87103, Government Code.~~

§54521. Conflict of Interest Standards for Regional Center Employees. Conflicts of Interest For Regional Center Advisory Committee Board Members.

(a) A conflict of interest exists when a regional center advisory committee board member, appointed pursuant to Welfare and Institutions Code section 4622(i), is:

(1) in any of the following positions for a business entity, entity, or provider from which the regional center purchases, obtains or secures consumer services:

- (A) member of the governing board
- (B) board committee member
- (C) owner
- (D) partner
- (E) shareholder
- (F) agent
- (G) manager
- (H) employee
- (I) contractor
- (J) consultant

and (2) that person does any of the following:

- (A) Serves as an officer of the regional center board; or
- (B) Votes on any fiscal matter affecting the purchase of services from any regional center provider; or
- (C) Votes on any matters in which the member has a financial interest as that term is defined in section 54522(b).

(b) "Fiscal Matters" as used in this subdivision, includes setting purchase of service priorities, making any fiscal commitments, transferring **purchase of service** funds to the purchase of service budget, and establishing policies and procedures with respect to payment of services.

Note: Authority cited: Sections 4626 and 4627, Welfare and Institutions Code. Reference: Sections 4622, 4626, and 4627, Welfare and Institutions Code.

~~(a) The following constitute conflicts of interest for regional center employees:~~

~~(1) A conflict of interest exists when a regional center employee or a family member of such person is a governing board member, director, officer, owner, partner, shareholder, trustee, or employee of any business entity or provider, holds any position of management in any business entity or provider, or has decision or policy-making authority in such an entity or provider, or makes a decision regarding regional center operations involving a business entity or provider in which he or she has a financial interest.~~

~~For the purpose of this section, an employee has a financial interest in regional center operations if it is reasonably foreseeable that the employee's interest or the employee's decision regarding that interest will have a material financial effect, as distinguished from its effect on the regional center's clients and/or their families generally, on:~~

~~(A) Any business entity or provider in which the employee has a direct or indirect investment worth more than one thousand dollars (\$1000).~~

~~(B) Any real property in which the employee has a direct or indirect interest worth more than one thousand dollars (\$1000).~~

~~(C) Any source of income, other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to employee status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the employee within 12 months prior to the time when the decision is made.~~

~~For purposes of this section, "indirect investment" or "interest" means any investment or interest owned by the spouse or dependent child of an employee, by an agent on behalf of an employee, or by a business entity or provider or trust in which the employee, the employee's agent, spouse, or dependent children own directly, indirectly, or beneficially a ten percent interest or greater.~~

~~The financial effect is material if it will result in a benefit, detriment, gain, loss, or profit to the employee, entity, or provider.~~

~~(2) A conflict of interest exists when a regional center employee devotes less than his or her full-time attention and effort to his or her regional center employment for that period for which he or she is being reimbursed.~~

~~(3) A conflict of interest exists when a regional center employee provides services for salary, honorarium, or compensation of any kind in such fashion that~~

~~the employee is receiving dual compensation for the same period of time. This subsection does not apply to regional center employees while officially off duty.~~

~~(4) A conflict of interest exists when a regional center employee participates in the evaluation of an application for employment at the regional center when the applicant is a member of the employee's family, or when an employee acts as a supervisor of another regional center employee who is a member of the supervisor's family.~~

~~(A) For the purpose of this subsection, supervisors shall include those individuals who serve as reviewing officer for reports of performance.~~

~~(B) For the purpose of this subsection, family members shall include: spouse, children, stepchildren, parents, stepparents, brothers, sisters, grandchildren, grandparents, or inlaws.~~

~~(b) No regional center employee shall continue employment with the regional center where the employee has a conflict of interest in violation of those provisions, unless the employee eliminates the conflict of interest or obtains a waiver pursuant to these regulations.~~

~~Note: Authority cited: Section 4627, Welfare and Institutions Code. Reference: Section 4627, Welfare and Institutions Code.~~

§54522. Conflict of Interest Disclosure – Content of Statements, Procedures and Actions Required for Resolution. Financial Interests in Decisions Creating a Conflict of Interest for Regional Center Governing Board Members and Executive Directors.

(a) A regional center governing board member or regional center executive director shall not make, participate in making or in any way attempt to use his or her position to influence a regional center or board decision, in which he or she knows or has reason to know, that he or she or a family member has a financial interest.

(b) Financial interest, as used in this section, includes any current or contingent ownership, equity, or security interest that could result directly or indirectly, in receiving a pecuniary gain or sustaining a pecuniary loss as a result of the interest in any of the following:

(1) business entity worth two thousand dollars (\$2,000) or more.

(2) real or personal property worth two thousand dollars (\$2,000) or more in fair market value.

(3) stocks or bonds worth two thousand dollars (\$2,000) or more.

(4) intellectual property rights worth five hundred dollars (\$500) or more.

(5) sources of gross income aggregating five hundred dollars (\$500) or more within the prior 12 months.

(6) future interests for compensation of five hundred dollars (\$500) or more.

(7) personal finances of two hundred fifty dollars (\$250) or more.

Note: Authority cited: Sections 4626 and 4627, Welfare and Institutions Code. Reference: Sections 4622, 4626, ~~4626.5~~ and 4627, Welfare and Institutions Code and Section 87103, Government Code.

~~(a) Within 60 calendar days of the effective date of this Article, each regional center employee who has decision or policy-making authority, as defined in Section 54505(e) herein, and each member of the governing board, including the board member designated by the regional center provider advisory committee pursuant to Welfare and Institutions Code, Section 4622(a)(7), shall prepare and file an initial conflict of interest statement pursuant to these regulations. Employees shall file their statements with their respective regional center and governing board members shall file their statements with their regional center governing board. Subsequent statements shall be filed thereafter whenever a change in status would create a present or potential conflict of interest situation as defined in these regulations. Individuals serving in any capacity under a waiver granted pursuant to Section 54523 of these regulations shall be required to file a conflict of interest statement with each waiver renewal as required pursuant to Section 54524(b)(3) of these regulations. The regional center and governing board shall designate the individual who is responsible for receiving, processing, and maintaining the initial and subsequent annual statements for their own respective agency. Such individual, however, may not review his or her own filed statement. The initial conflict of interest statement and all subsequent annual statements shall be dated, signed, and contain a declaration, under penalty of perjury, that the governing board member or employee has:~~

~~(1) No present or potential conflict of interest;~~

~~(2) A present conflict of interest; or~~

~~(3) A potential conflict of interest pursuant to these regulations.~~

~~The individual shall specify the factual basis for that determination and provide full and complete disclosure relative to any present or potential conflict of interest, including a description of the nature of the conflict of interest. For the board member designated by the regional center provider advisory committee pursuant to Welfare and Institutions Code, Section 4622(a)(7), the disclosure shall~~

include, to the extent not otherwise disclosed, a list of the member's financial interest as required by Welfare and Institutions Code, Section 4622(a)(9)(C).

~~(b) If a present or potential conflict of interest exists, the statements of regional center employees and governing board members, including the board member designated by the regional center provider advisory committee pursuant to Welfare and Institutions Code, Section 4622(a)(7), shall if desired by the governing board member or regional center employee, also contain a request for waiver of the prohibitions of any present or potential conflict of interest, and a suggested plan of action for resolution of the present or potential conflict of interest, including limitations on the governing board member or regional center employee which will enable him or her to avoid actions involving the conflict of interest during the period the waiver request is being reviewed pursuant to Section 54523 of these regulations.~~

~~(c) The regional center or regional center governing board shall review, respectively, the waiver requests of all regional center employees and governing board members, and determine, in its discretion, whether to submit the request pursuant to the regulations, or require the individual to eliminate the conflict of interest or resign his or her position as stated therein.~~

~~(d) If a present or potential conflict of interest exists and no waiver is requested, or if the regional center or regional center governing board elects not to submit such a request in accordance with these regulations, the regional center employee or governing board member, and the board member designated by the regional center provider advisory committee pursuant to Welfare and Institutions Code, Section 4622(a)(7), shall have thirty (30) calendar days from the date of filing the conflict of interest statement or the date of notification by the regional center or its governing board in which to either take whatever action is necessary to eliminate the conflict of interest, or resign his or her position as a regional center employee or governing board member. During the thirty (30) calendar day period, the employee or board member shall avoid all involvement with or participation in regional center activities involving the conflict of interest in question.~~

~~(e) If no conflict of interest is declared at the time of filing the initial statement or subsequent statements, no further action is required by the governing board member or regional center employee unless or until such time as that individual's status changes, so that he or she is in a present or potential conflict of interest situation. Upon such a change in status, a new statement shall be filed immediately with the member's governing board or the employee's regional center, specifying the factual basis for that determination and providing full and complete disclosure relative to the present or potential conflict of interest in accordance with provisions of subsection (a) above.~~

Note: Authority cited: Chapter 722, Statutes of 1992, Section 147; and Sections 4627 and 4791(i), Welfare and Institutions Code. Reference: Sections 4622, 4626, 4627 and 4791, Welfare and Institutions Code.

§ 54523. Requests for Waiver. Financial Interests in Contracts Creating a Conflict of Interest For Regional Center Governing Board Members and Executive Directors.

(a) The purpose of this section is to make certain that regional center governing board members and executive directors are guided solely by the interests of the regional center and its consumers and not by their personal financial interests when participating in the making of contracts in their official capacity.

(b) Regional center governing board members and regional center executive directors shall not be financially interested in any contract in which they participate in making in their official capacity.

(1) Financially interested, for purposes of this section, means any financial interest regardless of the dollar amount, and includes aiming to achieve a financial gain or avoid a financial loss. The financial interest may be direct or indirect and includes any monetary or proprietary benefit, gain of any sort, or the contingent possibility of monetary or proprietary benefits and extends to expectations of economic benefit. Certainty of financial gain is not necessary to create a conflict of interest.

(A) The financial interest is direct when the individual, in his or her official capacity, does business with himself or herself in his or her private capacity.

(B) The financial interest is indirect if a regional center board member or executive director enters into a contract in his or her official capacity with an individual or entity, and because of the relationship between the individual or entity to the board member or executive director, the individual or entity is in a position to render actual or potential pecuniary benefits to the board member or executive director based on that contract.

(2) Participation in the making of a contract includes any act involving preliminary discussions, development, negotiations, compromises, reasoning, planning, drawing of plans and specifications, solicitation for bids, approval and execution.

(c) If a regional center governing board member, executive director, or his or her family member, has a financial interest in a potential contract that creates a present or potential conflict of interest, ~~prior to the first consideration of the potential contract,~~ the regional center board member or executive director shall do all of the following prior to the first consideration of the potential contract:

(1) fully disclose the existence and nature of the conflicting financial interest to the regional center board;

(2) have it noted in the official board records;

(3) recuse himself or herself from making, participating in making, or in any way attempting to use his or her position to influence a decision on the matter;

(4) leave the room during any discussion or deliberations of the matter and shall not return until disposition of the matter is concluded; and

(5) shall not cast his or her vote upon any matter or contract concerning the financial interest or be counted for purposes of a quorum.

(d) Subdivision (c) does not apply if a board member, who is a regional center consumer, has a financial interest in a contract that will provide him or her with a financial benefit, if that benefit will be available to any regional center consumer.

(e) Regional center governing board members and executive directors shall not make any contract which is financially beneficial to a family member of such person, unless the benefits associated with the contract are available to regional center consumers or their families generally. When benefits associated with the contract are available to regional center consumer or their families generally, subdivision (c) does not apply.

(f) The regional center board may not avoid a conflicting financial interest in a contract by delegating its decision-making authority to another individual or body.

Note: Authority cited: Sections 4626 and 4627, Welfare and Institutions Code. Reference: Sections 4622, 4626, 4626.5 and 4627, Welfare and Institutions Code and Sections 1090 and 87103, Government Code.

~~(a) If the conflict of interest statement filed by the regional center governing board member or the regional center employee indicates that a present or potential conflict of interest exists and a waiver is being requested, then within thirty (30) calendar days of receipt of such a statement, the governing board or regional center shall, unless it has elected to do otherwise pursuant to Section 54522(c), submit the request for waiver packet in accordance with the procedures set forth in this section.~~

~~(b) All requests for waiver packets must be submitted to the Department. In addition, copies of requests for waiver packets involving governing board members must also be sent to the area board in the area and to the State Council.~~

~~(c) Requests for waiver packets shall include:~~

~~(1) A copy of the board member's or employee's conflict of interest statements;~~

~~(2) The request for waiver;~~

~~(3) The plan of action for resolution of his or her conflict of interest and the time frames for doing so; and~~

~~(4) Any limitations proposed by the governing board or regional center to be applied to the board member or employee during the term of the waiver. Limitations may include, but are not limited to:~~

~~(A) Abstention by the person from voting on the conflict of interest situations;~~

~~(B) Nonparticipation by the person, individually or as part of a group, in the preparation, presentation, formulation or approval of reports, plans, policies, analyses, opinions or recommendations regarding the conflict of interest situation, when the exercise of judgement is required and the purpose is to influence the decision;~~

~~(C) Noninvolvement of the person in the negotiation, obligation, or commitment of the regional center to a course of action involving the conflict of interest situation;~~

~~(D) Reassignment of the person to duties or responsibilities where no conflict of interest exists; and~~

~~(E) Establishment of an independent review and prior approval procedure by supervisors or administrative staff regarding purchase of service and other decisions made by the person with respect to the conflict of interest situation.~~

~~(5) The individual(s) responsible for ensuring that the above plan of action or limitations are applied and monitored;~~

~~(6) Any other information which the employee or board member feels is pertinent to his or her request.~~

~~Note: Authority cited: Section 4627, Welfare and Institutions Code. Reference: Sections 4627 and 4628, Welfare and Institutions Code.~~

§ 54524. Response to Requests for Waiver. General Prohibition of Conflicts of Interest for Regional Center Governing Board Members and Executive Directors.

(a) In addition to the specific conflict of interest requirements and restrictions set forth above, regional center governing board members and executive directors are obligated to discharge their responsibilities with integrity and fidelity, and are prohibited from placing themselves in a position where their private, personal interests may conflict with their official duties.

(b) Governing board members and executive directors are impliedly bound to exercise the powers conferred on them with disinterested skill, zeal and diligence and for the benefit of the regional center and the consumers.

(c) If a situation arises that has not been specifically addressed in these regulations, where a governing board member, executive director or his or her family member's personal or pecuniary interest conflicts with the individual's duty to act in the best interest of the regional center or the consumers, the governing board member or executive director is disqualified from taking any part in the discussion, or from making any recommendation or decision regarding the transaction or decision.

(d) In interpreting and applying this section, the common law doctrine against conflict of interest and the authorities interpreting that doctrine shall govern.

Note: Authority cited: Sections 4626 and 4627, Welfare and Institutions Code. Reference: Sections 4626 and 4627, Welfare and Institutions Code.

~~(a) Within twenty (20) calendar days after the area board in the area and the State Council receive copies of a request for waiver packet regarding a regional center governing board member, the area board in the area and the State Council, respectively, shall provide to the Department their written approval or disapproval of such request. The Department may not approve the request for waiver of a regional center governing board member without the approval of both the area board in the area and the State Council.~~

~~(b) Within sixty (60) calendar days after the Department receives a request for waiver packet the Department will respond to the request for waiver in writing:~~

~~(1) Explaining the outcome of its review including approval or denial of the request, where appropriate, and the rationale for the decision;~~

~~(2) Specifying the actions, if any, by the governing board or regional center which the Department deems necessary in order to resolve the conflict of interest; and~~

~~(3) Stating the duration of the waiver, if approved, according to the following:~~

~~(A) For the members of the governing boards who are subject to these regulations, the duration of the waiver may not exceed one year;~~

~~(B) For the regional center employee, the duration of the waiver will be determined by the Department.~~

~~(c) If the request for waiver is denied by the Department and/or the State Council or area board in the area pursuant to subsections (a) and (b) herein, the governing board member or regional center employee shall have thirty (30) calendar days from the date of receipt of the denial in which to either take whatever action is necessary to eliminate the conflict of interest or resign his or her position as a governing board member or regional center employee. During this thirty (30) calendar day period, the board member or employee shall avoid all involvement with and participation in the conflict of interest in question.~~

~~Note: Authority cited: Section 4627, Welfare and Institutions Code. Reference: Sections 4627 and 4628, Welfare and Institutions Code.~~

§ 54525. Sanctions Necessity of Conflict Resolution Plan for Conflicts of Interests For Regional Center Governing Board Members and Executive Directors.

(a) The regional center governing board or executive director shall not allow the regional center to refer a consumer to any business entity, entity or provider in which a board member or executive director has a conflict of interest as set forth in these regulations, unless the board member or executive director has eliminated the conflict of interest or obtained an approved Conflict Resolution Plan prior to the referral.

(b) No regional center governing board member or executive director who has a conflict of interest shall continue to serve as a board member or executive director in violation of these provisions, unless the individual has eliminated the conflict of interest or obtained an approved Conflict Resolution Plan. This subdivision does not apply to the extent it is permitted by Welfare and Institutions Code, sections 4622 and 4626.

Note: Authority cited: Sections 4626 and 4627, Welfare and Institutions Code. Reference: Sections 4622, 4626 and 4627, Welfare and Institutions Code.

~~(a) If the Department finds a governing board, a board member, a regional center or a center employee, in violation of any of the sections set forth in this Article, the Department shall:~~

~~(1) Immediately inform the party or parties in writing of such violation, including the supporting facts or information upon which determination of violation was made; and~~

~~(2) Require that the party or parties take appropriate action, within thirty (30) calendar days of the notice of violation, to resolve the conflict of interest or otherwise eliminate the violation. The Department may extend this thirty-day period only once and for a period not to exceed thirty (30) calendar days.~~

~~(b) If the violation is not resolved or eliminated within the thirty (30) calendar days as herein provided, and no extension of time has been granted by the Department, the Department may take immediate action to:~~

~~(1) Withhold part of the funding for that regional center; or~~

~~(2) Commence procedures for termination or nonrenewal of the regional center contract pursuant to Welfare and Institutions Code, Section 4635.~~

~~The area board in the area and the State Council shall be notified of the above action.~~

~~Note: Authority cited: Section 4627, Welfare and Institutions Code. Reference: Sections 4627 and 4635, Welfare and Institutions Code.~~

§ 54526. Purchases—Positions Creating Conflicts of Interests for Employees, Contractors, Agents and Consultants.

(a) A conflict of interest exists when a regional center employee with decision or policy making authority, or contractor, agent or consultant with authority to act on behalf of the regional center, or family member of such person, is any of the following for a business entity, entity, or provider as defined in these regulations:

(1) a governing board member

(2) a board committee member

(3) a director

(4) an officer

(5) an owner

(6) a partner

(7) a shareholder

(8) a trustee

(9) an employee

(10) an agent

(11) a contractor

(12) a consultant

(13) holds any position of management

(14) has decision or policy making authority

(b) An employee or contractor of a state or local government entity, which provides services to regional center consumers, who works in a position having no relation to providing those services to regional center consumers, does not have a conflict of interest as a result of his or her position. This exception does not apply to an employee of the Department of Developmental Services.

Note: Authority cited: Sections 4626 and 4627, Welfare and Institutions Code. Reference: Sections 4626, ~~4626.5~~ and 4627, Welfare and Institutions Code and ~~Section 87103, Government Code.~~

§ 54527. Records. Financial Interests in Decisions Creating a Conflict of Interest for Employees, Contractors, Agents or Consultants.

(a) A regional center employee, contractor, agent or consultant shall not make, participate in making or in any way attempt to use his or her position to influence a regional center decision, in which he or she knows or has reason to know that he or she, or his or her family member has a financial interest.

(b) Financial interest, as used in this section, includes any current or contingent ownership, equity, or security interest that could result directly or indirectly, in receiving a pecuniary gain or sustaining a pecuniary loss as a result of the interest in any of the following:

(1) business entity worth two thousand dollars (\$2,000) or more.

(2) real or personal property worth two thousand dollars (\$2,000) or more in fair market value.

(3) stocks or bonds worth two thousand dollars (\$2,000) or more.

(4) intellectual property rights worth five hundred dollars (\$500) or more.

(5) sources of gross income aggregating five hundred dollars (\$500) or more within prior 12 months.

(6) future interests for compensation of five hundred dollars (\$500) or more.

(7) personal finances of two hundred fifty dollars (\$250) or more.

Note: Authority cited: Sections 4626 and 4627, Welfare and Institutions Code. Reference: Sections 4622, 4626, ~~4626.5~~ and 4627, Welfare and Institutions Code and ~~Section 87103, Government Code.~~

§ 54528. Board Meetings. Financial Interests in Contracts Creating a Conflict of Interest For Regional Center Employees, Contractors, Agents and Consultants.

(a) The purpose of this section is to make certain that regional center employees, contractors, agents and consultants are guided solely by the interests of the regional center and the consumers and not by their personal interests, when participating in the making of contracts in their official capacity.

(b) Regional center employees, contractors, agents and consultants shall not be financially interested in any contract in which they participate in making in their official capacity.

(1) Financially interested, for purposes of this section, means any financial interest regardless of the dollar amount, and includes aiming to achieve a financial gain or avoid a financial loss. The financial interest may be direct or indirect and includes any monetary or proprietary benefit, gain of any sort, or the contingent possibility of monetary or proprietary benefits and extends to expectations of economic benefit. Certainty of financial gain is not necessary to create a conflict of interest.

(A) The financial interest is direct when the individual, in his or her official capacity, does business with himself or herself in his or her private capacity.

(B) The financial interest is indirect if an employee, contractor, agent or consultant enters into a contract in his or her official capacity with an individual or entity, and because of the relationship between the individual or entity to the employee, contractor, agent or consultant, the individual or entity is in a position to render actual or potential pecuniary benefits to the employee, contractor, agent or consultant based on that contract.

(2) Participation in the making of a contract includes any act involving preliminary discussions, development, negotiations, compromises, reasoning, planning, drawing of plans and specifications, solicitation for bids, approval and execution.

(c) Regional center employees, contractors, agents or consultants shall not make any contract which is financially beneficial to a family member of such person, unless the benefits associated with the contract are available to regional center consumers or their families generally.

Note: Authority cited: Sections 4626 and 4627, Welfare and Institutions Code. Reference: Sections 4622, 4626, ~~4626.5~~ and 4627, Welfare and Institutions Code and Sections 1090 and 87103, Government Code.

§ 54529. Sanctions. General Prohibition of Conflicts of Interest for Regional Center Employees, Contractors, Agents and Consultants.

(a) In addition to the specific conflict of interest requirements and restrictions set forth above, regional center employees, contractors, agents and consultants are obligated to discharge their responsibilities with integrity and fidelity, and are prohibited from placing themselves in a position where their private, personal interests may conflict with their official duties.

(b) A regional center employee, contractor, agent or consultant is impliedly bound to exercise the powers conferred on him or her with disinterested skill, zeal and diligence and for the benefit of the regional center and its consumers.

(c) If a situation arises that has not been specifically addressed in these regulations, where a present or potential personal conflict of interest exists as to a particular transaction or decision, the employee, contractor, agent or consultant is disqualified from taking any part in the discussion or from making any recommendation or decision regarding the particular matter.

(d) In interpreting and applying this section, the common law doctrine against conflict of interest and the authorities interpreting that doctrine shall govern.

Note: Authority cited: Sections 4626 and 4627, Welfare and Institutions Code.
Reference: Sections 4626 and 4627, Welfare and Institutions Code.

§ 54530. Employees, Contractors, Agents and Consultants Conflicts With Regional Center Duties.

(a) A conflict of interest exists when a regional center employee, contractor, agent or consultant participates in the evaluation of an application for employment or bid for position or contract at the regional center that is submitted by a family member of such person.

(b) A potential conflict of interest exists when a regional center supervisor who is an employee, contractor, agent or consultant ~~acts as a supervisor or acting on behalf of the regional center supervises~~ his or her family member who is a regional center employee, contractor, agent or consultant.

Note: Authority cited: Sections 4626 and 4627, Welfare and Institutions Code.
Reference: Sections 4626 and 4627, Welfare and Institutions Code.

§ 54531. Conflict of Interest Reporting Statements for Employees, Contractors, Agents and Consultants, Time for Filing.

(a) Each regional center employee, contractor, agent, and consultant, who has authority to act on behalf of the regional center, or who has decision or policy-making authority as defined in section 54505 of these regulations, shall complete and file a standard Conflict of Interest Reporting Statement (8/2012), hereby incorporated by reference.

(b) Each regional center employee, contractor, agent, and consultant shall complete and file an annual Conflict of Interest Reporting Statement with his or her respective regional center, whether or not the individual has identified a present or potential conflict of interest, by August 1 of each year.

(c) Each newly appointed regional center employee, contractor, agent, and consultant shall complete and file a Conflict of Interest Reporting Statement with the individual's respective regional center within 30 calendar days of assuming the position.

(d) Each regional center employee, contractor, agent, and consultant shall complete and file a new Conflict of Interest Reporting Statement within 30 calendar days of any change in status that creates a present or potential conflict of interest. For purposes of this subdivision, a change of status includes: reporting a previously unreported activity that should have been reported, change in the circumstance of a previously reported activity, change in a financial interest, familial relationship, or legal commitment(s), change in regional center position or duties, and change to outside position or duties. This requirement is in addition to the annual August 1 submission of a Conflict of Interest Reporting Statement required by this section.

(e) The executive director or the acting executive director of the regional center shall review the completed Conflict of Interest Reporting Statement of each regional center employee, contractor, agent, and consultant required to file a Conflict of Interest Reporting Statement pursuant to subdivision (a) of this section, within 10 working days of receipt of the completed Conflict of Interest Reporting Statement, and shall determine whether the statement identifies a present or potential conflict of interest.

Note: Authority cited: Sections 4626 and 4627, Welfare and Institutions Code. Reference: Sections 4622, 4626, ~~4626.5~~ and 4627, Welfare and Institutions Code.

§ 54532. Conflict of Interest Reporting Statements for Regional Center Governing Board Members and Regional Center Executive Directors, Time for Filing.

(a) Each regional center governing board member and regional center executive director shall complete and file an annual Conflict of Interest Reporting Statement with his or her respective regional center governing board, whether or not the

individual has identified a present or potential conflict of interest, by August 1 of each year.

(b) Each new candidate for the regional center governing board and each new candidate for regional center executive director shall disclose any present or potential conflicts of interest to the regional center governing board, prior to being appointed, elected, or approved for hire, by the regional center or the regional center governing board.

(c) Each new regional center governing board member and each new regional center executive director shall complete and file a Conflict of Interest Reporting Statement with his or her respective regional center board, within 30 calendar days of being selected, appointed, elected, or approved for the position.

(d) Each regional center governing board member and each regional center executive director shall complete and file a new Conflict of Interest Reporting Statement with his or her respective regional center board, within 30 calendar days of any change in status that creates a present or potential conflict of interest. For purposes of this subdivision, a change of status includes, reporting a previously unreported activity that should have been reported, change in the circumstance of a previously reported activity, change in financial interest, familial relationship, or legal commitment(s), change in regional center or regional center board position or duties, and change to outside position or duties. This requirement is in addition to the annual August 1 submission of a Conflict of Interest Reporting Statement required by this section.

(e) The regional center governing board shall submit a copy of each completed Conflict of Interest Reporting Statement, of the governing board member(s) and the regional center executive director, to the Department within 10 working days of receipt of the completed Conflict of Interest Reporting Statement.

(f) The Department and the regional center governing board shall review the Conflict of Interest Reporting Statement of each regional center governing board member and each regional center executive director and shall determine whether the statement identifies a present or potential conflict of interest.

Note: Authority cited: Sections 4626 and 4627, Welfare and Institutions Code. Reference: Sections 4622, 4626, ~~4626.5~~ and 4627, Welfare and Institutions Code.

§ 54533. Present or Potential Conflict of Interest Identified, Proposed Conflict Resolution Plan Content, Timelines for Submission of Proposed Conflict Resolution Plan.

(a) When a present or potential conflict of interest is identified for a regional center board member, executive director, employee, contractor, agent or consultant, the present or potential conflict shall be either eliminated or mitigated

and managed through a Conflict Resolution Plan, or the individual shall resign his or her position with the regional center or regional center governing board.

(b) When a present or potential conflict of interest has been identified by the regional center executive director for a regional center employee, contractor, agent or consultant, the regional center shall submit a copy of the completed Conflict of Interest Reporting Statement and a proposed Conflict Resolution Plan for eliminating or mitigating and managing the present or potential conflict to the Department, within 30 calendar days of receipt of the completed conflict of interest statement from the employee, contractor, agent or consultant.

(c) When a present or potential conflict of interest has been independently identified by the Department for a regional center employee, contractor, agent or consultant, the Department shall notify the regional center executive director, in writing, of the present or potential conflict. The regional center executive director shall submit a copy of the completed Conflict of Interest Reporting Statement and a proposed Conflict Resolution Plan for eliminating or mitigating and managing the present or potential conflict, to the Department within 30 calendar days of receipt of the Department's notification.

(d) When a present or potential conflict of interest has been identified by the regional center governing board, for a regional center governing board member or regional center executive director, the regional center governing board shall submit a copy of the completed Conflict of Interest Reporting Statement and a proposed Conflict Resolution Plan for eliminating or mitigating and managing the present or potential conflict, to the Department, in addition to the area board in the respective area, and to the State Council, within 30 calendar days of receipt of the completed Conflict of Interest Reporting Statement.

(e) When a present or potential conflict of interest has been independently identified by the Department for a regional center governing board member or regional center executive director, the Department shall notify the regional center governing board, in writing, of the present or potential conflict. The regional center governing board shall submit a copy of the completed Conflict of Interest Reporting Statement and a proposed Conflict Resolution Plan for eliminating or mitigating and managing the present or potential conflict, to the Department, in addition to the area board in the respective area, and to the State Council, within 30 calendar days of receipt of the Department's notification.

(f) To promote transparency, the regional center shall post on its Internet Website each completed Conflict of Interest Reporting Statement that identifies a present or potential conflict of interest that cannot be resolved within 30 calendar days of receipt by the regional center governing board or the regional center executive director, or within 30 calendar days of receipt of the Department's notification that it has independently identified a present or potential conflict of interest.

The completed Conflict of Interest Reporting Statement shall remain on the regional center's Internet Website until the present or potential conflict of interest has been eliminated, or the individual has resigned his or her regional center position.

(g) The proposed Conflict Resolution Plan shall be a written, detailed plan to eliminate, or mitigate and manage, the present or potential conflict of interest, along with any necessary supporting documents.

The proposed Conflict Resolution Plan shall:

- (1) Describe the precise nature of the present or potential conflict of interest or activity and give a detailed description of the conflict:
 - (A) The type of interest creating the present or potential conflict; and
 - (B) The identity and relationship between the individual(s) and/or entity(ies) involved; and
 - (C) The roles and duties of each individual and/or entity, that gives rise to the present or potential conflict of interest.
- (2) State the action(s) that the regional center governing board, regional center and/or the individual(s) will take, including the necessary timeframes, to eliminate or mitigate and manage the present or potential conflict of interest. Actions to eliminate, or mitigate and manage, the present or potential conflict of interest, may include, but are not limited to, one or more of the following:
 - (A) Resignation of the individual(s) from the position or activity creating the conflict of interest
 - (B) Refraining from participation, or limiting the individual's ability to act, in a particular matter or category of matters
 - (C) Change of assignment, duties, or position
 - (D) Divestiture of financial interests that give rise to the conflict of interest
 - (E) Terminating or refraining from relationships that give rise to conflicts of interest
- (3) Provide a detailed explanation of how each of the proposed actions, will actually eliminate or mitigate and manage the present or potential conflict of interest.

- (4) Provide the name, position and duties of the individual(s) who will be responsible for ensuring that any actions, limitations, or restrictions included in the Conflict Resolution Plan, if approved by the Department, will be taken, applied, followed, and monitored. Explain any oversight and monitoring mechanism in enough detail to allow the Department to ascertain that the mechanism is sufficient to eliminate, or mitigate and manage, the present or potential conflict of interest.
- (5) A proposed Conflict Resolution Plan shall be signed by the individual(s) subject to the Conflict Resolution Plan, in addition to the person in the designated position or committee responsible for reviewing the Conflict of Interest Reporting Statement, and the person in the designated position or committee responsible for monitoring performance under the proposed Plan, if approved.

Note: Authority cited: Sections 4626 and 4627, Welfare and Institutions Code. Reference: Sections 4622, 4626, ~~4626.5~~, and 4627, Welfare and Institutions Code.

§ 54534. Conflict Resolution Plan Review, Procedures.

- (a) Not later than 90 calendar days after the area board in the respective area and the State Council receive copies of the completed Conflict of Interest Reporting Statement and the proposed Conflict Resolution Plan for a regional center governing board member or regional center executive director, the area board and the State Council shall each provide to the Department their written approval or disapproval of the proposed Conflict Resolution Plan. If either the area board or the State Council fail to provide the Department with its written approval or disapproval of the proposed Plan within 90 calendar days of receipt of the Conflict of Interest Reporting Statement and the proposed Plan, the Department alone may make the decision to disapprove the proposed Plan. The Department shall not approve a proposed Conflict Resolution Plan without the approval of both the area board and the State Council.
- (b) The Department shall determine whether a proposed Conflict Resolution Plan is sufficient or needs to be modified to adequately eliminate, or mitigate and manage, the present or potential conflict of interest. The Department may impose additional restrictions and additional obligations to the proposed Conflict Resolution Plan and/or make a determination that further information is required.
- (c) The Department is responsible for making the final decision as to what conditions, restrictions, obligations, or actions, if any, shall be imposed or taken by the regional center governing board, regional center, and/or the individual(s), to eliminate, or mitigate and manage, the present or potential conflict of interest.

(d) The submission of a proposed Conflict Resolution Plan does not authorize an individual with a present or potential conflict of interest to engage in any activity that constitutes a present or potential conflict of interest. The proposed Conflict Resolution Plan shall be approved, in writing, by the Department, and the Conflict Resolution Plan fully implemented, prior to the individual engaging in otherwise prohibited conduct. Department approval is not granted until the regional center receives such determination in writing. Individuals shall not engage in activities in which there is a present or potential conflict of interest except in accordance with the terms of an approved Conflict Resolution Plan.

(e) Department approval of a proposed Conflict Resolution Plan is not valid unless it is based upon full disclosure of all relevant information by the regional center governing board, regional center, and/or the individual(s), with the present or potential conflict of interest. Nondisclosure or misrepresentation, of present or potential conflicts of interest or of material information bearing on the proposed Conflict Resolution Plan decision, shall result in the Department's rescission of its approval and/or immediate denial of the proposed Conflict Resolution Plan, in addition to any civil penalties imposed pursuant to Welfare and Institutions Code section 4626.

(f) The Department shall issue its modification, approval, or denial of the proposed Conflict Resolution Plan, in writing, to the regional center governing board or the regional center's designated party, within 30 calendar days of receiving the written approval or disapproval of the proposed Conflict Resolution Plan from the area board and the State Council, for regional center governing board members or executive directors, and within 30 calendar days of receipt of the proposed Conflict Resolution Plan, for employees, contractors, agents and consultants, unless the Department determines there is good cause for extending the time to respond.

(g) If the proposed Conflict Resolution Plan of an employee, contractor, agent or consultant is denied by the Department, the individual shall have 30 calendar days, from the date of receipt of the Department's written denial, in which to take the necessary action to eliminate the conflict of interest or resign his or her position as an employee, contractor, agent, or consultant. The Department may, in exercise of its discretion, grant the individual and/or the regional center an extension in which to complete any actions necessary to eliminate the conflict of interest.

(h) If the proposed Conflict Resolution Plan of a regional center governing board member or executive director is denied by the Department and/or the State Council or area board in the respective area, the governing board member or executive director shall have 30 calendar days, from the date of receipt of the Department's written denial, in which to take the necessary action to eliminate the conflict of interest or resign his or her position as a regional center governing board member or executive director. The Department may, in exercise of its discretion, grant the regional center governing board, governing board member,

executive director or regional center, an extension in which to complete any actions necessary to eliminate the conflict of interest.

(i) If the proposed Conflict Resolution Plan is approved by the Department, the approved Conflict Resolution Plan shall be implemented not later than 30 calendar days after written notification is mailed by the Department, unless the Department grants the regional center governing board, the regional center and/or the individual(s) an extension in which to complete any actions necessary to implement the approved Conflict Resolution Plan.

(j) The regional center governing board, the regional center, and/or the covered individual(s) shall fully comply with all elements set forth in the approved Conflict Resolution Plan. When required by the terms of the approved Plan, the regional center governing board, the regional center, and the individual(s) shall provide documentation demonstrating compliance with the approved Plan to the Department.

(k) A new proposed Conflict Resolution Plan shall be submitted to the Department on an annual basis and upon any change of status that creates a present or potential conflict of interest.

(l) The regional center governing board and/or the regional center shall retain a copy of each Conflict of Interest Reporting Statement and any approved Conflict Resolution Plan for the period of time consistent with the record retention requirements in its State contract.

Note: Authority cited: Sections 4626 and 4627, Welfare and Institutions Code. Reference: Sections 4622, 4626 and 4627, Welfare and Institutions Code.

§ 54535. Sanctions.

(a) If the Department finds a regional center governing board, board member, executive director, employee, contractor, agent, or consultant, in violation of any of the provisions of this Article, the Department shall:

(1) Immediately inform the party or parties in writing of such violation, including the supporting facts or information upon which determination of violation was made; and

(2) Require that the party or parties take appropriate action, within 30 calendar days of the notice of violation, to resolve the conflict of interest or otherwise eliminate the violation. The Department may extend this 30-day period only once and for a period not to exceed 30 calendar days.

(b) If the violation is not resolved or eliminated within the 30 calendar days as herein provided, and no extension of time has been granted by the Department, the Department may take immediate action to commence procedures for

termination or nonrenewal of the regional center contract pursuant to Welfare and Institutions Code section 4635. The area board in the respective area and the State Council shall be notified of the above action.

Note: Authority cited: Sections 4626 and 4627, Welfare and Institutions Code.
Reference: Sections 4626, 4627 and 4635, Welfare and Institutions Code.