

**State of California
Office of Administrative Law**

In re:
Department of Developmental Services

Regulatory Action:

Title 17, California Code of Regulations

Adopt sections: 54521, 54522, 54523,
54524, 54525, 54526,
54527, 54528, 54529,
54530, 54531, 54532,
54533, 54534, 54535

Amend sections: 54500, 54505, 54520

Repeal sections: 54521, 54522, 54523,
54524, 54525

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

**Government Code Sections 11346.1 and
11349.6**


OAL File No. 2013-0128-02 EE

The Department of Developmental Services (DDS) submitted this emergency readoption action to continue the emergency regulations adopted in OAL File No. 2012-0806-01E. The emergency action made substantial amendments to title 17 conflict-of-interest regulations applicable to regional centers that provide services to the public under the Lanterman Developmental Disabilities Services Act. The proposed action implements recent changes in the Welfare and Institutions Code made in SB 74 (Stats. 2011, ch. 9), and is intended to assure those that are subject to the regulations make decisions with respect to regional center transactions that are in the best interests of a regional center's consumers and families.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 2/7/2013 and will expire on 5/9/2013. The Certificate of Compliance for this action is due no later than 5/8/2013.

Date: 2/7/2013



Richard L. Smith
Senior Counsel

For: DEBRA M. CORNEZ
Director

Original: Terri Delgadillo
Copy: Eric Gelber

NOTICE PUBLICATION/REGULATIONS SUBMISSION

See instructions on
reverse)

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2013-0128-02EE
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

For use by Secretary of State only

ENDORSED FILED
IN THE OFFICE OF

2013 FEB -7 PM 1:32


 JERA BOWEN
 SECRETARY OF STATE

 AGENCY WITH RULEMAKING AUTHORITY
 Department of Developmental Services

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Regional Center Conflict of Interest Standards and Procedures		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2012-0806-01E	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT 54521, 54522, 54523, 54524, 54525, 54526, 54527, 54528, 54529, 54530, 54531, 54532, 54533, 54534, 54535,	
		AMEND 54500, 54505, 54520	
TITLE(S) 17		REPEAL 54521, 54522, 54523, 54524, 54525	
3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))			
<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)			
<input checked="" type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____			
<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input checked="" type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> §100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) _____			
7. CONTACT PERSON Eric Gelber		TELEPHONE NUMBER (916) 654-1844	FAX NUMBER (Optional) (916) 654-1913
		E-MAIL ADDRESS (Optional) eric.gelber@dds.ca.gov	

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

01/28/13

TYPED NAME AND TITLE OF SIGNATORY

Eric Gelber, Assistant Director, Legislation and Regulations

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

FEB 07 2013

Office of Administrative Law

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, employees, and those acting on the regional center's behalf to ensure that such persons make decisions relative to the regional center which are in the best interests of the center's consumers and families pursuant to authority provided in section 4627 of the Welfare and Institutions Code.

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 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 4546 et seq.

(b) "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, supported and independent living services, hospitals, medical groups, activity centers, 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) "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, and for whom the regional center has accepted responsibility.

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

(1) 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, obligates or commits his or her entity to any course of action, or enters into, modifies, amends, or renews, any contractual agreement on behalf of his or her 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 authority does not include actions of individuals which are solely ministerial, secretarial, or clerical.

(e) "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.

(g) "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 these regulations.

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

(j) "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) "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 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 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 4520, 4525, 4543, 4546, 4622, 4626, 4626.5 and 4627, Welfare and Institutions Code.

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

(a) A conflict of interest exists when a regional center governing board member, executive director, or a family member of such person is any 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, sections 4622 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.

Note: Authority cited: Sections 4626 and 4627, Welfare and Institutions Code. Reference: Sections 4620.3, 4622, 4626, 4626.5 and 4627, Welfare and Institutions Code.

§ 54521. 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).

“Fiscal Matters” as used in this subdivision, includes setting purchase of service priorities, making any fiscal commitments, transferring 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.

§ 54522. 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.

§ 54523. 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.

§ 54524. 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.

§ 54525. 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.

§ 54526. 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. 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. 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 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. 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 employee, contractor, agent or consultant acts as a supervisor of his or her family member.

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 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.

CONFLICT OF INTEREST REPORTING STATEMENT**DS 6016** (New 08/2012)

The duties and responsibilities of your position with the regional center require you to file this Conflict of Interest Reporting Statement. The purpose of this statement is to assist you, the regional center and the Department of Developmental Services (DDS) to identify any relationships, positions or circumstances involving you which may create a conflict of interest between your regional center duties and obligations, and any other financial interests and/or relationships that you may have. In order to be comprehensive, this reporting statement requires you to provide information with respect to your financial interests.

A "conflict of interest" generally exists if you have one or more personal, business, or financial interests, or relationships that would cause a reasonable person with knowledge of the relevant facts to question your impartiality with respect to your regional center duties. The specific circumstances and relationships which create a conflict of interest are set forth in the California Code of Regulations, title 17, sections 54500 through 54530. You should review these provisions to understand the specific financial interests and relationships that can create a conflict of interest.

Please answer the following questions to the best of your knowledge. If you find a question requires further explanation and/or there is not enough space to thoroughly answer the question, please attach as many additional sheets as necessary, and refer to the question number next to your answer. If the regional center identifies a conflict involving you, it will be required to prepare a conflict resolution plan. Some relevant definitions have been provided in the footnotes to assist you in responding to this statement.

You are required to file this Reporting Statement within 30 days of beginning your employment with the regional center or from the date that you are appointed to the regional center board or advisory committee board. You are then required to file an annual Reporting Statement by August 1st of every year while you remain employed with the regional center or while you are a member of the regional center board or advisory committee board. You must also file a Reporting Statement within 30 days of any change in your status that could result in a conflict of interest. Circumstances that can constitute a change in your status that can require you to file an updated Reporting Statement are described below in footnote one.

A. INFORMATION OF REPORTING INDIVIDUAL

Name: _____ Regional Center: _____

Regional Center Position/Title:

<input type="checkbox"/> Governing Board Member	<input type="checkbox"/> Executive Director
<input type="checkbox"/> Vendor Advisory Committee sitting on Board	<input type="checkbox"/> Employee
<input type="checkbox"/> Contractor	<input type="checkbox"/> Agent
	<input type="checkbox"/> Consultant

Reporting Status:

<input type="checkbox"/> Annual	<input type="checkbox"/> New Appointment (date): _____
<input type="checkbox"/> Change of Status ¹	

If a change in status, date and circumstance of change in status:

1. Please list your job title and describe your job duties at the regional center.

¹ 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, legal commitment, change in regional center position or duties, or change to outside position or duties. See California Code of Regulations, title 17, sections 54531(d) and 54532(d).

- | |
|--|
| <input type="checkbox"/> Governing Board Member
<input type="checkbox"/> Vendor Advisory on Board
<input type="checkbox"/> Executive Director
<input type="checkbox"/> Employee/Other |
|--|

2. Do you or a family member² work for any entity or organization that is a regional center provider or contractor?
☐ yes ☐ no -- If yes, provide the name of the entity or organization and describe what services it provides for the regional center or regional center consumers. If the provider or contractor is a state or local entity, provide the specific name of the state or local entity and describe your job duties at the state or local entity.

3. Do you or a family member own or hold a position³ in an entity or organization that is a regional center provider or contractor? ☐ yes ☐ no -- If yes, provide the name of the entity or organization, describe what services it provides for the regional center or regional center consumers, and describe your or your family member's financial interest.

4. Are you a regional center advisory committee board member? ☐ yes ☐ no -- If yes, are you a member of the governing board or owner or employee of an entity or organization that provides services to the regional center or regional center consumers? ☐ yes ☐ no -- If yes, provide the name of the entity or organization and describe what services it provides for the regional center or regional center consumers.

5. If you are a regional center advisory committee board member and answered yes to all the questions in Question 4 above, do any of the following apply to you: (a) are you an officer of the regional center board; (b) do you vote on purchasing services from a regional center provider; or (c) do you vote on matters where you might have a financial interest? ☐ yes ☐ no -- If yes, please explain.

² Family member includes your spouse, domestic partner, parents, stepparents, grandparents, siblings, stepsiblings, children, stepchildren, grandchildren, and in-laws. See California Code of Regulations, title 17, sections 54505(f).

³ For purposes of this question, hold a position generally means that you or a family member is a director, officer, owner, partner, employee, or shareholder of an entity or organization that is a regional center provider or contractor. For a specific description of positions that create a conflict of interest in a regional center provider or contractor see the California Code of Regulations, title 17, sections 54520 and 54526.

6. Do any of the decisions you make when performing your job duties with the regional center have the potential to financially benefit you or a family member⁴? ☐ yes ☐ no -- If yes, please explain.

7. Are you responsible for negotiating, making,⁵ executing or approving contracts on behalf of the regional center? ☐ yes ☐ no -- If yes, please explain.

8. Do you have a financial interest in any contract⁶ with the regional center? ☐ yes ☐ no -- If yes, did you negotiate, make, execute or approve the contract on behalf of the regional center? ☐ yes ☐ no -- If yes, please explain.

9. Do any of your family members have a financial interest in any contract with the regional center? ☐ yes ☐ no
If yes, did you negotiate, make, execute or approve the contract on behalf of the regional center? ☐ yes ☐ no
If yes, please explain.

⁴ Generally, a decision can financially benefit you or a family member if the decision can either directly or indirectly cause you or a family member to receive a financial gain or avoid a financial loss. For a specific description of the types of decisions that can result in a financial benefit to you or a family member see the California Code of Regulations, title 17, sections 54522 and 54527.

⁵ California Code of Regulations, title 17, sections 54523(b)(2) and 54528(b)(2) describes the types of conduct which constitute involvement in the making of a contract.

⁶ For purposes of questions 8 and 9, a financial interest in a contract generally means any direct or indirect interest in a contract that can cause you or a family member to receive any sort of financial gain or avoid any sort of financial loss irrespective of the dollar amount. California Code of Regulations, title 17, sections 54523 and 54528 define when financial interests in a contract will occur.

<input type="checkbox"/> Governing Board Member
<input type="checkbox"/> Vendor Advisory on Board
<input type="checkbox"/> Executive Director
<input type="checkbox"/> Employee/Other

10. Do you evaluate employment applications or contract bids that are submitted by your family member(s)?
☐ yes ☐ no -- If yes, please explain.

11. Your job duties require you to act in the best interests of the regional center and regional center consumers. Do you have any circumstances or other financial interests not already discussed above that would prevent you from acting in the best interests of the regional center or its consumers? ☐ yes ☐ no -- If yes, please explain.

B. ATTESTATION

I _____ (print name) HEREBY CONFIRM that I have read and understand the regional center's Conflict of Interest Policy and that my responses to the questions in this Conflict of Interest Reporting Statement are complete, true, and correct to the best of my information and belief. I agree that if I become aware of any information that might indicate that this statement is not accurate or that I have not complied with the regional center's Conflict of Interest Policy or the applicable conflict of interest laws, I will notify the regional center's designated individual immediately. I understand that knowingly providing false information on this Conflict of Interest Reporting Statement shall subject me to a civil penalty in an amount up to fifty thousand dollars (\$50,000) pursuant to Welfare and Institutions Code section 4626.

Signature _____ Date _____

INTERNAL USE ONLY

Date this Statement was received by Reviewer: _____

The reporting individual ☐ does ☐ does not have a ☐ present ☐ potential conflict of interest

Signature of Designated Reviewer

Date Review Completed

