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| CATEGORY: | Board Administration | No: 1.0.105.01 |
| TITLE: | Reporting Conflict of Interest, Fraud and Abuse | |
| SUPERSEDES: | #1.0.105.00 | |
| EFFECTIVE: | June 27, 2014 | |
| BOARD APPROVAL: | June 26, 2014 | |
| DATE OF LAST REVIEW: | May 15, 2014 | |

I. PURPOSE:

This policy provides procedures for reporting incidents, including but not limited to criminal fraud, criminal abuse and/or conflict of interest.

II. DEFINITIONS:

Fraud – An intentional deception or misrepresentation made by a person with the knowledge that the deceptions could result in some unauthorized benefit to himself or some other person. It includes any act that constitutes fraud under applicable Federal or State Law.

Abuse – Provider practices that are inconsistent with sound fiscal business practices and result in an unnecessary cost to the Federal, State or Local authorities overseeing funds, or in reimbursement for services that are not necessary, or that fail to meet professionally recognized standards.

Conflict of Interest – A circumstance in which a Board Member, Board employee, Contracted Service Provider, or Contracted Service Provider's employee is in a decision-making position and has a direct or indirect interest, particularly a financial interest, that influences the individual's ability to perform job duties and fulfill responsibilities.

Appearance of a Conflict of Interest – A circumstance in which a Board Member, Board employee, Contracted Service Provider, or Contracted Service Provider's employee's action appears to be:

- Influenced by considerations of one or more of the following: gain to the person, entity, or organization for which the person has an employment interest, substantial financial interest, or other interest, whether direct or indirect (other than those consistent with the terms of the contract), or;
- Motivated by design to gain improper influence over the Commission, the Agency, the Board, or the Board's Chief Elected Officials.

Incident – A situation of possible fraud, abuse, conflict of interest, or appearance of a conflict of interest as defined in this policy, which has a potential for liability to the Board or its contracted providers.

Confidentiality – The act of insuring that documentation is used only for the purposes for which it was originally established, and is not disclosed or made public except as provided by law and regulation and consented to by the reporter.

III. POLICY STATEMENT:

Board Members, Board Staff and Contracted Service Providers shall report all incidents of potential and/or bona fide fraud, abuse, or conflict of interest.

General

Each Board Member, Board Staff, or Contracted Service Provider shall comply with the provisions of this policy relating to reporting of fraud, abuse and conflict of interest. The Board shall distribute funds only to a Contracted Service Provider who has demonstrated a good faith effort to comply with reporting guidelines. Contracted Service Provider Staff shall respond to disclosures or suspicions of fraud, abuse, or conflict of interest by reporting to the appropriate authority(s).

Detection of a potential incident may occur through management monitoring, data validation, claims edits, provider financial reporting, or report from a Board Member, Board Staff, or Contracted Service Provider Staff.

Each Contracted Service Provider shall adopt this policy as its own.

A statement in the Contracted Service Provider's internal policy to the effect of "Agency X adopts the Board's Fraud, Abuse, and Conflict of Interest Documenting, and Reporting Policy for Contracted Service Providers by reference in our internal policy and will comply with all provisions of the Board's policy" is sufficient.

Adoption of the policy alone is not sufficient to meet the requirements of this policy.

Each Contracted Service Provider shall report suspected fraud, abuse, or conflict of interest as described in this policy and as required by law.

Each Contracted Service Provider shall develop an internal policy and procedures that describe how it will determine, document, and report instances of fraud, abuse, and conflict of interest.

The Contracted Service Provider's internal policy must clearly describe:

- What constitutes fraud, abuse, or conflict of interest to match the provisions of the laws?
- The proper timeframes for reporting.
- The requirement that staff must report alleged incidents directly to the President/CEO of the Coastal Bend Workforce Development Board dba. Workforce Solutions of the Coastal Bend.
- What additional documentation, if any, the staff must include with the report.
- The process that is used to determine if a report of fraud, abuse or conflict of interest has occurred.
- Sanctions, penalties, remedies, or disciplinary action that may result as a failure to report.

- Sanctions, penalties, remedies, or disciplinary action that may result if an incident is confirmed.
- Prohibition of retaliation for reporting.

When a report is required, the centralized tracking system must reflect the documentation requirements outlined in the internal policy.

Training

Each Board Member and Board Staff will receive training on the policies and procedures in regard to reporting fraud, abuse, and conflict of interest. New Board Members and Board Staff shall receive this training as part of their initial training/orientation. Training shall be documented.

Each Contracted Service Provider shall develop training for all staff on the policies and procedures in regard to reporting fraud, abuse, and conflict of interest. New staff shall receive this training as part of their initial training/orientation. Training shall be documented. As part of the training, staff shall be informed that the staff person who conducts, or has cause to suspect fraud, abuse, or conflict of interest has occurred, is responsible for reporting. Failure to report suspected fraud, abuse, or conflict of interest may result in disciplinary action up to and including termination. A joint report may be made with the supervisor.

Each Contracted Service Provider is responsible for determining the level and manner of training for employees, considering factors such as the staff person's level and professional status.

Monitoring

Monitoring of contractors/providers for compliance with the policy shall be conducted in accordance with program policies and procedures.

Sanctions

Upon a Contracted Service Provider's second and any subsequent failure to comply with the reporting requirements of this Policy, the Board shall temporarily withhold all funding or obligations incurred for all contracts until all compliance issues are resolved.

Prohibition of Retaliation

No person who in good faith reports conditions which may constitute a violation under this policy shall be subjected to retaliation in any manner for so reporting.

IV. PROCEDURES:

Reports shall be made immediately after the person has cause to believe that an incident has occurred, or may have occurred.

A report shall be made regardless of whether the staff suspects or knows that a report may have previously been made.

Reports of fraud, abuse or conflict of interest shall be made directly to the President/CEO of the Coastal Bend Workforce Development Board or designee. The President/CEO shall report the

incident as prescribed by federal law and then begin the process of an internal investigation. The President/CEO will treat all information received confidentially and will protect the anonymity of the person reporting the allegation by only sharing information with the Board Executive Committee who shall have the authority to investigate, and impose sanctions when allegations involve a Board Member, Contracted Service Provider, or the President/CEO. When acting on an allegation of fraud, abuse, or conflict of interest, the Executive Committee shall convene in a closed meeting. Any disclosure outside the Executive Committee will only be made to those permitted by law or regulation.

The President/CEO will notify the Chair of the Executive Committee within three working days of receiving a report, will log the incident, and will present the incident and data to the Executive Committee for discussion. If the outcome of the dialogue warrants a further investigation, the investigation must be initiated and completed within 30 days of the initial Committee meeting. If the investigation necessitates an extension beyond 30 days, an explanation will be documented in the log. A final determination from the investigation must be completed within five working days after the completion of the investigation.

Incidents Involving the President/CEO

If the incident involves an action by the President/CEO reports shall be made to the Coastal Bend Workforce Development Board. The Chair shall follow the procedure described above.

Failure to Report

Any person required to report or any person required to perform any other function who knowingly fails to do so, or any person who threatens or attempts to intimidate a person making a report may be subject to disciplinary action as outlined in the Remedies section of the policy, or may be deemed guilty of a misdemeanor and upon conviction may face fines or imprisonment.

Documentation

When documenting a report of an alleged incident the following information must be obtained:

- Name and address of person(s) involved in the alleged incident.
- Details regarding the alleged or suspected incident.
- Any other pertinent information or documentation concerning the alleged or suspected incident if known.

Reports may be made anonymously.

Remedies

Incident Involving a Board Member: If the Executive Committee confirms that an incident involving a Board Member has occurred, the Committee may, by a majority vote of the Committee as a whole, impose any or all of the following sanctions up to and including dismissal from the Board.

- *Written Reprimand* – a process that requires the Executive Committee to notify the member in writing that an incident has been confirmed and warns the member that confirmation of a second incident will result in censure or dismissal.
- *Censure* – a process that requires a written reprimand from the Executive Committee and a public announcement to the full Board. Censured members still retain their position as a member, however, may not continue or assume any leadership positions in committees or sub-committees.
- *Dismissal* – a process that requires a written reprimand from the Executive Committee, which outlines the confirmation and any prior confirmations as well as a public announcement to the full Board. A 2/3 vote of the full Board in a public meeting is required to dismiss a member.
- *Report to Criminal Authorities* – a process by which a criminal report is filed with local, state, or federal authorities and may result in criminal prosecution and conviction.

Incident Involving Board Staff: If the President/CEO confirms that an incident involving a Board Staff has occurred, the President/CEO may impose disciplinary action, according to approved personnel policies up to and including termination.

Incident Involving a Contractor/Provider: If the Executive Committee confirms that an incident involving a contractor/provider has occurred, the Committee may, by a majority vote of the committee as a whole, direct the President/CEO to impose any one or all of the following sanctions:

- *Written Performance Improvement Plan* - a document that outlines areas in need of improvement and timeframes for completed actions.
- *Written Reprimand* – a process that requires the President/CEO to notify the contractor/provider in writing that an incident has been confirmed and warns the member that confirmation of a second incident will result in further action up to and including termination of the contract.
- *Technical Assistance* - A process by which the contractor is required to receive Board approved technical assistance.
- *Written Sanctions* – A process that includes withholding funds
- *Termination* - Written notification to the Contractor of the termination of the contract.
- *Report to Criminal Authorities* – A process by which a criminal report is filed with local, state, or federal authorities and may result in criminal prosecution and conviction.

V. RELATED POLICY INFORMATION:

Title 20 Code of Federal Regulations (DFR) Sections 667.505 and 667.630
 Texas Administration Code (TAC) 801.13
 Texas Government Code &2308.257

VI. RESPONSIBILITIES:

N/A

VII. FORMS AND INSTRUCTIONS:

N/A

VII. DISTRIBUTION

Board of Directors
Staff

Board Staff

Contracted Service Provider

VIII. SIGNATURES

Reviewed by EO Officer

Date

President/CEO

Date