

Conflict of Interest Policy

Last Revised: January 2023

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This policy applies to aging units, aging and disability resource centers (ADRCs) and Tribal aging and disability resource specialists (Tribal ADRS), herein referred to as “agency” or “staff.”

Purpose

The purpose of this policy is to ensure conflicts of interest are prevented, recognized, and promptly addressed so that the agencies can provide customers with objective and unbiased information about a broad range of programs and services.

Agency representatives, employees, volunteers, Commission on Aging, and ADRC governing board members must be sensitive to their own personal potential for conflicts of interest, be vigilant about the existence of conflicts of interest elsewhere, and take steps to limit, mitigate, or eliminate conflicts of interest that are discovered.

Definitions

Agency: The agency responsible for the ADRC, Aging Unit, or Tribal ADRS grant(s).

Agency Representative: Representatives include, but are not limited to, all limited-term or permanent employees of the ADRC, Aging Unit, or a Tribal ADRS (contracted or otherwise), volunteers, Commission on Aging, and ADRC governing board members.

Conflict of Interest: A conflict of interest is a situation that interferes with an agency representative's ability to provide objective information or act in the best interest of the customer. Avoiding conflict of interest is important to the reputation of the agency and to the public's trust in the agency as a place where people can get unbiased, professional advice and support.

Direct Service: A tangible product or specific service provided to an individual or a group in which a financial donation or payment, or other type of payment, is requested or expected. Examples of direct services include home delivered meals, congregate meals, health promotion workshops, respite services, etc.

Integrated ADRC/Aging Unit: For the purpose of this policy, integration is defined by the public's perception of the ADRC and Aging Unit as a single entity. Examples of public perception of integration could include the use of a single organization name, a common phone number, a single website or social media presence, or shared reception for both the ADRC and Aging Unit.

Potential Conflicts of Interest: Potential conflicts of interest include, but are not limited to, financial relationships. For example, secondary employment with an outside agency is a potential conflict of interest. All potential conflicts of interest should be discussed with the agency supervisor or director.

Policy

Representatives of the agency will be mindful of their duty to represent the interests of the general public as related to long-term care and therefore not represent the interest of any one group or agency. The function of the agency is to represent the interest of the customer at all times. Agencies that provide direct services to a customer, such as federally- or state-funded aging services, must ensure that customers are informed of all of the provider options in the community. For example, a customer may need nutrition services and the agency must provide all options including the elder nutrition program, mail order meals, etc.

Agency representatives will avoid potential conflicts of interest as described in this policy in order to provide impartial agency services. Agency representatives will likely encounter situations that may be a potential conflict of interest or something that is not clearly prohibited. Whenever an agency representative is concerned about a potential conflict of interest, they must discuss the situation with their agency supervisor or director. Not all situations that pose a potential conflict of interest are prohibited so long as the potential conflict can be mitigated, and mitigation efforts are documented.

Staff who are dually employed by both the agency and another employer are required to notify their agency supervisor or director in order to ensure a conflict of interest does not exist. The agency must establish a mitigation plan for any staff person that is dually employed with an entity that may have a relationship with the agency, such as a long-term care provider or health care provider. Examples of long-term care providers or health providers include, but are not limited to, managed care organizations, home health agencies, skilled nursing facilities, and assisted living facilities. The agency must make the mitigation plan available to the Department of Health Services (DHS) upon request. Mitigation plans must be reviewed and approved by the ADRC's governing board chair (or commission on aging, if applicable) and a designated county or Tribal official, such as a local corporation counsel. Staff that are dually employed by an entity that does not have a relationship with the agency do not need to complete a mitigation plan.

The following conflicts of interest are prohibited:

- Staff cannot counsel or otherwise attempt to influence customers for financial gain or other self-interests.
- Staff cannot counsel or otherwise attempt to influence customers in the interest of any provider, managed care organization (MCO), IRIS consultant agency (ICA), IRIS fiscal employer agent (FEA), or other organization.
- In accordance with the Federal Home and Community Based Services Rule § 441.730, an agency representative is not allowed to provide agency services to customers if they are:

- Related to the customer by blood or marriage or related to any paid caregiver of the customer.
- Financially responsible for the customer.
- Empowered to make financial or health-related decisions on behalf of the customer.
- Holding financial interest in any entity that is paid to provide care for the customer.
- Serving in a policy or decision-making position for any entity that provides or could provide direct services to the customer.

Agency representatives will work with their supervisor or director to ensure that another staff person provides agency services to customers in this situation.

- Elder benefit specialists and disability benefit specialists may not perform the long-term care functional screen, conduct eligibility determinations for SSI-E or other programs, or provide guardianship or adult protective services.
- Staff who also work in adult protective services may not provide enrollment counseling to any adult protective services client with whom they are working.
- Staff may not continue to provide services to customers in any situation where a mitigation plan is required but has not yet been approved by the ADRC board, commission on aging, or designated county agency for implementation.

Procedure

A perceived or potential conflict of interest may exist even if there has been no misconduct on the part of an agency representative. Perceived or potential conflicts of interest may occur in any situation that might lead a representative to put other interests ahead of those of the customer. Mitigation measures are needed to ensure that perceived or potential conflicts of interest do not turn into actual conflicts of interest or misconduct.

Agencies are required to:

- Have all staff review and sign this policy on an annual basis.
- Require one of the following:

- That customers sign the Customer Service Agreement (F-02923-03a) at the onset of options counseling; or
- Include a disclosure about conflict of interest on another document that is provided to all customers who receive options counseling. For example, the disclosure could be added to a client rights document if that is provided to all ADRC customers receiving options counseling.
- Exemption: ADRCs that are not integrated with their Aging programs **and** do not provide any direct service are exempt from the disclosure statement requirement. Examples of direct services that an ADRC may provide include health promotion and prevention workshops or assistive technology loan closets.

Ensure that no revenue generated from service provision is used to support options, benefits, or enrollment or disenrollment counseling.

Director or management responsibilities

The director or designee will identify any perceived or potential conflict of interest, determine whether to address the conflict, and when required, assist the agency representative in terminating or minimizing the conflict.

Agency representative responsibilities

The agency representative will exercise sound judgment by being aware of and reporting instances of potential or present personal conflicts of interest. In addition, agency representatives are prohibited from accepting gifts, loans, or favors from individuals or providers who might stand to benefit from referrals or other actions made by the agency.

Training

All agency representatives will receive training on the agency's conflict of interest policy prior to having contact with customers. ADRC governing board members and commission on aging members will receive training before serving on the ADRC governing board or commission. This policy will be reviewed with agency representatives annually.

Disclosure

Agencies that provide options counseling to customers must use the [Customer Service Agreement Form](#) (F-03093) or include the following disclosure language in another document of the agency's choice. Only ADRCs that are not integrated with their Aging programs **and** do not provide any direct services, such as health promotion workshops or loan closets, are exempt from using the disclosure statement.

The primary purpose of the ADRC Specialist is to provide the customer with unbiased information about services that will meet their needs. This includes sharing information with customers about agencies that provide needed services. The ADRC may operate programs that provide direct services to customers.

The ADRC Specialist:

- *Cannot attempt to influence customers for financial gain or other self-interests.*
- *Cannot attempt to influence customers in the interest of any service or program provider, including the ADRC itself.*

The ADRC is prohibited from using revenue generated from direct service programs to support the ADRC Specialist program.

Federal regulation [42 CFR 438.810](#) prohibits the use of revenue generated direct service programs to be used to support ADRC Specialist services.

Assurances

Each agency representative will acknowledge, by signature, the receipt of training and the obligation to be objective and customer centered.

Reporting

Agency representatives will identify and report potential or present conflicts of interest to the director (or designee) upon hire or whenever a conflict is identified. All potential conflicts of

interest are treated as if a conflict exists until a determination is made and the potential conflict has been resolved.

Response

The director (or designee) will receive reports of possible conflicts of interest from agency representatives, employees, volunteers, Commission on Aging, and ADRC governing board members. The director (or designee) will then make a determination as to whether the situation is, in fact, a conflict of interest.

Resolution

The director (or designee) and the agency representative involved shall take immediate steps to terminate or minimize the conflict of interest. This may involve finding an alternative agency representative or source of service or terminating the relationship that has resulted in a conflict of interest.

Advocacy

The agency representative must ensure that customers receive appropriate advocacy, representation, and information, especially in regard to a customer's choice of or eligibility for program benefits or services. Therefore, agency representatives are required to provide the Customer Services Agreement to any customer who agrees to options counseling or Client Services Agreement to any customer who agrees to benefits counseling.

Conflict of Interest Policy Assurance—ADRC or Aging Unit Representative

As a representative of the Aging Unit or Aging and Disability Resource Center of _____, I have reviewed and received training on the conflict of interest policy. If I do not fully understand this policy or how it is relevant to my employment or association with the ADRC or Aging Unit, I will not sign this statement until I have spoken with the ADRC or Aging Unit director and I understand this policy.

I acknowledge that I will be required to review the conflict of interest policy on an annual basis, including the circumstances that may be potential conflicts of interest and the procedures for disclosing and mitigating potential conflicts of interest.

I understand that prior to a customer receiving options counseling, they must either:

- a. Review and sign the [Customer Service Agreement](#) (F-03093); or
- b. Review another agency document that includes the conflict of interest disclosure. If the document does not require a customer signature, agency staff should note in client tracking that the conflict of interest disclosure was reviewed with the customer.

I understand that prior to a customer receiving any other agency service, an optional Customer Service Agreement may be obtained.

As a representative of the ADRC or Aging Unit, I acknowledge, by signature, that I have reviewed the conflict of interest policy, received training on the policy, and agree to comply with its provisions. I acknowledge the obligation of ADRC and Aging Unit staff to be objective and customer centered.

Printed name and title:

Date of policy review:

Signature:

Date signed:

Supervisor Signature:

Date signed:

Conflict of Interest Policy Assurance—Tribal ADRS

As a representative of _____, I have reviewed and received training on the conflict of interest policy. If I do not fully understand this policy or how it is relevant to my employment or association with the Tribe, I will not sign this statement until I have spoken with the Tribal supervisor and I understand this policy.

I acknowledge that I will be required to review the conflict of interest policy on an annual basis, including the circumstances that may be potential conflicts of interest and the procedures for disclosing and mitigating potential conflicts of interest.

I understand that prior to a customer receiving options counseling, they must either:

- a. Review and sign the [Customer Service Agreement](#) (F-03093A); or
- b. Review another agency document that includes the conflict of interest disclosure. If the document does not require a customer signature, agency staff should note in client tracking that the conflict of interest disclosure was reviewed with the customer.

I understand that prior to a customer receiving any other agency service, an optional Customer Service Agreement may be obtained.

As a representative of the Tribe, I acknowledge, by signature, that I have reviewed the conflict of interest policy, received training on the policy, and agree to comply with its provisions. I acknowledge the obligation of the Tribal ADRS to be objective and customer centered.

Printed name and title:

Date of policy review:

Signature:

Date signed:

Supervisor Signature:

Date signed: