

| POLICY AND PROCEDURE | |
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| TITLE: Conflict of Interest | |
| DEPARTMENT POLICY OWNER: Compliance | POLICY #: CMP23 |
| IMPACTED DEPARTMENT(S): | |
| <input type="checkbox"/> Administration <input type="checkbox"/> Claims <input type="checkbox"/> Compliance <input type="checkbox"/> Customer Service <input type="checkbox"/> External Affairs <input type="checkbox"/> Facilities <input type="checkbox"/> Finance | <input type="checkbox"/> Human Resources <input type="checkbox"/> Information Technology <input type="checkbox"/> Marketing <input type="checkbox"/> Medical Management <input type="checkbox"/> Provider Networks <input type="checkbox"/> Project Management <input checked="" type="checkbox"/> ALL |
| EFFECTIVE DATE: 10/01/2016 | REVIEW/REVISION DATE: 11/18, 12/19, 04/21, 08/21 |
| POLICY REVIEW COMMITTEE APPROVAL DATE: PRC: 02/19; 07/20, 08/21 | RETIRE DATE: |
| PRODUCT TYPE: Medi-Cal | REPLACES: Policy # and Policy Title |

I. PURPOSE

To address federal laws, regulations, accreditation standards, and requirements for Health Plan of San Joaquin (HPSJ) Commissioners, Designated Employees (DE), External Committee members and Workforce members (Workforce) to avoid Conflict of Interest (COI). HPSJ shall ensure processes are in place for the disclosure and management of situations that may lead to a Conflict of Interest this includes, interactions with current and prospective suppliers and vendors in order to safeguard HPSJ's integrity.

II. POLICY

This policy governs the contractual requirements between DHCS and HPSJ related to the Conflict of Interest provisions of Title 22 CCR Sections 53874 and 53600 and DHCS Contract, Exhibit A, Attachment 1, Provision 3.A.

- A. HPSJ shall not employ any State officer, employee or his/her spouse or his minor children in the State civil service or other appointed State official unless the employment, activity, or enterprise is required as a condition of the officer's or employee's regular State employment.
- B. HPSJ shall not contract with any subcontractor if any of the following persons connected with the plan have a substantial financial interest in the subcontractor:
 - 1. Any person also having a substantial financial interest in the plan.
 - 2. Any Health Commissioner or Workforce member of the plan.
 - 3. Any member of the immediate family of any person designated in Title 22 CCR §53600 (d).
- C. HPSJ's Health Commissioners and Workforce are required to promptly disclose situations that may present a conflict of interest or the appearance of a conflict of interest by filing an HPSJ Conflict of Interest Disclosure Statement (HPSJ Disclosure). The Chief Compliance Officer (CCO) or his/her designee will promptly investigate incidents and situations that may give rise to conflicts of interest and to address such incidents/situations to ensure decisions are made in the best interest of HPSJ, its Workforce, and its members.
- D. HPSJ's Committee and sub-committee members must acknowledge their understanding of HPSJ's Conflict of interest practice by reviewing this policy and file an Acknowledgement Report upon becoming a member of the committee and annually thereafter.
- E. HPSJ's Designated Employees must file Statement of Economic Interest, Form 700 (Form 700) upon hire and annually thereafter by the deadline announced by California Fair Political Practices Commission (FPPC).
- F. All other non-DE Workforce members must acknowledge their understanding of HPSJ Conflict of Interest practice by reviewing this policy (CMP 23) and file Acknowledgement Report upon hire and annually thereafter. Acknowledge Reports are to be submitted to Compliance Department and stored in a centralized repository for record keeping purposes.
- G. HPSJ Workforce members are required to adhere to the procedures

outlined in this policy.

III. PROCEDURE

A. Definition of Designated Employees

1. Designated Employees who are required to complete the Statement of Economic Interest, Form 700 (Form 700) are listed in the following disclosure categories:
 - a. All Health Commissioners
 - b. All executives
 - c. All directors
 - d. Select managers, supervisors or Workforce members who can solicit vendors and involved in or influence in making purchase decisions.
 - e. Certain consultants or contractors who serve in the capacity listed above on a temporary or interim basis as they make, participate in making, or act in a staff capacity for financial, contractual and/or budgetary decisions.

DE must fully disclose their investments, interests in real property, business positions, and income (including loans, gifts, and travel payments) by completing Form 700 by the deadline announced by California Fair Political Practices Commission (FPPC).

B. Purchasing and Contracting

1. Selection of products and services must be based on sound clinical (e.g., quality, safety, and effectiveness) and/or business (e.g., availability, cost benefit, innovation, regulatory and value) criteria and made in the interest of patient well-being and in the best interest of HPSJ and its financial resources.
2. The responsible business owners or project team must adhere to CMP26 and FIN14 policies when selecting a product or service from external vendors.
3. HPSJ Designated Employees with the authority to direct or influence the selection or purchase of product and services must have a current, attested Conflict of Interest Disclosure Statement, Form 700 and Gift Disclosure Statement (if applicable) on file.

4. Workforce members in the provision of member medical/pharmacy services have the discretion to contact and/or solicit information from medical and/or pharmaceutical companies; however, medical or pharmacy companies cannot solicit for their products to be included in formularies without an invitation from HPSJ medical management units.
5. Should a conflict or a potential conflict develop, the HPSJ Workforce member must disclose the conflict to their supervisor and Compliance department to ensure the conflict is appropriately handled and/or resolved. Appropriate resolution may include recusal from participating in decisions related to the selection of a vendor and/or service; exclusion from approval.

C. Acceptance of Gifts from Suppliers and Vendors

1. The HPSJ Workforce member who influences the selection of suppliers and vendors for products and services may not accept anything of value provided by suppliers and vendors.
2. The HPSJ Workforce member may participate in vendor-sponsored raffles by using their business cards or providing HPSJ business contact information at product demonstrations, vendor conferences or other programs such as exhibit halls, only if all attendees are eligible for the item.
3. Upon receipt of a gift from a current or potential customer, supplier, or competitor; owning a financial interest in, or serving in a business capacity with an outside enterprise that does or wishes to do business with or is a competitor of HPSJ, the following must occur:
 - a. As soon as receipt of an unused gift valued at greater than fifty dollars (\$50), the gift shall be submitted to Compliance Department who will either return the gift to the donor, or deliver the gift to an HPSJ community partner that is a nonprofit entity, exempt from taxation.
 - b. Receipt of gifts of nominal value of fifty dollars (\$50) or less should be shared among staff (i.e. box of chocolates).
 - c. Conference lunches, dinners or raffle prizes are allowed if all

attendees, are eligible for the item.

D. Supplier and Vendor Provided Meals

1. Prior to contract execution, meals offered by suppliers and/or vendors are **not** permitted.
2. Post contract execution, meals offered by suppliers and/or vendors **are permitted** for planning meetings or touch point meetings as long as these are conducted during office hours.
3. After an engagement or implementation has been completed, the HPSJ Workforce member may **not** attend celebratory meals sponsored by an HPSJ supplier and/or vendor (e.g., an activity where HPSJ employees and suppliers and/or vendors were actively and closely engaged and the supplier/or vendor wants to host an elaborate dinner).

E. Supplier and Vendor Provided Entertainment

The HPSJ Workforce member may **not** accept free tickets from a supplier and/or vendor to attend a sporting or other type of entertainment event. This requirement applies whether the supplier and/or vendor is present or not.

F. Supplier and Vendor Support for Educational and Other Professional Activities

1. HPSJ accepts grants for general support of education from suppliers and vendors provided unrestricted grants are made with the approval of the Health Commission and/or the CEO and not designated for use by specific individuals.
2. Educational grants may not be made, conditioned upon, or related in any way to any pre-existing or future business relationship with the supplier and/or vendor or its products and services, including coverage or formulary status decisions.
3. The HPSJ Workforce may attend supplier and/or vendor-sponsored educational seminars (e.g., webinars, lectures, industry updates, as long as the vendor is not waiving the registration fee.) when the educational seminars are open to the public and disclosure

regarding the HPSJ Workforce member's attendance has been made to the Workforce member's supervisor prior to attendance.

4. The HPSJ workforce participation on a supplier/vendor-sponsored advisory board is prohibited unless approved by the Commission or the Chief Compliance Officer. A decision regarding Workforce attendance at such meeting is based on the Executive Team Members' determination that the attendance at such meeting is in the best interest of HPSJ.
5. The HPSJ Workforce may **not** represent HPSJ at suppliers and/or vendors or other types of focus groups organized by suppliers and/or vendors or their representatives unless authorized by the Executive Team Member. Participation in focus groups which discuss products or services utilized by HPSJ is appropriate when the group is organized or authorized by HPSJ.
6. The HPSJ workforce may **not** accept free products from suppliers and/or vendors for distribution at community events.
7. HPSJ may enter into a formal relationship with a supplier and/or vendor to distribute discounted services to members and employees pursuant to an authorized, written agreement. Discounts from suppliers and/or vendors that are not subject to a formal HPSJ agreement are prohibited.

G. Supplier and Vendor Sponsored Travel

The HPSJ Workforce is **discouraged** from soliciting or accepting reimbursement from suppliers and/or vendors for admission, airfare, and lodging, transportation costs to and from the airport, special discounted travel, or related expenses to attend product demonstrations, conferences or educational programs. If accepted the Workforce member is responsible for ensuring that any associated costs are reported/disclosed on the Statement of Economic Interest Form 700 (California Fair Political Practices Commission).

- a. However, the following exceptions may apply:
 - i. Travel and related expenses associated with training for a newly purchased or enhanced product is allowed.

Product training travel arrangements must be made utilizing HPSJ travel policies and submitted for reimbursement from the supplier and/or vendor.

- ii. Travel and related expenses paid by professional associations is acceptable when the Workforce member is a presenter at a meeting or a voluntary member of the association's governance (e.g., board or committee), or participant in a discussion or planning session. The travel and related expenses must be disclosed to the Workforce member's supervisor prior to travel.

H. Supplier and Vendor Provided Speaker's Fees and Honoraria

Workforce members may **not** accept and retain speakers' fees or honoraria or anything else of value from a supplier and/or vendor for teaching or giving presentations, including payment for time, travel expenses, meals, entertainment, recreational activities, or social activities.

I. Workforce Member's Relationship with HPSJ Suppliers and/or Vendors

1. The HPSJ Workforce may **not** serve as a member of a board of directors of an HPSJ supplier and/or vendor.
2. The HPSJ Workforce may **not** be a supplier and/or vendor to HPSJ while employed by HPSJ.
3. The HPSJ Workforce may **not** be employed by suppliers and/or vendors that conduct work for HPSJ.
4. The HPSJ Workforce may **not** be contractors to suppliers and/or vendors for contracts or assignments where the customer or client is HPSJ.
5. The HPSJ Workforce member who enters into a dating/relationship, marriage engagement, domestic partnership, or business relationship with a supplier and/or vendor must notify their supervisor as soon as they become aware of the change in status of their relationship.

J. In addition to annual completion of Form 700 and the as-needed HPSJ Disclosure, Workforce members have other options to disclose situations where a conflict of interest may be present. Another option for reporting is available for a workforce member who becomes aware of a potential conflict involving another workforce member.

1. Consultation with Director and/or Manager

The HPSJ Workforce is required to report any potential conflict of interests and are encouraged to consult with their Director and/or Manager to clarify potential conflict of interest situations.

2. Written Disclosure of Potential Conflicts

a. The HPSJ Workforce and/or DEs are required to submit a written disclosure per the HPSJ Code of Conduct and Ethics (HPSJ Code) as circumstances arise throughout the course of the year separately from the annual disclosure.

b. Persons in leadership and governance roles and other HPSJ Workforce members who want to or have been requested to participate in Community Advisory Boards must disclose their interest and seek approval from the Chief Compliance Officer.

3. Reporting Concerns about Potential Conflicts

The HPSJ Workforce members aware of potential conflict of interest situation within the organization are required to report in accordance to the HPSJ Code and conflict of interest policy.

K. Assessing Conflict of Interest

1. Each conflict of interest situation is different and should be assessed on the merits. Not every situation warrants action. It is important to determine if personal interest have the potential to compromise professional roles and responsibilities and/or judgement. Consultation with the Chief Compliance Officer should be solicited.

2. Criteria utilized to determine whether action is warranted should consider the following:

- a. To uphold and protect the core values and mission of the HPSJ
- b. To protect the business interests of HPSJ
- c. To protect the integrity of individuals acting on the organization's behalf
- d. Will the conflict be perceived as improper by the HPSJ Workforce, HPSJ Members, or the general public?
- e. Is an individual benefiting financially or socially from this practice?
- f. Is this a practice HPSJ wants to uphold in the future?

L. Determining Appropriate Action

Any conflict of interest that merits and/or warrants action should consider the following. Action is taken to protect the best interest of the organization. Depending on the situation, the following should be considered:

- a. Did the individual receive and acknowledge the understanding of the Code of Conduct and Conflict Interest policies upon hire and annually thereafter?
- b. Did the individual attest to a conflict of interest by completing the Form 700 and/or HPSJ Disclosure?
- c. Did the individual self-disclose at the appropriate time or was it after the fact when a conflict of interest was discovered?
- d. What is the severity of risk the conflict of interest poses to the professional standing and/or objectivity of the individual?
- e. What is the severity of risk the conflict of interest poses to the core values and reputation of HPSJ?

M. Actions Not Allowed

1. Accepting a gift for more than \$50, or loan from a current or

potential customer, supplier, or competitor; owning a financial interest in, or serving in a business capacity with an outside enterprise that does or wishes to do business with or is a competitor of HPSJ.

2. Family members of an HPSJ Workforce member receiving improper personal benefits as a result of the Workforce member's association with HPSJ without normal due of Request for Proposal (RFP) process.
3. The HPSJ vendors to provide business entertainment. Note: This does not apply to unsolicited promotional materials of a general advertising nature such as imprinted pens, memo pads etc. as long as what is given is accepted without any express or implied understanding that the recipient is in any way obligated.
4. During negotiations with a potential contracted provider, HPSJ cannot accept business entertainment (including lunch and dinner subsidies) and/or customer gifts.

N. Disclosure Statements

1. The Commissioners, DE, and Committee members are required to file a Form 700 upon hire or the start of membership and annually thereafter. They are also required to file HPSJ Disclosure and HPSJ Gift Disclosure Statement on an as-needed basis.
2. HPSJ Workforce not identified as a DE must complete the HPSJ Disclosure and Gift Disclosure forms upon becoming aware of the conflict of interest and recuse themselves from participating in any purchase or financial decisions.
3. Compliance Department will retain a record of all completed Form 700 and HPSJ disclosure forms.

O. Consequences of Non-Compliance

Failure to comply with the requirements of this policy will subject Workforce member to corrective and/ or disciplinary action, up to, and including termination.

IV. ATTACHMENT(S)

- A. HPSJ Conflict of Interest Disclosure Statement
- B. FPPC Statement of Economic Interest Form 700
- C. [Glossary of Terms Link](#)

V. REFERENCES

- A. Title 22 CCR §18930-18961
- B. Title 22 CCR Sections 53874 and 53600
- C. HPSJ and DHCS Contract (Exhibit A, Att. 1. Provision 3.A.)
- D. 42 U.S.C. §1320a-7b Anti-Kickback Statute
- E. 42 CFR §438.608, §438.610 and §455
- F. California Government Code, §81000 to §91014
- G. California Fair Political Practices Commission (Gov. Code, §§ 1090 et seq.), [Political Reform Act \(the Act\)](#)
- H. Welfare and Institutions Code, sections 14087.31(k), 14087.35(p)(1), 14087.36(v)(1), 14087.38(h), and 14087.969 (22 CCR §53874).
- I. DHHS Laws Against Health Care Fraud Resource Guide, September 2015
- J. Fraud, Waste, and Abuse Referral Guidelines for Use by Managed Care Plans, May 2012
- K. HPSJ Compliance Program
- L. HPSJ Code of Conduct and Ethics
- M. HPSJ Conflict of Interest Disclosure Statement
- N. HPSJ Gift Disclosure Statement
- O. Memorandum of Understanding Health Plan of San Joaquin and SEIU Local 1021 section 14
- P. Social Security Act §1128

I. REGULATORY AGENCY APPROVALS

Not Applicable

II. REVISION HISTORY

| STATUS | DATE REVISED | REVISION SUMMARY |
|---------------|---------------------|---|
| Revised, | 11/28/18 | Updated the P&P to place in new P&P template and for clarity. |
| Revised | 11/27/19 | Updated who is required to complete the Form 700 and conflict of interest documents annually and upon hire with the Plan. |
| Revised | 12/16/19 | 1. Redefine “Designated Employees” |

| STATUS | DATE REVISED | REVISION SUMMARY |
|----------|--------------|---|
| | | 2. Updated Form 700 filing procedures to include only Des (Financial decision-makers or influencers) 3. HPSJ Disclosure Requirements on an as needed basis rather than new hire and annually 4. Added requirement to sign acknowledgement upon hire and annually after reviewing this policy. |
| Revised | 06/29/2020 | Updated the header and the font style. |
| Reviewed | 04/05/2021 | No material changes made. |
| Revised | 08/05/21 | Committee members were added to correct a gap in the identified persons. (see Purpose, Policy item D. Procedure Item N) |