



MEMORANDUM

24-018

To: WIC Regional Directors
WIC Local Agency Directors

From: Amanda Hovis, Director
Nutrition Education/Clinic Services Unit
Texas WIC

Date: March 20, 2024

Subject: **Changes to Policy GA:20.0 – Staff Fraud and Abuse**

This memo announces revisions to Texas WIC Policy GA:20.0 – *Staff Fraud and Abuse*. The revised policy has been reviewed and is effective April 1, 2024. At that time, it will be posted, and you may update your *Policy and Procedures Manual* by accessing the *WIC Website* at:

<https://hhs.texas.gov/doing-business-hhs/provider-portals/wic-providers/wic-policy-procedures-manual>

A Summary of Changes is below:

Title: Changed to Employee Conflict of Interest/Fraud and Abuse

Purpose: Shortened for concision

Policy Statement:

- Clarified the language related to fraud and abuse by an employee
- Removed vendor related language to Procedure II

Authority: Added citation 7 CFR Part 246.4(a)(27)

Definitions:

- **NEW** – *Employee Fraud and Abuse* (based on federal regulations).
- Separation of Duties – clarified by adding that checking identification and residency of an applicant is not included as part of separation of duties.

Procedure I: Conflict of Interest Statement (new heading)

- Removed requirement for Local Agencies (LAs) to develop their own policy. LAs must develop a document with conflict-of-interest statements which employees sign and date prior to employment or on date of hire and each fiscal year (October 1st through September 30th).
- Removed requirement for logging off computers since this is outlined in AUT:08.0, Acceptable Use Agreement.

Procedure II: Identified Conflicts of Interest (new heading)

- **NEW-** Added Vendor *Conflict of Interest* information.
- Added Employee, *Family or Friends Conflict of Interest* section.
 - Clarified that staff may issue benefits to relatives or friends (but never themselves) during non-certification appointments if no changes have been made to the card.
 - Removed procedure to call State Agency to assist with telephone certifications.

Procedure III: When Separation of Duties is Not possible (new heading)

- *Separation of Duties* information moved to Procedure III.
- **NEW-** Added *Temporary USDA ARPA Waiver (expiring September 30, 2026)*.
- Changed procedure and documentation when separation of duties is not used:
 - When separation of duties is not possible, and clinics choose to use the waiver, random record reviews are reduced to 1 record or 5 percent of records (whichever is greater) and must be completed quarterly as part of a self-audit.
 - Added required documentation when conducting record reviews.
 - Deleted requirement of conducting a quality assurance telephone survey.

Procedure IV: Reporting Employee Fraud and Abuse (new heading)

- Added LAs must also follow PA internal procedures for fraud and abuse.
- Updated reporting procedures to OIG.

Guidelines: Deleted guidelines for conducting telephone surveys

Local Agencies who choose to use this waiver will be subject to monitoring review beginning April 1st, 2024.

If you have any questions or require additional information regarding Texas WIC Policy GA:20.0 – *Employee Conflict of Interest/Fraud and Abuse*, please contact the Information Response Management Group at IRM-Policy@hhs.texas.gov.

<p style="text-align: center;">Texas WIC Health and Human Services Commission</p>

Effective April 1, 2024

Policy No. GA:20.0

Employee Conflict of Interest/Fraud and Abuse

Purpose

To preserve the integrity of the WIC Program by requiring standardized employee procedures for conflict of interest including prevention of fraud and abuse and ensuring a separation of duties.

Authority

7 CFR Parts 246.4(a)(27) and 246.12

Policy

Local Agencies (LA) must ensure that fraud and abuse by an employee is prevented and detected.

WIC employees are prohibited from:

1. Certifying oneself
2. Certifying relatives and/or close friends
3. Determining eligibility and medical or nutritional risk of the same applicant for all certification requirements
4. Selling or exchanging WIC food benefits
5. Falsifying certification records to obtain/provide WIC benefits
6. Intentionally sharing computer login or password information
7. Threatening to harm or physically harm participants, State Agency (SA) employees, or vendors.

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Definitions

Employee Fraud and Abuse – the intentional conduct of an employee which violates program regulations, policies, or procedures, including, but not limited to, misappropriating, or altering Texas WIC cards, entering false or misleading information in applicant/participant records, or creating records for fictitious participants.

Employee - a person whose salary is paid in whole or any part by WIC funds.

Relative - a person who is within the second degree of affinity and consanguinity include spouse, parents, children, grandchildren and grandparents, brothers, sisters, aunts, uncles, nieces, nephews, first cousins, stepparents, stepchildren, stepbrothers, and stepsisters by blood or marriage.

Close friend - cannot be defined in a way that fits every situation; therefore, LAs have authority to determine if a WIC applicant or participant is a close friend of a LA WIC employee.

Separation of Duties – ensuring a single employee does not determine income eligibility and medical or nutritional risk of the same applicant for all certification requirements. It is acceptable for the same employee to conduct part of the certification, e.g., determine nutrition risk and issue benefits, if a different employee determines income eligibility. Checking identification and residency of an applicant is not included as part of separation of duties.

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Procedures

I. Conflict of Interest Statement

- A. Local Agencies must develop a document(s) that contains the conflict-of-interest statements below. Employees must sign and date the conflict-of-interest statement prior to employment or on date of hire and each fiscal year (October 1st through September 30th) thereafter.

"I certify that neither I nor any individual related to me within the second degree of affinity (marriage), or within the second degree of consanguinity (kinship) has any financial interest as the owner, officer, director, or partner in any food vendor who is authorized to accept Texas WIC Cards within the local agency's jurisdiction.

I certify that I will not participate in any component of the certification process and issue food benefits, at certification, to myself, a relative or close friend."

- B. If an employee is not able to sign the annual conflict of interest statement, the LA must notify the SA and document the employee's conflict of interest. The LA is responsible for advising their employee and ensuring that there is no fraud, conflict of interest or abuse by that employee.
- C. All documentation related to conflict-of-interest must be retained on file and available for audit/review according to policy GA:03.0 Records Retention

II. Identified Conflicts of Interest

- A. If a vendor conflict of interest is identified, the LA must follow one of these procedures:
1. The person may not be hired by WIC.

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2. If already employed, the LA must notify the SA of the potential conflict of interest between the LA employee and the authorized WIC vendor by emailing wicvendorinfo@hhs.texas.gov.
- B. When a WIC employee is also a participant or parent/guardian/caretaker of a participant and has a scheduled WIC appointment or has a relative or close friend scheduled for a certification appointment, the employee must notify the WIC director or clinic supervisor so that arrangements can be made for another WIC employee to certify and issue benefits.
1. The clinic supervisor must ensure other staff members conduct the certification and issue benefits.
 2. WIC employees may conduct non-certification appointments and issue benefits to relatives and close friends (but never to themselves) if no changes have been made to the food benefits during the appointment.

III. When Separation of Duties is Not Possible

LAs may utilize the temporary USDA-approved Separation of Duties waiver authorized under the American Rescue Plan Act of 2021 (waiver expires September 30, 2026). The following procedures apply when separation of duties is not possible because only one employee is available to conduct certifications (in person or remote).

- A. For small clinics, outlying or satellite clinics, or short staffing situations where lack of separation of duties is a regular and expected practice:
1. The WIC director or designee may allow one employee to determine income eligibility and medical or nutritional risk for the same applicant for all certification requirements.
 2. The LA must adhere to the following procedures and documentation kept on file for audit/review according to policy GA:03.0 Records Retention.

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- a. The LA director or designee must conduct a quarterly random review of 1 record or 5 percent (whichever is greater) of all LA records completed without using separation of duties.
- b. Documentation must include, but is not limited to:
 - i. Name of the LA, clinic, and site number,
 - ii. Name of the employee who completed the certification,
 - iii. Name of the participant(s) and Family Identification Number (FID) certified, and
 - iv. Name of the person who completed the record review.
- c. Any irregularities discovered during this quarterly review must be addressed immediately with the employee involved. If fraud and abuse is then suspected by that employee, the LA must follow the steps in Procedure IV for reporting the alleged offense.

IV. Reporting Employee Fraud and Abuse

The LA must follow the parent agency's internal procedures for employee fraud and abuse in addition to the procedures below:

- A. LA director or designee must report alleged WIC-related employee fraud and abuse to the Office of Inspector General (OIG) for follow up and action following these steps:
 1. Document, to the fullest extent possible, the suspected/alleged fraud or abuse and submit to OIG either online at <https://oig.hhsc.state.tx.us/wafrep/> or by calling 1-800-436-6184. OIG has an online form for fraud and abuse referrals.
 2. When submitting suspected/alleged abuse to OIG, attach copies of pertinent documentation and records.
- B. Failure to follow these procedures may cause the LA to assume liability for improperly issued program benefits.