CoC Governance: Conflict of Interest

Introduction and Purpose

Conflicts of interest can be more common than organizations anticipate, especially when working with diverse communities and People with Lived Experience and Expertise (PLEE) to prevent and end homelessness. This work spans many sectors and best practice guidance urges Continuums of Care (CoC) to collaborate on system change and improve practices in collaboration with people with PLEE, those working directly in the homeless response system, and partnering sectors (such as healthcare, child welfare, education, justice, local government, and faith communities). Cross collaboration is essential for an effective and sustainable homeless response system, and conflict of interest can arise due to that crossover in systems of care. Conversations around potential conflict should not be seen as "off limits", or in a negative light, rather a way to keep your CoCs Board transparent, honest, and inclusive of all expertise and experiences.

To prepare for potential conflicts within a CoC Board, this document aims to help provide an understanding of the basics of conflicts of interest. Specifically, how to address it, how to incorporate it into your policies and procedures, ongoing recordkeeping and ensuring compliance within Housing and Urban Development (HUD) regulations, and what happens when there is a violation. There is an important section dedicated to working with PLEE and diverse community partners on your Board as this kind of collaboration is critical to having an effective and diverse CoC Board. Lastly, this document contains a resource section to help CoCs continue to enhance their conflict of interest operations and policies and incorporate community members with lived expertise in a meaningful way.

Defining Terms and Roles

There are two kinds of conflicts of interest. This document will cover individual and organizational conflicts of interest. Conflicts can be actual, potential, or perceived. Both types of conflict, individual and organizational, can result in a real, potential, or perceived impartiality and that is where the conflict of interest presents.

- **Actual**: A situation in which an individual does have a financial or social interest in a decision.
- **Potential**: A situation in which there is no current conflict of interest but there could be in the future.
- **Perceived**: A situation in which there is no actual or potential conflict of interest, but individuals think there is.
- **Individual conflict of interest** can be defined when a person's own self-gain and their commitments to the Governance Board and CoC interfere. The person is potentially unable to provide impartial or unbiased support to the Governance Board and CoC in certain situations, like awarding funding or ranking applications for funding. An example of a potential individual conflict is when a Board member has a relative or partner working at the organization applying for funding.
- **Organizational conflict of interest** can be defined when a person is potentially unable to provide impartial support to the Governance Board and CoC in certain situations due to their employment or relationship with an organization. An example of when this can happen is a Board member is employed at a partnering organization applying to the CoC for funding.

HUD defines conflict of interest in The Code of Federal Regulations, **§ 578.95** as;

(b) *Continuum of Care Board members.* No Continuum of Care Board member may participate in or influence discussions or resulting decisions concerning the award of a grant or other financial benefits to the organization that the member represents.

(c) *Organizational conflict.* An organizational conflict of interest arises when, because of activities or relationships with other persons or organizations, the recipient or subrecipient is unable or potentially unable to render impartial assistance in the provision of any type or amount of assistance under this part, or when a covered person's, as in paragraph (d)(1) of this section, objectivity in performing work with respect to any activity assisted under this part is or might be otherwise impaired. Such an organizational conflict would arise when a Board member of an applicant participates in the applicant's decision about the award of a grant or provision of other financial benefits to the organization that such member represents. It would also arise when an employee of a recipient or subrecipient participates in making rent reasonableness determinations under § 578.49(b)(2) and § 578.51(g) and housing quality inspections of property under § 578.75(b) that the recipient, subrecipient, or related entity owns.

Key Components

| Incorporating COI into Policies and Procedures | Ensure Compliance with HUD Regulations | Engaging Partners with Lived Expertise and Experience | Training and Ongoing Conversations and Implementation |

Incorporating Conflict of Interest into Policies and Procedures

CoCs are required to develop and maintain written standards or codes of conduct covering conflict of interest and standard operating procedures for when conflicts of interest arise. Both individual and organizational conflicts must be covered. The goal is to maintain objectivity, transparency, ongoing partnership, and trust in the community.

When establishing conflict of interest policies for your CoC Board, there should be a range of CoC members participating in the creation, implementation, and ongoing fidelity to the policy. The group established to assist with this process of creation *or* reevaluation of the conflict of interest policy should have strong partner representation such as:

- PLEE of the local homeless response system
- CoC staff
- Homeless Response System Service Providers, especially those providing direct services
- Current CoC Board members

The established group should have members who range in PLEE, race, ethnicity, age, gender, and sexual orientation. It is important the group represent those who are being served by the CoC and community, consider diversity by including people with disability, domestic violence survivors, etc. The group should have members who understand (or are provided with training to aid in gaining understanding) the workings of the homeless response system, community needs, and CoC and Board objectives.

Items your CoC Board conflict of interest policy should contain.

- Define conflict of interest so that CoC Staff and Board members clearly understand what a conflict is, and the distinct types of conflicts.
- A statement that informs members of their duty to disclose actual or potential conflicts.
- Procedures on how Board members must recuse themselves when conflict occurs, including that a member cannot participate in reviewing or ranking of annual funding applications in which they are employed or served (currently or in the past) by the applicant agency.
- Define what happens if/when there is a violation, intentional or unintentional of the conflict of interest policies.
- Procedures outlining when members or potential members review and sign conflict of interest statements and how often they must review and complete.
- There must be a standardized form that accompanies the policy or a place on the policy where Board members can acknowledge they received and reviewed the document, with signature and date.
- Procedures should also clearly state who has knowledge of what conflicts Board members have so that during the decision-making process those Board members are asked to recuse themselves if they do not do so voluntarily.

Policy Examples

Violation of Policy: If there is unintentionally or unknowingly a conflict, the Member is asked to recuse themselves for any discussion and voting around the related topic or funding for that organization.

If the conflict is intentional and the Member purposely did not disclose the conflict, the Member is terminated from the CoC Governance Board.

Conflict of Interest Statements: Members must sign conflict of interest statements at least annually, disclosing conflicts with any relationships or areas of influence.

Knowledge about Conflicts: A CoC staff person who facilitates and supports the CoC Governance Board can assist the Board by tracking ongoing conflicts of interest.

Once created, conflict of interest policies must be accessible to those in the community, and those participating on the CoC Board. The CoC should share the policies during monthly membership meetings, post on their website, and share with subrecipients via email. **Adhering to a conflict of interest policy can help make certain the CoC is creating equitable and standard processes for**

all, not just some, and it safeguards the CoC and those it aims to serve. The CoC Board should review the policies annually to continue to enhance its effectiveness.

Recordkeeping to Ensure Compliance

The CoC Board must keep a written record of all actual and perceived conflicts of interest for their Board members. HUD grantees, such as the CoC, are required to submit a soft copy of their code of conduct (which includes their conflict of interest policies) to: askGMO@hud.gov. See HUDs Code of Conduct for HUD Grant Programs for more details regarding the submission and to better understand how to conduct CoC business in accordance with HUDs ethical standards. The CoC must retain records to show compliance with the established policies, including records supporting exceptions to individual conflict of interest prohibitions.

When a conflict of interest, actual or perceived is identified the following information should be documented in official CoC Board records:
- The current conflict of interest policy
- The names of the Board members who were disclosed or otherwise were found to have an actual or perceived conflict of interest.
- A summary of the conflict should include the context of the conflict of interest, if any action was taken to determine if a conflict of interest was present, and the Board's decision as to whether a conflict of interest in fact existed.
- When meetings are held to discuss any actual or perceived conflicts of interest, they need to be documented with the following items: date, the names of the Board members who were present, summary of the discussion, including any alternatives to remedy the situation, and a record of any votes taken regarding the situation.

Recordkeeping requirements

While the CoC Board is not the direct recipient of HUD funding, they must ensure that their Board records meet HUDs requirements when it comes to conflict of interest.

CoC recipients and subrecipients must keep records to show compliance with the following:
- Organizational conflict of interest (§ 578.95(c))
- CoC Board conflict of interest (§ 578.95(b))
- Other conflict of interest requirements (§ 578.95(d))

ESG recipients and subrecipients must keep records to show compliance with the following:
- Organizational conflict of interest (§ 576.404(a))
- Personal conflict of interest policy or code of conduct (§ 576.404(b))
- Records to support any exceptions to the prohibitions (§ 576.404(b)(3))

Process to Implement Conflict of Interest Policy

While developing policies, CoCs should incorporate feedback from a larger group of partners in the community to provide feedback. Again, this larger group of partners should be representative of PLEE served within CoC Programs. Ensuring that feedback is received from a diverse group of partners and decision makers who range in race, ethnicity, age, gender, sexual orientation, as well as those who hold knowledge of the homeless response system, and PLEE. The CoC should hold working sessions to review, explain, and explore feedback with this larger group of community partners.

Once reviewed and finalized, the CoC will need to inform its members, partners, and current Board members of the policy via formal and informal training opportunities to become better familiar with the concepts around conflict of interest. Although this document is focused on CoC Board members, conflict

of interest can arise with all members of the CoC and the entire CoC should discuss the need for conflict of interest statements signed by all members - especially if work groups can make decisions on behalf of the CoC.

Providing training will ensure there is transparency around the new\updated conflict of interest policy and understanding within the community of providers. Training should cover the definition of conflict of interest, the disclosure process, the management of potential conflicts, and how the policy could be structured for other community partners to adapt when appropriate. It is the CoCs responsibility to provide training and inform the community of the policy, at least annually.

This is an ideal time to educate the CoC members on the importance of having a conflict of interest policy as well as centering the conversation around the importance of including PLEE in CoC decision making and inclusion on the CoC Board. This will require the decision-making process to be shared between current Board members and others in a new way. Sharing the decision-making process and making space for other voices can increase transparency, build relationships between members, and help members hold each other accountable.

If a policy is updated after the annual training or review\signature from the CoC Board members, another training should take place to update the members on the relevance of those changes.

Disclosure and Violations

All current and incoming members should review and sign a conflict of interest acknowledgement form and review the conflict of interest policy. Conflict of interest policies should be reviewed annually with members and incoming members upon taking a seat on the CoC Board. The form and policy should clearly define what constitutes a conflict and describe the procedure for Board members to disclose the conflict. While members are required to review and sign annually, it is critical for the CoC Board to discuss potential conflicts openly, and regularly.

Once a conflict is disclosed, the member should recuse themselves from voting on matters that relate to the disclosed conflict. Typically, when a member recuses themself from voting on a certain topic, they will not participate during conversations around the topic where there is conflict. For example, the member can physically step out of the room or temporarily 'move' to a virtual waiting room. The conflict of interest policy for CoC Board members is to prevent members from participating in or influencing discussions and votes related to the award of grant funds or other financial benefits to the member's organization. This is a common scenario in CoCs, as many funded organizations or those who have received services from funded organizations will sit on the CoC Board. In instances like these, the member should recuse themself from discussions and decision making involving the organization they represent.

The CoC must develop a policy to determine the process that will work best to resolve a violation of conflict of interest. One example of a process to determine resolution is CoC Boards can decide to discuss with the remaining Board members and vote to determine next steps. If a situation arises, ask for help locally at your Field Office or Ask A Question on the HUD Exchange.

Engaging Partners, who have Lived Expertise & Experience on your Board

Best practices on engaging PLEE to support the effectiveness of the homeless response system focus on the following areas to achieve a more comprehensive response system: intentional planning and collaboration, listening sessions with PLEE, providing structure and support for PLEE, and a budget for PLEE compensation.

Communities should be **intentional in planning for collaboration** to ensure the CoC Board is representative of those they aim to serve with CoC funding. CoCs will need to engage with direct service providers to advertise and recruit for leadership opportunities within the CoC. This may include working with past CoC funded program participants who have moved on from a CoC program, those experiencing homelessness currently, and those who have lived experience and expertise of homelessness. This kind of recruiting and advertising should be done with cross sector partners in the housing, justice, healthcare\hospital, education, family\child welfare systems, and faith communities.

Additionally, the CoC and its partner organizations ensure opportunity for participation for their own staff and Board members who may have lived experience and expertise. These voices within the homeless response system should be incorporated into the CoC Governance decision-making process.

As a best practice standard, CoCs should not include receiving previous services or currently receiving services as a conflict. CoCs should actively engage with past and present program participants for a deeper understanding of system gaps and improvements. Conflict of interests should be normalized and discussed in an open and ongoing forum to ensure that people with lived expertise are able to participate in CoC Boards. It is important to balance the complex needs of supporting a Board member who is currently experiencing homelessness, or recently housed in supporting housing. CoCs should consider a stabilization period for those currently experiencing homelessness, or recently housed in supporting housing to reduce the potential trauma that could come from participating on the CoC Board.

CoCs must provide the **infrastructure and ongoing support** to those participating on the CoC Board who have lived experience and expertise. This can look like the CoC dedicating staff to support CoC members with lived experience and expertise. CoCs should provide training to PLEE, so they become active participants in the community's planning process and Board meetings. CoCs should also provide support like childcare, transportation, access to technology, and other supports identified to ensure PLEE can fully participate in CoC Board activities.

It is crucial that a CoC dedicated staff member review the conflict of interest policy with the potential PLEE Board member to help better identify potential conflicts and discuss action steps. This can include training in communication, advocacy, and problem-solving. Connecting with newly appointed Board members prior to standing meetings to ensure the member is fully "in the know" of who the other attendees are and their roles, the agenda, and provide an opportunity to discuss talking points. Training should *also* be offered to current Board members who have not worked closely with those who have experienced trauma. This is an opportunity to create spaces that are safe, respectful, and where people can value each other.

CoCs must engage in meaningful partnership with Board members who are PLEE. Meaningful engagement can ensure all members are invited into the conversation. This can look like, allowing for space to ask and be asked questions, actively listening to what other members are saying, and encouraging a robust discussion to gain insight from all Board members. Creating this meaning partnership is the responsibility of the CoC designated staff member who is attending\supporting the CoC Board members.

CoC designated staff member must also follow up with PLEE Board members who participated in the planning process and let them know how their input has contributed to the development and changes of the homeless response system and achieving system wide goals. This is critical work in efforts to embed the member into system change. This kind of follow up is another example of how the CoC can establish meaningful engagement practices within the CoC Board.

CoCs must be able to increase their operating budget to **compensate those with lived expertise** participating on the Board if they are not getting compensated by another partner organization or employer. Food, donations, or other non-cash items, etc. are **not** forms of acceptable payments. (They can certainly be provided by the CoC; however, those items are not considered payment for time participating in the CoC Board.) CoCs should plan internally to set up a low barrier process to compensate PLEE and explore cash transfer options via apps to assist in smooth payment operations. It is important to provide the Board members with a variety of payment options, depending on what works best for their situation (for example, cash app, direct deposit, or check). Also, transportation costs to get to and from CoC Board meetings and activities should be covered by the CoC. This could include bus fare, ride share, or gas stipend. Federal grants like Homeless Assistance (CoC and ESG) and Health and Human Services, including the Substance Abuse and Mental Health Services Administration (SAMHSA) can provide funding that can be used to support compensation of PLEE. Specifically, CoC Planning Grants and Planning Grant Match sources can be used to support compensation efforts. Board members who are PLEE **must** be compensated for their time in each committee they are elected/appointed/volunteer to participate on, if serving on multiple committees for the CoC. CoCs can use this momentum to create authentic leadership opportunities for PLEE.

Conflict of Interest Scenarios and Guidance

Scenario #1:
Can a CoC funded program participant who is currently or previously enrolled (receiving case management support and rental subsidy) also receive compensation for their time participating on a CoC Board?

Guidance: Yes. Do not consider the experience of receiving current or past services a conflict. Experience and knowledge of the homeless response system operations is a skillset desired in Board members and a skillset CoCs need to have an effective system and diverse board. Members should recuse themselves from any funding discussions or decisions on the given organization with whom they are involved. Again, it is the CoC responsibility to help support the PLEE Board member understand or identify a potential conflict.

Scenario #2:
A Board member's family member\partner works for a direct service provider who is applying for CoC funds. A Board member also holds a seat on another direct service provider's Board, who is applying for CoC funds. Do these scenarios count as conflict?

Guidance: Potentially, yes. This Board member could have or provide biased information to other members while voting. It is best if the Board member shares the potential conflict and recuse themselves from any discussion and voting around funding the direct service provider in question.

Scenario #3:
A program participant is appealing a decision made by a direct service provider. Board members are a part of the appeals committee; however, one Board member is also a tenant where the program participant resides and sees them frequently.

Guidance: This Board member could have or provide biased information to other members while voting. It is best if the Board members share the potential conflict and recuse themselves of any discussion and voting around the appeals in question. It is possible for this member to act as a witness or participant advocate, if the participant requests this.

Resources

Community Examples

Examples of CoC Governance Board conflict of interest policies.
- Austin, TX. CoC
- Balance of Washington State
- Santa Clara County, CA. CoC
- Wake County, NC. CoC
- Balance of Michigan State
- Baltimore, MD. CoC

Policy Template
Sample policy templates can be found in the CoC Governance Toolkit.

HUD Resources on Conflict of Interest

- Code of Conduct for HUD Grant Programs
- CoC and ESG Additional Requirements - Conflict of Interest Exchange

More on Engaging Partners with Lived Expertise and Experience

For more information on engaging people with lived expertise and experience on your CoC Governance Board, please refer to the follow HUD resources:
- Paying People with Lived Experience and Expertise
- Integrating Persons with Lived Experiences in our Efforts to Prevent and End Homelessness
- Guidance for Recruiting, Hiring, and Retaining People with Lived Experience and Expertise of Homelessness
- Lived Experience Training Academy (LETA) from the National Coalition for the Homelessness