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6/2/17

SANCTION POLICY

By the authorities set forth in the Joint Exercise of Powers Agreement by and between the Counties of Nevada, Placer, Sacramento, Sierra, Sutter, Yolo and Yuba on March 1, 1983, the Governing Board of Area 4 Agency on Aging (d.b.a. Agency on Aging \ Area 4) hereby establishes this Policy.

The purpose of this Sanction Policy is to describe the formal methods Area 4 Agency on Aging (Agency) may use in seeking to assure that programs and services under its purview comply with all applicable laws, regulations, requirements and expectations. Upon adoption, this Policy shall supersede all prior Agency Bulletins, Notices, Memorandums and other communications which address the imposition of sanctions. This Policy shall be referenced in and included with agreements between the Agency and its subcontractors as appropriate. This Policy shall also apply to programs and services administered directly by the Agency itself.

A. SANCTION POLICY OBJECTIVES

The basic objective of this Sanction Policy is to establish steps that can be implemented when less formal options are not deemed adequate to sufficiently protect the interests of the public, other subcontractors, the Agency or the funding sources involved. More specifically, the objectives are to:

1. Protect the interests of the recipients and beneficiaries of Agency-funded programs and services who are primarily older adults and family caregivers;
2. Assure programs and services are being administered efficiently and are also meeting quality/performance standards;
3. Hold subcontractors accountable to mutually agreed upon terms and conditions;
4. Preserve public funds through sound fiscal and legal practices; and,
5. To the extent practicable, prevent claims, suits or losses against the Agency.

B. CIRCUMSTANCES THAT MAY LEAD TO SANCTIONS

Where less formal options have failed to remedy a matter or are otherwise not reasonably available, circumstances that may lead to the imposition of a sanction include but are not limited to:

1. Failure to comply with a corrective/preventative action imposed by Agency staff.
2. Failure to comply with routine data, contract or fiscal reporting procedures set by the Agency.
3. Failure to comply with any other Agency-specific term, condition, regulation or policy.
4. The provision of programs or services in a manner that is counter to the stated intent of the Agency, of a funding source or of a governmental body.

5. Failure to comply with any formal or informal action approved by the Agency's Governing Board.
6. Failure to comply with a term, condition, regulation or policy established by or through local, state or federal governmental bodies.
7. Evidence of a pattern of apparent disregard for the authority of the Agency, of funding sources or of a governmental body.
8. Evidence of such an unsatisfactory legal action or financial condition as to endanger fulfillment of an Agency agreement.
9. A violation of law.
10. Any other failure to perform in good faith.

C. POTENTIAL SANCTIONS

The Agency has identified five types of sanctions.

1. Probation

Probation means the Agency is choosing to temporarily monitor and evaluate a program or service more stringently.

2. Withholding Funds

When used as a sanction, the withholding of funds means the Agency is choosing to temporarily delay the honoring of a request for funds from a program or service.

3. Suspension

A suspension means the Agency is choosing to temporarily withdraw the authority of a program or service to obligate and/or expend funds either in whole or in part. The Agency shall specify allowable costs resulting from obligations properly incurred before the effective date of the suspension and not in anticipation of it. A final determination of allowable costs will be made upon closeout of the affected program or service and will be subject to audit.

4. Reducing Funds

When used as a sanction, a reduction in funding means the Agency is choosing to lower the amount of funds previously awarded. Ordinarily, reductions would be applied within the agreement period which typically does not exceed one (1) state fiscal year. Nevertheless, when an agreement is subject to renewal, reductions may be carried forward into the subsequent agreement period.

5. Contract Termination

When used as a sanction, contract termination means that prior to the end of the agreement period, the Agency is choosing to rescind the authority of a program or service to obligate and/or expend funds. A termination requires completion of a transition plan describing how the needs of existing and prospective clients would be addressed.

In addition to the sanctions identified in this section, the Agency may also use any other remedies as may be legally available and appropriate.

D. SPECIAL CIRCUMSTANCES

In cases where a program or service has been adversely affected by extenuating or unforeseen circumstances, Agency staff may suggest and/or JPEC may recommend that a sanction be lessened or waived. Such cases include but are not limited to:

- No prior history of compliance difficulties.
- A substantial reduction or loss of revenue from the Agency or from other sources;
- A significant disruption to key staff or volunteers due to a severe illness, condition or injury or due to a death; or
- Another reason of comparable circumstance.

E. SANCTION PROCESS

By definition, the imposition of a formal sanction nullifies the Good Standing of the affected program or service with respect to the Agency. Programs or services that are not in Good Standing are not eligible to receive one-time-only funding or funding augmentations.

Barring deliberate Governing Board action to the contrary, the Agency would neither execute nor renew an agreement with a program or service that is not in Good Standing.

1. Imposing Sanctions

Ordinarily, Agency staff would present a matter to the Joint Program Evaluation Committee (JPEC) for review and discussion. JPEC would then make a recommendation for the Agency's Governing Board to consider. If it is not practical to convene a meeting of JPEC or if the matter requires immediate intervention, then the Agency's Executive Director is authorized to impose Probation, to Withhold Funds and/or to Suspend the activities of a program or service without prior consent from the Agency's Governing Board.

2. Formal Notifications

Upon imposition of a sanction, the following notifications shall be made:

- a. The person(s) who has/have primary oversight of the program or service in question shall receive a written sanction notice from the Agency.
- b. With respect to each person in section "a." above, his/her immediate supervisor shall receive a written sanction notice from the Agency.
- c. Each of the members of the Agency's Joint Program Evaluation Committee (JPEC) shall be notified of the action.
- d. The Agency's Advisory Council Chair and Governing Board Chair shall be notified of the action, and the full membership of their respective bodies shall be notified during their next, regularly scheduled meeting.

3. Removing Sanctions

Except in the case of a Contract Termination, the Agency shall specify in writing each of the following:

- a. A description of the sanction that is being imposed.
- b. The date the sanction takes effect.
- c. The reason(s) the sanction is being imposed.
- d. The condition(s) which must be met for the Agency to consider removing the sanction and the deadline for meeting said condition(s).
- e. A copy of the Agency's Appeal Process.
- f. Any other information pertinent to the matter.

F. APPEAL PROCESS

An Agency-funded program or service may appeal the imposition of any sanction in accordance with the following process.

1. If the sanction was not explicitly approved by the Joint Program Evaluation Committee (JPEC), then within 10 calendar days of receipt of notification of said sanction, the program or service may file a written appeal requesting a special hearing with JPEC. The Executive Director will consider the merits of the request, conduct any investigation necessary, and issue a decision in writing within 10 calendar days of receipt of the request. The Executive Director's decision whether to grant a special hearing with JPEC shall be final. If a special hearing is held, then JPEC shall make a recommendation for Governing Board action.

2. If the sanction was explicitly approved by JPEC and subsequently upheld by the Governing Board, then within 15 calendar days of receipt of notification of said sanction, the program or service may file a written appeal requesting a reconsideration of the matter. The Executive Committee of the Governing Board will consider the merits of the request, conduct any investigation necessary, and issue a decision in writing within 15 calendar days of receipt of the request. The Executive Committee's decision shall be final. Within 30 calendar days, the program of service may file a petition with the California Department of Aging to request a review of the matter.

G. AMENDMENTS

This policy may be amended by resolution adopted by the Agency's Governing Board.

Dated: **TBD**