



## **Local Workforce Development Board Certification Policy**

**TO:** Local Workforce Development Boards; Local Workforce Development Area Directors; Local Workforce Development Board Chairs

**FROM:** The Governor's Workforce Development Board

**SUBJECT:** Local Workforce Development Board Certification

**PURPOSE:** To provide policy guidance on the certification of local workforce development boards.

**ACTION:** Local Workforce Development Boards will ensure implementation of this policy in accordance with the Workforce Innovation and Opportunity Act.

**EFFECTIVE:** July 1, 2019

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## **CANCELLATION**

The following is hereby cancelled, replaced, and archived by this policy issuance:  
Local Workforce Development Certification Policy 2017-01 dated July 1, 2017.

## **I. General Information**

### **Workforce Innovation and Opportunity Act**

The Workforce Innovation and Opportunity Act (WIOA) was signed into law on July 22, 2014, and became effective on July 1, 2015. WIOA supersedes the Workforce Investment Act of 1998 (WIA) and amends the Adult Education and Family Literacy Act, the Wagner-Peyser Act, and the Rehabilitation Act of 1973. To help both businesses and job seekers meet their needs, the workforce system established under WIOA is integrated by design. WIOA envisions connecting businesses with job seekers, through meaningful partnerships among workforce, education, human services, and economic development entities which ensure optimum results and leveraging of resources. The law addresses the needs of job seekers through establishing a workforce system that helps them access employment, education, training and support services to succeed in the labor market. Through American Job Centers (AJCs), WIOA works to address employer needs by matching them to the skilled workers they need to compete in the global economy.

### **Local Board Certification**

As the State workforce board, the Governor's Workforce Development Board, with the Governor, is charged with certifying WIOA-compliant Local Workforce Development Boards in Maryland.

## **II. Purpose:**

In accordance with WIOA, this policy establishes criteria for use by the Chief Local Elected Official (CLEO) in the local areas for appointment of members to the Local Workforce Development Boards (Local Boards).<sup>1</sup> This policy also outlines the duties of the Local Boards as prescribed under WIOA.

## **III. Certification:**

To attain certification a local workforce development board must comply with the following criteria:

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<sup>1</sup> *Workforce Innovation and Opportunity Act, § 107(b)(1).*

## 1. Membership:

- A. At a minimum, a majority (51%) of the members of a local workforce development board must be representatives of businesses in the local area.
- i. Members who act as representatives of local businesses shall be:
    - a. Owners of businesses;
    - b. Chief executives or operating officers of businesses; or
    - c. Other business executives or employers/employees with optimum policymaking or hiring authority.
  - ii. Members who act as representatives of local businesses must:
    - a. Represent businesses that provide employment opportunities which include high-quality, work-relevant training and development in in-demand industry sectors or occupations in the local area.
    - b. As defined in WIOA Section 3(23), an in-demand industry sector or occupation is:
      - x. An industry sector that has a substantial current or potential impact (including through jobs that lead to economic self-sufficiency and opportunities for advancement) on the State, regional, or local economy, as appropriate, and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors; or
      - xi. An occupation that currently has or is projected to have a number of positions (including positions that lead to economic self-sufficiency and opportunities for advancement) in an industry sector so as to have a significant impact

on the State, regional, or local economy, as appropriate.

- iii. At a minimum, two members must represent small business<sup>2</sup> as defined by the U.S. Small Business Administration.<sup>3</sup>
  - iv. Business representatives serving on Local Boards may also serve on the Maryland GWDB.
- B. Not less than twenty (20) percent of the members of each Local Board shall be representatives of the workforce within the local area, and must include:
- i. Representatives of labor organizations, for a local area in which employees are represented by labor organizations; and
  - ii. A member of a labor organization or a training director, from a joint labor-management (or union affiliated) registered apprenticeship program, or if no such joint program exists in the area, such a representative of a non-joint registered apprenticeship program in the area, if such an apprenticeship program exists (apprenticeship typically exists in each local board area).
- C. Local Boards may include representatives of community based organizations that have demonstrated experience and expertise in addressing the employment needs of individuals with barriers to employment, including:
- i. Organizations that serve veterans; or
  - ii. Organizations that provide or support competitive integrated employment for individuals with disabilities.
- D. Local boards may include representatives of organizations that have demonstrated experience and expertise in addressing the employment, training, or education needs of eligible youth, including representatives of organizations that serve out-of-school youth.
- E. Paragraphs 1(C) and 1(D) may apply to the twenty (20) percent requirement established in paragraph 1(B).

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<sup>2</sup> 20 CFR 679.320(b).

<sup>3</sup> <https://www.sba.gov/contracting/getting-started-contractor/qualifying-small-business>

- F. Each Local Board shall include representatives of entities administering education and training activities in the local area - these representatives must include:
  - i. A representative of eligible providers administering adult education and literacy activities under title II; and
  - ii. A representative of institutions of higher education providing workforce investment activities.
- G. Each Local Board shall include representatives of governmental and economic and community development entities serving the local area, which must include:
  - i. A representative of economic development entities; and
  - ii. A representative of a local area community action agency (required starting in July 2020); and
  - iii. An appropriate representative from the State employment service office under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) serving the local area; and
  - iv. An appropriate representative of the programs carried out under Title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), other than section 112 or part C of that title (29 U.S.C. 732, 741), serving the local area.
- H. Local Boards shall include a Local Director of Social Services from the local area.
- I. The CLEO may determine other appropriate individuals for the balance of the Local Board.
- J. An individual may be appointed as a representative of more than one entity if the individual meets the criteria for representation of each entity respectively.
- K. Members of the Local Boards that represent businesses, agencies, or entities must have optimum policymaking authority within the businesses, agencies, or entities.
- L. Members of the Local Boards must represent diverse geographic areas within the local area.

M. Notice must be given to the Maryland Governor’s Workforce Development Board upon the appointment or leave of any Local Board member within 14 days of the action.

i. Notice must be written, made to the Executive Director of the GWDB.

## **2. Appointment of Members:**

A. The CLEO within a local area is authorized to appoint members to the Local Board.

i. This includes CLEOs of a local area which includes more than one (1) unit of general local government.

a. The CLEOs may execute an agreement specifically articulating their respective roles.

B. The CLEOs must establish a formal policy to facilitate the nominations of business members by local business organizations and business trade associations.

## **3. Local Board Chairperson:**

A. The members of the Local Board shall elect a Chairperson for the Local Board.<sup>4</sup>

B. The Chairperson shall be a member in accordance with WIOA, and a representative described in WIOA § 107(b)(2)(A).<sup>5</sup>

C. Upon leave of a Chairperson, a Local Board shall elect a new Chairperson within two consecutive meetings of the Local Board.

i. Failure to elect a Chairperson within two consecutive meetings shall result in the selection of a Chairperson by the CLEO.

## **4. Standing Committees:**

A. Local boards may establish standing committees.

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<sup>4</sup> *Workforce Innovation and Opportunity Act, § 107(b)(3).*

<sup>5</sup> *Id.*

- B. Standing committees shall be chaired by a member of the local board and may:
  - i. Include other members of the Local Board; and
  - ii. Include persons appointed by the Local Board which the Local Board deems to have appropriate expertise or experience sufficient to assist the Local Board standing committee in achieving its desired goal.
- C. Local Boards may designate and direct the activities of standing committees to:
  - i. Provide information and assist with operations at the local American Job Centers; and
  - ii. Provide information and assist with operations consisting of services to youth; and
  - iii. Provide information and assist with operations for services to persons with disabilities.
- D. Local Boards may designate standing committees in addition to the standing committees designated in paragraph III(4)(C).

## **5. Reporting:**

- A. At a minimum, Local Boards shall hold publicly announced quarterly meetings.
  - i. Meetings shall be held at such times and such places as the Local Board deems necessary.
  - ii. Public notice of the quarterly meetings shall be published on the respective Local Board's website, at a minimum, fourteen (14) days prior to the respective meetings.
- B. Local Boards shall keep minutes of the proceedings of all meetings, including standing committee meetings, a record of all actions taken by the Local Board, and a record of attendance.

- i. A record of minutes and actions taken at all meetings must be published to the Local Boards' websites within thirty (30) days of approval by the Local Board.

## **6. Certification and Local Board Responsibilities:**

- A. The Local Board is responsible for developing a strategy to continuously improve and strengthen the workforce development system. The Local Board's role is to develop a comprehensive high quality workforce system through collaboration with its workforce and education partners that supports continuous improvement in the area of employment, training, and education programs and promotes economic growth that is aligned with achieving the goals of the State Strategic Plan.
- B. Details for each function listed below are in WIOA Sec. 107(d). Local Board functions shall include, but are not limited to, the following:
  - i. Local Plan;
  - ii. Workforce Research and Regional Labor Market (LMI) Analysis;
  - iii. Convening Stakeholders and Leveraging Resources and Expertise in the Local Area;
  - iv. Implementation of Career Pathways Strategy;
  - v. Employer Engagement;
  - vi. Technology to Maximize the Accessibility and Effectiveness of the Local Workforce System;
  - vii. Program Oversight;
  - viii. Negotiation of Local Performance Accountability Measures;
  - ix. Selection of Operators and Providers;
  - x. Accessibility for Individuals with Disabilities (acquiring or modifying equipment, providing qualified readers or interpreters and changing tests or policies);
  - xi. Leveraging Resources and Capacity;
  - xii. Proven and Best Practices; and



xiii. Budget and Administration.

- C. Each Local Board shall develop its local strategy every two years, at a minimum. Local Board members provide strategic and operational oversight in collaboration with key partners of the workforce development system. These partnerships are crucial to the Local Board's role in the achievement of the State's strategic and operational vision towards an integrated, aligned, and more effective job driven workforce development system.
- D. Each Local Board may hire a director and other staff to assist in carrying out Local Board responsibilities. The Local Board shall establish and apply a set of objective qualifications for the position of director, which ensures the individual selected has the requisite knowledge, skills, and abilities to meet identified benchmarks and to assist in effectively carrying out the functions of the Local Board. Local Board staff shall be subject to the limitations on the payment of salaries and bonuses described in WIOA Section 194(15).
- E. Each Local Board shall send an updated roster of members to the Governor's Workforce Development Board in writing, to be submitted at least annually and anytime there is a change in membership (ideally within 14 days).

**7. Local Plans:**

- A. The Local Board, in partnership with the CLEO(s) for the Local Area involved, shall develop and submit a 4- year comprehensive local plan to the Governor that is consistent with the State Plan and meet the requirements in WIOA Section 108. If the Local Area is part of a planning region that includes other Local Areas, the GWDB shall collaborate with the other relevant Local Boards and CLEOs in the preparation and submission of a Regional Plan under WIOA Section 106(b). Prior to submission, the Local Board must provide an opportunity for public comment on the development of the local plan before submitting the plan to the GWDB (WIOA Section 107).
- B. To assist with the development and implementation of the Local Plan, the Local Board shall:

- i. Regularly carry out analysis of the region's economic conditions, knowledge and skill gaps, workforce, and workforce development activities, including education and training;
- ii. Assist the Governor in developing, analyzing, collecting, and using Labor Market Information (LMI); and
- iii. Conduct relevant research, data collection, and analysis related to the workforce needs of the regional economy after receiving input from a wide array of stakeholders.

## **8. Convening and Employer Engagement:**

- A. The Local Board shall convene a meeting of local workforce development system stakeholders to assist in developing the business services provided through the One-Stop delivery system local plan and identifying expertise and resources to leverage support for workforce development activities in cooperation with the State. The Local Board, including standing committees, may engage with stakeholders in carrying out their functions.
- B. The Local Board shall lead efforts to engage with a diverse range of employers and entities in the respective local regions to:
  - i. Promote business representation (particularly representatives with optimal policymaking or hiring authority from employer whose employment opportunities reflect emerging employment opportunities in the region);
  - ii. Develop effective linkages with employers and business intermediaries in the region to support employer utilization of the local workforce development system and to support business activities;
  - iii. Ensure the workforce investment activities meet employer needs and support economic growth in the region by enhancing communication, coordination, and collaboration among employers, economic development entities, and service providers;

- iv. Develop and implement proven or promising strategies, strategies for meeting the Business and skill needs of employers, that provide the skilled workforce needed in the region and that expand employment and career advancement opportunities for workforce development participants in in-demand industry sectors or occupations; and
- v. Ensure business services and strategies are reflected in the local plan that meet local business needs and demand pursuant to WIOA Section 106.

## **9. Career Pathways Development and Coordination with Education**

### **Providers:**

- A. The Local Board, with representatives of secondary and postsecondary education programs, shall lead efforts in the Local Area to develop and implement career pathways within the Local Area by aligning the employment, training, education, and supportive services that are needed by adults and youth, particularly individuals with barriers to employment.
- B. The Local Board shall coordinate activities with the business community, education and training providers in the Local Area, including providers of workforce investment activities, providers of WIOA Title II adult education and literacy activities, providers of career and technical education, and local agencies administering plans under the Rehabilitation Act of 1973 Title I, other than section 112 or part C of that title. Coordination shall include:
  - i. Reviewing applications to provide adult education and literacy activities under Title II for the local area to determine whether such applications are consistent with the local plan;
  - ii. Making recommendations to the eligible agency to promote alignment with such plan; and
  - iii. Replicating the required cooperative agreements outlined under Title I of the Rehabilitation Act of 1973 with respect to efforts that will enhance the provision of services to individuals with

disabilities and other individuals, such as cross training of staff, technical assistance, use and sharing of information, cooperative efforts with employers, and other appropriate cooperative coordinating efforts.

## **10. Proven and Promising Practices:**

- A. The Local Board shall lead efforts in the Local Area to identify and promote proven and promising strategies and initiatives for meeting the needs of employers, workers, and jobseekers in the local workforce development system. As part of these efforts, the Local Board shall identify and disseminate information on proven and promising practices carried out in other Local Areas, other states, and other countries.

## **11. Technology:**

- A. The Local Board shall develop strategies for using technology to maximize the accessibility and effectiveness of the local workforce development system for employers, workers, and jobseekers by:
  - i. Facilitating connections among the intake and case management information systems of the One-Stop partner programs, to support a comprehensive workforce development system in the Local Area;
  - ii. Facilitating access to services provided through the One-Stop delivery system involved, including facilitating the access in remote areas;
  - iii. Identifying strategies for better meeting the needs of individuals with barriers to employment, including strategies that augment traditional service delivery, and increase access to services and programs of the One-Stop delivery system, such as improving digital literacy skills;

- iv. Leveraging resources and capacity within the local workforce development system, including resources and capacity for services for individuals with barriers to employment.

## **12. Program Oversight:**

- A. The Local Board, in partnership with the CLEO(s) for the Local Area, shall conduct oversight for local youth workforce investment activities, local employment and training activities, and the One-Stop delivery system in the Local Area to ensure the appropriate use and management of funds provided for the WIOA activities.

## **13. Negotiation of Local Performance Accountability:**

- A. The Local Board, CLEO(s), and the Governor shall negotiate and reach agreement on local levels of performance based on the State adjusted levels of performance as described in WIOA Section 116(c).
  - i. The provision identifies establishing targets based on an objective statistical model taking into account numerous factors, example (regional economic conditions, existing and in-demand industry sectors/occupations, employment needs of employers and the regional economy) just to name a few. The State Plan will include a description of the requirements.
  - ii. The local areas will be required to bi-annually report a broad array of information about programs and services of the workforce development system.
  - iii. The Local Board in conjunction with the CLEO may negotiate the performance accountability based on characteristics, employment barriers, and services of their local regions.

## **14. Selection of Operators and Providers:**

- A. The Local Boards, CLEOs, and Local Area Directors, shall designate, certify, or terminate for cause:

- i. One-Stop operators as described in WIOA Section 121(d)(2)(A);
  - ii. Youth providers, based on the results of the youth standing committee; and,
  - iii. Eligible providers of career services (if the One-Stop operator does not provide career services described in WIOA Section 134(c)(2) in a Local Area).
- B. The Local Board shall work with GWDB, DLLR-DWDAL, and other relevant State agencies to ensure there are sufficient numbers and types of providers of career services and training services for the Local Area. For example, the Board shall ensure that there are sufficient eligible providers with expertise in assisting individuals with disabilities and eligible providers with expertise in assisting adults in need of adult education and literary activities.

## **15. Conflict of Interest:**

- A. A member of a Local Board or a member of a Standing Committee may not vote on a matter under consideration by the Local Board if it:
  - i. Is regarding a service provided by that member (or by an entity that the member represents);
  - ii. Would provide direct financial benefit to the member or the immediate family of the member;
  - iii. Would constitute a conflict of interest as specified in Maryland State Law at State Government §15-501 et seq., §15-803 et seq. and the Code of Maryland Regulations (COMAR) 23.02.01; or
  - iv. Would violate the Conflict of Interest policy established by the Local Area.

## **16. Additional Provisions:**

- A. Local boards are subject to:
  - i. The Sunshine Provision per WIOA § 107(e).
  - ii. The Open Meetings Act found in the General Provisions Article of the Maryland Code at § 3-101 *et seq.*

- iii. The Public Information Act found in the General Provisions Article of the Maryland Code at § 4-101 *et seq.*

## **17. Certification:**

- A. The Governor shall, once every two (2) years, certify one (1) Local Board for each designated local area.
  - i. The Maryland Governor’s Workforce Development Board, as a designee for the Governor, shall, facilitate the certification process.
  - ii. Certification shall include, but is not limited to, an analysis of the Local Boards compliance with paragraph III(1).
  - iii. A second or subsequent certification shall include, but is not limited to, Local Board assurance that workforce development activities carried out in the local area have enabled the local area to meet the corresponding performance accountability measures and achieve sustained fiscal integrity as defined in WIOA § 106(e)(2).<sup>6</sup>
- B. Certification shall be attained through a written Local Workforce Development Board Certification checklist provided by the local workforce development boards to the Maryland Governor’s Workforce Development Board.
  - i. The written Local Workforce Development Board Certification checklist is due to the Maryland Governor’s Workforce Development Board by July 15, 2019, to be repeated biennially.
  - ii. The written Local Workforce Development Board Certification checklist shall include:
    - a. A complete list of the members, and any entities the members represent.
    - b. Evidence that a majority of members are business representatives in accordance with paragraph III(1)(A).

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<sup>6</sup> *Workforce Innovation and Opportunity Act, § 107 (c)(2)(b).*

- c. Evidence that, at a minimum, twenty (20) percent of members are representative of workforce within the local area in accordance with paragraph III(1)(B).
  - d. Evidence that the members of the local area board are representative of diverse geographical locations within the local area in accordance with paragraph III(1)(I).
- C. The Governor's Workforce Development Board and the local workforce development boards shall post the local workforce development boards' membership rosters on their respective websites in a timely fashion when there is a change in membership.

## **18. Decertification:**

- A. Failure to achieve certification may result in decertification of the Local Board and the appointment and certification of a new Local Board.
- B. The Governor shall have the authority to decertify a Local Board, with notice given, upon a finding of:
  - i. Fraud; or
  - ii. Abuse; or
  - iii. Non-performance (2 consecutive years).
- C. Upon decertification, the Governor may require that a new Local Board be appointed and certified for the local area pursuant to a reorganization plan developed by the Governor, in consultation with the CLEO in the local area and in accordance with the member requirements established in this policy.<sup>7</sup>

## **19. Appeals Process:**

- A. A unit of local government (or combination of units) which has requested and been denied initial designation as a Local Area under WIOA may appeal the denial to the GWDB, in accordance with WIOA §106.

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<sup>7</sup> *Workforce Innovation and Opportunity Act, § 107(c)(3)(B-C).*



- B. An entity, which has been denied initial designation, may appeal the decision and request a hearing. An appeal and request for hearing must be mailed to the GWDB within 20 calendar days from the mailing date of the notice of denial of initial designation.
- C. The appeal must:
  - i. Be in writing; and
  - ii. State the grounds for the appeal; and
  - iii. State the reasons why the appellant should be initially designated.
- D. The GWDB will contact the appellant to schedule a hearing date within five calendar days of the receipt of the appeal. The GWDB will conduct the appeal hearing process and provide a written decision to the appellant no later than five calendar days after the hearing.
- E. Appeal of the GWDB Decision - A unit or combination of units of general government whose appeal has not resulted in designation as a local area may also appeal the denial to the Secretary of the Department of Labor.