

Workforce Innovation and Opportunity Act Local Governance Policy

01-2016 Workforce Innovation and Opportunity Act (WIOA) Local Governance

ISSUING AGENCY: State Workforce Development Board

SCOPE: State Workforce Development Board, Arizona Department of Economic Security, Arizona Commerce Authority/Office of Economic Opportunity, Local Workforce Development Boards, Local Workforce Administrative Entities and Fiscal Agents, One-Stop Operators, and Workforce System Stakeholders

REFERENCES: Title I of the Workforce Innovation and Opportunity Act (WIOA) of 2014, (Pub. L. 113-128); WIOA Final Labor Rule, 20 CFR Subpart B WIOA Local Governance and Subpart C Local Boards Part 601, 651, 652 et al; 2 CFR 200, Uniform Guidance for Federal Financial Assistance, as applicable.

EFFECTIVE DATE: **February 16, 2017**

OBJECTIVE: This policy articulates the State's vision for the Local Workforce Development Boards (Local Boards) and the purpose of the Local Boards, provides guidance on the appointment and certification of Local Boards, outlines the roles, responsibilities and authority of the chief elected officials and the Local Boards in regards to the local workforce system, and describes the process for local area designation.

TABLE OF CONTENTS

- I. Definitions
- II. Chief Elected Official Agreement for Consortia
- III. Shared Governance Agreement
- IV. Vision and Purpose of Local Workforce Development Board
- V. Local Board Roles and Responsibilities
- VI. Local Board Recruitment Process
- VII. Local Board Certification
- VIII. Local Workforce Development Board Membership
- IX. Local Board Conduct Business Openly
- X. Other Local Board Requirements
 - Policymaking Authority of Board Members
 - Prohibited Board Members
 - Diverse Geographic Areas Represented
 - Represent Multiple Entities
 - Board Chair
 - Voting Privilege
 - Standing Committees
 - Bylaws
- XI. Local Workforce Area Designation Request
- XII. Local Workforce Area Designation

I. DEFINITIONS: Chief elected official -- The term "chief elected official" means--

Workforce Innovation and Opportunity Act Local Governance Policy

(A) the chief elected executive officer of a unit of general local government in a local area; and

(B) in a case in which a local area includes more than one unit of general local government, the individuals designated under the agreement described in section 107(c)(1)(B).

II. CHIEF ELECTED OFFICIAL AGREEMENT FOR CONSORTIA: If a local area includes more than one unit of general local government, the chief elected officials of such units must execute a written agreement that specifies the respective roles and liability of the individual chief elected officials. Chief elected officials are liable in their official capacity and are not personally liable for misuse of WIOA funds. If the chief elected officials are unable to reach agreement after a reasonable effort, the Governor may appoint the members of the Local Board from individuals nominated or recommended as specified in WIOA 107(c)(1)(B).

The State Workforce Development Board, as the designated representative of the governor, provides the following guidance on this agreement:

- A. Required inclusions.** Chief elected officials must enter into an agreement with each other that, at a minimum, includes the following sections:
- 1. Liability of funds.** Acknowledge financial liability as noted in WIOA 107(d)(12)(B)(i)(I) and outline the process for determining each chief elected officials' share of responsibility as required in 20 CFR Part 667.705. This determination could be based on allocation, population, expenditures, or other criteria determined by the chief elected officials. Chief elected officials are liable in their official capacity and are not personally liable for misuse of WIOA funds.
 - 2. Grant recipient and signatory.** Acknowledgement that the chief elected officials are the grant recipient for all local WIOA funds as outlined in WIOA 107(d)(12)(B)(i)(I) or have designated grant recipient authority to the Local Board. If the chief elected officials will serve as the grant recipient, they must outline the process they will use to sign contracts and enter into agreements related to the WIOA. This may be accomplished by designating signatory authority to a lead chief elected official. If a lead chief elected official is used in this capacity, chief elected officials must include the information outlined in the recommended inclusions Subsection B of this policy.
 - 3. Fiscal agent designation.** To assist in the administration of the grant funds, the chief elected officials may designate an entity to serve as a local fiscal agent as outlined in WIOA 107(d)(12)(B)(i)(II) and 20 CFR 679.420. If a fiscal agent is designated, describe the process for designation within the guidelines required by state and local procurement laws and policies.
 - 4. Local Board budget approval.** Describe the process for reviewing and recommending the approval of the Local Board annual budget as required in WIOA 107(d)(12)(A) and 20 CFR 679.370(o) for the purpose of carrying out the duties of the Local Board. Every local area must have a Local Workforce Development Board (LWDB) budget that includes only the costs of the LWDB staffing and related costs associated with carrying out the functions of the LWDB as stated in WIOA sec. 107(d) and 20 CFR 679.370.
 - 5. Participating chief elected officials.** The agreement must contain the name, representation, contact information, and signature of the participating chief elected official in the local area as

Workforce Innovation and Opportunity Act Local Governance Policy

defined in the local area. The tribal nations representing local workforce development areas will identify appropriate signatures for their agreements.

6. **Amendment or change to the chief elected official agreement.** Outline the process that will be used for amendments or changes to the chief elected official agreement including a description of how an election may or may not impact an existing agreement. All amendments or changes must be maintained at the local administrative entity office and available for monitoring by the state administrative entity.

B. Recommended inclusions. In order to improve the coordination and functionality of the local workforce system, the State Workforce Development Board recommends that the consortia agreements also address the following items:

1. **Designation of a chief lead elected official.** Chief elected officials are liable for all WIOA Title IB funds in the local area, and are required by the WIOA to approve or provide guidance on a number of Local Board activities. The State Workforce Development Board encourages chief elected officials to select a chief lead elected official (CEO) who will act on behalf of the other chief elected officials. If a lead is appointed, the following information must be sent to the local administrative entity and kept on file for review by the state administrative entity:
 - a. appointment process and term of the lead; and
 - b. designate the lead to serve as the signatory for the chief elected officials; and
 - c. outline decisions that may be made by the lead on behalf of the chief elected officials; and
 - d. name, title, and contact information of the appointed lead.
2. **Local Board member representation.** Outline how chief elected officials will ensure Local Board representation is fair and equitable across the local area.
3. **Communication.** Describe how the chief elected officials will communicate with each other regarding Local Board activities and determine how many times a year the chief elected officials will meet. The State Workforce Development Board encourages chief elected officials to meet at least once a year just as chief elected officials.

Determine how often a joint meeting with the Local Board between the chief elected officials and the Local Board will occur. Local Boards and Chief Elected Officials may satisfy this joint meeting requirement through alternative methods of communicating acceptable to the State Workforce Development Board. The State Workforce Development Board encourages that Local Boards and Chief Elected Officials meet at least annually.

III. SHARED GOVERNANCE AGREEMENT: As stated in WIOA 107(d) and 20 CFR 679.370, the chief elected official(s) and the Local Board share governance responsibility for Local Board functions such as local planning, program oversight, negotiating local performance accountability measures, selection of operators and providers, and approving a budget for Local Board activities. The Local Board and the chief elected official(s) must enter into a written partnership agreement that describes how the parties will carry out their shared governance functions and meet other Local Board requirements such as membership criteria, setting local policy, and communicating with elected officials and the public. The State Workforce Development Board, as the designated representative of the Governor, provides the following guidance on this agreement:

- A. Required inclusions.** The Local Board and chief elected officials must enter into a written partnership agreement that, at a minimum, addresses the following subjects:

Workforce Innovation and Opportunity Act Local Governance Policy

1. **Local board membership.** The WIOA Section 107(c)(1) authorizes chief elected officials to appoint the members of the Local Boards in accordance with the criteria established by the Governor in partnership with the State Board (WIOA 107(b)(1)).
 - a. **Terms.** Outline the terms of Local Board member appointments and ensure that the terms are staggered so that only a portion of membership expires in a given year.
 - b. **Nomination.** For each Local Board member position that requires a nomination, the nominating organization must submit to the appointing chief elected officials of the local area a document or letter signed by the chief executive officer or designee identifying the individual being nominated. The document or letter must also acknowledge the nominee's optimum policy-making authority and include documentation of curriculum vitae, resume or work history supporting the qualifications of the nomination.
 - c. **Appointment.** Local Board member appointments must be made by the appointing chief elected official and submitted to the local administrative entity either in a form of a letter, evidenced within minutes of meetings, or other official communication.
 - d. **Change in status.** Acknowledgement that Local Board members who no longer hold the position or status that made them eligible Local Board members must resign or be removed by the chief elected officials immediately upon notification to the Local Board chair of the change of status as a representative of that entity.
 - e. **Mid-term appointment.** Local Board members replacing out-going members mid-term will serve the remainder of the out-going member term unless the Local Board by-laws establishes a different procedure.
 - f. **Vacancies.** Local Board vacancies must be filled within 120 days of the vacancy. The chief elected officials in a local area are authorized to make all reappointments of members. Reappointments must be made within 120 days of the term expiration. In the event a vacancy cannot be filled within 120 days, the local administrative entity must request a waiver in writing to the Director of the State Workforce Development Board with an explanation of why a vacancy was not filled in the 120-day timeframe and a description of the process underway to fill the vacancy. The local administrative entity must maintain written approval of the waiver request by the Director of the State Workforce Development Board and will be monitored according to the process outlined in their approved waiver request.
 - g. **Removal.** Local Board members must be removed by the chief elected officials if any of the following occurs: documented violation of conflict of interest, failure to meet Local Board member representation requirements defined in the WIOA and this policy, or documented proof of malfeasance, fraud or abuse. Local Board members may be removed for other reasons outlined in the Local Board bylaws such as lack of attendance. Local Boards must define the specific criteria that will be used to establish just cause and the process for such removal. The state administrative entity reserves the right to conduct an investigation regarding allegations of wrong doing that result in the removal of a board member. Chief elected officials and local workforce board chairs will be formally notified in advance of any such investigation and of the results.
2. **Relationship between chief elected officials and the Local Board.** The governance partnership agreement shall establish roles and responsibilities of the chief elected officials and the Local Board along with a description of the partnership and specific responsibilities.
 - a. **Local plan requirements.** Describe how the local plan will be developed in partnership between the chief elected officials and the Local Board.

Workforce Innovation and Opportunity Act Local Governance Policy

- b. **Budget and approval.** As referenced in WIOA 107(d)(12)(A), describe how the Local Board will develop its budget for the purpose of carrying out the duties of the Local Board and the process for obtaining the chief elected officials' approval. This does not include the local operation or administrative budgets.
 - c. **Selection of operators and providers.** Establish the guidelines and processes that will be followed by the Local Board for selection of each of the operators and providers for the local area in accordance with WIOA 107(d)(10)(A) through (E) and State Workforce Development Board policy, including the process for getting chief elected official agreement on the selections.
 - d. **Youth activities.** Describe if the Local Board will establish a standing youth committee (20 CFR 681.100), the composition of and appointment procedures for the standing youth committee (20 CFR 681.110) and the duties assigned to the standing youth committee (20 CFR 681.120). If the Local Board does not establish a standing youth committee, describe how the Local Board will carry out its responsibilities for youth activities under youth formula programs.
 - e. **Program oversight.** Establish the guidelines and process that will be followed to carry out the program oversight responsibilities outlined in WIOA 107(d)(8)(A) and (B) including how the chief elected official(s) will be involved.
 - f. **Performance accountability measures.** Describe the process the Local Board will use to reach agreement with the chief elected official(s) and the Governor on local performance accountability measures in accordance with WIOA 107(d)(9).
 - g. **Local Board policy.** Describe the process for approving local workforce policy.
 - h. **Memorandum of Understanding.** Describe the process for demonstrating chief elected official agreement on memorandum of understanding between workforce system partners and the Local Board.
3. **Authorized signatures.** The partnership agreement must be signed by the chief elected officials that have been identified as participating in the chief elected official agreement at the time of the signing and by the Local Board chair at the time of the signing.
 4. **Amendments, change, or election.** Any amendment or change to the partnership agreement, including notice of an election of a new chief elected official, notice of an election of a new Local Board chair, or amendment of any applicable partnership agreement(s), must be maintained at the local administrative entity office and available for monitoring by the state administrative entity.
 5. **Communication with Elected Officials.** Establish requirements for informing the chief elected officials on a regular basis regarding activities, performance outcomes, and budgets with at least one joint meeting held annually between the chief elected officials and the Local Board. Local Boards and Chief Elected Officials may satisfy this joint meeting requirement through alternative methods of communicating acceptable to the State Workforce Development Board.
 6. **Communication with Public.** Establish requirements for the Local Board to make available to the public, on a regular basis through electronic means and open meetings, information regarding the activities of the local board as required by WIOA 107(e) and 20 CFR 679.390, including:
 - a. Information about the Local Plan, or modification to the Local Plan, before submission of the plan;
 - b. List and affiliation of Local Board members;
 - c. Selection of one-stop operators;

Workforce Innovation and Opportunity Act Local Governance Policy

- d. Award of grants or contracts to eligible providers of workforce development activities including providers of youth workforce development activities;
- e. Minutes of formal meetings of the Local Board; and
- f. Local Board bylaws, consistent with § 679.310(g).

IV. VISION AND PURPOSE OF LOCAL WORKFORCE DEVELOPMENT BOARD: The vision for the Local Workforce Development Board (Local Board) is to serve as a strategic leader and convener of local workforce development system stakeholders. The Local Board partners with employers and the workforce development system to develop policies and investments to support workforce system strategies and support regional approaches including local and regional sector partnerships and career pathways, and high quality, customer-centered service delivery and service delivery approaches.

The purpose of the Local Board is to (20 CFR 679.300 b):

- 1. Provide strategic and operational oversight in collaboration with the required and additional partners and workforce stakeholders to help develop a comprehensive and high-quality workforce development system in the local area and larger planning region;
- 2. Assist in the achievement of the State’s strategic and operational vision and goals as outlined in the Unified State Plan or Combined State Plan; and
- 3. Maximize and continue to improve the quality of services, customer satisfaction, and effectiveness of the services provided.

V. LOCAL BOARD ROLES AND RESPONSIBILITIES: As stated in WIOA sec. 107(d) and 20 CFR 679.370, the Local Board must:

- 1. **Local Plan:** Develop and submit a 4-year local plan for the local area, in partnership with the chief elected official and consistent with WIOA section 108;

If the local area is part of a planning region that includes other local areas as designated by the Governor under 20 CFR 679.200 and 679.210, the Local Board in partnership with the chief elected official must develop and submit a regional plan in collaboration with the Local Boards and chief elected officials from other areas. (WIOA 106 (c)(2) and 20 CFR 679.510). The regional plan must incorporate the local plans from each local area in the planning region per 20 CFR 679.540 (a).

- 2. **Labor Market Analysis:** In order to assist in the development and implementation of the local plan, conduct workforce research and regional labor market analysis to include:
 - a. Analyses and regular updates of economic conditions, needed knowledge and skills, workforce, and workforce development (including education and training) activities to include an analysis of the strengths and weaknesses (including the capacity to provide) of such services to address the identified education and skill needs of the workforce and the employment needs of employers;

Workforce Innovation and Opportunity Act Local Governance Policy

- b. Assistance to the Governor in developing the statewide workforce and labor market information system under the Wagner-Peyser Act for the region;
 - c. Other research, data collection, and analysis related to the workforce needs of the regional economy as the board, after receiving input from a wide array of stakeholders, determines to be necessary to carry out its functions.
 3. **Convening, Brokering, Leveraging:** Convene local workforce development system stakeholders to assist in the development of the local plan under WIOA section 108 and 20 CFR 679.550 and in identifying non-Federal expertise and resources to leverage support for workforce development activities. Such stakeholders may assist the Local Board and standing committees in carrying out, convening, brokering, and leveraging functions at the direction of the Local Board.
 4. **Employer Engagement:** Lead efforts to engage with a diverse range of employers and other entities in the region in order to:
 - a. Promote business representation (particularly representatives with optimum policy-making or hiring authority from employers whose employment opportunities reflect existing and emerging employment opportunities in the region) on the Local Board;
 - b. Develop effective linkages (including the use of intermediaries) with employers in the region to support employer utilization of the local workforce development system and to support local workforce investment activities;
 - c. Ensure that workforce investment activities meet the needs of employers and support economic growth in the region by enhancing communication, coordination, and collaboration among employers, economic development entities, and service providers; and
 - d. Develop and implement proven or promising strategies for meeting the employment and skill needs of workers and employers (such as the establishment of industry and sector partnerships), that provide the skilled workforce needed by employers in the region, and that expand employment and career advancement opportunities for workforce development system participants in in-demand industry sectors or occupations.
 5. **Career Pathways Development:** With representatives of secondary and post-secondary education programs, lead efforts 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.
 6. **Proven and Promising Practices:** 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 (including individuals with barriers to employment) in the local workforce system, as well as in providing physical and programmatic accessibility, in accordance with section 188, if applicable, and applicable provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), to the one-stop delivery system.

Workforce Innovation and Opportunity Act Local Governance Policy

Identify and disseminate information on proven and promising practices carried out in other local areas for meeting such needs.

7. **Technology:** Develop strategies for using technology to maximize the accessibility and effectiveness of the local workforce development system for employers, and workers and jobseekers, by:
 - a. 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;
 - b. Facilitating access to services provided through the one-stop delivery system involved, including access in remote areas;
 - c. 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; and
 - d. Leveraging resources and capacity within the local workforce development system, including resources and capacity for services for individuals with barriers to employment.
8. **Program Oversight:** Provide program oversight, *in partnership with the chief elected official* for the local area:
 - a. Conduct oversight of youth workforce investment activities authorized under WIOA section 129(c), adult and dislocated worker employment and training activities under WIOA sections 134 (c) and (d); and the entire one-stop delivery system in the local area; and
 - b. Ensure the appropriate use and management of the funds provided under WIOA subtitle B for the youth, adult, and dislocated worker activities and one-stop delivery system in the local area; and
 - c. Ensure the appropriate use, management, and investment of funds to maximize performance outcomes under WIOA section 116.
9. **Local Performance Accountability Measures:** Negotiate and reach agreement on local performance measures *with the chief elected official* and the Governor (WIOA section 116 (c)).
10. **Selection of Operators and Providers:** *With the agreement of the chief elected official* for the local area, select the following providers in the local area, and where appropriate terminate such providers in accordance with 2 CFR part 200:
 - a. Providers of youth work investment activities through competitive grants or contracts based on the recommendations of the youth standing committee (if such a committee is established). However, if the Local Board determines there is an insufficient number of eligible providers in a local area, the Local Board may award contracts on a sole-source basis

Workforce Innovation and Opportunity Act Local Governance Policy

as per the provisions at WIOA sec. 123(b). The Local Board may terminate for cause the eligibility of such providers.

- b. Eligible providers of training services consistent with the criteria and information requirements established by the Governor and WIOA sec. 122;
- c. Providers of career services through the award of contracts, if the one-stop operator does not provide such services (WIOA section 134(c)(2));
- d. Designate or certify one-stop operators as described in WIOA section 121(d)(2)(A) and 20 CFR 678.600 – 678.635. Also, may terminate for cause the eligibility of such operators.
- e. Work with the State to ensure there are sufficient numbers and types of providers of career services and training services serving the local area, services are provided in a manner that maximizes consumer choice and provides opportunities that lead to competitive integrated employment for individuals with disabilities. This includes eligible providers with expertise in assisting individuals with disabilities and eligible providers with expertise in assisting adults in need of adult education and literacy activities. (WIOA section 122 and paragraphs (2) and (3) of section 134(c))

11. Coordination with Education Providers: Coordinate activities with education and training providers in the local area, including:

- a. 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;
- b. Making recommendations to the eligible agency to promote alignment with such plan; and
- c. Replicating and implementing cooperative agreements to 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 efforts at cooperation, collaboration, and coordination. *Cooperative agreement* means an agreement entered into by a State designated agency or State designated unit under subparagraph (A) of section 101(a)(11) of the Rehabilitation Act of 1973.

12. Budget and Administration: Develop a budget for the activities of the Local Board, with approval of the chief elected official and consistent with the local plan and the duties of the Local Board. This does not include the local area operations or administrative budgets.

13. Accessibility for Individuals with Disabilities: Assess, on an annual basis, the physical and programmatic accessibility of all one-stop centers in the local area, in accordance with WIOA section 188, if applicable, and applicable provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*).

VI. LOCAL BOARD RECRUITMENT PROCESS: The Local Board is appointed by the chief elected official(s) in each local area in accordance with State criteria established under WIOA 107(b)(2) and

Workforce Innovation and Opportunity Act Local Governance Policy

stated in this policy, and is certified by the Governor every two years, in accordance with WIOA 107(c)(2).

Chief elected officials must establish a formal nomination and appointment process that is open and transparent, and ensures compliance with the membership criteria identified in this policy for composition of local workforce development board. The nomination and appointment process must be documented in the written partnership agreement between the Local Board and the chief elected official(s).

If local conditions (i.e. for example, but not limited to, a rural area with fewer options available) make it impossible for a local area to fully comply with all of the membership criteria for the LWDB, the chief elected official may request a waiver in writing to the Director of the State Workforce Development Board for a specific membership type with an explanation of why this membership type cannot be filled in the local area and a suggested alternative to comply.

VII. LOCAL BOARD CERTIFICATION:

A. Local Board initial certification. For newly created Local Boards, the State Workforce Development Board will evaluate the composition of the Local Board to determine compliance with the membership criteria identified in this policy, which is consistent with WIOA membership requirements, and recommend certification to the Governor. Local Boards that existed prior to the implementation of WIOA must meet the WIOA membership criteria identified in this policy to be considered for certification.

B. Local Board Recertification.

1. Recertification will be conducted by the State once every two years to ensure that the Local Board composition meets all membership requirements, and the local workforce system activities comply with required Local Board responsibilities, and support meeting local performance measures and any prescribed outcomes as outlined in the local grant agreement.

If a Local Board meets all membership requirements, but fails to meet all performance measures and outcomes, certification will be granted for only a one-year review period, instead of a two-year period. At the end of the one-year review period, the recertification process will be repeated with an updated review of performance and membership composition. If this review shows the Local Board is meeting all performance measures and outcomes, a two-year certification will be granted.

2. During the two-year certification period, if more than 10% of the Local Board membership is removed for cause, a recertification must occur to ensure membership compliance and assess board stability.

C. Decertification.

1. A Local Board is subject to decertification under the following conditions:
 - a. fails to meet all Local Board certification requirements; or
 - b. fails to carry out required functions of the Local Board in WIOA 107(d); or
 - c. fraud or abuse; or

Workforce Innovation and Opportunity Act Local Governance Policy

- d. fails to meet the local performance accountability measures for two consecutive program years.
2. If a Local Board has been placed on a one-year review period due to a lack of meeting all performance measures and outcomes, and fails to meet performance measures and outcomes for a second-year, the Local Board may be decertified.
3. A written notice and opportunity for comment will be provided prior to decertification.
4. In accordance with WIOA section 107(c)(2)(c), if a Local Board is decertified, the Governor reserves the right to:
 - a. Require a new Local Board be appointed for the local area pursuant to a reorganization plan developed by the Governor, in consultation with the chief elected officials.
 - b. In consultation with the chief elected officials, redesignate a local workforce development area.

VIII. LOCAL WORKFORCE DEVELOPMENT BOARD MEMBERSHIP: The State Workforce Development Board, in accordance with WIOA 107(b)(2), requires the following composition for each local workforce development board:

- The majority of the members of the Local Board must be representatives of business in the local area. At a minimum, two members must represent small business as defined by the U.S. Small Business Administration. Business representatives serving on local workforce development boards may also serve on the State Board. Each business representative must meet the following criteria:
 1. Be owners of businesses, chief executives or operating officers of businesses, or other business executives or employers with optimum policymaking or hiring authority;
 2. Provide employment opportunities in in-demand industry sectors or occupations, and provide high-quality, work-relevant training and development opportunities to its workforce or the workforce of others (in the case of organizations representing business as per WIOA section 107(b)(2)(A)(ii); and
 3. Be appointed from among individuals nominated by local business organizations and business trade associations.

A representative with *optimum policy-making authority* is an individual who can reasonably be expected to speak affirmatively on behalf of the entity he or she represents and to commit that entity to a chosen course of action.

As defined in WIOA section 3(23), *in-demand industry sector or occupation* means:

- i. 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
- ii. 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

Workforce Innovation and Opportunity Act Local Governance Policy

industry sector so as to have a significant impact on the State, regional, or local economy, as appropriate.

The determination of whether an industry sector or occupation is in-demand shall be made by the State or Local Board, as appropriate, using State and regional business and labor market projections, including the use of labor market information.

- Not less than 20 percent of the members of each Local Board must be workforce representatives. These representatives:
 1. Must include two or more representatives of labor organizations who have been nominated by local labor federations, or other representatives of employees (for areas where labor organizations do not exist);
 2. Must include one or more representatives (must be a training director or a member of a labor organization) of a joint labor-management, or union affiliated, registered apprenticeship program within the area. If no union affiliated registered apprenticeship programs exist in the area, a representative of a registered apprenticeship program with no union affiliation must be appointed, if one exists;
 3. May include one or more representatives of community-based organizations that have demonstrated experience and expertise in addressing the employment needs of individuals with barriers to employment, including organizations that serve veterans or that provide or support competitive integrated employment for individuals with disabilities; and
 4. 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.

- The balance of membership for each Local Board must include:
 1. At least one eligible provider administering adult education and literacy activities under WIOA title II. When there is more than one local area provider of adult education and literacy activities under title II, nominations are solicited from those particular entities (WIOA 107(b)(2)(C)(i));
 2. At least one representative from an institution of higher education providing workforce investment activities, including community colleges. When there are multiple institutions of higher education providing workforce investment activities nominations are solicited from those particular entities (WIOA 107(b)(2)(C)(ii)); and
 3. At least one representative from each of the following governmental and economic and community development entities:
 - a. Economic and community development entities;
 - b. The state Employment Service Office under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) serving the local area; and
 - c. The programs carried out under title I of the Rehabilitation Act of 1973, other than section

Workforce Innovation and Opportunity Act Local Governance Policy

112 or Part C of that title.

- In addition to the representatives enumerated above, the CLEO may appoint other appropriate entities in the local area, including:
 1. Entities administering education and training activities who represent local educational agencies or community-based organizations with demonstrated expertise in addressing the education or training needs for individuals with barriers to employment;
 2. Governmental and economic and community development entities who represent transportation, housing, and public assistance programs;
 3. Philanthropic organizations serving the local area; and
 4. Other appropriate individuals as determined by the chief elected official.

IX. Local Board Conducts Business Openly: The Local WDB must conduct its business in an open manner as required by WIOA sec. 107(e), by making available to the public, on a regular basis through electronic means and open meetings, information about the activities of the Local WDB. (20 CFR 679.390) This includes:

- a. Information about the Local Plan, or modification to the Local Plan, before submission of the plan;
- b. List and affiliation of Local WDB members;
- c. Selection of one-stop operators;
- d. Award of grants or contracts to eligible training providers of workforce investment activities including providers of youth workforce investment activities;
- e. Minutes of formal meetings of the Local WDB; and
- f. Local WDB by-laws, consistent with § 679.310(g).

X. OTHER LOCAL BOARD REQUIREMENTS

- A. Policymaking Authority Of Board Members:** Members of the Local Board that represent organizations, agencies, or other entities shall be individuals with optimum policymaking authority within the organizations, agencies, or entities.
- B. Prohibited Board Members:** The Board may not include members who are Local Board staff.
- C. Diverse Geographic Areas Represented:** The members of the Local Board shall represent diverse geographic areas within the local area.
- D. Represent Multiple Entities:** An individual may be appointed as a representative of more than one entity if the individual meets all the criteria for representation for each entity.
- E. Board Chair:** The local workforce development board must elect a chairperson from among the business representatives on the board. (WIOA 107(b)(3))

Workforce Innovation and Opportunity Act Local Governance Policy

- F. Voting Privilege:** All required board members must have voting privilege. The chief elected official may convey voting privileges to non-required members.
- G. Standing Committees:** The local workforce development board may establish standing committees to provide information and assist the Board in carrying out its responsibilities (20 CFR 679.360).

Standing committees may include each of the following:

1. A standing committee to provide information and assist with operational and other issues relating to the one-stop delivery system, which may include representatives of the one-stop partners.
 2. A standing committee to provide information and to assist with planning, operational, and other issues relating to the provision of services to youth, which must include community-based organizations with a demonstrated record of success in serving eligible youth.
 3. A standing committee to provide information and to assist with operational and other issues relating to the provision of services to individuals with disabilities. This includes issues relating to compliance with WIOA section 188, if applicable, and applicable provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101) programmatic and physical access to the services, programs, and activities of the one-stop delivery system, as well as appropriate training for staff on providing supports for or accommodations to, and finding employment opportunities for, individuals with disabilities.
 4. The Local Board may designate other standing committees in addition to those specified in items 1-3 of this section.
 5. Local Boards may designate an entity in existence as of the date of the enactment of WIOA, such as an effective youth council, to serve as a standing committee as long as the entity meets the requirements of WIOA 107(b)(4).
- H. Bylaws:** The Local Board must establish bylaws in accordance with applicable local procedures, and applicable state and federal laws. At a minimum, the bylaws must address the following (20 CFR 679.310(g)):
 - a. Establishment.** A statement that the Local Board is established in accordance with WIOA Section 107.
 - b. Name.** The name of the Local Board.
 - c. Purpose.** The vision and purpose for the establishment of the Local Board consistent with 20 CFR 679.300 (a) and (b).
 - d. Duties and responsibilities.** Acknowledge the duties and responsibilities as outlined in WIOA 107 (d), 20 CFR 679.370, and in the partnership agreement between the chief elected officials and the Local Board.
 - e. Membership.** A description of membership as outlined in WIOA 107(b) and in the partnership agreement between the chief elected officials and the Local Board.
 - f. Local Board chair election.** A description of the process used to elect a Local Board chair, including term details.

Workforce Innovation and Opportunity Act Local Governance Policy

- g. Election of officers.** A description of the process used to elect officers, officer positions, terms, removal of officers, and specific officer roles and responsibilities.
- h. Meetings:**
1. information on how often Local Board and committee meetings will be held;
 2. acknowledgement of open meeting requirements and compliance;
 3. a description of the process of announcing regular and special meetings;
 4. acknowledgement that a quorum must consist of at least a simple majority of the currently appointed membership; and
 5. clarification as to whether phone and web-based meetings will be permitted.
- i. Delegation of Local Board duties.** Acknowledge that Local Board members will not be permitted to delegate any Local Board duties to proxies or alternates.
- j. Committees.** A list of standing committees including the descriptions for each and composition, and description of the process for creating ad hoc committees.
- k. Conflict of interest.** Acknowledgement that Local Board members must adhere to the following rules regarding conflict of interest:
1. A Local Board member may not vote on any matter that would provide direct financial benefit to the member or the member's immediate family, or on matters of the provision of services by the member or the entity the member represents.
 2. A Local Board member must avoid even the appearance of a conflict of interest. Prior to taking office, Local Board members must provide to the Local Board chair a written declaration of all substantial business interests or relationships they, or their immediate families, have with all businesses or organizations that have received, currently receive, or are likely to receive contracts or funding from the Local Board. Such declarations must be updated annually or within 30 days to reflect any changes in such business interests or relationships. The Local Board must appoint an individual to review the disclosure information in a timely manner and advise the Local Board chair and appropriate members of potential conflicts.
 3. Prior to a discussion, vote, or decision on any matter before a Local Board, if a member, or a person in the immediate family of such member, has a substantial interest in or relationship to a business entity, organization, or property that would be affected by any official Local Board action, the member must disclose the nature and extent of the interest or relationship and must abstain from discussion and voting on or in any other way participating in the decision on the matter. All abstentions must be recorded in the minutes of the Local Board meeting and be maintained as part of the official record.
 4. It is the responsibility of the Local Board members to monitor potential conflict of interest and bring it to the Local Board's attention in the event a member does not make a self-declaration.
 5. In order to avoid a conflict of interest, a Local Board must ensure that the Local Board's workforce service providers for WIOA Title IB adult, dislocated worker, and youth programs must not employ or otherwise compensate a current Local Board member or Local Board employee who is employed or compensated by the Local Board or its administrative entity, fiscal agent, or grant recipient to support the Local Board in carrying out its duties.
 6. A Local Board must ensure that the Local Board, its members, or its administrative staff do not directly control the daily activities of its workforce service providers, workforce system partners or contractors.
 7. Local Board members or their organizations may receive services as a customer of a local workforce service provider or workforce system partner.

Workforce Innovation and Opportunity Act Local Governance Policy

- l. Conflict resolution.** A detailed procedure for the Local Board to follow in regards to conflict that may arise among, but not limited to;
 1. board members;
 2. service delivery partners;
 3. consortium partners.
- m. Compensation and reimbursement of expenses.** A description of the policy on compensating Local Board members and reimbursing expenses.
- n. Amendment.** A description of the process for amending the bylaws.
- o. Compliance with law.** Acknowledgement stating, in execution of its business, the Local Board must comply with the WIOA and regulations as well as policies and directives from the state administrative entity and the State Workforce Development Board.

XI. LOCAL WORKFORCE AREA DESIGNATION REQUEST: A new or existing (areas previously designated under WIA) local workforce development area must request designation as a local workforce development area in writing to the Governor's Office. *Workforce Development Area Designation Petitions* submitted to the Arizona Department of Economic Security also will be accepted during the period of transition from WIA to WIOA. The written request or petition must include:

- A Chief Elected Official Agreement for Consortia as described in this policy, (if applicable);
- For newly configured workforce areas, a narrative regarding how the area meets the considerations outlined in Section 106(b)(1)(B);
- For existing workforce areas, certification that the area performed successfully and sustained fiscal integrity for the 2-year period preceding enactment of WIOA (July 1, 2012-June 30, 2014);
- A list of Local Board members, to include composition categories and contact information;
- Identification of grant recipient/fiscal agent and signature of lead official;
- Documentation that public input was solicited and any comments received; and
- Signatures of chief elected officials from the petitioning counties.

Written requests from local workforce development areas will be received and reviewed according to the following process:

- All formal written requests (including *Workforce Development Area Designation Petitions*) must be submitted to the Governor with a carbon copy to the Executive Director of the Workforce Arizona Council and the DES Employment Administration.
- Petitions will be reviewed by the executive committee for the State Workforce Development Board and by the full State Board.
- A public comment period will be advertised and commence with opportunity for comment by representatives of Local Boards, chief elected officials, businesses, institutions of higher education, labor organizations, other primary stakeholders, and the general public regarding the designation of the local area (20 CFR 679.240).
- After the required public comment period, the State Workforce Development Board will make a recommendation to the Governor.
- Final designation of workforce development areas will be made by the Governor.

XII. LOCAL WORKFORCE AREA DESIGNATION:

WIOA 106(b) requires that the Governor designate local workforce development areas based on

Workforce Innovation and Opportunity Act Local Governance Policy

consideration of the extent to which the areas:

- Are consistent with the labor market;
- Are consistent with regional economic development within the State; and
- Have available Federal and non-Federal resources necessary to effectively administer activities and provisions required by WIOA, including whether the areas have the appropriate education and training providers, such as institutions of higher education and area career and technical education schools.

Newly Configured Workforce Areas: Per WIOA 106(b)(4), the Governor may approve a request from any unit of general local government (including a combination of such units) for designation as a local workforce development area if the State Workforce Development Board determines, based on the considerations described above, and recommends to the Governor, that such area should be designated.

Existing Workforce Areas: Per WIOA 106(b)(2), the Governor will approve a request for re-designation as a local workforce development area from any area that was designated as a local area for the two-year period preceding enactment of WIOA, performed successfully, and sustained fiscal integrity. Re-designation will be for a period of two years.

Per Section 106(e)(1), the term *performed successfully* means the local area met or exceeded the established levels of performance for each of the last two consecutive years for which data are available.

Per Section 106(e)(2), the term *sustained fiscal integrity* means that the Secretary has not made a formal determination, during either of the last two consecutive years, that either the grant recipient or the administrative entity of the area mis-expended funds provided under WIA due to willful disregard of the requirements of the provision involved, gross negligence, or failure to comply with accepted standards of administration.

Appeals: In accordance with WIOA 106(b)(5), if an existing workforce area requests but is not granted designation as a local workforce development area, the unit of general local government (including a combination of such units) or grant recipient may submit a written appeal to the State Workforce Development Board within 20 days of receiving written denial notification. Appeals submitted after this time will not be considered.

The appealing entity must explain why it believes the denial is contrary to the provisions of WIOA 106(b)(2). No other cause for appeal will be considered. The State Workforce Development Board must consider and respond in writing to such an appeal within 20 days of its receipt.

If the petitioning entity is again denied such designation, further appeal to the Secretary of Labor may occur if the entity alleges that the area meets the requirements of WIOA 106(b)(2) or that the entity was not accorded procedural rights under the State appeal process described herein. All such appeals to the Secretary must be submitted within 15 days of receipt of the notification of denial by the State Workforce Development Board on behalf of the Governor. The appealing entity must simultaneously notify the Governor and the State Workforce Development Board of such an appeal to the Secretary. The Secretary will make a final decision within 30 days after the appeal is received. The Secretary will

Workforce Innovation and Opportunity Act Local Governance Policy

notify the Governor and the appellant in writing of the Secretary's decision.

CONTACT ENTITY: Inquiries regarding this policy should be directed to the Workforce Arizona Council Manager at Ashley.Wilhelm@oeo.az.gov or 602-771-0482.