

Workforce Innovation and Opportunity Act Local Governance Policy

**STATE WORKFORCE
POLICY #1**

**Workforce Innovation and Opportunity Act (WIOA) Local
Governance**

ISSUING AGENCY:

Workforce Arizona Council

SCOPE:

Workforce Arizona Council, 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:

June 5, 2019

OBJECTIVE:

This policy articulates the State's vision and purpose for the Local Workforce Development Boards (LWDBs), provides requirements on the appointment and certification of LWDBs, outlines the roles, responsibilities and authority of the chief elected officials (CEOs) and the LWDBs in regards to the local ARIZONA@WORK system, and describes the process for Local Workforce Development Area (LWDA) designation.

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Prohibited LWDB Members

Authority to Hire LWDB Staff

Diverse Geographic Areas Represented

Represent Multiple Entities

LWDB Chair

Voting Privilege

Standing Committees

Bylaws

XII. LWDA Designation Request

XIII. LWDA Designation

XIV. Local Plan Modifications

I. DEFINITIONS:

Chief elected official -- The term "chief elected official" means--

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

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

In Arizona, the local workforce system is known as the local ARIZONA@WORK system.

In Arizona, the State Workforce Development Board is called the Workforce Arizona Council (WAC).

Local Workforce Development Area: A geographic area, designated by the Governor in accordance with WIOA Sec 106(b)(1)(B), to serve as a jurisdiction for the administration of workforce development activities using Adult, Dislocated Worker, and Youth funds allocated by the State and to coordinate efforts related to the other core programs at a local community level.

II. LWDBS ESTABLISHED: There shall be established, and certified by the Arizona Governor, a LWDB in each LWDA of the State to carry out the functions described in WIOA 107 (d) (and any functions specified for the LWDB under WIOA or the provisions establishing a core program) for such area. (WIOA 107(a))

III. CHIEF ELECTED OFFICIAL AGREEMENT FOR CONSORTIA: If a LWDA includes more than one unit of general local government, the CEOs of such units must execute a written consortia agreement that specifies the respective roles of the individual CEOs in the appointment of the members of the local workforce development board (LWDB) from the individuals nominated or recommended to be such members in accordance with eligible criteria, and in carrying out any other responsibilities assigned to CEOs under WIOA (WIOA 107 (c)(1)(B)(i and ii)).

If the CEOs are unable to reach agreement after a reasonable effort, the Governor may appoint the members of the LWDB from individuals nominated or recommended as specified in WIOA 107(c)(1)(B).

Workforce Arizona Council, as the designated representative of the Governor, provides the following requirements for this agreement:

A. Required inclusions. CEOs must enter into an agreement with each other that, at a minimum, includes the following sections:

- 1. Grant recipient and signatory.** The written consortia agreement must identify that the CEOs are the grant recipient for the grant funds allocated to the LWDA under youth workforce investment activities (WIOA section 128) and adult and dislocated worker employment and training activities (WIOA section 133) or may designate an entity to serve as a local grant subrecipient for such funds or as a local fiscal agent (WIOA 107(d)(12)(B)(i)(II)). Such designation shall not relieve the CEOs of the liability for any misuse of grant funds. If the CEOs 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 CEO.
- 2. Liability of funds.** The CEO in a LWDA shall be liable for any misuse of all local WIOA funds (i.e. WIOA section 128 and 133) as outlined in WIOA 107(d)(12)(B)(i)(I). The written agreement must acknowledge financial liability and outline the process for determining each CEOs' share of responsibility. This determination could be based on allocation, population, expenditures, or other criteria determined by the CEOs.
- 3. Fiscal agent designation.** To assist in the administration of the grant funds, the CEOs 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 the CEO designates a fiscal agent, the CEO must ensure this agent has clearly defined roles and responsibilities (20 CFR 679.420). The appropriate role of fiscal agent is limited to accounting and funds management functions rather than policy or service delivery. If a fiscal agent is designated, the written agreement must describe the process for designation within the guidelines required by state and local procurement laws and policies.
- 4. Local Board budget approval.** The LWDB shall develop a budget for the activities of the LWDB in the LWDA, consistent with the local plan and the duties of the LWDB under WIOA sec 107(d), subject to the approval of the CEO (WIOA 107(d)(12)(A)). The written consortia agreement must describe the process for reviewing and recommending the

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approval of the LWDB 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 LWDB. Every LWDA must have a LWDB budget that meets the requirements stated in WIOA sec. 107(d) and 20 CFR 679.370.

- 5. Participating Chief Elected Officials.** The agreement must contain the name, title, area represented, contact information, and signature of the participating CEOs in the LWDA as defined in the LWDA. The tribal nations representing LWDA's will identify appropriate signatures for their agreements.
- 6. Designation of a Chief Elected Official.** CEOs are liable for all WIOA Title IB funds in the LWDA, and are required by the WIOA to approve or provide guidance on a number of LWDB activities. Workforce Arizona Council encourages CEOs to select one CEO who will act as a lead on behalf of the other CEOs. If a lead is appointed, the following information must be included in the written consortia agreement:
 - a. Appointment process and term of the lead CEO;
 - b. Language designating the lead to serve as the signatory for the CEOs;
 - c. Outline the decisions that may be made by the lead on behalf of the CEOs;
 - d. Name, title, and contact information of the appointed lead.
- 7. Amendment or change to the written consortia agreement.** The written agreement must outline the process that will be used for amendments or changes to the consortia 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 Arizona Department of Economic Security.
- 8. Local Board member representation.** The written consortia agreement must outline how CEOs will ensure LWDB representation is fair and equitable across the LWDA.
- 9. Communication.** The written consortia agreement must describe how the CEOs will communicate with each other regarding LWDB activities and determine how many times a year the CEOs will meet. Workforce Arizona Council encourages the CEOs of each LWDA to meet at least annually as a body to discuss the LWDB activities and the performance of the local workforce development system.

Determine how often a joint meeting between the CEOs and the LWDB will occur. LWDBs and CEOs may satisfy this joint meeting requirement through alternative methods of communicating acceptable to the Workforce Arizona Council. Workforce Arizona Council encourages LWDBs and CEOs to meet at least annually.

IV. SHARED GOVERNANCE AGREEMENT: As stated in WIOA 107(d) and 20 CFR 679.370, the CEO and the LWDB share governance responsibility for LWDB functions such as local planning, program oversight, negotiating local performance accountability measures, selection of One Stop Operators and providers, and approving a budget for LWDB activities. The LWDB and the CEO must enter into a written agreement that describes how the parties will carry out their shared governance functions and meet other LWDB requirements such as membership criteria, setting local policy, and communicating with elected officials and the public. The Workforce Arizona Council, as the designated representative of the Governor, provides the following requirements for this agreement:

A. Required inclusions. The LWDB and the CEO must enter into a written agreement that, at a minimum, addresses the following subjects:

- 1. Local board membership.** WIOA Section 107(c)(1) authorizes CEOs to appoint the members of the LWDB 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 LWDB member appointments and ensure that the terms are staggered so that only a portion of membership expires in a given year.
 - b. Nomination and Appointment Process.** CEOs 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 the LWDB. The nomination and appointment process must be documented in the written agreement between the LWDB and the CEO(s).
 - c. Nomination.** For each LWDB member position that requires a nomination, the nominating organization must submit to the appointing CEO of the LWDA 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.
 - d. Appointment.** LWDB member appointments must be made by the appointing CEO and submitted to the local administrative entity either in a form of a letter, evidenced within minutes of meetings, or other official communication.
 - e. Change in status.** Acknowledgement that LWDB members who no longer hold the position or status that made them eligible board members must resign or be removed by the CEO immediately upon notification to the LWDB chair of the change of status as a representative of that entity.

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- f. Mid-term appointment.** LWDB members replacing out-going members mid-term will serve the remainder of the out-going member term unless the LWDB by-laws establishes a different procedure.
 - g. Vacancies.** LWDB vacancies must be filled within 120 days of the vacancy. The CEOs in a LWDA 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 CEO must request a waiver in writing to the Workforce Arizona Council Manager 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 CEO must maintain written approval of the waiver request by the Workforce Arizona Council Manager and will be monitored according to the process outlined in their approved waiver request.
 - h. Removal.** LWDB members must be removed by the CEO if any of the following occurs: documented violation of conflict of interest, failure to meet LWDB member representation requirements defined in WIOA and this policy, or documented proof of malfeasance, fraud or abuse. LWDB members may be removed for other reasons outlined in the LWDB bylaws such as lack of attendance, etc. LWDBs must define the specific criteria that will be used to establish just cause and the process for such removal. The Department of Economic Security reserves the right to conduct an investigation regarding allegations of wrong doing that result in the removal of a board member. CEOs and LWDB chairs will be formally notified in advance of any such investigation and of the results.
- 2. Relationship between CEO and LWDB.** The shared governance agreement shall establish the roles and responsibilities of the CEO and the LWDB along with a description of the partnership and specific responsibilities. The agreement must document a clear separation of duties and required firewalls between staff that perform governance functions and operation functions in organizations that serve multiple roles in the one stop delivery system (20 CFR 679.430).
- a. Local plan requirements.** Describe how the local plan will be developed in partnership between the CEO and the LWDB.
 - b. Budget and approval.** As referenced in WIOA 107(d)(12)(A), describe how the LWDB will develop its budget for the purpose of carrying out the duties of the LWDB and the process for obtaining the CEO's approval.
 - c. Selection of operators and providers.** Establish the guidelines and processes that will be followed by the LWDB for selection of each of the operators and providers for the LWDA in accordance with WIOA 107(d)(10)(A) through (E) and Workforce Arizona Council policy, including the process for getting CEO agreement on the selections.

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- d. Youth activities.** Describe if the LWDB 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 LWDB does not establish a standing youth committee, describe how the LWDB 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 CEO will be involved.
 - f. Performance accountability measures.** Describe the process the LWDB will use to reach agreement with the CEO and the Governor on local performance accountability measures in accordance with WIOA 107(d)(9).
 - g. Local Board System Policy Established by the LWDB.** Describe how the LWDB and the CEO will work in partnership to set policy for the local workforce development system.
 - h. Local Board Bylaws.** Describe the process for amending the LWDB bylaws including any role the CEO has delegated to the LWDB in amending the bylaws (20 CFR 679.310).
 - i. Memorandum of Understanding.** Describe the process for demonstrating CEO agreement on memorandum of understanding between workforce system partners and the LWDB.
- 3. Authorized signatures.** The shared governance agreement must be signed by the CEOs that have been identified as participating in the CEO agreement at the time of the signing and by the LWDB chair at the time of the signing.
 - 4. Amendments, change, or election.** Any amendment or change to the shared governance agreement, including notice of an election of a new CEO, notice of an election of a new LWDB chair, or amendment of any applicable shared governance 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 CEO on a regular basis regarding activities, performance outcomes, and budgets with at least one joint meeting held annually between the CEO and the LWDB. LWDBs and CEOs may satisfy this joint meeting requirement through alternative methods of communicating acceptable to the Workforce Arizona Council.

V. VISION AND PURPOSE OF LWDB: The vision for the LWDB is to serve as a strategic leader and convener of local workforce development system stakeholders. The LWDB 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, career pathways, and high quality, customer-centered service delivery and service delivery approaches.

The purpose of the LWDB 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 LWDA and larger planning region;
2. Assist in the achievement of Arizona’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.

VI. LWDB ROLES AND RESPONSIBILITIES: As stated in WIOA sec. 107(d), 20 CFR 679.370, and 20 CFR 679.310(b), the LWDB must:

1. **Local Policy:** In partnership with the CEO, the LWDB sets policy for the portion of the statewide workforce development system within the LWDA and consistent with State policies (20 CFR 679.310 (b)).
2. **Local Plan:** Develop and submit a 4-year local plan for the LWDA, in partnership with the CEO and consistent with WIOA section 108 (20 CFR 679.370(a));

If the LWDA is part of a planning region that includes other LWDA’s as designated by the Governor under 20 CFR 679.200 and 679.210, the LWDB in partnership with the CEO must develop and submit a regional plan in collaboration with the LWDBs and CEOs from other areas. (WIOA 106 (c)(2) and 20 CFR 679.510). The regional plan must incorporate the local plans from each LWDA in the planning region per 20 CFR 679.540 (a).

3. **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;
 - b. Assistance to the Governor in developing the statewide workforce and labor market information system under the Wagner-Peyser Act for the region;

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- c. Other research, data collection, and analysis related to the workforce needs of the regional economy as the LWDB, after receiving input from a wide array of stakeholders, determines to be necessary to carry out its functions.
- 4. 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 LWDB and standing committees in carrying out, convening, brokering, and leveraging functions at the direction of the LWDB.
 - 5. 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 LWDB;
 - 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.
 - 6. Career Pathways Development:** With representatives of secondary and post-secondary education programs, lead efforts to develop and implement career pathways within the LWDA by aligning the employment, training, education, and supportive services that are needed by adults and youth, particularly individuals with barriers to employment as defined in WIOA 3(24).
 - 7. Proven and Promising Practices:** Lead efforts in the LWDA 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.

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Identify and disseminate information on proven and promising practices carried out in other LWDA's for meeting such needs.

- 8. 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 LWDA;
 - 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.
- 9. Program Oversight:** Provide program oversight, in partnership with the CEO for the LWDA:
 - 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 LWDA; 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 LWDA; and
 - c. Ensure the appropriate use, management, and investment of funds to maximize performance outcomes under WIOA section 116.
- 10. Local Performance Accountability Measures:** Negotiate and reach agreement on local performance measures with the CEO and the Governor (WIOA section 116 (c)).
- 11. Infrastructure Costs:** Negotiate with CEO and required partners on the methods for funding the infrastructure costs of one-stop centers in the LWDA in accordance with § 678.715 and State Workforce Policy #5 MOU and Infrastructure Costs policy.
- 12. Selection of One Stop Operators and Providers:** With the agreement of the CEO for the LWDA, the LWDB selects the following providers in the LWDA, and where appropriate terminates such providers in accordance with 2 CFR part 200:

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- 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 LWDB determines there is an insufficient number of eligible providers of youth workforce investment activities in a LWDA, the LWDB may award grants or contracts on a sole-source basis in compliance with State Workforce Policy #4 ARIZONA@WORK One Stop Operator and Service Provider Selection Policy. The LWDB 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 in compliance with State Workforce Policy #4 ARIZONA@WORK One Stop Operator and Service Provider Selection Policy., if the one-stop operator does not provide such services.
- d. Designate or certify one-stop operators through a competitive process as described in WIOA section 121(d)(2)(A), 20 CFR 678.600 – 678.635, and State Workforce Policy #4 ARIZONA@WORK One Stop Operator and Service Provider Selection Policy. Also, the LWDB may terminate for cause the eligibility of such operators.
- e. Consumer Choice Requirements: Work with the State to ensure there are sufficient numbers and types of providers of career services and training services serving the LWDA, 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))

13. Coordination with Education Providers: Coordinate activities with education and training providers in the LWDA, including:

- a. Reviewing applications to provide adult education and literacy activities under title II for the LWDA 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.

14. Budget and Administration: Develop a budget for the activities of the LWDB, with approval of the CEO, and consistent with the local plan and the duties of the LWDB. The LWDB budget includes all activities of the LWDB including the Title I budget amounts to be allocated for youth (section 133) and adult and dislocated worker (section 128) career services. The LWDB determines how much of the budget to allocate for these services and how to procure these services.

Budget Disbursal: The local grant recipient or an entity designated as the grant recipient shall disburse the grant funds for workforce investment activities at the direction of the LWDB, pursuant to the requirements of WIOA. The local grant recipient or entity designated as grant recipient shall disburse the funds immediately on receiving such direction from the LWDB (WIOA sec 107 (d)(12)(B)(i)(III)).

15. Accessibility for Individuals with Disabilities: Assess, on an annual basis, the physical and programmatic accessibility of all one-stop centers in the LWDA, 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.*).

16. ARIZONA@WORK Job Center Certification: Certification of ARIZONA@WORK job centers in accordance with 20 CFR § 678.800 and State Workforce Policy #6 Certification of the ARIZONA@WORK Job Centers.

VII. LWDB RECRUITMENT PROCESS: The LWDB is appointed by the CEO in each LWDA in accordance with State criteria established under WIOA 107(b)(2) and stated in this policy, and is certified by the Governor every two years, in accordance with WIOA 107(c)(2). The nomination and appointment process must be documented in the written Bylaws and local shared governance agreement between the LWDB and the CEO.

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

VIII. LWDB CERTIFICATION:

A. Local Board initial certification. For newly created LWDBs, the Workforce Arizona Council will evaluate the composition of the LWDB to determine compliance with the membership criteria identified in this policy, which is consistent with WIOA membership requirements, and recommend certification to the Governor. LWDBs 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 be recertified, the LWDB composition must meet all membership requirements, the local workforce system activities comply with required LWDB responsibilities and enable the LWDA to meet local performance accountability measures and any prescribed outcomes as outlined in the local grant agreement, and sustain fiscal integrity.

If a LWDB 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 LWDB 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 LWDB membership is removed for cause, a recertification must occur to ensure membership compliance and assess board stability.

C. Decertification.

1. A LWDB is subject to decertification under the following conditions:
 - a. Fails to meet all LWDB certification requirements; or
 - b. Fails to carry out required functions of the LWDB in WIOA 107(d); or
 - c. Fraud or abuse; or
 - d. Fails to meet the local performance accountability measures for two consecutive program years.
2. If a LWDB 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 LWDB 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 LWDB is decertified, the Governor reserves the right to:
 - a. Require a new LWDB be appointed for the LWDA pursuant to a reorganization plan developed by the Governor, in consultation with the CEOs.
 - b. In consultation with the CEOs, redesignate a local workforce development area.

IX. LWDB CONDUCTS BUSINESS OPENLY: The LWDB 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). The LWDB also must comply with Arizona's Open Meeting Law (A.R.S. Title 38, Chapter 3, Article 3.1) The LWDB must also post the required information on the State's ARIZONA@WORK website (<https://arizonaatwork.com>) either by direct download or linkage to the LWDB website. The required information includes:

- a. Information about the Local Plan, or modification to the Local Plan, before submission of the plan;
- b. List and affiliation of LWDB 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. LWDB bylaws, consistent with § 679.310(g).

X. LWDB MEMBERSHIP: Workforce Arizona Council, in accordance with WIOA 107(b)(2), requires the following composition for each LWDB:

- A. The majority of the members of the LWDB must be representatives of business in the LWDA (WIOA 107(b)(2)(A)). 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 (WIOA 107(b)(2)(A)(i));
 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 (WIOA 107(b)(2)(A)(iii);

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.

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

- a. 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
- b. 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.

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

- B. Not less than 20 percent of the members of each LWDB must be representatives of the workforce. 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.

- C. The balance of membership for each LWDB must include:
 1. At least one eligible provider administering adult education and literacy activities under WIOA title II. When there is more than one LWDA provider of adult education and literacy activities under title II, nominations are solicited from those particular entities (WIOA 107(b)(2)(C)(i));

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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 LWDA; and
 - c. The programs carried out under title I of the Rehabilitation Act of 1973, other than section 112 or Part C of that title.
- D. In addition to the representatives enumerated above, the CEO may appoint other appropriate entities in the LWDA, 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 LWDA; and
 4. Other appropriate individuals as determined by the CEO, provided the individuals meet all other board member eligibility requirements established in this policy.

XI. OTHER LWDB REQUIREMENTS

- A. Policymaking Authority of LWDB Members:** Members of the LWDB that represent organizations, agencies, or other entities shall be individuals with optimum policymaking authority within the organizations, agencies, or entities. (WIOA 107 (b)(5))
- B. Prohibited LWDB Members:** The LWDB must not include members who are staff to the LWDB, staff or board members of the one stop operator, and/or WIOA Title IB adult, dislocated worker, and youth providers, or staff of the grant recipient/administrative entity or fiscal agent.
- C. Authority to Hire LWDB Staff:** WIOA sec. 107(f) grants the LWDB authority to hire a director and other staff to assist in carrying out the functions of the LWDB.
 1. LWDBs must establish and apply a set of qualifications for the position of director that ensures the individual selected has the requisite knowledge, skills, and abilities to meet identified benchmarks and to assist in carrying out the functions of the LWDB.

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2. The LWDB director and staff must be subject to the limitations on the payment of salary and bonuses described in WIOA sec. 194(15).
 3. In general, LWDB staff only may assist the LWDB to fulfill its functions (20 CFR 679.400 (d)).
- D. Diverse Geographic Areas Represented:** The members of the LWDB shall represent diverse geographic areas within the LWDA. (WIOA 107(b)(5))
- E. 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.
- F. LWDB Chair:** The members of the LWDB must elect a chairperson from among the business representatives on the board. (WIOA 107(b)(3))
- G. Voting Privilege:** All required board members must have voting privilege. The CEO may convey voting privileges to non-required members.
- H. Standing Committees:** The LWDB may establish and direct the activities of standing committees to provide information and assist the Board in carrying out its responsibilities (20 CFR 679.360). Such standing committees must be chaired by a member of the LWDB, may include other members of the LWDB, and must include other individuals appointed by the LWDB who are not LWDB members and who the LWDB determines have appropriate experience and expertise.

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. (WIOA 107(b)(4)(A)(i))
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 (WIOA 107(b)(4)(A)(ii)).
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. (WIOA 107(b)(4)(A)(iii))
4. The LWDB may designate other standing committees in addition to those specified in items 1-3 of this section. (WIOA 107(b)(4)(B))

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5. LWDBs 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) (20 CFR 679.360).

I. Bylaws: The CEO must establish the initial bylaws for the LWDB in accordance with State policy and applicable local, state and federal laws (20 CFR 679.310). The shared governance agreement between the CEO and the LWDB must identify any role the CEO has delegated to the LWDB for amending the bylaws. At a minimum, the bylaws must address the following (20 CFR 679.310(g)):

1. **Establishment.** A statement that the LWDB is established in accordance with WIOA Section 107.
2. **Name.** The name of the LWDB.
3. **Purpose.** The vision and purpose for the establishment of the LWDB consistent with 20 CFR 679.300 (a) and (b).
4. **Duties and responsibilities.** Acknowledge the duties and responsibilities as outlined in WIOA 107 (d), 20 CFR 679.370, the State Local Governance policy (SWP #1), and in the shared governance agreement between the CEOs and the LWDB.

The bylaws must also describe the process to ensure LWDB members actively participate in convening the workforce development system’s stakeholders, brokering relationships with a diverse range of employers, and leveraging support for workforce development activities (20 CFR 679.310 g.6).

5. **Membership.** A description of membership as outlined in WIOA 107(b) and in the shared governance agreement between the CEOs and the LWDB. The description must also include the term limitations and how the term appointments will be staggered to ensure only a portion of the membership expires in a given year (20 CFR 679.310 g.2).

The bylaws must also describe the process to notify the CEO of a LWDB member vacancy to ensure a prompt replacement nominee (20 CFR 679.310 g.3).

6. **Local Board chair election.** A description of the process used to elect a LWDB chair, including term details.
7. **Election of officers.** A description of the process used to elect officers, officer positions, terms, removal of officers, and specific officer roles and responsibilities.
8. **Meetings.**
 - a. Information on how often LWDB and committee meetings will be held;
 - b. Acknowledgement of open meeting requirements and compliance;
 - c. A description of the process of announcing regular and special meetings;

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- d. Acknowledgement that a quorum must consist of at least a simple majority of the currently appointed membership; and
 - e. Clarification as to whether phone and web-based meetings will be permitted.
- 9. Delegation of Local Board duties.** Acknowledge that LWDB members will not be permitted to delegate any LWDB duties to proxies or alternates.
- 10. Committees.** A list of standing committees including the descriptions for each and composition, and description of the process for creating ad hoc committees.
- 11. Conflict of interest.** Acknowledgement that LWDB members must adhere to the following rules regarding conflict of interest:
- a. A LWDB 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.
 - b. A LWDB member must avoid even the appearance of a conflict of interest. Prior to taking office, LWDB members must provide to the LWDB 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 LWDB. Such declarations must be updated annually or within 30 days to reflect any changes in such business interests or relationships. The LWDB must appoint an individual to review the disclosure information in a timely manner and advise the LWDB chair and appropriate members of potential conflicts.
 - c. Prior to a discussion, vote, or decision on any matter before a LWDB, 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 LWDB 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 LWDB meeting and be maintained as part of the official record.
 - d. It is the responsibility of the LWDB members to monitor potential conflict of interest and bring it to the LWDB's attention in the event a member does not make a self-declaration.
 - e. In order to avoid a conflict of interest, a LWDB must ensure that the LWDB's workforce service providers for WIOA Title IB adult, dislocated worker, and youth programs must not employ or otherwise compensate a current LWDB member or LWDB employee who is employed or compensated by the LWDB or its administrative entity, fiscal agent, or grant recipient to support the LWDB in carrying out its duties.

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- f. A LWDB must ensure that the LWDB, its members, or its administrative staff do not have any supervisory responsibility for the daily activities of its workforce service providers, workforce system partners or contractors. There must be complete separation between governance functions and operating functions within an organization including different reporting structures.
- g. LWDB members or their organizations may receive services as a customer of a local workforce service provider or workforce system partner.

12. Conflict resolution. A detailed procedure for the LWDB to follow in regards to conflict that may arise among, but not limited to;

- a. Board members;
- b. Service delivery partners;
- c. Consortium partners.

13. Compensation and reimbursement of expenses. A description of the policy on compensating LWDB members and reimbursing expenses.

14. Amendment. A description of the process for amending the bylaws.

15. Compliance with law. Acknowledgement stating, in execution of its business, the LWDB must comply with the WIOA and regulations as well as policies and directives from the Arizona Department of Economic Security and the Workforce Arizona Council.

XII. LWDA DESIGNATION REQUEST

- A. A new or existing (areas previously designated under WIA) LWDA must request designation as a LWDA in writing to the Governor's Office. The written request or petition must include:
 - 1. A CEO Official Agreement for Consortia as described in this policy, (if applicable);
 - 2. For newly configured LWDAs, a narrative regarding how the area meets the considerations outlined in Section 106(b)(1)(B);
 - 3. 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);
 - 4. A list of LWDB members, to include composition categories and contact information;
 - 5. Identification of grant recipient/fiscal agent and signature of lead official;
 - 6. Documentation that public input was solicited and any comments received; and
 - 7. Signatures of CEOs from the petitioning counties.

- B. Written requests from LWDA's will be received and reviewed according to the following process:
1. All formal written requests (including *Workforce Development Area Designation Petitions*) must be submitted to the Governor's Office with a copy to the Workforce Arizona Council Manager and the Department of Economic Security, Division of Employment and Rehabilitation Services.
 2. Petitions will be reviewed by the Executive Committee of and the full Workforce Arizona Council.
 3. A public comment period will be advertised and commence with opportunity for comment by representatives of LWDBs, CEOs, businesses, institutions of higher education, labor organizations, other primary stakeholders, and the general public regarding the designation of the LWDA (20 CFR 679.240).
 4. After the required public comment period, the Workforce Arizona Council will make a recommendation to the Governor.
 5. Final designation of LWDA's will be made by the Governor.

XIII. LWDA DESIGNATION

- A. LWDA Designation:** WIOA 106(b) requires that the Governor designate LWDA's based on consideration of the extent to which the areas:
1. Are consistent with the labor market;
 2. Are consistent with regional economic development within the State; and
 3. 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.
- B. 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 Workforce Arizona Council determines, based on the considerations described above, and recommends to the Governor, that such area should be designated.
- C. 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 LWDA 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 LWDA met or exceeded

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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.

- D. 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 Workforce Arizona Council 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 Workforce Arizona Council on behalf of the Governor. The appealing entity must simultaneously notify the Governor and the Workforce Arizona Council 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 notify the Governor and the appellant in writing of the Secretary's decision.

XIV. LOCAL PLAN MODIFICATIONS

WIOA requires that each LWDB within a planning region, in partnership with the appropriate CEO, must review, prepare, and submit the local plan modification at the end of the first 2-year period of the 4-year local plan. The plan must identify and describe the policies, procedures, and local activities that carried out in the LWDA, consistent with the state plan (679.530, 679.580)

A. Modification Requirements for Local Plans:

1. The LWDB in partnership with the CEO must review, prepare, and submit local plan modifications that reflect changes to:
 - a. Labor market and economic conditions; and
 - b. Other factors affecting the implementation of the local plan including:

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- i. Significant changes in local economic conditions;
 - ii. Changes in available financing to support WIOA Title I and partner-provided WIOA services; and
 - iii. Changes to LWDB structure; and
 - iv. The need to revise strategies to meet local performance goals.
 2. LWDBs must ensure the following information is also included in the local plan modifications:
 - a. Procurement requirements for youth service providers, as described in the WIOA Title I-B Youth Program policy section 202;
 - b. Definition of the “Requires additional assistance to complete an educational program or to secure and hold employment” criterion, as defined by the LWDB, that is used as part of the definition of “in-school” youth and “out-of-school” youth, as described in the WIOA Title I-B Youth Program Policy section 205.05;
 - c. The self-sufficiency income level, as a percentage of the Lower Living Standard Income Level, for the LWDA;
 - d. The definition of “underemployed” which may be used to determine whether employed adults and dislocated worker are in need of individualized career and training services through the WIOA Title I-B Adult and Dislocated Worker Programs:
 - i. Options defining “underemployed” are described in United States Department of Labor Training and Employment Guidance Letter TEGL 19-16, section 11).
 - ii. When the LWDA decides to use the self-sufficiency income for the LWDA in the local plan to define “underemployed”, the LWDA must ensure that the self-sufficiency income level has been reviewed and is set at the appropriate level.
 - e. Limitations to Individual Training Accounts, as described in the WIOA Title I-B Training Services policy section 504.02.D.
- B. Public Comment Period**
1. To provide an adequate opportunity for public comment:
 - a. Make copies of the proposed local plan available to the public through electronic and other means, such as public hearings and local news media. The LWDB must also post the plan on the State’s ARIZONA@WORK website (<https://arizonaatwork.com>) either by direct download or linkage to the LWDB website;
 - b. Include an opportunity for comments by members of the public, including representatives of business, labor organizations, and education;

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- c. Provide no more than a 30-day period of comment of the plan before its submission to the State, beginning on the date which the proposed plan is made available, prior to its submission to the State;
 - d. The LWDB must submit any comments that express disagreement with the local plan to the State along with the plan; and
 - e. The LWDB must make information about the plan available to the public on a regular basis through electronic means and open meetings.
- C. Submission of Local Plans:
- 1. The modification of the local plan that is submitted to DES must include *track changes or changes must be highlighted* so that updates to the local plan may be identified.
 - 2. LWDBs must submit local plan modifications by due dates established periodically.
 - 3. Modifications must be submitted to the DES via email WIOAQandA@azdes.gov.

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.