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Subject#: Local Workforce Development Board Policies
Source: Federal/State
Revise/Replace: PGL 14-06-WIA
Contact: Stephanie Steffens, Director, Colorado Workforce Development Council
Distribution: Managers, Workforce Development Programs Staff, Workforce Directors and Staff
Colorado One-Stop System Policy Guidance Letter#: 15-07-WIOA
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**I. REFERENCES:**

- Title I of the Workforce Innovation and Opportunity Act (WIOA) PL 113-128 – July 22, 2014; WIOA Sections 107, 111(b), and 121(c),(d), (g), and (h);
- Colorado Open Meetings Law, C.R.S. §§ 24-6-401 *et seq.*;
- [TEGL 27-14 \(April 15, 2015\): WIOA Transition Authority for Immediate Implementation of Governance Provisions](#)
- [PGL 15-05-WIOA: Criteria for Certification of One-Stop Centers by Local Boards](#)

**II. PURPOSE:**

To provide comprehensive guidance and policy direction to Local Workforce Development Boards (LWDBs) and Local Workforce Areas on the requirements for establishment of WIOA compliant boards **by no later than October 1, 2015.**

**III. BACKGROUND:**

The Workforce Innovation and Opportunity Act of 2014 (WIOA) renames local boards as Local Workforce Development Boards (LWDBs), establishes new criteria for board membership, expands the required functions of the boards, and sets additional board requirements. Although the new law goes into effect on July 1, 2015, the US Department of Labor is extending the deadline for the establishment of WIOA compliant local boards to no later than October 1, 2015.

To assist local areas with this transition, the Colorado Workforce Development Council (CWDC) and CDLE's Workforce Development Programs (WDP) are providing guidance on the topics described above and the following WIOA requirements to:

- Ensure public access (including individuals with disabilities) to board meetings and information regarding board activities, such as board membership and meeting minutes
- Identify circumstances that might present a conflict of interest for any state or local Workforce Development Board member or the entity that s/he represents, and provide for the resolution of conflicts
- Establish criteria to be used by chief elected officials for the appointment of Local Workforce Development Board members

#### **IV. PUBLIC ACCESS AND SUNSHINE POLICY:**

Local Workforce Development Board meetings shall be held at the times and in the places designated by the local board, and all meetings shall be conducted in accordance with the Colorado Open Meetings Law, C.R.S. §§ 24-6-401 *et seq.* In addition, the local board shall make available to the public, on a regular basis through electronic means and open meetings, information regarding the activities of the local board, including information regarding the:

- Local plan prior to submission of the plan
- Membership
- Selection and certification of one-stop operators
- Award of grants or contracts to eligible providers of youth workforce development activities, and
- Minutes of formal meetings of the local board

#### **V. CONFLICT OF INTEREST POLICY:**

A member of a board shall avoid the appearance of conflict of interest by not voting in, or participating in, any decision by the board regarding the provision of services by such member, or any organization or business which that member directly represents, or on any matter which would provide direct financial benefit to that member, the member's immediate family, or any organization which that member directly represents.

Business conflict of interest is defined as any ownership of the business, receiving any gross income during the previous or current year from the business, or ownership in real property relating to the business valued at \$10,000 or more.

Organization conflict of interest is defined as (i) being employed by the organization; and/or (ii) being a member of the board of directors, commission, council, or other direct governing body of the organization; and/or (iii) being a creditor of the organization in an amount in excess of \$10,000; and/or (iv) being an equity owner of any portion of the organization.

For purposes of this provision, an "immediate family member" is defined as (i) father, mother, brother, sister, daughter, or son of the member; and/or (ii) the spouse of the member; and/or (iii) father, mother, brother, sister, daughter, or son of the member's spouse.

**VI. LWDB MEMBERSHIP REQUIREMENTS:**

**A.** The LWDB shall consist of decision-making individuals reflective of the business demographics in the local area and leaders from the workforce system, education and economic development, as identified below. These individuals must represent entities located in the local area. Where such entities don't exist, individuals must represent entities located in the planning region.

LWDB Members	Who May Satisfy the Requirement
<p><b>Representatives of Business</b></p>	<p><b>The majority</b> of the members of the Local Board must be representatives of business in the local area. <b>At a minimum, two members must represent small business</b> as defined by the U.S. Small Business Administration. Businesses serving on local boards may also serve on the State Board. Each business representative must meet the following criteria:</p> <p>___ Be an owner, chief executive officer, chief operating officer, or other individual with optimum policymaking or hiring authority</p> <p>___ 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</p> <p>___ Are appointed from among individuals nominated by local business organizations and business trade associations</p>
<p><b>Representatives of Workforce</b></p>	<p><b>Not less than 20 percent</b> of the members of the Local Board must be workforce representatives with optimum policy making authority. These representatives:</p> <p>___ Must include <b>two or more representatives of labor organizations</b>, where such organizations exist in the local area. Where they do not exist, representatives must be selected from other employee representatives; plus</p> <p>___ Must include <b>one or more representatives</b> of a joint labor-management, or union affiliated, registered apprenticeship program within the local area who must be a training director or member of a labor organization. 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.</p> <p>In addition to the representatives enumerated above, the Board may include the following to contribute to the 20 percent requirement:</p> <p>___ <b>One or more representatives of community-based organizations</b> that have demonstrated experience and expertise in addressing the employment, training, or education needs of the individuals with barriers to employment, including organizations that serve veterans or support competitive integrated employment for individuals with disabilities; and</p> <p>___ <b>One or more representatives of organizations that have demonstrated experiences and expertise in addressing the employment, training, or educations needs of eligible youth</b>, including representatives of organizations that serve out-of-school youth</p> <p style="text-align: right;"><i>Continued on Next Page</i></p>

<p><b>Representatives of Education, Training, Governmental, and Economic and Community Development Entities</b></p>	<p>The balance of the Local Board Membership <b>must include</b> individuals with optimum policy making authority, <b>as follows:</b></p> <ul style="list-style-type: none"> <li>— <b>At least one eligible provider</b> administering adult education and literacy activities under WIOA title II, selected from among the providers in the local area, unless all providers in the local area decline to participate; <b>and</b></li> <li>— <b>At least one representative from an institution of higher education</b> providing workforce development activities, including community colleges; <b>and</b></li> <li>— <b>At least one representative from each of the following governmental and economic and community development entities:</b> <ul style="list-style-type: none"> <li>— Economic and community development entities</li> <li>— The state Employment Service office under the Wagner-Peyser Act, serving the local area; <b>and</b></li> <li>— The programs carried out under title I of the Rehabilitation Act of 1973, other than sec. 112 or Part C of that title (i.e. the State Vocational Rehabilitation Program or the state agency responsible for the State Vocational Rehabilitation Program)</li> </ul> </li> <li>— <b>In addition to the representatives enumerated above, the Chief Local Elected Officials <u>may</u></b> appoint other appropriate entities in the local area, including: <ul style="list-style-type: none"> <li>— 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</li> <li>— Governmental and economic and community development entities who represent transportation, housing, and public assistance programs:</li> <li>— Philanthropic organizations serving the local area; and</li> <li>— Other appropriate individuals as determined by the chief elected officials.</li> </ul> </li> </ul>
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**B. Additional Requirements Regarding Business Members of the LWDB**

1. Economic development entities and chambers of commerce may be considered business sector members, count toward the business majority and are eligible to serve as the chair of an LWDB, when they are a private entity (for profit or non-profit) or a public-private partnership, but are not a governmental entity, **and** meet the WIOA requirements of a business representative.
2. Business representatives should not typically include non-profits unless they are set up as a business cooperative. The exception would be a non-profit economic development or chamber of commerce organization.
3. Because of the WIOA requirement to appoint business representatives that offer employment opportunities, local boards must minimize the number of sole proprietors serving as business representatives on the LWDB and must not allow a sole proprietor to be elected as the LWDB chair. Instances where sole proprietor business representatives on the LWDB would be appropriate include, but are not limited to:
  - a. Local areas with thriving entrepreneurial economies that have one or more large or in-demand industries in which many of the jobs are as sole proprietors

- b. An entrepreneur selected to be a business member of the LWDB is a well-known and respected community leader, and is actively engaged in economic and community development related activities relevant to growing and preparing the local area's workforce
4. The State does not support the LWDB counting a public sector employer as part of the business majority, even if it is a major employer in the local economy.
- C. Special Rule for Representatives of Education and Training:** If there are multiple eligible providers serving the local area by administering adult education and literacy activities under title II of WIOA, or multiple institutions of higher education serving the local area by providing workforce investment activities, each representative on the local board shall be appointed from among individuals nominated by local providers representing such providers or institutions, respectively. If local programs cannot identify a representative, CDE/AEFL Office will be available to offer suggestions to the local board for guidance in identifying criteria for selecting one adult education representative.
- D. Multiple Entity Representation:** Unlike the State Board, members of the Local Board may be appointed as a representative of more than one entity if the individual meets all the criteria for representation described above for each entity represented.
- E. Chairperson of the Local Board:** The Local Board must elect a chairperson from among the business representatives on the board, but must not elect a sole proprietor as the chairperson.

## VII. APPOINTMENT OF LOCAL BOARD MEMBERS

- A. In General:** The chief elected officials in a local area are authorized to appoint the members of the local board for the area in accordance with the criteria established in this PGL. It should be noted that the proposed regulations (Notice of Proposed Rule Making) for WIOA address the minimum requirements governing local board member appointment. Although these regulations are not final and could change, these requirements should be considered, as follows:

*“Chief elected officials must establish a formal nomination and appointment process, consistent with the criteria established by the Governor and State Board under sec. 107(b)(1) of WIOA for appointment of members of the Local Boards, that ensures:*

- *Business representatives are appointed from among individuals who are nominated by local business organizations and business trade associations.*
- *Labor representatives are appointed from among individuals who are nominated by local labor federations (or, for a local area in which no employees are represented by such organizations, other representatives of employees);*
- *When there is more than one local area provider of adult education and literacy activities under title II, or multiple institutions of higher education providing workforce investment activities, nominations are solicited from those particular entities.*
- *An individual may be appointed as a representative of more than one entity if the individual meets all the criteria for representation*
- *All required board members must have voting privilege. The chief elected officials may convey voting privileges to non-required members.*

**B. Multiple Units of Government:** In a case in which a local area includes more than one unit of local government, the chief elected officials of such units may execute an agreement that specifies the respective roles of the individual chief elected officials regarding the:

- Appointment of the members of the local board from the individuals nominated or recommended, and
- Carrying out any other responsibilities assigned to such officials under Title I of WIOA.

If, after a reasonable effort, the chief elected officials are unable to reach agreement, the Governor may appoint the members of the local board from individuals so nominated or recommended.

## VIII. LWDB BY-LAWS

It should be noted that the proposed regulations (Notice of Proposed Rule Making) for WIOA address minimum requirements for the by-laws developed for local boards. Although these regulations are not final and could change, the following requirements should be considered:

***“The chief local elected officials must establish by-laws, consistent with State policy for Local Board membership, that at a minimum address:***

- *The nomination process used by the chief elected officials to elect the Local Board chair and members;*
- *The term limitations and how the term appointments will be staggered to ensure only a portion of membership expire in a given year;*
- *The process to notify the chief elected officials of a board member vacancy to ensure a prompt nominee;*
- *The proxy and alternative designee process that will be used when a board member is unable to attend a meeting and assigns a designee*
- *The use of technology, such as phone and Web-based meetings, that will be used to promote board member participation; and*
- *The process to ensure board 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.*
- *A description of any other conditions governing appointment or membership on the State Board as deemed appropriate by the chief elected officials.”*

## IX. LWDB STANDING COMMITTEES

Under WIOA, local boards are not required to establish youth councils. Instead, the local board may designate and direct the activities of standing committees to provide information and to assist the local board in carrying out activities under this section. Such standing committees:

- Shall be chaired by a member of the local board;
- May include other members of the local board; and
- Shall include other individuals appointed by the local board who are not members of the local board and who the local board determines have appropriate experience and expertise

At a minimum, the local board may designate each of the following standing committees to provide information and assist with operational and other issues relating to the:

- **One-stop delivery system**, which may include as members representatives of the one-stop partners;
- **Provision of services to youth**, which shall include community-based organizations with a demonstrated record of success in serving eligible youth; and
- **Provision of services to individuals with disabilities**, including issues relating to compliance with section 188 of WIOA, if applicable, and applicable provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) regarding providing 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.

The local board may designate standing committees in addition to the standing committees specified above. They may also designate a high-performing youth council to fulfill the requirements of the standing committee for youth issues, as long as the youth council meets the requirements for the standing youth committee described above.

#### **X. LWDB FUNCTIONS AND RESPONSIBILITIES:**

WIOA has significantly expanded the responsibilities and functions of local boards. The local board performs these functions in partnership with the chief elected officials, and may enter into a formal written agreement with their local elected officials that describes their respective roles and responsibilities to carry out these requirements.

Following is a list of those functions and responsibility in summary form. In some instances, CDLE will issue a separate policy with more detailed guidance regarding the specific function or responsibility. At a minimum, we anticipate developing policies for eligible providers of training, eligible providers of youth services, MOUs and infrastructure costs, and one-stop certification.

- A. LOCAL PLAN**—The local board, in partnership with the chief elected officials for the local area involved, shall develop and submit a local plan to the Governor that meets the requirements of the law. If the local area is part of a planning region that includes other local areas, the local board shall collaborate with the other local boards and chief elected officials from such other local areas in the preparation and submission of a regional plan.
- B. WORKFORCE RESEARCH AND REGIONAL LABOR MARKET ANALYSIS**—In order to assist in the development and implementation of the local plan, the local board shall—
  1. Carry out analyses of the economic conditions in the region, the needed knowledge and skills for the region, the workforce in the region, and workforce development activities (including education and training) in the region described in section 108(b)(1)(D), and regularly update such information;
  2. Assist the Governor in developing the statewide workforce and labor market information system, specifically in the collection, analysis, and utilization of workforce and labor market information for the region; and
  3. Conduct such 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.
- C. CONVENING, BROKERING, LEVERAGING**— The local board shall convene local workforce development system stakeholders to assist in the development of the local plan and in identifying non-Federal expertise and resources to leverage support for workforce

development activities. The local board, including standing committees, may engage such stakeholders in carrying out the functions described in this subsection.

- D. EMPLOYER ENGAGEMENT**—The local board shall lead efforts to engage with a diverse range of employers and with entities in the region involved—
1. To promote business representation (particularly representatives with optimal policymaking or hiring authority from employers whose employment opportunities reflect existing and emerging employment opportunities in the region) on the local board;
  2. To 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;
  3. To ensure that workforce development 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
  4. To 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.
- E. CAREER PATHWAYS DEVELOPMENT**—The local board, with representatives of secondary and postsecondary education programs, shall lead efforts in the local area to develop and implement career pathways within the local area by aligning the employment, training, education, and supportive services that are needed by adults and youth, particularly individuals with barriers to employment.
- F. PROVEN AND PROMISING PRACTICES**—The local board shall lead efforts in the local area to—
1. Identify and promote proven and promising strategies and initiatives for meeting the needs of employers, and workers and jobseekers (including individuals with barriers to employment) in the local workforce development system, including 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; and
  2. Identify and disseminate information on proven and promising practices carried out in other local areas for meeting such needs.
- G. TECHNOLOGY**—The local board shall develop strategies for using technology to maximize the accessibility and effectiveness of the local workforce development system for employers, and workers and jobseekers, by—
1. 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;
  2. Facilitating access to services provided through the one-stop delivery system involved, including facilitating the access in remote areas;
  3. 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

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

**H. PROGRAM OVERSIGHT**—The local board, in partnership with the chief elected officials for the local area, shall—

1. Conduct oversight for local youth workforce development activities authorized under WIOA, local employment and training activities authorized for adults and dislocated workers, and the one-stop delivery system in the local area; and
2. ensure the appropriate use and management of the funds for workforce development activities; and
3. Ensure the appropriate use, management, and investment of funds to maximize performance outcomes under WIOA

**I. NEGOTIATION OF LOCAL PERFORMANCE ACCOUNTABILITY MEASURES**—The local board, the chief elected officials, and the Governor shall negotiate and reach agreement on local performance accountability measures as described in WIOA

**J. SELECTION OF OPERATORS AND PROVIDERS**—

1. **SELECTION OF ONE-STOP OPERATORS**—The local board, with the agreement of the chief elected officials for the local area—
  - a. Shall select one-stop operators selected through a competitive procurement process; and
  - b. May terminate for cause the eligibility of such operators
2. **SELECTION OF YOUTH PROVIDERS**—The local board—
  - a. Shall identify eligible providers of youth workforce development activities in the local area by awarding grants or contracts on a competitive basis, based on the recommendations of the youth standing committee, if such a committee is established for the local area; and
  - b. May terminate for cause the eligibility of such providers
4. **IDENTIFICATION OF ELIGIBLE PROVIDERS OF TRAINING SERVICES**—The local board shall identify eligible providers of training services in the local area
5. **IDENTIFICATION OF ELIGIBLE PROVIDERS OF CAREER SERVICES**—If the one-stop operator does not provide career services in a local area, the local board shall identify eligible providers of those career services in the local area by awarding contracts.
6. **CONSUMER CHOICE REQUIREMENTS**—The local board shall work with the State to ensure there are sufficient numbers and types of providers of career services and training services (including 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) serving the local area and providing the services involved in a manner that maximizes consumer choice, as well as providing opportunities that lead to competitive integrated employment for individuals with disabilities.

**K. COORDINATION WITH EDUCATION PROVIDERS**—

1. **IN GENERAL**—The local board shall coordinate activities with education and training providers in the local area, including providers of workforce investment activities, providers of adult education and literacy activities under Title II, providers of career and technical education (as defined in section 3 of the Carl D. Perkins Career and Technical

Education Act of 2006 (20 U.S.C. 2302)) and local agencies administering plans under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), other than section 112 or part C of that title (29 U.S.C. 732, 741).

**2. APPLICATIONS AND AGREEMENTS**— The coordination described above shall include—

- a. Reviewing the applications to provide adult education and literacy activities under Title II for the local area, submitted under such section to the eligible agency by eligible providers, 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 replicating cooperative agreements in accordance with subparagraph (B) of section 101(a)(11) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)(11)); and
- c. Implementing cooperative agreements in accordance with that section with the local agencies administering plans under title I of that Act (29 U.S.C. 720 et seq.) (other than section 112 or part C of that title (29 U.S.C. 732, 741) and subject to section 121(f)), with respect to efforts that will enhance the provision of services to individuals with disabilities and other individuals, such as cross training of staff, technical assistance, use and sharing of information, cooperative efforts with employers, and other efforts at cooperation, collaboration, and coordination.

**L. BUDGET AND ADMINISTRATION**—

1. **BUDGET**—The local board shall develop a budget for the activities of the local board in the local area, consistent with the local plan and the duties of the local board and subject to the approval of the chief elected officials
2. **GRANTS AND DONATIONS**—The local board may solicit and accept grants and donations from sources other than Federal funds made available under WIOA
3. **TAX-EXEMPT STATUS**—For purposes of carrying out duties under WIOA, local boards may incorporate, and may operate as entities described in section 501(c)(3) of the Internal Revenue Code of 1986 that are exempt from taxation under section 501(a) of such Code

**M. ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES**—The local board shall annually assess the 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.), of all one-stop centers in the local area

**N. MOUs AND ONE-STOP CERTIFICATION** — Consistent with an approved State plan, the local board for a local area, with the agreement of the chief elected officials for the local area, shall—

1. Develop and enter into the memorandum of understanding with each of the one-stop partners, including identification of one-stop infrastructure cost contributions by the partners, which are to be determined in consultation with chief elected officials and the one-stop partners;
2. Certify one-stop operators at least every three years based on criteria developed by the State Board, in consultation with local boards;
3. Terminate one-stop operators for cause; and
4. Conduct oversight with respect to the one-stop delivery system in the local area.

**VIII. IMPLEMENTATION DATE:**

Immediately upon receipt, with an October 1, 2015, deadline for establishing a WIOA compliant local board.

**IX. INQUIRIES:**

Please direct all inquiries to Colorado Workforce Development Council staff:  
[cwdc@state.co.us](mailto:cwdc@state.co.us)



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