

ALABAMA WORKFORCE INVESTMENT SYSTEM

**Department of Economic and Community Affairs
Workforce Development Division
401 Adams Avenue
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Montgomery, Alabama 36103-5690**


February 26, 2015

GOVERNOR'S WORKFORCE INNOVATION DIRECTIVE NO. PY2014-06

SUBJECT: Local Workforce Development Boards Membership Appointments and Board Functions

- 1. Purpose.** To transmit the State's policy on appointment of individuals to local workforce development boards and functions for local boards.
- 2. Discussion.** Section 107(a) of the Workforce Innovation and Opportunity Act (WIOA) requires the establishment and certification by the Governor of a local workforce development board in each local area of a State. The Governor of the State, in partnership with the State Board, shall establish criteria for use by chief elected officials in the local areas for appointment of members of the local boards in such areas. Section 107(d) of the WIOA addresses the functions of local boards. If there are any inconsistencies with the issuance of the final WIOA Implementing Regulations in Calendar Year 2016, this policy will be revised to comply with the Implementing Regulations.
- 3. Action.** Chief elected officials must follow the attached state policy when appointing individuals to serve on a local workforce development board. Once certified, local workforce development boards must carry out the functions described in this policy and the Act.
- 4. Contact.** Questions regarding this Directive should be referred to Bill Hornsby, Supervisor, State Programs, Planning, and Divisional Budget Management Section at (334) 242-5847 or bill.hornsby@adeca.alabama.gov.


Steve Walkley, Division Chief
ADECA, Workforce Development Division


Date

Attachments

- Attachment Number 1 – WIOA State Policy on the Appointment of Individuals to Local Workforce Development Boards*
- Attachment Number 2 – Chief Elected Official Certification Signature Page*
- Attachment Number 3 – List of Individuals for Certification by the Governor*

Attachment Number 1

**Workforce Innovation and Opportunity Act (WIOA)
State Policy on the Appointment of Individuals to
Local Workforce Development Boards**

Purpose: To provide Local Elected Officials with the State's policy on the appointment of local workforce development board members.

Reference: The Workforce Innovation and Opportunity Act, Chapter 2-Local Provisions, Section 107, Local Workforce Development Boards.

Effective Date: This policy is in effect for Program Year 2015 implementation of the Workforce Innovation and Opportunity Act and subsequent redesignation.

Background: The Workforce Innovation and Opportunity Act requires the Governor of the State, in partnership with the State Board, to establish criteria for use by chief elected officials in the local areas for appointment of members of the local workforce development boards in such local areas. The state agency designated by the Governor to be responsible for the administration of the WIOA Title I in Alabama is the Alabama Department of Economic and Community Affairs (ADECA).

Criteria for Local Board Appointments: The Governor, in conjunction with the State Board, has developed criteria that must be met in the appointment of local board members. The chief elected official in each local workforce development area is authorized to appoint the local board. The membership of each local board must be in compliance with the requirements contained in Section 107 of the Workforce Innovation and Opportunity Act. The membership shall include, at a minimum:

- representatives of businesses in the local area, who –
 - are owners of businesses, chief executives or operating officers of businesses, or other business executives or employees with optimum policy making or hiring authority;
 - represent businesses, including small businesses, or organizations representing businesses described in this clause, that provide employment opportunities that, at a minimum, include high-quality, work-relevant training and development in in-demand industry sectors or occupations in the local area; and
 - are appointed from individuals nominated by local business organizations and business trade associations.

- not less than 20 percent of the members of each local board shall be representatives of the workforce within the local area who –

- shall include representatives of labor organizations (for a local area in which employees are represented by labor organizations), who have been nominated by local labor federations, or (for a local area in which no employees are represented by such organizations) other representatives of employees;
 - shall include a representative, who shall be a member of a labor organization or training director, from a joint labor-management apprenticeship program, or if no such joint program exists in the area, such a representative of an apprenticeship program in the area, if such a program exists;
 - may include representatives of community-based organizations that have demonstrated experience and expertise in addressing the employment needs of individuals with barriers to employment, including organizations that serve veterans or that provide or support competitive integrated employment for individuals with disabilities; and
 - 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;
- each local board shall include representatives of entities administering education and training activities in the local area, who –
- shall include a representative of eligible providers administering adult education and literacy activities under Title II;
 - shall include a representative of institutions of higher education providing workforce investment activities (including community colleges); and
 - may include representatives of local educational agencies, and of community-based organizations with demonstrated experience and expertise in addressing the education or training needs of individuals with barriers to employment;
- each local board shall include representatives of governmental and economic and community development entities serving the local area, who –
- shall include a representative of economic and community development entities;
 - shall include an appropriate representative from the State Employment Service Office under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) serving the local area; and
 - shall include an appropriate representative of the programs carried out under Title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), other than Section 112 or Part C of that Title (29 U.S.C. 732, 741), serving the local area;

- may include representatives of agencies or entities administering programs serving the local area relating to transportation, housing, and public assistance; and
 - may include representatives of philanthropic organizations serving the local area; and
- each local board may include such other individuals or representatives of entities as the chief elected official in the local area may determine to be appropriate.

NOTE: Documentation of nominations must be maintained as it will be required in the process of certifying local workforce development boards.

Authority of Board Members: Members of the board that represent organizations, agencies, or other entities shall be individuals with optimum policy making authority within the organizations, agencies, or entities. The members of the board shall represent diverse geographic areas within the local area.

Majority: Representatives from the business community shall constitute a majority of the total membership.

Chairperson: The local board shall elect a chairperson from the members representing the business community.

Multiple Units of Local Government in Local Area: In a case in which a local area includes more than one unit of general local government, the chief elected officials of such units may execute an agreement that specifies the respective roles of the individual chief elected officials in (a) the appointment of the members of the local board from the individuals nominated or recommended to be such members in accordance with the criteria established by the Governor; and (b) carrying out any other responsibilities assigned to such officials under this Title. If, after a reasonable effort, the chief elected officials are unable to reach an agreement, the Governor may appoint members of the local Board from individuals so nominated or recommended.

Functions: (107 (d)) Consistent with Section 108, the functions of the local board shall include the following –

- in partnership with the chief elected official for the local area involved, the local board shall develop and submit a local plan to the Governor that meets the requirements in Section 108. 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 as described in Section 106(c)(2).
- in order to assist in the development and implementation of the local plan, the local board shall -

- 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;
 - assist the Governor in developing the statewide workforce and labor market information system described in Section 15(e) of the Wagner-Peyser Act (29 U.S.C. 491-2(e)), specifically in the collection, analysis, and utilization of workforce and labor market information for the region; and
 - 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.
- the local board shall convene local workforce development system stakeholders to assist in the development of the local plan under Section 108 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 here.
- the local board shall lead efforts to engage a diverse range of employers and with entities in the region involved -
- 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;
 - to development 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;
 - to 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
 - 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.
- 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.

- the local board, shall lead efforts in the local area to -
 - identify and promote proven and promising strategies and initiatives for meeting the needs of employers, 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
 - identify and disseminate information on proven and promising practices carried out in other local areas for meeting such needs.

- 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 -
 - 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;
 - facilitating access to services provided through the one-stop delivery system involved, including facilitating the access in remote areas;
 - 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
 - leveraging resources and capacity within the local workforce development system, including resources and capacity for services for individuals with barriers to employment.

- the local board, in partnership with the chief elected official for the local area, shall -
 - conduct oversight for local youth workforce investment activities authorized under Section 129(c), local employment and training activities under subSections (c) and (d) of Section 134, and the one-stop delivery system in the local area; and
 - ensure the appropriate use and management of funds provided under subtitle B for the activities and system described above; and
 - for workforce development activities, ensure the appropriate use, management, and investment of funds to maximize performance outcomes under Section 116.

- the local board, the chief elected official, and the Governor shall negotiate and reach agreement on local performance accountability measures as described in Section 116(c).
- selection of operators and providers –
 - selection of one-stop operators - consistent with Section 121(d), the local board, with the agreement of the chief elected official for the local area –
 - shall designate or certify one-stop operators as described in Section 121(d)(2)(A); and
 - may terminate for cause the eligibility of such operators
 - selection of youth providers – consistent with Section 123, the local board,
 - shall identify eligible providers of youth workforce investment activities in the local area by awarding grants or contracts on a competitive basis (except as provided in Section 123(b)), based on the recommendations of the youth standing committee, if such a committee is established for the local area under subSection (b)(4); and
 - may terminate for cause the eligibility of such providers.
 - identification of eligible providers of training services – consistent with Section 122, the local board shall identify eligible providers of training services in the local area.
 - identification of eligible providers of career services - if the one-stop operator does not provide career services described in Section 134(c)(2) in a local area, the local board shall identify eligible providers of those career services in the local area by awarding contracts.
 - consumer choice requirements - consistent with Section 122 and paragraphs (2) and (3) of Section 134(c), 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.
- Coordination with education providers –
 - 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)

- applications and agreements - the coordination described above shall include –
 - consistent with Section 232 –
 - 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; and
 - 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 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.
- cooperative agreement - in this paragraph, the term “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.

➤ budget and administration -

- the local board shall develop a budget for activities of the local board in the local area, consistent with the local plan and the duties of the local board under this Section, subject to the approval of the chief elected official.
- grant recipient -
 - the chief elected official in a local area shall serve as the local grant recipient for, and shall be liable for any misuse of, the grant funds allocated to the local area under Sections 128 and 133, unless the chief elected official reaches an agreement with the Governor for the Governor to act as the local grant recipient and bear such liability.
 - in order to assist in administration of the grant funds, the chief elected official or the Governor, where the Governor serves as the local grant recipient for a local area, may designate an entity

to serve as a local grant subrecipient for such funds or as a local fiscal agent. Such designation shall not relieve the chief elected official or the Governor of the liability for any misuse of grant funds as described above.

- the local grant recipient or an entity designated as described above, shall disburse the grant funds for workforce investment activities at the direction of the local board, pursuant to the requirements of this Title. The local grant recipient or entity designated above shall disburse the funds immediately on receiving such direction from the local board.
 - the local board may solicit and accept grants and donations from sources other than Federal funds made available under this Act.
 - for purposes of carrying out duties under this Act, 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.
- 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.

Refer to WIOA Section 107(d) for a complete list of board functions.

Sunshine Provision (107(e)):

- 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, and regarding membership, the designation and certification of one-stop operators, and the award of grants or contracts to eligible providers of youth workforce investment activities, and on request, minutes of formal meetings of the local board.

Staff (107(f)):

- The local board may hire a director and other staff to assist in carrying out the functions described in Section 107(d) using funds available under Sections 128(b) and 133(b) as described in Section 128(b)(4).
- The local board shall establish and apply a set of objective qualifications for the position of director, which ensures that the individual selected has the requisite knowledge, skills, and abilities, to meet identified benchmarks and to assist in effectively carrying out the functions of the local board.
- The director and staff described above shall be subject to the limitations on the payment of salaries and bonuses described in Section 194(15), which states:

“None of the funds available under this Title shall be used by a recipient of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of the annual rate of basic pay prescribed for level II of the Executive Schedule under Section 5313 of Title 5, United States Code.”

Standing Committees: In general, the local board may designate and direct 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:

- A standing committee 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.
- A standing committee to provide information and to assist with planning, operational, and other issues relating to the provision of services to youth, which shall include community-based organizations with a demonstrated record of success in serving eligible youth.
- A standing committee to provide information and to assist with operational and other issues relating to the provision of services to individuals with disabilities, including issues relating to compliance with Section 188, 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.

Additional Committees: The local board may designate standing committees in addition to the standing committees noted above. There is no prohibition on the designation of an existing (as of the date of enactment of this Act – July 22, 2014) entity, such as an effective youth council, to fulfill the requirements of this paragraph as long as the entity meets the requirements of this paragraph.

Limitations: No local board may provide training services unless granted a waiver. The Governor, pursuant to a request from a local board, may grant written waiver of the prohibition set forth in the Act if a local board:

- submits to the Governor a proposed request for a waiver that includes –
 - satisfactory evidence that there is an insufficient number of eligible providers of such a program of training services to meet local demand in the local area;
 - information demonstrating that the board meets the requirements for an eligible provider of services under Section 122 of the Act; and
 - information demonstrating that the program of training services prepares participants for an in-demand industry sector or occupation in the local area.
- makes the proposed request available to eligible providers of training services and other interested members of the public for a public comment period of not less than 30 days; and
- includes, in the final request for the waiver, the evidence and information listed above, and the comments received during the public comment period.

A waiver granted to a board shall apply for a period that shall not exceed the duration of the local plan. The waiver may be renewed for additional periods under subsequent local plans, not to exceed the durations of such subsequent plans, pursuant to requests from the local board, if the board meets the requirements listed above in making the request.

The Governor shall have the authority to revoke the waiver during the appropriate period described above if the Governor determines the waiver is no longer needed or that the local board involved has engaged in a pattern of inappropriate referrals to training services operated by the local board.

A local board may provide the career services described in WIOA Section 134(c)(2) through a one-stop delivery system or be designated or certified as a one-stop operator only with the agreement of the chief elected official and the Governor.

Nothing in the Workforce Innovation and Opportunity Act shall be construed to provide a local board with the authority to mandate curricula for schools.

Certification: The Governor shall, once every two years, certify one local board for each workforce development area within the State. Such certification shall be based on criteria established under WIOA Section 107(b) and, for a second or subsequent certification, the extent to which the local board has ensured that workforce investment activities carried out in the local area have enabled the local area to meet the corresponding performance accountability measures and achieve sustained fiscal integrity as defined in Section 106(e)(2).

Failure to Achieve Certification:

- Failure of a local board to achieve certification shall result in appointment and certification of a new local board for the local area pursuant to the process described in Section 107(b)(1) guidance concerning certification above.

Decertification: The Governor may decertify a local board at any time after providing notice and opportunity for comment, for –

- fraud or abuse; or
- failure to carry out the functions of the local board as specified in Section 107(d); or
- failure to meet the local performance accountability measures for such local area in accordance with Section 116(c) for two (2) consecutive program years

If the Governor decertifies a local board for a local area, the Governor may require that a new local board be appointed and certified for the local area pursuant to a reorganization plan developed by the Governor, in consultation with the chief elected official in the local area, and in accordance with the criteria established in WIOA Section 107(b).

Attachment Number 2

I, _____, Chief Elected Official of the _____
Local Workforce Development Area, submit the attached named individuals for
certification by the Governor as Local Workforce Development Board members. I certify
that the composition of the Board is consistent with Section 107 of the Workforce
Innovation and Opportunity Act, and the guidance provided by the Governor's
Workforce Innovation Directive Number Program Year 2014-06. The individual selected
as Board Chair, per Section 107(b)(3) of the Workforce Innovation and Opportunity Act,
was selected from among the representatives of private sector businesses.

Chief Elected Official Signature

Date

Printed Name

Title

Date of Submission

Contact Person

Contact Person's Phone Number

Attachment Number 3

Proposed Local Board Members:

Business: WIOA Section 107(b)(2)(A)- a majority of the members shall be representatives of business in the local area must include (i) owners of businesses, chief executives or operating officers of businesses, and other business executives or employers with optimum policy-making or hiring authority; (ii) representatives of business, including small businesses, or organizations; (iii) appointed from among individuals nominated by local business organizations and business trade associations. Please identify the local board chairperson in the first blank with the asterisk.

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**Board Chair*

Attachment Number 3

WIOA Section 107(b)(2)(B)- Not less than 20 percent of the members must be representatives of workforce within the local area that include: (i) **representatives** from labor organizations who have been nominated by local labor federations; (ii) a **member** from a joint labor- management apprenticeship program, or if no such joint program exists in the area, such a representative of an apprenticeship program in the area; and may include: (iii) **representatives** from community based organizations with demonstrated experience and expertise in addressing the employment needs of individuals with barriers to employment, veterans, or individuals with disabilities; and (iv) **representatives** of organizations with demonstrated experience and expertise in addressing the employment, training, or education needs of eligible youth and/or out-of-school youth.

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Education and Training Providers: WIOA Section 117(b)(2)(C)- each local board shall include representatives of entities administering education and training activities in the local area must include (i) a **representative** of eligible providers administering Title II adult education and literacy activities; (ii) a **representative** of institutions of higher education providing workforce investment activities; and may include (iii) **representatives** of local educational agencies, and community-based organizations with demonstrated experience and expertise in addressing the education or training needs of individuals with barriers to employment.

	Name	Title	Entity	Appointment Date	Term End Date
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Attachment Number 3

Governmental, Economic, and Community Development: WIOA Section 107(b)(2)(D) and (E)- each local board shall include **representatives** of governmental, economic, community development entities serving the local area must include (i) a **representative** of economic and community development entities; (ii) a **representative** from the State employment service office under the Wagner-Peyser Act; (iii) a **representative** of the Vocational Rehabilitation program; and may include (iv) **representatives** of agencies or entities administering programs serving the local area relating to transportation, housing, and public assistance; (v) **representatives** of philanthropic organizations serving the local area; and (E) **individuals or representatives** of entities as the chief elected official in the local area may determine to be appropriate.

	Name	Title	Entity	Appointment Date	Term End Date
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