

WORKFORCE SYSTEM POLICY (WSP) No. 02-2015, December 18, 2015

TO: PENNSYLVANIA WORKFORCE DEVELOPMENT BOARD
BUREAU OF WORKFORCE DEVELOPMENT ADMINISTRATION
BUREAU OF WORKFORCE PARTNERSHIP AND OPERATIONS
CENTER FOR WORKFORCE INFORMATION AND ANALYSIS
LOCAL ELECTED OFFICIALS
LOCAL WORKFORCE DEVELOPMENT BOARD CHAIRS AND EXECUTIVE DIRECTORS

FROM: Diane Bosak
Deputy Secretary for Workforce Development

SUBJECT: Local Governance Policy

I. **Purpose.** This policy outlines the roles, responsibilities and authority of the chief elected officials and local workforce development boards as defined in the Workforce Innovation and Opportunity Act (WIOA). This policy also sets forth the requirements for the appointment of local board members. Additionally, it provides guidance for the development of agreements between the various entities within the local workforce system.

II. **References.**

- Workforce Innovation and Opportunity Act (WIOA or Opportunity Act), Public Law (Pub. L.) 113-128, enacted July 22, 2014
- Workforce Innovation and Opportunity Act - Notice of Proposed Rulemaking, 80 FR 20689
- Workforce Investment Act of 1998 (WIA), Pub. L. 105-220, *et seq.*
- Training and Employment Guidance Letter (TEGL) No. 19-14, *Vision for the Workforce System and Initial Implementation of the Workforce Innovation and Opportunity Act of 2014*, February 19, 2015
- TEGL No. 27-14, *Workforce Innovation and Opportunity Act Transition Authority for Immediate Implementation of Governance Provisions*, April 15, 2015

III. **Background.** WIOA assigns responsibilities at the federal, state and local levels for the creation and maintenance of a one-stop delivery system. The workforce delivery system requires a collaborative effort among education, business, labor, economic development, public agencies, and community-based organizations in the delivery of services available under multiple programs to job seekers and employers. Chief elected officials, working with local workforce development boards, ensure the provision of services at the local level.

IV. **Definitions.**

- ***Chief Elected Official*** is the chief executive officer of a unit of general local government in a local workforce development area.
- ***Department*** is the Pennsylvania Department of Labor & Industry, which has been designated by the governor to serve as the state administrative entity/state workforce agency.

- **JobGateway®** is the registered trademark for Pennsylvania's online job matching system for jobseekers and employers.
- **PA CareerLink®** is the registered trademark for Pennsylvania's one-stop centers.

V. **Chief Elected Officials.** Local governance begins with the chief elected official(s), who by legislation is financially liable for the workforce funds that are allocated to a local workforce development area. The chief elected official is also responsible for appointing local workforce development board members, approving the local workforce development board budget, and serving as the local grant recipient.

To assist in the administration of grant funds, the chief elected official(s) may designate an entity to serve as a fiscal agent; however, such designation shall not relieve the chief elected official of the liability of any misuse of grant funds.

In addition to the aforementioned responsibilities, the chief elected official(s) must ensure the local workforce development board:

- Elects a private-sector business representative as the local board chair;
- Procures a One-Stop Operator(s) for the PA CareerLink® system in the local area;
- Promotes PA CareerLink® programs and activities;
- Assists the state in developing the statewide employment statistics system under the Wagner-Peyser Act;
- Coordinates with economic development strategies and establishes employer linkages with workforce development activities;
- Carries out regional and local planning responsibilities as required by WIOA and the Department; and
- Conducts business in a transparent manner by making available to the public information about the activities of the local workforce development board to include: the regional and local plans prior to submission and following approval by the Department; membership; designation of the local workforce system operator; the award of grants or contracts; and minutes of local board meetings.

VI. **Local Workforce Development Boards.**

- A. **Establishment.** WIOA requires the establishment of a local workforce development board in each local area of a state to carry out the functions described in Section 107(d), (and any functions specified for the local board under this Act or the provisions establishing a core program) for such area. Each local board shall be certified by the governor of the state.
- B. **Membership composition.** WIOA requires the establishment of criteria for use by the chief elected official(s) for the development of a comprehensive and high-quality job-driven workforce development system.

Each local workforce development board is required to meet the requirements for membership on a local board outlined in WIOA Section 107(b)(2), as well as TEGP No. 27-14, *Workforce Innovation and Opportunity Act Transition Authority for Immediate Implementation of Governance Provisions*.

A majority of the members of the Local Board must be representatives of business in the local area. At a minimum, two (2) members must represent small business as defined by the U.S. Small Business Administration.

In addition to those 'required' members of a local board, the chief elected official(s) of a local workforce development area may appoint other individuals to the local board at his or her discretion, such as local agencies or entities administering transportation, housing and public assistance, and philanthropic organizations. Such members will be considered 'optional' members.

Optional members, as all other members appointed to the local workforce development boards, must have optimum policy-making or hiring authority. This means the individual may 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.

C. **Membership Provisions.**

1. ***Nominations.*** The chief elected official(s) for a local workforce development area must contact the appropriate entities in the local area for nominations to appoint members or fill vacancies on the local board.

Representatives of business; labor organizations; adult education and literacy; and higher education are required to be nominated prior to appointment to the local workforce development board. Nominating organizations must submit an official letter to the chief elected official(s) of the local workforce development area, which:

- *shall* be submitted on appropriate nominating agency's letterhead;
- *shall* designate the appropriate category or categories for which the member is being nominated;
- *shall* acknowledge the nominee's optimum policy-making and/or hiring authority for the category or categories to be represented;
- *shall* include narrative supporting the qualifications of the nomination, which shall include but is not limited to a description of how the business member employer provides high-quality, work relevant training and development in an in-demand industry sector(s) or occupation(s);
- *shall* be signed by an official of the nominating entity; and
- *may* include additional documentation (e.g. resume, etc.) supporting the qualifications for nomination.

2. ***Appointments.*** The chief elected official(s) has the sole authority to appoint members to the local workforce development board.
 - a. A chief elected official's appointment of an individual to the local board is based upon the individual's optimum policy-making authority in a specified entity that is eligible to represent a particular membership category. If the member subsequently no longer holds optimum policy-making authority with that entity, or formal association/employment with that entity is severed, then the member's appointment is no longer valid and the member may not continue to serve on the local board in the appointed role.
 - b. Local board members must be appointed to the local board for no less than two (2) years and no more than four (4) years. Chief elected official(s) must appoint members in staggered terms so that all terms do not expire at the same time; thus, maintaining continuity. Additionally, chief elected officials should also consider the categories with which members are being appointed for staggered terms so that the members of a particular category do not all expire at the same time (e.g., representatives of business, etc.).

- c. Local workforce development board appointments must be signed by the appointing chief elected official and sent to the individual members confirming the appointment for a defined term (see 'Terms' below). The letter must contain the 'category' for which a member is being appointed. A copy of the appointment letter must be maintained in accordance with records retention requirements and be made available upon request by federal and state agencies.
3. **Terms.** A defined term shall mean that there is an official start date and a finite end date at which time the member's term expires. A local workforce development board member's term will begin on or after the date the member is appointed by the chief elected official(s).
4. **Term limitations.** Local workforce development board must establish the length of time a member can serve on the local board. This information must be contained in the local board's by-laws.
5. **Authority of local board members.** Members of the local board must be individuals with optimum policy-making authority within the organizations, agencies, or entities they represent. An individual may be appointed as a representative of more than one category or represent more than one workforce system partner if the individual meets all criteria for representation, with the exception that a business representative may not represent any other category. Individuals representing more than one entity must have optimum policy-making or hiring authority within each of the entities they are representing. The members of the board shall represent diverse geographic areas within the local area.
6. **Mid-term appointments.** Local Workforce Development Board members replacing out-going members mid-term will serve the remainder of the out-going member term.
7. **Vacancies.** Local Workforce Development Board vacancies must be filled within 90 days of the vacancy. Reappointments are allowed and must be made by the chief elected official(s) in a local workforce development area.
8. **Reappointments.** Reappointments must be made within 90 days of the term expiration. If a vacancy or term expiration beyond the 90-day period occurs and results in the Local Workforce Development Board being out of compliance with WIOA regulations for membership required composition, the Local Workforce Development Board must request and receive an approved waiver from the Department prior to the next Local Workforce Development Board meeting. Reappointments must be made in the same manner as appointments.
9. **Waivers to the 90-day limit.** Waivers are to be submitted in writing to the Bureau within one week prior to the expiration of the 90 days, detailing an explanation of why a vacancy was not filled in the timeframe and a description of the process underway to fill the vacancy.
10. **Removal.** Local Workforce Development board members must be removed by the chief elected official(s) if there is evidence or documentation of:
- Violation of conflict of interest policy;
 - Failure to meet Local Workforce Development Board member representation requirements defined in WIOA and this policy; or
 - Proof of fraud or abuse.

Local Workforce Development Board members may be removed for other reasons outlined in the Local Workforce Development Board bylaws; such as lack of attendance. Local Workforce Development Boards must define the specific criteria that will be used to establish just-cause and the process for such removal. The Department reserves the right to conduct an investigation regarding allegations of wrong-doing that result in the removal of a Local Workforce Development Board member. Chief elected official(s) will be formally notified of the results of any investigation.

11. **Conflicts of Interest.** Local board members must complete the conflict of interest code form located at **Appendix D, Conflict of Interest Code Form.**
 12. **DOS registration.** Per Title 15 PA C.S., all private, incorporated, non-profit organizations need to be registered. This would include all Local Boards not part of a county entity.
- D. **Functions of the local board.** The local workforce development board must have the roles and responsibilities that are outlined in WIOA Sec. 117(d), which may require agreement, approval, or partnership with the chief elected official(s).
- E. **Staff.** WIOA grants local workforce development boards with the authority to hire a director and other staff to assist in carrying out the functions of the local board. Local boards 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 local board. The local board director and staff are subject to the limitations on the payment of salary and bonuses described in WIOA sec. 194(15). In general, staff assigned to a local board may only assist the board in fulfilling its required functions.
- Should the board select an entity to staff the board that provides additional workforce functions beyond those required, such an entity is required to enter into a written agreement with the Local Board and chief elected official(s) to clarify their roles and responsibilities.
- F. **Restrictions.** The local workforce development board, local workforce development board staff, the fiscal agent (if one exists), and fiscal agent staff are prohibited from providing career services, and cannot be designated as a PA CareerLink® Operator.
1. The local board, its staff, the fiscal agent (if one exists), and fiscal agent staff are prohibited from providing training services.
 2. In cases where career services and training services are provided by an inter-related agency (i.e.) county agency or commission structure) that is also the employer of local workforce development board staff and/or fiscal agent staff, the service/training provider staff must report to a supervisor that does not oversee local board staff or fiscal agent staff. This structure is only allowable through written approval by the Department.

Once steps have been taken to address and resolve any issues and/or concerns, the chief elected official(s), in collaboration with the local workforce development board, must submit a written request for a structure exception to the Department. This must happen every two years in conjunction with the development of the Local Plan or Local Plan modification. The structure exception request must illustrate a reporting structure within the inter-related agency that is separated into divisions.

Service delivery limitations in WIOA apply to the local workforce development board as an entity but not to the members of local workforce development board as individuals. Members of the local board may not provide services in their capacity as a member of the board; however, if an individual member of the board is also an employee of a service provider, which does not preclude that entity from providing services. This must be consistent with federal, state, and local conflict of interest requirements.

G. **Certification.** The Department is responsible for certifying a local workforce development board for each local workforce development area in the commonwealth. Local boards are encouraged to contact their assigned Oversight Services monitor in the Bureau of Workforce Development Administration (BWDA) at any time regarding certification, as the bureau remains available to provide the necessary technical assistance.

1. **Initial certification.** The Department is required to ensure a newly-appointed local workforce development board complies with the criteria as outlined in WIOA Section 107(b) and with this policy. The Department will consider federal, state and local membership composition requirements when evaluating each local board's membership.
2. **Second or subsequent certification.** In accordance with WIOA Section 107(c)(2), The Department is required to conduct a certification review of each local workforce development board every two (2) years. Such certification will be based on a local workforce system's activities designed to meet local performance accountability measures and any prescribed outcomes as outlined in the local grant agreement; sustained fiscal integrity; and the local workforce development board composition. Additionally, single audits for local boards must be complete and up-to-date.

If a local workforce development board fails to meet membership requirements, the local board shall not be certified until the local board complies with these requirements.

If a local workforce development board meets all membership requirements, but fails to meet all performance measures and outcomes and/or sustained fiscal integrity, certification may be granted for a one-year review period, instead of a two-year period. At the end of the one-year review period, the certification process will be repeated with an updated review of performance, fiscal integrity and membership composition. If this review shows the local workforce development board is meeting all performance measures and outcomes and has sustained fiscal integrity for a second consecutive year, a certification will be granted for the remainder of the two (2) year period.

If a local workforce development board has already been placed on a one-year review period due to a lack of meeting all performance measures and outcomes and/or sustain fiscal integrity, and fails to meet performance measures and outcomes and/or sustain fiscal integrity for a second-consecutive year, the local workforce development board may be decertified. In such cases, the Department will issue a written notice to the chief elected official(s) for the local workforce development area, providing opportunity for comment prior to decertification. *Note:* Such an action will only be taken when the Department has determined that all reasonable attempts at technical assistance have been exhausted.

At any time during the two-year certification period, if more than 10 percent of the local workforce development board membership is removed for cause, a certification must occur to ensure membership compliance and assess board stability.

3. **Procedures.** To facilitate the initial certification of a local workforce development board, the chief elected official(s) or his/her designee must submit to the Department, a current local workforce development board membership list within 60 days following full local board appointment.

For second or subsequent certifications, the chief elected official(s) or his/her designee must submit a current local workforce development board membership list by January 15th of each year. **Note:** The first submission for second or subsequent certification is due by January 15, 2017. In addition to the membership list, local boards are required to submit the local area's most recent single audit that is both complete and up-to-date.

Any subsequent changes in membership must be forwarded, in writing, to the Department within 15 calendar days of the change.

Although all certifications after the initial certification are conducted every two (2) years, the Department will review each local board's membership list annually to ensure membership composition requirements are maintained. If such requirements are not met, the Department will provide the technical assistance necessary to aid in compliance.

4. **Approval.** Local boards are considered certified if:
- a. The Department provides the local board with a notification of approval; or
 - b. At least 90 days has passed, since the submission of the Local Board Membership List and other documentation as required, without the local board receiving any communication from the Department.

The Department may choose not to certify a local board for any of the following reasons:

- Membership composition does not comply with federal, state or local membership requirements;
- The local board has not submitted a single audit that is complete and up-to-date (*for second and subsequent certifications*);
- The local board has not sustained fiscal integrity (*for second and subsequent certifications*);
- The local board has not met local performance accountability measures and any prescribed outcomes as outlined in the local grant agreement (*for second and subsequent certifications*); or
- Other reasons as the Department may determine.

If the Department chooses not to certify a local board for any reason, a written notification will be issued to the local board stating the reason(s) and the action(s) the local board must take to obtain certification.

Failure to achieve certification in a timely manner may result in an interruption of workforce development activities and funding in a local workforce development area.

5. **Decertification.** A local workforce development board is subject to decertification by the Department under the following conditions:

- failure to meet all local workforce development board certification requirements;
- failure to carry out required functions of the local workforce development board;
- fraud; or
- abuse.

In accordance with WIOA Section 107(c)(3), if a local workforce development board is decertified, the Department may require a new local workforce development board be appointed for the local workforce development area pursuant to a reorganization plan developed by the Department, in consultation with the chief elected official(s).

H. **Sunshine provision.** The Local Board must comply with provisions of the PA Sunshine Act (65 P.S. 271 et seq.)

VII. **Standing Committees.** Each local workforce development board shall establish both a youth committee and a fiscal committee. Additionally, local boards are encouraged to establish committees to focus on serving low-skilled adults, Indians and Native Americans, and individuals with disabilities and other relevant priorities for the local area. Additional information with regard to standing committees can be found in WIOA Section 107(b)(4).

1. **Youth standing committee.** Youth standing committees represent a new mechanism for local boards to coordinate area-wide youth services, assist with planning, and oversee operational youth programs. A youth standing committee can serve as the architect in designing and building comprehensive youth services at the local level. This committee should:

- help to identify gaps in services and develop a strategy to use competitive selections or community partnerships to address the unmet needs of youth;
- coordinate youth policy;
- ensure quality services;
- leverage financial and programmatic resources; and
- recommend eligible youth service providers to the local board.

Under WIA, the Department required each local area to have Youth Council that aligned with the established requirements. Local workforce development boards may designate their youth council as the youth standing committee if the youth council fulfills the requirements of such a committee. This means that the committee has members of the local board who have the appropriate experience and expertise in an existing youth council as their youth standing committee.

Membership. The youth standing committee must include a member of the local board, who chairs the committee, members of community-based organizations with a demonstrated record of success in serving eligible youth and young adults, and other individuals with appropriate expertise and experience who are not members of the local board. The committee members may bring their expertise to help address the employment, training, education, human and supportive service needs of eligible youth, especially out-of-school youth, those young people who have become disconnected, and those with barriers. Local boards should consider members that represent agencies such as education, training, vocational rehabilitation, health, mental health, housing, public assistance, justice,

representatives of philanthropic organizations, economic and community development organizations, employers, parents, participants, and youth.

2. **Fiscal standing committee.** To help ensure WIOA's fiscal aspirations are implemented and maintained on a local level, the Department requires local workforce development boards to have a fiscal standing committee as part of the local board structure. Fiscal standing committees represent a mechanism for local workforce development boards to increase the level of local coordination and responsible use of the multiple grants associated with WIOA's required programs, develop local board budgets, and identifying resources to leverage support for workforce development activities. A fiscal standing committee can assist in the important role of fiscal oversight in the local area regarding all WIOA related activities.

Local workforce development boards may designate existing committees currently tasked with fiscal and budgetary responsibilities as the fiscal standing committee. If the local board has no committee devoted exclusively to fiscal and budgetary responsibilities, then the local board shall create such a committee.

This committee should:

- Conduct fiscal and financial oversight of programmatic and administrative entities;
- Analyze strategic plans and determines fiscal impact;
- Develop and recommend fiscal policies, procedures and processes;
- Ensure that internal controls are established and put into practice for the local board, fiscal agent and all subrecipients for all contracted funds passed through the local board;
- Develop, recommend, and monitor budgets associated with the local board;
- Approve operating and program specific budgets and any modifications required;
- Review Resource Sharing Agreements (RSA) and RSA Budgets;
- Approve the disbursement and payment of funds as defined by established policy;
- Review expenditures to assure stable financial management and reduce duplicate administrative costs;
- Ensure the fiscal agent reports timely and accurately; reconcile budgets on a quarterly basis;
- Ensure an annual audit of the local board is performed by an independent certified public accounting firm;
- Provide oversight of the audit and audit resolution process at both the fiscal agent and subrecipient level and issue manage decisions accordingly;
- Review tax returns;
- Provide proper guidance and oversight of procurement of agreements, contracts and grants;
- Can be a signatory authority for local board contracts and agreements involving the expenditure of funds;
- Provide fiscal review and oversight of contracts and agreements;
- Provide oversight and monitoring of activities to comply with administrative requirements such as the payment of local board's operational costs and preparing monthly/quarterly budgeted and actual expenditures;
- Address any complaints of fraud;
- Acts as a liaison between local workforce development entities and the Department when fiscal expertise is required;
- Authorize individuals and board staff having access to the CWDS fiscal roles; and
- Such other duties as may be assigned by the local board chair.

Membership. Local boards should consider members that represent businesses and agencies that can help achieve the objectives and goals of the committee. The fiscal standing committee must include a member of the local board, who chairs the committee. The fiscal standing committee should include members of the local board who have the appropriate experience and expertise needed to review and approve complex financial, fiscal, and budgetary matters. The committee may include other individuals with appropriate expertise and experience who are not members of the local board.

VIII. Regional and Local Planning. The Department has developed regional and local planning guidance which is forthcoming.

IX. Bylaws. The local workforce development board must establish bylaws that include, at a minimum, the following sections:

- A. Establishment.** A statement that the local workforce development board is established in accordance with WIOA Section 107.
- B. Name.** The name of the local workforce development board.
- C. Purpose.** The purpose for the establishment of the local workforce development board consistent with WIOA.
- D. Duties and responsibilities.** Acknowledge the duties and responsibilities as outlined in the WIOA and in the partnership agreement between the chief elected official(s) and the local workforce development board.
- E. Membership.** A description of the local board membership.
- F. Terms and term limitation.** A description of the terms and the length of time a member can serve on the local board.
- G. Local workforce development board chair election.** A description of the process used to elect a Local workforce development board chair, including term details.
- H. Election of officers.** A description of the process used to elect officers, officer positions, terms, removal of officers, and specific officer roles and responsibilities.
- I. Meetings.**
 - 1. Information on how often local workforce development board and committee meetings will be held;
 - 2. Acknowledgement of Sunshine Act open meeting requirements and compliance;
 - 3. A description of the process of announcing regular and special meetings;
 - 4. Acknowledgement that a quorum must consist of at least a simple majority of the currently appointed membership; and
 - 5. Clarification as to whether phone and web-based meetings will be permitted.
- J. Delegation of local workforce development board duties.** Acknowledge that local board members will not be permitted to delegate any local board duties to proxies or alternate.

- K. Committees.** A list of standing committees including the description and composition for each and a description of the process for having ad hoc committees.
- L. Conflict of interest.** A conflict of interest policy meeting the standards set forth in the state's conflict of interest code form and that acknowledges that local workforce development board members must adhere to the following in regards to conflict of interest:

1. A local board member must not vote on nor participate in any decision making capacity any matter that would provide direct financial benefit to the member or the member's immediate family or on matters of the provision of services by the member or the entity the member represents.
2. A Local board member must avoid even the appearance of a conflict of interest. Prior to taking office, members must sign the conflict of interest code form found at **Appendix D** and complete statement of financial interest forms. The local board must appoint an individual to timely review the disclosure information and advise the local board chair and appropriate members of potential conflicts.
 - a. Signed Conflict of Interest Code Forms must be maintained by the local board and be available for review by the Department.
 - b. Members appointed to local workforce development boards meet the definition of public official as outlined in Commonwealth of Pennsylvania Management Directive 205.10 Amended and Financial Disclosures required by the Public Official and Employee Ethics Act. Public Officials are required to complete and file statement of financial Interest forms each year the position is held and the year following end of service. The forms are due on or before May 1 for the prior calendar year. Forms can be obtained from County Board of Elections offices, local political subdivisions, the State Ethics commission, or online at www.ethics.pa.gov

In accordance with the Section 1104 of the PA Public Official and Employee Ethics Act, each nominee for a county-level or local office shall file a statement of financial interests for the preceding calendar year with the governing authority of the political subdivision in which he or she is a nominee and, if different, with the official or body that is vested with the power of confirmation at least ten days before the official or body shall approve or reject the nomination.

3. Prior to discussion, vote, or decision on any matter before a local board, if a member, or a person in the immediate family of such member, has a substantial interest in or relationship to a business entity, or organization, or property that would be affected by any official local board action, the member must disclose the nature and extent of the interest or relationship and must abstain from discussion and voting on or in any other way participating in the decision on the matter. All abstentions must be recorded in the minutes of the local workforce development board meeting and be maintained as part of the official record.
4. It is the responsibility of the local board members to monitor potential conflicts of interest and bring it to the local board's attention in the event a member does not make a self-declaration.

5. A local board must ensure that the local board and its staff, the fiscal agent (if one exists), and fiscal agent staff do not direct, and are not involved in, the daily activities of its PA CareerLink® Operator, workforce service providers, workforce system partners or contractors.
6. Local board members or their organizations may receive services as a customer of a local workforce service provider or workforce system partner.

M. Compensation and reimbursement of expenses. A description of the policy on compensating Local Workforce Development Board members and reimbursing expenses.

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

O. Compliance with law. Acknowledgement stating, in execution of its business, the local workforce development board must comply with the WIOA and its corresponding regulations as well as policies and directives from the Department and the Pennsylvania Workforce Development Board.

X. Agreements. Each of the agreements listed below are locally driven and maintained by the local administrative entity in accordance with records retention requirements. The agreements must be made available upon request by federal or state agencies.

A. Chief elected official agreement: This agreement is only required where there is more than one unit of general local government (i.e., more than one county) that make up the local workforce development area. In such cases, the chief elected officials must execute a written agreement that specifies the respective roles and liability of the chief elected officials. The Department provides guidance for this agreement at **Appendix A, Chief Elected Official Agreement.**

B. Chief elected official and fiscal agent agreement: The chief elected official(s) of a local workforce development area opting to designate an entity to serve as the fiscal agent for workforce funds that are allocated to the local area must enter into an agreement with the fiscal agent. Guidelines detailing the minimum requirements for the agreement can be found at **Appendix B, Chief Elected Official and Fiscal Agent Agreement.**

C. Chief elected official and local workforce development board partnership agreement: In accordance with the WIOA, Section 107(b) the state must establish criteria for the appointment of local workforce development board members by the chief elected official(s). To ensure the criteria established by the state is acknowledged by both the chief elected official(s) and the members of the local workforce development board, a partnership agreement is required. The Department, as the designated representative of the governor, provides the guidance for this agreement at **Appendix C, Chief Elected Official and Local Workforce Development Board Partnership Agreement.**

D. Combination of agreements: In local workforce development areas where the chief elected official(s) has designated the local board and/or staff to the local board to serve as the fiscal agent, the local board may combine the **Chief Elected Official and Fiscal Agent Agreement** and the **Chief elected Official and Local Workforce Development Board Partnership Agreement**. The unified agreement will maintain the title of “*Chief Elected Official and Local Workforce Development Board Partnership Agreement*” but **must** contain the elements required for both agreements as shown in the appendices.

XI. Contact Entity. Technical assistance requests and/or inquiries related to this guidance should be forwarded to the attention of the Bureau of Workforce Development Administration via the following resource account: RA-LI-BWDA-Policy@pa.gov

XII. Rescissions. Local Governance Policy (01-2014) Version 003, July 2014; Workforce System Guidance 01-2015, Local Board Composition, Change 1, May 28, 2015; Workforce System Guidance 01-2014, Composition of Pennsylvania’s Local Workforce Development Boards—Initial Implementation of the Workforce Innovation and Opportunity Act of 2014, March 1, 2014; Workforce Investment Information Notice No. 2-03, Change 1, Local Workforce Investment Board Staffing Policy.

XIII. Appendices.

Appendix A: Chief Elected Official Agreement

Appendix B: Chief Elected Official and Fiscal Agent Agreement

Appendix C: Chief Elected Official and Local Workforce Development Board Partnership Agreement

Appendix D: Conflict of Interest Code Form

Appendix E: Local Board Membership List

Appendix A: Chief Elected Official Agreement

This agreement is only required where there is more than one unit of general local government (i.e., more than one county) that make up the local workforce development area. In such cases, the chief elected officials must execute a written agreement that specifies the respective roles and liability of the chief elected officials. The Department provides the following guidance for this agreement.

A. Required Inclusions. Chief elected officials within a local workforce development area must enter into an agreement that, at a minimum, includes the following sections.

1. **Liability of funds.** Acknowledge that the chief elected official, in his/her official capacity, is liable for all workforce funds in the local workforce development area as noted in WIOA Section 107 and outline the process for determining each chief elected official and their political jurisdiction's share of responsibility as required. This determination should be based on allocation, population, expenditures or other criteria determined by the chief elected officials.
2. **Grant recipient and signatory.** Acknowledgement that the chief elected officials are the grant recipient for all local workforce funds as outlined in WIOA Section 107, unless a fiscal agent designation has occurred. If the chief elected officials do not appoint a fiscal agent, they must outline the process they will use to sign contracts and enter into agreements related to WIOA. This may be accomplished by designating signatory authority to a lead chief elected official. If a lead chief elected official is used in this capacity, chief elected officials must include the information outlined in Subsection B(1).
3. **Fiscal agent designation.** If a fiscal agent is designated, an agreement must be executed as detailed in **Appendix B, Fiscal Agent Agreement.**
4. **Local workforce development board budget approval.** Describe the process for reviewing and approving the local workforce development board annual budget as required in WIOA.
5. **Participating chief elected officials.** The agreement must contain the name, representation, contact information, signature and date for each participating chief elected official in the local workforce development area.
6. **Amendment or change to the chief elected official agreement.** Outline the process that will be used for the amendments or changes to the chief elected official agreement. All amendments or changes must be maintained at the local administrative entity and must be made available upon request by any federal or state agencies.

B. Recommended Inclusions. In order to improve the coordination and functionality of the local workforce system, chief elected officials are encouraged to address the following items in their agreement.

1. **Designation of a lead chief elected official.** The Department encourages chief elected officials to select a lead chief elected official who will act on behalf of the other chief elected officials. If a lead is appointed, the following information must be sent to the local administrative entity and maintained on file for review by the Department.
 - a. Appointment process and term of the lead;
 - b. Designation of the lead to serve as the signatory for the chief elected officials;
 - c. Decisions that may be made by the lead on behalf of the chief elected officials; and

- d. Name, title and contact information of the appointed lead.
 2. **Local workforce development board representation.** Outline how the chief elected officials will ensure local workforce development board representation is in compliance with federal and states statutes, regulations and policies. Additionally, the Department suggests that in multi-county areas, the board representation be a fair and equitable factor in all counties with the local workforce development areas.
 3. **Communication.** Describe how the chief elected officials will communicate with one another regarding local workforce development board activities. The Department encourages the establishment of a method for communications between the chief elected officials as a group, as well as with the local workforce development board members.
- C. Election of a New Chief Elected Official.** Within 120 days of when a new chief elected official begins office within the local workforce development area, the local workforce development board must ensure the new chief elected official submits to the local board a written statement acknowledging that he or she:
1. Has read, understands and will comply with the current chief elected official agreement; and
 2. Reserves the option to request negotiations to amend the chief elected official agreement at any time during the official's tenure as a chief elected official.

Appendix B: Chief Elected Official and Fiscal Agent Agreement

The chief elected official(s) of a local workforce development area opting to designate a fiscal agent for workforce funds that are allocated to the local area must enter into an agreement with the fiscal agent.

Note: In workforce development areas where the chief elected official(s) has designated the local board and/or staff to the local board to serve as the fiscal agent, the local board may combine the chief elected official and **Fiscal Agent Agreement and the Chief Elected Official and Local Workforce Development Board Partnership Agreement**.

The Department provides the following guidance for this agreement:

A. **Required Inclusions.** Chief elected official(s) within a local workforce development area must enter into an agreement with the designated fiscal agent entity that, at a minimum, includes the following sections.

1. **Parties.** Identify the entity that has been designated as the fiscal agent for workforce funds in the local workforce development area, as well as the identity of the participating chief elected official(s).
2. **Purpose.** To outline the agreement between the chief elected official(s) and the designated fiscal agent on role and responsibilities of the entity designated as fiscal agent.
3. **Term of agreement.** This section of the agreement must include the start and end dates of the agreement. It must also outline the circumstances for termination outside the term and the procedure to do so.
4. **Roles and responsibilities.** Acknowledge the roles and responsibilities of the fiscal agent with regard to the local workforce funds. Such roles and responsibilities include, but are not limited to:
 - a. **Contracts.** The fiscal agent shall oversee the contracting process between the local workforce development board and its service providers. Contracts shall include, at a minimum:
 - 1) A statement of work covering the services to be provided, measurable outcomes and penalty provisions;
 - 2) Catalog of Federal Domestic Assistance title and number;
 - 3) Award name and number;
 - 4) Federal agency and pass-through state agency; and
 - 5) Funding availability timeframes.

All documents must be maintained by the fiscal agent in accordance with established records retention requirements.

- b. **Reporting.** The fiscal agent is responsible for submitting accurate and timely financial status reports, making adjustments when necessary and ensuring reporting mechanisms are uniform. Additionally, the fiscal agent is responsible for ensuring expenditures are allocated against

appropriate cost categories and with cost limitations as specified in federal and state statutes, regulations and policies.

- c. **Reconciliation.** The fiscal agent is responsible for reconciling records/reports in a timely manner and at least on a quarterly basis; reviewing and updating, if necessary, its reconciliation process on an annual basis; and ensuring that combined disbursements, receipts, accruals, obligations and cash balances of sub-grantees and the fiscal agent match those reported to the Department.
- d. **Monitoring.** The fiscal agent is responsible for overseeing and monitoring the fiscal activities of the local workforce development area, sub-recipients, service providers and contractors; communicating all fiscal related audit findings, including any corrective actions, to the local board and sub-recipients; and providing technical assistance to the local administrative entity and service providers with regard to financial issues.

5. **Assurances.** The fiscal agent must assure that:

- a. It will receive and manage all federal, state or local workforce funds for the local workforce development area;
- b. It is responsible for the receipt, disbursement, accounting and reporting of all funds related to program operations based on the federal, state or local workforce funds of the local workforce development area;
- c. It will maintain adequate systems of internal control over case to ensure compliance with rules and regulations, to include a description of the internal control system to be used; and
- d. The processes are in place to approve draw requests from and issue funding to subrecipients and vendors.

6. **Contract procedures.**

- a. **Authority.** This section of the agreement must describe who has the authority and/or responsibility to amend, modify, resolve, or otherwise process these procedures, including the process to execute this agreement.
- b. **Modification.** This section must also include the circumstances for modification, and the procedure to do so.

7. **Authority and signatures.**

- a. **Authority of the chief elected official(s) and fiscal agent signatory.** This section of the agreement should include such narrative as, "The individuals signing this agreement have the authority to commit the parities they represent to the terms of this agreement and do so by signing below."
- b. **Signature counterparts.** All parties to this agreement must sign the agreement. This section of the agreement may include the following language to allow for signatures at the same time: "This agreement may be executed in any one or more counterparts, the originals of which, when

taken together and bearing the signatures of all parties to this agreement, shall constitute one and the same agreement.”

8. **Election of a new chief elected official.** Within 120 days of when a new chief elected official begins office within the local workforce development area, the local workforce development board must ensure the new chief elected official submits to the local board a written statement acknowledging that he or she:
 - a. Has read, understands and will comply with the current chief elected official agreement, and;
 - b. Reserves the option to request negotiations to amend the chief elected official agreement at any time during the official’s tenure as a chief elected official.

Appendix C: Local Workforce Development Board Partnership Agreement

To ensure the criteria established by the Workforce Innovation and Opportunity Act (WIOA) and the commonwealth are acknowledged by both the chief elected official(s) and the members of the local workforce development board, the Department requires that a partnership agreement established between both parties that make up a local workforce development area. The following guidance has been established for this agreement.

A. Required Inclusions. The local workforce development board and chief elected official(s) must enter into a partnership agreement that, at a minimum, addresses the following sections.

1. **Local workforce development board membership.** WIOA authorizes chief elected official(s) to appoint the members of the local workforce development board in accordance with the criteria established under Section 107(b) of the WIOA and the guidelines in this policy. Authority to appoint members to the local workforce development board lies solely with the chief elected officials.
2. **Relationship between chief elected officials and the local workforce development board.** Establish roles and responsibilities of the chief elected official(s) and the local board along with a description of the partnership and specific responsibilities.
 - a. **Local plan requirements.** Describe how the local plan will be developed in partnership between the chief elected official(s) and the local board.
 - b. **Budget and approval.** As referenced in WIOA 107, describe how the local board will develop the Local workforce development area's budget and the process for obtaining the chief elected officials' approval.
 - c. **Workforce system operator.** Establish the guidelines that will be followed by the local board for selection of a local workforce system Operator, including the process for getting a chief elected official agreement on the selection.
 - d. **Local workforce development board policies.** Describe the process for approving local workforce policies.
 - e. **Memorandum of understanding.** Describe the process for demonstrating chief elected official's agreement on the memorandum of understanding between workforce system partners and the local board.
3. **Authorized signatures.** The partnership agreement must be signed by the current chief elected officials that have been identified as participating in the chief elected official agreement and by the local workforce development board chair at the time of the signing.
4. **Amendments, change, or election.** Any amendment or change to the partnership agreement, notice of an election of a new chief elected official, or notice of an election of a new local workforce development board chair must be maintained at the local board office be made available for monitoring by the Department. If a new chief elected official or local workforce development board chair is elected within a local workforce development area, the newly elected individual must submit to the local board a written statement acknowledging that he or she:
 - a. has read, understands, and will comply with the current partnership agreement; and

- b. reserves the option to request negotiations to amend the partnership agreement at any time during the individual's tenure.

B. Recommended Inclusion. Establish requirements for providing updates/sharing information with the chief elected officials regarding activities, performance outcomes, and budgets. It is suggested by the Department to have at least one joint meeting held annually between the chief elected officials and the local workforce development board.

Appendix D: Conflict of Interest Code Form

I, _____, _____
Print Member Name Print Workforce Development Board Name

workforce development board member, agree to the terms and conditions contained herein.

CONFLICT OF INTEREST CODE LOCAL WORKFORCE DEVELOPMENT BOARDS

Local workforce development board members are to provide responsible stewardship for and oversight of publicly funded workforce programs. The roles and responsibilities of the local board must be executed in a manner that demonstrates strong integrity, accountability and transparency in order to preserve the public trust. All voting and non-voting local board members and board staff are subject to the provisions of state and local conflict of interest policies.

REQUIRED ACTIVITIES

Local workforce development board members must:

- Recuse themselves from their official duties if there is a real or perceived conflict of interest
- Advise the board of any potential or perceived conflicts of interest
- Ask the local board for guidance if there is any doubt as to whether a specific situation involves or constitutes a real or perceived conflict of interest

RESTRICTED ACTIVITIES

Local workforce development board members must not:

- Cast a vote on nor participate in any decision-making capacity on the provision of services by such member (or by an organization that such member directly represents)
- Cast a vote on nor participate in any matter that would provide any direct benefit to such member or the immediate family of such member
- Engage directly or indirectly in any business transaction or private arrangement for profit (including any third-party transactions) that develops from or is based upon the member's official title or authority on the board
- Participate in the negotiation of or decision to award contracts or grants, the certification of any eligible providers, or the selection of any one-stop (PA CareerLink®) operator with or for any entity in which the member has a financial or personal interest
- Use board equipment, supplies or properties for the member's own private gain or for any reason other than official designated purposes
- Represent or act as an agent for any private interest, either for compensation or not, in any transaction:
 - in which the board has a direct and substantial interest
 - which could be reasonably expected to result in a conflict between a private interest of the board member and his/her/their official board responsibility

Local workforce development board members (or specific entities represented by members) who participate in the development of contract specifications or standards are prohibited from receiving any direct financial benefit from any resulting contract. In addition, no corporation, partnership, sole proprietorship, firm,

enterprise, franchise, association, trust, foundation or other entity shall receive the contract if it would create a conflict of interest for the board member who participated in this manner.

Note: The local workforce development board shall adopt in its bylaws a conflict of interest policy meeting the minimum standards set forth in the state's conflict of interest document.

VIOLATIONS OF THE CONFLICT OF INTEREST CODE

1. If, after an investigation, the board believes that this code has been violated, it may recommend to the Governor or the Chief Elected Official(s) of the local workforce development area that the individual who has violated the code be removed from board membership.
2. The Governor, or the Chief Elected Official(s) of the local workforce development area, has the authority to remove a member of the board for a violation of this code, even if the board has not made such a recommendation.

Signature _____ Date _____

Appendix E - Local Workforce Board Membership List

LOCAL WORKFORCE DEVELOPMENT BOARD MEMBERSHIP LIST							
1. DATE SUBMITTED: <u>MM/DD/YYYY</u>		2. Local Area NAME: _____			3. Local Area NUMBER: _____		
4. NUMBER OF CURRENT LOCAL BOARD MEMBERS: <u>00</u>				5. NUMBER OF CURRENT LOCAL BOARD VACANCIES: <u>00</u>			
6. MEMBER NAME	7. MEMBER TITLE	8. COMPANY/AGENCY NAME, ADDRESS and PA DOS REGISTRATION NO. <i>(if applicable)</i>	9. TELEPHONE NUMBERS	10. E-MAIL ADDRESS	11. NOMINATING ENTITY <i>(if applicable)</i>	12. MEMBERSHIP CATEGORY	13. TERM START AND END DATES
Chair							
Vice-Chair, if applicable							

LOCAL WORKFORCE DEVELOPMENT BOARD MEMBERSHIP LIST							
1. DATE SUBMITTED: <u>MM/DD/YYYY</u>	2. Local Area NAME: _____			3. Local Area NUMBER: _____			
4. NUMBER OF CURRENT LOCAL BOARD MEMBERS: <u>00</u>			5. NUMBER OF CURRENT LOCAL BOARD VACANCIES: <u>00</u>				
6. MEMBER NAME	7. MEMBER TITLE	8. COMPANY/AGENCY NAME, ADDRESS and PA DOS REGISTRATION NO. <i>(if applicable)</i>	9. TELEPHONE NUMBERS	10. E-MAIL ADDRESS	11. NOMINATING ENTITY <i>(if applicable)</i>	12. MEMBERSHIP CATEGORY	13. TERM START AND END DATES

Appendix E - Local Workforce Development Board Membership List Instructions

1. **Date Submitted** (MM/DD/YYYY)
2. **Local Area Name** (e.g., Anyplace Workforce Development Area)
3. **Local Area Number** (e.g., AZ123)
4. **Number of Current Local Board Members** (e.g., 22)
5. **Number of Current Local Board Vacancies** (e.g., 2)
6. **Member Name** (First and Last Name); The local board chairperson must be listed first on the local board membership list and identified as 'Chair.'
7. **Member Title** (Vice-President; HR Manager); Occupational titles are not acceptable.
8. **Company/Agency Name & Address** (ABC Manufacturing Company, Inc., 555 Meadow Lane, Anytown, PA. 00000) and **PA Department of State's (DOS) Bureau of Corporations and Charitable Organizations Registration Number** (00000). Please refer to Title 15, PA Consolidated Statutes. This registration number applies to incorporated-for-profit and non-profit entities. DOS registration does not include unincorporated associations, as some unions are classified.
9. **Member Telephone Number** (000-000-0000)
10. **Member E-Mail Address** (name@abc.com)
11. **Nominating Entity** (Anytown Chamber of Commerce; Anytown Community College; Anytown Carpenters Local Union #000)
Representatives of business, labor organizations, adult education and literacy, and higher education are required to be nominated prior to appointment to the local workforce development board.
12. **Local Board Composition**
The following are the five acceptable membership representation categories. List the corresponding letters and numbers in the appropriate category block to reflect each program(s) the member represents (e.g., John Doe – (B)(1)). For a detailed explanation of the criteria necessary to represent each category, please refer to the Workforce Innovation and Opportunity Act (WIOA), Training and Employment Guidance Letter (TEGL) No. 27-14, and Workforce System Guidance (01-2014), Change 1, entitled, *Composition of Pennsylvania's Local Workforce Development Boards – Initial Implementation of the Workforce Innovation and Opportunity Act of 2014*, dated May 28, 2015.
 - A. Business
 1. (Required) Small business (*two or more*)
 - B. Workforce
 1. (Required) Labor organizations or other representatives of employees (*two or more*)
 2. (Required) Joint labor-management apprenticeship program member (member or training director) if one exists, or other representatives of an apprenticeship program if one exists
 3. Community-based organizations with experience and expertise in addressing the employment needs of individuals with barriers to employment (including veterans or individuals with disabilities)
 4. Organizations with experience and expertise in addressing the employment, training, or education needs of youth (including out-of-school youth)

C. Education

1. (Required) Eligible providers administering adult education and literacy under WIOA Title II
2. (Required) Institutions of higher education providing workforce investment activities (including community colleges)
3. Local education agencies and community-based organization with experience in addressing the education or training needs of individuals with barriers to employment

D. Governmental and Economic and Community Development

1. (Required) Economic and community development entities
2. (Required) State employment service office under Wagner-Peyser (29 U.S.C. 49 et seq.)
3. (Required) Title I of the Rehabilitation Act of 1973 (29 U.S.C 720 et seq.)
4. Transportation, housing, and public assistance agencies or entities
5. Philanthropic organizations

E. Optional Members

13. Term Start and End Dates for the member (MM/DD/YYYY to MM/DD/YYYY)