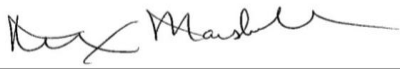




VIRGINIA BOARD OF WORKFORCE DEVELOPMENT

Policy Area: Local and Regional Governance	
Title of Policy: Membership, Responsibilities, and Certification of Local Workforce Development Boards	Number: 20-02
Effective Date: March 19, 2021	Review by Date: June 30, 2024
Approved Date: Revision Date: March 19, 2021 Rescinds and replaces Policies 200-02, 200-03, and 200-04	Approved by:  <hr/>

I. Purpose

This policy provides guidance for the establishment and membership of Local Workforce Development Boards (LWDBs), the responsibilities of the LWDB, and the certification of the LWDB under the Workforce Innovation and Opportunity Act (WIOA). Rescinds and replaces Policies 200-02, 200-03, and 200-04.

II. Summary

Each local workforce development area designated in the Commonwealth shall establish and maintain a Local Workforce Development Board (Local Board). Chief Elected Officials (CEOs) appoint the Local Board, which is certified every two years by the Governor.

The Local Board is part of a statewide workforce system which is business-driven, customer-centric, streamlined, and outcome-oriented. The Local Board shall carry out strategies and policies that support both the economic development mission(s) for the local area and the Virginia Board of Workforce Development’s (VBWD) goals. The Local Board sets policy for the local area, in compliance with broader state policy, and is the regional strategic convener, or acts in partnership with a designated regional convener, in addressing workforce development issues, including but not limited to WIOA activities.

The Local Board shall be led by committed business leaders who can ensure that the local workforce system is responsive to current and projected labor market demand, shall contain a broad range of partners needed to develop a comprehensive vision for the local workforce system, and shall focus on strategic decisions, not operational management. The membership of the local board should be representative of the diversity of the local workforce development area.

The Local Board has responsibility for making the following critical decisions:

- How best to organize the regional workforce system to most effectively serve the needs of current and emerging private sector employers and job seekers;

- How best to provide comprehensive services to regional private sector employers;
- How best to deploy available resources to achieve negotiated local performance accountability measures and build capacity for continuous improvement; and
- How to expand the resource base and service capability through the development of strategic partnerships, an integrated service delivery system, and generation of additional public and private funding.

III. References

- Workforce Innovation and Opportunity Act (Pub. L. 113-128) Sec. 107 Local Workforce Development Boards
- Training and Employment Notice No. 05-14, *Workforce Innovation and Opportunity Act Announcement and Initial Informational Resources*
- Training and Guidance Letter No. 19-14, *Vision for the Workforce System and Initial Implementation of the Workforce Innovation and Opportunity Act of 2014*
- Training and Guidance Letter No. 13-16, *Guidance on Registered Apprenticeship Provisions and Opportunities in the Workforce Innovation and Opportunity Act*
- 20 CFR § 679.300-430,
- Code of Virginia §2.2-2472 Powers and duties of the Board; Virginia Workforce System created.

The term “chief elected official” (CEO) means the chief elected executive officer of a unit of general local government in a local area or an elected official so designated by the CEO.

IV. Membership Policy

A complete list of mandatory and optional Local Workforce Development Board members can be found in Section 107(b) of the Workforce Innovation and Opportunity Act. There is no limit to the number of members the Local Board may have, but it must include all mandatory members.

A member may serve in more than one category as long as the nomination form (Attachment A) provides supporting evidence that the member meets the requirements for representation in each category.

Mandatory Members

- At least 51% of the members shall be composed of local private sector representatives that represent a broad range of in-demand occupations available in the local labor market. This includes organizations representing businesses 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. At a minimum, two members must represent small business as defined by the U.S. Small Business Administration. Private sector representatives can include owners of businesses, chief executives or operating officers of businesses, and other business executives with optimum policy making or hiring authority (ex. Vice Presidents of Human Resources).
- At least 20% of the members of the Local Board, shall be representatives of the

workforce within the local area, who—

- shall include two or more representatives of labor organizations, who have been nominated by local labor federations;
 - shall include one or more Registered Apprenticeship (RA) representative, who must be a member of a labor organization or a training director from a joint labor-management apprenticeship program. If no union affiliated registered apprenticeship programs exist in the area, a representative of a registered apprenticeship program with no union affiliation must be appointed; if one exists. Representatives from the State Apprenticeship Agency (SAA) and the USDOL Office of Apprenticeship (OA) cannot serve in this capacity; they can, however, serve as advisor to the Local Board and work in a non-official capacity;
 - shall include one or more Community-Based Organizations (CBO) that have demonstrated experience and expertise in addressing the employment needs of individuals with barriers to employment, including veterans, persons with disabilities, and “out of school” youth.
- At least one representative shall be from the Virginia Department of Social Services;
 - At least one representative from the Virginia Employment Commission who administers WIOA Title III Wagner-Peyser activities for the local area who shall be designated by the Virginia Employment Commission.
 - At least one representative shall be a regional adult education program manager that directly administers WIOA Title II Adult Education and Family Literacy (AEFLA) activities locally. If there is more than one adult education program operating in the LWDB area and each regional program manager is not represented on the board, it is recommended that regional adult education program managers serve alternating terms.
 - At least one representative shall be from a school division Career and Technical Education program which represents programs aligned with the region’s targeted industry sectors and demand occupations.
 - At least one representative from a local community college providing training services who shall be designated by the community college.
 - At least one representative shall be from a regional or local economic and community development entity.
 - At least one representative from the Department of Aging and Rehabilitative Services and/or the Department for the Blind and Visually Impaired who administers WIOA Title IV activities for the local area who shall be designated by the two agencies administering vocational rehabilitative services under Title IV of the WIOA.

To determine if the area has met the requirement of at least 51% representation from the private sector representatives and at least 20% representation from Labor/RA/CBO the number of individuals serving in each category will be divided by the number of members on the board.

Optional Members

- A representative from a regional planning entity.
- A representative of eligible providers administering WIOA Title I Adult and Dislocated Workers Employment and Training activities.
- A representative of eligible providers administering WIOA Title I Youth Workforce Development activities.
- A representative of eligible providers administering the Social Security Act Title IV (Part A —Block Grants To States For Temporary Assistance For Needy Families) -TANF.
- A representative of eligible providers administering employment and training activities carried out through the U.S. Department of Health & Human Services' Community Services Block Grant.
- A representative of eligible providers administering employment and training activities carried out through the U.S. Department of Housing and Urban Development's Community Development Block Grant.
- A representative of eligible providers administering Title V of the Older Americans Act programs for engaging low-income senior citizens in community service, employment, and volunteer opportunities.
- A representative of eligible providers administering Section 212 of the Second Chance Act offender reintegration activities.
- A representative of eligible providers administering Supplemental Nutrient Assistance Program Employment and Training activities.
- A representative of eligible providers administering Social Security Ticket to Work, Disability Employment Initiative, and other self-sufficiency programs.
- A representative of eligible providers administering Small Business Association Employment and Training activities.
- A representative of an entity that administers programs serving the local area relating to transportation, housing, and public assistance.
- A superintendent, or designated representative, of a local public school system (other than a representative from a local Career and Technical Education program).
- A representative of higher education providing WIOA activities.
- A representative of a philanthropic organization.
- Any other individual or representative of an entity as the CEOs in the local area may determine to be appropriate.

Chairperson

The members of the Local Board shall elect a chairperson from among the private sector representatives. The chairperson shall serve as the Executive Committee Chair and shall identify the method for selecting the chairs for all standing committees and taskforces of the local Board.

Membership Terms

- Members of the Local Board must be individuals with optimum policy-making authority within the organizations, agencies, or entities they represent.
- Members of the Local Board shall be appointed for staggered terms.
- Private sector representatives shall be an appropriate mix of small, medium and large employers that reflect the local labor market, i.e., the business representation shall reflect the industry mix in the local labor market.
- Individuals serving on the Local Board who subsequently retire or no longer hold the position that made them eligible board members may continue to serve on the local Board; however, if their membership category changes as result of their retirement or change in employment status, the local board must account for that change when evaluating overall membership composition.
- Vacancies resulting from resignations or removal of mandatory members must be filled within 90 days.
- If a member is reappointed to a term, the member must complete a new nomination form each term to certify that the category represented has not changed.

Conflict of Interest

All members of the Local Board serve a public interest and trust role and have a clear obligation to conduct all affairs in a manner consistent with this concept. All decisions of the Local Board are to be based on promoting the best interest of the state and the public good. Accordingly:

- All members of the Local Board are subject to the provisions of the State and Local Government Conflict of Interest Act.
- The Local Board shall adopt in its bylaws a conflict of interest policy meeting the minimum standards set forth in the State and Local Government Conflict of Interest Act. The conflict of interest standards shall apply to all board members (voting and non-voting).
 - A member of a Local Board shall neither 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); nor on any matter that would provide any direct benefit to such member or the immediate family of such member. Immediate family means (1) a spouse and (2) any other person residing in the same household as the member, who is a dependent of the member or of whom the member is a dependent. Dependent means any person, whether or not related by blood or marriage, which receives from the member, or provides to the member, more than one-half of his financial support.
- Any Local Board member (or specific entity represented by that member) who participates in the development of contract specifications or standards is prohibited from receiving any direct financial benefit from any resulting contract.
- Any Local Board member who participates in a Local Board decision relating to specific

terms of a contract, the determination of specific standards for performance of a contract, the development of Invitations for Bid or Requests for Proposals or other such bid processes leading to a contract, or any similar decisions is 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.

- Each Local Board member shall file a statement of economic interest with the Local Board as a condition of assuming membership and then annually while serving as a Board member. The CEOs shall determine the composition of the statement of economic interest.
- Any Local Board member with a potential or actual conflict of interest shall disclose that fact to the Local Board as soon as the potential conflict is discovered and, to the extent possible, before the agenda for the meeting involving the matter at issue is prepared. If it is determined during a meeting that a conflict of interest exists, the member must verbally declare such conflict of interest, such declaration must be clearly noted in the minutes, and such member must excuse himself from the remainder of the discussion and voting on that item. Each Local Board member is responsible for determining whether any potential or actual conflict of interest exists or arises during his tenure on the Local Board.
- If a contract or purchase is made by the Local Board involving its own member with a conflict of interest, the Local Board shall justify the terms and conditions of the contract or purchase and document that the contract or purchase was adequately bid or negotiated and that the terms of the contract or price of the purchase are fair and reasonable.
- Local Board members who are also one-stop center operators shall not serve on any committees that deal with oversight of the one-stop system or allocation of resources that would potentially be allocated to that member's program.
- All members of the Local Board are subject to all other provisions of the State and Local Government Conflict of Interest Act not outlined above.

Local Board Appointment Process

Nominations and Selection

CEOs must establish a formal nomination and appointment process, consistent with the criteria established by the Governor and State WDB under sec. 107(b)(1) of WIOA for appointment of members of the Local WDBs, that ensures:

(1) Business representatives are appointed from among individuals who are nominated by local business organizations and business trade associations (ex. chamber of commerce, economic development agencies). Individual businesses may nominate themselves.

(2) Labor representatives are appointed from among individuals who are nominated by local labor federations (or, for a local area in which no employees are represented by such

organizations, other representatives of employees, such as employee organizations and/or the state AFL-CIO); and

(3) When there is more than one local area provider of adult education and literacy activities under title II, or multiple institutions of higher education providing workforce development activities as described in WIOA sec. 107(b)(2)(C)(i) or (ii), nominations are solicited from those particular entities.

For all other members, CEOs should consult with the appropriate groups in the local area for possible individuals to serve including:

- Representatives of community-based organizations, including organizations representing individuals with disabilities and veterans where such organizations exist in the area.
- Representatives of local economic development agencies, including private sector economic development entities.

A nomination form (Attachment A) must be completed for all board members and all nomination forms must be signed by the nominating party.

Vacancies subsequent to the establishment of the Local Board must be filled in the same manner as the original appointments.

Public Participation

CEOs must provide public notice of the intent to solicit nominations for Local Board membership, including the process to be used for nominations and selection.

V. Roles and Responsibilities

Local Boards shall carry out their responsibilities in partnership with CEOs, in consultation with regional workforce partners. A CEO Agreement outlining responsibilities is required where a local area includes more than one unit of local government. This agreement must specify which entity will serve as the fiscal and administrative agent, as well as the roles of the individual CEOs in regard to Local Board nominations and appointments and carrying out all other responsibilities assigned to the CEOs under WIOA. CEOs are encouraged to meet at least annually to review program performance for the grant as well as the performance of the fiscal and administrative agent as designated.

The joint responsibilities of the Local Board and CEOs include, but are not limited to the following:

- Development of a vision and goals for the local workforce development system that are aligned with both the economic development mission(s) for the local area and Virginia Board of Workforce Development's (VBWD) goals
- Development of the 4-year local strategic plan to include a workforce demand plan and a

plan for business engagement

- Selection of one-stop operator(s) and locations
- Selection of training providers
- Approval of the local one-stop operation(s) budget
- Program oversight
- Negotiations with the Governor to reach agreement on local performance accountability measures
- Any other activities as required by the Workforce Innovation and Opportunity Act, Section 107(d), by state statute, or by the Governor

The responsibilities and functions of the Local Board include the following:

- The Local Board shall enter into an agreement with the chief elected officials clearly detailing the partnership between the two entities for the governance and oversight of activities under the WIOA.
- The Local Board shall develop a budget for the purpose of carrying out the duties of the Local Board. The CEOs must approve the budget.
- The Local Board shall meet at least quarterly and review presented financial reports that reflect actual expenditures and their relationship to the approved budget as well as workforce program outcomes and their relationship to negotiated performance levels.
- The Local Board is encouraged to solicit and accept grants and donations from sources other than federal funds made available under Title I of WIOA assuming it has organized itself in a manner to do so.
- The Local Board, in partnership with CEOs, shall develop the vision, goals, objectives, and policies for the local workforce development area. The vision shall be aligned with both the economic development mission(s) for the local area and VBWD's goal.
- The Local Board, in partnership with the CEOs, shall develop and submit to the Governor, a local strategic plan that meets the requirements in Section 108 of the Workforce Innovation and Opportunity Act.
- The Local Board, with the agreement of the CEOs, shall select one-stop operator(s) through a competitive process and may terminate for cause the eligibility of one-stop operators.
- The Local Board shall enter into a memorandum of understanding concerning the operation of the one-stop delivery system in the local area with each required partner.
- The Local Board shall select eligible providers of youth activities by awarding grants or contracts on a competitive basis.
- The Local Board shall identify eligible providers of training services for adults and dislocated workers.

- The Local Board, in partnership with the CEOs, shall conduct oversight of local programs of youth, adult, and dislocated worker activities authorized under Title I of the WIOA.
- The Local Board, in partnership with the CEOs, shall negotiate and reach agreement with the Virginia Board of Workforce Development on behalf of the Governor on local performance accountability measures.
- The Local Board shall help the Governor develop a statewide employment statistics system.
- The Local Board shall coordinate the workforce activities authorized under WIOA with local economic development strategies, and develop employer linkages with those activities.
- The Local Board shall promote the participation of local private sector employers through the statewide workforce development system.
- The Local Board may employ staff and/or utilize other options for carrying out these responsibilities.
- The Local Board is responsible for any other activity as required by the Workforce Innovation and Opportunity Act, Section 107(d) or by the Governor or by the Code of Virginia § 2.2-2472.

Restrictions

- The Local Board may not provide training services unless granted a waiver by the Governor as provided under policy 401-04.
- The Local Board may not mandate curricula for schools.
- The Local Board may not be designated or certified as a one-stop operator unless granted a waiver by the Governor as provided under policy 300-04.

Local Board Meetings

A quorum for a meeting of a local workforce development board shall consist of a majority of both the private sector and public sector members.

Sunshine Provisions:

- The Local Board shall share information regarding its meetings and activities with the public subject to the provisions of the Virginia Freedom of Information Act.
- The Local Board shall make available to the public, on a regular basis through open meetings, information regarding the activities of the Local Board, including information regarding the local plan prior to submission of the plan, membership, the designation and certification of one-stop operator(s) consistent with the State Plan, and the award of grants or contracts to eligible providers of youth activities, and minutes of formal meetings of the Local Board.

- In order to comply with the Sunshine Provisions, each Local Board and any subcommittee authorized to take official action on behalf of the Local Board shall do the following:
 - a. Take official action and engage in deliberations only at meetings open to the public. "Official action" includes making recommendations, establishing policy, making decisions, and/or voting on matters of Local Board business. "Deliberations" are discussions of Local Board business necessary in order to reach decisions.
 - b. Ensure that all meetings are held in locations accessible to individuals with disabilities and that all information is available in accessible and alternate formats.
 - c. Give public notice of meetings in accordance with applicable state code provisions, including public notice in advance of any special meeting or rescheduled regular meeting. No public notice need be given of an emergency meeting called to deal with a real or potential emergency involving a clear and present danger to life or property.
 - d. Ensure that votes of Local Board members be publicly cast and, in the case of roll call votes, recorded.
 - e. Keep written minutes of all public meetings, including date, time and place of the meeting, members present, the substance of all official actions, a record of roll call votes, and the names of any citizens who appeared and gave testimony.
 - f. Closed executive sessions may be used according to the provisions of the Virginia Freedom of Information Act. Such sessions may be held during or after an open meeting, or may be announced for a future time. If closed session is not announced for a specific time, Local Board members must be notified 24 hours in advance of the date, time, location and purpose of the session. The reason for holding an executive session must be announced at the open meeting either immediately prior or subsequent to the executive session.
 - g. Official action on any matter discussed at an executive session must be taken at an open meeting.

VI. Local Board Certification

Consistent with the requirements of WIOA and state law, the Governor shall certify Local Boards once every two years. Certification shall occur in odd number years. A complete certification request, to include all required forms as required under this policy, shall be submitted no later than May 1 to the Executive Director of the VBWD. The LWDB may not conduct business in the new program year that begins July 1 until certified.

Local Level Responsibilities

CEOs must submit the following certification documentation every other year:

- Local Board Membership Nomination Forms for each Local Board member. Information to be included on the forms include the names of the individuals initially appointed as members of the local Board, their title, company or agency name, address, E-mail address, telephone, and fax numbers, nominating entity, appointment/term expiration date, and sector representation. For private sector representatives, the industry sector, whether the business is small or large, and whether the business is minority or female owned must be identified. The Nomination Forms (Attachment A), which are provided by the staff of the WIOA Title 1 Administrator, must be submitted to LWDB@VCCS.edu.
- A Local Board Membership Certification Form that lists the names of the individuals appointed as members of the Local Board, their title, company or entity name, appointment/term expiration dates, and sector representation. The Certification Form, which is provided by the WIOA Title 1 Administrator, must be submitted to LWDB@VCCS.edu and be signed by the CEO.
- The name and contact information for the chairperson, as well as any subsequent changes in the chairperson designation, must be submitted to LWDB@VCCS.edu within 10 days of the vote.
- A board roster to the Virginia Board of Workforce Development at the beginning of each program year that includes updated Local Board membership and contact information.

The completed Nomination and Certification Forms must be kept on file at the local level.

Governor's Responsibility

- The Virginia Board of Workforce Development will recommend the certification of the Local Board to the Governor upon its determination that the composition of the Local Board and the appointment of the individuals to the Local Board are consistent with the criteria established in Section 107 of the Workforce Innovation and Opportunity Act and this policy.
- The Governor will notify the CEO within 30 days after the submission of all the required certification request forms.
- The LWDA's outcomes in relation to established performance measures will be taken into consideration when determining certification.
- If a Local Board certification is denied, the CEOs will be required to reappoint and

- submit a membership listing following the procedures in this policy within 60 days.
- If after a reasonable effort, the CEOs in a Workforce Development Area are unable to appoint a board that can achieve certification, the Governor will appoint the members of the Local Board from individuals nominated in accordance with this policy.