



**COMMONWEALTH OF VIRGINIA  
VIRGINIA BOARD OF WORKFORCE DEVELOPMENT**

**Policy Number: 15-01**

**Effective Date: July 1, 2015**

**Title: State Certification of Local Workforce Development Boards**

**PURPOSE**

To describe the purpose of and criteria for establishing and certifying a local Workforce Development Board under the Workforce Innovation and Opportunity Act (WIOA).

**REFERENCES**

P.L. 113-128, Workforce Innovation and Opportunity Act, Section 107

**POLICY**

Virginia Board of Workforce Development (VBWD) serves as the Governor's WIOA State Workforce Development Board. VBWD's goal is to assist and advise the Governor through recommendation of policies and strategies to increase coordination and thus efficiencies of operation between all workforce development programs.

Each WIOA local workforce area serving the Commonwealth is required to establish and maintain a Workforce Development Board. The chief local elected officials appoint the local Board, which is certified every 2 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 is expected to carry out strategies and policies that support both the economic development mission(s) for the local area and VBWD's goals. The local Board sets policy for the local area, in the context of 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 must be led by committed business leaders who can ensure that the local workforce system is responsive to current and projected labor market demand, will contain a broad range of partners needed to develop a comprehensive vision for the local workforce system, and will focus on strategic decisions, not operational management.

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;

- 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.

The local Board carries out their responsibilities in partnership with local chief elected officials. The joint responsibilities include, but are not limited to the following:

- Developing 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 VBWD’s 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; and
- Any other activities as required by the Workforce Innovation and Opportunity Act, Section 107 (d), by state statute, or by the Governor

A Chief Local Elected Official Agreement to deliver these responsibilities is required where a local area includes more than one unit of local government. The term “Chief Local Elected Official” 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 Chief Local Elected Official. This agreement must specify which entity will serve as the fiscal and administrative agent, as well as the roles of the individual chief elected officials in regard to local Board nominations and appointments and carrying out all other responsibilities assigned to the Chief Local Elected Officials under WIOA.

An agreement between the Chief Local Elected Officials and the local Board is also required. This agreement must specify the roles of the Chief Local Elected Officials and the local Board and how each will carry out their partnership responsibilities under WIOA.

The Chief Local Elected Officials must submit to the Virginia Board of Workforce Development every year updated local Board membership information including contact information for the local Board, the annual budget for the Board and One-Stop operations, and other expenditures.

The attached guidelines for establishment of the local Board includes the following sections:

1. Composition of the Local Board
2. Local Board Appointment Process
3. Functions of the Local Board
4. Conflict of Interest
5. Certification of the Local Board

**APPROVED**   
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 Chair, Virginia Board of Workforce Development

**DATE: April 10, 2015**

**ATTACHMENT: Guidelines for Establishment of a Local Board**

## **1. Composition of the Local Board**

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. Please note there is no limit to the number of members that the local Board may have on its roster, but it must include all mandatory members.

### **A. Mandatory Members**

- At least 51% of the members must be made up of private sector representatives located in the local area 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.
- Not less than 20%, a minimum of two, of the members of the local Board, must be made up of representatives of labor organizations. Shall include representatives who have been nominated by local labor federations and representatives from apprenticeship programs. Community-based organizations 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 may be included in addition to the aforementioned labor organization representatives.
- At least one representative from the Virginia Employment Commission who administers WIOA Title III activities for the local area.
- At least one representative of eligible providers administering WIOA Title II Adult Education and Literacy activities locally.
- At least one representative of a school division Career and Technical Education program.
- At least one representative from a local community college providing WIOA training services.
- At least one representative from a local economic and community development entity.
- At least one representative from the Department of Aging and Rehabilitative Services who administers WIOA Title IV activities for the local area.

### **B. 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 Investment activities.

- A representative of eligible providers administering the Social Security Act Title IV (Part activities).
- 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 chief elected officials in the local area may determine to be appropriate.

#### C. Chairperson

The members of the local Board will elect a chairperson from among the private sector representatives. The chairperson serves as the Executive Committee Chair and selects the chairs for all standing committees and taskforces of the local Board.

#### D. Membership Terms

- Members of the board must be individuals with optimum policy making authority within the organizations, agencies, or entities they represent.
- Members of the board should be appointed for staggered terms.
- Private sector representatives should be an appropriate mix of small, medium and large employers that reflect the local labor market, i.e., the business representation should 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 not continue to serve on the local Board. The entity affiliated with the vacating board member may provide a new representative to the

local Board.

- Vacancies resulting from resignations or removal of mandatory members must be filled within 90 days.

## **2. Local Board Appointment Process**

### **A. Nominations & Selection**

The Chief Local Elected Officials must contact the appropriate entities in the local area for nominations to appoint members and/or to fill vacancies on the local Board from business, local educational entities, and labor representatives. Chief Local Elected Officials may also design a process for nominations of individuals and other types of representation the officials would like to include on the local Board. Vacancies subsequent to the establishment of the local Board must be filled in the same manner as the original appointments.

Private sector representatives are to be selected from among individuals nominated by local business organizations (ex. business trade associations, chamber of commerce, economic development agencies). Individual businesses may also nominate themselves or provide nominations of other businesses to the Chief Local Elected Officials. 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).

Local educational entity representatives must be selected from among individuals nominated by regional or local educational agencies, institutions, or organizations representing such local educational entities including local school boards, entities providing vocational education, entities providing secondary adult education and literacy activities, and postsecondary educational institutions (including representatives of community colleges, where such entities exist).

Labor representatives must be selected from among individuals nominated by local labor federations (or in 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).

For all other members, local chief elected officials 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.

### **B. Public Participation**

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

## **3. Functions of the Local Board**

#### A. Responsibilities

- The local Board shall enter into an agreement with the Chief Local 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 Chief Local Elected Officials must approve the budget.
- The local Board should solicit and accept grants and donations from sources other than Federal funds made available under WIOA assuming it has organized itself in a manner to do so.
- The local Board, in partnership with Chief Local Elected Officials, shall develop the vision, goals, objectives, and policies for the local workforce development area. The vision should be aligned with both the economic development mission(s) for the local area and VBWD's goal.
- The local Board, in partnership with the Chief Local Elected Officials, 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 Chief Local Elected Officials, 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 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 Chief Local Elected Officials, shall conduct oversight with respect to local programs of youth, adult, and dislocated worker activities authorized under the WIOA.
- The local Board, in partnership with the Chief Local Elected Officials, will 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 assist the Governor in developing 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.

#### B. Restrictions

- The local Board may not provide training services unless granted a waiver by the Governor due to an insufficient number of eligible providers of training services to meet the local area demand. The waiver shall apply for not more than 1 year and may be renewed for not more than 1 additional year.

- The local Board may not mandate curricula for schools.
- The local Board may not be designated or certified as a one-stop operator unless an agreement is reached with the chief elected officials and the Governor.

### C. Local Board Meetings

- Sunshine Provisions:
  - a. 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.
  - b. 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, and regarding 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.
  - c. 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 must do the following:
    - 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.
    - Ensure that all meetings are held in an accessible location for the disabled and that all information is provided in accessible and alternate formats.
    - 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.
    - Insure that votes of local Board members be publicly cast and, in the case of roll call votes, recorded.
    - 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.
  - d. Closed executive sessions may be used according to the provisions of the Virginia Freedom of Information Act. Such session 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.
  - e. Official action on any matter discussed at an executive session must be taken at an open meeting.

### 4. Conflict of Interest

A. 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 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 must 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 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 Board member who participates in a 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 Workforce Development Board, as a condition of assuming membership and then, annually while serving as a Board member. The Chief Local Elected Officials shall determine the composition of the statement of economic interest.
- Any Board member with a potential or actual conflict of interest must 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 should be 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 Board member is responsible for determining whether any potential or actual conflict of interest exists or arises for him or herself during his tenure on the 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.

## **5. Certification of the Local Board**

### **A. Local Level Responsibilities**

- The Chief Local Elected Officials must submit the following certification documentation to the



VBWD every two years:

- The Chief Local Elected Officials must submit local Board Membership Nomination Forms for each 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 (where applicable), 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, which are provided by the staff of the Virginia Board of Workforce Development, must be submitted to LWDB@VCCS.edu.
- The Chief Local Elected Officials must submit 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 staff of the Virginia Board of Workforce Development, must be submitted to LWDB@VCCS.edu.
- The completed Nomination and Certification Forms must be kept on file at the local level.
- The Local Board must meet within 30 days after the Governor's notification of certification approval to elect a chairperson.
- 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.
- The Chief Local Elected Officials must submit to the Virginia Board of Workforce Development updated local Board membership information.

#### B. 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 Board and the appointment of the individuals to the Board are consistent with the criteria established in Section 107 of the Workforce Innovation and Opportunity Act and this policy.
- Subsequent certification of the local Board is required once every 2 years by the Governor with the recommendation from the Virginia Board of Workforce Development.
- The Governor will notify the Chief Local Elected Officials within 30 days after the submission of the listing of the local Board members and supporting documents of the certification or denial of the proposed local Board. The criteria for initial certification or denial of certification will be based on the relevant composition requirements in Workforce Innovation and Opportunity Act, Section 107 and this policy.
- All initial certification requirements for local Boards must be met by July 1, 2015.
- If after a reasonable effort, the Chief Local Elected Officials in a multiple units of local government local area are unable to reach an agreement as described above, the Governor will appoint the members of the local Board from individuals nominated as described above.
- For subsequent certifications of the local Board, in addition to compliance with composition requirements, the Governor will consider the extent to which the local

- Board has ensured that workforce development activities carried out in the local area have enabled the local area to meet the local performance measures and the Board's success in carrying out the functions listed in these Guidelines.
- If a local Board fails to achieve certification, the Chief Local Elected Officials will be required to reappoint and submit a membership listing following the procedures outlined above.