

Workforce Arizona Council

Workforce Investment Act Local Governance Policy

02-2013 Workforce Investment Act Local Governance

ISSUING AGENCY:	State Workforce Investment Board
SCOPE:	State Workforce Investment Board, Arizona Department of Economic Security, Arizona Commerce Authority, Local Workforce Boards, Local Workforce Administrative Entities, One-Stop Operators, and Workforce System Stakeholders
REFERENCES:	Title I of the WIA of 1998, as amended (29 U.S.C. 2801 et seq.); WIA Regulations, 20 CFR Part 652 et al, 29 CFR Part 95-97; Office of Management and Budget (OMB) circulars applicable to the entity, such as OMB Circulars A-21, A-87, or A-122
EFFECTIVE DATE:	October 1, 2013
OBJECTIVE:	This policy provides guidance on the appointment of local boards and outlines the roles, responsibilities and authority of the chief elected officials and the local boards in regard to the local workforce system.
DEFINITIONS:	<p>Chief Elected Official is the chief elected executive officer of a unit of general local government in a local area, which is the mayor, county commission chair, or Tribal Chairperson.</p> <p>Lead Chief Elected Official is the individual selected by the participating chief elected officials who may act on behalf of the other chief elected officials in a given local workforce area (local area).</p> <p>In Arizona, the State Workforce Investment Board is called the Workforce Arizona Council.</p> <p>In Arizona, the State Administrative Entity is the Arizona Department of Economic Security.</p>

CHIEF ELECTED OFFICIAL AGREEMENT FOR CONSORTIA: As noted in 20 CFR Part 667.705, when a local area includes more than one unit of government, the chief elected officials of each unit must execute a written agreement that specifies the respective roles and liability of the individual chief elected officials. Chief elected officials are liable in their official capacity and are not personally liable for misuse of WIA funds. The State Workforce Investment Board, as the designated representative of the governor, provides the following guidance on this agreement.

- A. Required inclusions.** Chief elected officials must enter into an agreement with each other that, at a minimum, includes the following sections.
- 1. Liability of funds.** Acknowledge financial liability as noted in WIA 117(d)(3)(B)(i)(I) and outline the process for determining each chief elected officials' share of responsibility as required in 20 CFR Part 667.705. This determination could be based on allocation, population, expenditures,

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- or other criteria determined by the chief elected officials. Chief elected officials are liable in their official capacity and are not personally liable for misuse of WIA funds.
2. **Grant recipient and signatory.** Acknowledgement that the chief elected officials are the grant recipient for all local WIA funds as outlined in WIA 117(d)(3)(B)(i) or have designated grant recipient authority to the local board. If the chief elected officials will serve as the grant recipient, they must outline the process they will use to sign contracts and enter into agreements related to the WIA. 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 the recommended inclusions Subsection B of Policy 02-3013.
 3. **Fiscal agent designation.** To assist in the administration of the grant funds, the chief elected officials may designate an entity to serve as a local fiscal agent as outlined in WIA 117(d)(3)(B)(i). If a fiscal agent is designated describe the process for designation within the guidelines required by state and local procurement laws and policies.
 4. **Local board budget approval.** Describe the process for reviewing and recommending the approval of the local board annual budget as required in WIA 117(d)(3)(A) and 20 CFR Part 661.305(a)(4) for the purpose of carrying out the duties of the local board. This budget does not include program operations.
 5. **Participating chief elected officials.** The agreement must contain the name, representation, contact information, and signature of the participating chief elected official in the local area as defined in the local area. The nineteen (19) tribal nations will identify appropriate signatures for their agreement.
 6. **Amendment or change to the chief elected official agreement.** Outline the process that will be used for amendments or changes to the chief elected official agreement including a description of how an election may or may not impact an existing agreement. All amendments or changes must be maintained at the local administrative entity office and available for monitoring by the state administrative entity.
- B. Recommended inclusions.** In order to improve the coordination and functionality of the local workforce system, chief elected officials should also address the following items in their agreement.
1. **Designation of a lead chief elected official.** Chief elected officials are liable for all WIA Title IB funds in the local area, and are required by the WIA to approve or provide guidance on a number of local board activities, the State Workforce Investment Board encourages chief elected officials to select a lead chief elected official (lead) 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 kept on file for review by the state administrative entity:
 - a. appointment process and term of the lead; and
 - b. designate the lead to serve as the signatory for the chief elected officials; and
 - c. outline 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 board member representation.** Outline how chief elected officials will ensure local board representation is fair and equitable across the local area.
 3. **Communication.** Describe how the chief elected officials will communicate with each other regarding local board activities. Determine how many times a year the chief elected officials will meet and how often a joint meeting with the local board will be held. The State Workforce Investment Board encourages chief elected officials to meet at least once a year just as chief elected officials, and once a year with the local board.

CHIEF ELECTED OFFICIAL AND LOCAL BOARD PARTNERSHIP AGREEMENT: In accordance with WIA 117(b), the State Workforce Investment Board, as authorized by the governor, must establish criteria for the appointment of local board members by the chief elected officials. To ensure the criteria established by the State Workforce Investment Board are acknowledged by both the chief elected officials and the members of the local board, a partnership agreement is required. The partnership agreement may be in the form of a contract or may be included in the local plan approved by the chief elected officials. State Workforce Investment Board, as the designated representative of the governor, provides the following guidance on this agreement.

- A. Required inclusions.** The local board and chief elected officials must enter into a partnership agreement that, at a minimum, addresses the following sections.
1. **Local board membership.** The WIA Section 117(c)(1) authorizes chief elected officials to appoint the members of the local board in accordance with the criteria established under Section 117(b) of the WIA and the guidelines in this policy. Chief elected officials must appoint business representatives that meet the criteria established by the State Workforce Investment Board on behalf of the Governor. Authority to appoint members to the local board lies solely with the chief elected officials.
 - a. **Terms.** Outline the terms of local board member appointments and ensure that the terms are staggered so that only a portion of membership expires in a given year.
 - b. **Nomination.** For each local board member position that requires a nomination, the nominating organization must submit to the appointing chief elected officials of the local area a document or letter signed by the chief executive officer or designee identifying the individual being nominated. The document or letter must also acknowledge the nominee's optimum policy making authority and include documentation of curriculum vitae, resume or work history supporting the qualifications of the nomination.
 - c. **Appointment.** Local board member appointments must be made by the appointing chief elected official and submitted to the local administrative entity either in a form of a letter, evidenced within minutes of meetings, or other official communication.
 - d. **Change in status.** Acknowledgement that local board members who no longer hold the position or status that made them eligible local board members must resign or be removed by the chief elected officials immediately upon notification to the local board chair of the change of status as a representative of that entity.
 - e. **Mid-term appointment.** Local board members replacing out-going members mid-term will serve the remainder of the out-going member term unless the local board by-laws establishes a different procedure.
 - f. **Vacancies.** Local board vacancies must be filled within 120 days of the vacancy. The chief elected officials in a local area are authorized to make all reappointments of members. Reappointments must be made within 120 days of the term expiration. In the event a vacancy cannot be filled within 120 days, the local administrative entity must request a waiver in writing to the Director of the State Workforce Investment Board with an explanation of why a vacancy was not filled in the 120 day timeframe and a description of the process underway to fill the vacancy. The local administrative entity must maintain written approval of the waiver request by the Director of the State Workforce Investment Board and will be monitored according to the process outlined in their approved waiver request.
 - g. **Removal.** Local board members must be removed by the chief elected officials if any of the following occurs: documented violation of conflict of interest, failure to meet local board member representation requirements defined in the WIA and this policy, or documented

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proof of malfeasance, fraud or abuse. Local board members may be removed for other reasons outlined in the local board bylaws such as lack of attendance. Local boards must define the specific criteria that will be used to establish just cause and the process for such removal. The state administrative entity reserves the right to conduct an investigation regarding allegations of wrong doing that result in the removal of a board member. Chief elected officials and local workforce board chairs will be formally notified in advance of any such investigation and of the results.

2. **Relationship between chief elected officials and the local board.** Establish roles and responsibilities of the chief elected officials 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 officials and the local board.
 - b. **Budget and approval.** As referenced in WIA 117(d)(3)(A), describe how the local board will develop the local area budget for the purpose of carrying out the duties of the local board and the process for obtaining the chief elected officials' approval. This does not include the local operation or administrative budgets.
 - c. **Workforce system operator.** Establish the guidelines that will be followed by the local board for selection of a local workforce system operator in accordance with WIA and Policy 03-2013, One Stop Delivery System, including the process for getting chief elected official agreement on the selection.
 - d. **Youth council.** Establish youth council and appointment procedures consistent with WIA 117(h).
 - e. **Local board policy.** Describe the process for approving local workforce policy.
 - f. **Memorandum of Understanding.** Describe process for demonstrating chief elected official agreement on memorandum of understanding between workforce system partners and the local board.
3. **Authorized signatures.** The partnership agreement must be signed by the chief elected officials that have been identified as participating in the chief elected official agreement at the time of the signing and by the local board chair at the time of the signing.
4. **Amendments, change, or election.** Any amendment or change to the partnership agreement, either in the form of the local plan or a separate contract, notice of an election of a new chief elected official, or notice of an election of a new local board chair, or amendment or change to any applicable partnership agreement(s) must be maintained at the local administrative entity office and available for monitoring by the state administrative entity.
5. **Communication.** Establish requirements for informing the chief elected officials on a regular basis regarding activities, performance outcomes, and budgets with at least one joint meeting held annually between the chief elected officials and the local board. The local board shall make available to the public, on a regular basis through open meetings, information regarding the activities of the local board in accordance with WIA Section 117(e).

LOCAL BOARD MEMBERSHIP: A majority, defined as greater than 50%, of the local board membership must be comprised of business representatives. 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. Business representatives may not represent any other category. Individuals representing more than one entity must have optimum policy making authority within each of the entities they are representing. Each local board is required to have the following representation.

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- A. Business representatives.** The local board must have a majority, defined as greater than 50% of all local board membership, of business representatives. All business representatives must be owners of a business, chief executives, operating officers, or other business executives or individuals with optimum policy making or hiring authority and represent business with employment opportunities that reflect the employment opportunities of the local area. Local areas are encouraged to choose business representatives from diverse industry sectors within the region that have high opportunity for growth, are engaged in creation of quality jobs, and play a significant role in regional economic development. They must be appointed from among individuals nominated by local business organizations and business trade associations.
- B. Labor organization representatives.** The local board must have at least two representatives of labor organizations with optimum policy making authority within their organization, agency or entity and nominated by a local labor federation or other representatives of employees per WIA Section 117.
- C. Local educational entity representatives.** The local board must have at least two representatives from local educational entities. These may be representatives of local educational agencies, local school boards, adult education and literacy providers, post-secondary educational institutions and community colleges. Educational representatives will be nominated by regional or local educational agencies, institutions or organizations representing such local educational entities.
- D. Community-based organization representatives.** The local board must have at least two representatives of community-based organizations, which may include, but not limited to, organizations representing individuals with disabilities and veterans and nominated by the community based organization.
- E. Economic development agency representatives.** The local board must have at least two representatives of economic development agencies, including but not limited to, private sector economic development entities, regional planning commissions, or county economic development organizations and nominated by the economic development agency.
- F. Arizona workforce system partners.**
1. The local board must have at least one member representing each of the following programs and nominated by the respective partner agency:
 - a. WIA Title I (adult, dislocated worker, and youth); and
 - b. Wagner-Peyser Act; and
 - c. adult education and literacy; and
 - d. TANF employment and training program/food stamp employment and training program; and
 - e. vocational rehabilitation; and
 - f. Title V Older Americans Act; and
 - g. Postsecondary Vocational Education/Perkins Act; and
 - h. Trade Act/NAFTA; and
 - i. veterans Title 38; and
 - j. unemployment insurance.
 2. When present in the local area, the local board must have at least one representative of the following programs:
 - a. community service block grant employment and training; and
 - b. housing and urban development employment and training; and
 - c. Native American programs; and
 - d. migrant and seasonal farmworker programs; and
 - e. job corps; and
 - f. veteran workforce investment programs.

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LOCAL BOARD ROLES AND RESPONSIBILITIES: The local board must have the following roles and responsibilities which may require agreement, approval, or partnership with the chief elected officials as described in the agreement between the chief elected officials and the local board.

A. In partnership with the chief elected officials:

1. develop and submit the local workforce business plan consistent with WIA, state plan, State Workforce Investment Board and other state administrative entity requirements; and
2. select the local workforce system operator according to the One Stop Delivery System Policy; and
3. select eligible youth service providers consistent with federal, state, and local procurement requirements; and
4. select eligible providers of adult and dislocated worker intensive and training services; and
5. assist the state administrative entity in maintaining a list of eligible training providers including cost and performance data through a local approval process; and
6. conduct oversight of the one stop delivery system including all WIA activities; and
7. negotiate local performance measures; and
8. appoint a youth council to advise the local board on youth activities

B. Approval required by the chief elected officials. Develop a budget for carrying out the duties of the local board.

C. Other local board roles and responsibilities:

1. elect a private-sector business representative as local board chair; and
2. create an annual report that must be submitted to the State Workforce Investment Board as per guidelines established by the State Workforce Investment Board; and
3. promote one-stop center programs and activities; and
4. assist the state administrative entity in developing the statewide employment statistics system under the Wagner Peyser Act; and
5. coordinate with economic development strategies and establish employer linkages with workforce development activities; and
6. carry out regional planning responsibilities as required by the State Workforce Investment Board and the state administrative entity, Section WIA 116 (c); and
7. per WIA Regulations 661.2059(a)(8), promote private sector involvement in the statewide workforce investment system through effective connecting, brokering, and coaching activities through intermediaries, such as the one-stop operator in the local area, the local business services function, or through other organizations to assist employers in meeting hiring needs.
8. conduct business in an open manner by making available to the public information about the activities of the local board; this includes the local plan before submission, membership, designation of the local workforce system operator, the awards of grants or contracts, and minutes of local board meetings.
9. ensure that partner staff will be governed by their respective personnel laws and collective bargaining agreements in a One-Stop Center.

BYLAWS: The local board must establish bylaws in accordance with applicable local procedures, and applicable state and federal laws. Suggested content includes:

- A. Establishment.** A statement that the local board is established in accordance with WIA Section 117.
- B. Name.** The name of the local board.

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- C. Purpose.** The purpose for the establishment of the local board consistent with WIA sections 117(a) and (b).
- D. Duties and responsibilities.** Acknowledge the duties and responsibilities as outlined in the WIA and in the partnership agreement between the chief elected officials and the local board.
- E. Membership.** A description of membership as outlined in WIA 117(b) and in the chief elected official agreement.
- F. Local board chair election.** A description of the process used to elect a local board chair, including term details.
- G. Election of officers.** A description of the process used to elect officers, officer positions, terms, removal of officers, and specific officer roles and responsibilities.
- H. Meetings:**
1. information on how often local board and committee meetings will be held;
 2. acknowledgement of 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.
- I. Delegation of local board duties.** Acknowledge that local board members will not be permitted to delegate any local board duties to proxies or alternates.
- J. Committees.** A list of standing committees including the descriptions for each and composition, and description of the process for having ad hoc committees.
- K. Conflict of interest.** Acknowledgement that local board members must adhere to the following in regard to conflict of interest.
1. A local board member may not vote on 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, local board members must provide to the local board chair a written declaration of all substantial business interests or relationships they, or their immediate families, have with all businesses or organizations that have received, currently receive, or are likely to receive contracts or funding from the local board. Such declarations must be updated annually or within 30 days to reflect any changes in such business interests or relationships. 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.
 3. Prior to a 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, 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 board meeting and be maintained as part of the official record.
 4. It is the responsibility of the local board members to monitor potential conflict 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, its members, or its administrative staff do not directly control the daily activities of its workforce service providers, workforce system partners or contractors.

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6. Local board members or their organizations may receive services as a customer of a local workforce service provider or workforce system partner.
- L. Conflict resolution.** A detailed procedure for the local board to follow in regards to conflict that may arise among, but not limited to;
 1. board members;
 2. service delivery partners;
 3. consortium partners.
- M. Compensation and reimbursement of expenses.** A description of the policy on compensating local 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 board must comply with the WIA and regulations as well as policies and directives from the state administrative entity and the State Workforce Investment Board.

LOCAL BOARD CERTIFICATION:

- A. Local board initial certification.** The initial certification was done at the start of the Workforce Investment Act implementation. The State Workforce Investment Board certified the composition of each local board, including the appointment process, compliance with the criteria outlined in Section 117 of the WIA and with state administrative and operational policy. The composition of each local board was evaluated on:
 1. state workforce investment board policy on membership criteria;
 2. federal membership composition requirements;
 3. authority of local board members having optimum policy making authority; and
 4. local administrative entity audits being complete and up-to-date.
- B. Local board recertification.**
 1. Recertification will be conducted by the State Workforce Investment Board once every two years to: ensure that the local workforce system activities support meeting local performance measures and any prescribed outcomes as outlined in the local grant agreement; and the local board composition requirements have been maintained. If a local board meets all membership requirements, but fails to meet all performance measures and outcomes, certification will be granted for only a one-year review period, instead of a two-year period. At the end of the one-year review period, the recertification process will be repeated with an updated review of performance and membership composition. If this review shows the local board is meeting all performance measures and outcomes, a two-year certification will be granted.
 2. During the two-year certification period, if more than 10% of the local board membership is removed for cause, a recertification must occur to ensure membership compliance and assess board stability.
- C. Decertification.**
 1. A local board is subject to decertification under the following conditions:
 - a. fails to meet all local board certification requirements; or
 - b. fails to carry out required functions of the local board; or
 - c. fraud; or
 - d. abuse.
 2. If a local board has already been placed on a one-year review period due to a lack of meeting all performance measures and outcomes, and fails to meet performance measures and outcomes for a second-year, the local board may be decertified.
 3. A written notice and opportunity for comment will be provided prior to decertification.

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4. In accordance with WIA section 117(c)(3), if a local board is decertified, the State Workforce Investment Board reserves the right to:
 - a. Require a new local board be appointed for the local area pursuant to a reorganization plan developed by the State Workforce Investment Board, in consultation with the chief elected officials.
 - b. In consultation with the chief elected officials, recommend to the Governor redesignation of a local workforce investment area.

D. Redesignation of a Local Workforce Area.

The governor holds full authority to designate or redesignate local workforce areas in the state. The governor designated local workforce areas as prescribed by the Workforce Investment Act at the start of the legislation. Subsequent redesignation may be proposed by the State Workforce Investment Board, the governor, or a local workforce investment board, however, the chief elected officials in a local workforce area must voluntarily agree to the redesignation. New designations must be in accordance with the general designation requirements provided in WIA Section 116(a)(1).

Any redesignation of a local workforce area must include:

1. Consultation between the local workforce investment board, local area chief elected officials, and the state workforce investment board;
2. A written proposal for redesignation including the request and details regarding the reason for the request;
3. A public comment period on the proposal;
4. Consideration of comments received through the public comment process as described in WIA Section 112(b)(9), which includes an opportunity for public comment and comment by businesses and representatives of labor organizations;
5. Consideration by the governor of geographic areas served by local education agencies, intermediate education agencies, postsecondary and vocational institutions or schools, and alignment with labor market areas which may be regional economies; and
6. Consideration by the governor of the distance individuals travel to receive services and resources available to effectively administer the activities carried out under Title IB of the Workforce Investment Act.

A change in local area designation, or the redesignation of local area, is considered a substantial change that requires a modification of the State Integrated Plan and affected local area business plans and subject to the same public review and comment requirements.