



GWIB POLICY ISSUANCE 2015-01

FINAL

Maryland's Local Workforce Development Boards Under WIOA | July 1, 2015

TO: Governor's Workforce Investment Board Members
Local Workforce Development Board Chairs
Local Workforce Development Board Directors
Local Workforce Development Area Directors
Chief Local Elected Officials

CC: Workforce Innovation and Opportunity Act (WIOA) Partners

FROM: Governor's Workforce Investment Board (GWIB)
Maryland Department of Labor, Licensing and Regulation (DLLR)

SUBJECT: Maryland's Local Workforce Development Boards (LWDB)

PURPOSE: This policy provides guidance and clarification to Local Workforce Development Boards (LWDB) regarding the responsibilities, appointment and establishment of a WIOA Compliant Board.

ACTION: The Governor's Workforce Investment Board and Local Workforce Development Area Directors will ensure all relevant stakeholders are aware of and receive copies of this policy.
GWIB policies are available: <http://www.gwib.maryland.gov/pub/>

EXPIRATION: N/A

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CANCELLATIONS

The following are hereby **cancelled, replaced, and archived** by this policy issuance:

- Workforce Investment Field Instructions (WIFI) 07-99, “Responsibilities of the Local Workforce Investment Boards for the One Stop Service Delivery System,” dated December 6, 1999;
- WIFI 08-99, “Local Workforce Investment Board (LWIB) – Chief Local Elected Official (CLEO) Working Agreements,” dated December 6, 1999;
- WIFI 09-99, “Local Board Staffing,” dated December 6, 1999;
- WIFI 10-06, “Local Workforce Investment Five-Year Plan,” dated June 14, 2007;
- WIFI 10-06—Change 1, “Local Workforce Investment Five-Year Plan,” dated April 20, 2007;
- WIFI 10-06—Change 2, “Local Workforce Investment Five-Year Plan,” dated April 18, 2008;
- WIFI 14-06, “Recertification of Local Workforce Investment Boards (LWIB),” dated June 22, 2007;
- WIFI 09-08, “Recertification of Local Workforce Investment Boards (LWIB),” dated May 15, 2009;
- WIFI 11-12, “Recertification of Local Workforce Investment Boards (LWIB),” dated March 1, 2013;
- Policy Issuance 2013-03, “Appointment of Local Workforce Investment Board Members,” dated August 15, 2013;
- Policy Issuance 2013-06, “Conflict of Interest Policy for Local Workforce Boards,” dated December 1, 2013.

Archived policies are available at: <http://www.dllr.state.md.us/employment/mpi/>.



GENERAL INFORMATION

WORKFORCE INNOVATION & OPPORTUNITY ACT (WIOA)

The Workforce Innovation and Opportunity Act (WIOA) was signed into law on July 22, 2014. WIOA supersedes the Workforce Investment Act of 1998 and amends the Adult Education and Family Literacy Act, the Wagner-Peyser Act, and the Rehabilitation Act of 1973. WIOA is designed to help both job seekers and businesses. WIOA addresses the needs of job seekers through establishing a workforce system that helps them access employment, education, training and support services to succeed in the labor market. WIOA addresses employer needs by matching them to the skilled workers they need to compete in the global economy.

WIOA takes effect on July 1, 2015, which is the first full program year after enactment, apart from a few select provisions. Provisions related to State and local governance of the workforce system take effect July 1, 2015.

LOCAL BOARD CERTIFICATION

As the State workforce board, the Governor's Workforce Investment Board (GWIB), with the Governor, is charged with certifying WIOA-compliant Local Workforce Development Boards (Local Boards) in Maryland.

Local Boards shall represent a wide variety of individuals, businesses, and organizations throughout the Local Workforce Development Area (Local Area). Each Local Board shall serve as a strategic convener to promote and broker effective relationships between the Chief Local Elected Officials (CLEOs), the business community, and economic, education, and workforce partners throughout the Local Area.

LOCAL BOARD RESPONSIBILITIES

The Local Board is responsible for developing a strategy to continuously improve and strengthen the workforce development system. The Local Board's role is to develop a comprehensive high quality workforce system through collaboration with its workforce and education partners that supports continuous improvement in the area of employment, training, and education programs and promotes economic growth that is aligned with achieving the goals of the State Strategic Plan.

Details for each function listed below are in (WIOA Sec. 107(d)). Local Board functions shall include the following:

1. Local Plan
2. Workforce Research and Regional Labor Market (LMI) Analysis
3. Convening Stakeholders and Leveraging Resources and Expertise in the Local Area
4. Implementation of Career Pathways Strategy
5. Employer Engagement



6. Technology to Maximize the Accessibility and Effectiveness of the Local Workforce System
7. Program Oversight
8. Negotiation of Local Performance Accountability Measures
9. Selection of Operators and Providers
10. Coordination with Education Providers
11. Accessibility for Individuals with Disabilities (acquiring or modifying equipment, providing qualified readers or interpreters and changing tests or policies)
12. Leveraging Resources and Capacity
13. Establishing Qualifications for the Position of Director
14. Proven and Best Practices
15. Budget and Administration

Each Local Board shall develop its local strategy every two years, at a minimum. Local Board members provide strategic and operational oversight in collaboration with key partners of the workforce development system including: Department of Housing and Community Development (DHCD), Maryland State Department of Education (MSDE), Division of Career and College Success (CTE), Department of Disabilities (DoD), Maryland Department of Aging (MDoA), Maryland Higher Education Commission (MHEC), Department of Human Resources (DHR), Maryland State Department of Education (MSDE), Division of Rehabilitation Services (DORS), DLLR-Division of Workforce Development and Adult Learning (DWDAL), Department of Juvenile Services (DJS), Department of Business and Economic Development (DBED) and the Chief Elected Officials and other public and private organizations. These partnerships are crucial to the Local Board's role in the achievement of the State's strategic and operational vision towards an integrated, aligned, and more effective job driven workforce development system.

Each Local Board may hire a director and other staff to assist in carrying out Local Board responsibilities. The Local Board shall establish and apply a set of objective qualifications for the position of director, which ensures the individual selected has the requisite knowledge, skills, and abilities to meet identified benchmarks and to assist in effectively carrying out the functions of the Local Board. Local Board staff shall be subject to the limitations on the payment of salaries and bonuses described in WIOA Section 194(15).

SUNSHINE PROVISION (WIOA Sec. 107(e))

The Local Boards shall make available to the public, on a regular basis through electronic means and open meetings, information regarding the activities of the Local Board, including the development of the local plan prior to submission of the plan, membership, the designation and certification of One-Stop Operators, and the award of grants or contracts to eligible providers of youth workforce investment activities. On request, minutes of formal meetings should be provided.



In order to provide effective and consistent guidance to implement the Sunshine Provision, Maryland elects to subject the Local Boards to the State Open Meeting Act and the Public Information Act.

OPEN MEETING ACT

Local Boards shall comply with the Open Meeting Act (OMA), found in General Provisions Article of the Maryland Code at §3-101 *et seq.* The Act generally requires local public bodies to hold their meetings in public, give the public adequate notice of those meetings, and allow the public to inspect meetings minutes and certain other records. Although the Act permits public bodies to discuss certain topics behind closed doors, public bodies must make certain disclosures both before and after they meet in closed session. The Act applies only to the public bodies that fall within its definition of that term, and some activities are excluded from the Act. It is required that there be minutes taken of the public meeting unless there is live and archived video or audio streaming of the meeting that is preserved for a least 1 year for public view (GP § 3-306). There are enforcement and penalty provisions in the law.

PUBLIC INFORMATION ACT

The Local Boards shall be subject to the Public Information Act (PIA) found in General Provisions Article of the Maryland Code at §4-101 *et seq.* As the Local Board functions as a unit or an instrumentality of the State or of a political subdivision (i.e. a county or municipal corporation) or a similar unit, they must be held accountable to perform their duties with transparency and openness.

STANDING COMMITTEES (WIOA Sec 107)

The Local Board may establish Standing Committees to assist in carrying out its responsibilities. The Standing Committees shall be chaired by a member of the Local Board and may include other members of the Local Board, and shall include other individuals appointed by the Local Board who are not members of the Local Board and have demonstrated experience and expertise in accordance with WIOA Section 107(b)(5).

The GWIB encourages Local Boards to designate committees for each of the following:

1. Planning and Operational issues related to provision of the One-Stop Delivery System;
2. Issues related to the provision of services to youth, which shall include membership of community-based organizations with a demonstrated record of success in serving eligible youth; and
3. Issues relating to the provision of services to individuals with disabilities, including issues relating to compliance with WIOA section 188 and applicable provisions of the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C.. 12101 *et seq.*).



The Local Board may designate additional standing committees, as appropriate.

LOCAL PLANS

The Local Board, in partnership with the CLEO(s) for the Local Area involved, shall develop and submit a 4-year comprehensive local plan to the Governor that is consistent with the State Plan and meet the requirements in WIOA Section 108. If the Local Area is part of a planning region that includes other Local Areas, the GWIB shall collaborate with the other relevant Local Boards and CLEOs in the preparation and submission of a Regional Plan under WIOA Section 106(b). Prior to submission, the Local Board must provide an opportunity for public comment on the development of the local plan before submitting the plan to the GWIB (WIOA Section 107).

LABOR MARKET RESEARCH & ANALYSIS

To assist with the development and implementation of the Local Plan, the Local Board shall:

- Regularly carry out analysis of the region's economic conditions, knowledge and skill gaps, workforce, and workforce development activities, including education and training;
- Assist the Governor in developing, analyzing, collecting, and using Labor Market Information (LMI); and
- Conduct relevant research, data collection, and analysis related to the workforce needs of the regional economy after receiving input from a wide array of stakeholders.

CONVENING & EMPLOYER ENGAGEMENT

The Local Board shall convene a meeting of local workforce development system stakeholders to assist in developing the business services provided through the One-Stop delivery system local plan and identifying expertise and resources to leverage support for workforce development activities in cooperation with the State. The Local Board, including standing committees, may engage with stakeholders in carrying out their functions.

The Local Board shall lead efforts to engage with a diverse range of employers and entities in the respective local regions to:

- Promote business representation (particularly representatives with optimal policymaking or hiring authority from employer whose employment opportunities reflect emerging employment opportunities in the region);
- Develop effective linkages with employers and business intermediaries in the region to support employer utilization of the local workforce development system and to support business activities;



- Ensure the workforce investment activities meet employer needs and support economic growth in the region by enhancing communication, coordination, and collaboration among employers, economic development entities, and service providers;
- Develop and implement proven or promising strategies, strategies for meeting the Business and skill needs of employers, that provide the skilled workforce needed in the region and that expand employment and career advancement opportunities for workforce develop participants in indemand industry sectors or occupations; and
- Ensure business services and strategies are reflected in the local plan that meet local business needs and demand pursuant to WIOA Section 106.

CAREER PATHWAYS DEVELOPMENT & COORDINATION WITH EDUCATION PROVIDERS

The Local Board, with representatives of secondary and postsecondary education programs, shall lead efforts in the Local Area to develop and implement career pathways within the Local Area by aligning the employment, training, education, and supportive services that are needed by adults and youth, particularly individuals with barriers to employment.

The Local Board shall coordinate activities with the business community, education and training providers in the Local Area, including providers of workforce investment activities, providers of WIOA Title II adult education and literacy activities, providers of career and technical education, and local agencies administering plans under the Rehabilitation Act of 1973 Title I, other than section 112 or part C of that title. Coordination shall include:

- Reviewing applications to provide adult education and literacy activities under Title II for the local area to determine whether such applications are consistent with the local plan;
- Making recommendations to the eligible agency to promote alignment with such plan; and
- Replicating the required cooperative agreements outlined under Title of the Rehabilitation Act of 1973 with respect to efforts that will enhance the provision of services to individuals with disabilities and other individuals, such as cross training of staff, technical assistance, use and sharing of information, cooperative efforts with employers, and other appropriate cooperative coordinating efforts.

PROVEN & PROMISING PRACTICES

The Local Board shall lead efforts in the Local Area to identify and promote proven and promising strategies and initiatives for meeting the needs of employers, workers, and jobseekers in the local workforce development system.



As part of these efforts, the Local Board shall identify and disseminate information on proven and promising practices carried out in other Local Areas, other states, and other countries.

TECHNOLOGY

The Local Board shall develop strategies for using technology to maximize the accessibility and effectiveness of the local workforce development system for employers, workers, and jobseekers by:

- Facilitating connections among the intake and case management information systems of the One-Stop partner programs, to support a comprehensive workforce development system in the Local Area;
- Facilitating access to services provided through the One-Stop delivery system involved, including facilitating the access in remote areas;
- Identifying strategies for better meeting the needs of individuals with barriers to employment, including strategies that augment traditional service delivery, and increase access to services and programs of the One-Stop delivery system, such as improving digital literacy skills;
- Leveraging resources and capacity within the local workforce development system, including resources and capacity for services for individuals with barriers to employment

PROGRAM OVERSIGHT

The Local Board, in partnership with the CLEO(s) for the Local Area, shall conduct oversight for local youth workforce investment activities, local employment and training activities, and the One-Stop delivery system in the Local Area to ensure the appropriate use and management of funds provided for the WIOA activities.

NEGOTIATION OF LOCAL PERFORMANCE ACCOUNTABILITY

The Local Board, CLEO(s), and the Governor shall negotiate and reach agreement on local levels of performance based on the State adjusted levels of performance as described in WIOA Section 116(c).

- The provision identifies establishing targets based on an objective statistical model taking into account numerous factors, example (regional economic conditions, existing and in-demand industry sectors/occupations, employment needs of employers and the regional economy) just to name a few. The State Plan will include a description of the requirements.
- The local areas will be required to bi-annually report a broad array of information about programs and services of the workforce development system.
- The Local Board in conjunction with the CLEO may negotiate the performance accountability based on characteristics, employment barriers, and services of their local regions.



SELECTION OF OPERATORS & PROVIDERS

The Local Board, Chief Elected Officials, and Local Area, shall designate, certify, or terminate for cause:

- One-Stop operators as described in WIOA Section 121(d)(2)(A);
- Youth providers, based on the results of the youth standing committee; and,
- Eligible providers of career services (if the One-Stop operator does not provide career services described in WIOA Section 134(c)(2) in a Local Area).

The Local Board shall work with GWIB, DLLR-DWDAL, and other relevant State agencies to ensure there are sufficient numbers and types of providers of career services and training services for the Local Area. For example, the Board shall ensure that there are sufficient eligible providers with expertise in assisting individuals with disabilities and eligible providers with expertise in assisting adults in need of adult education and literary activities.

MEMBERSHIP COMPOSITION OF LOCAL BOARD

The Local Board represents a wide variety of individuals, businesses, and organizations throughout the Local Area. In establishing the Local Board, CLEOs may select individual members of the Board serving the Local Area within the requirements of WIOA Section 107(b)(2). CLEOs must select the individual Local Board members who most fully represent the Local Area in a manner consistent with the requirements established by the GWIB in this policy.

In Local Areas consisting of more than one county, the CLEOs must jointly agree on the appointments or establish a written procedure to nominate members from a cross-section of the Local Area. If, after a reasonable effort, the CLEOs are unable to reach agreement, then the Governor may appoint the members of the local board from individuals so nominated or recommended.

Pursuant to WIOA Section 107(b)(2), at a minimum, Local Board membership appointments must include the following members as defined in this policy:

1. Majority representation from representatives of Business;
2. At least 20% representation from representatives of Workforce;
3. Representatives of Education and Training, including government and economic and community development entities.

The members of the Local Board shall elect a chairperson from among the appointed Business representatives. Local areas will be responsible for maintaining the accuracy of the local board roster by communicating any



changes to the Governor's Workforce Investment Board (GWIB) within 30 days of the change by submitting updated board membership information.

REPRESENTATIVES OF BUSINESS

A majority (51%) of the members of the Local Board must be business representatives (WIOA Section 107(b)(2)(A)), including small businesses, or organizations representing business, that provide employment opportunities in the local area within in-demand industry sectors or occupations. These representatives are uniquely suited to communicate the emerging workforce needs of employers in high-growth, in-demand sectors to the Local Board.

At a minimum, two members must represent small business as defined by the U.S. Small Business Administration: <https://www.sba.gov/content/am-i-small-business-concern>.

Each business representative must meet all of the following four criteria:

1. Be an owner, chief executive officer, chief operating officer, or other business executives or individual with optimum policymaking or hiring authority;
2. Provide employment opportunities in in-demand industry sectors or occupations, as determined by State and regional business and labor market projections. As defined in WIOA Section 3(23), an in-demand industry sector or occupation is:
 - An industry sector that has a substantial current or potential impact (including through jobs that lead to economic self-sufficiency and opportunities for advancement) on the State, regional, or local economy, as appropriate, and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors; or
 - An occupation that currently has or is projected to have a number of positions (including positions that lead to economic self-sufficiency and opportunities for advancement) in an industry sector so as to have a significant impact on the State, regional, or local economy, as appropriate;
3. Provide high-quality, work-relevant training and development opportunities to its workforce or the workforce of others; and
4. Are appointed from among individuals nominated by local business organizations and business trade associations.

The CLEO must establish a formal policy to facilitate the nominations of business members by local business organizations and business trade associations.

Business representatives serving on Local Boards may also serve on the Maryland GWIB.



REPRESENTATIVES OF WORKFORCE

Pursuant to WIOA Section 107(b)(2)(B), “not less than (20%)” of the members of the Local Board must be workforce representatives.

These representatives **must** include:

- At least two representatives of labor organizations, where such organizations exist in the Local Area. Where labor organizations do not exist, representatives must be selected from other employee representatives; and,
- At least one training director or member of a labor organization that represents either joint labor management or a union affiliated registered apprenticeship program within the area. If no union affiliated registered apprenticeship programs exist in the Local Area, a representative of a registered apprenticeship program with no union affiliation must be appointed, if one exists.

These representatives **may** include at least one representative of:

- A community-based organization that has demonstrated experience and expertise in addressing the employment, training or education needs of individuals with barriers to employment, including organizations that serve veterans or provide or individuals with disabilities; and,
- An organization that demonstrated experience and expertise in addressing the employment, training, or education needs of WIOA eligible youth, including representatives of organizations that serve out-of-school youth.

REPRESENTATIVES OF EDUCATION & TRAINING

Pursuant to WIOA Section 107(b)(2)(C), the balance of the Local Board must include at least one representative of:

- An eligible provider administering adult education and literacy activities under WIOA Title II;
- An institution of higher education that provides workforce investment activities, including community colleges;
- An economic and community development entity;
- DLLR-Division of Workforce Development and Adult Learning (DWDAL) who offers Wagner Peyser services to a local area; or



- A vocational program carried out under Title I of the Rehabilitation Act of 1973, (other than sec. 112 or Part C of that title Maryland State Department of Education, Division of Rehabilitation Services) serving the local area.

The CLEO(s) may determine other appropriate individuals for the balance of the Local Board. These provisions allow the CLEO(s) the flexibility to assemble a Local Board that connects all key resources and stakeholders. It is suggested that the CLEO(include representatives from:

- local educational agencies or community-based organizations that administer education and training activities with demonstrated expertise in addressing education or training needs for individuals with barriers to employment;
- Entities serving the local area relating to transportation, housing and/or public assistance governmental; or
- Philanthropic organizations serving the local area

LOCAL BOARD APPOINTMENT AND CERTIFICATION

APPOINTMENT OF BOARD MEMBERS AND ASSIGNMENT OF DUTIES

The CLEO(s) are authorized to appoint the members of the Board in accordance with the criteria established in WIOA Section 107(c).

In the event of multiple units of local government, the CLEO(s) may execute an agreement that specifies the respective roles of the individual CLEO(s) as it relates to the appointment of the members of the local board. If after a reasonable effort the chief officials are unable to reach agreement under WIOA subsection (b) in carrying out responsibilities assigned to such officials, the Governor may appoint the members of the local board from individuals nominated or recommended by local stakeholders.

A WIOA-compliant Local Board must be established within the first quarter of Program Year 2015, i.e. by September 30, 2015.

CERTIFICATION & DECERTIFICATION

Certification- The Governor shall, once every 2 years, certify 1 Local Board for each area in the State. Such certification shall be based on criteria established under subsection WIOA Section 107(b), and for a second or subsequent certification, the extent to which the Local Board as ensured that workforce investment activities carried out in the Local Area have enabled the Local Area to meet the corresponding performance



accountability measures and achieve sustained fiscal integrity, as defined in WIOA Section 106(2). Failure of a Local Board to achieve certification shall result in the appointment and certification of a new Local Board for the Local Area pursuant to the process described in Section 107.

Decertification- The Governor shall have the authority to decertify a local board at any time after providing notice and an opportunity for comment for:

- 1) Fraud, Abuse, and Failure to Carryout Functions; or
- 2) Non-performance (2 consecutive years).

If the Governor decertifies a Local Board for a Local Area, the Governor may require that a new Local Board be appointed and certified for the Local Area. In this case, the Governor shall establish a reorganization plan in consultation with the Chief Elected Official in the Local Area in accordance with WIOA Section 107(b).

APPEALS PROCESS

A unit of local government (or combination of units) which has requested and been denied initial designation as a Local Area under WIOA may appeal the denial to the GWIB, in accordance with WIOA Section 106.

An entity, which has been denied initial designation, may appeal the decision and request a hearing. An appeal and request for hearing must be mailed to the GWIB within 20 calendar days from the mailing date of the notice of denial of initial designation.

The appeal must:

- 1) be in writing and state the grounds for the appeal, and
- 2) state the reasons why the appellant should be initially designated.

The GWIB will contact the appellant to schedule a hearing date within five calendar days of the receipt of the appeal. The GWIB will conduct the appeal hearing process and provide a written decision to the appellant no later than five calendar days after the hearing.

Appeal of the GWIB Decision - A unit or combination of units of general government whose appeal has not resulted in designation as a local area may also appeal the denial to the Secretary of the Department of Labor.



CONFLICT OF INTEREST

A member of a Local Board or a member of a Standing Committee may not vote on a matter under consideration by the Local Board if it:

- Is regarding a service provided by that member (or by an entity that the member represents);
- Would provide direct financial benefit to the member or the immediate family of the member;
- Would constitute a conflict of interest as specified in Maryland State Law at State Government §15-501 et seq., §15-803 et seq. and the Code of Maryland Regulations (COMAR) 23.02.01; or
- Would violate the Conflict of Interest policy established by the Local Area.



REFERENCES

LAW

- [Workforce Innovation and Opportunity Act \(WIOA\)](#) (Pub. L 113-128) Title 1: Sections 101, 106, and 107;
- State Government Article §15-501, *et seq*, Annotated Code of Maryland;
- State Government Article §15-803, *et seq*, Annotated Code of Maryland;
- General Provisions Article §3-101, *et seq*, Annotated Code of Maryland;
- General Provisions Article §4-101, *et seq*, Annotated Code of Maryland.

REGULATION

- Maryland Code of Maryland Regulations (COMAR) 23.02.01.

USDOL GUIDANCE

- TEGL 27-14—Change 1, “[Workforce Innovation and Opportunity Act Transition Authority for Immediate Implementation of Governance Provisions](#),” dated May 12, 2015;
- TEGL 27-14, “[Workforce Innovation and Opportunity Act Transition Authority for Immediate Implementation of Governance Provisions](#),” dated April 15, 2015;
- TEGL 19-14, “[Vision for the Workforce System and Initial Implementation of the Workforce Innovation and Opportunity Act](#),” dated February 19, 2015.