Kansas Department of Commerce Workforce Services Policy and Procedures Manual

Policy Number: 5-01-00

Originating Office: Workforce Services

Subject: Establishment of Local Workforce Development Boards

Issued: January 23, 2015

Revised: June 15, 2022, April 24, 2023

Program: Workforce Innovation and Opportunity Act (WIOA)

Purpose: To transmit guidance to the Chief Elected Official(s) (CEO) of local Workforce Development Areas (WDA or local area) regarding state policy on criteria for local workforce development boards.

Background: Section 107(b)(1) of the WIOA requires the Governor, in partnership with the State Board, to establish criteria for use by chief elected officials in the local area for appointment of members of the local board. Under the WIOA, the local workforce development board (LWDB or local board), in partnership with the chief elected official (CEO), is responsible for establishing policy and overseeing workforce programs for a workforce development area.

As the designated state agency responsible for WIOA administration, it is the responsibility of the Kansas Department of Commerce (Commerce) to certify each local board every two years, in accordance with WIOA Section 107(c). Failure of an LWDB to achieve certification shall result in reappointment of another local board for the local area. If it should become necessary, it is the responsibility of Commerce to decertify a local board for fraud or abuse, failure to carry out its functions, or failure to meet performance standards.

References: WIOA Section 107

Action: Provide this information to all appropriate individuals, especially those responsible for providing staff support to the CEOs and Local Boards.

Contact: Questions should be directed to the WIOA Administrative Unit: Board Composition at (785) 296-0607, TDD: 1-800-766-3777 or by e-mail to workforcesvcs@ks.gov

Attachment: Local Workforce Development Board Appointment Notice

Criteria for Local Workforce Development Boards

Background

The Workforce Innovation and Opportunity Act (WIOA) requires the governor, in partnership with the state board, to establish criteria for use by the chief elected official (CEO) in the local areas to appoint members to the local workforce development board (LWDB or local board).

The state agency designated by the governor to be responsible for the administration of WIOA in Kansas is the Department of Commerce (Commerce).

Members of the local board that represent organizations, agencies, or other entities shall be those individuals within the organization who have optimum policymaking authority. A majority of the members of the local board shall be representatives of business in the local area. The local board shall elect a chairperson from among their business representatives.

Policy Statements

Local Workforce Development Board composition and certification shall be in accordance with the criteria established in WIOA Section 107 (a)-(c) and this Policy. State established criteria in this policy does not provide for certification of alternative entities.

Members to a local board shall be appointed from among nominations received from such organizations and entities as the proposed member would represent.

Appointments to a local board shall reflect, to the greatest extent possible, a diverse representative cross section of the local area.

No individual shall be appointed as a representative of more than one required category on a local board.

Bylaws of the local board must address the proxy and alternative designee process that will be used when a board member is unable to attend.

Bylaws of the local board must also address the use of technology, such as phone and Web-based meetings, in order to promote LWDB member participation.

Procedures

Appointment of Local Board Membership

WIOA Section 107(c) directs the CEO in a local area to appoint the members of the local board, in accordance with established state criteria. In a case in which a local area includes more than one unit of general local government, the CEOs of such units may execute an agreement (CEO Agreement) that specifies the respective roles of the individual CEOs in the appointment of the members of the local board and in carrying out other responsibilities assigned to such officials under WIOA. If, after a reasonable effort, the CEOs are unable to reach an agreement, the Governor may appoint the members of the local board from individuals nominated or

recommended.

The CEO(s) of a local workforce development area (local area) shall appoint members to the local board for a specified term and from among nominees received from those entities and organizations specified in this document.

Membership Criteria

Local boards established after the enactment of WIOA (July 22, 2014) shall include members who are:

1. Representatives of Business:
    - A minimum of 51% of the membership shall be representatives of business in the local area who are owners of businesses, chief executive or operating officers of businesses, and other business executives or employers with optimum policymaking or hiring authority, **and**
    - represent businesses, including small business or organizations representing businesses with employment opportunities that provide that, at a minimum, include:
        - High-quality, work-relevant training and development in high demand industry sectors or occupations in the local area, **and**
        - are to be appointed from among individuals (plural) nominated by local business organizations and business trade associations.
2. Representatives of the Workforce
   A minimum of 20% of the membership shall include representatives of the workforce (workers)in the local area who:
        - Shall include representatives (plural) of labor organizations nominated by local labor federations in local areas where employees are represented by labor organizations.
        - If no employee is represented by a labor organization in the local area, other representatives of employees.
        - Shall include a representative from a joint labor-management apprenticeship program in the local area who shall be a labor organization representative or training director.
        - If no such program exists, a representative of a Registered Apprenticeship program in the local area, if such a program exists.
        - May include (optional) one or more representatives of community-based organizations that have demonstrated experience and expertise in addressing the employment, training or education needs of individuals with barrier to employment, including organizations that serve veterans or provide or support competitive integrated employment for individuals with disabilities.
        - May include (optional) representatives of organizations with demonstrated experience and expertise in addressing the employment, training or education needs of WIOA eligible youth, including out of school youth.

3. Representatives (plural) of Education and Training
    - Each local board shall include representatives of entities administering education and training activities in the local area who:
        - Shall include a representative of eligible providers administering adult education and literacy activities under WIOA title II, **and**
        - Shall include a representative of institutions of higher education providing workforce activities (including community colleges), **and**
        - May include (optional) representatives of local educational agencies and community – based organizations with demonstrated experience and expertise in addressing the education or training needs of individuals with barriers to employment.
4. Representatives of Government, Economic and Community Development
    - Each board shall include members of governmental and economic and community development entities serving the local area who:
        - Shall include a representative of economic and community development entities.
        - Shall include an appropriate representative from the State employment service office under the Wagner-Peyser Act serving the local area.
        - Shall include an appropriate representative of the programs carried out under Title I of the Rehabilitation Act of 1973 (other than section 112 or part C) serving the local area.
        - May include (optional) representatives of local agencies or entities administering programs related to transportation, housing, and public assistance.
        - May include (optional) representative of philanthropic organizations serving the local area.
5. Discretionary Representatives

    Each local board may include such other individuals as the CEO may determine to be appropriate.

Board Size

Local boards appointed under WIOA not only have minimum requirements as to what stakeholders are represented; it also establishes minimum percentages of representation in two stakeholder categories; business and workforce.

The minimum size of a Local Workforce Development Board would be 19 members under the following scenario:

Business:	**9 + 1** (to maintain >50%) =	**10**
Workforce:	**3** (2 labor org + 1 joint apprent.) **+ 1** (to maintain 20% min) =	**4**
Ed/Trng:	**2** (1 adult ed./lit + 1 higher ed.) =	**2**
Gov't, Eco/Comm Dev.:	**3**(1 eco./comm. + 1 WP + 1VR) =	**3**
MINIMUM SIZE:		**19**

CEO's may appoint additional members at their discretion but must assure the majority business representation and 20% minimum workforce representation is preserved.

Vacancies and Appointments

Local board vacancies must be filled by the next regularly scheduled meeting of the CEO, or 60 calendar days from the date of the vacancy, whichever is later. Term limits or other conditions of appointment must be reflected in the bylaws (if incorporated) or governance policies of the local board.

Only the CEO has the authority to appoint/reappoint members from among nominations received. Local board bylaws cannot usurp this CEO responsibility. All appointments (e.g., new and reappointments) must be reported on the attached LWDB Appointment Notice (see Attachment A) and sent by e-mail to the following address within five business days of appointment.

> Email: workforcesvcs@ks.gov
> Subject: WIOA Administrative Unit: Board Composition Kansas Department of Commerce

In addition, the following activities must also be reported (to the same e-mail) within five business days:

1. Chair resigns (or otherwise leaves) the chair position; or
2. New chair is elected or acting chair is appointed.

Certification of the LWDB

Initial Certification

A local board shall be initially certified for a period not to exceed two years if it is determined that its appointments and resulting membership composition are consistent with criteria established under WIOA Section 107 and State established criteria.

Subsequent Certification

WIOA Section 107(c)(2) provides that once every two years one local board for each local area in the state will be certified. Commerce shall subsequently recertify each local board every two program years if it is determined that its appointments and composition have remained substantially consistent with WIOA and state policy, and it is determined that the local board has carried out its workforce activities in the local area to enable the local area to meet its local performance standards. Failure of a local board to achieve certification shall result in reappointment and certification of another local board for the local area pursuant to the process described in WIOA Section 107(c)(2), et al.

Request for Initial Certification

Each LWDB shall submit a written request for certification to the following address at least 60 days before the beginning of the program year for which subsequent certification is being requested:

Kansas Department of Commerce
WIOA Administrative Unit: Board Composition
1000 S.W. Jackson Street, Suite 100
Topeka, Kansas 66612-1354

OR

workforcesvcs@ks.gov
Subject: Board Certification

The request for certification must include the following information:

1. Membership list (submit the following):

   - Name of each local board member, title, business address, and telephone number.
   - Brief description of the member's functional employment responsibilities and qualifications to serve on the LWDB.
   - Representation affiliation
     - AEL Adult Education/Literacy
     - BUS Business
     - CBO Community Based Organization
     - ECD Economic and Community Development
     - EDU Local Education
     - WPS Employment Services/WP
     - HUD Housing and Urban Development
     - LBR Organized Labor
     - OTH Other
     - PSC Post-Secondary/Carl Perkins
     - VOC Vocational Rehabilitation

   - Term of appointment (begin and end dates); and
   - Identification of local board officers.

2. Nomination Process

   The CEO's process for soliciting LWDB nominations must be consistent with WIOA and state policy. Submit a statement indicating that a process was adopted and

documented and that records on the nomination/selection process are on file that includes the names of all candidates nominated, including their qualifications to serve on the LWDB.

3. CEO Agreement

   Submit a fully executed copy of the CEO agreement pursuant to WI0A Section 107(c) and state policy that describes how the CEOs in the local area carry out their respective roles.

4. Bylaws

   Submit most recent copy of the Local Workforce Development Board bylaws describing its governance policies, including a conflict-of-interest clause in compliance with WIOA and state policy.

5. Information concerning the extent to which the local board carried out its workforce activities.

The local board must provide information concerning the extent to which the board carried out its workforce activities, including regional planning activities, to enable the local area to meet its performance measures. The information should include an explanation of how and to what extent the board was actively involved in negotiating the area's performance standards, establishing performance outcomes consistent with these standards for the various programs and one-stop operators, and monitoring the progress in meeting these standards. In addition, the board must provide information about how it provided assistance to service providers who fell below acceptable standards and what corrective action measures were required in the event performance did not improve.

Request for Subsequent Certification

Each LWDB shall submit a written request for subsequent certification once every 2 years. Requests for subsequent certification to the following address at least 60 days before the beginning of the program year for which subsequent certification is being requested:

Kansas Department of Commerce
WIOA Administrative Unit: Board Composition
1000 S.W. Jackson Street, Suite 100
Topeka, Kansas 66612-1354

OR

workforcesvcs@ks.gov
Subject: Board Subsequent Certification

The request for subsequent certification must include the following information:

1. Membership list (submit the following):

   - Name of each local board member, title, business address, and telephone number.
   - Brief description of the member's functional employment responsibilities and qualifications to serve on the LWDB.
   - Representation affiliation
     - AEL Adult Education/Literacy
     - BUS Business
     - CBO Community Based Organization
     - ECD Economic and Community Development
     - EDU Local Education
     - WPS Employment Services/WP
     - HUD Housing and Urban Development
     - LBR Organized Labor
     - OTH Other
     - PSC Post-Secondary/Carl Perkins
     - VOC Vocational Rehabilitation

   - Term of appointment (begin and end dates); and
   - Identification of local board officers.

2. The extent to which the local board has ensured that workforce investment activities carried out in the local area have enabled the local area to meet corresponding performance measures. Examples would be local area performance results for the previous 2 program years.

3. The extent to which the local board has ensured that workforce investment activities carried in the local area have enabled the local area to achieve sustained fiscal integrity. Examples of this would include local area audits for the previous 2 program years.

LWDB APPOINTMENT NOTICE

Local Area: _____

☐ Appointment to vacant position
☐ Appointment of new position
☐ Reappointment

Member Information			
Name:			
Appointment begins:		Appointment ends:	
Items below to be completed for New Member only			
Category:		Qualifications:	
Employer/Entity:		Title:	
Street Address (include Suite #, Apt #, etc.):			
City:	State:		Zip:
Phone:	Fax:		E-mail:
Nominator:		Title:	
Street Address (include Suite #, Apt #, etc.):			
City:	State:	Zip:	Phone:
This member is filling a vacancy formerly occupied by:			

I hereby certify that this member was appointed to the local workforce investment board in accordance with the provisions of Section 107 of the Workforce Innovation and Opportunity Act.

_____ _____
Chief Elected Official Date