



Missouri Division of Workforce Development
DWD Issuance 14-2014

Issued: June 5, 2015
Effective: July 1, 2015

Subject: Policy for Local Workforce Development Board Membership Requirements and Certification/Recertification Procedures under the Workforce Innovation and Opportunity Act (WIOA or Act)

1. Purpose: This Issuance is written to set forth Local Board certification requirements that may be subject to revision as final regulations for this law are completed. It is intended to allow the Local Boards to move forward with the timely seating of the required Local Board membership. This policy will remain in effect until any revised policy is issued.

This Division of Workforce Development (DWD) policy is provided to clarify certain provisions of the WIOA to the local Workforce Investment Boards on membership and certification requirements as they transition to local Workforce Development Boards (Local Board) under WIOA on July 1, 2015.

2. Background: Like its predecessor, the WIOA specifies that the Governor of the state, in partnership with the State Board, establish criteria for use by chief elected officials (CEO) for appointment of members to their Local Boards. WIOA also requires that the Governor recertify the Local Boards every two years. With the implementation of WIOA set to begin on July 1, 2015, Local Boards must ensure that their membership requirements meet the new Act no later than close-of-business September 30, 2015, in order to avoid non-compliance with WIOA.

3. Substance: Local Board Membership Requirements (See ATTACHMENT 3 and ATTACHMENT 4.)

To meet the WIOA membership requirements, the Act states that a Local Board must be composed as follows:

- A majority of the members of each Local Board shall be representatives of business in the local area who:
 - Are owners of businesses, chief executives or operating officers of businesses, or other business executives or employers with optimum policy-making or hiring authority;
 - The term “optimum policy-making authority” means qualities of an individual who can reasonably be expected to speak affirmatively on behalf of the entity he or she represents and to commit that entity to a chosen course of action [WIOA implementing regulations, Sec. 679.120(a)];

- Represent businesses, including small business or organizations representing businesses described in this clause 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 [WIOA Sec. 107(b)(2)(A)(i) and (ii)]; and
- Represent employment opportunities in high-growth, in-demand industry sectors within each region and willing to engage in collaborative implementation of the sector strategy implementation plan that will be developed by the Missouri industry/sector partnership [WIOA Sec. 3(26)].
- At a minimum, two business members must represent small business as defined by the U.S. Small Business Administration. Business representatives serving on Local Boards may also serve on the State Board. Each business representative must meet all other criteria cited herein for optimum authority and in-demand industry sectors [Sec.679.320(a)and(b)]. More information for assistance is located at: sizestandards@sba.gov.

Business members must be appointed from among individuals nominated by local business organizations and business trade associations (WIOA Sec. 107(b)(2)(A)(iii)).

DWD policy for implementing WIOA Sec. 107(b)(2)(A) for business as a Local Board member is as follows:

- A “majority” is equal to 51 percent.
- Optimum policy making authority: For a business (private sector) representative, an individual with “Optimum policy making authority” shall be the business owner, operating president or vice president, human resources officer, or any verifiable employee of the business that has been officially designated by evidence as an agent of the business representing optimum policy making authority as a member of said board.
- DWD may take appropriate and necessary action including discussing with nominating organizations to verify that a business representative nominee has optimum policy making or hiring authority within that business.
- The Local Board member’s business must be registered and in good standing with the Secretary of State’s Office as a business in the state of Missouri. In addition, the business must have a minimum, of three full time employees.
- The Local Board member must provide the Federal Employer Identification Number (FEIN) of the business being represented by the nominee on the Local Board Membership Certification or Recertification Form (See **ATTACHMENT 1 and ATTACHMENT 2**).

DWD policy for representatives of state agencies as Local Board members is as follows:

- For a local agency of state government, an individual with optimum policy making authority shall be the person representing the agency which has been delegated by the state level agency to possess optimal policy making authority relevant to WIOA. Optimum policy making authority in this capacity can exist only by delegation from the state level agency.

- Evidence such as a letter, e-mail, or other type of written record showing that an individual representing a local agency of state government has been delegated optimum policy making authority by the state government agency must be available for the purpose of program compliance audit, monitoring, or upon request by DWD.

In addition, the state of Missouri has the following requirements for all Local Board members:

- Retired Individuals: Individuals known to be retired, by their affirmation, will be eligible for Local Board member service as an ex officio, non-voting member.
- Part-time employees/businesses: An individual that is a part-time employee of a business will be eligible for Local Board member service as an ex officio, non-voting member. Ex officio members cannot be counted as members when calculating the 51 percent or 20 percent membership category limitations cited herein.

The Special Rule in WIOA states:

If there are multiple eligible providers serving the local area by administering adult education and literacy (AEL) activities under Title II, or multiple institutions of higher education serving the local area by providing workforce investment activities, each representative on the Local Board (described as AEL or institutions of higher education providing workforce investment activities), respectively, shall be appointed from among individuals nominated by local providers representing such providers or institutions, respectively (WIOA Sec. 107(b)(6)).

NOTE: In Missouri, “eligible providers serving the local area by administering adult education and literacy activities” under Title II: are known as AEL.

DWD policy for implementing the Special Rule in WIOA Sec. 107(b)(6) is as follows:

- The Special Rule is applicable to independently operated public institutions of higher education.
- The Special Rule is not applicable to providers of Title II, known as AEL. Optimum policy making authority for AEL cannot exist without delegation from the state level agency of such authority. This means that the state level agency of the AEL shall nominate AEL members to all Local Boards.

Other Local Board membership requirements of WIOA and DWD policy applicable to them include the following:

- The Local Board must include a representative of eligible providers administering AEL activities under Title II of the Act. As a core partner under WIOA, the Department of Elementary and Secondary Education’s (DESE) Division of AEL shall nominate this representative, in consultation with the Local Board.
- The Local Board must include a representative of public institutions of higher education providing workforce investment activities. This includes community colleges, public two-year and four-year institutions that provide training services.

- The Local Board must include a representative of the Wagner-Peyser program serving the local area. As a core partner under WIOA, DWD shall nominate the appropriate representative, in consultation with the Local Board.
- The Local Board must include a representative of the programs carried out under Title I of the Rehabilitation Act of 1973 serving the local area. As a core partner under WIOA, the DESE's Division of Vocational Rehabilitation (DVR) shall nominate this representative, in consultation with the Local Board.
- The Governor and the State Workforce Development Board establishes the status of Title IV of the Social Security Act (TANF) as a core program of the workforce development system and thereby a required member of each Local Board. The Local Board must include a representative of the TANF program serving the local area. As a core partner under WIOA, The Department of Social Services (DSS), Family Support Division (FSD) shall nominate this representative in consultation with the Local Board.

WIOA Sec. 107(b)(2)(B) requires that not less than 20 percent of the members of each Local Board shall be representatives of the workforce within the local area. This includes representatives of labor organizations (for a local area in which employees are represented by labor organizations) who have been nominated by local labor federations, or (for a local area in which no employees are represented by such organizations) other representatives of employees; including a representative, who shall be a member of a labor organization or a training director from a joint labor-management apprenticeship program, or if no such joint program exists in the area, such a representative of an apprenticeship program in the area, if such a program exists. The Local Board may include representatives of community-based organizations that have demonstrated experience and expertise in addressing the employment needs of individuals with barriers to employment, including organizations that serve veterans or that provide or support competitive integrated employment for individuals with disabilities; and may include representatives of organizations that have demonstrated experience and expertise in addressing the employment, training, or education needs of eligible youth, including representatives of organizations that serve out-of-school youth.

To attain this 20 percent membership category while meeting the remaining minimum membership requirements, a Local Board will need to have a minimum of five (5) members in this category (**ATTACHMENT 3**).

In addition, the Local Board may, at its own discretion, add other representatives to its Local Board membership, as stated in WIOA, as long as the 51 percent business majority and 20 percent labor/workforce requirements are maintained. Other possible Local Board members listed in the WIOA may include:

- Rehabilitation Services for the Blind (RSB): All Local Boards are encouraged to make it a high priority for appointing an optional Local Board member seat to a local representative of the RSB. In the event an RSB representative is not readily available to serve as a Local Board member, the designated member representative for the DVR may serve as representing the needs of participants of services for the RSB.

- Representatives of community-based organizations with demonstrated experience and expertise in addressing the employment needs of individuals with barriers to employment, including organizations that serve veterans or that provide or support competitive integrated employment for individuals with disabilities;
- Representatives of organizations that have demonstrated experience and expertise in addressing the employment, training, or education needs of eligible youth, including representatives of organizations that serve out-of-school youth;
- Representatives of local educational agencies, and of community-based organizations with demonstrated experience and expertise in addressing the education or training needs of individuals with barriers to employment;
- Representatives of agencies or entities administering programs serving the local area relating to transportation, housing, and public assistance;
- Representatives of philanthropic organizations serving the local area.

In addition, other Local Board member considerations are as follows:

- WIOA proposed regulations (Sec. 679.320(h)) allows “double hatting.” “An individual may be appointed as a representative of more than one entity if the individual meets all the criteria for representation in both categories.”
- A director or staff of a local chamber of commerce may be a Local Board member.
- For compliance with Sec. 679.320(h), a private business representative may concurrently represent economic development, if nominated by a 501(c)(3) not-for-profit organization and attested as representing an economic development interest.
- Section 679.320(i) of the WIOA proposed implementing regulations provides that all *required* Local Board members must have voting privileges.
- Other individuals or representatives of entities as the CEO(s) may determine to be appropriate.
- The Governor may require the consideration of sector appropriateness, significant number of employees, or appropriate category of membership to be determined on a case-by-case basis.

Compliance with WIOA Local Board membership criteria, including the policies stated herein, is subject to compliance audits by DWD, and evidence of Local Board members’ eligibility to fulfill the required Local Board composition may be requested at any time to ensure there is no subrogation of the intent of the partnership and variety of memberships required by law.

Local Board Membership Certification or Recertification Procedures

The state of Missouri’s procedures for certification or recertification:

- Certification or Recertification shall be based on criteria established in WIOA Sec. 107(b) for membership requirements.
- The Local Board Membership Certification or Recertification Form should be used for the following reasons:
 - A change in the Local Board membership; or
 - Recertification of the entire Local Board’s membership, which is required every two (2) years (duplicate or adjust the form as needed).

The form should be completed, signed, and dated by the CEO or the CEO Consortium Chair, as applicable.

Nomination letters are required for all members, but some membership categories must have specific sources of these letters as listed below:

- Business Category – Nominated by local business organizations or business trade associations.
- Labor Category – Nominated by local labor federations or other representatives of employees (if no employees are represented by a labor federation, determination must be made at the local level of membership nominations from such labor organizations as: labor federations, local labor councils, local unions, building trades council, union district councils, or union apprenticeship programs as viable Local Board member nominees).

All other member categories require only a letter from the potential member's agency/organization.

The nomination letter of a potential member should be sent to the appropriate CEO for consideration. If the CEO agrees with the nomination, a letter stating support shall be submitted to the Director of the DWD, who reviews the nomination and certifies it on behalf of the Governor, as authorized in WIA 107(a) and 107(c)(2).

Based on some local areas completing the last WIB certification in late 2013, the two (2) year certification requirement is not yet completed, therefore, the nomination documentation will differ. For incumbent Local Board members attested as meeting WIOA compliant categories, please submit the following:

- Copies of the prior organization nomination letter and the CEO letter to DWD (so the current CEO may attest these nominations remain valid); and
- Designate, per member, the industry or government sector they represent.

For newly appointed Local Board members, the following shall be submitted:

- The FEIN (if a business);
- A letter from the nominating organization to the CEO;
- A letter from the CEO to DWD; and
- Designate the industry or government sector they represent.

Local area shall seat their Local Boards through the nomination submission process no later than close-of-business September 30, 2015, in order to avoid status of non-compliance with WIOA.

4. Action: This Issuance is effective July 1, 2015, and should be distributed to appropriate individuals. The CEOs should ensure that the membership requirements are followed when accepting nominations for Local Board membership and when submitting the Local Board membership for recertification.
5. Contact: Direct Questions or comments regarding this Issuance to Clinton Flowers, Manager, Performance Planning and Research, at clint.flowers@ded.mo.gov or by calling at 573-526-8261.
6. Reference: Workforce Innovation and Opportunity Act, Section 107.

7. Rescissions: This Issuance supersedes and replaces DWD Issuance 03-2012, dated September 21, 2012.
8. Attachments:
- (1) Checklist of Documents for Certification or Recertification
 - (2) Local Workforce Development Board Membership Certification or Recertification Form
 - (3) Matrix Example of WIOA Local Board Membership Requirements
 - (4) Citation of Minimum Board Requirements

The Missouri Division of Workforce Development is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Missouri TTY Users can call (800) 735-2966 or dial 711.



Amy Sublett
Director
Missouri Division of Workforce Development



**Checklist of Documents Required when Submitting Local Workforce Development Board
Membership Certification Nominations
for WIOA in Missouri**

**For individuals already seated on your Board (a current member) and previously certified,
for each person, provide, the industry sector or organization and:**

- Copies of the original nomination letters from the appropriate source, per each representative category, as addressed to the Chief Local Elected Official (CLEO) of the Region. (the State must ensure the same CLEO or any new CLEO remains in approval of the nominee, evidenced by the attestation below).
- The attestation/certification form, shown in Attachment 2, completed with all information, signed by the Region's CLEO, or CLEO Consortium Chair, whichever may be applicable to the Region. This will be a CLEO attestation that the previously approved certification for each member is current and still in approval status. (See Attachment 2)

For new individuals not previously on your Board, (a new member) provide:

- A Federal Employer Identification Number (FEIN) for each nomination.
- A letter of nomination to the CLEO, from the appropriate nominating source, documenting the nomination.
- A letter from the CLEO addressed to the Director of the Division of Workforce Development endorsing the nomination of each individual.
- The attestation/certification form, shown in Attachment 2, completed with all information, signed by the Region's CLEO, or CLEO Consortium Chair, whichever may be applicable to the Region.

Please submit all documents by
July 1, 2015, if at all possible, no later
than October 1, 2015, to avoid Board
status of non-compliance with WIOA, to:

Missouri Division of Workforce Development
Attn: Amy Sublett, Director
421 East Dunklin Street, P.O. Box 1087
Jefferson City, MO 65102-1087

Missouri Division of Workforce Development
DWD Issuance 14-2014
ATTACHMENT 1



Local Workforce Development Board Membership Certification or Recertification Form

Local Workforce Development Board: _____

Attach more forms as needed

Appointee's Name & Title	Member Category*	Nominating Organization	Appointee's Company or Organization, Mailing address, phone #, fax # and email address	FEIN ** for Business Nominees Only	Member Being Replaced (if applicable)

*Categories include Business, Small Business, Labor/Apprenticeship/Employees-Workforce, AEL, VR, Wagner/Peyser (DWD), Higher Education, Economic Development, TANF/MWA, or other (state name).

**Federal Employer Identification Number issued by the Internal Revenue Service for the business being represented by the nominee. (Attach additional pages as needed.)

ATTESTATION

I, _____, the undersigned Chief Local Elected Official (CLEO) or CLEO Consortium Chair (as applicable) of the _____ Workforce Development Region, do hereby state that the information provided within this Local Workforce Development Board certification application is complete and accurate to the best of my knowledge. I also certify that all applicable provisions of the Workforce Innovation and Opportunity Act and any additional requirements by the state of Missouri have been followed in the selection process of the appointee(s) listed above.

CLEO or CLEO Consortium Chair Signature

Date

Matrix of Minimum Membership Requirements for WIOA Local Workforce Development Board

WIOA Local Board	Members	
Business (51% majority of total WIB membership)	12	
Labor (20% of total WIB membership – minimums: 2 Labor; 1 Apprenticeship) However, total must be made 20% compliant so add two more “representatives of employees.”	5	
Adult Education and Literacy (AEL)	1	
Vocational Rehabilitation (VR)	1	
Wagner-Peyser (Labor Exchange Services – DWD)	1	
Higher Education (Individual nomination from among other area institutional representatives)	1	
Economic Development	1	
Temporary Assistance for Needy Families/Missouri Work Assistance Program - MWA	1	
<p>Notes:</p> <ul style="list-style-type: none"> *Only need one Economic Development rep. under WIOA. *WIOA Higher Education rep. must be nominated from among other institutions. [Special Rule: WIOA Sec. 107(b)(6)]. *At least 20% of WDB membership must include 2 members from labor and 1 from an apprenticeship program, if it exists in the local area. Other “representatives of employees” or the workforce. *The State of Missouri allows Board members (except within the business category) to represent more than one required category, per proposed WIOA implementing regulations [Sec.679.320(h)]. *This information is a guide and <i>nothing should be construed to prevent optional member additions</i>, as long as compliance with content from the other categories exists. 		
Total Minimum Required Members	23	

Workforce Innovation and Opportunity Act; Notice of Proposed Rulemaking

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice of Proposed Rulemaking (NPRM).

[Docket No. ETA-2015-0001; RIN 1205-AB73] Federal Register / Vol. 80, No. 73 / Thursday, April 16, 2015 / pp. 20842-20843

§ 679.320 Who are the required members of the Local Workforce Development Board?

- (a) For each local area in the State, the members of Local Board must be selected by the chief elected official consistent with criteria established under WIOA sec. 107(b)(1) and criteria established by the Governor, and must meet the requirements of WIOA sec. 107(b)(2).
- (b) A majority of the members of the Local Board must be representatives of business in the local area. At a minimum, two members must represent small business as defined by the U.S. Small Business Administration. Business representatives serving on Local Boards may also serve on the State Board. Each business representative must meet the following criteria:
 - (1) Be an owner, chief executive officer, chief operating officer, or other individual with optimum policy-making or hiring authority; and
 - (2) provide employment opportunities in in-demand industry sectors or occupations, as those terms are defined in WIOA sec. 3(23).
- (c) At least 20 percent of the members of the Local Board must be workforce representatives. These representatives:
 - (1) Must include two or more 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;
 - (2) Must include one or more representatives of a joint labor-management, or union affiliated, registered apprenticeship program within the area who must be a training director or a member of a labor organization. If no union affiliated registered apprenticeship programs exist in the area, a representative of a registered apprenticeship program with no union affiliation must be appointed, if one exists;
 - (3) May include 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 barriers to employment, including organizations that serve veterans or provide or support competitive integrated employment for individuals with disabilities; and
 - (4) May include one or more representatives of organizations that have demonstrated experience and expertise in addressing the employment, training, or education needs of eligible youth, including representatives of organizations that serve out-of-school youth.
- (d) The Local Board must also include:
 - (1) At least one eligible provider administering adult education and literacy activities under WIOA title II;
 - (2) At least one representative from an institution of higher education providing workforce investment activities, including community colleges; and
 - (3) At least one representative from each of the following governmental and economic and community development entities:
 - (i) Economic and community development entities;
 - (ii) The State employment service office under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) serving the local area; and
 - (iii) The programs carried out under title I of the Rehabilitation Act of 1973, other than sec. 112 or part C of that title;
- (e) The membership of Local Boards may include individuals or representatives of other appropriate entities in the local area, including:
 - (1) Entities administering education and training activities who represent local educational agencies or community-based organizations with demonstrated expertise in addressing the education or training needs for individuals with barriers to employment;
 - (2) Governmental and economic and community development entities who represent transportation, housing, and public assistance programs;
 - (3) Philanthropic organizations serving the local area; and (4) Other appropriate individuals as determined by the chief elected official.
- (f) Members must be individuals with optimum policy-making authority within the entities they represent.
- (g) Chief elected officials must establish a formal nomination and appointment process, consistent with the criteria established by the Governor and State Board under sec. 107(b)(1) of WIOA for appointment of members of the Local Boards, that ensures:
 - (1) Business representatives are appointed from among individuals who are nominated by local business organizations and business trade associations.
 - (2) Labor representatives are appointed from among individuals who are nominated by local labor federations (or, for a local area in which no employees are represented by such organizations, other representatives of employees); and
 - (3) When there is more than one local area provider of adult education and literacy activities under title II, or multiple institutions of higher education providing workforce investment activities as described in WIOA 107(b)(2)(C)(i) or (ii), nominations are solicited from those particular entities. (WIOA sec. 107(b)(6))
- (h) An individual may be appointed as a representative of more than one entity if the individual meets all the criteria for representation, including the criteria described in paragraphs (c) through (g) of this section, for each entity.
- (i) All required board members must have voting privilege. The chief elected official may convey voting privileges to non-required members.

§ 679.330 Who must chair a Local Board?

The Local Board must elect a chairperson from among the business representatives on the board. (WIOA sec. 107(b)(3))