

WORKFORCE SYSTEM GUIDANCE No. 01-2014, Change 1, May 28, 2015

TO: PENNSYLVANIA WORKFORCE INVESTMENT BOARD
BUREAU OF WORKFORCE PARTNERSHIP AND OPERATIONS
LOCAL ELECTED OFFICIALS
LOCAL WORKFORCE BOARD CHAIRS AND EXECUTIVE DIRECTORS
LABOR COMMISSIONERS

FROM: Diane Bosak
Deputy Secretary for Workforce Development

SUBJECT: Composition of Pennsylvania’s Local Workforce Development Boards—Initial Implementation of the Workforce Innovation and Opportunity Act of 2014

- I. **Purpose.** The purpose of this guidance is to provide technical assistance to Chief Elected Officials and other local workforce system stakeholders in the transition from local workforce investment boards that exist under the Workforce Investment Act of 1998 (WIA) to local workforce development boards that will comply with the requirements of the Workforce Innovation and Opportunity Act of 2014 (WIOA).
- II. *(Revised)* **References.**
 - Workforce Innovation and Opportunity Act of 2014(WIOA), Public Law (Pub. L.) 113-128, enacted July 22, 2014
 - *(Added)* Workforce Innovation and Opportunity Act; DOL-only Notice of Proposed Rulemaking
 - Workforce Investment Act of 1998 (WIA), Pub. L. 105-220, *et seq.*
 - Training and Employment Guidance Letter (TEGL) No. 19-14, *Vision for the Workforce System and Initial Implementation of the Workforce Innovation and Opportunity Act of 2014*, February 19, 2015
 - *(Added)* TEGL No. 27-14, *Workforce Innovation and Opportunity Act Transition Authority for Immediate Implementation of Governance Provisions*, April 15, 2015
 - Local Governance Policy (01-2014), Version 003, July 2014
- III. **Background.** Section 107(b) of WIOA establishes a baseline for local workforce *development* board composition that differs from the composition of the local workforce *investment* boards under Section 117(b) of WIA.

On February 19, 2015, the U.S. Department of Labor’s Employment and Training Administration (ETA) issued TEGL No. 19-14, *Vision for the Workforce System and Initial Implementation of the Workforce Innovation and Opportunity Act of 2014*. The TEGL lays out the vision for a revitalized transformed workforce system as a result of the new legislation. With this issuance, ETA also encourages workforce system leaders and partners to take action now to support successful implementation to fully realize the vision. Finally, the TEGL provides an overview of upcoming guidance and technical assistance to support effective implementation of WIOA.

Among the many recommended actions outlined in TEGL No. 19-14, the guidance strongly encourages workforce system leaders and partners to act now in developing plans to ensure workforce investment boards become WIOA compliant.

- IV. (Revised) Local Workforce Development Board Composition.** By July 1, 2015, local boards must comply with the new membership requirements as outlined in WIOA Section 107(b)(2) and be able to carry out new functions identified in Section 107(d). The Chief Elected Official(s) for each local workforce development area is strongly encouraged to review the requirements to reconstitute and certify local boards. During the transition period of July 22, 2014 through June 30, 2015, a business majority must be maintained for each local board.

To ensure local board membership is compliant by July 1, 2015, Chief Elected Officials in partnership with the current local boards and other local workforce system stakeholders must:

- A. *Appoint new board members to the local workforce development board.*** All members must be newly appointed to the local workforce development board as a result of the new legislation. Such members must meet the requirements for nomination (*as outlined in Section V.B.*) and appointment as outlined in the Department's Local Governance Policy and this guidance. The Chief Elected Official(s) may appoint members currently serving on the local workforce investment board; however, those members must meet the requirements for membership on the new local workforce development board.

Local workforce investment boards and their staff should refer to TEGL No. 27-14, *Workforce Innovation and Opportunity Act Transition Authority for Immediate Implementation of Governance Provisions*, April 15, 2015, Attachment III, *Local Board Membership Requirements*, to ensure the appropriate members are appointed to the new local workforce development board.

- B. *Remove or transition current board members representing categories no longer required on the local board (as of June 30, 2015).*** WIOA does not require representation on the new board for some programs that were required under WIA. If the Chief Elected Official(s) desires to maintain the members of the local board representing programs that are no longer required, such members must be transitioned to the local board as 'Optional representatives'.
- C. *Establish standing committees.*** The Department strongly encourages each local area to establish standing committees to focus on serving youth, low-skilled adults, Indians and Native Americans, individuals with disabilities and other relevant priorities for the local area. Additional information with regard to standing committees can be found in WIOA Section 107(b)(4).

V. (Added) Local Board Provisions.

- A. (Added) *Appointments.*** The Chief Elected Official(s) has the sole authority to appoint members to the local workforce development board.
1. A Chief Elected Official's appointment of an individual to the local board is based upon the individual's optimum policy-making authority in a specified entity that is eligible to represent a particular membership category. If the member subsequently no longer

holds optimum policy-making authority with that entity, or formal association/employment with that entity is severed, then the member's appointment is no longer valid and the member may not continue to serve on the local board in the appointed role.

2. Local workforce development board members must be appointed to the local board for no less than two years and no more than four years. Chief Elected Officials must appoint members in staggered terms so that all terms do not expire at the same time; thus, maintaining continuity. Additionally, Chief Elected Officials should also consider the categories with which members are being appointed for staggered terms so that the members of a particular category do not all expire at the same time (e.g., representatives of business, etc.).
 3. Local workforce development board appointments must be signed by the appointing Chief Elected Official and sent to the individual members confirming the appointment for a defined term (see 'Term' below). A copy of the appointment letter must be maintained in accordance with records retention requirements and be made available upon request by federal and state agencies.
- B. *(Added) Nomination.* The Chief Elected Official(s) for a local workforce development area must contact the appropriate entities in the local area for nominations to appoint members or fill vacancies on the local board.

Representatives of business; labor organizations; adult education and literacy; and higher education are required to be nominated prior to appointment to the local workforce development board. Nominating organizations must submit an official letter to the Chief Elected Official(s) of the local workforce development area, which:

- shall be submitted on appropriate nominating agency's letterhead;
 - shall designate the appropriate category(ies) for which the member is being nominated;
 - shall acknowledge the nominee's optimum policy-making and/or hiring authority for the category(ies) to be represented;
 - shall include narrative supporting the qualifications of the nomination;
 - shall be signed by an official of the nominating entity; and
 - may include additional documentation (e.g. resume, etc.) supporting the qualifications for nomination.
- C. *(Added) Terms.* A defined term shall mean that there is an official start date and a finite end date at which time the member's term expires. A local workforce development board member's term will begin on or after the date the member is appointed by the Chief Elected Official(s).
- D. *(Added) Term Limitations.* Local workforce development board must establish the length of time a member can serve on the local board. This information must be contained in the local board's by-laws.

- E. **Authority of local board members.** Members of the local board must be individuals with optimum policy-making authority within the organizations, agencies, or entities they represent. 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, with the exception that a business representative 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. The members of the board shall represent diverse geographic areas within the local area.

VI. (Added) **Local Workforce Development Board Certification.**

A. **Initial Certification.**

All local workforce development boards will be initially certified by the Department for one year. The Department will ensure each local workforce development board complies with the criteria as outlined in WIOA Section 107 and with this policy. The composition of each local workforce development board will be evaluated on:

- Federal membership composition requirements;
- State membership criteria;
- Authority of local workforce development boards members having optimum policy-making authority; and
- Local workforce development board single audits being complete and up-to-date.

To facilitate initial certification, the Chief Elected Official(s) or his/her designee must submit to the Department, a current local workforce development board membership list. The list must be submitted by July 15, 2015, using the form provided by the Department (*Attachment 1*). Any subsequent changes in membership must be forwarded, in writing, to the Department within 15 calendar days of the change.

Please submit the local workforce development board membership list to the Bureau of Workforce Development Administration's Oversight Services Resource Account at RA-LI-BWDA-OS@pa.gov.

B. **Recertification.**

Recertification of all local workforce development boards will be conducted by the Department once every two years to ensure that: each local workforce system's activities support meeting local performance accountability measures and any prescribed outcomes as outlined in the local grant agreement; fiscal integrity has been sustained; and the local workforce development board composition requirements have been maintained. If a local workforce development board meets all membership requirements, but fails to meet all performance measures and outcomes and/or sustained fiscal integrity, certification may 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, fiscal integrity and membership composition. If this review shows the local

workforce development board is meeting all performance measures and outcomes and has sustained fiscal integrity, a two-year certification will be granted.

During the two-year certification period, if more than 10 percent of the local workforce development board membership is removed for cause, a recertification must occur to ensure membership compliance and assess board stability.

To facilitate recertification, the Chief Elected Official(s) or their designee must submit to the Department, on an annual basis, a current local workforce development board membership list. The list must be submitted between July 1 and July 15 of each calendar year using the form provided by the Department (*Attachment 1*). Any subsequent changes in membership must be forwarded, in writing, to the Department within 15 calendar days of the change.

Please submit all such notifications to the Bureau of Workforce Development Administration's Oversight Services Resource Account at RA-LI-BWDA-OS@pa.gov.

C. *Decertification.*

A local workforce development board is subject to decertification by the governor under the following conditions:

- failure to meet all local workforce development board certification requirements; or
- failure to carry out required functions of the local workforce development board; or
- fraud; or
- abuse.

If a local workforce development board has already been placed on a one-year review period due to a lack of meeting all performance measures and outcomes and/or sustain fiscal integrity, and fails to meet performance measures and outcomes and/or sustain fiscal integrity for a second-year, the local workforce development board may be decertified.

The Department will provide a written notice and opportunity for comment prior to decertification.

In accordance with WIOA Section 107(c)(3), if a local workforce development board is decertified, the Department may require a new local workforce development board be appointed for the local workforce development area pursuant to a reorganization plan developed by the Department, in consultation with the Chief Elected Official(s).

VII. (Added) Summary of Changes.

- The Notice of Proposed Rulemaking (NPRM), DOL-only, and TEG L No. 27-14 were added to Section II, *References*.
- Section IV, *Taking Action Now*, has been replaced with *Local Workforce Development Board Composition*.
 - 'Transition board members' was removed and is no longer applicable. All members must be newly appointed to the local workforce development board as a result of the new legislation.

- ‘Appoint new board members’ was replaced with the narrative in Section IV.A., *Appoint new board members to the local workforce development board*.
- ‘Reappointments’ was removed from and is not applicable at this time.
- Section V, *Local Board Provisions*, replaced the previous Section V, *Local Workforce Development Board Composition*. That section previously contained a list of all required and optional members; however, the section was changed to point local area workforce stakeholders to a single, concise source with regard to the composition of the local board.
- Among other narrative, ‘Nomination’ was added to Section V, *Local Board Provisions*. Previous commonwealth policy (Local Governance Policy, 02-2014, Version 003) and guidance (Workforce System Policy, No. 01-2014, March 1, 2015), required nomination for all local board members prior to appointment by the Chief Elected Official. This guidance provides a revised list with regard to which members must be nominated for membership on the local board, in keeping with WIOA. Additionally, in this section, the Department defined “Terms” and “Term Limitations”.
- Section VI, *Local Board Certification by the Chief Elected Official*, was revised to inform stakeholders of the Department’s certification, recertification and decertification procedures. The revised Section VI is now called, *Local Workforce Development Board Certification*. Additionally, any changes in local workforce development board membership must be forwarded, in writing, to the Department within 15 calendar days of the change; previously 10 calendar days.
- Section VII, *Summary of Changes*, was added to inform stakeholders of the changes implemented by this document.
- Section VIII, *Local Governance Policy (01-2014)*, which was Section VII previously, has been revised to include updates to the Department’s composition and certification requirements for local workforce development boards.
- Minor changes were made to Attachment 1, *Local Workforce Development Board List* to align with the overall revisions reflected in this guidance document.

VIII. (Revised) Local Governance Policy (01-2014), Version 003, July 2014

The information found in Section IV, *Local Workforce Development Board Composition*, of this guidance is meant to update the contents of Section III, *Local Workforce Investment Board Membership*, of the Department’s Local Governance Policy (01-2014), as a result of the new legislation.

Additionally, the information found in Section VI, *Local Workforce Development Board Certification*, of this guidance is meant to update the contents of Section VII, *Local Workforce Investment Board Certification*, of the Local Governance Policy.

A future revision of the Local Governance Policy will reflect these updates.

Attachment #1 - Local Workforce Board Membership List

LOCAL WORKFORCE DEVELOPMENT BOARD MEMBERSHIP LIST							
1. DATE SUBMITTED: MM/DD/YYYY		2. Local Area NAME: _____			3. Local Area NUMBER: _____		
4. NUMBER OF CURRENT LOCAL BOARD MEMBERS: <u>00</u>				5. NUMBER OF CURRENT LOCAL BOARD VACANCIES: <u>00</u>			
6. MEMBER NAME	7. MEMBER TITLE	8. COMPANY/AGENCY NAME, ADDRESS and PA DOS REGISTRATION NO. (if applicable)	9. TELEPHONE NUMBERS	10. E-MAIL ADDRESS	11. NOMINATING ENTITY (if applicable)	12. MEMBERSHIP CATEGORY	13. TERM START AND END DATES
Chair							
Vice-Chair, if applicable							

Attachment #1 - Local Workforce Development Board Membership List Instructions

1. **Date Submitted** (MM/DD/YYYY)
2. **Local Area Name** (e.g., Anyplace Workforce Development Area)
3. **Local Area Number** (e.g., AZ123)
4. **Number of Current Local Board Members** (e.g., 22)
5. **Number of Current Local Board Vacancies** (e.g., 2)
6. **Member Name** (First and Last Name); The Local Board chairperson must be listed first on the Local Board membership list and identified as 'Chair.'
7. **Member Title** (Vice-President; HR Manager); Occupational titles are not acceptable.
8. **Company/Agency Name & Address** (ABC Manufacturing Company, Inc., 555 Meadow Lane, Anytown, PA. 00000) and **PA Department of State's (DOS) Bureau of Corporations and Charitable Organizations Registration Number** (00000). Please refer to Title 15, PA Consolidated Statutes, <http://www.portal.state.pa.us/portal/server.pt/community/corporations>. This registration number only applies to for-profit and non-profit entities. It does not apply to federal, state, or local government entities, including public schools.
9. **Member Telephone Number** (000-000-0000)
10. **Member E-Mail Address** (name@abc.com)
11. **Nominating Entity** (Anytown Chamber of Commerce; Anytown Community College; Anytown Carpenters Local Union #000)
Representatives of business, labor organizations, adult education and literacy, and higher education are required to be nominated prior to appointment to the local workforce development board.
12. **Local Board Composition**
The following are the five acceptable membership representation categories. List the corresponding letters and numbers in the appropriate category block to reflect each program(s) the member represents (e.g., John Doe – (B)(1)). For a detailed explanation of the criteria necessary to represent each category, please refer to the Workforce Innovation and Opportunity Act (WIOA), Training and Employment Guidance Letter (TEGL) No. 27-14, and Workforce System Guidance (01-2014), Change 1, entitled, *Composition of Pennsylvania's Local Workforce Development Boards – Initial Implementation of the Workforce Innovation and Opportunity Act of 2014*, dated May 28, 2015.
 - A. Business
 - B. Workforce
 1. (Required) Labor organizations or other representatives of employees (*two or more*)
 2. (Required) Joint labor-management apprenticeship program member (member or training director) if one exists, or other representatives of an apprenticeship program if one exists
 3. Community-based organizations with experience and expertise in addressing the employment needs of individuals with barriers to employment (including veterans or individuals with disabilities)
 4. Organizations with experience and expertise in addressing the employment, training, or education needs of youth (including out-of-school youth)
 - C. Education
 1. (Required) Eligible providers administering adult education and literacy under WIOA Title II

2. (Required) Institutions of higher education providing workforce investment activities (including community colleges)
3. Local education agencies and community-based organization with experience in addressing the education or training needs of individuals with barriers to employment

D. Governmental and Economic and Community Development

1. (Required) Economic and community development entities
2. (Required) State employment service office under Wagner-Peyser (29 U.S.C. 49 et seq.)
3. (Required) Title I of the Rehabilitation Act of 1973 (29 U.S.C 720 et seq.)
4. Transportation, housing, and public assistance agencies or entities
5. Philanthropic organizations

E. Optional Members

13. Term Start and End Dates for the member (MM/DD/YYYY to MM/DD/YYYY)

White, Michael (L&I/BWDP)

From: Burnham, Brandy
Sent: Thursday, May 28, 2015 3:00 PM
To: '005/095-Pashman, Stefani'; '015-Fogarty, Dan'; '020-Walsh, Elizabeth'; '035-Carey, Frank'; '045-Thompson, William J.'; '055-Turano, Virginia'; '060-Fries, Steve'; '070-Dischinat, Nancy'; '075-Lenahan, Patricia'; '080-Lezcano, Marisol'; '090-Edwards, Mark'; '100-Whisler, Susan'; '125-Snelick, Susan'; '130-Thompson, Frank'; '135-Sebelin, Joseph'; '145-Dogan, Gregg K.'; '170-Anderson, Janet'; '175-Mulberger, Erica'; '180-Perkey, Kevin'; agatts@washingtongreene.org; 030-Bokovitz, Patrick (pbokovitz@chesco.org)
Cc: Bosak, Diane; Bohanick, David; White, Michael (L&I/BWDP); Hart, Gregory; Staszko, Franky; Schell, Linda; Stalfa, Elaine; Nichols, James; Jones, Bruce (L&I-BWDP); Baker, Keith (L&I)
Subject: Workforce System Guidance (01-2014) Change 1.docx
Attachments: Workforce System Guidance (01-2014) Change 1.docx

Good Afternoon,

Attached you will find updated guidance to provide clarity as you work toward compliance for your new local board composition under WIOA. Please note that although a July 1 due date still exists we understand timing is a hurdle to overcome. If your entire new board is not fully seated as of July 1st, the proposed names for all categories must be submitted by July 15th as stated in the guidance. Within sixty days of July 1 (September 1), there is an expectation that all nominations (as required) and appointments will be finalized with signed letters. We are hopeful this expanded 60 day window, if needed, will help as some local areas have shared they are waiting for their next board meeting to complete this process.

Please don't hesitate to be in touch if you have questions regarding anything contained within the attached, as BWDA remains available to provide technical assistance. It has been encouraging to see the number of local areas who have reached out.

Thank you,
Brandy

Brandy F. Burnham | Director
Bureau of Workforce Development Administration
Acting Director, Bureau of Workforce Partnership and Operations
PA Department of Labor & Industry
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