

Workforce Services Policy – Local Governance Policy

Executive Summary

1. What is the general purpose of this policy?

To outline the roles, responsibilities, and authority of the Local Elected Officials (LEOs) and the Local Workforce Development Boards (LWDBs) regarding the One-Stop System, including guidance on the appointment of LWDBs. This policy also builds upon and enhances Tennessee's Combined State Plan.

2. What are the notable guidelines conveyed within this policy?

- Bylaws specify the qualifications, rights, and liabilities of membership, including the powers, duties, and grounds for the dissolution of an organization.
- The roles and responsibilities that are given to a Chief Local Elected Official (CLEO) to conduct the nomination process. Before selection, nominees to the LWDB must sign an acknowledgment form to confirm that they will adhere to conflict of interest requirements.
- The Tennessee Department of Labor and Workforce Development (TDLWD) will certify that the composition of each LWDB, including the appointment process, complies with the criteria outlined in WIOA Section 107 and with this policy.
- LWDBs must give the public adequate notice (30 calendar days) of meetings. Each LWDB must have its minutes made available to the public upon request and also available on the LWDB's website within fifteen (15) business days of the LWDB's approval of the meeting minutes.
- Each LWDB must create a LWDB Meeting Minutes Policy that complies with this policy, including all federal rules and regulations.

3. Have there been any changes since the last policy? If so, describe the modification(s).

The modifications added to this policy are as follows:

- Multiple policies were combined to reduce redundancy and duplication:
 - Local Board Bylaws
 - Conflict of Interest
 - LWDB Nominations
 - LWDB Nominations Board Meeting Information
 - Required LWDB Meeting Minutes Local Policy
- The term 'chief elected official' has been clarified to be either 'Local Elected Official' (updated to indicate that this is a county mayor) or the 'Chief Local Elected Official'.
- There have been changes to the submission of quarterly LWDB meeting minutes.

- There have been changes to how the LWDB membership will be reported quarterly (on the same schedule as meeting minutes).
- The bylaws must include a list of sub-committees, including descriptions and composition for each. Standing committees must meet the standards outlined in WIOA Section 107(b)(4). The primary purpose of standing committees shall be to consider and recommend actions and propose policies in the functional areas under their jurisdictions, subject to final approval by the LWDB.

4. What must the Local Workforce Development Board do to meet the requirements of this policy?

- Establish bylaws that adhere to federal and state rules and regulations.
- Acknowledge that LWDB members must adhere to the rules regarding conflict of interest.
- Make LWDB meeting information accessible to the public by electronic means and open meetings. The minutes of formal LWDB meetings must be on the local area's website, records must be open to the public, and each LWDB must create a policy that complies with this Workforce Services Division policy, including all federal guidelines.
- Acknowledge that LWDB members must adhere to the rules regarding conflict of interest.

5. How does this policy affect the workforce system?

This policy defines the responsibilities and roles of the LWDB. This policy is the guidance needed to establish the by-laws and members required to operate a LWDB. It also ensures the CLEO and LWDB members adhere to the open and honest operation of WIOA activities.



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Effective Date: February 21, 2020

Duration: February 21, 2022

Purpose:

To outline the roles, responsibilities, and authority of the Local Elected Officials (LEOs) and the Local Workforce Development Boards (LWDBs) regarding the One-Stop System, including guidance on the appointment of members to the LWDB. This policy also builds upon and enhances Tennessee's Combined State Plan.

Scope:

Office of the Governor, Tennessee Department of Labor and Workforce Development (TDLWD); Division of Workforce Services (WFS); Tennessee Department of Economic and Community Development (ECD); Tennessee Department of Education (TNED); Tennessee Department of Human Services (DHS); State Workforce Development Board (SWDB); Title I – Adult, Dislocated Worker, and Youth Programs, Title II – Adult Education and Family Literacy Act Program(AE); Title III – Wagner-Peyser Act Program (WP); Title IV – Vocational Rehabilitation Program (VR); Regional Planning Council (RPC); Local Workforce Development Boards (LWDB); Local Workforce Development Areas (LWDA); American Job Center (AJC); One-Stop Operator (OSO); Workforce System Sub-Recipients (Sub-Recipients); Workforce System Partners (Partners)

I. Bylaws:

Bylaws are the rules and regulations enacted by the LWDBs to provide a framework for their operation and management. Bylaws specify the qualifications, rights, and liabilities of membership, to include the powers, duties, and grounds for the dissolution of an organization. The LWDB must establish bylaws that include, at a minimum, the following:

A. State the Purpose of the Bylaws:

The bylaws must describe the purpose and the term of the bylaws, to include a statement that the term of the bylaws cannot exceed two (2) years, to include begin and end dates of the bylaws. The bylaws, developed by the LWDB, must state the name of the LWDB to identify it as an entity within Tennessee's workforce development system.

B. Establishment:

The bylaws must state the purpose for the establishment of the LWDB, consistent with WIOA Section 107(a). The bylaws must state that the LWDB is established per WIOA Section 107(b)(2).

C. LWDB Chairperson Election:

The bylaws must include the process to elect the LWDB Chairperson (LWDB Chair) from among the LWDB members representing business entities¹, to include term limits of the LWDB Chair's tenure.

D. Election of LWDB Members:

The bylaws must include a description of the process used to select LWDB members, including terms of appointment, removal, and reappointment of members.

E. Terms:

Each LWDB must establish term limits that define a date when the term of a member expires. Terms of LWDB members should be staggered so that only a portion of membership expires in a given year.

F. LWDB Roles and Responsibilities²:

The LWDB will have the following roles and responsibilities which require agreement, approval, or partnership with the LEOs.

LEOs and the LWDB collaborate to:

- Develop the Local Plan consistent with WIOA and Tennessee Department of Labor and Workforce Development (TDLWD) requirements³, submitted to the Governor by the LWDB;
- Conduct oversight of the One-Stop System, including all WIOA activities⁴;
- Negotiate local performance measures⁵;
- Select the One-Stop Operator (OSO) and Career Service Provider (CSP)⁶, subject to approval by the Chief Local Elected Official (CLEO);
- Maintain a list of eligible training providers⁷, including cost and performance data;
- Select eligible providers of eligible youth service providers⁸ and adult and dislocated career services⁹ consistent with federal, state, and local procurement requirements; and
- Appoint a Youth Council to advise the LWDB on youth activities¹⁰ (optional).

Other LWDB roles and responsibilities:

- Elect a private-sector business representative as LWDB Chair¹¹;
- Create an annual report that must be submitted to the TDLWD, per guidelines established by TDLWD;
- Promote AJC programs and activities;
- Assist the TDLWD to develop a statewide employment statistics system under the Wagner-Peyser Act;

¹ WIOA Section 107(b)(3)

² WIOA Section 107(d)

³ WIOA Section 107(d)(1)

⁴ WIOA Section 107(d)(8)

⁵ WIOA Section 107(d)(9)

⁶ WIOA Section 107(d)(10)

⁷ WIOA Section 107(d)(10)(C)

⁸ WIOA Section 107(d)(10)(B)

⁹ WIOA Section 107(d)(10)(D)

¹⁰ WIOA Section 107(b)(4)(C)

¹¹ WIOA Section 107(b)(3)

- Coordinate with economic development strategies and establish employer links with workforce development activities¹²; and
- Carry out regional planning responsibilities, as required by TDLWD.

G. Budget Approval¹³:

The LWDB must develop a budget—subject to final approval by the CLEO—to carry out LWDA functions. The budget must be submitted to the TDLWD prior to each program year.

H. Meetings:

The bylaws must include detailed information concerning meetings, to include:

- Information on how often LWDB and committee meetings are held;
- Acknowledgment of compliance with open meeting requirements¹⁴;
- Description of the process to announce regular and special meetings;
- Description of the public-outreach process to encourage community engagement;
- Acknowledgment that a quorum must consist of at least one-third (1/3, or 33%) of the currently-appointed membership; and
- Clarification as to whether phone and web-based meetings will be permitted.

I. Delegation of LWDB Duties:

The bylaws must include requirements concerning when a LWDB member may utilize a proxy to cast a vote. This section must explain the process that a LWDB member must follow to select a proxy on their behalf. A LWDB member may also request another LWDB member to serve as their proxy; however, the TDLWD prohibits proxy voting more than one (1) time in a calendar year without written approval from the LWDB Chair.

J. Committees¹⁵:

The bylaws must include a list of sub-committees, including descriptions and composition for each. Standing committees must meet the standards outlined in WIOA Section 107(b)(4). The primary purpose of standing committees shall be to consider and recommend actions—and propose policies—in the functional areas under their jurisdictions, subject to final approval by the LWDB.

K. Compensation and Reimbursement of Expenses:

The bylaws must outline LWDB member compensation and expense reimbursement.

L. Amendment:

The bylaws must include a description of the process to make amendments to the bylaws, to include the voting majority required to approve changes.

M. Compliance with Law:

The bylaws must acknowledge all applicable Tennessee statutes and regulations including, but not limited to, the governing procurement standards or regulations for the LWDA, the Sunshine Law, and State Travel Regulations. In the execution of its business, the LWDB must comply with WIOA regulations, to include adherence to all policies and directives approved by the State Workforce Development Board (SWDB).

¹² WIOA Sections 107(d)(4) and 107(d)(5)

¹³ WIOA Section 107(d)(12)

¹⁴ WIOA Section 107(e)

¹⁵ WIOA Section 107(b)(4)

II. Conflict of Interest:

A. LWDB Member Conflict of Interest Form:

LWDB members must sign an acknowledgment form to confirm that they will adhere to the following regarding conflict of interest:

- An LWDB member must avoid even the appearance of a conflict of interest. Before taking office, LWDB members must provide a written declaration to the LWDB Chair to disclose all substantial business interests or relationships they, or their immediate families, have with all businesses or organizations that have received, currently receive, or are likely to receive contracts or funding from the LWDB.
- Such declarations must be updated annually, or within thirty (30) business days to reflect any changes in such business interests or relationships. The LWDB should appoint an individual to timely review the disclosure information and advise the LWDB Chair and appropriate members of potential conflicts. Declarations must be maintained by the LWDB staff for five (5) years from the original signature date.
- All abstentions must be recorded in the minutes of the LWDB meeting and be maintained as part of the official record.
- It is the responsibility of the LWDB Chair to monitor for potential conflicts of interest and bring them to the LWDB's attention in the event the member does not make a self-declaration.

LWDB members must not vote on any matter that would provide direct financial benefit to the member or the member's immediate family, or on matters of the provision of services by the member, or the entity the member represents.

LWDB members must avoid conflicts of interest or potential conflicts of interest. CLEOs are prohibited from appointing members to the LWDB that are employed by the Fiscal Agent, LWDB staff, or LWDB staff entity (e.g. OSO, or CSP).

- The LWDB must ensure that the LWDB, its members, or its employees do not directly control the daily activities of its OSO or CSP.
- If an LWDB member is employed by the Fiscal Agent, LWDB staff or LWDB staff entity, OSO, or CSP then this financial interest in that entity creates a conflict of interest. This kind of conflict prohibits the LWDB member from effectively carrying out local governance and creates the potential for a lack of impartiality.
- The CLEO and LEOs, in collaboration with the LWDB, are charged with monitoring the compliance, performance, and effectiveness of the Fiscal Agent, LWDB staff, OSO, and CSPs. Thus, The LWDB members must focus on performance oversight of the sub-recipients and service providers.

LWDB members or their organizations may receive services as a customer of a LWDA service provider.

III. Process to Nominate Individuals to the LWDB:

This section outlines the roles and responsibilities given to a CLEO to conduct the nomination process. The requirements for LWDB representation, explained below, must be considered by the CLEO when selecting individuals. The minimum requirements for the composition of a LWDB are as follows¹⁶:

¹⁶ WIOA Section 107(b)(2)

A. Business:

A majority—defined as any sum greater than fifty percent (50%)—of LWDB members must be representatives who are owners, chief executive or operating officers, or other business executives, or employers with optimum policymaking or hiring authority; and

B. Workforce:

Not less than twenty percent (20%) of the members must be workforce representatives. Such representatives must include:

- Two (2) or more representatives of labor organizations; and
- One (1) or more representatives of a joint labor-management registered apprenticeship program; and

C. Education:

- At least one (1) member must be a representative of a provider of adult education and literacy activities under Title II of WIOA.
- At least one (1) member must be a representative of an institution of higher education that provides workforce training (including community colleges); and

D. Governmental or Community Development:

The members must include at least one (1) representative of each of the following:

- Economic or community development entities in the LWDA;
- The State Employment Service Office, under Wagner-Peyser, serving the LWDA; and
- Programs carried out under Title I of the Rehabilitation Act of 1973.

The CLEO may appoint, at their discretion, other individuals to the LWDB who represent local agencies or entities administering transportation, housing, and public assistance, or philanthropic organizations. CLEOs are encouraged to select members to serve on the LWDB who represent entities beyond the scope of those mandated by WIOA.

The CLEO must establish a LWDB that reflects the diversity of the counties that comprise the LWDA by requiring at least one (1) nomination per county. LWDB representation must be fair and equitable across the LWDA and is in accordance with WIOA policy regarding LWDB member nominations. LWDB members must exhibit the demographic diversity of the counties within their respective LWDA.

Nomination Process:

The CLEO acts as the signatory on behalf of the other LEOs and has final authority to select members to serve on the LWDB¹⁷. The LEOs must solicit nominations according to the requirements of LWDB composition.

Nominations must come from the heads of organizations—specifically those representing businesses, labor, education, and economic and community development—to align the workforce and education needs within the State.

E. Required Documentation to Support Nomination

To approve the nomination of each individual selected to serve on the LWDB, the following documentation is required:

- A Nomination Form signed by the CLEO; and
- A Conflict of Interest Form signed by the nominee to the LWDB; and

¹⁷ WIOA Section 107(c)(1)(A)

- A recommendation letter from the head of the organization the nominee represents, a Chamber of Commerce within the LWDA, or the LEO for the nominee’s county. This letter must identify the individual being nominated and must also acknowledge the nominee’s optimum policymaking authority.

F. Certification of LWDB Nominee by TDLWD:

Completed nomination forms must be submitted to the TDLWD Central Office—at Workforce.Board@tn.gov—for review. Once the form has been reviewed, the LWDB will receive a follow-up letter of certification or denial within five (5) business days. The letter will also make a request for additional information when submitted documentation is insufficient to make a determination. If documentation is missing, all required documentation (e.g. nomination form, conflict of interest form, and letter of recommendation) must be re-submitted for the nominee in one (1) complete submission. Nominees will not be approved until all supporting documentation is complete, accurate, and contained in one (1) submission.

The member must not be seated onto the LWDB until a certification letter from TDLWD has been received to affirm the nomination.

G. Review of LWDB Member Conflict of Interest Forms:

Program Integrity staff will conduct an annual on-site review of all LWDB member's conflict of interest forms in each LWDA. All LWDB member’s conflict of interest forms must be available to staff conducting the on-site review and must be verified as current during the review. Expired conflict of interest forms will be noted and documented as a finding.

LWDB staff must monitor the expiration dates for all LWDB members. It is highly suggested that all LWDB members meet to sign the conflict of interest forms, at the same time and on an annual schedule, during the quarterly LWDB meeting.

IV. LWDB Certification¹⁸:

The TDLWD will certify that the composition of each LWDB, including the appointment process, complies with the criteria outlined in WIOA Section 107 and with this policy. The composition of each LWDB will be evaluated quarterly by Program Integrity staff and will coincide with SWDB meetings.

A. LWDB Recertification:

Recertification will be conducted by the TDLWD once every two (2) years to ensure the local workforce activities support meeting local performance measures, as outlined in the local grant agreement, to include LWDB composition requirements.

If an LWDB meets all membership requirements but fails to meet all performance measures, certification will be granted for review period of one (1) year instead of two (2) years. At the end of the one-year review period, the recertification process will be repeated with an updated review of performance and membership composition. If this review shows the LWDB is meeting all performance measures, the regular two-year certification will be continued.

B. LWDB Decertification¹⁹:

The Governor shall have the authority to decertify a LWDB at any time after providing written notice and opportunity for comment, under the following conditions:

- Documentation of fraud or abuse

¹⁸ WIOA Section 107(c)(2)

¹⁹ WIOA Section 107(c)(3)

- Failure to meet the local performance accountability measures for 2 consecutive program years
- Failure to meet all LWDB certification requirements; or
- Failure to carry out the required functions of the LWDB.

If the Governor decertifies a LWDB, the Governor may require that a new LWDB be appointed and certified for the LWDA. Certifying a new LWDB will take place pursuant to a reorganization plan developed by the Governor, in consultation with the LEOs, which is consistent with WIOA Section 107(b).

V. Board Meeting Information Access:

WIOA Section 107(e)—along with 20 CFR 679.390—states that LWDBs must make available to the public, on a regular basis through electronic means and open meetings, certain information such as minutes of formal LWDB meetings. This information must be made available upon request and on the LWDA’s website. Also, records must be open to the public²⁰.

LWDBs must give the public adequate notice (30 calendar days) of these meetings.

A. Access Provided on LWDA Website:

Each LWDB must have its minutes made available to the public upon request and also available on the LWDB’s website within fifteen (15) business days of the LWDB’s approval of the meeting minutes. Only the formal minutes must be posted on the website; no attachments of presentations at the board meeting are needed unless the LWDB believes that these attachments are necessary.

Along with the board minutes, the LWDB must provide the updated LWDB roster to be uploaded on the LWDB’s website. The roster must include the following information:

- The name of the LWDB,
- The date the member was confirmed to serve on the LWDB,
- The member’s first and last name,
- The member’s county of residence,
- The organization the member represents,
- The beginning and end dates of the member’s conflict of interest statement
- The category the member represents,
- The nominator’s first and last name,
- The organization the nominator represents, and
- Whether the member serves on the Executive Committee

The board roster and meeting minutes can be uploaded together and both should be on the website with fifteen (15) business days of the LWDB’s approval of the meeting minutes.

The link to provide the LWDB meeting minutes will be provided by Program Integrity staff.

B. Transparency for Those with Disabilities:

Public records must be open to public scrutiny²¹. Transparency and accountability must be a part of the function and duties of the LWDB; business conducted in an open manner and with

²⁰ TCA 10-7-503(a)(2)(A)-(B)

²¹ TCA 10-7-503

appropriate accommodations ensures that the public, including people with disabilities, can access information concerning board meetings.

Each LWDB must ensure that appropriate accommodation—such as documents in Braille and large print, sign language interpreters, wheelchair accessibility, and closed captioning—are made so that those with disabilities have access to all its public meetings and pertinent records.

VI. LWDB Meeting Minutes Policy Requirement:

Each LWDB must create a policy that complies with this Workforce Services Division policy, including all federal rules and regulations. This policy must reflect the signature of the LWDB Chair to demonstrate that it has been formally reviewed and approved by the LWDB. This policy must outline the process and should highlight, at a minimum, the following points:

- Give adequate notice to the public about its upcoming meetings;
- Conduct its business of those meetings in an open manner;
- Arrange for all individuals, including those with disabilities, to have physical and electronic access to LWDB meetings, including appropriate accommodations; and
- Arrange for the public to have access to the LWDB meeting minutes and any other pertinent information related to LWDB business.

References:

TCA 10-7-503, 10-7-503(a)(2)(A)-(B); WIOA Section 107(b)(2), Section 107(b)(3), Section 107(b)(4), Section 107(b)(4)(C), Section 107(c)(1)(A), Section 107(c)(2), Section 107(c)(3), Section 107(d), Section 107(d)(1), Section 107(d)(4), Section 107(d)(5), Section 107(d)(10), Section 107(d)(10)(B), Section 107(d)(10)(C), Section 107(d)(10)(D), Section 107(d)(12), Section 107(d)(8), Section 107(d)(9), Section 107(e)

Contact:

For any questions related to this policy, please contact the Program Integrity Unit at Workforce.Board@tn.gov.

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