

MISSISSIPPI DEPARTMENT of EMPLOYMENT SECURITY
State Policy Number 2
ROLES and RESPONSIBILITIES of LOCAL ELECTED OFFICIALS
Including Local Workforce Development Board Appointment and Certification
Workforce Innovation and Opportunity Act (WIOA)

I. SCOPE AND PURPOSE

The Workforce Innovation and Opportunity Act requires the Governor of the State, in partnership with the State Workforce Development Board (SWDB) to establish criteria for use by **local elected officials** in the local areas for appointment of members of the Local Workforce Development Boards (LWDB) in the respective local areas.

The purpose of this policy is to provide guidance for the following: the roles and responsibilities of the chief elected officials in the workforce system and the criteria for appointing and certifying the members of the LWDB. Compliance for all guidance is outlined in Section 107 of the Workforce Innovation and Opportunity Act.

II. ROLES AND RESPONSIBILITIES OF THE LOCAL ELECTED OFFICIALS:

A. By-Laws

The chief elected officials must establish by-laws, consistent with State policy for Local Workforce Development Board (LWDB) membership, that address:

1. The nomination process used by the chief local elected officials to elect the LWDB chair and members;
2. The term limitations and how the term appointments will be staggered to ensure only a portion of membership expire in a given year;
3. The process to notify the chief local elected officials of a board member vacancy to ensure a prompt nominee;
4. The proxy and alternative designee process that will be used when a board member is unable to attend a meeting and assigns a designee as per the requirements at § 679.110(d)(4);
5. The use of technology, such as phone and Web-based meetings, that will be used to promote board member participation; and
6. The process to ensure board members actively participate in convening the workforce development system's stakeholders, brokering relationships with a diverse range of employers, and leveraging support for workforce development activities.

7. A description of any other conditions governing appointment or membership on the State Board as deemed appropriate by the chief local elected officials.

B. Documentation

The chief elected officials in each local workforce development area are authorized to appoint the local board members for the counties they respectively represent.

1. All nominations shall be solicited in writing
2. All nominations shall be received in writing
3. Copies of each nomination shall be maintained in an official LWDB certification file.

A sample nomination form is provided as an attachment to this policy.

C. Removal of LWDB Members

Any member of a Local Workforce Development Board may be removed for cause in accordance with procedures established by the LWDB and the chief elected officials.

D. Conflict of Interest

A member of a local board, or a member of a standing committee, may not vote on a matter under consideration by the local board regarding the provision of services by the member (or by an entity that the member represents) or that would provide direct financial benefit to the member or the member's immediate family. Members also may not engage in any other activity determined by the Governor to constitute a conflict of interest as specified in the State plan.

Further restriction under Mississippi law is provided by the Mississippi Ethics Commission:

1. No Workforce Development Board (WDB) member shall have an interest in funds subject to WDB oversight. A prohibited interest includes, but is not limited to 1) a WDB member whose business receives a contract or subcontract funded in whole or in part by WDB, 2) a WIB member whose business offers training on the Statewide Eligible Training Provider List, and 3) a WDB member who is employed by or who is a director of a nonprofit organization receiving a contract or subcontract subject to WDB oversight. The prohibition lasts for one year after the interested WDB member's term ends.

2. The above listed prohibition is further explained in Mississippi Ethics Commission Advisory Opinion 04-076-E, which states that the ethics violation may not be cured by declaring an interest and declining to vote (“recusal”). The opinion does not extend to WIB members representing the public sector, such as community college and state agency representatives, since these agencies and their representatives do not have a “pecuniary interest” in contracts as determined by Advisory Opinion 85-18-E issued on August 26, 1985.
3. All WDB members having an interest prohibited by Advisory Opinion 04-076-E shall no longer be considered members and shall be replaced forthwith. All WDB certifications shall be contingent upon compliance with this section and with all other Federal, State and local conflict of interest requirements.

E. Program Oversight

The Local Elected Officials (LEO), in partnership with the LWDB, shall conduct oversight for:

1. Local youth workforce investment activities, local employment and training activities, and the one-stop delivery system in the local area; and ensure the appropriate use and management of funds.
2. Workforce development activities, and ensure the appropriate use, management and investment of funds to maximize performance outcomes.

F. Negotiation of Local Performance Accountability

The LEO, LWDB, and the Governor shall negotiate and reach an agreement on local performance accountability measures.

G. Selection of Operators and Providers

The LEO, with the agreement of the LWDB, shall

1. Designate or certify one-stop operators and providers
2. Terminate eligibility of one-stop operators and providers

H. Budget and Administration

The LWDB shall develop a budget for its activities in the local area, consistent with the local plan, duties of the LWDB, and subject to the approval of the Local Elected Officials Board.

1. The local elected officials shall serve as the local grant recipient for, and shall be liable for any misuse of, the grant funds allocated to the local area unless as

agreement with the Governor to act as the local grant recipient and bear this liability is reached.

2. The local elected officials or the Governor, if he serves as the local grant recipient for the local area, may designate an entity to serve as a local grant sub-recipient for such funds or as a local fiscal agent. This does not relieve the Board or the Governor of the liability for any misuse of grant funds.
3. The local grant recipient or an entity designated shall disburse the grant funds immediately for workforce investment activities at the direction of the LWDB.

III. COMPOSITION OF LOCAL WORKFORCE DEVELOPMENT BOARDS:

- A. The Local Elected Officials (LEO) in their respective areas shall appoint members of the local boards (LWDB) in accordance with the requirements set forth by the Governor, in partnership with the State Board. [WIOA Sec. 107.(b)(1)]
 1. The membership of each board shall include, at a minimum, representatives of businesses in the local area, who –
 - a. are owners of businesses, chief executives or operating officers of businesses, or other business executives or employees with optimum policy making or hiring authority;
 - b. represent businesses, including small businesses, or organizations representing businesses, 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; and
 - c. are appointed from individuals nominated by local business organizations and business trade associations.
 - d. Representatives from the business community shall constitute a majority of the total membership of each board.
 2. Not less than 20 percent of the members of each local board shall be representatives of the workforce within the local area. Required members include:
 - a. *representatives* (at least two) of labor organizations, who have been nominated by local labor federations, or other representatives of employees; and
 - b. *a* representative (at least one) from a joint labor-management apprenticeship program, or of an apprenticeship program in the area, if such a program exists.

Optional members from this group may include:

- c. representatives of community-based organizations that have demonstrated experience and expertise in addressing the employment needs of individuals with barriers to employment, including veterans or individuals with disabilities; and
 - d. representatives of organizations that have demonstrated experience and expertise in addressing the employment, training, or education needs of eligible youth, including out-of-school youth.
3. Each local board shall include representatives of entities administering education and training activities in the local area. Required members include:
- a. a representative of eligible providers administering adult education and literacy activities under Title II; and
 - b. a representative of institutions of higher education providing workforce investment activities (including community colleges).

Optional members may include:

- c. 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.
 - d. ***Special Rule pertaining to a. and b., above.*** If the local area is served by multiple eligible providers of adult education and literacy activities under title II, or multiple institutions of higher education serving the local area by providing workforce investment activities, each provider or institution represented in the area shall nominate individuals from which the one (1) representative for **a.** and **b.**, respectively, shall be appointed by the chief elected officials.
4. Each local board shall include representatives of governmental and economic and community development entities serving the local area. Required members include:
- a. a representative of economic and community development entities;
 - b. an appropriate representative from the State Employment Service Office under the Wagner-Peyser Act serving the local area; and
 - c. an appropriate representative of the programs carried out under Title I of the Rehabilitation Act of 1973, other than Section 112 or Part C of that Title, serving the local area.

Optional members may include:

- d. representatives of agencies or entities administering programs serving the local area relating to transportation, housing, and public assistance; and
 - e. representatives of philanthropic organizations serving the local area.
5. Each local board may include such other individuals or representatives of entities as the chief elected official in the local area may determine to be appropriate.

B. Nomination Process:

Business representatives must be nominated by local business organizations and trade associations and labor representatives must be nominated by local labor federations. The representatives of adult education and literacy and of institutions of higher learning both have a nomination provision in 107(b)(6) Special Rule. Since each local area has multiple providers of both adult education/literacy and higher education, the representatives for those entities must be nominated by local providers representing those institutions.

The only members that are not specifically required to be nominated are the representatives of economic and community development, State employment services, and Rehabilitation services [107(b)(2)(D)(i-iii)]. Since the economic developer could be local or a state agency representative, using the nomination process is advisable. The other two members are representatives of their state agencies and can be appointed by their respective agencies. However, using a nomination request form to request those appointees would standardize the process, since each of those agencies will be appointing four different people to serve on the four local area boards.

Also, if any local area includes any of the optional representatives for the “may include” clauses, they should also be nominated.

C. Authority of Board Members:

Members of the board that represent organizations, agencies, or other entities shall be individuals with optimum policy making authority within the organizations, agencies, or entities. The members of the board shall represent diverse geographic areas within the local area.

D. Committees:

1. The local board *may designate* and direct the activities of standing committees to provide information and to assist the local board in carrying out activities of the board. If standing committees are designated they shall be chaired by a member of the local board, may include other members of the

local board, and shall include other individuals appointed by the local board who are not members of the local board and who the local board determines have appropriate experience and expertise. The local board may designate the following:

- a. A standing committee to provide information and assist with operational and other issues relating to the one-stop delivery system.
 - b. A standing committee to provide information and to assist with planning, operational, and other issues relating to the provision of services to youth.
 - c. A standing committee to provide information and to assist with operational and other issues relating to the provision of services to individuals with disabilities.
2. The local board may designate other standing committees in addition to the standing committees specified above.
 3. An existing entity (as of the date of enactment of WIOA), such as an effective youth council, may serve as a standing committee as long as the entity meets the requirements of Section 107 (b)(4).
 4. If a local board does not designate any standing committees, the board must provide a written plan to the governor detailing how the board will conduct the business normally done in committees.

E. Local Workforce Development Board Chairperson:

The local board shall elect a chairperson from the members representing the business community.

F. Appointment and Certification of Board:

The chief elected official in a local area is authorized to appoint the members of the local board for such area, in accordance with the State criteria established in WIOA Section 107 (b).

1. In a case in which a local area includes more than one unit of general local government, the chief elected officials of such units may execute an agreement that specifies the respective roles of the individual chief elected officials in (a) the appointment of the members of the local board from the individuals nominated or recommended to be such members in accordance with the criteria established by the Governor; and (b) carrying out any other responsibilities assigned to such officials under this Title. If, after a reasonable effort, the chief elected officials are unable to reach an agreement, the Governor may appoint members of the local Board from individuals so nominated or recommended.

2. The Governor shall, once every two years, certify one local board for each local area in the State. Such certification shall be based on criteria established under Section 107(b), and for a second or subsequent certification, 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 the corresponding performance accountability measures and achieve sustained fiscal integrity, as defined in Section 106(e)(2).
3. Failure of a local board to achieve certification shall result in appointment and certification of a new local board for the local area pursuant to the process described in Section 106(c)(1) and (2).
4. The Governor shall have the authority to decertify a local board at any time after providing notice and an opportunity for comment, for (i) fraud or abuse; or (ii) failure to carry out the functions specified for the local board in Section 107(d).
5. The Governor may decertify a local board if a local area fails to meet the local performance accountability measures for such local area in accordance with Section 116(c) for 2 consecutive program years.
6. If the Governor decertifies a local board for a local area, the Governor may require that a new local board be appointed and certified for the local area pursuant to a reorganization plan developed by the Governor, in consultation with the chief elected official in the local area and in accordance with the criteria established under Section 107(b).

III. COORDINATED FUNCTIONS OF THE CHIEF ELECTED OFFICIALS AND THE LOCAL WORKFORCE BOARD

A. Local Plan:

The Workforce Innovation and Opportunity Act requires the local board, in partnership with the chief elected official(s) for the local area to develop and submit a local plan to the Governor of the State that meets the requirements in WIOA Section 108.

If the local area is part of a planning region that includes other local areas, the local boards and chief elected officials of the local areas represented shall collaborate to prepare and submit a regional plan as described in Section 106(c)(2).

B. Program Oversight:

The local board, in partnership with the chief elected official(s) for the local area, shall conduct oversight of:

1. Workforce investment activities that provide employment and training services for Youth, Adults, and Dislocated Workers;
2. Appropriate use and management of funds provided to operate these activities; and
3. Appropriate use, management, and investment of these funds to maximize performance outcomes against the measures outlined in Section 116.

C. Negotiation of Local Performance Accountability Measures:

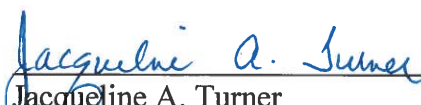
The local board, the chief elected official, and the Governor shall negotiate and reach agreement on local performance accountability measures as described in Section 116(c).

D. Selection of Operators and Providers:

1. Selection of One-Stop Operators: The local board, with the agreement of the chief elected official(s) for the local area, in accordance with Section 121(d) *shall* designate or certify one-stop operators; and *may* terminate for cause the eligibility of such operators.
2. Selection of Youth Providers: Consistent with section 123, the local board *shall* award grants or contracts to eligible providers of youth workforce investment activities on a competitive basis (except as provided in section 123(b)), based on the recommendations of the youth standing committee; and *may* terminate for cause the eligibility of such providers.
3. In accordance with section 122, the local board *shall* identify eligible providers of training services in the local area.

IV. EFFECTIVE DATE

This policy shall be effective as of July 1, 2015.


Jacqueline A. Turner
Deputy Executive Director, CFO

**Attachments: Sample LWDB Member Nomination Form under WIOA (fillable pdf)
and Template for LWDB Roster (fillable pdf and Excel)**