



Workforce Innovation and Opportunity Act Policy
Employment System Administration and Policy

Washington envisions a nationally recognized fully integrated One-Stop system with enhanced customer access to program services, improved long-term employment outcomes for job seekers and consistent, high quality services to business customers. In order to achieve this vision, Employment System Administration and Policy sets a common direction and standards for Washington's WorkSource system through the development of WorkSource system policies, information memoranda, and technical assistance.

Policy Number: 5614
To: Washington WorkSource System
Effective Date: July 1, 2015
Subject: Local Workforce Development Board Certification

1. Purpose:

Section 107(c)(2) of the Workforce Innovation and Opportunity Act (WIOA) requires the Governor to certify one Local Workforce Development Board (LWDB) for each local area in the state. The Governor has designated that the State Workforce Development Board (SWDB) conduct the LWDB certification, recertification and decertification process.

This policy establishes the certification process and criteria, consistent with the directive issued by the SWDB on August 27, 2015, that will be used by the Governor and SWDB to certify all LWDBs.

This policy further includes a tool to identify which data will be collected and reviewed from which sources in order to certify LWDBs.

2. Background:

WIOA requires that one LWDB be certified for each local area by July 1, 2016. After that, LWDBs must be recertified every two years

WIOA identifies the primary role of LWDB leadership as assuring that the needs of business, workers, and job seekers are met by the public workforce system. LWDBS may act as leaders for specific efforts, as well as convening, organizing, coordinating, facilitating, and/or supporting the efforts of others in the community to achieve the best possible results

for system customers.

WIOA clearly defines 13 functions that LWDBs must perform in order to maintain certification. The process described in this policy utilizes the Local Workforce Development Plan developed and updated by LWDBs as a primary resource for determining whether LWDBs are performing those 13 functions.

3. Policy:

a. Certification Committee Membership

The Certification Committee consists of one labor, one business, and one (voting) agency member, to be appointed by the SWDB.

b. Certification

LWDBs must be certified once every two years, as required by WIOA. The Certification Committee will convene prior to June on even numbered years to determine whether LWDBs meet certification criteria in Section 3.c of this policy.

Certifications will be performed and documented using a certification tool ([Attachment A](#)) based on criteria in Section 3.c of this policy. The tool identifies acceptable source documentation used to address these criteria.

Local plan updates must be submitted to the SWDB staff for use in populating the certification tool. The plan updates will serve to address certification criteria as outlined in the tool. These updates will not require major plan modifications unless local areas determine changes in status require the plan to be modified.

The Certification Committee must inform the SWDB of its determination regarding whether LWDBs meet the criteria. The SWDB must recommend to the Governor whether to certify, provisionally certify or decertify LWDBs based on the advice of the Certification Committee.

c. Certification Criteria

- i. Initial certification: LWDBs are only required to meet membership criteria as described in WIOA Title I Policy 5610.
- ii. Subsequent certification: LWDBs are required to meet the criteria for:
 - Board membership as described in WIOA Title I Policy 5610
 - Successful Performance
 - Fiscal integrity
 - Fulfilling the 13 required functions of LWDBs

d. Provisional Certification

LWDBs may be provisionally certified if the LWDB is generally in compliance with certification criteria and able to address any issues in a reasonable time as determined via negotiations between the SWDB and the LWDB, pending remediation of those issues.

e. Decertification:

LWDBs may be considered for decertification for:

- i. Failure to remedy issues identified via provisional certification.
- ii. Failure to achieve certification.
- iii. Fraud, abuse, or failure to carry out required functions as per the Act, as described in the local plan submission and/or update.

f. Decertification Process and Identification of a New Workforce Board:

LWDBs that are unable to rectify issues that affect certification, have committed fraud or abuse, or have failed to carry out the required functions as per the Act, the Governor, in consultation with the Chief Elected Official(s), will decertify and reorganize the LWDB and establish timelines for the organization, appointment, and certification of a new LWDB.

4. Definitions:

Leadership – A process of social influence in which a person can enlist the aid and support of others in the accomplishment of a common task.

Performed Successfully – The local area met or exceeded local levels of performance negotiated by the Governor with local boards and chief local elected officials and the local area has not failed any individual measure for the last two consecutive program years before the enactment of WIOA for initial designation and in the first two years of enactment for subsequent designation. The terms “met or exceeded” and “failed” are defined as consistent with how those terms were defined at the time the performance levels were negotiated. The Governor cannot retroactively apply higher thresholds to previously negotiated performance targets. [WIOA Section 106(e)(1)]

Sustained Fiscal Integrity – The Secretary of Labor has not made a formal determination that either the grant recipient or administrative entity of the local areas misexpended funds due to willful disregard of the requirements of the provisions involved, gross negligence, or failure to comply with accepted standards of administration for the two-year period preceding the Secretary’s determination. [WIOA Section 106(e)(2)]

5. References:

- WIOA Section 106(e)(1-2)
- WIOA Section 107(c)(2)
- WIOA Section 107(c)(2)(A-C)
- WIOA Section 107(c)(3)
- WIOA Section 107(c)(3)(C)
- WIOA Section 107(d)
- Proposed 20 CFR 679.310-370
- [Training and Employment Guidance Letter \(TEGL\) 27-14](#)

6. Supersedes:

NA

7. Website:

<http://www.wa.gov/esd/policies/title1b.htm>

8. Action:

Local Workforce Development Boards and their contractors, as well as Employment Security Regional Directors, should distribute this policy broadly throughout the system to ensure that WorkSource System staff are familiar with its content and requirements.

9. Attachments:

[Attachment A](#) - Certification Tool

Direct Inquiries To:

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Employment System Policy and Integrity Operations Division
Employment Security Department
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Attachment A

Board Certification Tool

Certification Process:

1. ***Nine weeks prior to certification:***
 - a. WTECB staff complete the tool using information submitted by LWDBs in their approved local/regional plan, plan update and/or other sources as indicated below.
 - b. WTECB staff request letters of nomination, evidence of recruitment for vacant LWDB seats, evidence that one-stop certification has occurred (as appropriate), and approved budgets from LWDBs.
 - c. WTECB staff request ESD monitoring staff to confirm that LWDB is meeting expectations for program oversight and fiscal management.
2. ***Six weeks prior to certification:*** LWDBs and ESD return information to WTECB staff to compile into the tool.
3. ***Five weeks prior to certification:*** WTECB staff forward completed tools to certification committee members.
4. ***Four weeks prior to certification:*** Certification committee members convene to review information and discuss certification recommendations. Any committee arising from information in the completed tools will be forwarded to WTECB staff and/or the appropriate LWDB for response.
5. ***Three weeks prior to certification:*** Certification committee members review clarification and/or meet with LWDBs as needed to resolve any remaining issues.
6. ***Two weeks prior to certification:*** Certification Committee submits its recommendation to WTECB for review and discussion by Interagency Committee and inclusion in board packet.
7. ***WTECB Board votes on recommendation.*** Results are shared with LWDBs. If the WTECB recommends provisional certification of a LWDB, a timeline and expectations for resolution will be identified. WTECB recommendations will be forwarded to the Governor for approval.

Contact information

LWDB	
Contact person	
Phone	
Email	
Type of Board	_____Membership conforms to WIOA _____Alternative Entity

CERTIFICATION CRITERIA

Criteria 1: Board membership

LWDB must meet all items below to be certified as meeting this criteria

- Board has required board members in the appropriate categories to meet WIOA or alternative entity requirements (see attachment A – board membership template)***

Policy 5610: Local Board Membership

Business Membership: The majority of local board members must be representatives of businesses or business organizations 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:

- Be an owner, chief executive officer, chief operating officer, or other individual with optimum policy-making or hiring authority;
- Provide employment opportunities that, at a minimum, include high-quality, work-relevant training in local in-demand industry sectors or occupations as those terms are defined in WIOA Section 3(23) in the local area;

Representatives meeting the criteria above and representing non-profit corporations that play a role as an employer in a high demand/high growth industry or prioritized sector – such as non-profit hospitals, nursing homes, etc. – may serve in the business category.

Representatives of non-profit corporations whose primary function is to provide services to help people become employed or move out of poverty may not serve in the business category. Such nonprofits serve in the workforce representative category.

Representatives of non-profit business organizations (trade associations, chambers of commerce, etc.) as identified in WIOA may serve in the business category.

Representatives of non-profit economic development organizations led by the business community may serve in the business category or the economic development category,

Public economic development organizations may not serve in the business category. Such non-profits serve in the economic development category.

Workforce Representatives: At least 20 percent of local board members must be workforce representatives who meet the following criteria:

- Two or more members in this category must be representatives of labor organizations, if such organizations exist in the local area. If labor organizations do not exist, representatives must be selected from other employee representatives;
- One or more members in this category must represent a joint labor-management or union-affiliated registered apprenticeship program within the local 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;

In addition to the workforce representatives cited above, the local board may include the following to contribute to the 20 percent requirement:

- 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
- 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.

Balance of Representatives:

- At least one eligible provider administering adult education and literacy activities under WIOA Title II;
- At least one representative from an institution of higher education providing workforce investment activities, including community colleges; and
- At least one representative from each of the following governmental and economic and community development entities:
 - Economic and community development entities;
 - The state employment service office under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) serving the local area; and
 - The programs carried out under Title I of the Rehabilitation Act of 1973, other than Section 112 or part C of that title;

Local boards may include representatives of other appropriate entities in the local area, including:

- 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;
- Governmental and economic and community development entities who represent transportation, housing, and public assistance programs;
- Philanthropic organizations serving the local area; and
- Other appropriate individuals as determined by the chief elected official.

Policy 5610: Alternative Entity: Pursuant to WIOA Section 107(i), the State may recognize as the local board a local entity (including a local council, regional workforce development board, or similar entity) that (1) is established to serve the local area or the service delivery area that most closely corresponds to the local area; (2) was in existence the day before the date of enactment of

WIA, pursuant to state law; and (3) includes representatives of business in the local area; and representatives of labor organizations (for a local area in which employees are represented by labor organizations), nominated by local labor federations; or other representatives of employees in the local area (for a local area in which no employees are represented by such organizations).

- Board has only one board member per seat** (see attachment A – board membership template)
- Each board member was nominated by an appropriate entity** (see attachment A – board membership template)

Policy 5610: Board Member Nominations: Chief elected officials must establish local board member nomination and appointment processes, consistent with criteria established by the Governor and State Workforce Development Board, that ensure:

- Business representatives are appointed from among individuals who are nominated by local business organizations and business trade associations.
- At least 51 percent of workforce representatives must be selected from among individuals nominated by local labor federations;
- 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 Section 107(b)(6)]
- All other representatives are appointed from among individuals who are nominated by locally-recognized organizations or entities, such as chambers of commerce, non-profit networks, or coalitions, etc.

- LWDB has provided evidence of a broadly based recruitment strategy** (see attachment A - board membership template)
- Each board member has optimal decision making authority and demonstrated experience.** (see attachments A & B)

NOTE: Committee members may use a variety of data to address this criteria, including the position a board member holds in the organization s/he represents, information in the letters of nomination included in attachment B, and/or specific information requested from the LWDB.

Policy 5610: Definitions

- Optimum policy-making authority – Characteristics of an individual who can reasonably be expected to speak affirmatively on behalf of an entity and commit that entity to a chosen course of action.
- Demonstrated experience and expertise – Characteristics of an individual who is a workplace learning advisor as defined in WIOA Section 3(70); contributes to the field of workforce development, human resources, training and development, or a core program function; or is recognized by a local board for valuable contributions in education/workforce development related fields.

- LWDB has provided evidence that it is actively recruiting for any open seats** (see attachment C)

Criteria 2: Sustained fiscal integrity (to be completed by WTECB staff)

- The Secretary of Labor has not made a formal determination that the grant recipient or administrative entity misexpended funds due to willful disregard of the requirements of the provisions, gross negligence, or failure to comply with accepted standards of administration for the two-year period preceding the determination. (WTECB staff to check with ESD/DOLETA)

Criteria 3: Performance

- The local area met or exceeded local levels of performance negotiated by the Governor with local boards and chief local elected officials and the local area has not failed any individual measure for the last two consecutive program years. (see attachment D)

Criteria 4: Board is performing the 13 Functions Required of LWDBs (to be completed by WTECB staff)

- Board has an approved regional/local plan on file.
- Workforce research and regional labor market analysis is included in the approved plan.
- Approved plan includes documentation that the board has convened local stakeholders to develop the plan and identify non-Federal expertise/resources to leverage for workforce development activities.
- Approved plan includes a plan for or evidence that the LWDB is leading employer engagement by developing/implementing strategies for meeting employment skill needs of workers and employers.
- Approved plan includes a plan for or evidence of leading local efforts, with secondary/postsecondary education, to develop/ implement career pathways aligning employment, training, education, and support services are needed by adults and youth, particularly those with barriers to employment.
- Approved plan includes a plan for or evidence that the LWDB is leading efforts in the local area to identify and share promising practices.
- Approved plan includes a plan for or evidence that the LWDB is developing strategies using technology to maximize accessibility and effectiveness of the local workforce system for employers, workers and jobseekers.
- Approved plan includes negotiated local performance accountability measures.
- Approved plan includes a plan for or evidence that the LWDB is coordinating with education providers.
- Approved plan includes a plan for or evidence that the LWDB annually assess the physical and programmatic accessibility, in accordance with section 188, and applicable provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), of all one-stop centers in the local area.
- Approved plan includes a plan for or evidence that the LWDB has selected one stop operators and providers.
- LWDB has provided evidence that it has conducted on-stop certification at least once every three years.
- ESD monitoring shows that the LWDB provides program oversight.
- LWDB has provided evidence that it has an adopted budget and reports expenditures against this budget to the board on at least a quarterly basis.
- ESD monitoring/contract management shows that LWDB has an adopted budget and draws resources in compliance with its contract.

Attachment A: Board Membership Template

(To be inserted by WTECB staff from the regional/local plan or update for WIOA board or alternative entity)

Required categories	Name/Title/Organization*	Nominated by
Business majority (greater than 50% of all members – add lines if needed)		
1. Business		
2. Business		
3. Business		
4. Business		
5. Business		
6. Business		
7. Business		
8. Business		
9. Business		
10. Business		
Workforce (20% of members. Majority must be nominated by organized labor – add lines if needed)		
1. Labor		
2. Labor		
3. Apprenticeship		
4. Other workforce		
Education (add lines if needed)		
1. Title II Adult Ed		
1. Higher Education		
Government (add lines if needed)		
1. Wagner-Peyser		
1. Vocational Rehabilitation		
1. Economic Development		
Add more rows if needed		

* LWDBs must provide evidence of recruitment for any empty seats on the board.

Complete this table for an alternative entity.

Categories	Name/Title/Organization* (please list one per line and add lines as needed)	Nominated by
Business majority (>50%) - Please indicate the total number of seats available for this category: ____		
Workforce/Labor - Please indicate the total number of seats available for this category: ____		
Education - Please indicate the total number of seats available for this category: ____		
Government/workforce programs (may include economic development) - Please indicate the total number of seats available for this category: ____		
Add more rows if needed		

* LWDBs must provide evidence of recruitment for any empty seats on the board.

The table should identify how an alternative entity serving as a Local Workforce Development Board is substantially similar to the local entity described in WIOA Section 107(b)(2), by indicating membership in each of the four categories listed above.

Attachment B: Letter of nomination
(To be provided by LWDB and inserted by WTECB staff)

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Attachment C: how is the LWDB recruiting for open seats?
(To be provided by LWDB and inserted by WTECB staff)

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Attachment D: Performance Targets vs Actual Performance for Prior two Years
(To be inserted by WTECB staff from plan or plan update)

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