

Workforce Arizona Council
WIOA Local Board Governance Policy

POLICY NAME: Workforce Innovation and Opportunity Act (WIOA) Local Board Governance Policy

POLICY NUMBER: 01

EFFECTIVE DATE: June 1, 2023

ISSUING AGENCY: Workforce Arizona Council

SCOPE: Workforce Arizona Council (Council), Arizona Department of Economic Security (DES) Staff, Arizona Commerce Authority/Office of Economic Opportunity (ACA/OEO) Staff, Local Workforce Development Boards (LWDBs), Local Workforce Administrative Entities and Fiscal Agents, One-Stop Operators, and Workforce System Stakeholders

REFERENCES: Title I of the Workforce Innovation and Opportunity Act (WIOA) of 2014, (Pub. L. 113-128); WIOA Final Labor Rule, Title 20, Chapter V, part 679, Subpart A, for State WDB, and Subpart B for LWDBs and Subpart C for LWDBs, 20 CFR 683.640, 20 CFR 683.650, 2 CFR 200, Uniform Guidance for Federal Financial Assistance, as applicable.

OBJECTIVE: This policy articulates the Workforce Arizona Council’s vision and purpose for the Local Workforce Development Boards (LWDBs), provides requirements on the appointment and certification of LWDBs, outlines the roles, responsibilities and authority of the chief elected officials (CEOs) and the LWDBs in regards to the local ARIZONA@WORK system, and describes the process for Local Workforce Development Area (LWDA) designation.

TABLE OF CONTENTS:

- I. Definitions
- II. LWDBs Established
- III. Chief Elected Official Agreement for Consortia
- IV. Shared Governance Agreement
- V. Vision & Purpose of LWDB
- VI. LWDB Roles and Responsibilities
- VII. LWDB Recruitment Process
- VIII. LWDB Certification
- IX. LWDBs Conduct Business Openly
- X. LWDB Membership
- XI. Other LWDB Requirements
- XII. Policymaking Authority of LWDB Members

- XIII. Prohibited LWDB Members Authority to Hire LWDB Staff
- XIV. Diverse Geographic Areas Represented Represent Multiple Entities
- XV. LWDB Chair Voting Privilege
- XVI. Standing Committees Bylaws
- XVII. LWDA Designation Request
- XVIII. LWDA Designation

I. DEFINITIONS:

Chief Elected Official (CEO) means:

1. The chief elected executive officer of a unit of general local government in a Local Workforce Development Area (LWDA); and
2. In a case in which a LWDA includes more than one unit of general local government, the individuals designated under the agreement described in section 107(c)(1)(B).

Local Workforce System: In Arizona, the local workforce system is known as the local ARIZONA@WORK system.

Workforce Arizona Council: In Arizona, the State Workforce Development Board is called the Workforce Arizona Council or the "Council".

Local Workforce Development Area (LWDA): A geographic area, designated by the Governor in accordance with WIOA Sec 106(b)(1)(B), to serve as a jurisdiction for the administration of workforce development activities using Adult, Dislocated Worker, and Youth funds allocated by the State and to coordinate efforts related to the other core programs at a local community level.

II. LWDBS ESTABLISHED: There shall be established, and certified by the Arizona Governor, a Local Workforce Development Board (LWDB) in each LWDA of the State to carry out the functions described in WIOA (and any functions specified for the LWDB under WIOA or the provisions establishing a core program) for such area.

III. CHIEF ELECTED OFFICIAL AGREEMENT FOR CONSORTIA:

If a LWDA includes more than one unit of general local government, the CEOs of such units must execute a written consortia agreement. The agreement must specify the respective roles of the individual CEOs in the appointment of the members of the LWDB from the individuals nominated or recommended to be such members in accordance with eligible criteria, and in carrying out any other responsibilities assigned to CEOs under WIOA.

If the CEOs are unable to reach agreement after a reasonable effort, the Governor may

appoint the members of the LWDB from individuals nominated or recommended as specified in WIOA.

The Council, as the designated representative of the Governor, provides the following requirements for this agreement:

A. Required inclusions. CEOs must enter into an agreement with each other that, at a minimum, includes the following sections:

1. **Grant recipient and signatory.** The written consortia agreement must identify that the CEOs are the grant recipient for the grant funds allocated to the LWDA under youth workforce development activities and adult and dislocated worker employment and training activities or may designate an entity to serve as a local grant subrecipient for such funds or as a local fiscal agent . Such designation shall not relieve the CEOs of the liability for any misuse of grant funds. If the CEOs serve as the grant recipient, they must outline the process used to sign contracts and enter into agreements related to the WIOA. This may be accomplished by designating signatory authority to a lead CEO.
2. **Liability of funds.** The CEO in a LWDA shall be liable for any misuse of all local WIOA funds. The written agreement must acknowledge financial liability and outline the process for determining each CEOs' share of responsibility. This determination could be based on allocation, population, expenditures, or other criteria determined by the CEOs.
3. **Fiscal agent designation.** To assist in the administration of the grant funds, the CEOs may designate an entity to serve as a local fiscal agent. If the CEO designates a fiscal agent, the CEO must ensure this agent has clearly defined roles and responsibilities. The appropriate role of the fiscal agent is limited to accounting and funds management functions rather than policy or service delivery. If a fiscal agent is designated, the written agreement must describe the process for designation within the guidelines required by state and local procurement laws and policies. In local areas where the LWDB is designated by the CEO as the fiscal agent, the LWDB (as the fiscal agent) has the option to directly provide some of all of the youth workforce investment activities.
4. **Local Board budget approval.** The LWDB shall develop a budget for the activities of the LWDB in the LWDA in partnership with the CEO consistent with the local plan and requirements under WIOA. The written consortia agreement must describe the process for reviewing and recommending the approval of the LWDB annual budget.
5. **Participating Chief Elected Officials.** The agreement must contain the name, title, area represented, contact information, and signature of the participating CEOs in the LWDA. The tribal nations representing LWDA's will identify appropriate signatures for their agreements.
6. **Designation of a Chief Elected Official.** CEOs are liable for all WIOA Title IB funds in the LWDA, and are required by the WIOA to approve or provide guidance on a number of LWDB activities. The Council encourages the selection of one CEO who will act as a lead on behalf of the other CEOs. If a lead is

appointed, the following information must be included in the written consortia agreement:

- a. Appointment process and term of the lead CEO;
 - b. Language designating the lead to serve as the signatory for the CEOs;
 - c. Outline the decisions that may be made by the lead on behalf of the CEOs;
 - d. Name, title, and contact information of the appointed lead.
7. **Amendment or change to the written consortia agreement.** The written agreement must outline the process that will be used for amendments or changes to the consortia agreement including a description of how an election may or may not impact an existing agreement. All amendments or changes must be maintained at the local administrative entity office and available for monitoring by DES.
8. **Local Board member representation.** The written consortia agreement must outline how CEOs will ensure LWDB representation is fair and equitable across the LWDA.
9. **Communication.** The written consortia agreement must describe how the CEOs will communicate with each other regarding LWDB activities and determine how many times a year the CEOs will meet. The Council encourages the CEOs of each LWDA to meet at least once annually to discuss the LWDB activities and the performance of the local workforce development system.

IV. SHARED GOVERNANCE AGREEMENT: The CEO and the LWDB share governance responsibility for LWDB functions such as local planning, program oversight, negotiating local performance accountability measures, selection of One Stop Operators and providers, and approving a budget for LWDB activities. The LWDB and the CEO must enter into a written agreement that describes how the parties will carry out their shared governance functions and meet other LWDB requirements such as membership criteria, local policy, and communicating with elected officials and the public. The Council, as the designated representative of the Governor, provides the following requirements for this agreement:

A. Required inclusions. The LWDB and the CEO must enter into a written agreement that, at a minimum, addresses the following subjects:

1. **Local board membership.** CEOs appoint members of the LWDB in accordance with the criteria established by the Governor in partnership with the Council.
 - a. **Terms.** Outline the terms of LWDB member appointments and ensure that the terms are staggered so that only a portion of membership expires in a given year.

- b. **Nomination and Appointment Process.** CEOs must establish a formal nomination and appointment process that is open and transparent, and ensures compliance with the membership criteria identified in this policy for composition of the LWDB. The nomination and appointment process must be documented in the written agreement between the LWDB and the CEOs.
- c. **Nomination.** For each LWDB member position that requires a nomination, the nominating organization must submit to the appointing CEO of the LWDA a document or letter signed by the chief executive officer or designee identifying the individual being nominated. The document or letter must also acknowledge the nominee's optimum policy-making authority and include documentation of curriculum vitae, resume or work history supporting the qualifications of the nomination.
- d. **Appointment.** LWDB member appointments must be made by the appointing CEO and submitted to the local administrative entity either in the form of a letter, evidenced within minutes of meetings, or other official communication.
- e. **Change in status.** Acknowledgement that LWDB members who no longer hold the position or status that made them eligible board members must resign or be removed by the CEO immediately upon notification to the LWDB chair of the change of status as a representative of that entity.
- f. **Midterm appointment.** LWDB members replacing out-going members midterm will serve the remainder of the out-going member term unless the LWDB bylaws establish a different procedure.
- g. **Vacancies.** LWDB vacancies and reappointments must be filled within 120 days of vacancy. In the event a vacancy cannot be filled within 120 days, the CEO must request a waiver in writing to the Workforce Council Project Manager with an explanation of why a vacancy was not filled in the 120 day timeframe and a description of the process to fill the vacancy. The CEO must maintain written approval of the waiver request by the Council and will be monitored according to the process outlined in their approved waiver request.
- h. **Removal.** LWDB members must be removed by the CEO if any of the following occurs: documented violation of conflict of interest, failure to meet LWDB member representation requirements defined in WIOA and this policy, or documented proof of malfeasance, fraud or abuse. LWDB members may be removed for other reasons outlined in the LWDB bylaws. Based on the bylaws, LWDBs must identify the specific criteria used to establish just cause and the process for removal. DES reserves the right to conduct an investigation regarding allegations of wrongdoing that result in the removal of a board member. CEOs and LWDB chairs will be formally notified in advance of any such investigation and of the results.

2. **Relationship between CEO and LWDB.** The shared governance agreement shall establish the roles and responsibilities of the CEO and the LWDB along with a description of the partnership and specific responsibilities. The agreement must document a clear separation of duties and required firewalls between staff that perform governance functions and operation functions in organizations that serve multiple roles in the one stop delivery system.
 - a. **Local plan requirements.** Describe how the local plan will be developed in partnership between the CEO and the LWDB.
 - b. **Budget and approval.** Describe how the LWDB will develop its budget for the purpose of carrying out the duties of the LWDB and the process for obtaining the CEO's approval.
 - c. **Selection of operators and providers.** Establish the guidelines and processes that will be followed by the LWDB for selection of each of the operators and providers including the process for getting CEO agreement on the selections.
 - d. **Youth activities.** Describe if the LWDB will establish a standing youth committee, the composition of and appointment procedures for the standing youth committee and the duties assigned to the standing youth committee . If the LWDB does not establish a standing youth committee, describe how the LWDB will carry out its responsibilities for youth activities under youth formula programs.
 - e. **Program oversight.** Establish the guidelines and process that will be followed to carry out the program oversight responsibilities, including how the CEO will be involved.
 - f. **Performance accountability measures.** Describe the process the LWDB will use to reach agreement with the CEO and the Governor on local performance accountability measures.
 - g. **Local Workforce Development Board System Policy Established by the LWDB.** Describe how the LWDB and the CEO will work in partnership to set policy for the local workforce development system.
 - h. **Local Board Bylaws.** Describe the process for amending the LWDB bylaws including any role the CEO has delegated to the LWDB in amending the bylaws.
 - i. **Memorandum of Understanding.** Describe the process for demonstrating CEO agreement on memorandum of understanding between workforce system partners and the LWDB.
3. **Authorized signatures.** The shared governance agreement must be signed by the CEOs that have been identified as participating in the CEO agreement at the time of the signing and by the LWDB chair at the time of the signing.

4. **Amendments, change, or election.** Any amendment or change to the shared governance agreement, including notice of an election of a new CEO, notice of an election of a new LWDB chair, or amendment of any applicable shared governance agreement(s), must be maintained at the local administrative entity office and available for monitoring by the state administrative entity.
5. **Communication with Elected Officials.** Establish requirements for informing the CEO on a regular basis regarding activities, performance outcomes, and budgets with at least one joint meeting held annually between the CEO and the LWDB.

V. VISION AND PURPOSE OF LWDB: The vision for the LWDB is to serve as a strategic leader and convener of local workforce development system stakeholders. The LWDB partners with employers and supports regional approaches including local and regional sector partnerships, career pathways, and high quality, customer-centered service delivery and service delivery approaches.

The purpose of the LWDB is to:

1. Provide strategic and operational oversight in collaboration with the required and additional partners and workforce stakeholders to help develop a comprehensive and high-quality workforce development system in the LWDA and larger planning region;
2. Assist in the achievement of Arizona's strategic and operational vision and goals as outlined in the Unified State Plan or Combined State Plan; and
3. Maximize and continue to improve the quality of services, customer satisfaction, and effectiveness of the services provided.

VI. LWDB ROLES AND RESPONSIBILITIES

1. **Local Policy:** In partnership with the CEO, the LWDB sets policy for the portion of the statewide workforce development system within the LWDA, consistent with State policies.
2. **Local Plan:** Develop and submit a 4-year local plan for the LWDA, in partnership with the CEO. If the LWDA is part of a planning region that includes other LWDAs as designated by the Governor, the LWDB in partnership with the CEO must develop and submit a regional plan in collaboration with the LWDBs and CEOs from other areas. The regional plan must incorporate the local plans from each LWDA in the planning region.

LWDBs must follow all requirements outlined in Chapter 2, Section 1000 of the DES Workforce Innovation and Opportunity Policy Manual.

3. **Labor Market Analysis:** In order to assist in the development and implementation of the local plan, LWDBs shall conduct workforce research and regional labor market analysis to include:

- a. Analyses and regular updates of economic conditions, needed knowledge and skills, workforce, and workforce development (including education and training) activities to include an analysis of the strengths and weaknesses (including the capacity to provide) of such services to address the identified education and skill needs of the workforce and the employment needs of employers;
 - b. Other research, data collection, and analysis related to the workforce needs of the regional economy, including input from system stakeholders, necessary to carry out its functions.
4. **Convening, Brokering, Leveraging:** Convene local workforce development system stakeholders to assist in the development of the local plan and identify non-Federal expertise and resources to leverage support for workforce development activities. Such stakeholders may assist the LWDB and standing committees in carrying out, convening, brokering, and leveraging functions at the direction of the LWDB.
5. **Employer Engagement:** Lead efforts to engage with a diverse range of employers and other entities in the region in order to:
- a. Promote business representation on the LWDB;
 - b. Develop effective linkages with employers in the region to support employer utilization of the local workforce development system and to support local workforce development activities;
 - c. Ensure that workforce development activities meet the needs of employers and support economic growth in the region by enhancing communication, coordination, and collaboration among employers, economic development entities, and service providers; and
 - d. Develop and implement proven or promising strategies for meeting the employment and skill needs of workers and employers in the LWDA.
6. **Career Pathways Development:** Lead efforts to develop and implement career pathways within the LWDA by aligning the employment, training, education, and supportive services that are needed by program participants, particularly individuals with barriers to employment.
7. **Proven and Promising Practices:** Lead efforts in the LWDA to identify and promote proven and promising strategies and initiatives for meeting the needs of employers, workers and jobseekers.
8. **Technology:** Develop strategies for the use of technology for participants to maximize the accessibility and effectiveness of the local workforce development system for employers, workers and jobseekers.
9. **Program Oversight:** Provide contractual and programmatic oversight, in partnership with the CEO for adult, dislocated worker, and youth activities, management of funds, and performance outcomes.
10. **Local Performance Accountability Measures:** The LWDB and CEO negotiate

and reach agreement on local performance measures with DES.

11. **Infrastructure Costs:** The LWDB and CEO negotiate with required partners on the methods for funding the infrastructure costs of one-stop centers in the LWDA in accordance with the ARIZONA@WORK MOU and Infrastructure Costs policy.
12. **Selection of One Stop Operators and Providers:** With the agreement of the CEO for the LWDA, the LWDB selects the following providers in the LWDA, and where appropriate terminates such providers. LWDBs must follow the requirements outlined in the ARIZONA@WORK One Stop Operator and Service Provider Selection Policy.
13. **Coordination with Education Providers:** Coordinate activities with education and training providers in the LWDA, including:
 - a. Reviewing applications to provide adult education and literacy activities under title II for the LWDA to determine whether such applications are consistent with the local plan;
 - b. Making recommendations to the eligible agency to promote alignment with such plan; and
 - c. Replicating and implementing cooperative agreements to enhance the provision of services to individuals with disabilities and other individuals, such as cross training of staff, technical assistance, use and sharing of information, cooperative efforts with employers, and other efforts at cooperation, collaboration, and coordination. *Cooperative agreement* means an agreement entered into by a State designated agency or State designated unit under subparagraph (A) of section 101(a)(11) of the Rehabilitation Act of 1973.
14. **Budget and Administration: In partnership with the CEO, develop a budget for the LWDB activities, and** Title I budget amounts for youth and adult and dislocated worker career services. The local grant recipient or an entity designated as the grant recipient shall disburse the grant funds for workforce development activities at the direction of the LWDB. The local grant recipient or entity designated as grant recipient shall disburse the funds immediately on receiving such direction from the LWDB.
15. **Accessibility for Individuals with Disabilities:** Assess, on an annual basis, the physical and programmatic accessibility of all one-stop centers in the LWDA, in accordance with WIOA section 188, if applicable, and applicable provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*).
16. **ARIZONA@WORK Job Center Certification:** Certification of ARIZONA@WORK job centers in accordance with Certification of ARIZONA@WORK Job Center Policy.

VII. LWDB RECRUITMENT PROCESS: The LWDB is appointed by the CEO in each LWDA in accordance with State criteria and is certified by the Governor every two years. The nomination and appointment process must be documented in the Bylaws and local shared governance agreement between the LWDB and the CEO.

If local conditions (for example, but not limited to, a rural area with fewer options available) make it impossible for a LWDA to fully comply with all of the membership criteria for the LWDB, the CEO may request a waiver in writing to the Workforce Arizona Council Project Manager for a specific membership type with an explanation of why this membership type cannot be filled in the LWDA and a suggested alternative to comply.

VIII. LWDB CERTIFICATION:

A. Local Board initial certification. For newly created LWDBs, the Council will evaluate the composition of the LWDB to determine compliance with the membership criteria identified in this policy, which is consistent with WIOA membership requirements, and recommend certification to the Governor.

B. Local Board Recertification.

1. Recertification will be conducted by the State once every two years. To be recertified, the LWDB composition must meet all membership requirements, the local workforce system activities comply with required LWDB responsibilities and enable the LWDA to meet local performance accountability measures and any prescribed outcomes as outlined in the local grant agreement, and sustain fiscal integrity.

If a LWDB meets all membership requirements, but fails to meet all performance measures and outcomes, certification will 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 and membership composition. If this review shows the LWDB is meeting all performance measures and outcomes, a two-year certification will be granted.

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

C. Decertification.

1. A LWDB is subject to decertification under the following conditions:
 - a. Fails to meet all LWDB certification requirements; or
 - b. Fails to carry out required functions of the LWDB in WIOA; or
 - c. Fraud or abuse; or
 - d. Fails to meet the local performance accountability measures for two consecutive program years.
2. If a LWDB has been placed on a one-year review period due to a lack of meeting all performance measures and outcomes, and fails to meet performance measures and outcomes for a second-year, the LWDB may be decertified.
3. A written notice and opportunity for comment will be provided prior to

decertification.

4. If a LWDB is decertified, the Governor reserves the right to:
 - a. Require a new LWDB be appointed for the LWDA pursuant to a reorganization plan developed by the Governor, in consultation with the CEOs.
 - b. In consultation with the CEOs, redesignate a local workforce development area.

IX. LWDB CONDUCTS BUSINESS OPENLY: The LWDB must conduct its business in an open manner by making available to the public, on a regular basis through electronic means and open meetings, information about the activities of the LWDB). The LWDB also must comply with Arizona's Open Meeting Law (A.R.S. Title 38, Chapter 3, Article 3.1) and Sunshine Provision, and post the required information on the State's ARIZONA@WORK website (<https://arizonaatwork.com>) either by direct download or linkage to the LWDB website.

The required information includes:

- a. Information about the Local Plan, or modification to the Local Plan, before submission of the plan;
- b. List and affiliation of LWDB members;
- c. Selection of one-stop operators;
- d. Award of grants or contracts to one stop operators, fiscal agents, service providers, eligible training providers;
- e. Minutes of formal meetings of the Local WDB; and
- f. LWDB Bylaws.

X. LWDB MEMBERSHIP: The Council requires the following composition for each LWDB:

- A. The majority of the members of the LWDB must be representatives of business in the LWDA. At a minimum, two members must represent small business as defined by the U.S. Small Business Administration. Business representatives serving on local workforce development boards may also serve on the State Board. Each business representative must meet the following criteria:
 1. Be owners of businesses, chief executives or operating officers of businesses, or other business executives or employers with optimum policymaking or hiring authority;
 2. Provide employment opportunities in in-demand industry sectors or occupations, and provide high-quality, work-relevant training and development opportunities to its workforce or the workforce of others (in the case of organizations representing business; and
 3. Be appointed from among individuals nominated by local business organizations

and business trade associations;

A representative with *optimum policy-making authority* is 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.

An *in-demand industry sector or occupation* means:

- a. An industry sector that has a substantial current or potential impact (including through jobs that lead to economic self-sufficiency and opportunities for advancement) on the State, regional, or local economy, as appropriate, and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors; or
- b. An occupation that currently has or is projected to have a number of positions (including positions that lead to economic self-sufficiency and opportunities for advancement) in an industry sector so as to have a significant impact on the State, regional, or local economy, as appropriate.

The determination of whether an industry sector or occupation is in-demand shall be made by the State or LWDB, as appropriate, using State and regional business and labor market projections, including the use of labor market information.

- B. Not less than 20 percent of the members of each LWDB must be representatives of the workforce. These representatives:
 1. Must include two or more representatives of labor organizations who have been nominated by local labor federations, or other representatives of employees (for areas where labor organizations do not exist);
 2. Must include one or more representatives (must be a training director or a member of a labor organization) of a joint labor-management, or union affiliated, registered apprenticeship program within the area. 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 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
 4. 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.
- C. The balance of membership for each LWDB must include:
 1. At least one eligible provider administering adult education and literacy activities under WIOA title II. When there is more than one LWDA provider of adult education and literacy activities under title II, nominations are solicited from

those particular entities;

2. At least one representative from an institution of higher education providing workforce development activities, including community colleges. When there are multiple institutions of higher education providing workforce development activities nominations are solicited from those particular entities; and
 3. At least one representative from each of the following governmental and economic and community development entities:
 - a. Economic and community development entities;
 - b. The state Employment Service Office under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) serving the LWDA; and
 - c. The programs carried out under title I of the Rehabilitation Act of 1973, other than section 112 or Part C of that title.
- D. In addition to the representatives enumerated above, the CEO may appoint other appropriate entities in the LWDA, 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 LWDA; and
 4. Other appropriate individuals as determined by the CEO, provided the individuals meet all other board member eligibility requirements established in this policy.

XI. OTHER LWDB REQUIREMENTS

- A. **Policymaking Authority of LWDB Members:** Members of the LWDB that represent organizations, agencies, or other entities shall be individuals with optimum policymaking authority within the organizations, agencies, or entities. Optimum policymaking authority is defined as an individual in leadership, management, supervisory positions, or individuals nominated in writing by select entities, who can reasonably be expected to speak affirmatively on behalf of the entity they represent and to commit that entity to a chosen course of action. Such authority is limited for the purpose of membership on the LWDB, and does not supersede an entity's fiscal authority requirements and policymaking approval process.
- B. **Prohibited LWDB Members:** The LWDB must not include members who are staff to the LWDB, staff or board members of the one stop operator, and/or WIOA Title IB adult, dislocated worker, and youth providers, or staff of the grant recipient/administrative entity or fiscal agent.
- C. **Authority to Hire LWDB Staff:** WIOA grants the LWDB authority to hire a director and other staff to assist in carrying out the functions of the LWDB.
 1. LWDBs must establish and apply a set of qualifications for the position of director

that ensures the individual selected has the requisite knowledge, skills, and abilities to meet identified benchmarks and to assist in carrying out the functions of the LWDB.

2. The LWDB director and staff must be subject to the limitations on the payment of salary and bonuses described in WIOA.
 3. In general, LWDB staff only may assist the LWDB to fulfill its functions.
- D. **Diverse Geographic Areas Represented:** The members of the LWDB shall represent diverse geographic areas within the LWDA.
- E. **Represent Multiple Entities:** An individual may be appointed as a representative of more than one entity if the individual meets all the criteria for representation for each entity.
- F. **LWDB Chair:** The members of the LWDB must elect a chairperson from among the business representatives on the board.
- G. **Voting Privilege:** All required board members must have voting privilege. The CEO may convey voting privileges to non-required members.
- H. **Standing Committees:** The LWDB may establish and direct the activities of standing committees to provide information and assist the Board in carrying out its responsibilities. Such standing committees must be chaired by a member of the LWDB, may include other members of the LWDB, and must include other individuals appointed by the LWDB who are not LWDB members and who the LWDB determines have appropriate experience and expertise.

Standing committees may include each of the following:

1. A standing committee to provide information and assist with operational and other issues relating to the one-stop delivery system, which may include representatives of the one-stop partners.
2. A standing committee to provide information and to assist with planning, operational, and other issues relating to the provision of services to youth, which must include community-based organizations with a demonstrated record of success in serving eligible youth.
3. A standing committee to provide information and to assist with operational and other issues relating to the provision of services to individuals with disabilities. This includes issues relating to compliance with WIOA section 188, if applicable, and applicable provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101) programmatic and physical access to the services, programs, and activities of the one-stop delivery system, as well as appropriate training for staff on providing supports for or accommodations to, and finding employment opportunities for, individuals with disabilities.
4. The LWDB may designate other standing committees in addition to those specified in items 1-3 of this section.
5. LWDBs may designate an entity in existence as of the date of the enactment of WIOA, such as an effective youth council, to serve as a standing committee as

long as the entity meets the requirements of WIOA.

- I. **Bylaws:** The CEO must establish the initial bylaws for the LWDB in accordance with State policy and applicable local, state and federal laws (20 CFR 679.310). The shared governance agreement between the CEO and the LWDB must identify any role the CEO has delegated to the LWDB for amending the bylaws. At a minimum, the bylaws must address the following:

1. **Establishment.** A statement that the LWDB is established in accordance with WIOA Section 107.
2. **Name.** The name of the LWDB.
3. **Purpose.** The vision and purpose for the establishment of the LWDB.
4. **Duties and responsibilities.** Acknowledge the duties and responsibilities of the LWDB, and the shared governance agreement between the CEOs and the LWDB.

The bylaws must also describe the process to ensure LWDB 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.

5. **Membership.** A description of membership as outlined in WIOA and in the shared governance agreement between the CEOs and the LWDB. The description must also include the term limitations and how the term appointments will be staggered to ensure only a portion of the membership expires in a given year .

The bylaws must also describe the process to notify the CEO of a LWDB member vacancy to ensure a prompt replacement nominee.

6. **Local Board chair election.** A description of the process used to elect a LWDB chair, including term details.
7. **Election of officers.** A description of the process used to elect officers, officer positions, terms, removal of officers, and specific officer roles and responsibilities.

8. Meetings.

- a. Information on how often LWDB and committee meetings will be held;
- b. Acknowledgement of open meeting requirements and compliance;
- c. A description of the process of announcing regular and special meetings;
- d. Acknowledgement that a quorum must consist of at least a simple majority of the currently appointed membership; and
- e. Clarification as to whether phone and web-based meetings will be permitted.

9. **Delegation of Local Board duties.** Acknowledge that LWDB members will not be permitted to delegate any LWDB duties to proxies or alternates.

10. Committees. A list of standing committees including the descriptions for each and composition, and description of the process for creating ad hoc committees.

11. Conflict of interest. Acknowledgement that LWDB members must adhere to the requirements stated in the Council Conflict of Interest Policy including:

- a. A LWDB member may 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.
- b. A LWDB member must avoid even the appearance of a conflict of interest. Prior to taking office, LWDB members must provide to the LWDB chair a written declaration of 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 30 days to reflect any changes in such business interests or relationships. The LWDB must appoint an individual to review the disclosure information in a timely manner and advise the LWDB chair and appropriate members of potential conflicts.
- c. Prior to a discussion, vote, or decision on any matter before a LWDB, if a member, or a person in the immediate family of such member, has a substantial interest in or relationship to a business entity, organization, or property that would be affected by any official LWDB action, the member must disclose the nature and extent of the interest or relationship and must abstain from discussion and voting on or in any other way participating in the decision on the matter. All abstentions must be recorded in the minutes of the LWDB meeting and be maintained as part of the official record.
- d. It is the responsibility of the LWDB members to monitor potential conflict of interest and bring it to the LWDB's attention in the event a member does not make a self-declaration.
- e. In order to avoid a conflict of interest, a LWDB must ensure that the LWDB's workforce service providers for WIOA Title IB adult, dislocated worker, and youth programs must not employ or otherwise compensate a current LWDB member or LWDB employee who is employed or compensated by the LWDB or its administrative entity, fiscal agent, or grant recipient to support the LWDB in carrying out its duties.
- f. A LWDB must ensure that the LWDB, its members, or its administrative staff do not have any supervisory responsibility for the daily activities of its workforce service providers, workforce system partners or contractors. There must be complete separation between governance functions and operating functions within an organization including different reporting structures.
- g. LWDB members or their organizations may receive services as a customer of a local workforce service provider or workforce system partner.

12. Conflict resolution. A detailed procedure for the LWDB to follow in regards to

conflict that may arise among, but not limited to;

- a. Board members;
- b. Service delivery partners;
- c. Consortium partners.

13. Compensation and reimbursement of expenses. A description of the policy on compensating LWDB members and reimbursing expenses.

14. Amendment. A description of the process for amending the bylaws.

15. Compliance with law. Acknowledgement stating, in execution of its business, the LWDB must comply with the WIOA and regulations as well as policies and directives from DES and the Council.

XII. LWDA DESIGNATION REQUEST

A. A new or existing (areas previously designated under WIA) LWDA must request designation as a LWDA in writing to the Governor's Office. The written request or petition must include:

1. A CEO Official Agreement for Consortia as described in this policy, (if applicable);
2. For newly configured LWDAs, a narrative regarding how the area meets the considerations outlined in Section 106(b)(1)(B);
3. For existing workforce areas, certification that the area performed successfully and sustained fiscal integrity for the 2-year period preceding enactment of WIOA (July 1, 2012-June 30, 2014);
4. A list of LWDB members, to include composition categories and contact information;
5. Identification of grant recipient/fiscal agent and signature of lead official;
6. Documentation that public input was solicited and any comments received; and
7. Signatures of CEOs from the petitioning counties.

B. Written requests from LWDAs will be received and reviewed according to the following process:

1. All formal written requests (including *Workforce Development Area Designation Petitions*) must be submitted to the Governor's Office with a copy to the Workforce Arizona Council Project Manager and DES.
2. Petitions will be reviewed by the Executive Committee of and the full Workforce Arizona Council.
3. A public comment period will be advertised and commence with opportunity for comment by representatives of LWDBs, CEOs, businesses, institutions of higher education, labor organizations, other primary stakeholders, and the general public regarding the designation of the LWDA.

4. After the required public comment period, the Council will make a recommendation to the Governor.
5. Final designation of LWDA's will be made by the Governor.

XIII. LWDA DESIGNATION

- A. **LWDA Designation:** WIOA requires that the Governor designate LWDA's based on consideration of the extent to which the areas:
 1. Are consistent with the labor market;
 2. Are consistent with regional economic development within the State; and
 3. Have available Federal and non-Federal resources necessary to effectively administer activities and provisions required by WIOA, including whether the areas have the appropriate education and training providers, such as institutions of higher education and area career and technical education schools.
- B. **Newly Configured Workforce Areas:** The Governor may approve a request from any unit of general local government (including a combination of such units) for designation as a local workforce development area if the Council determines, based on the considerations described above, and recommends to the Governor, that such area should be designated.
- C. **Existing Workforce Areas:** The Governor will approve a request for re-designation as a local workforce development area from any area that was designated as a LWDA for the two-year period preceding enactment of WIOA, performed successfully, and sustained fiscal integrity. Re-designation will be for a period of two years.

Per Section 106(e)(1), the term *performed successfully* means the LWDA met or exceeded the established levels of performance for each of the last two consecutive years for which data are available.

Per Section 106(e)(2), the term *sustained fiscal integrity* means that the Secretary has not made a formal determination, during either of the last two consecutive years, that either the grant recipient or the administrative entity of the area mis-expended funds provided under WIA due to willful disregard of the requirements of the provision involved, gross negligence, or failure to comply with accepted standards of administration.

- D. **Appeals:** If an existing workforce area requests but is not granted designation as a local workforce development area, the unit of general local government (including a combination of such units) or grant recipient may submit a written appeal to the Council within 20 days of receiving written denial notification. Appeals submitted after this time will not be considered.

The appealing entity must explain why it believes the denial is contrary to the provisions of WIOA. No other cause for appeal will be considered. The Council must consider and respond in writing to such an appeal within 20 days of its receipt.

If the petitioning entity is again denied such designation, further appeal to the Secretary of Labor may occur if the entity alleges that the area meets the requirements of WIOA or that the entity was not afforded procedural rights under the State appeal process described herein.

All such appeals to the Secretary must be submitted within 15 days of receipt of the notification of denial by the Council on behalf of the Governor. The appealing entity must simultaneously notify the Governor and the Council of such an appeal to the Secretary. The Secretary will make a final decision within 30 days after the appeal is received. The Secretary will notify the Governor and the appellant in writing of the Secretary's decision.

CONTACT ENTITY: Inquiries regarding this policy should be directed to the Workforce Arizona Council staff at Workforce.Council@oeo.az.gov