



Workforce Issuance

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Policy Information

To: Chief Elected Officials
MassHire Workforce Board Chairs
MassHire Workforce Board Directors
MassHire Career Center Directors
MassHire Fiscal Officers
MassHire DCS Operations Managers

cc: WIOA State Partners

From: Diane Hurley, Acting Director
MassHire Department of Career Services

Date: December 22, 2023

Subject: **MassHire Workforce Board Certification Guidance – Revision**

Purpose: The purpose of this guidance is to provide MassHire Workforce Boards (MWB) with instruction for the preparation of the MWB Certification package related to the programs and services provided through the Workforce Innovation and Opportunity Act (WIOA) and other programs as designated by the Commonwealth.

The purpose of this revision is to correct the timing of workforce board certification that was indicated in the prior version of this guidance.

In the attempt to move board certification from a federal fiscal year to a calendar year cycle, the calendar year, as stated, inadvertently provided a three-year certification. This is updated in this policy and the update will also be reflected in a revision of each board's individual certification letter.

In order to bring Massachusetts board certification into alignment with the DOL 2-year requirement, MDCS extends the current certification, which would

technically expire on December 31, 2023 (not 2024 as stated), to June 30, 2024. This continuation of current certifications will provide time to properly conduct the certification process without disruption to the board's current status.

Background: The Workforce Innovation and Opportunity Act of 2014, Section 107, requires the establishment of a Local Workforce Development Board (LWDB) in each local area of a state. The LWDB is appointed by the Chief Elected Official (CEO) in each local area in accordance with State criteria established under WIOA 107(b) and is certified by the Governor every two years {WIOA 107(c)(2)}. The LWDB serves as a strategic convener to promote and broker effective relationships between the Chief Elected Official(s) and economic, education and workforce partners. The board partners with employers and workforce system partners to develop policies supportive of regional economies, and to advance effective workforce development approaches, including local and regional sector partnerships, development of career pathways and high quality customer-centered service delivery.

The purpose of the local workforce board is to:

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

LWDBs must be certified by the Governor and will set policy for the workforce development system within the locally defined area. The MassHire Workforce Board (MWB) provides local and regional intelligence that informs the statewide workforce development system that is aligned with state education policies and economic development goals. The Governor, in partnership with the MWBs, establishes criteria for use by local area Chief Elected Officials (CEO) for appointment of members to the MWB in accordance with the requirements set forth by federal law, the Governor and the MWBs.

The MWB Certification Policy presents a measurable set of statewide standards intended to demonstrate the continual growth and responsiveness of the MassHire Workforce Development System.

This Policy outlines MWB Certification guidance to submit documentation of completed products and/or actions to the MassHire Department of Career Services (MDCS).

This Policy document provides instructions and guidance for the completion of the MWB Certification process including membership criteria established by WIOA and additional required criteria established by the Commonwealth in accordance with which Massachusetts MWBs will be organized and certified.

Policy: The certification requirements described herein shall be met by each MassHire Workforce Board in the Commonwealth that serves as the Local Workforce Development Board under WIOA, based upon the Workforce Innovation and Opportunity Act of 2014 and this policy.

Certification Requirements

- I. MWB Membership Matrix/Template
- II. MWB/CEO Agreement
- III. MWB By-Laws
- IV. Articulation of Status - Information Regarding 501(c)(3)
- V. Organizational Charts (2)
- VI. MWB Certification High-Performance Template Responses
- VII. Signatures

Action

Required: Please submit a copy of the board membership matrix in its current state by January 31, 2024. MDCS will review and provide feedback to inform the new certification (June 2024). Please email your current membership matrix to: Lisa.J.Caissie@mass.gov.

Guidance will be forthcoming for the MassHire Workforce Board new certification period that will begin July 1, 2024.

Attachments:

- A. Assurances
- B. Decertification – Failure to Meet Performance WIOA Rule
- C. Definitions
- D. MWB/CEO Agreement Template
- E. MWB Certification High Performance Criteria Response Template
- F. MWB Membership Matrix/Template
- G. MWB Certification Package Signature Form/Contact Sheet
- H. Submission Checklist

Effective: This policy is effective immediately. MWB Certification remains effective through June 30, 2024.

Inquiries: Please email all questions to PolicyQA@mass.gov . Also, indicate Issuance number and subject.

MassHire Workforce Board Certification Guidance

I. MEMBERSHIP

A. Board Member Nomination and Appointment

The nomination process assures that all nominations are submitted to the Chief Elected Official (CEO) in accordance with the WIOA Regulations at 20 CFR Section 679.310 that state: *The Local Board is appointed by the chief elected official(s) in each local area in accordance with State criteria established under WIOA section 107(b), and is certified by the Governor every two years, in accordance with WIOA section 107(c)(2).*

Members who represent organizations, agencies or other entities must be individuals with optimum policy-making authority within the entities that they represent.

Note: Letters of nomination for all voting members must be kept on file locally by the MWB.

For each local area in the state, the members of the MWB must be selected by the CEO consistent with criteria established under WIOA sec. 107(b)(1) and 20 CFR §679.320 as well as criteria established by the Governor, and must meet the requirements of WIOA sec. 107(b)(2):

- A majority of the members of the MWB must be representatives of business in the local area. At a minimum, two members must represent small business as defined by the U.S. Small Business Administration. 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 and development in in-demand industry sectors or occupations in the local area; and
 - are appointed from among individuals nominated by local business organizations and business trade associations (WIOA sec. 3(23), §679.320 (b)(1 & 2)).

Note: business representatives serving on local MassHire Boards may also serve on the MassHire State Board.

- At least 20 percent of the members of the MWB must be workforce representatives.
 - Workforce representatives must include two or more representatives of labor organizations, where such organizations exist in the local area. Where labor organizations do not exist, representatives must be selected from other employee representatives;

- Must include one or more representatives from a Registered Apprenticeship (RA) program. WIOA stipulates that membership must come from a joint-labor management RA program. The program must be registered with the USDOL Office of Apprenticeship or with the State Apprenticeship Agency (Massachusetts Department of Apprentice Standards (DAS)). The Registered Apprenticeship representative must be a member of a labor organization or a training director of the joint program. If there are no joint labor-management RA programs in the state, the local Chief Elected Official (CEO) should appoint a representative from a non-union RA program. The apprenticeship representative should have optimum decision-making capacity. Representatives from the SAA and the USDOL Office of Apprenticeship cannot serve in this capacity; they can, however, serve as advisors to the MWB and work in a non-official capacity;
 - May include 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 support for competitive integrated employment for individuals with disabilities; and
 - May include 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.
- The MWB must also include:
- 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 development 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 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 sec. 112 or part C of that Title
- The membership of MWB may include individuals or 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.
- Chief Elected Officials must establish a formal nomination and appointment process, consistent with the criteria established by the Governor and State Board under sec. 107(b)(1) of WIOA for appointment of members of the MassHire Boards, that ensures:
- Business representatives are appointed from among individuals who are nominated by local business organizations and business trade associations;
 - Labor representatives are appointed from among individuals who are nominated by local labor federations (or, for a local area in which no employees are represented by such organizations, other representatives of employees); and
 - 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 sec. 107(b)(6)).
- An individual may be appointed as a representative of more than one entity if the individual meets all the criteria for the representation, including the criteria described above, for each entity that they represent.
- All required MWB members must have voting privilege. The CEO may convey voting privileges to non-required members.

B. Terms of Appointment

The term of appointment for the business members of the MWB must be constructed in such a way that not all appointments expire in the same calendar year.

C. Membership Requirements

The MassHire Workforce Board assures compliance with the following membership requirements:

- MassHire Workforce Board members appointed by the Chief Elected Official as required under the Workforce Innovation and Opportunity Act shall constitute the official voting membership of the Board.
- At least 51% of the members of the MWB will be appointed from businesses which are representative of the primary employers in the region as described in Section 1A.
- The MWB chairperson shall be elected from among the business representatives on the board (WIOA sec. 107(b)(3) and section 117(b)(2)(A)).

- The balance of the membership shall represent education, economic development, organized labor, community based agencies, and the MassHire Career Center partners as described in Section 1B.

Note: Any program or activity that may have multiple grant recipients, administrative entities or organizations responsible for administering its funds in the local area that is a required partner in the MassHire (One-Stop) system, is entitled to **one seat** on the MWB.

D. Membership Vacancies

All membership vacancies or changes in the membership matrix must be filled within 90 calendar days with the exception that all vacancies of MassHire Career Center partner organizations must be filled within 60 calendar days.

Following any membership changes a revised membership matrix must be submitted to the MassHire Department of Career Services, to Lisa.J.Caissie@mass.gov.

E. Membership Matrix

The MWB Membership Matrix requires entry of each member's name and title, organization they represent, the local city or town in which the member's organization is located and the start and end date of the individual's membership term.

For business members, the MWB Membership Matrix template also requires an entry of the type of business the member represents, as well as the number of employees in the member's business (the total should reflect only the number of employees for sites located within the MassHire workforce development area). For business members who are from business membership organizations or business trade associations that qualify the individual for board membership as a business representative, the matrix should indicate the total number of its member organizations that are located within the MassHire workforce development area.

Please complete and submit the Membership Matrix located in Attachment G.

II. MWB/CEO AGREEMENT

The governance and operation of the MassHire Workforce Development System is contingent on a successful partnership between the Chief Elected Official and the MWB related to their respective roles that are outlined in the agreement between the CEO and the MWB. In furtherance of the Workforce Innovation and Opportunity Act and Regulations, the Commonwealth requires the completion of an MWB/CEO agreement. The Agreement serves to clarify and facilitate the delivery of comprehensive workforce development services for individuals and employers within the MassHire Workforce Development area. **The MWB By-Laws may not alter or circumvent this agreement.**

The MWB/CEO Agreement should describe the local workforce organizational design and the functions that each entity will assume related to its statutory and locally agreed upon responsibilities, as well as the communication process that will be used to ensure that the goals and objectives outlined in the Local Plan and the Workforce Innovation and Opportunity Act are achieved.

The recipient of the funds is responsible for all funds under its grant(s) awarded under WIOA Title I and the Wagner-Peyser Act. (20 CFR § 683.710)

The local government's chief elected official(s) in a MassHire workforce development area is liable for any misuse of the WIOA grant funds allocated to the local area under WIOA sections 128 and 133, unless the chief elected official(s) reaches an agreement with the Governor to bear such liability.

When a MassHire workforce area or region is composed of more than one unit of general local government, the liability of the individual jurisdictions must be specified in a written agreement between the chief elected officials.

When there is a change in CEO(s), the MWB is required to inform the new CEO(s), in a timely manner, of their responsibilities and liabilities as well as the need to review and update any written agreements among the CEO(s).

The use of a fiscal agent does not relieve the CEO of responsibility for any misuse of grant funds allocated to the local area under WIOA sections 128 and 133.

MWBs are required to submit a current, fully executed MWB/CEO Agreement as a component of the MassHire Workforce Board Certification package.

The MWB/CEO Agreement template is located in Attachment D.

Changes to the MWB/CEO Agreement:

The MWB/CEO Agreement must cover, at a minimum, the new two-year certification period. In order to remain a valid document, the Agreement must be modified if any of the following conditions change:

- ✓ There is a new Chief Elected Official
- ✓ There has been a change in the entity named to assist in the administration of the grant funds, to act as the local grant sub-recipient or local fiscal agent
- ✓ The term of the document has expired or has not been properly modified

Changes or modifications to the MWB/CEO Agreement must be submitted to the MassHire Department of Career Services. Please send a signed electronic copy to Lisa.J.Caissie@mass.gov.

III. MWB BY-LAWS

The MWB must submit its current by-laws. The by-laws must have been approved by full-board vote in advance of the date of submission of the MWB Certification Package.

A copy of the minutes of the Board meeting at which the by-laws were voted on and adopted should be attached.

WIOA §679.310 (g):

The CEO must establish by-laws, consistent with State policy for MWB membership, that at a minimum address:

1. The nomination process used by the CEO to select the MWB 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 CEO of a MWB member vacancy to ensure a prompt nominee.
4. The proxy and alternative designee process that will be used when a MWB 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 MWB member participation.
6. The process to ensure MWB 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; and
7. A description of any other conditions governing appointment or membership on the MWB as deemed appropriate by the CEO.

IV. 501(c)(3) STATUS

The Board must include as part of its MWB Certification package a statement articulating its current status with respect to Section 501 (c)(3) of the Internal Revenue Code for non-profit organizations. Incorporation under Section 501 (c)(3) expands the board's capacity to seek additional sources of funding from private resources. The Corporate name and date of filing of the Articles of Incorporation must be provided.

V. ORGANIZATIONAL CHARTS

The MWB Certification submission package must include two (2) organizational charts:

1. **MassHire Workforce Board Organizational Chart** identifying its committee/sub-committee structure, staffing structure, etc.
2. **MassHire Workforce Development System Organizational Chart** that depicts the local area's workforce development system governance structure.

Note: A clear firewall between local oversight and the delivery of services *must* be evident in either the governance chart or in an accompanying narrative description.

VI. MASSACHUSETTS MWB CERTIFICATION STANDARDS

The MassHire Workforce Board's (MWB) WIOA Steering Committee established several subcommittees and workgroups to address key priorities, strategies, and policies pursuant to the implementing provisions of the Workforce Innovation and Opportunity Act (WIOA).

The Massachusetts Workforce Development Board (MWDB) Certification Standards Workgroup, comprised of 13 representatives of Workforce Boards, Career Centers, Community Colleges, Vocational Rehabilitation (MRC and MCB), Adult and Community Learning Services, public education and Commonwealth Corporation and staffed by EOLWD/MDCS, worked together to develop workforce board certification standards built upon the Massachusetts High-Performance Board standards to continue the standards of excellence for Massachusetts Workforce Boards under WIOA.

The MWB Certification High Performance Criteria Response Template is included in Attachment E.

Non-Final