

Local Workforce Development Board (LWDB)/ Chief Elected Official (CEO) Agreement (Template)

On July 22, 2014, the Workforce Innovation and Opportunity Act (WIOA) was signed into law (Public Law 113-128) and constituted a comprehensive reform legislation that superseded the Workforce Investment Act of 1998 (WIA) and amended the Wagner-Peyser Act. The WIOA also contains the Adult and Family Literacy Act (Title II) and the Rehabilitation Act Amendments of 1998 (Title IV).

WIOA was written to provide workforce investment activities, through statewide and local workforce development systems, that increase employment, retention, and earnings of participants, and increase attainment of recognized postsecondary credentials by participants, and as a result, improve the quality of the workforce, reduce welfare dependency, increase economic self-sufficiency, meet the skill requirements of employers, and enhance the productivity and competitiveness of the Nation.

The governance and operation of the Local Workforce Development System is contingent on a successful partnership between the Chief Elected Official and the Local Workforce Development Board (LWDB) related to their respective roles which are outlined in the agreement between the Chief Elected Official and the Local Workforce Development Board. In accordance with the Workforce Innovation and Opportunity Act and regulations, the following template is provided to ensure that the necessary regulatory and operational elements are described, included and understood by both parties. This will facilitate the delivery of optimal workforce development services for individuals and employers within the Workforce Development Area. **The LWDB by-laws may not alter or circumvent this agreement.**

The LWDB/CEO Agreement Template describe the local workforce organizational design and the functions that each entity will assume related to its statutory and locally agreed upon responsibilities and the communication process that will be used to ensure that the goals and objectives outlined in the comprehensive 4 year Local Plan as well as the Workforce Innovation and Opportunity Act are achieved.

The LWDB/CEO Agreement is not intended to serve as a detailed planning document. The Local Plan is the document in which the LWDB and CEO will describe work plans, timelines and performance goals related to the direct delivery of workforce development services and activities within the region.

Changes to the Agreement:

The LWDB/CEO Agreement must cover the new two-year Workforce Development Board 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 Agreement must be submitted to:

The Department of Career Services, Charles F. Hurley Building, 19 Staniford Street, 1st floor, Boston, MA 02114 to the attention of Lisa Caissie at Lisa.J.Caissie@MassMail.State.MA.US.

This Agreement, effective XXXX, is by and between the Chief Elected Official, who is the authorized representative of the units of general local government within the XXXX Workforce Development Area, and the XXXXX Workforce Development Board.

All parties agree to their respective roles and responsibilities in filling the requirements of the Workforce Innovation and Opportunity Act as detailed in this agreement.

It is mutually agreed by the Chief Elected Official who is the authorized representative of local government within the XXXX Workforce Development Area and the XXXX Workforce Development Board that the following apply:

JOINT FUNCTIONS OF THE CEO & LOCAL BOARD (20 CFR §679.310 and 679.370)

- The Local Board shall develop a budget for the purpose of carrying out the duties of the local Board. The Chief Local Elected Officials must approve the budget. (679.370)
- The Local Board, in partnership with Chief Local Elected Officials, shall develop the vision, goals, objectives, and policies for the local workforce development area. The vision should be aligned with both the economic development missions for the local area and Massachusetts Workforce Development Boards' goal. (679.310)
- The Local Board, in partnership with the Chief Local Elected Officials, shall develop and submit to the Governor, a local strategic plan that meets the requirements in Section 108 of the Workforce Innovation and Opportunity Act. (679.310 & 679.370)
- The Local Board, with the agreement of the Chief Local Elected Officials, shall designate or certify one-stop operator(s) and may terminate for cause the eligibility of one-stop operators. [679.370 (k) – Negotiate with CEO and required partners on the methods for funding the infrastructure costs of one-stop centers in the local area in accordance with §678.715 of this chapter or must notify the Governor if they fail to reach agreement at the local level and will use a State infrastructure funding mechanism.]
- The Local Board, in partnership with the Chief Local Elected Officials, shall conduct oversight with respect to local programs of youth (under the WIOA sec. 129(c)), adult, and dislocated worker employment and training activities under WIOA secs. 134(c) and (d), and the entire one-stop delivery system in the local area. (679.370)
- The Local Board, in partnership with the Chief Local Elected Officials, will ensure the appropriate use management, and investment funds to maximize performance outcomes under WIOA sec. 116. (679.370)
- Negotiate and reach agreement on local performance indicators. (679.370)

FUNCTIONS OF THE CHIEF ELECTED OFFICIAL (CEO) (§679.310, 320, 350)

“The term chief elected official means—(A) the chief elected executive officer of a unit of general local government in a local area; and (B) in a case in which a local area includes more than one unit of general local government, the individuals designated under the agreement described in section 107(c) (1) (B).” (WIOA Section 3 (9))

1. Appoints the Local WDB in each local area in accordance with State criteria established under WIOA sec. 107(b) and is certified by the Governor every 2 years, in accordance with WIOA sec. 107(c)(2). (679.350)
2. The chief local elected official must establish by-laws, consistent with State policy for Local Board membership, that at a minimum address:
 - (1) The nomination process used by the chief local elected official to elect the Local Board 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 official 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 official
3. Chief Elected Official selects Local WDB members through an established formal nomination consistent with criteria established under WIOA sec. 107(b)(1) and the criteria established by the Governor, and must meet the requirements of WIOA sec. process 107(b)(2). (§679.320)
4. The Chief Elected Official may convey voting privileges to non-required WDB members. (679.320)
5. In workforce areas with more than one unit of local government the Chief Elected Official may execute an agreement that specifies the roles of the other individual Chief Elected Officials and ensure that all units of government in the workforce area participate in workforce development activities. (679.310)

FUNCTIONS OF LOCAL BOARD (WIOA Sec 107(d), 20 CFR §679 Subpart C)

Consistent with section 108, the functions of the local board shall include the following:

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1. Local Plan
2. Workforce Research & Regional Labor Market Analysis
3. Convening, Brokering, Leveraging
4. Employer Engagement
5. Career Pathways Development
6. Proven & Promising Practices
7. Technology
8. Program Oversight
9. Negotiation of Local Performance Accountability
10. Selection of Operators and Providers
11. Coordination w/Education Providers
12. Budget & Administration
13. Accessibility for Individuals w/Disabilities

(1) **Local Plan** – The Local Board, in partnership with the chief elected official for the local area involved, shall develop and submit a local plan to the Governor that meets the requirements in section 108. If the local area is part of a planning region that includes other local areas, the Local Board shall collaborate with the Local Boards and chief elected officials from such other local areas in the preparation and submission of a regional plan as described in section 106(c)(2).

(2) **Workforce Research and Regional Labor Market Analysis** – In order to assist in the development and implementation of the local plan, the Local Board shall –

(A) Carry out analyses of the economic conditions in the region, the needed knowledge and skills for the region, the workforce in the region, and workforce development activities (including education and training) in the region described in section 108(b)(1)(D), and regularly update such information;

(B) Assist the Governor in developing the statewide workforce and labor market information system described in section 15(e) of the Wagner-Peyser Act (29 U.S.C. 491-2(e)), specifically in the collection, analysis, and utilization of workforce and labor market information for the region; and

(C) Conduct such other research, data collection, and analysis related to the workforce needs of the regional economy as the board, after receiving input from a wide array of stakeholders, determines to be necessary to carry out its functions.

(3) **Convening, Brokering, Leveraging** – The Local Board shall convene local workforce development system stakeholders to assist in the development of the local plan under sections 108 and in identifying non-Federal expertise and resources to leverage support for workforce development activities. The Local Boards, including standing committees, may engage such stakeholders in carrying out the functions described in this subsection

(4) **Employer Engagement** – The Local Board shall lead efforts to engage with diverse range of employers and with entities in the region involved –

(A) to promote business representation on the Local Board;

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(B) to develop effective linkages w/employers in the region to support employer utilization of the local workforce development system & support local workforce investment activities;
(C) to ensure that workforce investment 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;
(D) to develop and implement proven or promising strategies for meeting the employment and skill needs of workers and employers (such as establishment of industry/sector partnerships), that provide the skilled workforce needed by employers in the region, and that expand employment and career advancement opportunities for workforce development system participants in in-demand industry sectors or occupations.

- (5) **Career Pathways Development** – The Local Board, with representatives of secondary and postsecondary education programs, shall lead efforts in the local area to develop and implement career pathways within the local area by aligning the employment, training, education, and supportive services that are needed by adults and youth, particularly individuals’ w/barriers to employment.
- (6) **Proven & Promising Practices** – The Local Board shall lead efforts in the local area to -
(A) identify and promote proven & promising strategies/initiatives for meeting the needs of employers, and workers and jobseekers to the one-stop delivery system;
(B) identify/disseminate information on proven & promising practices carried out in other local areas for meeting such needs.
- (7) **Technology** – The Local Board shall develop strategies for using technology to maximize the accessibility and effectiveness of the local workforce development system for employers, and workers and jobseekers by –
(A) Facilitating connections among the intake and case management information systems of the one-stop partner programs to support a comprehensive workforce development system in the local area;
(B) Facilitating access to services provided through the one-stop delivery system involved, including facilitating the access in remote areas;
(C) Identifying strategies for better meeting the needs of individuals w/barriers to employment...
(D) Leveraging resources and capacity within the local workforce development system, including resources and capacity for services for individuals w/barriers to employment.
- (8) **Program Oversight** – The Local Board, in partnership w/the CEO for the local area, shall –
(A) (i) conduct oversight for local youth workforce investment activities ...
(ii) ensure the appropriate use and management of the funds ...
(B) For workforce development activities, ensure the appropriate use, management, and investment of funds to maximize performance outcomes under section 116.
- (9) **Negotiation of Local Performance Accountability Measures** – The Local Board, the CEO, and the Governor shall negotiate and reach agreement on local performance accountability measures as described in section 116(c).

(10) Selection of Operators and Providers –

- (A) Selection of One-Stop operators – consistent w/section 121(d), the Local Board with the agreement of the CEO for the local area –
 - (i) Shall designate or certify one-stop operators...
 - (ii) May terminate for cause the eligibility of such operators
- (B) Selection of Youth Providers – consistent with section 123, the Local Board –
 - (i) Shall identify eligible providers of youth workforce investment activities in the local area by awarding grants or contracts on a competitive basis...
 - (ii) May terminate for cause the eligibility of such providers
- (C) Identification of Eligible Providers of training services...
- (D) Identification of Eligible Providers of Career Services...
- (E) Consumer Choice Requirements...

(11) Coordination With Education Providers –

- (A) In general – the local board shall coordinate activities w/education and training providers in the local area...
- (B) Applications and Agreements...
- (C) Cooperative Agreement...

(12) Budget and Administration –

- (A) Budget – The Local Board shall develop a budget for the activities of the Local Board in the local area, consistent with the local plan and the duties of the Local Board under this section, subject to approval of the CEO
- (B) Administration
 - (i) Grant Recipient
 - (I) In general – the CEO in a local area shall serve as the local grant recipient...
 - (II) Designation – In order to assist in admin of the grant funds, the CEO (or Governor) may designate an entity to serve as the local grant sub-recipient...
 - (III) Disbursal – Grant recipient/entity shall disburse the grant funds for workforce investment activities ...
 - (ii) Grants and Donations – The Local Board may solicit and accept grants and donations from sources other than Federal funds made available under this Act.
 - (iii) Tax-Exempt Status – For purposes carrying out duties under this Act, Local Boards may incorporate, and may operate as entities described in section 501(c)(3) of the Internal Revenue Code of 1986 that are exempt from taxation under section 501(a) of such Code.

(13) Accessibility for Individuals With Disabilities – The Local Board shall annually assess the physical and programmatic accessibility, in accordance with section 188, if applicable, 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.

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The Local Workforce Development Board satisfies the consumer choice requirements for career services and training services – (§679.380)

In accordance with WIOA sec. 122 and in working with the State, the Local WDB satisfies the consumer choice requirement for **training services** by:

- 1) Determining the initial eligibility of entities providing a program of training services, renewing the eligibility of providers, and considering the possible termination of an eligible training provider due to the provider's submission of inaccurate eligibility and performance information or the provider's substantial violation of WIOA;
- 2) Working with the State to ensure there are sufficient numbers and types of providers of training services (WIOA sec. 107(d)(10)(E);
- 3) Ensuring the dissemination and appropriate use of the State list through the local one-stop delivery system;
- 4) Receiving performance and cost information from the State and disseminating this information through the one-stop delivery systems within the State and;
- 5) Providing adequate access to services for individuals with disabilities.

Working with the State, the Local WDB satisfies the consumer choice requirement for **career services** by:

- 1) Determining the career services that are best performed by the one-stop operator consistent with §§678.620 and 678.625 of this chapter and career services that require contracting with a career service provider; and
- 2) Identifying a wide-array of potential career service providers and awarding contracts where appropriate including to providers to ensure:
 - i. Sufficient access to services for individuals with disabilities, including opportunities that lead to integrated, competitive employment for individuals with disabilities; and
 - ii. Sufficient access for adult education and literacy activities

The Local Workforce Development Board is to meet its requirement to conduct business in an open manner under the “sunshine provision” of WIOA (§679.390). The Local WDB must conduct its business in an open manner as required by WIOA sec. 107(e), by making available to the public, on a regular basis through electronic means and open meetings, information about the activities of the Local WDB. This includes:

- (a) Information about the Local Plan, or modification to the Local Plan, before submission of the plan
- (b) List and affiliation of Local WDB members
- (c) Selection of one-stop operators
- (d) Award of grants or contracts to eligible training providers of workforce investment activities including providers of youth workforce investment activities
- (e) Minutes of formal meetings of the Local WDB and
- (f) Local WDB by-laws, consistent with §679.310(g).

FUNCTIONS OF THE FISCAL AGENT (WIOA Sec 184 & 185, 20 CFR §679.420)

In order to assist in administration of the grant funds, the CEO may designate an entity to serve as a local fiscal agent. Designation of a fiscal agent does not relieve the CEO of liability for the

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misuse of grant funds. If the CEO designates a fiscal agent, the CEO must ensure this agent has clearly defined roles and responsibilities. In general the fiscal agent is responsible for the following functions:

- (1) Receive funds
- (2) Ensure sustained fiscal integrity and accountability for expenditures of funds in accordance with Office of Management and Budget circulars, WIOA and the corresponding Federal Regulations and State Policies
- (3) Respond to audit financial findings
- (4) Maintain proper accounting records and adequate documentation
- (5) Prepare financial reports
- (6) Provide technical assistance to subrecipients regarding fiscal issues

At the direction of the Local Board the fiscal agent may have the following additional functions:

- (7) Procure contracts or obtain written agreements
- (8) Conduct financial monitoring of service providers
- (9) Ensure independent audit of all employment and training programs

Local Governance Design and Structure (§679.400)

WIOA envisions a strong, cooperative partnership between the CEO and the LWDB which will allow each entity to act within its defined role to positively impact the local labor market and community. Through this agreement the respective roles and responsibilities will be clearly understood by each entity. This will enable the Local Board and the CEO to effectively manage and strengthen their partnership maximizing workforce development efforts in the region.

The creation of a clear governance structure at the local level should, therefore, be articulated in the responses to the following requested information related to the local organizational structure:

The Local Board may hire a director and other staff to assist in carrying out the functions of the Board using funds available under WIOA sections 128(b) and 133(b) as described in section 128(b)(4). (WIOA Sec 107(f))

Local WDBs 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 Local WDB.

The Local WDB director and staff must be subject to the limitations on the payment of salary and bonuses described in WIOA sec 194(15).

In general, Local WDB staff only may assist the Local WDB fulfill the required functions at WIOA sec. 107(d).

As applicable, should the WDB select an entity to staff the WDB that provides additional workforce functions beyond the functions described at WIOA sec. 107(d), such an entity is required to enter into a written agreement with the Local WDB and CEO(s) to clarify their roles and responsibilities as required by §679.430.

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Local organizations often function simultaneously in a variety of roles, including local fiscal agent, Local WDB staff, one-stop operator, and direct provider of services. Any organization that has been selected or otherwise designated to perform more than one of these functions must develop a written agreement with the Local WDB and CEO to clarify how the organization will carry out its responsibilities while demonstrating compliance with WIOA and corresponding regulations, relevant Office of Management and Budget circulars, and the State's conflict of interest policy. (§679.430)

Conflict of Interest (WIOA Sec 107(h) and MGL 268A and B)

1. No member of the CEOs or the Local Workforce Development Board or its standing committees shall cast a vote on any matter which has direct bearing on services to be provided by that member (or any organization which such member directly represents) or on any matter which would provide direct financial benefit to such member or the immediate family of such member, nor shall any such person engage in any activity determined by the Governor to constitute conflict of interest as specified in the State Plan.
2. CEO member(s) and/or staff so affected shall identify any real or perceived conflict of interest prior to discussion and consideration of the matter.

Term of Agreement:

This Agreement shall be effective from [Date of Execution] and shall expire upon the termination of the Workforce Innovation and Opportunity Act, dissolution of the Local Workforce Development Area, or future action taken by the CEOs to establish a new agreement.

By signing this Agreement, all CEOs understand that this Agreement supersedes all prior written or oral agreements relating to the responsibilities of the CEOs in Local Workforce Development Area _____.

Signature(s):

Name / Chief Elected Official

Date

Name / Local Workforce Development Board Chair

Date

Name / Local Workforce Development Board Director

Date

Name / Local Workforce Development Board Fiscal Agent

Date

Name / Title

Date