

HPWB Instruction Q & A

Q1. May executives of a Chamber of Commerce serve as business representatives on the WIB?

- A1. Yes, but only if the specific Chamber of Commerce has as its *primary* focus, employment, training and growth of businesses within the region.

Business membership organizations that have a membership base that is diverse in nature with a focus that is primarily oriented toward more generic civic activities within a community may no longer serve as “business representatives” on the LWIB. Such organizations may assist the CEO in identifying nominees as business representatives on the LWIB from among its members.

As part of the FY2007 WIB certification development process, this issue was vetted through the ad-hoc “WIB Certification Workgroup” that included representatives of the MA WIB Association. The workgroup reached consensus on the interpretation cited above.

Q2. May executives of a Chamber of Commerce who qualify as business representatives on the WIB serve as the “chair” of the Board?

- A2. If the Chamber of Commerce executive qualifies as a “business representative” in accordance with the parameters described here and in the High Performing Workforce Board Certification Instructions, then he /she may serve as the elected chair of the board.

Again, the “WIB Certification Workgroup” (see above) vetted this issue and reached consensus on the interpretation cited in this response.

Q3. May executives of “for profit” training providers serve as business representatives on the board?

- A3. No.

Q4. Are the restrictions on board membership that were described in MassWorkforce Policy Issuance No. 06-78, Local Workforce Investment Board FY2007 Certification Policy & Process - Revised (11/28/2006) and clarified in the associated Q & A in effect for this High Performing Workforce Board Certification?

- A4. Yes. With regard to the “membership” requirements, the Workforce Investment Act, Section 117 provides the requirements for membership on a local workforce investment board:

Section 117 (b)(1) states that the “Governor of the State, in partnership with the State board, shall establish criteria for use by chief elected officials in the local area for appointment of members of the local boards in accordance with the requirements of paragraph (2).”

Section 117(b)(2)(A)(i) specifically describes the requirements for “representatives of business in the local area.” Business members shall include representatives who:

(I) are owners of businesses, chief executives or operating officers of businesses , and other business executives or employers with optimum policymaking or hiring authority;

(II) represent businesses with employment opportunities that reflect the employment opportunities of the local area; and

(III) are appointed from among individuals nominated by local business organizations and business trade associations.

Consistent with the Act, the WIB Certification Policy requires that “business” candidates are business executives with optimum policymaking or hiring authority and represent businesses that provide employment opportunities in the local area. It is inconsistent with the requirements of the Workforce Investment Act to deem that self-employed individuals who do not have any “employees” qualify under (I) and (II) above.

With respect to “retired” individuals, if an individual who was appointed as a business member retires and does not relinquish or forfeit his/her “optimal policymaking or hiring authority” with the business organization (such as may be the case with the owner of a company) a new appointment as a “business” member when his/her term expires would meet the requirements for “business” membership under Section 117 (b)(2)(A)(i)(I) and (II). If however, the individual does relinquish or forfeit his/her prior optimal policymaking or hiring authority upon retirement, that individual may not be appointed for a new term as a “business” member.

Nothing in the policy prohibits the chief elected official of the area from making appointments of such individuals to the local board under the provisions of Section 117 (b)(2)(B) which allows the CEO to include “other individuals or representatives of entities as the chief elected official may determine to be appropriate.”

However, any such appointments made to the local board under the provisions of Section 117 (b)(2)(B) may not be counted towards the “majority business” membership requirement described in Section 117 (b)(4).

Neither may an individual appointed to the board by the local chief elected official under the provisions of Section 117 (b)(2)(B) serve as “chair” of the local board, as the chair must be elected from the “business” membership in accordance with Section 117 (b)(5).

Regarding the need to remove current members who do not meet the membership requirements implemented in accordance with MassWorkforce Policy Issuance No. 06-78, the policy expressly states that individuals who are retired, self employed or who no longer hold qualifying positions with their employers will be allowed to compete their current membership term, but must be replaced as business members if they do not meet the qualification requirements for a “new appointment” when their current term expires. There is no requirement that they be removed before the expiration of their current appointment period.

Any individual who, at the time of the board’s scheduled election of its officers (or at the time of any emergency election conducted under the terms of the board’s by-laws), is designated as a “business” member is eligible to be elected as the chairperson of the WIB and may serve as chair of the board for the full term of the chair as specified in the board’s by-laws. If, however, upon the expiration of his/her membership term, an individual who has been elected to serve as chairperson of the WIB no longer meets the requirements to be appointed as a “business” member, that individual may not be considered for subsequent election to the chair.

Q5. Does the local chief elected official have unilateral veto power over certification and designation of the area’s One-Stop Career Center Operator(s)?

- A5. No, Section 121(d)(2)(A)(i & ii) requires certification and designation of a local area’s One-Stop Career Center Operator(s) *and* any decision to terminate for cause the eligibility of such operator(s) to be carried out with agreement between the chief elected official and the local board.