



KWIB Executive Committee Meeting

DRAFT MINUTES

May 30, 2023; 4:00 pm – 5:00 pm EST

Convened Via TEAMS

In-Person Attendance: Deputy Secretary Beth Brinly, Alisher Burikhanov, Elishah Taylor

Attending virtually: Kim Menke, Heidi Margulis, Lori Ulrich, Sara Ortkiese, Amy Luttrell, Kevin Smith (joined 4:06pm), Scott Pierce (joined 4:07pm), Debbie Dennison, Beth Davisson (joined 4:18pm)

4:00 pm EST

Welcome

Kim Menke, Chair welcomed the members and thanked them for their time. Quorum was reached. He explained the purpose of the meeting was to discuss changes to two listed policies in the agenda that were time-sensitive.

Policy Discussion

Deputy Secretary Beth Brinly thanked the committee for meeting and presented policy changes for discussion.

Policy 15-001 WIOAS Local Workforce Development Board Composition, Member, Certification and Functions

Deputy Secretary provided changes to Policy 15-001. She stated this policy is to be reviewed on odd years including 2023, 2025, 2027 and forward. She provided overall changes as follows: Changing Department of Workforce Investment (DWI) to Department for Workforce Development (DWD); Changing Office of Employment and Training (OET) to the Career Development Office (CDO); and making sure that the whole process of certification was streamlined. The process includes the local workforce development areas providing: 1. A List of board members, 2. Providing membership type (business, industry, labor and workforce), 3. Documentation that 20% of membership is workforce and labor and 4. Documentation of the geographic locations of each members.

Deputy Secretary referenced the checklist at the end of the policy that the Local Boards will need to complete. Kim Menke, Chair, then opened the floor to questions and comments. Amy Luttrell asked if the local boards had questions about these changes to the policy. Deputy Secretary explained that during this process the Local Workforce Development Area (LWDA) Directors are given a week to review the policy and send back any feedback, concerns, suggestions that they might have about the policy. Scott Pierce commented that he was unaware of the dissemination of information to the local boards. Discussion was had around including the Executive Committee members in policy review as the LWDA Directors review.

Alisher Burikhanov, KWIB Executive Director asked if they could amend the email listed on the policies to KWIB.Projects@ky.gov. The committee agreed that this email change can be made. Scott Pierce asked for clarification on who reviews these policies before the committee votes on them. Deputy Secretary explained that the Local Boards were given the policies for a period of review and that no comments were submitted on these policies. Discussion was had around providing a matrix of changes and, redlined documents going forward on policies to the Executive Committee for review. Heidi Margulis requested that future meetings be held on zoom for easier use. Kim Menke asked for a motion at 4:15pm, Heidi moved, and Amy seconded. With none opposing, Policy 15-001 was approved at 4:17pm.

Policy 17-003 Recapture and Re-Allotment

Deputy Secretary Beth Brinly provided a brief overview of the changes to this policy. Under “Obligations 1st program year:” requested change from “May” to “June” for receipt. Heidi Margulis motioned to approve the changes. Scott Pierce seconded the motion. Motion passed unanimously. Beth Davisson joined at the end of the vote at 4:18pm.

KWIB Process of Policy Review

Kim Menke, Chair shared the importance of the Executive Committee and full board understanding the policies as they are approving (or working through) these policies. He urged participation and understanding on all policies for meaningful discussion on what actions are being taken. Heidi Margulis agreed that the board should know its role along with the executive committee when it comes to policies and policy approvals. She continued that the committee and board should provide feedback on policies that are strategic and governance in nature. Scott agreed. Deputy Secretary suggested that anything dealing with governance, systems, local agreements, plans, and staff policies the board should review and processes should be reviewed by administration. She agreed that with Heidi Margulis that they should focus mostly on strategic and governance. Kim Menke explained that they should provide oversight on local board operations but focus on governance. Deputy Secretary stated that when it comes to policies they can send it to the local boards and copy the board to review at the same time. Alisher Burikhanov suggested that the board should review the policy at the same time as the local boards, so the process is not slowed down by review. The committee agreed and Kim Menke opened the floor to additional questions. There were none.

KWIB By-Laws / Terms of Service

Alisher Burikhanov, Executive Director discussed the Terms of Service listed in the KWIB By-Laws and the need for succession planning.

Article III General Membership – Section 3.

“Board Member nominations shall be directed to the Governor’s Office of Boards and Commissions, who shall bring forth eligible candidates for consideration by the Governor. The Governor shall appoint the Chairperson of the Board (“Board Chair”) from the business representative membership to serve as the pleasure of the Governor. The board Chair shall appoint a Vice-Chair and an Executive Committee. Executive Committee members shall serve a term of two (2) years, and no member shall remain on the Executive Committee for more than two (2) consecutive terms. The Executive Committee shall have at least seven (7) members and may have up to nine (9) members at the discretion of the Board Chair.”

Alisher Burikhanov highlighted that the By-Laws state a members shall serve a term of two years with no more than two consecutive terms. He stated that everyone’s term ends, on the Executive Committee, at the end of next July except Beth Davisson’s. He stated how important it is to start a succession plan. Kevin Smith agreed and explained the challenge is to not have everyone fall off at once. He suggested to stagger them. He said he would step down from the Executive Committee but stay on the board. He also stated that it would be in the best interest to do this transition in threes.

Kim Menke agreed with Kevin and stated that they need to get on a rotation for staggered rotation from here on out so this will not be a problem in the future. Scott Pierce serves on the advisor to the union and would like an AFL-CIO member on the board and asked how to get someone on the board. Kim Menke expressed the importance of appropriate board representation in the Executive Committee.

Deputy Secretary explained that the Board is appointed, and the executive committee is setup through processes listed in the By-laws. Scott Pierce would like more board engagement. He is open to change but he would also like a place for AFL-CIO member.

Beth Davisson, Heidi Margulis both volunteered, if needed, to step down. Amy Luttrell rolls off the board in October. Discussion around the appointment of the Chair and Vice-Chair was had. Deputy Secretary provided information that the Governor appoints the chair. Kevin Smith added that in the past, whoever is vice-chair becomes chair after.

Deputy Secretary reminded the committee that they can change their by-laws. Scott Pierced asked if he should let the governor know of their ending terms on the board and committee. Deputy Secretary replied that for resignations from the board require a letter to the KWIB, Executive Director and the Governor's office through Boards and Commissions. Alisher Burikhanov shared that there is no action needed at this time. This item was being surfaced ahead of action.

Deputy Secretary mentioned to the group that they will need to meet at the end of June due to the local board certifications that will need to be voted on. Kevin Smith asked if there is work that needs to be worked on before next meeting like planning out and having a strategy for succession. Deputy Secretary asked if someone could draft something by the end of June with term dates. Kevin Smith suggested that this would be a great idea so an action can be taken. Amy Luttrell also would like a document to show when people fall off. Scott agreed and asked if they needed to vote on anything or make an action. Kim Menke stated that there was nothing to vote on but stated that the KWIB staff will get this document together.

Closing Comments

Kim Menke, Chair closed the meeting with action items that KWIB staff will get a document together with dates on when people's terms end. He opened the floor to closing remarks. Scott Pierce thanked Lori Ulrich for hosting the last meeting at Fleming Mason Energy. Lori Ulrich thanked everyone for taking the time out to attend in person and making the drive. Kim Menke also thanked Lori Ulrich for hosting and thanked Lori's team for giving a demonstration of safety.

Adjournment at 4:53 pm



**KWIB
Executive Committee
Meeting**

**AGENDA
May 30, 2023
4:00pm – 5:00pm EST**

**Virtual
JOIN TEAMS MEETING
Join on your computer, mobile app or room device**

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Meeting ID: 297 492 176 749

Passcode: Sy6Amf

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- 4:00pm Call Meeting to Order / Welcome

*Kim Menke, Chair
Toyota Motors of North America (TMNA)*

 - 4:05 pm Policy Discussion
 - 15-001 - WIOA Local Workforce Development Board Composition, Membership, Certification and Functions

*Beth Brinly, Deputy Secretary / Acting Commissioner
Department of Workforce Development; Education and Labor Cabinet*

 - 17-003 – Recapture and Re-Allotment

*Beth Brinly, Deputy Secretary / Acting Commissioner
Department of Workforce Development; Education and Labor Cabinet*

 - 4:25 pm KWIB Process of Policy Review

Discussion Lead

Kim Menke, Chair

 - 4:45pm KWIB By-Laws / Terms of services

Alisher Burikhanov, KWIB

 - 4:55pm Closing Comments

Kim Menke, Chair

 - Adjournment

COMMONWEALTH OF KENTUCKY
DEPARTMENT OF WORKFORCE DEVELOPMENT
AND
KENTUCKY WORKFORCE INNOVATION BOARD

POLICY NAME: WIOA Local Workforce Development Board Composition, Membership, Certification, and Functions

POLICY NUMBER: 15-001

DATE OF ISSUE: Reissued May __, 2023

EFFECTIVE DATE: July 1, 2015

APPLIES/OF INTEREST TO: Local Workforce Development Boards (LWDBs), LWDB Staff, Local Workforce Development Areas (LWDAs) staff, Kentucky Workforce Innovation Board, and Chief Local Elected Officials (CLEOs)

FOR FURTHER INFORMATION CONTACT: workforce@ky.gov

PURPOSE: This policy provides guidance and clarification regarding LWDB composition, membership, and functions as well as the board certification process.

POLICY:

I. Local Workforce Development Boards

Local Board Composition. Section 107 of the Workforce Innovation and Opportunity Act (WWIOA) states that “there shall be established, and certified by the Governor of the State, a local workforce development board in each local area of a State to carry out the [required] functions ... The Governor, in partnership with the State board, shall establish criteria for use by chief elected officials in the local areas for appointment of members of the local boards in such local areas” WIOA Section 107(b)(2) provides the composition of the local boards, which is as follows:

- a. **BUSINESS REPRESENTATIVES:** A majority [51%] of the members of each local board shall be representatives of business in the local area, who — (i) are owners of businesses, chief executives or operating officers of businesses, or other business executives or employers with optimum policymaking or hiring authority; (ii) represent businesses, including small businesses, or organizations representing businesses

described in this clause, that 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 (iii) are appointed from among individuals nominated by local business organizations and business trade associations.

- NOTE: Representatives from private not-for-profit entities that operate as businesses and are employers may be considered business sector members on the local boards. The not-for-profit entities should align with the key industry sectors for the state and the local area. Representatives from proprietary schools cannot be considered a business sector member. The minimum number of business representatives on a local board is ten (10), and at least two (2) of those business representatives must represent small business. *See* 20 CFR 679.320(b).
- b. **WORKFORCE REPRESENTATIVES (Labor, Community Based Organization and Youth Serving Organizations):** Not less than 20 percent of the members of each local board shall be representatives of the workforce within the local area, who — (i) shall include two (2) or more representatives of labor organizations (for a local area in which employees are represented by labor organizations), who have been nominated by local labor federations, or for a local area in which no employees are represented by such organizations other representatives of employees; (ii) shall include at least one (1) representative who shall be a member of a labor organization or a training director, from a joint labor-management apprenticeship program, or if no such joint program exists in the area, such a representative of an apprenticeship program in the area, if such a program exists; (iii) may include 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 (iv) 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.
- NOTE: The minimum number of workforce representatives is four (4). Where possible, the local boards are strongly encouraged to align board membership with designated state or local job sectors.
- c. **EDUCATION AND TRAINING REPRESENTATIVES:** Each local board shall include representatives of entities administering education and training activities in the local area, who — (i) shall include at least one (1) representative of eligible providers administering adult education and literacy activities under title II; (ii) shall include at least one (1) representative of institutions of higher education providing workforce investment activities (including community colleges); and (iii) may include representatives of local educational agencies, and of community-based organizations

with demonstrated experience and expertise in addressing the education or training needs of individuals with barriers to employment.

- NOTE: The minimum number of education and training representatives is two (2).
- d. **GOVERNMENT AND ECONOMIC DEVELOPMENT REPRESENTATIVES:** Each local board shall include representatives of governmental and economic and community development entities serving the local area, who — (i) shall include at least one (1) representative of economic and community development entities; (ii) shall include at least one (1) representative from the State employment service office under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) serving the local area; (iii) shall include at least one (1) representative of the programs carried out under Title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), other than section 112 or part C of that title (29 U.S.C. 732, 741), serving the local area; (iv) may include representatives of agencies or entities administering programs serving the local area relating to transportation, housing, and public assistance; and (v) may include representatives of philanthropic organizations serving the local area.
- NOTE: The minimum number of government and economic development representatives is three (3).
- e. **OTHER MEMBERS:** Each local board may include such other individuals or representatives of entities as the chief elected official in the local area may determine to be appropriate.
- f. **CHAIRPERSON:** The members of the local board shall elect a chairperson for the local board from among the above-described representatives.

Member Qualifications. WIOA Section 107(b)(5) states that “[m]embers of the board that represent organizations, agencies, or other entities shall be individuals with optimum policymaking authority within the organizations, agencies, or entities. The members of the board shall represent diverse geographic areas within the local area.”

Standing Committees. The local board may designate and direct the activities of standing committees to provide information and to assist the local board in carrying out activities under WIOA. Such standing committees shall be chaired by a member of the local board, may include other members of the local board, and shall include other individuals appointed by the local board who are not members of the local board and who the local board determines have appropriate experience and expertise. WIOA Section 107(b)(4) describes various types of allowable standing committees, and Section 107(b)(4)(B) allows additional committees. DWD encourages local boards to create committees that include non-board members and are led by the private sector.

Quorum. DWD defines “quorum” as a simple majority (51%) of local board members, excluding vacancies, AND of those members in attendance, 51% or more shall be a combination of business and workforce representatives.

Member Appointments / Vacancies / Removal / Proxy. LWDB member appointments must be signed by the appointing CLEO and submitted to the DWD. LWDB members who no longer hold the position or status that made them eligible local board members must resign or be removed by the CLEOs immediately as a representative of that entity (e.g., no longer work in the private sector or no longer with an educational institution). LWDB members replacing out-going members mid-term will serve the remainder of the out-going member term. LWDB vacancies must be filled within a reasonable amount of time of the vacancy as determined by the LWDA, but no later than 90 days from occurrence.

The CLEO in a LWDA is authorized to make reappointments of members. Reappointments must be made within a reasonable amount of time of the term expiration, but no later than 90 days. Any action taken by a LWDB, with a vacancy or term expiration beyond the time period described in the LWDB bylaws or later than the 90 days per this policy shall be void unless the LWDB has an approved waiver from the DWD prior to the LWDB meeting. Waivers are to be requested in writing to the DWD with an explanation of why a vacancy was not filled in the defined timeframe and a description of the process underway to fill the vacancy.

LWDB members must be removed by the CLEO(s) if any of the following occurs: documented violation of conflict of interest, failure to meet LWDB member representation requirements, or documented proof of fraud and/or abuse. LWDB members may be removed for other reasons outlined in the LWDB bylaws such as attendance. The DWD strongly encourages LWDBs to establish and enforce attendance guidelines for its members. The bylaws must define the specific criteria that will be used to establish just cause for such removal and the process that will be required to document proof as well as any appeal process.

If a member of a local board is unable to attend a meeting and wishes to send a proxy, the proxy must be from the same category of representation/membership as the member.

II. Appointment and Certification of Board

Appointment of Board Members and Assignment of Responsibilities. The chief elected official in a local area is authorized to appoint the members of the local board for such area in accordance with WIOA Section 107(c).

Board Certification Process. In accordance with WIOA Section 107(c)(2), the Governor shall, once every two years, certify one local board for each local area in the State. Failure of a local board to achieve certification shall result in appointment and certification of a new local board for the local area pursuant to the process described in WIOA.

Certification shall be attained through a written and completed Local Workforce Development Board Certification Checklist provided by the LWDBs to the Kentucky Workforce Innovation

Board (KWIB) that contains the required elements and documentation for certification. *See* Attachment A (Checklist). The Local Workforce Development Board Certification Checklist shall be provided to the KWIB no later than June 30th of odd-numbered years (i.e., 2023, 2025, 2027, 2029, 2031, etc.). The KWIB's staff will review the certification documentation provided by a local board and make a recommendation to the KWIB for review and action at the next KWIB meeting following receipt of documentation.

The Local Workforce Development Board Certification Checklist shall include the following:

1. A complete list of the local board members, the category of their respective representation (e.g., business, workforce, education, government), and any entities they represent;
2. Documentation showing a majority of the board members are business representatives;
3. Documentation showing that at a minimum, twenty (20) percent of members are representative of workforce within the local area; and
4. Documentation showing that the board members are representative of diverse geographical locations within the local area.

The KWIB and the LWDBs shall post the local boards' membership rosters on their respective websites within ten (10) business days when there is a change in membership.

Decertification. The Governor shall have the authority to decertify a local board at any time after providing notice and an opportunity for comment, for (i) fraud or abuse or (ii) failure to carry out the functions specified for the local board in WIOA. The Governor may also decertify a local board if a local area fails to meet the local performance accountability measures for such local area in accordance with WIOA Section 116(c) and 20 CFR 679.370 for 2 consecutive program years. If the Governor decertifies a local board for a local area, the Governor may require that a new local board be appointed and certified for the local area pursuant to a reorganization plan developed by the Governor, in consultation with the chief elected official in the local area in accordance with the criteria established under WIOA.

III. Functions of the Local Board

Consistent with WIOA Section 108 and 20 CFR 679.370, the functions of the local boards shall include the following:

1. Local Plan
2. Workforce Research and Regional Labor Market Analysis
3. Convening, Brokering, Leveraging
4. Employer Engagement

5. Career Pathways Development
6. Proven and Promising Practices
7. Technology
8. Program Oversight
9. Negotiation of Local Performance Accountability Measures
10. Selection of Operators and Providers
11. Coordination with Education Providers
12. Budget and Administration
13. Accessibility for Individuals with Disabilities

Details for each function listed above are located in WIOA Sec. 107(d).

Bylaws. LWDBs must establish bylaws reflecting a regional focus per WIOA guidelines. The bylaws must include LWDB and CLEO agreements with the fiscal agent or grant subrecipient regarding payment processes and procedures.

Sunshine Provision. The LWDBs shall make available to the public, on a regular basis through electronic means and open meetings, information regarding the activities of the local boards, including information regarding the local plan prior to submission of the plan, and regarding membership, the designation and certification of one-stop operators, and the award of grants or contracts to eligible providers of youth workforce investment activities, and on request, minutes of formal meetings of the local board.

Staff. The local board may hire a director and other staff to assist in carrying out the functions described in WIOA Sec. 107(d). The local board shall establish and apply a set of objective qualifications for the position of director that ensures that the individual selected has the requisite knowledge, skills, and abilities, to meet identified benchmarks and to assist in effectively carrying out the functions of the local board. The board director and staff shall be subject to the limitations on the payment of salaries and bonuses described in WIOA Section 194(15).

Limitations. No local board may provide training services. A local board may provide career services through a one-stop delivery system or be designated or certified as a one-stop operator only with the agreement of the chief elected official in the local area and the Governor. For the Governor to approve, the local board must:

1. have been selected as the One-Stop Operator and/or Career Services Provider through a competitive procurement process facilitated by a state agency or private sector

organization. The Governor must approve the entity that facilitates the competitive procurement process;

2. develop a written agreement, to be submitted to the State, with the LWDB and the CLEO(s) to clarify how the organization will carry out its responsibilities while demonstrating compliance with WIOA and corresponding regulations, the Uniform Guidance, and conflict of interest policies of both the State and the organization or entity performing multiple functions;
3. use a process and Request for Proposal (RFP) that has been reviewed and approved by the DWD;
4. be identified as the highest scorer at the completion of the process; and
5. in cases where the local board has previously provided services, have met performance accountability measures and achieved sustained fiscal integrity.

Conflict of Interest. A member of a local board, or a member of a standing committee, may not (1) vote on a matter under consideration by the local board regarding the provision of services by such member (or by an entity that such member represents) or that would provide direct financial benefit to such member or the immediate family of such member; or (2) engage in any other activity determined by the Governor to constitute a conflict of interest as specified in the Kentucky WIOA State Plan. A conflict of interest is also present when a member of an entity that issues an RFP or that member's relative as defined in KRS 11A.010(4) is or has been affiliated with a bidder that seeks designation as a fiscal agent, grant sub-recipient, One-Stop Operator and/or Career Services Provider. In that situation, the member of the RFP-issuing entity shall recuse themselves from the procurement and/or designation process. If, as a result of the recusal, there is less than a quorum for the RFP-issuing entity, the Governor shall select and designate the successful bidder.

Alternative Entity. The State will not recognize or use any alternative local entity.

REFERENCES: WIOA Sec. 107 (b), (c), (d), (e), (f), (g), (h), (i); WIOA Sec. 108; WIOA Section 194(15); 20 CFR 679.320; 20 CFR 679.350; 20 CFR 679.370; 20 CFR 679.390; 20 CFR 679.400; 20 CFR 679.410; 20 CFR 679.430

Local Workforce Development Board Certification Checklist

Required Documentation:

- A complete list of the local board members, the category of their respective representation (e.g., business, workforce, education, government), and any entities they represent.
- Documentation showing a majority of the board members are business representatives.
- Documentation showing that at a minimum, twenty (20) percent of members are representative of workforce within the local area.
- Documentation showing that the board members are representative of diverse geographical locations within the local area.

Additional Considerations:

- The Local Workforce Development Area's Interlocal Agreement is on file with the Department of Workforce Development.
- The Local Workforce Development Board has developed by-laws that are available for review if needed.
- Partnership Agreements are on file with the Department of Workforce Development.

COMMONWEALTH OF KENTUCKY
DEPARTMENT OF WORKFORCE DEVELOPMENT
AND
KENTUCKY WORKFORCE INNOVATION BOARD

POLICY NAME: Recapture and Re-Allotment

POLICY NUMBER: 17-003

DATE OF ISSUE: Reissued March 1, 2023

EFFECTIVE DATE: October 1, 2020

APPLIES/OF INTEREST TO: Kentucky Career Center (KCC) Staff and Local Workforce Development Area (LWDA) staff

POINT OF CONTACT: Compliance.Unit@ky.gov

HISTORY: Initially issued 08/01/2017; revised October 1, 2020; reissued November 1, 2021 with no substantive change (clean up); reissued March 1, 2023 with no substantive change, thus effective date remains.

BACKGROUND: WIOA sec. 127(c) requires the Secretary of Labor to recapture and reallocate Youth Activities program formula funds based on State obligation levels at the end of the first program year of use (ETA reallots in accordance with 20 CFR 683.150). WIOA sec. 132(c) requires the Secretary of Labor to recapture and reallocate Adult Activities program formula funds based on State obligation levels at the end of the first program year of use (ETA reallots in accordance with 20 CFR 683.150).

PURPOSE: The Workforce Investment and Opportunity Act (WIOA) Section 127(c)(5) requires Governors to prescribe uniform procedures for the obligation of funds by LWDA's within the State in order to avoid a re-allotment of funds as required by the Act. Governors shall further prescribe equitable procedures for making funds available from the State and local areas in the event that a State is required to make funds available for re-allotment under Section 127(c)(5). Allocations to LWDA's will be subject to the same re-allotment requirements.

POLICY:

Obligations 1st program year:

(1) The Commonwealth shall determine, by the end of the 4th quarter of the first program year based on the **May** reports, whether a local area has obligated its required level of at least 80 percent of the funds allotted under WIOA Sections 127 and 132 for programs serving youth, adults, and

dislocated workers for the prior PY, as separately determined for each of the three funding streams. Unobligated balances are determined based on allotments adjusted for any allowable transfer between the youth, adult, and dislocated worker funding streams. The amount available for re-allotment, if any, is equal to the amount by which the unobligated balance of the LWDA allotments for programs serving youth, adults, or dislocated workers, exceeds 20 percent of such allotments, less any amount reserved for the costs of administration (up to 10 percent). This amount, if any, is separately determined for each funding stream. Per 2 CFR 200.71, obligations are defined as “when used in connection with a non-Federal entity’s utilization of funds under a Federal award, obligations means orders placed for property and services, contracts and sub awards made, and similar transactions during a given period that require payment by the non-Federal entity during the same or a future period”.

Recapture 2nd program year:

(2) The Commonwealth shall determine, during the SECOND quarter of the program year (PY) which funds are subject to recapture based on the balances of the expired funds in the respective funding streams. These funds will have the availability of either being redistributed to the local areas that did not have a recapture of funds or the funds will be utilized as statewide reserve funds. Should funds be available for reallotment, local areas requesting the additional funds shall submit documentation to substantiate the need for said funds. These funds shall be re-allotted in the FIRST month of the THIRD quarter and shall be expended by the FOURTH quarter.

The Commonwealth shall reallocate youth, adult, and dislocated worker funds among eligible LWDA's in accordance with the provisions of WIOA Sections 127(c) and 132(c), respectively. To be eligible to receive a re-allotment of youth, adult, or dislocated worker funds under the redistribution procedures, a local area must have obligated at least 80 percent of the prior program year's allotment, less any amount reserved for the costs of administration of youth, adult, or dislocated worker funds. An LWDA's eligibility to receive additional funding is separately determined for each funding stream.

(3) The local area must have expended all of its funding for the funding stream in which they are seeking additional funds. The local area requesting the additional funding must have met all program outcomes set forth in their contract. Per 20 CFR 667.107(b)(2), the Commonwealth has, at its discretion, the right to recapture the funds and use them as statewide reserve funds. Should the Commonwealth choose to recapture funds for statewide reserve projects, it will inform the State Workforce Development Board.

For Example:

Applicable Funds	80% Obligated	Funds Expire	Funds Recaptured	Funds Reallotted	Reallotted Funds Expire
PY19/FY20	April-June 2020	June 30, 2021	Oct.-Dec., 2021	January, 2022	June, 2022
PY20/FY21	April-June 2021	June 30, 2022	Oct.-Dec., 2022	January, 2023	June, 2023
PY21/FY22	April-June 2022	June 30, 2023	Oct.-Dec., 2023	January, 2024	June, 2024

REFERENCE:

- 20 CFR 683.150
 - 20 CFR 667.107(b)(2)
 - 2 CFR 200.71
 - WIOA Section 127(c)
 - WIOA Section 132(c)
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THE KENTUCKY WORKFORCE INNOVATION BOARD

BY-LAWS

ARTICLE I

NAME AND AUTHORITY

The Kentucky Workforce Innovation Board ("Board") has been established in accordance with the Workforce Innovation and Opportunity Act and is the State Workforce Development Board for Kentucky. The principal office of the Board shall be located at 500 Mero Street, 4th Floor, Frankfort, Kentucky 40601. The Board serves as the Governor's advisory board for the Kentucky workforce development system. The Board was reestablished through Executive Order 2020-857, dated October 7, 2020, which is attached and hereby incorporated by reference. The following By-Laws contain the requirements specified in 20 C.F.R. § 679.110(d).

ARTICLE II

GOALS AND PURPOSE

SECTION 1. The primary goals of Kentucky's workforce development system are to create and retain jobs in the Commonwealth by enabling Kentucky residents to acquire the competencies, skills, supportive services, and education necessary to support themselves and their families, and to provide Kentucky employers with a skilled and educated workforce to remain competitive in a dynamic global economy.

SECTION 2. The Board's purpose is to assist the Governor in creating an integrated statewide strategic plan for the workforce development system of Kentucky which will link workforce policies, education and training programs, and funding with the economic development needs of the Commonwealth and its areas and regions. Specifically, in accordance with 20 C.F.R. § 679.130, the Board will assist the Governor with:

- (1) Development, implementation, and modification of the 4-year State Plan;
- (2) Review of statewide policies, programs, and recommendations on actions that must be taken by the State to align workforce;
- (3) Development and continuous improvement of the workforce development system which includes:
 - Identification of barriers and methods to remove barriers to better coordinate, align, and avoid duplication among workforce development programs;
 - Development of strategies to build career pathways for

priority of service participants with workforce investment activities, education and supportive services to enter or retain employment;

- Development of strategies to provide effective outreach and improved access for individuals and employers who benefit from the workforce development system;
- Expansion of strategies to meet the needs of employers, workers, and job seekers through industry or sector partnerships related to Kentucky's High Demand Industry Sectors;
- Identification of regions, including planning regions for WIOA Local, Regional & State Plan efforts, and the designation of local areas, in consultation with the Local WDBs and chief elected officials;
- Provide assistance to Local Workforce Development Boards (WDBs), One-Stop Operators, and Providers on continuous improvement of the one-stop delivery system in the local areas, including assistance with planning and delivering services, training and supportive services to support an effective delivery of services to workers, job seekers and employers;
- Development of strategies to support staff training and awareness across the workforce development system and its programs.
- Develop and update comprehensive State performance and accountability measures to assess core program effectiveness under WIOA sec. 116(b);

(4) Identification and dissemination of information on best practices, including best practices for:

- Effective operation of one-stop centers relating to the use of business outreach, partnerships, and service delivery strategies for serving individuals with barriers to employment;
- Effective training programs that respond in real-time labor market analysis, that effectively use direct assessment and prior learning assessment to measure an individual's prior knowledge, skills, competencies, and experiences for adaptability, to support placement into employment or career pathways
- Development of effective Local WDBs, which may include information on factors that contribute to enabling Local WDBs to exceed negotiated local levels of performance, sustain fiscal integrity, and achieve other measure of effectiveness;

(5) Development and review of statewide policies affecting the coordinated provision of services through the State's One-Stop

delivery system described in WIOA sec. 121(e);

- (6) Development and review of statewide policies affecting the coordinated provision of services through the State's one-stop delivery system described in WIOA sec. 121(e), including the development of:
 - Objective criteria and procedures for use by Local WDBs in assessing the effectiveness, physical and programmatic accessibility and continuous improvement of the one-stop centers. Where a Local WDB serves as the One-Stop operator, the State WDB must use criteria to assess and certify the one-stop center;
 - Guidance for the allocation of one-stop center infrastructure funds under WIOA sec. 121(h); and
 - Policies relating to the appropriate roles and contributions of entities carrying out one-stop partner programs within the one-stop delivery system, including approaches to facilitating equitable and efficient cost allocation in the system;
- (7) Development of strategies for technological improvements to facilitate access to, and improve the quality of services and activities provided through the One-Stop delivery system;
- (8) Development of strategies for aligning technology and data systems across One-Stop partner programs to enhance service delivery and improve efficiencies in reporting on performance accountability measures;
- (9) Development of allocation formulas for the distribution of funds for employment and training activities for adults and youth workforce investment activities, to local areas as permitted under WIOA secs. 128(b)(3) and 133(b)(3);
- (10) In conjunction with the Department of Workforce Development, preparation of the annual reports described in paragraphs (1) and (2) of WIOA sec. 116(d);
- (11) Development of the statewide workforce and labor market information system described in sec. 15(e) of the Wagner-Peyser Act; and
- (12) Development of other policies as may promote statewide objectives for and enhance the performance of the workforce development system in the State.

SECTION 3. The Board shall develop and issue policies, guidance, and manuals in coordination

with the Governor and the Department of Workforce Development.

The Office of the Kentucky Workforce Innovation Board (OKWIB), which provides administrative support and policy guidance to the Board, is located within the Education and Labor Cabinet's Department of Workforce Development (DWD). Under this structure, the OKWIB and the DWD staff shall assist the Board with the following required functions:

- 1) The One-Stop Certification process for all Kentucky Career Centers (KCC) shall be reviewed by appropriate DWD staff after completion by the Local Workforce Development Boards, and the Board shall vote to re-certify all Comprehensive, Affiliate, and Access Point sites after the DWD has determined the submitted certification applications contain all required information;
- 2) The Partnership Memorandum of Agreements and Infrastructure Funding Agreements (IFA) shall be negotiated by all partners in the respective KCCs for each local area and approved, as to form and legality, by the Education and Labor Cabinet's Workforce Development Legal Division. DWD and the Office of Administrative Services for the Education and Labor Cabinet will review and approve the IFAs submitted by the Local WDBs. All policy and guidance related to IFA formulas and identification of shared non-personnel costs to be included within the IFA shall be jointly issued by the Board and the DWD.

The DWD and the Board shall jointly issue policy/guidance at a regular interval regarding negotiated levels of performance. The negotiation of local area performance measures with the Local WDBs shall be conducted by Division of Technical Assistance in DWD. Any additional measurements for high performing Local WDBs will be issued jointly by the Board and the DWD and disseminated to the Local WDBs.

- 3) The Board and the DWD shall jointly issue the allocation formulas for the distribution of funds for employment and training activities for adults and youth workforce investment activities as permitted under WIOA sections 128(b)(3) and 133(b)(3).
- 4) The Board, relying on the technical expertise of the Kentucky Center for Statistics and their longitudinal data system, and Labor Market Information system, will jointly develop statewide workforce data collection tools and LMI systems described in sec 15(e) of the Wagner-Peyser Act.

ARTICLE III GENERAL MEMBERSHIP

SECTION 1. The composition of the Board and length of members' staggered terms is specified in Executive Order 2020-857 and aligns with the requirements of the Workforce Innovation and Opportunity Act. Members of the Board were initially appointed by the Governor to serve staggered terms and thereafter shall serve terms of three

(3) years. Board members representing the business and workforce categories shall not serve more than two (2) full, consecutive three-year terms. Any vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment. Members of the Board may continue to serve beyond the expiration of their terms until their successors are appointed. Should a member retire, or leave the industry in which they represent, the Governor's Office of Boards and Commissions will assess whether the member still meets the business and industry requirements for membership.

SECTION 2. The membership of the Board shall include thirty-one (31) voting members and nine (9) non-voting members appointed by the Governor. The Board membership shall reflect statewide geographic and diverse population representation. Members of the Board, and non-members serving on committees or workgroups, shall serve without compensation, but may be reimbursed for all actual and necessary expenses incurred in connection with their duties in accordance with state travel expenses and reimbursement administrative regulation.

SECTION 3. Board Member nominations shall be directed to the Governor's Office of Boards and Commissions, who shall bring forth eligible candidates for consideration by the Governor. The Governor shall appoint the Chairperson of the Board ("Board Chair") from the business representative membership to serve at the pleasure of the Governor. The Board Chair shall appoint a Vice-Chair and an Executive Committee. Executive Committee members shall serve a term of two (2) years, and no member shall remain on the Executive Committee for more than two (2) consecutive terms. The Executive Committee shall have at least seven (7) members and may have up to nine (9) members at the discretion of the Board Chair.

SECTION 4. As a general condition of Board membership, each appointed member or any authorized designee must have optimum policy-making authority as defined in 20 C.F.R. § 679.120. A member cannot represent an entity in more than one (1) of the following three (3) categories: business representatives, workforce representatives, or government representatives. Except where a single government agency is responsible for multiple required programs, a member shall not represent more than one (1) entity within a category.

SECTION 5. A Board member may resign at any time by filing a written resignation with the Board Chair, the Executive Director of the Office of the Kentucky Workforce Innovation Board ("Executive Director"), and the Governor's Office of Boards and Commissions. All vacancies shall be immediately reported, in writing, to the Executive Director, who shall notify the Commissioner of the Department of Workforce Development, the Secretary of the Kentucky Education and Labor Cabinet, and the Governor's Office of Boards and Commissions within five (5) business days of receiving notice of the vacancy.

**ARTICLE IV
ETHICS AND CONFLICTS OF INTEREST**

- SECTION 1.** Board members and the non-members serving on committees and workgroups of the Board are subject to the provisions of Executive Orders 2008-454 and 2009-882 as well as the gift and conflict of interest rules for Executive Branch public servants set forth in KRS Chapter 11A. Any unresolved conflict of interest issue shall be submitted to the Ethics Officer for the Kentucky Education and Labor Cabinet for review and recommendation.
- SECTION 2.** A member of the Board may not vote on a matter under consideration regarding the provision of services by such member (or by an entity that such member represents) or that would provide direct financial benefit to such member or the immediate family of such member.
- SECTION 3.** If a matter before the Board presents a conflict of interest for a Board member, she or he shall bring the conflict of interest to the attention of the Board Chair and shall recuse himself or herself from participating in discussion and/or voting on the matter by leaving the meeting. The member's recusal shall be reflected in the meeting minutes. The member may return to the meeting once the discussion and voting on the matter has concluded.
- SECTION 4.** It shall not be a conflict of interest for a Board member to serve on a Local Workforce Development Board, as defined by section 107 of Workforce Innovation and Opportunity Act. Members are required to adhere to Article IV, Section 3 of these By-Laws if a matter before the Board presents a conflict of interest with members' membership on a Local Workforce Development Board.

**ARTICLE V
BOARD MEETINGS**

- SECTION 1.** The Board shall meet at least four times each calendar year at such time and place as designated by the Board Chair in coordination with the Executive Director. In order to promote Board member participation at the meetings, members may attend in-person or through web-based video conferencing software (e.g., Zoom).
- SECTION 2.** The Executive Director shall provide members with a written schedule of all regular meetings for the upcoming year. Special meetings of the Board may be called by the Board Chair as circumstances require.

- SECTION 3.** Meeting information, including the dates, times, locations, video conference links, and agendas, for all Board meetings, Board committees and task forces, shall be posted on the Kentucky Workforce Innovation Board website.
- SECTION 4.** The Board Chair shall approve an agenda for each meeting. Members shall submit a written request for consideration of an agenda item to the Board Chair and Executive Director no less than five business days in advance of the meeting. The agenda item may be placed on the meeting's agenda at the discretion of the Board Chair in consultation with the Executive Director.
- SECTION 5.** If a Board member is unable to attend a meeting, he/she may assign a proxy or designee to attend the meeting on his/her behalf if the designee meets the requirements of 20 C.F.R. § 679.110(d)(4) and 20 C.F.R. § 679.120. If a member assigns a designee to attend a meeting, that member must notify the Board's Chair and Executive Director in writing at least 24 hours prior to the meeting date of the name of the designee and attest that the designee meets the applicable requirements of 20 C.F.R. § 679.110(d)(4) and 20 C.F.R. § 679.120.
- SECTION 6.** The Executive Director shall keep proper records of all meetings in typewritten form and maintain all records in accordance with the General Records Retention Schedule for State Agencies. The written minutes approved by the Board, Committee or Task Force shall be the official record. A copy of the official minutes shall be posted on the Kentucky Workforce Innovation Board website.
- SECTION 7.** In addition to attending Board meetings, Board members are invited and encouraged to participate in all workforce activities across the Commonwealth and in their respective areas, such as employer-focused meetings, hiring functions, and employer round table meetings. These activities aim to engage members in convening the workforce development system's stakeholders, brokering relationships with a diverse range of employers, and leveraging support for workforce development activities.

ARTICLE VI QUORUM AND ATTENDANCE

At all Board meetings, a quorum shall be a majority of the members appointed to the Board. Attendance is required at all meetings. Board members who miss more than two regularly scheduled Quarterly Business Meetings of the Board in a 12-month period may be subject to replacement at the discretion of the Governor upon the advice of the Board Chair and Executive Director as appropriate.

ARTICLE VII VOTING & NEW BUSINESS/MOTIONS

SECTION 1. New business orders or motions must be filed in writing with the Executive Director and Board Chair at least five business days before a regularly scheduled meeting of

the Board in order to be included on the agenda for that meeting. Orders or motions so filed with the Executive Director and Board Chair will be placed on the agenda and copies will be supplied to Board members in advance of the meeting. Requests for new business orders or motions filed later than five business days before the regularly scheduled meeting shall be placed on the agenda at the discretion of the Board Chair in consultation with the Executive Director.

SECTION 2. Votes of the Board shall be taken by voice vote.

SECTION 3. Any member may request immediate consideration of any matter on the agenda. If any member objects, objects to immediate consideration, the matter must be referred to the Chair for action at the next meeting, unless two-thirds of the members present approve immediate consideration.

ARTICLE VIII OPEN MEETINGS

SECTION 1. The Board shall adhere to Open Meeting requirements as specified in the Kentucky Open Meetings Act, KRS 61.800 *et seq.*

SECTION 2. All meetings of the Board shall be open to the general public. Those members of the public in attendance at any meeting of the Board may address the Board only with the prior approval or at the request of the Board Chair.

ARTICLE IX COMMITTEES AND TASK FORCES

SECTION 1. The Board shall establish an Executive Committee. The Executive Committee shall be made up of the Board Chair (who shall also be chair of the Executive Committee), the Vice Chair and include private industry and workforce representatives appointed by the Board Chair to ensure representation of the major groups identified in the Workforce Innovation and Opportunity Act. The Executive Committee is empowered to meet on an interim basis between regular full Board meetings and make emergency or time-sensitive decisions when necessary. The Executive Committee shall monitor the work of other Board committees, task forces, and the Board staff and make policy recommendations to the Board. Specifically, the Executive Committee may provide guidance and recommendations to the Board in the areas of strategic planning, legislation, operations, and other areas. The Executive Committee may also assist in the development of board meeting agendas.

SECTION 2. Issues that are of importance to the Board may be referred to a committee or task force. The Board Chair may appoint, authorize, or abolish committees, task forces

or other bodies to serve the Board. The Board may invite non-members, to be approved by the Board Chair, to serve on committees and task forces created by the Board.

SECTION 3. The Board Chair will appoint chairs to Board committees and task forces. Each committee or task force will have a specific mandate with clear timelines for addressing the questions put to them by the membership or the appointing authority. Board staff shall provide a resource person for each committee upon consultation with the committee chairperson. The committees may be staffed and attended by other workforce partners, education partners, or interested non-profit partners who express an interest in the subject matter but are not full members of the Board.

SECTION 4. Meetings of committees may be called by the committee chairperson. Committees may hold meetings concurrently with other committees. All committee members shall be notified in writing as to the date and time of the committee meeting.

SECTION 5. All recommendations of these committees and task forces will be referred to the full Board membership.

ARTICLE X CONDUCT OF MEMBERS

SECTION 1. When a member speaks, he or she shall address the Board Chair and confine his or her remarks to the question under debate.

SECTION 2. No member shall be interrupted while speaking except by their consent or by a point of order; nor shall there be any conversation among the members while a question is being stated, while a member is speaking, or while there is a presentation before the Board.

SECTION 3. Board members shall strive to make their remarks succinct and productive to the discussion while speaking on any question where debate is unlimited. The Board Chair shall control Board discussions and may limit the amount of time a member may speak on a topic.

ARTICLE XI PARLIAMENTARY PROCEDURE

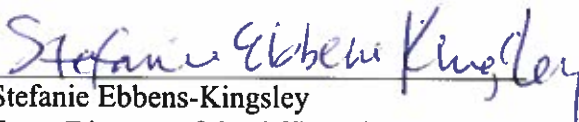
The Board shall be governed based upon the general premises of Robert's Rules of Order, in all questions of parliamentary procedure not provided for by these By-Laws. Board members may ask questions during meetings as a point of order or point of clarification.

ARTICLE XII
ADOPTION AND AMENDMENT OF BY-LAWS

- SECTION 1.** These By-Laws were discussed and voted on at the August 19, 2022 meeting of the Board and became effective on August 20, 2022. The By-Laws became effective with the approval of a majority of members present and voting.
- SECTION 2.** The membership shall have the power and authority to alter, amend, or repeal these By-Laws at a subsequent regularly scheduled Board meeting by the majority vote of the Board members present. Advance notice of intent to alter, amend or repeal the By-Laws must be given in writing to the members at least twenty (20) business days prior to the scheduled vote.
- SECTION 3.** Advance notice of intent to alter, amend, or repeal any policies, procedures, or guidance shall be provided by the Executive Director to the Commissioner of the Department of Workforce Development, the Secretary for the Education & Labor Cabinet, and the Governor's Office.



Governor Andy Beshear



Stefanie Ebbens-Kingsley
Exec. Director of the Office of the Board



Kim Menke, Board Chair