

P.O. Box 995  
1550 Gadsden Street  
Columbia, SC 29202  
dew.sc.gov



Nikki R. Haley  
Governor

Cheryl M. Stanton  
Executive Director

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## STATE INSTRUCTION NUMBER 14-05

**To:** County Council Chairs  
Workforce Area Signatory Officials  
Workforce Area Administrators

**Subject:** WIOA Local Workforce Development Area Designation and Local Workforce Development Board Certification

**Issuance Date:** January 30, 2015

**Purpose:** In order for the State to receive funds under the newly enacted Workforce Innovation and Opportunity Act (“WIOA”), the Governor must designate local workforce development areas within the State. Further, a local workforce development board must be established in each area and must be certified by the Governor. This State Instruction provides the requirements and procedures for requesting designation as a local workforce development area, as well as the criteria for local board certification.

**Background:** The Workforce Innovation and Opportunity Act was signed into law on July 22, 2014 (Public Law 113-128). WIOA is designed to help job seekers access employment, education, training, and support services to succeed in the labor market and to match employers with the skilled workers they need to compete in the global economy. It is the first legislative reform of the public workforce system in more than 15 years, and replaces the Workforce Investment Act of 1998 (“WIA”).

Section 106(b) of WIOA requires that the Governor designate local workforce development areas within the State through consultation with the state workforce board, local chief elected officials and local boards, and after consideration of comments received through a public comment process.

In addition, Section 106(b) requires that the Governor designate local areas based on considerations consisting of the extent to which the areas:

- are consistent with labor market areas in the State;
- are consistent with regional economic development areas in the State; and
- have available the Federal and non-Federal resources necessary to effectively administer activities and provisions required by WIOA, including whether the areas have the appropriate education and training providers, such as institutions of higher education and area career and technical education schools.

**Newly Configured Workforce Areas:** Per Section 106(b)(4), the Governor may approve a request from any unit of general local government (including a combination of such units) for designation as a local workforce development area if the State Workforce Investment Board determines, based on the considerations described above, and recommends to the Governor, that such area should be designated.

**Existing Workforce Areas:** Per Section 106(b)(2), the Governor will approve a request for initial designation as a local workforce development area from any area that was designated as a local area for purposes of the Workforce Investment Act (WIA) for the 2-year period preceding enactment of WIOA, performed successfully, and sustained fiscal integrity. Initial designation will be for a period of two (2) years.

Per Section 106(e)(1), the term “performed successfully” means the local area met or exceeded the performance goals for the WIA common measures for each of the last 2 consecutive years for which data are available.

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

The chief elected official(s) in a local workforce area are authorized to appoint the members of the local board for such area. The local workforce development board must meet WIOA composition requirements as outlined in Section 107(b)(2).

**Action:** The following procedures will be used in requesting designation as a local workforce development area, including areas previously designated under WIA, and in appointing members of the local board for certification by the Governor.

#### **Formal Designation Petition**

The Workforce Development Area Designation Petition, included as an attachment to this document, must be used to request area designation. The petition will include:

- consortium agreement (if applicable);
- for newly configured workforce areas, a narrative regarding how the area meets the considerations outlined in Section 106(b)(1)(B);
- for existing workforce areas, certification that the area performed successfully and sustained fiscal integrity for the 2-year period preceding enactment of WIOA (July 1, 2012-June 30, 2014);
- list of local board members, to include composition categories and contact information;
- identification of grant recipient/fiscal agent and signature of lead official;
- signatures of chief elected officials from petitioning counties;
- documentation that public input was solicited and any comments received.

### Consortium Agreement

In cases where a local area includes more than one unit of general local government, the chief elected officials (county council chairs) must negotiate a consortium agreement in order to establish a workforce development area to deliver WIOA funded services. Such agreement will, at a minimum:

- determine the distribution of fiscal liability among the chief elected officials;
- delineate relationships among the chief elected officials for the purpose of implementing provisions of WIOA;
- address the appointment of individuals to the local workforce development board; and
- designate an entity to serve as the local grant recipient and fiscal agent for the area. Such designation does not relieve the chief elected officials of the liability for any misuse of grant funds.

### Local Board Criteria

In appointing members to the local workforce development board, chief elected officials will comply with *State Instruction 14-03: State Criteria for WIOA Local Workforce Development Boards*. (See attached.) The Governor will certify local boards based on the state criteria contained in this document.

### Timeline

- All formal workforce development area designation petitions must be submitted by 5:00 p.m., Monday, May 4, 2015.
- Petitions will be reviewed by the executive committee of the State Workforce Investment Board on May 20, 2015 and by the full board on June 11, 2015.
- After a required public comment period, workforce development area recommendations will be made to the Governor.
- Final designation of workforce development areas and local board certification for the program years 2015 and 2016 will be made by June 30, 2015.

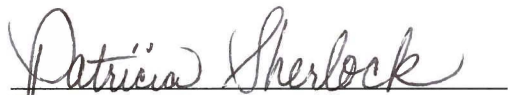
### Appeals

In accordance with the State Plan and Section 106(b)(5), if an existing workforce area requests but is not granted designation as a local workforce development area, the unit of general local government (including a combination of such units) or grant recipient may submit a written appeal to the State Workforce Investment Board within twenty (20) days of receiving written denial notification. Appeals submitted after this time will not be considered.

The appealing entity must explain why it believes the denial is contrary to the provisions of Section 106(b)(2) of WIOA. No other cause for appeal will be considered under this section. The State Workforce Investment Board must consider and respond in writing to such an appeal within twenty (20) days of its receipt.

If the petitioning entity is again denied such designation, further appeal to the Secretary of Labor may occur if the entity alleges that the area meets the requirements of Section 106(b)(2) or that the entity was not accorded procedural rights under the State appeal process described herein. All such appeals to the Secretary must be submitted within fifteen (15) days of receipt of the notification of denial by the State Workforce Investment Board. The appealing entity must simultaneously notify the Governor and the SWIB of such an appeal to the Secretary. The Secretary will make a final decision within thirty (30) days after the appeal is received. The Secretary will notify the Governor and the appellant in writing of the Secretary's decision.

**Inquiries:** Questions regarding this guidance may be directed to Mary jo Schmick at [mschmick@dew.sc.gov](mailto:mschmick@dew.sc.gov), or 803-737-2708.

  
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Patricia Sherlock, Director  
Policies and Procedures

Attachments: *State Instruction 14-03: State Criteria for WIOA Local Workforce Development Boards*  
Workforce Development Area Designation Petition

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## STATE INSTRUCTION NUMBER 14-03

**To:** Local Workforce Area Signatory Officials  
Local Workforce Area Administrators

**Subject:** State Criteria for WIOA Local Workforce Development Boards

**Issuance Date:** January 15, 2015

**Purpose:** Pursuant to the provisions of the Workforce Innovation and Opportunity Act (WIOA), a local workforce development board must be established in each workforce development area within the state and must be certified by the Governor. The purpose of this instruction is to issue state criteria regarding composition requirements and standing committees of local workforce development boards under WIOA.

**Policy:** Each local workforce development area will comply with the following criteria established by the State Workforce Investment Board.

- The chief elected official(s) in a local area are authorized to appoint the members of the local board for such area. The local workforce development board must meet WIOA composition requirements as outlined in Section 107(b)(2) of Public Law 113-128. An alternative entity/grandfathered board will not be certified, unless it is in compliance with the composition requirements in the Statute.

WIOA specifies the following criteria for the local workforce development board:

(2) COMPOSITION.—Such criteria shall require that, at a minimum—

(A) a majority 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;

(B) 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 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 a 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;

(C) each local board shall include representatives of entities administering education and training activities in the local area, who—

(i) shall include a representative of eligible providers administering adult education and literacy activities under title II;

(ii) shall include a representative of institutions of higher education providing workforce investment activities (including community colleges);

(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;

(D) each local board shall include representatives of governmental and economic and community development entities serving the local area, who—

(i) shall include a representative of economic and community development entities;

(ii) shall include an appropriate 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 an appropriate 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; and

(E) 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.

- The standing committees of the local board must consist of the three committees identified in Section 107(b)(4)(A) of Public Law 113-128, as specified below. The local board may designate additional standing committees.

The following committees must be included in the standing committees of the local board:

(i) A standing committee to provide information and assist with operational and other issues relating to the one-stop delivery system, which may include as members representatives of the one-stop partners.

(ii) A standing committee to provide information and to assist with planning, operational, and other issues relating to the provision of services to youth, which shall include community-based organizations with a demonstrated record of success in serving eligible youth.

(iii) A standing committee to provide information and to assist with operational and other issues relating to the provision of services to individuals with disabilities, including issues relating to compliance with section 188, if applicable, and applicable provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) regarding providing programmatic and physical access to the services, programs, and activities of the one-stop delivery system, as well as appropriate training for staff on providing supports for or accommodations to, and finding employment opportunities for, individuals with disabilities.

29 U.S.C. §3122; Public Law 113-128

**Action:** Please ensure that local chief elected officials, board members, and appropriate staff receive and understand this policy.

**Inquiries:** Questions may be directed to Mary jo Schmick at [mschmick@dew.sc.gov](mailto:mschmick@dew.sc.gov), or 803-737-2708.

  
\_\_\_\_\_  
Patricia Sherlock, Director  
Policies and Procedures

State of South Carolina  
Workforce Innovation and Opportunity Act

**Workforce Development Area Designation Petition**

This Petition must be used by any entity requesting designation as a Local Workforce Development Area pursuant to Public Law 113-128, the Workforce Innovation and Opportunity Act (WIOA).

**Section I. Petitioning Jurisdiction(s)**

A. Designation as a Workforce Development Area is requested for the following county(ies).

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B. Specify the name of the proposed Workforce Development Area.

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C. List the names of the chief elected officials (CEOs) representing the units of general local government on whose behalf this petition is being submitted.

<u>County</u>	<u>Name</u>
<hr/>	<hr/>
<hr/>	<hr/>
<hr/>	<hr/>
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D. List the name, title, mailing address, telephone number, fax number and e-mail address of the primary contact person regarding this petition.

Name:	
Title:	
Mailing Address:	
Telephone Number:	
Fax Number:	
E-Mail Address:	

**Section II. Consortium Agreement**

If the local area includes more than one unit of general local government, the chief elected officials must negotiate a consortium agreement in order to establish a workforce development area to deliver WIOA funded services. Such agreement must be included as an attachment to this designation petition.

**Section III. Newly Configured Workforce Area**

- A. Address the extent to which the local area is consistent with labor market areas in the state.
- B. Address the extent to which the local area is consistent with regional economic development areas in the state.
- C. Address the availability of Federal and non-Federal resources in the area to effectively administer activities under WIOA, including whether the area has the appropriate education and training providers, such as institutions of higher education and area career and technical education schools.

## Section IV. Existing Workforce Area

A. In the tables below, provide the final WIA performance data for each of the last two (2) consecutive years.

<b>Program Year 2012 (July 1, 2012 – June 30, 2013)</b>			
<b>Performance Measure</b>	<b>Goal</b>	<b>Actual</b>	<b>Percent of Goal</b>
Youth Placement in Employment or Education			
Youth Attainment of Degree or Certificate			
Youth Literacy or Numeracy Gains			
Adult Entered Employment Rate			
Adult Employment Retention Rate			
Adult Average Six-Month Earnings			
Dislocated Worker Entered Employment Rate			
Dislocated Worker Employment Retention Rate			
Dislocated Worker Average Six-Month Earnings			

<b>Program Year 2013 (July 1, 2013 – June 30, 2014)</b>			
<b>Performance Measure</b>	<b>Goal</b>	<b>Actual</b>	<b>Percent of Goal</b>
Youth Placement in Employment or Education			
Youth Attainment of Degree or Certificate			
Youth Literacy or Numeracy Gains			
Adult Entered Employment Rate			
Adult Employment Retention Rate			
Adult Average Six-Month Earnings			
Dislocated Worker Entered Employment Rate			
Dislocated Worker Employment Retention Rate			
Dislocated Worker Average Six-Month Earnings			

For each measure, the US Department of Labor defines performance as follows:

- Exceed = actual performance is greater than 100% of goal
- Meet = actual performance is 80% - 100% of goal
- Did not meet = actual performance is less than 80% of goal

If any measure was not met in either program year, address the reasons, corrective action measures taken, and current status.

**B. Address fiscal integrity regarding funds provided under WIA.**

Has the Secretary made a formal determination, during either of the last 2 consecutive years, that WIA funds provided to the area were misexpended due to willful disregard of the requirements of the provision involved, gross negligence, or failure to comply with accepted standards of administration?

**Section V. Local Board Information**

Using Attachment A, provide a list of local board members, to include composition categories and contact information.

**Section VI. Grant Recipient/Fiscal Agent**

Using Attachment B, designate the grant recipient/fiscal agent for the area. Signature of the lead official is required. Signatures of each chief elected official are also required.

**Section VII. Public Comment**

Attach documentation that public input was solicited and provide all comments received.

**Section VIII. Assurances and Signatures**

**A. Assurances**

The chief elected officials (CEOs) making this designation request assure the following:

- That they have been duly authorized to participate by and on behalf of the governing bodies of the counties specified and documentation of this authorization can be provided;
- Compliance with the requirements of the Act, all federal regulations implementing the Act, any revisions or amendments thereto, state issued instructions, and any and all applicable federal, state or local rules and regulations; and,
- Acceptance of the liability for any misuse of grant funds.

**B. Signatures**

I/We, the undersigned chief elected official(s) of the petitioning county(ies), do hereby submit this formal designation petition under the conditions delineated herein and with the assurances specified herein.

<u>County</u>	<u>Signature</u>	<u>Date</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Submit Petition to: LaCrystal Jackson  
SC Department of Employment and Workforce  
1550 Gadsden Street  
Post Office Box 1406  
Columbia, South Carolina 29202

Submit by: 5:00 p.m., Monday, May 4, 2015

# Attachment A

## WIOA Local Workforce Development Board Membership

Total Seats

Seats Occupied

Seats Vacant

### Business (per Section 107(b)(2)(A))

No.	Name	Affiliation and Title	Contact Phone and Email	Address
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				

### Not Less Than 20% (per Section 107(b)(2)(B))

No.	Name	Affiliation and Title	Contact Phone and Email	Address
1				
2				
3				
4				
5				

6				
7				
8				

**Education & Training (per Section 107(b)(2)(C))**

No.	Name	Affiliation and Title	Contact Phone and Email	Address
1				
2				
3				
4				
5				

**Governmental, Economic, and Community Development (per Section 107(b)(2)(D))**

No.	Name	Affiliation and Title	Contact Phone and Email	Address
1				
2				
3				
4				
5				
6				

**Others as Chief-Elected Officials Determine Appropriate (per Section 107(b)(2)(E))**

No.	Name	Affiliation and Title	Contact Phone and Email	Address
1				
2				
3				

Denote multiple representation with an asterisk (\*).

Total Number of Seats Filled	
Number of Seats Filled Representing Business	
Percentage of Seats Filled Representing Business	
Number of Seats Filled Representing Not Less than 20%	
Percentage of Seats Filled Representing Not Less than 20%	
Number of Seats Filled Representing Education & Training	
Number of Seats Filled Representing Gov't, Economic & Comm. Dev.	
Number of Seats Filled Representing Others by Chief Elected Officials	

**Attachment B**

**(Enter name) Local Workforce Development Area**

**Designation of Grant Recipient/Fiscal Agent**

The Chief Elected Officials of the \_\_\_\_\_ *name* \_\_\_\_\_ Local Workforce Development Area hereby designate \_\_\_\_\_ *grant recipient/fiscal agent* \_\_\_\_\_ as the grant recipient and fiscal agent pursuant to the Workforce Innovation and Opportunity Act (WIOA).

While WIOA permits the local Chief Elected Officials (CEOs) to designate an entity to serve on their behalf as grant recipient and fiscal agent, the CEOs understand that this designation does not relieve them of their liability for any misuse of grant funds.

<u>County</u>	<u>Authorized Signature</u>	<u>Date</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

As the authorized signatory official of \_\_\_\_\_ *name* \_\_\_\_\_, I accept the responsibilities as WIOA grant recipient and fiscal agent for the \_\_\_\_\_ *name* \_\_\_\_\_ Workforce Development Area.

_____	_____	_____
Name and Title	Signature	Date