

# WORKFORCE SERVICES DIRECTIVE

Number: WSD15-13

Date: January 22, 2016  
69:007:rv:17375

TO: WORKFORCE DEVELOPMENT COMMUNITY

SUBJECT: LOCAL BOARD RECERTIFICATION

## EXECUTIVE SUMMARY

### Purpose

This policy provides guidance and establishes the procedures for recertification of Local Workforce Development Boards (Local Boards) under the *Workforce Innovation and Opportunity Act* (WIOA). Local Board recertification is effective July 1, 2016, through June 30, 2018.

### Scope

This directive applies to all Local Boards.

### Effective Date

This directive is effective on the date of issuance.

## REFERENCES

- WIOA (Public Law 113-128) Sections 106 and 107
- *Workforce Investment Act* (WIA) (Public Law 105-220) Sections 116 and 117
- Title 20 *Code of Federal Regulations* (CFR) Part 652 et al: WIA; Final Rules
- Title 2 CFR Chapter I, Chapter II, Part 200, et al., "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;" Final Rule (Uniform Guidance)
- Title 2 CFR Part 2900 et al., "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" (Uniform Guidance)
- Title 29 CFR Part 95: "Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations"
- Title 29 CFR Part 97: "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments"
- *California Unemployment Insurance Code* (CUIC) Section 14202(c)
- Training and Employment Guidance Letter TEGl 27-14, Subject: *WIOA Transition Authority for Immediate Implementation of Governance Provisions* (April 15, 2015)

The EDD is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.

- Workforce Services Directive WSD14-10, Subject: *Initial Local Workforce Development Area (Local Area) Designation and Local Board Certification Under WIOA* (February 20, 2015)
- Workforce Services Directive WSD12-14, Subject: *Program Year (PY) 2013-17 Local Plans and Board Certification (Biennial and High Performing)* (May 22, 2013)
- WIA Directive WIAD06-10, Subject: *Local Area Nonperformance Policy* (November 14, 2006)
- Workforce Services Information Notice WSIN12-62, Subject: *Late Monthly, Quarterly, Closeout, Audit and Participant Reports* (May 23, 2013)

## STATE-IMPOSED REQUIREMENTS

This directive contains some state-imposed requirements. These requirements are indicated by ***bold, italic*** type.

## FILING INSTRUCTIONS

This directive finalizes Workforce Services Draft Directive WSDD-118, issued for comment on June 29, 2015. The Central Office Workforce Services Division received 8 comments during the draft comment period and these comments resulted in changes to the directive. A summary of comments is provided (Attachment 2).

Retain this directive until further notice.

## BACKGROUND

Workforce Services Directive WSD14-10 provided guidance for initial Local Board certification under WIOA. Initial Local Board certification is effective July 1, 2015, through June 30, 2016.

The WIOA Section 107 provides criteria for the recertification of Local Boards. Specifically, it requires the Governor to certify one Local Board for each Local Area in the state once every two years. It states that, in order to be recertified, the Local Board must have met WIOA membership requirements, met or exceeded performance accountability measures, and achieved sustained fiscal integrity.

## POLICY AND PROCEDURES

In accordance with WIOA Section 107(c)(2), the State Board will recommend recertification of a Local Board if they have met WIOA membership requirements, met or exceeded performance accountability measures, and achieved sustained fiscal integrity. In addition to the requirements under WIOA Section 107(c)(2), Local Boards requesting recertification must provide a status update that outlines progress made towards implementation of several other key WIOA provisions.

The four criteria used to determine Local Board recertification are as follows:

1. *The Local Board Met the Membership Provisions in the WIOA Section 107(b)*

Local Boards must meet the membership provisions established in WIOA Section 107(b) and CUIC Section 14202(c) **by March 31, 2016**.

Note that, the State Board and the EDD recognize that Workforce Services Directive WSD14-10, *Initial Local Area Designation and Local Board Certification Under WIOA*, did not require existing Local Areas to establish a WIOA compliant board until June 30, 2016. The State Board and the EDD believe this revised timeframe still allows adequate time for Local Areas to transition to the required membership and ensure the Local Board is properly constituted to engage in a meaningful strategic planning process envisioned in the WIOA.

Local Boards must ensure they are fulfilling the intent of the “Sunshine Provisions” in the WIOA. WIOA Section 107(e) requires Local Boards to make available to the public, on a regular basis through electronic means and open meetings, information regarding the activities of the Local Board, including membership information.

2. *The Local Board Met or Exceeded Performance Accountability Measures*

***The Local Board must have achieved 80 percent or higher on at least eight of the nine locally negotiated common performance measures for PYs 2013-14 and 2014-15.*** (This flexibility is in alignment with WIA Directive WIA06-10 and Workforce Services Directive WSD12-14).

The evaluation of local performance outcomes will consider the extent to which Local Boards have begun to implement the WIOA, and the potential impact on local performance levels.

3. *The Local Board Achieved Sustained Fiscal Integrity*

The Local Board may not have been found in violation of one or more of the following during PYs 2013-14 or 2014-15:

- Final determination of significant finding(s) from audits, evaluations, or other reviews conducted by state or local governmental agencies or the Department of Labor identifying issues of fiscal integrity or misexpended funds due to the willful disregard or failure to comply with any WIA requirement, such as failure to grant priority of service or verify participant eligibility.
- Gross Negligence, which is defined as a conscious and voluntary disregard for the need to use reasonable care, which is likely to cause foreseeable grave injury or harm to persons, property, or both.
- Failure to observe accepted standards of administration. Local Areas must have adhered to the applicable uniform administrative requirements set forth in Title 29 CFR Parts 95 and 97, appropriate Office of Management and Budget circulars or rules, WIA regulations, and state guidance. Highlights of these responsibilities include the following:
  - Timely reporting of WIA participant and expenditure data.
  - Timely completion and submission of the required annual single audit.

- *Have not been placed on cash hold for longer than 30 days*  
(In alignment with WIOA Section 106[e][2]).

4. ***The Local Board Provided Status Updates On Key WIOA Provisions***

***The Local Board must demonstrate they have taken steps toward implementing key WIOA provisions and are moving towards a unified, customer-focused system. This includes, but is not limited to, strategic planning, developing new services, entering into new collaborative partnerships, and creating innovative workforce development strategies in alignment with the WIOA. In the event that EDD Monitors need to corroborate the Local Board's implementation efforts that are outlined in their status update, Local Boards must retain adequate supporting documentation. Progress must be demonstrated for the following WIOA provisions:***

- ***Meeting new youth service requirements.***
- ***Adhering to the new Uniform Guidance requirements.***
- ***Developing sector initiatives and career pathways in high demand industries in coordination with community colleges, apprenticeship programs, adult basic education, and other training providers.***
- ***Adopting, implementing, and promoting the AJCC brand.***
- ***Completing Phase I of the MOU development process.***

Recertification Request

In order to determine if Local Boards have met the recertification requirements, they must complete the Local Board Recertification Request (Attachment 1). The request must be signed by the Local Board chairperson (or officially designated alternate) and the local Chief Elected Official (CEO).

The completed request must be submitted to the State Board no later than 5:00 p.m., March 30, 2016. The State Board will accept signed or unsigned copies on or before this date. The signed copies must be received no later than June 20, 2016.

Mail	California Workforce Development Board P.O. Box 826880 Sacramento, CA 94280-0001
Courier	California Workforce Development Board 800 Capitol Mall, Suite 1022 Sacramento CA 95814
Hand Deliver	California Workforce Development Board 800 Capitol Mall, Suite 1022 Sacramento CA 95814

## Assessment of Recertification Request

The State Board, in coordination with the EDD, will verify the information provided in the recertification request. The State Board will consider all information provided, and determine whether to recommend recertification at its spring 2016 meeting.

The Local Board will be notified in writing by May 20, 2016, regarding its recertification status. If approved, the Local Board recertification will be effective July 1, 2016, through June 30, 2018. If denied, the Local Board may be granted conditional certification and required to submit a corrective action plan to the State Board as outlined in the section below.

## Failure to Achieve Recertification

***If a Local Board fails to achieve recertification, the State Board and the EDD will work with the Local Board in a good faith effort to improve those areas out of compliance, granting conditional recertification if necessary.***

***Local Boards that are granted conditional recertification will be required to submit a corrective action plan to the State Board by June 20, 2016. The corrective action plan must address the recertification criteria the Local Board did not meet (i.e., membership, performance, sustained fiscal integrity, or demonstrated progress toward implementing key WIOA provisions). The corrective action plan must be signed by the Local Board chairperson or his/her official designated alternate.***

If the Local Board fails to submit a corrective action plan as required, the Local Board's recertification request will be denied and a new Local Board will be appointed and certified in accordance with WIOA Section 107(c)(2)(C).

## **ACTION**

Please bring this directive to the attention of the Local Board, local CEO, and other relevant parties.

## **INQUIRIES**

Contact your assigned [Regional Advisor](#) if you have questions concerning this directive.

/S/ JOSÉ LUIS MÁRQUEZ, Chief  
Central Office Workforce Services Division

Attachment is available on the Internet:

1. [Local Board Recertification Request](#)
2. [Summary of Comments](#)