

MASSACHUSETTS
Workforce Investment Act

STEERING COMMITTEE

WIA Communication No. 00-06

Policy **Information**

To: Chief Elected Officials
Regional Employment Board Chairs
Regional Employment Board Directors
Service Delivery Area Directors or Designee
Career Center Directors
DET Regional Directors
DET Area Directors

cc: WIA State Partners
(Distributions attached)

From: Department of Labor and Workforce Development

Date: February 23, 2000

Subject: **Local Workforce Investment Board Certification Policy and Process**

Purpose: To provide guidance and instruction in the preparation of the local Workforce Investment Board (LWIB) Biennial Certification Package.

Background: The Workforce Investment Act of 1998 (Section 117) requires the establishment of a Local Workforce Investment Board in each local area of a state. These LWIBs must be certified by the Governor and are charged with setting policy for the statewide workforce investment system within the locally defined area.

The Governor, in partnership with the State board, establishes criteria for use by Chief Elected Officials (CEOs) in the local areas for appointment of members to the local boards in accordance with the requirements set by federal law, the Governor and the State board.

The following pages contain instructions and guidance for the completion of the LWIB certification process including membership criteria established by the Workforce Investment Act and additional required criteria established by the Commonwealth.

Policy: The Commonwealth is issuing LWIB certification requirements for all regions designated as Workforce Investment areas based on the Workforce Investment Act of 1998 and the Governors Executive Order Number 413 issued July 30, 1999.

Action

Required: All local Workforce Investment Boards and Chief Elected Officials must submit a LWIB Certification package prepared according to the attached instructions and Initial Certification Implementation Schedule to the Corporation for Business, Work, and Learning, 529 Main Street, Boston, MA 02129, attention of Rosemary Graham.

- Inquiries:** Questions related to this document should be directed to Kim McLaughlin, at (617) 727-6573 extension 104.
- Effective:** Certification is effective upon approval from the Department of Labor and Workforce Development.
- Filing:** Please file this in your notebook of previously issue WIA Communication Series Issuances as 00-06.
- References:** WIA Communication No. 99-09, Local Workforce Investment Boards Created as New Entities

**LOCAL WORKFORCE INVESTMENT BOARD
INITIAL CERTIFICATION
IMPLEMENTATION SCHEDULE**

Please send all information to the Corporation for Business, Work, and Learning by the DUE DATES. The completion of the Initial Certification evaluation will be complete on or before October 1, 2000.

<u>DUE DATE</u>	<u>INFORMATION</u>
4/1/00	<u>LWIB Membership</u> – The membership of the LWIB as of 4/1/00. The population should reflect 51% Private Sector members and appropriate membership completeness. Utilize the Local Workforce Investment Board Membership Matrix to input this information. CBWL will review the membership status and determine appropriate feedback.
5/1/00	<u>LWIB Budget</u> – The LWIB’s approved operating budget as noted in the CEO/LWIB AGREEMENT in the Responsibilities of the Local Workforce Investment Board item number 3 . CBWL will review the status and determine appropriate feedback.
7/1/00	<u>Certification</u> – The completed LOCAL WORKFORCE INVESTMENT BOARD CERTIFICATION PACKAGE . CBWL will review and determine certification status by October 1, 2000.

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ABBREVIATIONS USED

CBO	Community Based Organization
CBWL	Corporation for Business, Work, and Learning
CEO	Chief Elected Official
CFR	Code of Federal Regulations
DET	Division of Employment and Training
DLWDD	Department of Labor and Workforce Development
EO	Executive Order
LWIB	Local Workforce Investment Board
MGL	Massachusetts General Law
SWIB	State Workforce Investment Board
WIA	Workforce Investment Act

LOCAL WORKFORCE INVESTMENT BOARD

CERTIFICATION PACKAGE

LWIB Name

LWIB Area

Submitted for Certification Review to
The Department of Labor and Workforce Development

CHIEF ELECTED OFFICIAL:

Signature

Date

Typed Name and Title/City

LWIB CHAIR:

Signature

Date

Typed Name and Title/Company Name

Attach a description of the process for nominating candidates for board membership.

The nomination process must assure that all nominations are submitted to the CEO in accordance with the WIA Regulations at 20 CFR Section 661.325 which states: *The local Board is appointed by the chief elected official(s) in the local area in accordance with State criteria established under WIA section 117(b), and is certified by the Governor every two years, in accordance with WIA section 117(c)(2).*

All members must be representatives that are CEOs or optimum decision-makers with hiring authority, and reflect the diversity goal established within each region.

Appointments requiring nomination which must be documented include:

- Private sector candidates must:
 - Be nominated by local business organizations and business trade associations;
 - Reflect the industrial and geographic composition of the business community.
- Education candidates must be nominated by regional or local educational agencies, institutions, or organizations representing such local entities.
- Nominations for the local provider candidate representing Adult Education and Literacy (WIA Title II) must be made by the Massachusetts Department of Education.
- Labor candidates must be nominated by local labor federations (or if no employees are represented by such labor organizations - other representatives of employees)

Letters of nomination must be kept on file locally by the LWIB.

Direct appointments include:

- Community Based Organizations (CBOs) include those representing individuals with disabilities and veterans for a local area in which there is such an organization.
- Economic Development includes private economic development entities.
- One Stop Career Center partners are entities that carry out activities at the local level and other partners from state/regional agencies (with no local grant recipient). One Stop Career Centers required partners may represent more than one funding stream and are also required to sign an MOU.
- Other agencies includes other members representing appropriate entities at the discretion of the CEO.

Terms of appointments:

The term of appointment for the private sector members of the board must be constructed in such a way that not all of them expire in the same calendar year. Continuity of board strength is the goal.

Membership vacancies:

- All membership vacancies must be filled within 90 calendar days.
- All One-Stop partnership vacancies must be filled within 60 calendar days.
- Upon a showing of good cause, written requests for extensions will be considered.
- All vacancies must be reported to the Department of Labor and Workforce Development within 15 calendar days of the vacancy and an updated membership matrix reflecting the new appointee must be submitted immediately following new appointments.

Additional Certification Requirements

LWIB Area _____ **Date** _____

Items for LWIBs to include:

- Describe the organizational design, roles, responsibilities and staffing utilized to implement the WIA in your area. Include the functions and organizations that would give a full picture of the Workforce Development system.

- Describe the LWIB's committee structure including the Youth Council.

- Attach a description of the LWIB diversity plan and goals.

- Describe how LWIB membership is reflective of the Workforce Investment area's geographical region and industries.

- Describe the process by which on-going communication and collaboration occur among all the chief elected officials in the area.

CRITERIA FOR LOCAL WORKFORCE INVESTMENT BOARD MEMBERSHIP and ORGANIZATIONAL STRUCTURE IN THE COMMONWEALTH OF MASSACHUSETTS

The implementation of the Workforce Investment Act of 1998 provides the Commonwealth, through its designated Local Workforce Investment Boards (LWIBs), the opportunity to develop a comprehensive and locally designed Workforce Investment System. LWIBs will be responsible for the planning and oversight of activities that prepare adults and youth to enter the workforce and encourage local employers to continue and expand their investments in the skill development of their employees. The LWIB will also be responsible for the establishment of a Youth Council.

The following paragraphs are intended to both describe the legal requirements of the Act and provide guidance as to additional considerations for membership criteria at the local level.

Section 117(b)(2)(A) of the Workforce Investment Act requires that at least 51% of the members of the LWIB come from private sector businesses which are representative of the primary employers in the region. The LWIB must elect a chairperson from among the business representatives on the board (WIA sec. 117(b)(5).)

The balance of the membership shall represent education, organized labor, community based agencies, and the One-Stop Career Center partners. More detail on the specific requirements for these additional members will be found in the following pages.

The Workforce Investment Act states that “representatives from each sector shall be CEOs and owners or others with optimum policy making or hiring authority”.

Additional Required Criteria:

The Commonwealth has established additional required criteria relative to LWIB membership as follows:

- Local Workforce Investment Board members who have been appointed by the Chief Elected Official as required under the Workforce Investment Act shall constitute the official voting membership of the Board;
- A minimum of four voting members of the LWIB must also serve on the Youth Council;
- Boards are required to establish a diversity goal to the extent possible within the diversity of its population and the requirement that mandatory representatives to the LWIB be CEOs or optimum decision makers. Each LWIB must submit a plan as part of its certification package that demonstrates how the LWIB will ensure the broadest diversity possible;
- LWIB membership must be reasonably representative of the entire geographic region and critical and/or emerging industries.
- Each LWIB must develop a fair and impartial review process which incorporates in its by-laws a conflict of interest statement in compliance with the Commonwealth of Massachusetts conflict of interest laws (MGL Chapter 268A and B) *see attached*. This statement will ensure that no LWIB member may participate in discussions or vote on proposals in which they have a financial or other interest as described in the statement. Signed Conflict of Interest Statements for each member must be kept on file; (*sample form attached*)
- Each LWIB must ensure that it will conduct business in an open manner consistent with Section 117(e) of the Workforce Investment Act and consistent with the Massachusetts Open Meeting Law.

Additional Required Criteria-Youth Council

The Commonwealth has established the following required criteria relative to the membership of the Youth Council:

- A minimum of four voting members of the LWIB must also serve on the Youth Council.

Additional Membership Considerations:

To ensure the effectiveness of the Local Workforce Investment Board, some additional criteria to be considered in selecting members may include:

- Knowledge about the workforce development needs of the region and the ability to have impact regarding those needs in local communities;
- Creating a size and structure that allows for working meetings as well as working committees;
- Ensuring clear ties between the LWIB and Youth Council which will facilitate program development and policy;
- Representation from relevant partners, customers and advocates throughout the workforce development system;
- Maintaining a clear focus on business as the majority partner;
- Ensuring that labor is formally invited to participate in those committees and processes which develop policy for dislocated worker programs, One-Stop Career Centers, and incumbent worker training;
- Any program or activity which may have multiple grant recipients, administrative entities or organizations responsible for administering its funds in the local area that is a required partner in the One-Stop system, is entitled to one seat on the Local WIB;
- Any state agency that has multiple programs/activities that is a required partner in the One-Stop system is entitled to one seat on the Local WIB;

Additional Organizational Criteria:

WIA envisions the creation of a strong partnership between the CEO and the LWIB. Such a cooperative partnership will have a positive impact on the local labor market and community. By laying the groundwork to enable both the LWIB and the CEO to act effectively as independent agents, their partnership will be strengthened and their joint impact will be significant. The creation of such a workforce development system at the local level, therefore, is supported by the following organizational criteria:

- The LWIB may choose to employ staff directly or contract with another appropriate organization to provide staffing services, including the designated CEO, or its fiscal agent and/or subgrant recipient.*
- The LWIB, LWIB staff and any organization that directly provides staff to the LWIB may not directly provide services in the local workforce investment area, i.e., core, intensive, training or participate in the management or operations of the local One-Stop Career Center(s).
- The fiscal agent (if not the LWIB or LWIB staff) may provide services in the local area, including, the management/operation of the local One-Stop Career Center.
- The CEO has the responsibility and liability for WIA Title I funds and may administer funds directly, or

designate a fiscal agent and/or subgrant recipient, including the LWIB or any existing local fiscal agent or grant subrecipient.

- The LWIB may manage its funds directly or contract with another appropriate entity or agent to manage its funds, including the CEO, its fiscal agent or grant subrecipient or one-stop operator/partner.
- The LWIB will develop a WIA Title I budget as described in the WIA, subject to the approval of the CEO, to carry out its duties in accordance with the CEO/LWIB agreement.
- The LWIB, with the agreement of the CEO, shall select the one-stop career center operator(s) as defined in the CEO/LWIB Agreement.
- The LWIB is expected to establish a 501(c)3 corporate status. The creation of this corporate entity provides a vehicle for the LWIB to access public and private funding which is often unavailable to units of local government but could provide additional resources to both the LWIB and local region in supporting workforce development initiatives.

* Although it is permissible for the LWIB to contract with the CEO/municipality for staffing services, this staffing structure is not encouraged. This action is not encouraged because the configuration could result in only the minimum degree of protection needed to ensure the degree of LWIB autonomy required to properly and effectively perform its critical oversight functions.

If LWIB staffing services are provided by the CEO/municipality, the following conditions must be met:

1. Any provision of service or participation in the local One-Stop Career Center(s) by the municipality may only occur from another part or department of the municipality;
2. Appropriate safeguards must exist to ensure that the LWIB is able to maintain the autonomy necessary to perform its oversight function;
3. Adequate distinctions must be created between LWIB staffing and direct provision of service.

APPEALS PROCESS CERTIFICATION DENIAL OR DECERTIFICATION

Any local workforce investment board or area who fails to meet certification requirements, who is deemed by the Department to have engaged in fraud or abuse or to have failed to carry out its required functions, or to have failed to meet its local performance measures for two consecutive program years may be provisionally denied certification or provisionally decertified upon written notice from the Department.

Any party receiving a notice of provisional denial or provisional decertification has the right to request a hearing before the Department of Labor & Workforce Development. The request for hearing must be made in writing to the Director and received by the Director no later than 10 days after receipt of the notice. If no written request for hearing is received by the Director, the denial or decertification shall become final.

If a timely hearing request is received, the Department shall schedule the hearing no later than 14 days after receipt of the request. After hearing, the Department shall issue a final decision no later than 30 days after the date of the hearing. The provisions of Chapter 30A of the Massachusetts General laws shall govern the conduct of the hearing.

Any party aggrieved by a final decision of the Department may appeal directly to the State Workforce Investment Board. Said appeal must be received by the Chair of the State Board no later than 14 days after the date of the final decision issued by the Director.

Upon receipt of an appeal, the Chair of the State Workforce Investment Board shall schedule a hearing no later than 14 days after the date of receipt of said appeal. Said appeal shall be heard by a panel of seven members of the State Workforce Investment Board consisting of the Chair who shall also chair the panel, and six additional private sector members selected by the Chair. The panel shall issue its final decision no later than 14 days after the hearing date.

Membership Checklist Local Workforce Investment Board

LWIB Name _____ **Date** _____

In order to attain full certification all required members must be appointed. Please complete. Enter Yes or No to indicate if each requirement is met. If a requirement is not met, please explain in the comments section.

Groups Represented:	Yes	No	Comments
Private Sector (51%)			
Labor representatives (2)			
Educational Representatives (2)			
Local Educational Agency			
Local School Boards			
Entities providing Adult Education and Literacy activities			
Post Secondary Educational Institutions			
Economic Development Agencies (2)			
Community Based Organizations (2)			
One Stop partners			
WIA Title I grant recipients:			
Adults			
Youth			
Dislocated Workers			
Welfare to Work			
*Job Corps			
*Native American Program			
*Migrant and Seasonal farmworkers			
Wagner Peyser			
Unemployment Insurance (UI)			
Chapter 41 of Title 38 (DVOP/LVER)			
Adult Education and Literacy			
Post Secondary Vocational Education			
Vocational Rehabilitation Programs			
Title V Older Americans			
Trade Adjustment Assistance and NAFTA Transitional Adjustment			
*CSBG Employment and Training			
*HUD Employment and Training			
*Veterans Employment and Training			
Other partners			

Note: One Stop Career Center required partners may represent more than one funding stream.

Some partners may not be represented on the board if they:

- a) refuse to sign an MOU (Required partners in the One-Stop system who do not have an MOU with the LWIB or are not in compliance with the MOU are not entitled to a seat on the LWIB)
- b) *may not be represented in the area

Membership Checklist Youth Council

LWIB Name _____ Date _____

In order to attain full certification all required members must be appointed. Please complete. Enter Yes or No to indicate if each requirement is met. If a requirement is not met, please explain in the comments section.

GROUPS REPRESENTED	Yes	No	Comments
Youth Service Agencies			
Local Public Housing Authorities			
Parents of eligible youth seeking services			
Individuals			
Job Corps			
Voting members of the LWIB (4)			
Other Youth Council Members			

ATTACHMENTS

Please include the following important policies, documents, or information such as:

- Conflict of Interest policy;
- CEO/LWIB Agreement;
- LWIB By-Laws;
- Terms and Conditions of membership appointment;
- Policy of the Local Board to conduct business in an open manner;
- Description of the LWIB committee structure including Youth Council;
- Description of LWIB diversity plan and goals;
- If there is a Chief Elected Official Agreement which has been negotiated with other Lead Elected Officials please attach;
- Procurement Process;
 - In accordance with Public Law 105-220 Section 117 (d)(2)(B,C and D). **WORKFORCE INVESTMENT ACT OF 1998.**
- Description of the process for nominating candidates for board membership;
- Description of the organizational design, roles, responsibilities and staffing utilized to implement the WIA in your area. Include the functions and organizations that would give a full picture of the Workforce Development system;
- Description of how LWIB membership is reflective of the Workforce Investment area's geographical region and industries;
- Description of the process by which on-going communication and collaboration occur among all the chief elected officials in the area.

CEO/LWIB AGREEMENT

This agreement is not intended to serve as a detailed planning document. Rather, the five-year strategic plan is the document in which the LWIB and CEO provide workplans and timelines involved in carrying out the functions and responsibilities that are listed in the CEO/LWIB agreement. The descriptions contained in the CEO/LWIB agreement should be approaches that each party will take in carrying out their responsibilities and the manner in which each party will keep the other informed as to how they are carrying out their responsibilities.

BACKGROUND

On August 7, 1998, the Workforce Investment Act of 1998 (WIA) (Public Law 105-220) was signed into law and constituted a comprehensive reform legislation that superseded the Job Training Partnership Act (JTPA) and amended the Wagner-Peyser Act. The WIA also contains the Adult and Family Literacy Act (Title II) and the Rehabilitation Act Amendments of 1998 (Title IV).

The WIA reforms Federal job training programs and creates a new, comprehensive workforce investment system intended to be customer-focused, to help people access the tools they need to manage their careers through information and high quality services, and to help companies find skilled workers.

The governance of the Local Workforce Investment System shall be determined by the agreement between the Chief Elected Official and the Local Workforce Investment Board. In accordance with the WIA Law and Regulations, the following guidance is given to ensure that the necessary regulatory elements are described and included in local CEO/LWIB agreements.

CHANGES:

The CEO/LWIB Agreement must be current. In order to remain a valid document, the Agreement must be modified if any of the following conditions change:

- There is a new Chief Elected Official;
- There has been a change in the entity named to assist in the administration of the grant funds to act as the local grant subrecipient or local fiscal agent;
- The term of the document has expired or has not been properly modified

Changes or modifications to the CEO/LWIB Agreement must be included with modifications to the 5-year local plan.

AGREEMENT:

These agreements, must contain, at a minimum, a written description/explanation of the appropriate procedures to accomplish the following items in accordance with the WIA Section 117:

I. Responsibilities of the Chief Elected Official

“The term chief elected official means-- (A) the chief elected executive officer of a unit of general local government in a local area; and (B) in a case in which a local area includes more than one unit of general local government, the individuals designated under the agreement described in section 117(c) (1) (B).” (Public Law 105-220, Section 101 (6))

Describe how the Chief Elected Official will accomplish the following activities.

1. What nomination and selection process will the Chief Elected Official use to appoint the Local Workforce Investment Board Members?

“The chief elected official in a local area is authorized to appoint the members of the local board for such an area, in accordance with the State criteria established under subsection (b).” (Public Law 105-220, Section 117 (c) (1) (A))

2. Is there an agreement among the CEOs in the region? If yes, please attach. If not, how will all units of government in the region participate in workforce initiative activities?

“In a case in which a local area includes more than one unit of general local government, the chief elected officials of such units may execute an agreement that specifies the respective roles of the individual chief elected officials.” (Public Law 105-220, Section 117 (c) (1) (B) (I))

3. Identify the party liable for activities under the Workforce Investment Act.

“The chief elected official in a local area shall serve as the local grant recipient for, and shall be liable for any misuse of, the grant funds allocated to the local area under Sections 128 and 133, unless the chief elected official reaches an agreement with the Governor for the Governor to act as the local grant recipient and bear such liability.” (Public Law 105-220, Section 117 (d) (3) (B) (i) (I))

4. If the Chief Elected Official has named an entity to assist in the administration of the grant funds to act as a local grant subrecipient or local fiscal agent, please identify the organization and describe the duties it will have.

“In order to assist in the administration of the grant funds, the chief elected official or the Governor, where the Governor serves as the local grant recipient for a local area, may designate an entity to serve as a local grant sub-recipient for such funds, or as a local fiscal agent. Such designation shall not relieve the chief elected official or the Governor of the liability for any misuse of grant funds as described in subclause (I).” (Public Law 105-220, Section 117 (d) (3) (B) (i) (II))

5. Describe the process by which WIA Title I funds will be disbursed at the direction of the Local Workforce Investment Board.

“The local grant recipient or an entity designated under subclause (II) shall disburse such funds for workforce investment activities at the direction of the local board, pursuant to the requirements of this title, if the direction does not violate a provision of this Act. The local grant recipient or entity designated under subclause (II) shall disburse the funds immediately on receiving such direction from the local board.” (Public Law 105-220, Section 117 (d)(3)(B)(i)(III))

II. Responsibilities of the Local Workforce Investment Board

“There shall be established in each local area of a State, and certified by the Governor of the State, a local workforce investment board, to set policy for the portion of the statewide workforce investment system within the local area.” (Public Law 105-220, Section 117 (a))

Describe how the Local Workforce Investment Board shall undertake the following activities:

1. How will the five-year plan be developed in your region, and how will the “partnership” be achieved with the CEO?

“Consistent with Section 118, each local board in partnership with the chief elected official for the local area involved, shall develop and submit a local plan to the Governor.” (Public Law 105-220, Section 117 (d) (1))

2. What process will be used to determine the designation of the one stop operators, and what are the roles of the Local Workforce Investment Board and Chief Elected Official in the selection process?

“Consistent with section 121(d), the local board, with agreement of the chief elected official shall designate or certify one-stop operators as described in section 121(d)(2)(A); and may terminate for cause the eligibility of such operators.” (Public Law 105-220, Section 117 (d) (2) (A) (i & ii))

3. What process will be used in the development and approval of the Local Workforce Investment Board's budget?

“The local board shall develop a budget for the purpose of carrying out the duties of the local board under this section, subject to the approval of the chief elected official.” (Public Law 105-220, Section 117 (d) (3) (A))

4. What will be the local oversight process?

“The local board, in partnership with the chief elected official, shall conduct oversight with respect to local programs of youth activities authorized under Section 129, local employment and training activities authorized under Section 134, and the one stop delivery system in the local area.” (Public Law 105-220, Section 117 (d) (4))

5. How will performance measures be determined in your local area?

“The local board, the chief elected official, and the Governor shall negotiate and reach agreement on local performance measures as described in Section 136(c).” (Public Law 105-220, Section 117 (d) (5))

6. What process will be used to appoint the Youth Council?

“There shall be established, as a subgroup within each local board, a youth council appointed by the local board, in cooperation with the chief elected official for the area.” (Public Law 105-220, Section 117 (h) (1))

7. How will the Local Workforce Investment Board ensure public access and knowledge of Workforce Investment Board activities as listed below?

“The local board shall make available to the public, on a regular basis through open meetings, information regarding the activities of the local board, including information regarding the local plan, and regarding membership, the designation and certification of one-stop operators, and the award of grants and contracts to eligible providers of youth activities, and on request, minutes of formal meetings of the local board.” (Public Law 105-220, Section 117 (e))

8. How will the Local Workforce Investment Board assist the Governor in developing the statewide employment statistics system?

“The local board shall assist the Governor in developing the statewide employment statistics system

described in Section 15(e) of the Wagner-Peyser Act.” (Public Law 105-220, Section 117 (d) (6))

9. Describe how and what linkages will be made with both area employers and economic development agencies in order to ensure a well-coordinated and non-duplicative workforce investment system in your region?

“The local board shall coordinate the workforce investment activities authorized under this subtitle and carried out in the local area with economic development strategies and develop other employer linkages with such activities.” (Public Law 105-220, Section 117 (d) (7))

10. Discuss how your Local Workforce Investment Board will meet the hiring needs of local employers in both the state and local workforce systems, while also ensuring that connecting, brokering and coaching activities occur.

“The local board shall promote the participation of private sector employers in the statewide workforce investment system and ensure the effective provision, through the system, of connecting, brokering, and coaching activities, through intermediaries such as the on-stop operator in the local area or through other organizations, to assist such employers in meeting hiring needs.” (Public Law 105-220, Section 117 (d) (8))

MEMBERS

LWIB Name: _____

WIA (sec. 117 (g)): Conflict of Interest--A member of a local board may not--

- (1) vote on a matter under consideration by the local board--
 - (A) regarding the provision of services by such member (or by an entity that such member represents); or
 - (B) 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 as specified in the State plan.

I have been presented with copies of the following documents provided by the State Ethics Commission:

1. **An Introduction to the Conflict of Interest Law**
2. **An Introduction to the Conflict of Interest Law for the Private Sector**
3. **Guide to the Conflict of Interest Law for Municipal Employees**

I will at all times conduct myself as a member of the LWIB in such a manner as to avoid conflict of interest or the appearance of conflict.

I will notify the Chair or Executive Director of the LWIB of any situation that I believe has the potential of being in conflict or giving the appearance of being in conflict. I will excuse myself from any LWIB processes to avoid situations of conflict or abide by any decision related to my participation that is in compliance with the bylaws of the LWIB.

I have been made aware of the following **General Laws of Massachusetts**:

Chapter 268A. CONDUCT OF PUBLIC OFFICIALS AND EMPLOYEES.

Chapter 268B. FINANCIAL DISCLOSURE BY CERTAIN PUBLIC OFFICIALS AND EMPLOYEES.

ACKNOWLEDGEMENT:

I the undersigned, acknowledge the Conflict of Interest responsibility that is summarized above as a member of the _____ Local Workforce Investment Board. By my signature below, I am declaring that I will conduct myself within the intent, spirit and letter of the Conflict of Interest Laws, guidelines and by-laws under the pains and penalties of perjury.

PRINT NAME

SIGNATURE

DATE

TITLE

SEC. 117. LOCAL WORKFORCE INVESTMENT BOARDS.

(a) Establishment.--There shall be established in each local area of a State, and certified by the Governor of the State, a local workforce investment board, to set policy for the portion of the statewide workforce investment system within the local area (referred to in this title as a "local workforce investment system").

(b) Membership.--

(1) State criteria.--The Governor of the State, 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 in accordance with the requirements of paragraph (2).

(2) Composition.--Such criteria shall require, at a minimum, that the membership of each local board--

(A) shall include--

(i) representatives of business in the local area, who--

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

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

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

(ii) representatives of local educational entities, including representatives of local educational agencies, local school boards, entities providing adult education and literacy activities, and postsecondary educational institutions (including representatives of community colleges, where such entities exist), selected from among individuals nominated by regional or local educational agencies, institutions, or organizations representing such local educational entities;

(iii) representatives of labor organizations (for a local area in which employees are represented by labor organizations), nominated by local labor federations, or (for a local area in which no employees are represented by such organizations), other representatives of employees;

(iv) representatives of community-based organizations (including organizations representing individuals with disabilities and veterans, for a local area in which such organizations are present);

(v) representatives of economic development agencies, including private sector economic development entities; and

(vi) representatives of each of the one-stop partners; and

(B) may include such other individuals or representatives of entities as the chief elected official in the local area may determine to be appropriate.

(3) Authority of board members.--Members of the board that represent organizations, agencies, or other entities shall be individuals with optimum policymaking authority within the organizations, agencies, or entities.

(4) Majority.--A majority of the members of the local board shall be representatives described in paragraph (2)(A)(i).

(5) Chairperson.--The local board shall elect a chairperson for the local board from among the representatives described in paragraph (2)(A)(i).

(c) Appointment and Certification of Board.--

(1) Appointment of board members and assignment of responsibilities.--

(A) In general.--The chief elected official in a local area is authorized to appoint the members of the local board for such area, in accordance with the State criteria established under subsection (b).

(B) Multiple units of local government in area.--

(i) In general.--In a case in which a local area includes more than 1 unit of general local government, the chief elected officials of such units may execute an agreement that specifies the respective roles of the individual chief elected officials--

(I) in the appointment of the members of the local board from the individuals nominated or recommended to be such members in accordance with the criteria established under subsection (b); and

(II) in carrying out any other responsibilities assigned to such officials under this subtitle.

(ii) Lack of agreement.--If, after a reasonable effort, the chief elected officials are unable to reach agreement as provided under clause (i), the Governor may appoint the members of the local board from individuals so nominated or recommended.

(C) Concentrated employment programs.--In the case of a local area designated in accordance with section 116(a)(2)(B), the governing body of the concentrated employment program involved shall act in consultation with the chief elected official in the local area to appoint members of the local board, in accordance with the State criteria established under

subsection (b), and to carry out any other responsibility relating to workforce investment activities assigned to such official under this Act.

(2) Certification.--

(A) In general.--The Governor shall, once every 2 years, certify 1 local board for each local area in the State.

(B) Criteria.--Such certification shall be based on criteria established under subsection (b) and, for a second or subsequent certification, the extent to which the local board has ensured that workforce investment activities carried out in the local area have enabled the local area to meet the local performance measures.

(C) Failure to achieve certification.--Failure of a local board to achieve certification shall result in reappointment and certification of another local board for the local area pursuant to the process described in paragraph (1) and this paragraph.

(3) Decertification.--

(A) Fraud, abuse, failure to carry out functions.-- Notwithstanding paragraph (2), the Governor may 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 any of paragraphs (1) through (7) of subsection (d).

(B) Nonperformance.--Notwithstanding paragraph (2), the Governor may decertify a local board if a local area fails to meet the local performance measures for such local area for 2 consecutive program years (in accordance with section 136(h)).

(C) Plan.--If the Governor decertifies a local board for a local area under subparagraph (A) or (B), 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, and in accordance with the criteria established under subsection (b).

(4) Single state area.--Notwithstanding subsection (b) and paragraphs (1) and (2), if a State described in section 116(b) indicates in the State plan that the State will be treated as a local area for purposes of the application of this title, the Governor may designate the State board to carry out any of the functions described in subsection (d).

(d) Functions of Local Board.--The functions of the local board shall include the following:

(1) Local plan.--Consistent with section 118, each local board,

in partnership with the chief elected official for the local area involved, shall develop and submit a local plan to the Governor.

(2) Selection of operators and providers.--

(A) Selection of one-stop operators.--Consistent with section 121(d), the local board, with the agreement of the chief elected official--

(i) shall designate or certify one-stop operators as described in section 121(d)(2)(A); and

(ii) may terminate for cause the eligibility of such operators.

(B) Selection of youth providers.--Consistent with section 123, the local board shall identify eligible providers of youth activities in the local area by awarding grants or contracts on a competitive basis, based on the recommendations of the youth council.

(C) Identification of eligible providers of training services.--Consistent with section 122, the local board shall identify eligible providers of training services described in section 134(d)(4) in the local area.

(D) Identification of eligible providers of intensive services.--If the one-stop operator does not provide intensive services in a local area, the local board shall identify eligible providers of intensive services described in section 134(d)(3) in the local area by awarding contracts.

(3) Budget and administration.--

(A) Budget.--The local board shall develop a budget for the purpose of carrying out the duties of the local board under this section, subject to the approval of the chief elected official.

(B) Administration.--

(i) Grant recipient.--

(I) In general.--The chief elected official in a local area shall serve as the local grant recipient for, and shall be liable for any misuse of, the grant funds allocated to the local area under sections 128 and 133, unless the chief elected official reaches an agreement with the Governor for the Governor to act as the local grant recipient and bear such liability.

(II) Designation.--In order to assist in the administration of the grant funds, the chief elected official or the Governor, where the Governor serves as the local grant recipient for a local area, may designate an entity to serve as a local grant subrecipient for such funds or as a local fiscal agent. Such designation shall not relieve the chief elected official or the Governor of the liability for any

misuse of grant funds as described in subclause (I).

(III) Disbursal.--The local grant recipient or an entity designated under subclause (II) shall disburse such funds for workforce investment activities at the direction of the local board, pursuant to the requirements of this title, if the direction does not violate a provision of this Act. The local grant recipient or entity designated under subclause (II) shall disburse the funds immediately on receiving such direction from the local board.

(ii) Staff.--The local board may employ staff.

(iii) Grants and donations.--The local board may solicit and accept grants and donations from sources other than Federal funds made available under this Act.

(4) Program oversight.--The local board, in partnership with the chief elected official, shall conduct oversight with respect to local programs of youth activities authorized under section 129, local employment and training activities authorized under section 134, and the one-stop delivery system in the local area.

(5) Negotiation of local performance measures.--The local board, the chief elected official, and the Governor shall negotiate and reach agreement on local performance measures as described in section 136(c).

(6) Employment statistics system.--The local board shall assist the Governor in developing the statewide employment statistics system described in section 15(e) of the Wagner-Peyser Act.

(7) Employer linkages.--The local board shall coordinate the workforce investment activities authorized under this subtitle and carried out in the local area with economic development strategies and develop other employer linkages with such activities.

(8) Connecting, brokering, and coaching.--The local board shall promote the participation of private sector employers in the statewide workforce investment system and ensure the effective provision, through the system, of connecting, brokering, and coaching activities, through intermediaries such as the one-stop operator in the local area or through other organizations, to assist such employers in meeting hiring needs.

(e) Sunshine Provision.--The local board shall make available to the public, on a regular basis through open meetings, information regarding the activities of the local board, 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 activities, and on request, minutes of formal meetings of the local board.

(f) Limitations.--

(1) Training services.--

(A) In general.--Except as provided in subparagraph (B), no local board may provide training services described in section 134(d)(4).

(B) Waivers of training prohibition.--The Governor of the State in which a local board is located may, pursuant to a request from the local board, grant a written waiver of the prohibition set forth in subparagraph (A) (relating to the provision of training services) for a program of training services, if the local board--

(i) submits to the Governor a proposed request for the waiver that includes--

(I) satisfactory evidence that there is an insufficient number of eligible providers of such a program of training services to meet local demand in the local area;

(II) information demonstrating that the board meets the requirements for an eligible provider of training services under section 122; and

(III) information demonstrating that the program of training services prepares participants for an occupation that is in demand in the local area;

(ii) makes the proposed request available to eligible providers of training services and other interested members of the public for a public comment period of not less than 30 days; and

(iii) includes, in the final request for the waiver, the evidence and information described in clause (i) and the comments received pursuant to clause (ii).

(C) Duration.--A waiver granted to a local board under subparagraph (B) shall apply for a period of not to exceed 1 year. The waiver may be renewed for additional periods of not to exceed 1 year, pursuant to requests from the local board, if the board meets the requirements of subparagraph (B) in making the requests.

(D) Revocation.--The Governor may revoke a waiver granted under this paragraph during the appropriate period described in subparagraph (C) if the State determines that the local board involved has engaged in a pattern of inappropriate referrals to training services operated by the local board.

(2) Core services; intensive services; designation or certification as one-stop operators.--A local board may provide core services described in section 134(d)(2) or intensive services described in section 134(d)(3) through a one-stop delivery system described in section 134(c) or be designated or certified as a one-stop operator only with the agreement of the chief elected official

and the Governor.

(3) Limitation on authority.--Nothing in this Act shall be construed to provide a local board with the authority to mandate curricula for schools.

(g) Conflict of Interest.--A member of a local board may not--

(1) vote on a matter under consideration by the local board--

(A) regarding the provision of services by such member (or by an entity that such member represents); or

(B) 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 State plan.

(h) Youth Council.--

(1) Establishment.--There shall be established, as a subgroup within each local board, a youth council appointed by the local board, in cooperation with the chief elected official for the local area.

(2) Membership.--The membership of each youth council--

(A) shall include--

(i) members of the local board described in subparagraph (A) or (B) of subsection (b)(2) with special interest or expertise in youth policy;

(ii) representatives of youth service agencies, including juvenile justice and local law enforcement agencies;

(iii) representatives of local public housing authorities;

(iv) parents of eligible youth seeking assistance under this subtitle;

(v) individuals, including former participants, and representatives of organizations, that have experience relating to youth activities; and

(vi) representatives of the Job Corps, as appropriate; and

(B) may include such other individuals as the chairperson of the local board, in cooperation with the chief elected official, determines to be appropriate.

(3) Relationship to local board.--Members of the youth council who are not members of the local board described in subparagraphs (A) and (B) of subsection (b)(2) shall be voting members of the youth council and nonvoting members of the board.

(4) Duties.--The duties of the youth council include--

(A) developing the portions of the local plan relating to eligible youth, as determined by the chairperson of the local board;

(B) subject to the approval of the local board and

consistent with section 123--

(i) recommending eligible providers of youth activities, to be awarded grants or contracts on a competitive basis by the local board to carry out the youth activities; and

(ii) conducting oversight with respect to the eligible providers of youth activities, in the local area;

(C) coordinating youth activities authorized under section 129 in the local area; and

(D) other duties determined to be appropriate by the chairperson of the local board.

(i) Alternative Entity.--

(1) In general.--For purposes of complying with subsections (a), (b), and (c), and paragraphs (1) and (2) of subsection (h), a State may use any local entity (including a local council, regional workforce development board, or similar entity) that--

(A) is established to serve the local area (or the service delivery area that most closely corresponds to the local area);

(B) is in existence on December 31, 1997;

(C)(i) is established pursuant to section 102 of the Job Training Partnership Act, as in effect on December 31, 1997; or

(ii) is substantially similar to the local board described in subsections (a), (b), and (c), and paragraphs (1) and (2) of subsection (h); and

(D) includes--

(i) representatives of business in the local area; and

(ii)(I) representatives of labor organizations (for a local area in which employees are represented by labor organizations), nominated by local labor federations; or

(II) (for a local area in which no employees are represented by such organizations), other representatives of employees in the local area.

(2) References.--References in this Act to a local board or a youth council shall be considered to include such an entity or a subgroup of such an entity, respectively.