



POLICY

POLICY NAME: Workforce Innovation and Opportunity Act - Interlocal Agreements, Chief Local Elected Official and Local Elected Official Roles and Responsibilities

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Applies /Of Interest To: Local Workforce Development Boards (LWDBs), Local Workforce Development Areas (LWDAs) staff, Chief Local Elected Officials (CLEOS) and Local Elected Officials (LEOs)

Subject	Workforce Innovation and Opportunity Act– Interlocal Agreements and Chief Local Elected Official and Local Elected Official Roles and Responsibilities
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Purpose	This policy provides guidance and clarification to LWDAs relating to the Interlocal Agreement process and the roles and responsibilities under WIOA.
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Definitions	<p>Chief Local Elected Official (CLEO) - The CLEO is the chief local elected official(s) elected among the consortium of Local Elected Officials representing the Local Elected Officials in the local Workforce Development Area (LWDA). <u>In the event there are two (2) CLEOs those are referred to as Co-Chief Local Elected Officials or Co-CLEOs. In the text of this Policy, they are identified as CLEO(s).</u></p> <p>Local Elected Official (LEO) - The LEOs are the local elected officials of a county. The highest elected official in counties and counties with merged government shall be considered the LEO for their respective county.</p> <p>Local Workforce Development Board (LWDB) - means a local workforce development board established under <u>WIOA Section [section] 107 and 20 CFR 679, subpart C</u>, subject to section 107(c)(4)(B)(i).</p> <p>Interlocal Agreement - a written agreement that specifies the responsibilities of the CLEO and the individual LEO(s).</p>
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Background	The Workforce Innovation and Opportunity Act (WIOA) of 2014 (Public Law 133-128, July 22, 2014) enacted by the Congress of the United States, provides for federal funds to be granted to states, and for each state’s Governor to designate LWDA within the state for the delivery of services and programs under the Act.
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WIOA Section 107 and 20 CFR 679 subpart C provide ~~[provides]~~ guidance and direction on the role of the CLEO(s) ~~[CLEO]~~ and LEO in the LWDA as designated by the Governor. OET issuances provide support and clarification to the Act.

Realizing that local employment and training programs cannot be fully effective or implemented without intergovernmental coordination due to the fact ~~[for such reasons]~~ that such programs and their implementation cross governmental, departmental, agency and political jurisdictions, ~~[the]~~ LEOs shall enter into a written Interlocal Agreement. The Kentucky Interlocal Cooperation Act, KRS 65.210 through 65.300, permits local governmental units, upon approval by each fiscal court and the Department for Local Government, to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and to thereby provide services and facilities in a manner and form that will best accord with geographic, economic, population and other factors which influence the needs and development of local communities.

<p>Policy</p>	<p>INTERLOCAL AGREEMENT</p> <p>As noted in WIOA Section 107(c)(1)(B), when a LWDA includes more than one unit of government, the LEO of each unit may execute a written agreement that specifies the responsibilities of the <u>CLEO(s)</u> [CLEO] and the individual LEO(s):</p> <p><i>WIOA Section 107(c)(1)(B) MULTIPLE UNITS OF LOCAL GOVERNMENT IN AREA.—</i></p> <p><i>(i) IN GENERAL.—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—</i></p> <p><i>(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</i></p> <p><i>(I) In carrying out any other responsibilities assigned to such officials under this title.</i></p> <p><i>(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.</i></p> <p>Additional OET Guidance/Clarification: An Interlocal Agreement is required for each LWDA.</p> <p>The above policy applies except in such areas designated as</p>
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Concentrated Employment Programs:

In the case of an area that was designated as a local area in accordance with section 116(a)(2)(B) of the Workforce Investment Act of 1998 (as in effect on the day before the date of enactment of this Act), and that remains a local area on that date, the governing body of the concentrated employment program involved shall act in consultation with the chief elected official [CLEO] 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. (WIOA § 107(c)(1)(C)).

All LEOs in a workforce area shall [~~must~~] enter into an agreement that determines how the LWDB nominees will be selected, appointed, removed or reappointed. The process must be documented in the Interlocal Agreement. The LEOs shall enter into an Interlocal Agreement as a requirement to appoint the LWDB.

In addition to the Interlocal Agreement, the LEOs also shall enter into a Partnership Agreement with the LWDB. The Interlocal Agreement and the Partnership Agreement which are the two governing documents must be consistent. The requirement for consistency applies to any item that is addressed in both governing documents. Both agreements are dynamic documents that can, and should, be amended when a need or desire arises and the respective signatories agree.

Interlocal Agreement Required Inclusions. LEOs must enter into an agreement with each other that, at a minimum, include the following sections:

(1) Purpose of the Agreement. Describe the purpose and the term of the Interlocal Agreement (not to exceed five years).

(2) Designation of a Chief Local Elected Official. The CLEO(s) [CLEOs] are required by WIOA to approve or provide guidance on a number of LWDB activities. Therefore the Commonwealth requires LEOs to select a CLEO who will act on behalf of the other LEOs and to include the following information in the Interlocal Agreement:

- a) Selection/appointment process and term of the CLEO(s) [CLEO], which must include steps to ensure that his/her duties would not create or be perceived to create a conflict of interest between the consortium of LEOs, LWDB, fiscal agent or administrative entity; and
- b) The designation of the CLEO(s) [CLEO] to serve as the signatory for the LEOs;
- c) Outline the process by which the CLEO(s) will appoint

members to the local board from the individuals nominated or recommended to be such members in accordance with the criteria established under WIOA Section 107(b), 20 CFR 679.320-360 and OET Policy 15-001; [decisions that may be made by the CLEO on behalf of the LEOs; and]

d) Outline how the CLEO(s) will partner with the local board to create a local plan required by WIOA Section 107 (d)(1) and for program oversight as outlined in WIOA Section 107(d)(8);

e) Outline any criteria by which the CLEO(s) shall agree to local board activity in WIOA Section 107 (d)(10) and (12);

g) Outline the criteria by which the CLEO(s) shall agree to a local board’s request to provide career services or service as a one-stop operator; and

h) Name, title, and contact information of the appointed CLEO(s) [CLEO].

To avoid conflict of interest, the CLEO(s) [CLEO] shall not serve as the highest ranking officer on any Board or other entity that governs the fiscal agent or service delivery provider.

(3) Participating Local Elected Officials. The agreement must contain the name, representation, contact information and signature of each LEO in the local area. The Interlocal Agreement shall require a governing board of LEOs and bylaws and shall not be administratively attached to the fiscal agent, grant subrecipient, one-stop operator, or service provider.

~~[The LEO governing board shall require a 65% supermajority to take the following actions:~~

- ~~Selection of the CLEO;~~
- ~~Designation of the fiscal agent or grant subrecipient;~~
- ~~Authorization for the CLEO to request the Governor’s consent for the LWDB to be the One-stop operator and/or career direct services provider; and~~
- ~~Approval of the LWDB annual budget; and.~~
- ~~Selection of the one-stop operator.]~~

(4) Dispute Resolution. The Interlocal Agreement must state how disputes among LEOs will be resolved regarding LWDB board appointments and carrying out other responsibilities under WIOA.

(5) Fiscal Agent or Grant Subrecipient Designation. The CLEO(s) [LEO governing board] may designate an entity to serve as the local fiscal agent or local grant subrecipient for WIOA funds. In making such designation, the LEOs shall carry out a competitive procurement process approved [conducted] by the Department of Workforce Investment for fiscal agent services or grant subrecipient services, including a Request for Proposals that has been reviewed and

approved by the Department of Workforce Investment and which provides that proposals will be evaluated and ranked based upon criteria including but not limited to quality of services, demonstrated experience of quality service delivery, cost, conflict of interest policies, and history of fiscal integrity.

Such designation shall not relieve the CLEO(s) [~~LEOs~~] of the primary liability for any misuse of grant funds [~~as apportioned in the Interlocal Agreement~~]. The CLEO(s)' liability may be apportioned among all of the LEOs in the Interlocal Agreement.

(6) Grant Recipient/Liability of Funds. The Interlocal Agreement must indicate the CLEO(s) [~~LEOs~~] acknowledgement of financial liability as noted in WIA 107(d)(12)(B)(i)(I) and outline the process for determining each LEO's share of responsibility. This determination could be based on allocation, population, expenditures, or other criteria determined by the LEOs. The Interlocal Agreement must contain a detailed process for reconciling disallowed costs. In most cases, liability for costs which are recommended for disallowance and which are not resolved, rest with the entity responsible for incurring the cost. In the event the entity responsible cannot or will not assume the liability, the Interlocal Agreement must provide the process on how funds will be reimbursed.

(7) Local Area Service Delivery Provider. As authorized in WIOA Section 107(g)(2), 20 CFR 679.410(a) and (b), and 20 CFR 678.610. a LWDB may provide career services described in WIOA Section 134(c)(2) through a one- stop delivery system or be designated or certified as a one-stop operator only with the agreement of the CLEO(s) [~~CLEO~~] and the Governor. See WIOA Policy regarding LWDB Member Nomination Guidelines, OET Confirmation Process and Board Certification by the (effective 7/1/2015) for conditions to obtain the Governor's consent including a competitive procurement.

In cases where the LWDB does not seek to provide career services, WIOA Section 121(d)(2) states that to be eligible to receive funds under this subtitle to operate a one- stop center, an entity (which may be a consortium of entities) shall be designated or certified as a one-stop operator through a competitive process. This process shall be conducted by the LWDB and the one-stop operator shall be designated or certified by the LWDB with agreement of the CLEO(s) in accordance with WIOA Section 107(d)(10). [~~This process shall be outlined in the Partnership Agreement between the LEOs and the LWDB.~~]

(8) Communication. Describe the process and procedures the CLEO(s) [~~CLEO~~] will utilize to keep the LEOs informed regarding LWDB activities. Determine how many times a year the LEOs will meet and how often a joint meeting with the LWDB will be held.

(9) LWDB Budget Approval. Describe the process for reviewing and approving the LWDB annual budget by the CLEO(s) [~~LEOs~~] (WIOA Section 107(d)(12)(A)).

(10) LWDB Member Representation. Outline how LEOs will ensure LWDB representation is fair and equitable across the LWDA and in accordance with WIOA Policy regarding LWDB Member Nomination Guidelines and [r] OET Policy 15-001 [~~Confirmation Process and Board Certification—effective 7/1/2015~~]. Describe the process for determining the initial size of the LWDB and for selecting, appointing, removing or reappointing LWDB members. Describe the process to determine the terms of office for Board members. LWDB appointments do not require the signature of all the LEOs, but rather only the signature of the designated CLEO(s) [~~CLEO~~] is required, as stated in the Interlocal Agreement.

(11) Selection of a New Chief Local Elected Official. When a new CLEO is selected in accordance with the Interlocal Agreement, the newly selected CLEO must submit to the LWDB and the OET, a written statement acknowledging that he/she:

- a) Has read, understands and will comply with the current Interlocal Agreement;
- and
- b) Apprises OET of the change in CLEO designation.

(12) Election of a New Local Elected Official. When a new LEO is elected within the LWDA, the newly elected official must submit to the LWDB a written statement acknowledging that he or she:

- a) Has read, understands, and will comply with the current Interlocal Agreement;
- and
- b) Reserves the option to request negotiations to amend the Interlocal Agreement at any time during the official's tenure as a LEO.

(13) Amendment or Change to the Interlocal Agreement. Outline the process to be used for amendments or changes to the Interlocal Agreement. All amendments or changes must be submitted to the LWDB and the OET after approval by the Department of Local Government in accordance with KRS 65. 210 through 65.300.

(14) Single County Local Areas. If any single county local area is designated, the LEO shall execute a written agreement that specifies his or her liability in accordance with WIOA.

(15) Interlocal Agreement KRS requirements. Upon completion of the Interlocal Agreement and all LEO signatures have been recorded on

	the Interlocal Agreement and approved by each fiscal court, the Agreement shall be sent to the Department for Local Government for approval in accordance with the provisions of KRS 65.210 through 65.300.
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Required Action	Upon final approval by all LEOs and the Department for Local Government, the final document shall be submitted to the OET.
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Other References	Workforce Innovation and Opportunity Act (WIOA) of 2014 (Public Law 133-128, July 22, 2014); WIOA—LWDB Member Nomination Guidelines, <u>20 CFR 679.410(a) and (b)</u> , <u>20 CFR 678.610</u> , <u>20 CFR 679 subpart C</u> , OET Confirmation Process and Board Certification (effective 7/1/2015); The Kentucky Interlocal Cooperation Act, KRS 65.210 through 65.300.
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