

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET**  
**Department of Workforce Investment**  
**(Amendment)**

**787 KAR 2:040. Local workforce development area governance.**

RELATES TO: KRS 151B.020(6), 29 U.S.C. 3101 et seq.

STATUTORY AUTHORITY: KRS 151B.020(6)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.020(6) requires the secretary of the Education and Workforce Development Cabinet to promulgate administrative regulations that are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds, and that are necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. This administrative regulation establishes the membership criteria and operating guidelines for local workforce development boards, requires interlocal and partnership agreements for local workforce development areas, establishes the process for the identification of regions and designation of local workforce development areas, establishes the guidelines for the hiring of staff by local workforce development boards, ~~and~~ requires a written agreement for entities that perform multiple functions in a local workforce development area under the Workforce Innovation and Opportunity Act, 29 U.S.C. 3101 et seq., and addresses dissemination and implementation of policies and guidance issued by the Kentucky Workforce Innovation Board. In addition to the minimum federal requirements set forth in 29 U.S.C. 3122, this administrative regulation provides further guidance and clarification necessary for effective local implementation activities.

Section 1. Local Workforce Development Board Membership Criteria and Operating Guidelines. Each chief local elected official in a local workforce development area shall appoint members to the local workforce development board and each local workforce development board shall operate in compliance with the Workforce Innovation and Opportunity Act (WIOA).

Section 2. Interlocal Agreement. Each local elected official of a unit of general local government within a local workforce development area shall jointly execute a written interlocal agreement that, at a minimum, complies with the Workforce Innovation and Opportunity Act.

Section 3. Partnership Agreement. Each chief local elected official, representing the local elected officials in a local workforce development area, and each designated chair, representing the local workforce development board, shall jointly execute a written partnership agreement that, at a minimum, complies with the Workforce Innovation and Opportunity Act.

Section 4. Identification of Regions and Designation of Local Workforce Development Areas. The process and procedures for the identification of regions and the designation of local workforce development areas within the Commonwealth of Kentucky shall be in compliance with WIOA.

Section 5. Hiring of Staff for Local Workforce Development Boards. Local workforce development boards may hire a director and other staff in accordance with WIOA.

Section 6. Entities Performing Multiple Functions in A Local Workforce Development Area. Entities that have been selected or otherwise designated to perform more than one (1) function in a local workforce development area shall develop a written agreement that, at a minimum, complies with WIOA.

Section 7. Dissemination and Implementation of Policies and Guidance issued by the Kentucky Workforce Innovation Board. The local workforce development boards shall implement and disseminate policies, guidance, and manuals issued by the Kentucky Workforce Innovation Board, in coordination with the Governor and the Department of Workforce Investment, pursuant to the Workforce Innovation and Opportunity Act and accompanying Code of Federal Regulations.

*KISH C. PRICE, Commissioner*

APPROVED BY AGENCY: April 8, 2002

FILED WITH LRC: April 12, 2022 at 11:00 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this amended administrative regulation shall be held on June 21, 2022, at 1:00 p.m. Eastern Time at the Mayo-Underwood Building Hearing Room, 500 Mero Street, 1st Floor, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 p.m. on June 30, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Honor Barker, Deputy Commissioner, Department of Workforce Investment, 500 Mero Street, 4th Floor, Frankfort, Kentucky 40601, phone (502) 782-3746, email [honor.barker@ky.gov](mailto:honor.barker@ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

**Contact Person: Honor Barker**

**(1) Provide a brief summary of:**

**(a) What this administrative regulation does:**

The regulation directs how local Workforce Development Areas are to be governed, and adopts and implements the related provisions of the Workforce Innovation & Opportunity Act for the Commonwealth.

**(b) The necessity of this administrative regulation:**

This amended administrative regulation is necessary to assist the Secretary and Deputy Secretary of the Cabinet for Education and Workforce Development, Commissioner of the Department for Workforce Investment, and the Kentucky Workforce Innovation Board in carrying out their statutory duties of oversight and compliance of the local workforce development areas, as set forth in the Workforce Innovation and Opportunity Act.

**(c) How this administrative regulation conforms to the content of the authorizing statutes:**

20 C.F.R. § 679.300 et seq. sets forth the governing regulations for how local workforce development boards are to be organized, lead and staffed. The Workforce Innovation and Opportunity Act, 29 U.S.C. 3111(d), discusses the responsibility of the state to identify and disseminate information on best practices to the local workforce development areas as well as develop and review statewide policies affecting the coordinated provision of services through the state's one-stop delivery system. These requirements are also found in 20 C.F.R. 679.130.

**(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:**

This administrative regulation assists in the effective and efficient administration for the Department of Workforce Investment and the Kentucky Workforce Innovation Board in implementing the related provisions of the Workforce Innovation and Opportunity Act.

**(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:**

**(a) How the amendment will change this existing administrative regulation:**

Adds an additional section to address dissemination and implementation of policies and guidance issued by the Kentucky Workforce Innovation Board.

**(b) The necessity of the amendment to this administrative regulation:**

The amendment addresses the need for local workforce development areas to implement and disseminate the state's policies and guidance developed and issued pursuant to the Workforce Innovation and Opportunity Act.

**(c) How the amendment conforms to the content of the authorizing statutes:**

The Workforce Innovation and Opportunity Act, 29 U.S.C. 3111(d), discusses the responsibility of the state to identify and disseminate information on best practices to the local workforce development areas as well as develop and review statewide policies affecting the coordinated provision of services through the state's one-stop delivery system. These requirements are also found in 20 C.F.R. 679.130.

**(d) How the amendment will assist in the effective administration of the statutes:**

The amendment addresses the need for local workforce development areas to implement the policies and guidance issued at the state level to ensure continuity of workforce services across the state and appropriate administration of various workforce programs.

**(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:**

This amended administrative regulation affects the Education and Workforce Development Cabinet, Department of Workforce Development; Labor Cabinet, Career Development Office; the Kentucky Workforce Innovation Board; and local Workforce Development Areas, the local Workforce Development Boards and staff.

**(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:**

**(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:**

The Local Workforce Development Boards are expressly tasked with implementing and disseminating policies developed, reviewed, and issued by the Kentucky workforce Innovation Board, in cooperation with the Governor and the Department of Workforce Investment.

**(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):**

There are no anticipated costs to any party with the proposed amendment.

**(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):**

The amendment ensures that the state and local level will be operating under a defined set of policies and guidance, which will assist with continuity of workforce services across the state and appropriate administration of various workforce programs.

**(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:**

**(a) Initially:**

There will be no cost to implement the modification as the state has previously issued policies and guidance to the local workforce development areas in accordance with the Workforce Innovation and Opportunity Act.

**(b) On a continuing basis:**

There will be no substantive changes, and thus no costs to implement.

**(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:**

The Workforce Innovation and Opportunity Act provides the funds to the Department of Workforce Investment, Division of Technical Assistance to perform all compliance and monitoring of the local workforce development areas.

**(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:**

There will no increase in fees or funding.

**(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees:**

No fees impacted.

**(9) TIERING: Is tiering applied?**

Tiering is not applied because all local areas will be subject to administrative regulation equally.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

**(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?**

The Department for Workforce Investment and all local workforce development area boards and staff.

**(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.**

This amended administrative regulation is authorized by 20 C.F.R. § 679.300 et seq. and provisions of the Workforce Innovation and Opportunity Act that specifically govern local workforce development boards. 29 U.S.C. 3111(d) discusses the responsibility of the state to identify and disseminate information on best practices to the local workforce development areas as well as develop and review statewide policies affecting the coordinated provision of services through the state's one-stop delivery system

**(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.**

**(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?**

No revenue will be generated for the state for the first year.

**(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?**

No revenue will be generated for the state for subsequent years.

**(c) How much will it cost to administer this program for the first year?**

There will be no change in program administration based upon the amendment.

**(d) How much will it cost to administer this program for subsequent years?**

The cost of administration of the Workforce Innovation and Opportunity Act varies year to year based upon the formula of funds received from the United States Department of Labor, but any additional costs brought on by this regulation will be negligible and can be absorbed through current staffing levels.

**Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.**

**Revenues (+/-):**None.

**Expenditures (+/-):**None.

**Other Explanation:**

There is no fiscal impact associated with this amendment.