# Executive Committee
# Agenda Packet

**Tuesday September 1, 2015**
**10:00 a.m. to 12:00 p.m.**

**California Workforce Development Board**

**800 Capitol Mall, Suite 1022**
**Sacramento, CA 95814**
**(916) 657-1440**

*Governor*
*Edmund G. Brown Jr.*

*Chair*
*Mike Rossi*

*Executive Director*
*Tim Rainey*

**CALIFORNIA WORKFORCE DEVELOPMENT BOARD**
**EXECUTIVE COMMITTEE**
**MEETING NOTICE**

**Tuesday, September 1, 2015**
**10:00 a.m. to 12:00 p.m.**

Tim Rainey
Executive Director

Michael Rossi
Chair

**California Workforce Development Board**
**800 Capitol Mall, Suite 1022**
**Sacramento, CA 95814**
**(916) 657-1440**

Edmund G. Brown, Jr.
Governor

**Alternate Locations**

Bishop-Wisecarver Group
2104 Martin Way
Pittsburg, CA 94565

Center for the Continuing Study of the California Economy
385 Homer Avenue
Palo Alto, CA 94301

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## AGENDA

1. **Welcome and Opening Remarks**

2. **Public Comment**

3. **Action Items**
   a. Approve the Meeting Summary from June 1, 2015
   b. Approve Appeal Process on Denial of Initial Designation
      i. Appeal from San Bernardino City on Denial of Application for Initial Designation
      ii. Appoint neutral hearing officer
      iii. Delegation of authority to the Chair and Labor Secretary

4. **Update/Discussion**

5. **Other Business**

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Meeting conclusion time is an estimate; meeting may end earlier subject to completion of agenda items and/or approved motion to adjourn. In order for the State Board to provide an opportunity for interested parties to speak at the public meetings, public comment may be limited. Written comments provided to the Committee must be made available to the public, in compliance with the Bagley-Keene Open Meeting Act, §11125.1, with copies available in sufficient supply. Individuals who require accommodations for their disabilities (including interpreters and alternate formats) are requested to contact the California Workforce Investment Board staff at (916) 657-1440 at least ten days prior to the meeting. TTY line: (916) 324-6523. Please visit the California Workforce Development Board website at http://www.cwdb.ca.gov or contact Daniel Patterson (916) 657-1446 for additional information. Meeting materials for the public will be available at the meeting location.

**Item 1. Welcome and Opening Remarks**

**Item 2. Public Comment**

**Item 3. Action Items**

a. **Approve the June 1, 2015 Meeting Summary**

b. **Approve the Delegation to hear an Appeal from San Bernardino City on the Denial of Initial Designation as a Local Workforce Development Area**

# CALIFORNIA WORKFORCE INVESTMENT BOARD
# EXECUTIVE COMMITTEE MEETING
# June 1, 2015

## MEETING SUMMARY

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**1. Welcome and Opening Remarks**

Chair Rossi welcomed the members, opened the meeting and called for public comment.

Members Present:

| | |
|---|---|
| Mike Rossi, Chair | John Brauer |
| Tim Rainey, Executive Director | Richard Rubin |
| Andre Schoorl for Secretary Lanier | Bob Redlo |
| Ms. Van Ton-Quinlivan for Chancellor Harris | Bill Camp |
| Patrick Henning, Jr. | Steve Levy |
| Jeremy Smith | Carol Zabin |

Members Absent:

Cindy Chavez
Pamela Kan

**2. Public Comment**

Bob Lanter Executive Director of California Workforce Association was supportive of the State Board activities and the cooperation with the CWA and local boards.

**3. Action Items:**

**a. Approve the February 20, 2015 Meeting Summary**

A motion was given by John Brauer to approve the meeting summary, a second by Bob Redlo. All voted unanimously in favor.

**b. Approve the Designation Actions for Local Workforce Development Areas**

Tim Rainey provided an overview of the action item.

- San Mateo
  Will be merging with NOVA. NOVA's Joint Powers Agreement is being amended to finalize the merger.

**CALIFORNIA WORKFORCE INVESTMENT BOARD**
**EXECUTIVE COMMITTEE MEETING**
**June 1, 2015**

**MEETING SUMMARY**

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- Marin Conditional Designation
  The recommendation for conditional designation is based on their current performance level which is showing significant improvement. A deep evaluation of their goals and strategies is necessary to ensure that their gains in performance are systemic and not just a short term trend. A corrective action plan will be developed to document actions for improving enrolment practices, management, workforce board oversight, etc. Several members stated that any corrective action plan should document the consequences of not meeting the milestones, including not achieving full designation, that it not be an endless path that doesn't satisfy state requirements, and that any action be a constructive and positive approach including ongoing evaluation by the Marin workforce board.

- San Bernardino City – Deny request for designation
  Recommendation for denial is based on the elements included in the meeting materials. There has been some discussion between the State Board staff and City and County officials. The members expressed concerns over ensuring quality services communities of color and the continuity of services for City residents, and pointed to the possibility of a merger similar to San Mateo and NOVA. A motion was given by Bob Redlo to approve the recommendation as presented, a second by John Brauer. All voted unanimously in favor.

**4. Updates and Discussion:**

**a. Review of Methodology and Proposed Boundaries for WIOA Regional Planning Area**
Dan Rounds provided a summary of the information contained in the agenda packet. A member asked for a summary of the comments received in response to the Draft Directive and a map showing the alignment of regional planning units and the community college districts. There was discussion to ensure education and local areas work together for planning and alignment of efforts.

**b. Slingshot implementation**
Tim Rainey provided a summary of the materials included in the agenda packet. A member asked the State Board to investigate how it can help fund logging/replanting of the forests following the recent fires.

**CALIFORNIA WORKFORCE INVESTMENT BOARD**
**EXECUTIVE COMMITTEE MEETING**
**June 1, 2015**

**MEETING SUMMARY**

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**c. WIOA Implementation**

Dan Rounds provided an update of the efforts by the various workgroups involving CalWORKS, Dept. of Rehabilitation and Dept. of Education.

**Others: Health Committee**

Bob Redlo provided a summary of the current work of the Healthcare Committee and its focus on identifying regional healthcare employers. A member asked how the State Board's Credentialing Committee can get engaged in this work of alignment.

**5. Other Business**

John Brauer commented on the progress the staff has made in moving California forward in implementing WIOA. There was no further discussion. The meeting was adjourned.

| **Action Requested** |
| --- |
| That the Executive Committee:<br>1) Appoint a hearing officer to review appeal materials and render an opinion to the Secretary of the Labor & Workforce Development Agency and the Chair of the State Board.<br>2) Delegate authority to Secretary of the Labor & Workforce Development Agency and the Chair of the State Board to make a final determination regarding the appeal. |

**Background**

The Workforce Innovation & Opportunity Act (WIOA) required the Governor to initially designate local workforce development areas for a 2-year period (July 1, 2015 through June 30, 2017).

The California Workforce Development Board (State Board) and the Employment Development Department (EDD) published Directive WSD14-10, dated February 20, 2015, which contained policies and procedures to request initial designation as a local workforce development area. The directive contains the specific federal requirements that must be met for a local area request to be approved for initial designation:

- Was designated as a local area under WIA
- Performed successfully
- Sustained fiscal integrity

EDD and State Board staff recommendations on initial designation were unanimously approved by the Executive Committee on June 1, 2015, and by the full State Board on June 23, 2015. Currently of the 48 local workforce boards, 46 received full initial designation, 1 received conditional designation (Marin Co.), and 1 was denied designation (City of San Bernardino).

In a letter dated May 15, 2015, the Mayor of the City of San Bernardino was informed that the City did not meet the criteria for sustained fiscal integrity and therefore the recommendation to the State Board was to deny initial designation. Specifically, the City's single audit for State fiscal year 2011-12, due on March 31, 2013, was not submitted until June 2014. The single audit for FY 2012-13, due March 31, 2014, has still not yet been submitted. The City has been on cash hold since October 2014.

The Secretary of the Labor & Workforce Development Agency, acting on behalf of the Governor, affirmed the State Board's recommendations. The State Board formally notified the Mayor of the City of San Bernardino of the decision of denial in a letter postmarked July 17, 2015.

**Policy Criteria**

Directive WSD14-10 also includes a statutorily required appeal process, which allows an entity that has been denied initial designation to appeal the decision to the State Board. Federal statute requires due process procedures and an expeditious appeal to the State Board.

As required in Directive WSD14-10, the City filed an appeal within 20 calendar days of notification of the Governor's decision. The appeal materials were received by the State Board on August 10, 2015. The City's appeal complies with the instructions set forth in the Directive.

The State Board's Bylaws (Article VI., Sec. 2, The Executive Committee) states that the Executive Committee "shall be empowered to take action on behalf of the full State Board in instances where urgency and time constraints do not permit items to be acted upon by the full State Board."

To ensure an expeditious appeal process, staff is recommending that the Executive Committee, acting on behalf of the full State Board:

1) Appoint a hearing officer to review appeal materials and render an opinion to the Secretary of the Labor & Workforce Development Agency and the Chair of the State Board.

   General Counsel to the Labor & Workforce Development Agency, Mr. Mark Woo-Sam, is recommended as the hearing officer.

2) Delegate authority to Secretary of the Labor & Workforce Development Agency and the Chair of the State Board to make a final determination regarding the appeal.

**Appeal Process**

The City Attorney's Office of the City of San Bernardino was informed on August 27, 2015, of the appeal process below:

- On Tuesday, September 1, 2015, the State Board, through its Executive Committee, will appoint a neutral hearing officer to review the appeal materials.

- The hearing officer will contact the City no later than September 4, 2015, and will commence a 60 day hearing process to review the appeal materials. The hearing officer also may, in his or her discretion, permit the City to submit supplemental verbal or written testimony within that 60 day hearing process.

- The hearing record will close no later than November 2, 2015 (60 calendar days from the start of the hearing process).

- Within 10 days of the close of the hearing record (no later than November 12, 2015), the hearing officer will render an opinion to the State Board Chair and the Secretary of the Labor & Workforce Development Agency, at which time the Secretary and Chair will make a final determination.

- Within 5 calendar days of the final determination by the Secretary and the Chair (no later than November 17, 2015), State Board staff will inform the City in writing of the final outcome of the appeal process.

**Next Steps**

As required in the Bylaws, the actions of the Executive Committee will be reported to the full State Board at its next scheduled meeting of September 22, 2015.

If the appeal does not result in designation as a local area, the City of San Bernardino can also appeal the denial to the U.S. Department of Labor.

TO: WORKFORCE DEVELOPMENT COMMUNITY

SUBJECT: INITIAL LOCAL AREA DESIGNATION AND LOCAL BOARD CERTIFICATION UNDER WIOA

## EXECUTIVE SUMMARY

Purpose

This directive communicates policy and procedures regarding the initial designation of Local Workforce Development Areas (local areas) and the initial certification of Local Workforce Development Boards (local boards) under the Workforce Innovation and Opportunity Act (WIOA).

Scope

This directive applies to all current local areas interested in receiving designation and local board certification under the new WIOA.

Effective Date

This directive is effective on the date of its issuance.

## REFERENCES

- WIOA (Public Law 113-128) Sections 106 and 107
- *Workforce Investment Act* (WIA) Section 116
- Title 2 *Code of Federal Regulations* (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"

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

- Title 29 CFR Part 97: “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments”
- Title 20 CFR Part 652 et. al: WIA; Final Rules
- *California Unemployment Insurance Code* Section 14202(c)
- 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)
- WIA Directive WIAD02-6, Subject: *Subsequent Designation of Temporary and State Board Recommended Local Areas* (September 18, 2002)
- 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-111, issued for comment on January 16, 2015. The Workforce Services Division received 61 comments during the draft comment period. These comments resulted in substantive changes to the directive which can be viewed as highlighted text. The highlighted text will remain on the Internet for 30 days from the issuance date. A summary of the comments is provided as Attachment 3. Retain this directive until further notice.

## BACKGROUND

The WIOA Sections 106 and 107 provide the criteria for the initial designation of local areas and initial certification of local boards. Specifically, the WIOA Section 106 requires the Governor to designate local areas within the state, while Section 107 requires the Governor to certify one local board for each local area in the state. The California Workforce Investment Board (State Board) and the Employment Development Department (EDD), acting under the authority of the Governor, have established policies and procedures within this directive for the initial designation of local areas and the initial certification of local boards. These policies are intended to provide maximum flexibility to local areas so they may have sufficient time to prepare for and fully comply with the new WIOA requirements for subsequent local area designation and local board recertification.

## POLICY AND PROCEDURES

### Initial Local Area Designation

As stated in WIOA Section 106, the Governor shall approve a request made for initial designation by any local area if the area did the following during PYs 2012-13 and 2013-14:

- Was designated as a local area under WIA
- Performed successfully
- Sustained fiscal integrity

***Initial designation is effective July 1, 2015, through June 30, 2017***. ***Local areas must apply for initial designation using the process included in this directive. Local areas that would like to modify their current geographical boundaries are eligible to apply under their new structure.***

***Subsequent designation will be effective July 1, 2017***. Local areas should be planning and preparing to meet the WIOA requirements for subsequent designation (i.e., perform successfully, sustain fiscal integrity, and in the case of a local area in a planning region, meet the regional planning requirements in WIOA Section 106[c][1]) during the initial designation period. Additionally, local areas should be preparing to meet the new Office of Management and Budget (OMB) and Department of Labor Uniform Guidance in 2 CFR 200 and 2 CFR 2900, which applies to new awards and additional funding (funding increments) to existing awards made after December 26, 2014 (i.e., the youth allocations beginning April 1, 2015, and all subsequent allocations).

Local areas will be expected to develop new services, enter new collaborative partnerships, and/or create innovative workforce development strategies in alignment with WIOA during the initial designation period. The EDD and the State Board will provide technical assistance and guidance to local boards implementing WIOA activities and assess the extent to which local boards are designing a better system for customers. The assessment of local performance goals during the initial designation period will consider the extent to which local boards implement WIOA, and the potential impact on customer outcomes. During local area performance negotiations, the State Board will work with local boards who undertake activities that result in new services, partnerships, and/or service redesign or other WIOA transitional activities to ensure that local areas have the opportunity to set goals that enable them to perform successfully.

Definitions

*Performed Successfully* - a local area has achieved at least 80 percent of their local performance goal on each performance measure for PYs 2012-13 and 2013-14. (WIOA Section 106[e][1]).

The state has provided the following flexibility to the definition of performed successfully, for purposes of initial local area designation only. This flexibility is in

alignment with WIA Directive WIA06-10 and the local board recertification criteria in Workforce Services Directive WSD12-14.

***A local area is still eligible for initial designation if it achieved at least 80 percent of its local performance goal on seven or more of the performance measures during either PY 2012-13 or PY 2013-14. To remain eligible, the local area must attach a Corrective Action and Technical Assistance Plan (as required in WIA Directive WIAD06-10) to its initial local area designation and initial local board certification application.***

***A local area is ineligible for initial designation if it did not achieve at least 80 percent of its local performance goal on two or more performance measures during both PY 2012-13 and 2013-14.***

*Sustained fiscal integrity* – the local area has not been found in violation of one or more of the following during PYs 2012-13 or 2013-14:

- 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 - 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])

*Existing Local Area* – A local area that was designated as a local area under WIA.

*Modified Local Area* – A local area that is considering local area modification as part of its initial designation application. Examples include the following: two areas proposing to merge into a new combined single local area, various local areas that will be combined in a new single local area, or a local area that will be expanded to include part or parts of another current local area.

Initial Local Area Designation Application Process

The local Chief Elected Official (CEO) must follow the applicable process included below in order to request initial designation:

- Existing Local Areas

  Complete the Existing Local Area - Application for Initial Local Area Designation and Initial Local Board Certification Program Year 2015-16 (Attachment 1).

- Modified Local Areas

  For local areas that are requesting local area modification as part of their initial designation, complete the Modified Local Area - Application for Initial Local Area Designation and Initial Local Board Certification Program Year 2015-16 (Attachment 2).

The local CEO must submit the completed application to the State Board no later than 5:00 p.m., March 31, 2015, by one of the following methods:

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

Note the following: Some local areas may be unable to obtain local approval by the submission deadline (e.g., due to the scheduling of their respective board meetings). If so, the local area may submit an unsigned copy of the application with an explanation for the absent signature(s) and the date by which the signed original will be sent. The signed application must be submitted to the State Board by June 30, 2015. Failure to meet this deadline will result in the local area not receiving full initial designation status until a signed application is received.

Assessment of the Application

The State Board, in coordination with EDD, will verify the information provided in the application once a completed application is received. The State Board will consider all information provided, and determine whether to recommend approval or denial of the application at its spring 2015 meeting.

The local CEO will be notified in writing by May 10, 2015, regarding the approval or denial of its initial designation application. If approved, the initial designation will be

effective July 1, 2015, through June 30, 2017. If denied, the local CEO may contest the decision using the appeal process below.

Appeal Process for Initial Designation

A unit of local government (or combination of units) which has requested and been denied initial designation as a local area under WIOA may appeal the denial to the State Board, in accordance with WIOA Section 106.

An entity which has been denied initial designation may appeal the decision and request a hearing. An appeal and request for hearing must be mailed to the State Board within 20 calendar days from the mailing date of the notice of denial of initial designation. The appeal must (1) be in writing and state the grounds for the appeal, and (2) state the reasons why the appellant should be initially designated.

The State Board will contact the appellant to schedule a hearing date within five calendar days of the receipt of the appeal. The State Board will conduct the appeal hearing process and provide a written decision to the appellant no later than five calendar days after the hearing.

Appeal of State Board Decision

A unit or combination of units of general government whose appeal has not resulted in designation as a local area may also appeal the denial to the Department of Labor. (WIOA Section[b][5])

## Initial Local Board Certification

The WIOA Section 107 requires the Governor to certify one local board for each local area in the state. Local boards will be initially certified as follows, in order to provide local areas an opportunity to restructure their local boards in accordance with WIOA requirements:

- Local Boards within Existing Local Areas

  Complete the Existing Local Area - Application for Initial Local Area Designation and Initial Local Board Certification Program Year 2015-16 (Attachment 1). Note that this application is used for both initial local area designation and initial local board certification.

  ***The existing local board will be automatically initially certified through PY 2015-16 upon approval of initial designation of a local area.***

- Local Boards for Local Areas requesting designation as new, modified, Local Areas

  Complete the Modified Local Area - Application for Initial Local Area Designation and Initial Local Board Certification Program Year 2015-16 (Attachment 2). Note that this application is used for both initial local area designation and initial local board certification.

The local CEO will be notified in writing by May 10, 2015, regarding the approval or denial of its initial local board certification.

***Initial local board certification will be effective July 1, 2015, through June 30, 2016.***

***Local board recertification will be effective July 1, 2016.*** Therefore, local boards will be expected to complete all necessary tasks to meet the local board recertification requirements during the initial certification period. These recertification requirements will include the recertification criteria under WIOA (i.e., meet WIOA local board membership requirements, meet or exceed performance requirements, and sustain fiscal integrity), and an assessment of the local board's progress on key WIOA implementation tasks (e.g., new youth service requirements, procurement of one-stop operators unless granted an exemption under WIOA Section 107[g][2]). The assessment of local performance goals during the certification period will consider the extent to which local boards implement WIOA, and the potential impact on local performance levels.

**ACTION**

Please bring this directive to the attention of the local CEO, local board, 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

Attachments are available on the Internet:

1. Existing Local Area - Application for Initial Local Area Designation and Initial Local Board Certification Program Year 2015-16
2. Modified Local Area - Application for Initial Local Area Designation and Initial Local Board Certification Program Year 2015-16
3. Summary of Comments

California WORKFORCE INVESTMENT BOARD

Michael Rossi, Chair ▪ Tim Rainey, Executive Director ▪ Edmund G. Brown, Jr., Governor

May 15, 2015

City of San Bernardino
Honorable R. Carey Davis, Mayor
300 North D Street
San Bernardino, CA 92401-1148

SUBJECT: Application for Initial Designation as a Local Workforce Area

Dear Mayor Davis,

The California Workforce Investment Board (State Board) has received and carefully assessed your application requesting initial designation as a Local Workforce Development Area (local area) under the new federal Workforce Innovation and Opportunity Act (WIOA).

This letter is to inform you that the City of San Bernardino's application for initial designation will be recommended for denial. This determination was made by applying the criteria included in Directive WSD 14-10, dated February 20, 2015. The City did not meet the criteria for fiscal integrity as required. Therefore, the recommended action for the State Board at its next scheduled meeting will be to advise the Governor to deny the City's application for initial designation.

Directive WSD 14-10 contains the specific minimum federal requirements that must be met for a local area to request and be approved for initial designation. The three elements are:

- Was designated as a local area under the Workforce Investment Act (WIA);
- Performed successfully; and
- Sustained fiscal integrity.

The directive also provides clearly stated definitions of these elements. In reference to the definition of fiscal integrity, a local area is ineligible for initial designation if it did not adhere 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. These responsibilities include the following: (1) Timely reporting of WIA participant and expenditure data; (2) Timely completion and submission of the required annual single audit; and (3) Have not been placed on cash hold for longer than 30 days.

Specifically, the City's single audit for SFY 2011-12, due on March 31, 2013, was not submitted until June 2014. The single audit for SFY 2012-13, due March 31, 2014, has not yet been submitted. The City has also been on cash hold since October 2014.

Following State Board action on this item at its next scheduled meeting, a notice of the Board's action will be mailed to you. You may appeal the action. Instructions for submitting an appeal are included in Directive WSD 14-10.

TIM RAINEY, Executive Director
California Workforce Investment Board

800 Capitol Mall, Suite 1022, Sacramento, CA 95814 ▪ Phone: (916) 657-1440 ▪ www.cwib.ca.gov

cc: David Lanier, Secretary - Labor and Workforce Development Agency
Mike Rossi, Chair - California Workforce Investment Board
Patrick Henning, Director - Employment Development Department
Brian McMahon, Labor and Workforce Development Agency

California WORKFORCE INVESTMENT BOARD

Michael Rossi, Chair ▪ Tim Rainey, Executive Director ▪ Edmund G. Brown, Jr., Governor

July 17, 2015

City of San Bernardino
Honorable R. Carey Davis, Mayor
300 North D. Street
San Bernardino, CA 92401-1148

SUBJECT: Denial of Application for Initial Designation as a Local Workforce Development Area

Dear Mayor Davis,

This letter confirms our previous correspondence that the recommended action for the State Board at its next scheduled meeting was to advise the Governor to deny San Bernardino City's application for initial designation. This determination was based on our assessment of your application for initial designation as a local workforce development area and by applying the criteria included in EDD Directive WSD 14-10, dated February 20, 2015.

On June 23, 2015, the full Board was convened, and this item was presented for action. The Board's recommendation to deny the City's application was considered and unanimously approved. This letter is to inform you that the Governor and the Secretary of the Labor & Workforce Development Agency have concurred with the State Board's recommendation and that your application has been denied.

You may appeal this decision. Instructions for submitting an appeal are included in EDD Directive WSD 14-10. The appeal must (1) be in writing and state the grounds for the appeal and (2) state the reasons why the appellant should be initially designated. **The appeal and request for hearing must be mailed to the State Board within 20 calendar days from the mailing date of this notice of denial of initial designation.**

If an appeal is received, the State Board will contact your office to schedule a hearing date within five calendar days of the receipt of the appeal. The State Board will conduct the appeal hearing process and provide a written decision no later than five calendar days after the hearing.

If you have any questions, please contact me at (916) 657-1440, or by email at tim.rainey@cwib.ca.gov.

Respectfully,

TIM RAINEY, Executive Director
California Workforce Investment Board

cc: Ernest Dowdy, Executive Director, San Bernardino Employment and Training Agency
David Lanier, Secretary - Labor and Workforce Development Agency
Mike Rossi, Chair - California Workforce Investment Board
Patrick Henning, Director - Employment Development Department
Brian McMahon, Labor and Workforce Development Agency

# CALIFORNIA WORKFORCE INVESTMENT BOARD
# BYLAWS

## ARTICLE 1: NAME

The Workforce Investment Act (WIA) of 1998 requires that each state establish a state workforce investment board to carry out certain responsibilities related to the state's workforce investment system. The California Workforce Investment Board, hereinafter referred to as the State Board, was established through Executive Order (D-9-99) and formalized through the enactment of state statutes in 2006.

## ARTICLE II: PURPOSE

The State Board is the body responsible for assisting the Governor in the development, oversight and continuous improvement of California's workforce investment system.

## ARTICLE III: GOVERNANCE

The State Board shall reside within the California Labor and Workforce Development Agency and shall report through its Executive Director to the Secretary of the Labor and Workforce Development Agency.

## ARTICLE IV: STATE BOARD MEMBERSHIP

### *Section I – Appointments*

The members of the State Board are appointed by the Governor in conformity with Section 14012 of the California Unemployment Insurance Code. In addition, the Senate President Pro Tem shall appoint two legislative members, and the Speaker of the

Assembly shall appoint two legislative members. The Governor may add additional members to those required by the California Unemployment Insurance Code.

***Section 2 – Composition***

A majority of the members of the State Board shall be private sector representatives. At least 15 percent of the membership shall be representatives from organized labor. The Chair of the State Board shall be selected by the Governor from among the private sector representatives.

***Section 3 – Designees***

Section 7.5 in the General Provisions of the California Government Code allows a Director of a State Department or a Secretary of a State Agency, either of whom is appointed as a member of a State body, to designate a deputy director of that Department or Agency, exempt from State civil service, to act in the Director's or Secretary's place. Each Department Director or Agency Secretary may have a designee, however only one designee may vote on behalf of the Department or Agency at any one meeting. If more than one designee is present for a meeting, the Chair will select which designee can participate in voting for that meeting. State Department Directors and Agency Secretaries must notify the Chair in writing of the names and titles of their designees prior to the designees' participation on the State Board.

Section 7.6 in the General Provisions of the California Government Code allows a Constitutional Officer to appoint a designee. A designee for a Constitutional Officer must be a deputy who is exempt from State civil service. Section 7.6 also allows a member of the California Legislature to name a designee. In addition, the California Constitution Article 9, Section 2.1, requires that the State Superintendent of Public Instruction designee be an individual from one of the following offices which are exempt from State civil service: the Deputy Superintendent of Public Instruction, or one of the

three Associate Superintendents of Public Instruction. The Constitutional Officers must notify the Chair in writing of the names and titles of the designees prior to the designees' participation on the State Board.

***Section 4 – Alternates and Proxies***

Under no circumstances shall the State Board permit absentee or proxy voting at any of its proceedings.

***Section 5 – Conflict of Interest***

Members of the State Board are subject to a comprehensive body of state law governing conflict of interest. (Gov*ernment* Code §§ 81000-91014). Pursuant to State and federal law, the State Board has adopted and promulgated a Conflict of Interest Code. The State Board members, including designees, are required to file statements of economic interests with the State Board. The State Board staff will maintain copies on file and deliver the original statements of economic interests to the Fair Political Practices Commission. The statements of economic interests are governed by State law and include the specific kinds of financial information members of the State Board must disclose. Upon appointment, Board members are required to file an "Assuming Office" statement within 30 days of their appointment. Thereafter, Board members are required to file annual statements. Board members are also required to file "Leaving Office" statements upon vacating their position.

***Section 6 – Resignation***

A member may resign from the State Board by sending a written notice, which includes the effective date of resignation, to the Governor. The member must also send copies of that written notice to the Chair and the Executive Director.

### *Section 7 – Removal*

The Governor has sole authority to appoint and to remove members of the State Board. The Chair, on behalf of the Executive Committee, may request the written resignation of any State Board member who fails, without good cause, to attend three consecutive State Board meetings or who otherwise demonstrates an inability or unwillingness to actively participate in the meetings, discussions, activities, and decisions of the State Board. In the event that such a member fails to submit a written resignation, the Chair, on behalf of the Executive Committee, may forward a written recommendation for removal to the Governor.

## ARTICLE V: OFFICERS

The State Board shall have two officers: the State Board Chair (Chair) and the State Board Vice-Chair (Vice-Chair). The Chair shall be a member of the private sector appointed by the Governor and shall serve at the pleasure of the Governor.

The Chair shall call and preside at all State Board meetings and perform other duties as required by the State Board. The Vice-Chair shall act as Chair in the Chair's absence and perform other duties as required.

## ARTICLE VI: COMMITTEES

### *Section 1 – Committee Structure*

The State Board will operate with a committee structure comprised of standing committees, special committees, and ad hoc committees:

***Standing Committees*** – are constituted to perform continuing functions and are permanent committees of the State Board. A standing committee is comprised of State Board members for purposes of voting. A standing committee shall have a minimum of five members in addition to the chair and the vice chair of the committee. A standing committee is established or discontinued through an amendment to these bylaws. With the exception of the Executive Committee, the Chair shall designate the chair, vice-chair, and members of a standing committee annually, subject to ratification by the full State Board. The committee chair shall be the presiding officer at all committee meetings. The committee vice-chair shall assume the duties of the committee chair in the committee chair's absence.

***Special Committees*** – are assigned specific tasks and assignments by the State Board Chair. Membership may include State Board members and State and local partners, stakeholders, practitioners, and customers, all as voting members. Unless otherwise specified in the description of the committees adopted as part of these bylaws, the State Board Chair shall designate the chair, vice-chair, and members of each special committee, subject to ratification by the Executive Committee. The committee chair shall be the presiding officer at all committee meetings. The committee vice-chair shall assume the duties of the committee chair in the committee chair's absence.

***Ad Hoc Committees*** – are informal workgroups, task forces, councils and other formal sub-groups comprised of State Board members, and/or State Board staff, and/or State and local partner, stakeholder, and practitioner staff. Ad hoc committees may be established by the Chair, the Executive Director, or special committee chairs, and are not subject to ratification by the full State Board nor the Executive Committee. Ad hoc committees are time-limited and task oriented and are formed to develop work products for the State Board. Each Ad hoc committee shall remain in existence only as long as necessary to fully address the task with which it is charged.

***Section 2 – Standing Committees***

There shall be two standing committees of the State Board:

***The Executive Committee*** – shall be chaired by the State Board Chair and shall consist of the Vice-Chair, the chairs of the special committees, the Secretary of the Labor and Workforce Development Agency (or the Secretary's designee), and the Executive Director of the State Board. The membership of the Executive Committee shall reflect the membership of the full State Board with a minimum of one third private sector, one third labor organizations and one third governmental entities. The State Board Chair shall have the discretion to appoint additional members to the Executive Committee as deemed appropriate.

The Executive Committee shall meet at the call of the Chair, as required by State Board meetings, issues, activities, and workflow. It shall provide recommendations to the full State Board regarding standing committee assignments; coordinate the work of standing, special, and ad hoc committees; develop agendas for State Board meetings; and shall be empowered to take action on behalf of the full State Board in instances where urgency and time constraints do not permit items to be acted upon by the full State Board. All such actions and commitments shall be reported to the full State Board at its next regularly scheduled meeting.

***The Green Collar Jobs Council*** – shall be comprised of appropriate representatives from the State Board's existing membership and meet at the call of the Chair. The Green Collar Jobs Council (GCJC) shall perform the duties and responsibilities specified in Sections 15002 - 15003 of the California Unemployment Insurance Code and shall report all actions to the full State Board at its next regularly scheduled meeting

## ARTICLE VII: MEETINGS

### *Section 1 – Board Meetings*

The State Board shall conduct at least one, full, public meeting each year. It is the goal of the State Board, however, to conduct full State Board meetings three to four times each year and in such locations as will facilitate the work of the State Board and the participation of the public. Regular attendance at meetings is expected of each Board member. The meetings will be open and accessible to the public and will be publicly announced. Agendas, minutes of the previous meeting and available supporting materials for State Board meetings will be provided to the members at least ten days prior to the meeting.

### *Section 2 – Board Quorum*

A quorum is defined as a majority of the members appointed to the State Board. If a quorum is not present at a State Board meeting, the State Board may not vote or take action, but members in attendance may continue to meet for the purpose of discussion, including taking public testimony on agenda items.

## ARTICLE VIII: CLOSED MEETINGS

A closed session of the State Board may be called to discuss personnel issues, pending litigation, or any other matters appropriate for a closed meeting under Government Code Section 11126. The Chair may call for a closed meeting, or a closed meeting may be called by any member, with a majority vote.

## ARTICLE IX: PARLIAMENTARY AUTHORITY

Robert's Rules of Order shall govern the State Board in all cases in which they are applicable and in which they are not inconsistent with these Bylaws, any special rules of order the Board may adopt, or any applicable State and federal laws and regulations.

## ARTICLE X: CHANGES IN BYLAWS

These Bylaws may be amended or replaced and new Bylaws adopted by the approval of a majority vote by those members voting at a State Board meeting with a quorum present, provided that the amendment is not in conflict with any State and federal laws and regulations and had been noticed in writing to all State Board members 30 days in advance of any proposed action by the State Board.

**Item 4. Discussion/Updates**

**Item 5. Other Business**