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**NEW YORK STATE  
WORKFORCE DEVELOPMENT SYSTEM  
TECHNICAL ADVISORY #00-35.1**

**DATE: DECEMBER 2, 2014**

**To: Workforce Development Community**

**Subject: The Role of the Local Workforce Investment Board (LWIB) and Staff to the Board in the Provision of Participant Services in New York's Career Center System**

*This TA updates and replaces WDS TA #00.35, *The Role of the Local Workforce Investment Board and Board Staff Members in the Provision of Services in the One-Stop System*, dated August 9, 2000.*

**PURPOSE**

The purpose of this Workforce Development System Technical Advisory (TA) is to provide guidance to chief-elected officials (CEOs) regarding legal restrictions on the undertaking of certain activities by Local Workforce Investment Boards and their staff. Please note that the policies outlined in this TA are consistent with the Workforce Innovation and Opportunity Act (WIOA) and this document will be reissued with new references once WIOA regulations are promulgated.

**ACTION**

CEOs and LWIBs must ensure the LWIB, and the staff that supports the LWIB do not directly provide any services to youth, adults and dislocated worker participants in the local career center system.

**POLICY**

The role of each LWIB is to focus on strategic planning, local guidance and operational oversight of the system rather than providing direct services. WIA Regulations, Sections 661.300 and 661.305 reiterate the roles and responsibilities of the LWIBs.

**A. Adult and Dislocated Worker Services**

Section 117(f) of the Workforce Investment Act (WIA) prohibits LWIBs from providing core or intensive services, and from being designated or certified as an operator for a career center or system unless permission to do so has been granted by the CEOs of the local area and the Governor. Similarly, the LWIB is prohibited from providing training services, unless the Governor grants a one-year waiver. Section 661.310 of the WIA Regulations extends these restrictions to staff of the board as well. In New York State the Governor will not grant permission or waivers to LWIBs to provide these participant services. To permit LWIB staff to provide direct services undermines the LWIBs' policy and oversight role; there should be a firewall between policy making and service provision.

**B. Youth Services**

Section 117(d)(2)(B) of WIA requires the LWIB to 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. Consistent with these competitive requirements for youth services, and the restrictions against the direct provision of services to adults in WIA section 117(f), it is the New York State Department of Labor’s (NYSDOL’s) policy that LWIBs may also not engage in the direct provision of any youth services.

The CEO may elect to name the government as grant recipient to administer WIA funds or select an incorporated entity outside of government to serve as a fiscal agent to administer WIA funds at the direction of the WIB. Sections 664.405(a)(4) and 664.610 of WIA Regulations permit the governmental grant recipient or CEO-selected fiscal agent to offer youth framework and summer employment services to youth, and there are waivers to permit grant recipients or fiscal agents to deliver some of the youth program elements. However, to further ensure the separation of oversight of programs from delivery of programs, NYSDOL has determined that any fiscal agent that is also functioning as the LWIB may not provide any youth services. See [Attachment A](#) for a list of current fiscal agents in New York State’s Career Center system, broken down first into those fiscal agents that are functioning as the LWIB and secondly into fiscal agents that are not LWIBs. The chart immediately below can be used as a reference to determine the direct WIA program services that can be provided by grant recipients, and by fiscal agents that are not functioning as the LWIB.

<b>Authorization to Provide WIA Services</b>		
<b>WIA-funded Services</b>	<b>LWIBs/ Fiscal Agents that are also Incorporated LWIBs*</b>	<b>Grant Recipient/Fiscal Agent that is not LWIB</b>
<b>Adult/DW Services</b>		
• Core	No	Yes
• Intensive	No	Yes
• Training	No	No
<b>Youth Services</b>		
• Framework (intake, objective assessment, development of ISS)	No	Yes
• Ten Elements	No	No, except as noted below
• Summer Employment	No	Yes
• If waiver requested to provide work experience, supportive services or follow-up elements	No	Yes

\*includes staff of these organizations

**C. Safeguarding LWIB Autonomy**

In local workforce areas where staff are cost allocating time between WIA program activities and local board support, and possibly between more than one organization, appropriate safeguards must be in place to ensure that LWIB staff is able to maintain the autonomy to perform its policy-making and oversight functions. Cost allocation alone is not an acceptable means of separating LWIB oversight of programs from grant recipient/ non-LWIB fiscal agent delivery of WIA adult or youth services. In addition to cost allocation, the function of the individual must be considered when determining whether

a potential conflict of interest exists. For example, an individual who monitors youth programs on behalf of the LWIB can't be involved in delivering or administering any aspect of the youth programs that are being monitored. Further, if an individual administering a local career center is also serving as the executive director for the LWIB, then there must be other staff (either assigned to the Board or contracted) to conduct oversight of career center operations.

## **REFERENCES**

WIA §117(d – f); WIA Regulations §§661.300 – 310; 664.405(a)(4); 664.610

## **INQUIRIES**

Questions regarding this TA may be directed to your State Representative

## **ATTACHMENT**

A - [Fiscal Agents in New York State](#)