

**WORKFORCE DEVELOPMENT BOARD AND WORKFORCE
DEVELOPMENT CENTER ADMINISTRATION DIVISION[877]**

Adopted and Filed

**Rule making related to operations of workforce development board
and regional advisory boards**

The Iowa Workforce Development Board hereby amends Chapter 1, “Workforce Development Board,” and Chapter 6, “Regional Advisory Boards,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 96.11.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 84A and Public Law No. 113-128.

Purpose and Summary

These amendments will give the Workforce Development Department a clearer framework from which to operate with regard to technology and modern efficiencies. The amendments will also help eliminate inefficiencies that remain as a result of outdated rules.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 6, 2017, as **ARC 3480C**. The Department received an inquiry regarding the timing of this rule making, as additional Workforce Innovation and Opportunity Act updates may necessitate further changes. The Department takes the position that these rules should be as updated as possible at this time, and delaying updates to accommodate future changes in the law is not necessary. **ARC 3480C** came before the Administrative Rules Review Committee for review on January 5, 2018, and no comments were received at that time. Three corrective changes from the Notice were made to Iowa Code citations in Items 4 and 15.

Adoption of Rule Making

This rule making was adopted by the Iowa Workforce Development Board on January 10, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Workforce Development Board and Workforce Development Center Administration Division for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on March 7, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule 877—1.1(84A) as follows:

877—1.1(84A,PL113-128) Composition.

1.1(1) *Voting members.* ~~The board consists of nine voting members appointed by the governor. One member shall represent a nonprofit organization involved in workforce development, four members shall represent employers, and four members shall represent nonsupervisory employees. Of the members appointed to represent nonsupervisory employees, two members shall be from statewide organized labor organizations, one member shall be an employee representative of a labor management council, and one member shall be a person with work experience in worker training programs.~~ shall have voting members in accordance with Iowa Code section 84A.1A(1) "a" and Section 101(b) of the Workforce Innovation and Opportunity Act (WIOA), Public Law No. 113-128. For purposes of the board's membership criteria, the following terms shall have the following meanings:

"Community-based organization" means a private nonprofit organization (which may include a faith-based organization) that is representative of a community or a significant segment of a community and that has demonstrated expertise and effectiveness in the field of workforce development.

"Competitive integrated employment" shall have the meaning given the term in Section 7 of the Rehabilitation Act of 1973 (29 United States Code Section 705), for individuals with disabilities.

"Demonstrated expertise and effectiveness" means that an individual has documented leadership in developing or implementing workforce development, human resources, training and development, or a core program function, which may include individuals with experience in education or the training of job seekers with barriers to employment, as defined in Section 3(24) of WIOA, including but not limited to serving veterans; providing or supporting competitive integrated employment for individuals with disabilities; or serving eligible youth.

"Eligible youth" means, except as provided in subtitles C and D of Title I of WIOA, in-school youth, as described in Section 129(a)(1)(B) of WIOA, or out-of-school youth, as described in Section 129(a)(1)(C) of WIOA.

"In-demand industry sector" means an industry sector that has a substantial current or potential impact (including through jobs that lead to economic self-sufficiency and opportunities for advancement) on the state economy and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors.

"In-demand occupation" means an occupation that currently has or is projected to have a number of positions (including positions that lead to economic self-sufficiency and opportunities for advancement) in an industry sector so as to have a significant impact on the state.

"Optimum policymaking authority" means that an individual can reasonably be expected to speak affirmatively on behalf of the entity the individual represents and to commit that entity to a chosen course of action.

"Veteran" has the meaning given the term in 38 United States Code Section 101.

1.1(2) *Nonvoting members.* ~~The board consists of eight ex officio, nonvoting members. Of the eight members, four members shall be members of the general assembly; one member shall be a president or president's designee of one of the three state universities, designated by the board of regents on a rotating~~

basis; one member shall represent the largest statewide public employees' organization representing state employees; one member shall be a superintendent or superintendent's designee of a community college, appointed by the Iowa association of community college presidents; and one member shall represent the independent colleges and universities in Iowa. shall have nonvoting members in accordance with Iowa Code section 84A.1A(1) "b."

1.1(3) Chairperson. The governor shall select a chairperson for the board from among the members who are representatives of business.

ITEM 2. Amend rule 877—1.2(84A) as follows:

~~877—1.2(84A) Meetings.~~ The board shall meet in May of each year for the purpose of electing one of its voting members as chairperson and one of its voting members as vice chairperson. The chairperson and vice chairperson shall not be of the same political party or gender, or represent the same group of persons. The board shall meet at the call of the chairperson or when five a majority of members of the board file a written request of the chairperson for a meeting. Written notice of the time and place of each meeting shall be given to each member of the board. A majority of the voting members constitutes a quorum.

ITEM 3. Amend rule 877—1.3(84A) as follows:

~~877—1.3(84A, PL113-128) Duties Purpose and duties.~~ The board shall perform the duties outlined in Iowa Code section 84A.1B and other functions as necessary and proper to carry out its responsibilities. The board approves contracts and administrative rules for the programs administered by the division of workforce development center administration.

1.3(1) Purpose. The purpose of the board is to convene state, regional, and local workforce system and partners to:

- a. Enhance the capacity and performance of the workforce development system;
- b. Align and improve the outcomes and effectiveness of federally funded and other workforce programs and investments and, through these efforts, promote economic growth;
- c. Engage public workforce system representatives, including businesses, education providers, economic development, labor representatives, and other stakeholders to help the workforce development system achieve the purpose of the Workforce Innovation and Opportunity Act, Public Law No. 113-128; and
- d. Assist to achieve the state's strategic and operational vision and goals as outlined in the state plan under Iowa Code section 84A.1 and the Workforce Innovation and Opportunity Act, Public Law No. 113-128.

1.3(2) Duties. The board shall perform the duties outlined in Iowa Code section 84A.1B and other functions as necessary and proper to carry out its responsibilities under the Workforce Innovation and Opportunity Act, Public Law No. 113-128.

ITEM 4. Amend rule 877—1.4(84A) as follows:

~~877—1.4(84A) Records.~~ Agendas, minutes, and materials presented to the board are available from the ~~Division of Policy and Information~~ Public Records Custodian, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319, except those records concerning closed sessions which are exempt from disclosure under Iowa Code subsection ~~21.5(4)~~ 21.5(5) or which are otherwise confidential by law. Board records contain information about persons who participate in meetings. This information is collected pursuant to Iowa Code section 21.3 and subsection ~~96.11(5)~~ 96.11(6). These records are not stored in an automated data processing system and may not be retrieved by a personal identifier. ~~Rule-making records may contain information about persons making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4. These records are not stored in an automated data processing system and may not be retrieved by a personal identifier.~~

ITEM 5. Rescind rule 877—6.1(84A,PL105-220) and adopt the following new rule in lieu thereof:

877—6.1(84A,PL113-128) Definitions.

“*Chief elected official*” means designated representatives of the units of local government joined through a 28E agreement, pursuant to Section 107(c)(1)(B) of WIOA, for the purpose of sharing liability and responsibility in accordance with Title I of the WIOA.

“*Community-based organization*” means a private nonprofit organization (which may include a faith-based organization) that is representative of a community or a significant segment of a community and that has demonstrated expertise and effectiveness in the field of workforce development.

“*Department*” means the department of workforce development.

“*Eligible youth*” means, except as provided in Subtitles C and D of Title I of WIOA, in-school youth, as described in Section 129(a)(1)(B) of WIOA, or out-of-school youth, as described in Section 129(a)(1)(C) of WIOA.

“*In-demand industry sector*” means an industry sector that has a substantial current or potential impact (including through jobs that lead to economic self-sufficiency and opportunities for advancement) on the state, regional, or local economy, as appropriate, and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors.

“*In-demand occupation*” means an occupation that currently has or is projected to have a number of positions (including positions that lead to economic self-sufficiency and opportunities for advancement) in an industry sector so as to have a significant impact on the state, regional, or local economy, as appropriate.

“*Local workforce development board*” means a local workforce development board established in accordance with Section 107 of the Workforce Innovation and Opportunity Act, Public Law No. 113-128.

“*Optimum policymaking authority*” means that an individual can reasonably be expected to speak affirmatively on behalf of the entity the individual represents and to commit that entity to a chosen course of action.

“*Representative with demonstrated expertise and effectiveness on a local workforce development board*” means an individual who is a workplace learning advisor as defined in Section 3(70) of WIOA; who contributes to the field of workforce development, human resources, training and development, or a function of a core program as defined in Section 3(12) of WIOA; or whom the local workforce development board recognizes for valuable contributions in education or workforce development-related fields.

“*Veteran*” has the meaning given the term in Section 101 of Title 38, United States Code.

“*WIOA*” means the federal Workforce Innovation and Opportunity Act, Public Law No. 113-128.

ITEM 6. Amend rule **877—6.2(84A,PL105-220)**, parenthetical implementation statute, as follows:

877—6.2(84A,PL105-220 PL113-128) Number of boards.

ITEM 7. Rescind rule 877—6.3(84A,PL105-220) and adopt the following new rule in lieu thereof:

877—6.3(84A,PL113-128) Composition—voting members. Each regional local workforce development board shall meet the membership criteria in Section 107(b) or Section 107(i) of WIOA.

ITEM 8. Amend rule 877—6.4(84A,PL105-220) as follows:

877—6.4(84A,PL105-220 PL113-128) Nomination process for voting members. The following procedures shall be used in soliciting nominations for voting members.

6.4(1) All nominations for members which represent business shall be made by local or regional business organizations or trade associations. Business representatives should be owners of businesses, chief executive or operating officers of business and other business executives or employers with optimum ~~policy-making~~ policymaking or hiring authority and represent businesses with employment opportunities that reflect the employment opportunities of the region.

6.4(2) All nominations for members which represent labor shall be made by appropriate local federations of labor, union councils, or state federations of labor.

6.4(3) All nominations for members ~~which represent local school districts or community colleges shall be made by local school districts or community colleges, respectively representing an eligible provider of adult education and literacy where there is more than one such eligible provider in the local workforce development area shall be made by such eligible providers.~~

6.4(4) All nominations for members ~~who are county or city officials shall be made individually or collectively by the region's county boards of supervisors or mayors and city councils, respectively representing a vocational rehabilitation program shall be made by Iowa vocational rehabilitation services or the Iowa department for the blind.~~

6.4(5) All nominations shall be made in writing with the signed approval of the required nominating organization.

6.4(6) The overall membership of the board shall be balanced by gender and political affiliation consistent with Iowa Code sections 69.16 and 69.16A. To the extent possible, the members should represent all counties within a region served by the board and both voting and nonvoting members should represent persons with disabilities, minorities and older workers of the region.

6.4(7) Existing and future regional advisory board members that represent business, labor or education do not have to be renominated as outlined in this subrule unless required to do so by the local elected officials of a region All nominations for members representing the employment service program under the Wagner-Peyser Act shall be made by the department.

6.4(8) Nominations are valid for an unlimited time period unless the local elected officials of a region set a specific time limit in the local annual plan.

ITEM 9. Amend rule 877—6.5(84A,PL105-220) as follows:

877—6.5(84A,PL105-220 PL113-128) Appointment process.

6.5(1) In making appointments to the boards, the chief local elected officials shall submit a list of ~~nominees~~ nominee for a board vacancy to the department within 45 days of the vacancy. ~~Chief elected officials shall submit at least two nominees for each vacancy for the governor to review.~~

6.5(2) The governor shall review ~~the list, add or delete nominees from the list, and return the revised list to the chief elected officials within 45 days of receipt of the list by the department~~ a nominee for a vacancy on a local workforce development board and either appoint or reject such nominee. The governor shall notify the chief elected officials within 45 days of a nominee's appointment or rejection.

6.5(3) ~~The chief elected officials will review the revised list and make the final selection of a person to fill a vacancy from the revised list. If the revised list of candidates is not acceptable to the chief elected officials, the chief elected officials may submit new candidates to the governor for consideration within 45 days and repeat the process specified in subrules 6.5(1) and 6.5(2) until a candidate is appointed. If the governor rejects a nominee, the chief elected officials shall submit the name of a new nominee to the department within 45 days of such rejection.~~

6.5(4) ~~The chief elected officials will send an appointment letter to the person selected to fill the vacancy on behalf of the chief elected officials and the governor within 30 days of receipt of the revised list and send a copy of the letter to the department.~~

6.5(5) 6.5(4) If the chief elected officials fail to submit ~~nominations~~ the name of a nominee for a vacancy within the 45-day time period or fail to reach agreement locally on appointments to the board, the governor may appoint a person to fill the vacancy.

ITEM 10. Amend rule 877—6.6(84A,PL105-220) as follows:

877—6.6(84A,PL105-220 PL113-128) Meetings. The board shall meet in May of each year for the purpose of electing one of its voting members as chairperson and one of its voting members as vice chairperson. The chief elected official for the local workforce development area will name a chairperson from among the local workforce development board's representatives of business. The chairperson and vice chairperson shall not be of the same political party. The board shall meet at the call of the chairperson

or when a majority of the members of the board file a written request of the chairperson for a meeting. Written notice of the time and place of each meeting shall be given to each member of the board. A majority of the voting members constitutes a quorum.

ITEM 11. Rescind rule 877—6.7(84A,PL105-220) and adopt the following **new** rule in lieu thereof:

877—6.7(84A,PL113-128) Duties. The local workforce development board shall perform the following duties and other functions as necessary and proper to carry out its responsibilities under Title I of WIOA and listed in Iowa Code section 84A.4(2).

1. Conduct a needs assessment to identify the workforce development needs of the region.
2. Recommend to the state workforce development board and the department of workforce development awards of grants and contracts administered by the department in the region.
3. Monitor the performance of grants and contracts awarded in the region.
4. File an annual report with the department as required by Iowa Code section 84A.1B.
5. Recommend to the state workforce development board and department of workforce development the services to be delivered in the region.
6. Fulfill the responsibilities of a local workforce investment board as required by the WIOA, subsequent amendments and all related regulations.
7. Enter into an agreement with the region's chief elected officials board to delineate their respective duties related to administration of the WIOA.

ITEM 12. Rescind rule 877—6.8(84A,PL105-220) and adopt the following **new** rule in lieu thereof:

877—6.8(84A,PL113-128) Board certification and decertification. The governor will certify each local workforce development board in accordance with Section 107(c)(2) of WIOA and may decertify a board pursuant to Section 107(c) of WIOA.

ITEM 13. Rescind and reserve rule **877—6.9(84A,PL105-220)**.

ITEM 14. Amend rule **877—6.10(84A,PL105-220)**, parenthetical implementation statute, as follows:

877—6.10(84A,PL105-220 PL113-128) Member travel expenses.

ITEM 15. Amend rule 877—6.11(84A,PL105-220) as follows:

877—6.11(84A,PL105-220 PL113-128) Records. Agendas, minutes, and materials presented to the board are available from the Division of Workforce Development Center Administration, Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309, except those records concerning closed sessions which are exempt from disclosure under Iowa Code subsection 21.5(4) 21.5(5) or which are otherwise confidential by law. Board records contain information about persons who participate in meetings. This information is collected pursuant to Iowa Code section 21.3 and subsection 96.11(6). These records are not stored in an automated data processing system and may not be retrieved by a personal identifier.

Rule-making records may contain information about persons making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4. These records are not stored in an automated data processing system and may not be retrieved by a personal identifier.

ITEM 16. Amend ~~877~~—**Chapter 6**, implementation sentence, as follows:
These rules are intended to implement Iowa Code section 84A.4 and the federal Workforce
~~Investment Act of 1998 (P.L. 105-220)~~ Innovation and Opportunity Act, Public Law No. 113-128.

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