

WIOA TITLE III W-P COLOCATION REQUIREMENTS

GENERAL INSTRUCTIONS

The attached Directive is being issued in draft to give the Workforce Development Community the opportunity to review and comment prior to final issuance.

Submit any comments by email no later than **June 27, 2022**.

All comments received within the comment period will be considered before issuing the final Directive. Commenters will not be responded to individually. Rather, a summary of comments will be released with the final Directive.

Comments received after the specified due date will not be considered.

Email WIOAPolicy@edd.ca.gov
Include "WSDD-232 Comments" in the email subject line.

If you have any questions, contact Ra Maura Miyague at WIOAPolicy@edd.ca.gov.

WIOA TITLE III W-P COLOCATION REQUIREMENTS

EXECUTIVE SUMMARY

This policy provides guidance and establishes procedures regarding the *Workforce Innovation and Opportunity Act* (WIOA) Title III Wagner-Peyser (W-P) colocation requirements. This policy applies to the Employment Development Department (EDD) and core partners in the America's Job Center of CaliforniaSM (AJCC) system, and is effective on the date of issuance.

This policy contains some state-imposed requirements. All state-imposed requirements are indicated by ***bold, italic*** type.

This policy supersedes Workforce Services Information Notice (WSIN) 13-72, *ADA Survey Reimbursement for AJCC Partner Sites* and WSIN 16-16, *WIOA Title III W-P Colocation Requirements*. Retain this Directive until further notice.

REFERENCES

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- WIOA (Public Law 113-128)
 - *Americans With Disabilities Act* (ADA) (Public Law 101-336 and 110-325)
 - Title 20 *Code of Federal Regulations* (CFR) Part 652: "Establishment and Functioning of State Employment Service"
 - Title 24 *California Code of Regulations* (CCR) Part 2: "Building Standards Code", Section 11B-202.4, *Path of Travel Requirements in Alterations, Additions and Structural Repairs*
 - California Government Code (GOV) Sections 4450-4461, *Access to Public Buildings By Physically Handicapped Persons*
 - Training and Employment Guidance Letter (TEGL) 16-16, *One-Stop Operations Guidance for the American Job Center Network* (January 18, 2017)
 - Department of General Services (DGS), State Administrative Manual (SAM) Section 5365, *Physical Security*

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

BACKGROUND

As one of the six core programs of the WIOA, and one of the central components of the AJCC system, the role of the Title III W-P program is to facilitate the match between job seekers and employers. Section 121(e)(3) of the WIOA requires Title III W-P program services, which are administered by the EDD, to be colocated in comprehensive and/or affiliate AJCCs. In accordance with Title 20 CFR Section 652.202, standalone offices are prohibited for W-P program services.

The WIOA's emphasis on AJCC partner collaboration and customer access to comprehensive job centers that connect them with the full range of WIOA services available within their communities is essential to establishing a quality-focused, employer-driven, and customer-centered system. Colocation with one or more of the other AJCC required partners will enhance the coordination of services, improve service delivery, and ensure that job seekers and employers can access the programs, services, and activities of all AJCC required partners in accordance with the WIOA.

In meeting this requirement to colocate, AJCC partners must be aware of state-mandated facilities requirements for EDD W-P staff to be present in the AJCC. Prior to planning an AJCC relocation, AJCC partners should review the following guidance to ensure that colocation requirements are met and to ensure safety and access for employees as well as the public.

As the convener of Memorandum of Understanding negotiations, as well as the overseer of how services are delivered within their Local Workforce Development Area (Local Area), Local Workforce Development Boards (Local Board) are responsible for supporting and ensuring compliance with this provision. Local Boards are responsible for ensuring they work collaboratively with their state partners and review all state premises requirements prior to conducting a site search for a new location.

POLICY AND PROCEDURES

State Employee Space Sharing Arrangements

Executed written agreements must be in place for AJCCs where EDD W-P staff or other state partners provide services on a workforce partner's premises. Therefore, when preparing for colocation, a space sharing agreement must be in place **prior** to occupancy. The most commonly used types of space sharing agreements are a Standard Lease, a Standard Sublease, or a Space Use Permit (SUP).

A State Standard Lease is used to document occupancy and rent exchange when state staff occupies space in a privately owned or partner owned facility. Similarly, a State Standard Sublease is used to document occupancy and rent exchange when W-P staff occupies space in a privately leased or partner leased facility. However, a sublease is subject to the authority of an

executed master lease, therefore, the sublease duration cannot exceed eight years or the duration of the master lease, whichever is shorter. In either case, the EDD's processes for leases and subleases are identical. When negotiating a lease or a sublease it is also important to consider the AJCC partner's funding stream (e.g., EDD cannot enter into a four-year lease with an AJCC partner who's funding expires in two years).

The SUP is an agreement that allows EDD staff to occupy office space free of charge for the purpose of housing temporary, part-time, or seasonal staff, or other very small operations where entering into a lease is not practical. Locations that EDD occupies under a SUP must also comply with the ADA and seismic requirements outlined below.

For questions regarding space sharing agreements or to obtain forms, please contact WSBPremises@edd.ca.gov.

State Employee Facility Requirements

Before colocation can occur, federal and state laws mandate that the facility must be in compliance with several key requirements in order for a state employee to occupy space in the facility. ***Verification and validation of compliance with all of the elements listed below is required before entering into a new lease or prior to the renewal of an existing lease.*** The EDD is available to provide technical assistance as needed to help Local Boards with meeting these requirements.

Americans with Disabilities Act Accessibility Survey Requirements

The ADA provides comprehensive rights and protections to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications. The goal of the ADA is to assure equality of opportunity, full participation, independent living, and economic self-sufficiency.

The DGS represents the EDD in lease negotiations. Under federal and state law, the EDD cannot enter into an official lease agreement with an AJCC partner until all leased space, (including the path of travel to/from public transportation and public rights-of-way, parking, and restroom areas), meets the ADA and California Building Code requirements.

To verify compliance, the AJCC partner holding the master lease must request and submit a completed [DGS Accessibility Survey Checklist](#) (ADA Checklist) ensuring that any identified ADA deficiencies are corrected before colocation occurs. The ADA Checklist can be completed by any of the following:

- [State of California Licensed Architect](#)
- [Certified Access Specialist \(CASp\)](#)
- [International Code Council \(ICC\) Accessibility Inspector or Plans Examiner](#)

Any ADA Checklist deficiencies must be corrected prior to occupancy. A California licensed architect is required to complete and sign a State Leased Buildings and Facilities Verified Report ([Form G](#)) to verify the space is ADA compliant.

Due to the high cost associated with conducting an ADA survey, AJCC partners may have difficulties getting the survey completed. As a result, AJCC partners who are required to complete an ADA survey for an EDD sublease agreement may receive a 50 percent reimbursement from the EDD for the ADA survey up to a maximum of \$4999 contingent upon availability.

For additional questions regarding ADA requirements, or to inquire about ADA survey funding that may be available, contact WSBPremises@edd.ca.gov.

Seismic Requirements

All facilities occupied by the state must be evaluated for the ability to meet a seismic performance standard identified as “substantial life safety.” To verify whether a building meets this standard, the DGS state space planner will complete an initial DGS Seismic Screening Checklist of the property. The screening will be completed as expeditiously as possible upon receipt of the request for colocation. If required, the state may request that a [DGS Seismic Certificate of Applicable Code](#) be completed and signed by an independent state licensed structural or civil engineer, or California licensed architect.

For questions regarding seismic requirements or to obtain forms, please contact WSBPremises@edd.ca.gov.

Asbestos Requirements

Buildings constructed before 1979 must be certified in writing that they are free of hazards from asbestos containing material. The certification must be provided by an industrial hygienist certified by the American Board of Industrial Hygiene or an Environmental Protection Agency *Asbestos Hazard Emergency Response Act* Certified Inspector.

If the building was constructed subsequent to 1979, a photocopy of the Occupancy Certificate issued by the city or county building department is all that is required prior to the execution of the lease. For more information, visit the links below:

- [Department of Industrial Relations, Division of Occupational Safety and Health - Asbestos and Carcinogen Unit](#)
- [CCR Section 1529, Handling and Removal of Asbestos Containing Material](#)

Lead Requirements

Buildings built before 1980 must be certified as free of hazard from Lead Containing Materials. Paint chip samples must be collected by a [California Department of Public Health \(CDPH\) Lead Certified Project Designer](#) for laboratory analysis to determine lead content.

For more information, visit the [CDPH Occupational Lead Poisoning Prevention Program webpage](#).

Security Requirements

In accordance with the [DGS SAM Section 5365](#), the EDD must adhere to state level physical security requirements. EDD partners are required to provide a safe and secure work environment for all employees present at a given facility. In addition, the EDD requires that all of its sites meet certain minimum security requirements. These requirements pertain to EDD owned, leased, subleased, SUPs, and other colocated facilities. The EDD can contribute towards these shared costs either through the sublease operating expenses or within the infrastructure cost sharing agreements. In order to meet the EDD's minimum security requirements, AJCCs should provide the following, subject to final lease negotiations:

- Unarmed Security Guards
- Controlled access within the work area
- Panic hardware and panic buttons
- Security camera systems with DVR/NVR
- Security window tinting
- Staff and visitor ID badge

For questions regarding security specifications and requirements, please contact WSBPremises@edd.ca.gov.

Process

To begin the colocation process, the Local Board and lead partner agency will contact their local EDD W-P staff to discuss the request to colocate, including the scope and requirements of the project.

It is critical that details such as the state facility requirements, staffing, security, furniture procurement, timeframes, and many other factors are understood by all parties. Failure by all participants in the AJCC to clearly define these requirements **prior to a site search taking place** can result in delays, change orders, and discrepancies in lease terms, which may prevent EDD from executing a sublease.

Once the project has been thoughtfully scoped, the W-P staff will complete and submit the standard request package to the EDD, Office of Facilities Planning and Management (OFPM). The OFPM will work with DGS Real Estate Services Division to coordinate meetings with stakeholders to obtain the necessary approvals and documentation, negotiate lease terms, and ultimately execute a sublease. **During this time, all parties will be expected to attend regular project meetings, provide timely responses to requests for information, and negotiate in good faith.**

W-P staff cannot occupy the site without an executed agreement. The timeframe to execute a sublease is 18-24 months, therefore it is critical that Local Boards maintain a proactive and holistic approach to establishing AJCCs.

ACTION

Bring this Directive to the attention of all affected parties.

INQUIRIES

If you have any questions regarding this Directive, contact your assigned [Regional Advisor](#).

/s/ JAVIER ROMERO, Deputy Director
Workforce Services Branch