

## WIOA MEMORANDUMS OF UNDERSTANDING

### EXECUTIVE SUMMARY

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This policy provides the guidance and establishes the procedures regarding *Workforce Innovation and Opportunity Act* (WIOA) Memorandums of Understanding (MOU) for comprehensive, affiliate, and specialized America’s Job Center of California<sup>SM</sup> (AJCC) locations. This policy applies to all Local Workforce Development Boards (Local Board) and AJCC required partners, and is effective immediately.

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

This Directive finalizes Workforce Services Draft Directive *WIOA Memorandums of Understanding* (WSD15-12), issued for comment on March 4, 2019. The Workforce Development Community submitted six comments during the draft comment period. A summary of comments, including all changes, is provided as Attachment 6.

This policy supersedes Workforce Services Directives *WIOA Phase I Memorandums of Understanding* (WSD15-12), dated January 20, 2016, *WIOA Phase II Memorandums of Understanding – Comprehensive AJCCs* (WSD16-09), dated October 14, 2016, and *WIOA Phase II MOUs – Affiliate and Specialized AJCCs* (WSD16-22), dated June 14, 2017. Retain this Directive until further notice.

### REFERENCES

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- WIOA (Public Law 113-128) Section 121
  - *Americans with Disabilities Act Amendment Act of 2008* (ADA) (Public Law 110-325)
  - Title 2 *Code of Federal Regulations* (CFR) Part 200: “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” (Uniform Guidance)
  - Title 34 CFR “WIOA, Joint Rule for Unified and Combined State Plans, Performance Accountability, and the One-Stop System Joint Provisions” (WIOA Joint Final Rule)

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

- Department of Labor (DOL) Training and Employment Guidance Letter [TEGL 17-16](#), Subject: *Infrastructure Funding of the One-Stop Delivery System* (January 18, 2017)
- DOL [TEGL 16-16](#) Change 1, Subject: *General Guidance for One-Stop Operations* (June 16, 2017)
- Department of Labor (DOL) [WIOA One-Stop Infrastructure Costs – FAQs](#)
- Workforce Services Directive [WSD16-14](#), Subject: *Selection of AJCC Operators and Career Services Providers* (December 16, 2016)

## BACKGROUND

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In order to establish a high quality AJCC delivery system and enhance collaboration among partner programs, WIOA requires Local Boards to develop MOUs with all AJCC required partners within their Local Workforce Development Area (Local Area). These MOUs will serve as a functional tool as well as visionary plan for how the Local Board and AJCC partners will work together to create a unified service delivery system that best meets the needs of their shared customers.

For the initial negotiation process of these MOUs, the state separated the development process into two distinct phases and three separate Directives. The Phase I Directive addressed service coordination and collaboration among all AJCC partners. The Phase II Directives addressed how to sustain the unified system through the use of resource sharing and joint cost funding. These Directives laid the groundwork for Local Areas to execute an MOU(s) in order to meet DOL requirements and included the key elements of an MOU as outlined in TEGL 16-16. All MOUs were required to contain assurances that the MOU would be reviewed and updated every three years with an annual review of and, if necessary, amendments to the Infrastructure Funding Agreements (IFA) and Other System Costs Budget. This directive consolidates the three previous MOU directives and provides guidance for Local Areas in reviewing and updating their AJCC MOUs and IFAs.

## POLICY AND PROCEDURES

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### Definitions

For purposes of this Directive, the following definitions apply:

*America's Job Center of California*<sup>SM</sup> (AJCC) – The common identifier used within California for One-Stop centers, the One-Stop system, and access points to WIOA affiliated programs and services.

*Applicable Career Services* – Services identified in WIOA Section 134(c)(2), that are delivered by the AJCC required partners as authorized under their programs. They consist of three categories: basic career services, individualized career services, and follow up services (WIOA Joint Final Rule Section 678.425).

*Comprehensive AJCC* – An AJCC location where job seekers and employers can access the programs, services, and activities of all required AJCC partners with at least one Title I staff person physically present (WIOA Joint Final Rule Section 678.305).

*Affiliate AJCC* – An AJCC location where job seekers and employers can access the programs, services, and activities of one or more AJCC partners. An Affiliate AJCC is not required to provide access to all partner programs (WIOA Joint Final Rule Section 678.310).

*Specialized AJCC* – An AJCC location associated with either a comprehensive or affiliate AJCC that addresses specific needs of dislocated workers, youth, key industry sectors, or clusters (WIOA Joint Final Rule Section 678.300[d][3]).

*Infrastructure Costs* – Non-personnel costs that are necessary for the general operation of each AJCC, including: rental of the facilities, utilities and maintenance, equipment (including assessment-related products and assistive technology for individuals with disabilities), technology to facilitate access to the AJCC (including technology used for the center’s planning and outreach activities), and common identifier costs if decided on by the Local Board and AJCC partners (WIOA Joint Final Rule Section 678.700).

*Network of AJCCs* – A collection of AJCCs located within a Local Area. As an alternative to developing separate budgets for each AJCC, Local Areas may instead develop a cross-center infrastructure budget that details the infrastructure costs aggregated across the network of AJCCs and across colocated partners.

*Other System Costs* – Other costs that are agreed upon by the Local Board and all AJCC partners. The other system costs budget must include a line item for applicable career services. The budget may also include the cost of other shared services commonly provided by AJCC partners to any individual such as initial intake, assessment of needs, appraisal of basic skills, identification of appropriate services to meet needs, referrals to other AJCC partners, and business services. Shared operating costs may also include shared costs related to the Local Board’s functions. This could include costs associated with the AJCC operator, policy and oversight of AJCC partnerships and effectiveness, etc. (WIOA Joint Final Rule Section 678.760).

*Proportionate Share* – The share of each partner program’s infrastructure costs based upon its proportionate use of the AJCC, if benefit is received from that use (WIOA Joint Final Rule Preamble page 55907).

*Colocated Partners* – AJCC partners who have a physical presence within the center, either full-time or part-time.

*Non-Colocated Partners* – AJCC partners who do not have a physical presence within the center.

*Cash Contributions* – Cash funds used to cover a partner’s proportionate share of the AJCC. They can be paid either directly from the partner or through an interagency transfer on behalf of the partner (WIOA Joint Final Rule Section 678.720).

*Non-Cash Contributions* – Expenditures made by one partner on behalf of the AJCC or contributions of goods or services contributed by a partner for the center’s use. Contributions must be valued consistent with Uniform Guidance (WIOA Joint Final Rule Section 678.720).

*Third Party In-Kind Contributions* – Contributions by a non-AJCC partner to support the AJCC in general, not a specific partner; or contributions by a non-AJCC partner to an AJCC partner to support its proportionate share of the infrastructure costs. Unrestricted contributions that support the AJCC in general would lower the total amount of infrastructure costs prior to proportionate division whereas restricted contributions can be used by the intended partner(s) to lower their share of the infrastructure costs (WIOA Joint Final Rule Section 678.720).

*Local Funding Mechanism* – An IFA negotiated by the Local Boards with all AJCC partners for each AJCC (WIOA Joint Final Rule Section 678.715).

*State Funding Mechanism (SFM)* – An IFA established by the Governor and the Superintendent of Public Instruction (SPI) that is triggered if a Local Board is unable to secure an agreed upon and signed IFA from all AJCC required partners by the annual deadline (WIOA Joint Final Rule Section 678.730).

### **Comprehensive versus Affiliate/Specialized AJCCs**

Every Local Area must have at least one comprehensive AJCC that provides universal access to the full range of employment services, training and education, employer assistance, etc. A comprehensive AJCC is a physical location where job seekers and employers have access to the programs, services, and activities of all the required AJCC partners. These include the following:

- WIOA Title I Adult, Dislocated Worker, and Youth
- WIOA Title II Adult Education and Literacy
- WIOA Title III Wagner-Peyser
- WIOA Title IV Vocational Rehabilitation
- Carl Perkins Career Technical Education
- Title V Older Americans Act

- Job Corps
- Native American Programs (Section 166)
- Migrant Seasonal Farmworkers (Section 167)
- Veterans
- Youth Build
- Trade Adjustment Assistance Act
- Community Services Block Grant
- Housing & Urban Development
- Unemployment Compensation
- Second Chance
- Temporary Assistance for Needy Families/CalWORKs

The term “access” refers to providing services through one of the following methods:

- Colocation – Program staff from each partner are physically present at the AJCC.
- Cross information sharing – Staff physically present at the AJCC are properly trained to provide information about all programs, services, and activities that may be available to the customer through other partners.
- Direct access through real-time technology – Access through two-way communication and interaction between customers and AJCC partners that result in services being provided. Examples may include the following:
  - Email or instant messaging.
  - Live chat via Skype or Facetime.
  - Identification of a single point of contact for service delivery at each partner program.
  - Establishment of an Internet portal linking all of the partners.

(WIOA Joint Final Rules Section 678.305)

An affiliate AJCC is intended to be a center that serves as an access point into the local AJCC system. Specialized AJCCs are access points that are associated with the Local Area and provide services to specific populations such as youth, dislocated workers, or targeted industry sectors. Neither affiliate nor specialized AJCCs are required to provide access to every required or core WIOA partner program. The level of partner program staff will vary by AJCC and will be determined at the local level. Affiliate and specialized AJCCs should be incorporated into the Local Area’s overall service delivery strategy in a manner that supplements and enhances customer access. (WIOA Joint Final Rule Section 678.310)

Stand-alone Wagner-Peyser offices are not permitted. Wagner-Peyser offices must be colocated within an AJCC with at least one other partner program that has staff present, or with multiple partner programs with combined staff present, more than 50 percent of the time during the AJCC’s business hours. For example, if two other WIOA partner programs are present within the AJCC, one could have staff present only 30 percent of the time as long as the

second non-Wagner-Peyser partner has staff present at least 20 percent of the time. This holds true for any location where Wagner-Peyser staff are present, including any affiliated or specialized AJCCs. (WIOA Joint Final Rule Section 678.315)

### **Development of a Memorandum of Understanding**

Each MOU should act as a functional tool as well as a visionary plan for how the Local Board and AJCC partners will work together to create a unified service delivery system that best meets the needs of their shared customers.

The previous MOU process was comprised of two implementation phases, Phase I and Phase II. Phase I focused on the shared customers and shared services and Phase II addressed the shared costs, including the IFA and other system costs budget for comprehensive and affiliate/specialized AJCCs. For this MOU process, Local Areas must submit an MOU that addresses shared customers, services, and costs.

Local Boards may develop a single “umbrella” MOU that addresses overarching issues for the Local Board, Chief Elected Official (CEO), and AJCC partners as they relate to the local AJCC system. Alternatively, they may choose to enter into a separate MOU with each individual partner or groups of partners (WIOA Joint Final Rule Section 678.505). Two or more Local Areas within a planning region also have the option to develop a single joint MOU (WIOA Joint Final Rule Section 678.500).

The three major components of each MOU are as follows:

1. Shared Customers
2. Shared Services
3. Shared Costs

Local Areas should utilize their existing MOUs as a foundation to negotiate the three major components. Local Boards must work with all of the required partners in their Local Area to develop an agreement regarding the operations of the local system. Once shared services and customers have been established and addressed, the Local Area should build upon them to determine how to best support their established service delivery model with an updated IFA that addresses shared resources and costs.

***While the AJCC operator can participate in the MOU development process, the responsibility of negotiating the MOUs cannot be delegated to them as part of the competitive procurement process.*** The role of the AJCC Operator does include ensuring the implementation of partner responsibilities and contributions agreed upon in the MOU and coordinating the service delivery of the required AJCC partners and service providers. They may participate in developing the MOUs, but the Local Board cannot recuse themselves from the responsibility of overseeing the development and implementation of the MOUs ([WSD16-14](#)).

Every MOU must contain an assurance that it will be reviewed and updated at least every three years in order to ensure it contains up-to-date information regarding funding, delivery of services, and changes in the signatory official of the Local Board, CEO, or AJCC partner(s). The IFA must be reviewed annually. If any significant changes have occurred, an amendment must be made to any relevant part(s) of the MOU and any affected partners must sign to the amendment(s). Significant changes include actions that would affect the proportionate shares of the colocated partners, such as a partner either moving into or out of an AJCC.

Local Boards are encouraged to create a schedule of meetings and deadlines between the negotiating partners. A schedule with deadlines for feedback and approval will help to keep the negotiations on track in order to meet the submission deadline of June 30. A sample timeline is included as Attachment 3.

The Local Area and partners may use the Sample MOU and Sample IFA and Other System Costs (Attachments 4 and 5) for further definitions, examples, and subsections of what to include in the MOUs.

### *Shared Customers and Services*

The Local Board and AJCC partners should start the negotiations with a discussion around each partner's customers and services. This can help to inform the discussion of how best to serve the Local Area's population through effective partnerships, referrals, and cross-training staff. It is important to clearly delineate the responsibilities of each MOU partner when it comes to helping plan, develop, and implement the local AJCC system. Each partner should be helping to strengthen partnerships across WIOA programs in order to have an effective system that meets the needs of all local customers.

### *Shared Costs*

Under WIOA, each AJCC partner that carries out a program or activities within an AJCC must use a portion of the funds available for their program and activities to help maintain the AJCC delivery system, including proportionate payment of the infrastructure costs of the AJCC (WIOA Joint Final Rule Section 678.700).

If a determination is made that a partner is receiving benefit from the AJCC, the amount of funds each AJCC partner must contribute must be based on their proportionate use of the AJCC(s). When determining each partner's proportionate share, Local Boards must remain in compliance with the federal statute authorizing each partner's program as well as Uniform Guidance.

Native American programs are not required to contribute to infrastructure funding but, as a required One-Stop partner, they are encouraged to contribute. Any agreement regarding the

contribution or non-contribution to infrastructure costs by Native American programs must still be recorded in the signed MOU (WIOA Section 121[h][2][D][iv]).

It is important to note, that if the Native American program partner chooses not to contribute to infrastructure costs and an AJCC identifies infrastructure costs that are allocable solely to the Native American program, those costs cannot be allocated to the remaining partners and therefore must either be removed from the center budget or paid for by an alternate source of funding.

### *Establishing IFA Budgets*

The IFA cost sharing requirements outlined in this directive applies to all AJCCs.

In order to best meet the needs of the Local Area and all partners, flexibility is given to the Local Areas to agree to individual IFAs, a network IFA, or a combination of individual and network IFAs. Developing a combined budget based on a network of AJCCs may make financing infrastructure costs among partners easier since it does not require each partner to contribute to each individual AJCC, so long as each partner's total contribution is still equal to their overall proportionate share. Combining budgets cannot change the distribution of costs in any way, costs must be still attributable to each partner equally, and in accordance with the agreed upon cost sharing methodology.

Examples of negotiation options include, but are not limited to, the following:

- Full network IFA and other system costs budget – The Local Area and partners will combine the negotiations for all their AJCCs. This would include the comprehensive, affiliate, and specialized AJCCs into one IFA and one other system costs budget.
- Individual AJCCs IFA and other systems costs budget – The Local Area and partners may negotiate an IFA and other system costs budget for each individual AJCC, regardless of type, and nothing will be combined.
- Two separate network IFA and other system costs budgets – The Local Area and partners may want to negotiate a network IFA and other system costs budget but keep the comprehensive AJCCs together in one network and separate the affiliate and specialized AJCCs into a second network.
- Any mixture of network and individual IFA and other system costs budgets – The Local Area and partners may want to combine some AJCCs into a network negotiation while choosing to negotiate other AJCCs on an individual basis.



Whichever option is selected, all partners must agree to the budget and cost allocation methodology. They must also meet the standards of proportionate use and relative benefit and comply with federal cost principles.

If an affiliate or specialized AJCC only has one MOU partner within the AJCC, they are not required to negotiate the IFA as there are no cost sharing partners. However, the Local Boards and partners may choose to include affiliate and specialized AJCCs with only one colocated partner if they are participating in a network IFA.

The Local Board and partners can start the IFA negotiations by determining the budget for every AJCC within the Local Area. This will allow all partners to see where, and what kind of money is being spent throughout the Local Area. Additionally, the partners should discuss and decide whether budgets/IFAs should be individually linked to each AJCC, or if there would be benefit in networking the IFAs across either all of the Local Area's AJCCs, or selecting certain AJCCs for networking.

The IFA budgets include, but are not limited to, all non-personnel costs that are necessary for the physical operation of the AJCC such as: rent, utilities and maintenance, equipment, technology, and non-marketing common identifier expenses. ***Every AJCC infrastructure budget must also have an "Access and Accommodation" line item for ensuring physical and programmatic access to the AJCC by individuals with disabilities.***

The budgets must contain descriptions of the specific costs grouped under each line item. Local Boards may consolidate and/or break out line items as best fits with their individual area budgets and cost allocation methodology. Examples of costs that may fall under the above mentioned line items include, but are not limited to, the following:

- Rental of the Facilities
- Utilities and Maintenance Costs
  - Electric
  - Gas
  - Water
  - Sewer connections
  - High-speed internet connectivity
  - Telephones (landline for the center, not cell phones)
  - Facility maintenance contracts
- Equipment Costs
  - Assessment-related products
  - Assistive technology for individuals with disabilities
  - Copiers

- Fax machines
- Computers
- Other tangible equipment used to serve all center customers (not specific to an individual program partner)
- Technology to Facilitate Access to the AJCC Costs
  - Technology used for the center’s planning and outreach activities
  - Cost of creation and maintenance of a center website (not specific to an individual program partner) that provides outreach to customers by providing information on AJCC services and/or provides direct service access to AJCC services

Please note, this does not include data systems or case management systems specific to individual program partners.

- Common Identifier Costs (Local option)
  - Creating new signage
  - Updating templates and materials
  - Updating electronic resources

Note – If a Local Board decides to include common identifier costs as part of the IFA, they cannot include costs associated with any sort of advertising campaign promoting the AJCC under the new common identifier (WIOA Joint Final Rule Preamble page 55904).

#### *Determining Benefit Received by Partners*

Local Boards must first determine whether an AJCC partner is receiving benefit from the AJCC or system. If a benefit is received, the AJCC partner’s proportionate share of infrastructure costs must be calculated in accordance with Uniform Guidance and based on a reasonable cost allocation methodology, whereby infrastructure costs are charged to each partner in proportion to their use of the AJCC(s). All costs must be allowable, reasonable, necessary, and allocable (WIOA Joint Final Rule Section 678.715).

Partners who are physically colocated in the AJCC(s), whether full-time or part-time, are considered to receive a direct benefit that is allocable, therefore, they must contribute their proportionate share towards the infrastructure costs. Partners who are not physically colocated in the AJCC may also be receiving benefit from the AJCC system. However, that benefit must be clearly identified and allocable by way of reliable data and a cost methodology that demonstrates the partner’s usage of and benefit from the center and its services.

Currently, there isn’t a statewide data tracking system that can provide accurate and reliable data for allocating the benefit received by non-colocated partners, such as the number of

referrals to and from the AJCC and/or usage of AJCC based services and usage of the AJCCs. ***In order to remain in compliance with Uniform Guidance cost allocability rules, the requirement to contribute to infrastructure costs at this time only applies to those partners who are physically colocated in the job centers.***

Once the requisite statewide data are available, all non-colocated partners who are receiving benefit from the job centers will also be required to contribute their proportionate share towards infrastructure costs. ***Consequently, the MOU must include an assurance from all non-colocated partners that they agree to pay their proportionate share of infrastructure costs once sufficient data are available.***

However, it is important to note that non-colocated partners are still required to contribute to other system costs based on their proportionate share of applicable career services as identified in the MOU, as well as any additional line items the Local Boards and AJCC partners agree to include in the other system costs budget.

The table below outlines the above referenced requirements. Once again, this will change once a state wide system for collecting the necessary data has been established.

	Must sign both budget agreements	Must contribute to infrastructure costs	Must contribute to other system costs, including applicable career services
Colocated Partner	Yes	Yes	Yes
Non-Colocated Partner	Yes	No	Yes

### *Cost Allocation Methodology*

After creating an IFA for each individual AJCC or for the local network of AJCCs, and determining if benefit is received by each partner, the Local Board must select a cost allocation methodology to identify the proportionate share of infrastructure costs each partner will be expected to contribute. Any cost allocation methodology selected must adhere to the following:

- Be consistent with the federal laws authorizing each partner’s program (including any local administrative cost requirements).
- Comply with federal cost principles in the Uniform Guidance.
- Include only costs that are allowable, reasonable, necessary, and allocable to each program partner.
- Be based on the proportionate use and if benefit is received by each partner.

Examples of cost allocation methods that may be used include, but are not limited to, the following:

- The proportion of a partner program's occupancy percentage of the AJCC (square footage).
- The proportion of a partner program's customers compared to all customers served by the AJCC.
- The proportion of partner program's staff among all staff at the AJCC.
- The percentage of a partner program's use of equipment at the AJCC.

For more resources regarding appropriate cost allocation methodologies, please use the resources below. The DOL Financial TAGs were both issued under the Workforce Investment Act but include useful overview of cost sharing, budgets, and methodologies.

- [DOL TEGL 17-16](#)
- [DOL Financial TAG Part I](#)
- [DOL Financial TAG Part II](#)

#### *Cash, In-Kind, or Third-Party In-Kind Contributions*

AJCC partners (or their respective state entity) may provide cash, non-cash, and third-party in-kind contributions to cover their proportionate share of infrastructure costs. If non-cash or in-kind contributions are used, they cannot include non-infrastructure costs (such as personnel), and they must be valued consistent with Uniform Guidance Section 200.306 to ensure they are fairly evaluated and meet the partner's proportionate share (WIOA Joint Final Rule Section 678.720).

If third-party in-kind contributions are made that support the AJCC(s) as a whole (such as space), that contribution will not count toward a specific partner's proportionate share of infrastructure. Rather, the value of the contribution will be applied to the overall infrastructure costs and thereby reduce the contribution required for all partners. When determining the use of non-cash and in-kind contributions, overall costs must be kept in mind as there must first be enough cash contributions to cover those.

#### *Determining the Source of Funds to Pay Infrastructure Costs*

When determining which funds can be used to pay infrastructure costs, AJCC partners must remain in compliance with their authorizing federal statute as well as WIOA Joint Rule Section 678.720, which provides stipulations on the types of funds certain partners are allowed to use towards their proportionate share under the local funding mechanism. These limitations include the following:

- WIOA Title I – Infrastructure costs can be paid as program and/or administrative costs.

- WIOA Title II – Infrastructure costs can only be paid from funds available for local administrative expenses or from non-federal resources that are cash, in-kind, or third-party contributions.
- WIOA Title III – As the regulations did not specify a funding source for Title III, any available funds may be utilized for infrastructure costs.
- WIOA Title IV – Infrastructure costs are paid from administrative costs.
- Career and Technical Education – Infrastructure costs must be paid from funds available for local administration of postsecondary level programs and activities to eligible recipients, or a consortia of eligible recipients, and may be paid from funds made available by the state or non-federal resources that are cash, in-kind, or third-party contributions.
- TANF/CalWORKs – Infrastructure costs are paid only from those funds used for the provision or administration of employment and training programs.

There are no set caps on the amount or percent of overall funding an AJCC partner is responsible for contributing to fund infrastructure costs under the local funding mechanism, except that contributions from administrative costs may not exceed the amount available for administrative costs under the authorizing statute of the partner program.

#### *Reconciliation of AJCC Partner Contributions*

The Local Board is responsible for ensuring that all of the AJCC infrastructure costs are paid according to the provisions of their signed MOUs. The estimated proportionate share of costs for each partner are based on budgeted expectations. Until the actual costs are known, and the usage and benefits are calculated, each partner's true proportionate share of cost will be unknown. Therefore, all AJCC partner contributions, regardless of the type, must be reconciled on a regular basis (e.g., monthly or quarterly), comparing expenses incurred to relative benefits received. The reconciliation process is necessary in order to ensure that the proportionate share each partner program is contributing remains consistent with the cost methodology, is up to date, and in compliance with the terms of the MOU. The MOU must include a reconciliation schedule, identify who will be responsible for the reconciliation, and include the names and/or titles of partners who will be approving the reconciliation.

## **Other One-Stop Delivery System Costs**

In addition to jointly funding infrastructure costs, AJCC partners must use a portion of funds made available under their authorizing federal statute (or fairly evaluated in-kind contributions) to pay the additional costs relating to the operation of the One-Stop delivery system. These costs may be shared through cash, non-cash, or third-party in-kind contributions (WIOA Joint Rule Section 678.760). All comprehensive, affiliate, and specialized AJCCs must include an other system costs budget as part of their MOU.

The other system costs budget must include applicable career services, and may include any other shared services that are authorized for and commonly provided through the AJCC partner programs to any individual, such as initial intake, assessment of needs, appraisal of basic skills, identification of appropriate services to meet such needs, referrals to other One-Stop partners, and business services. Shared operating costs may also include shared costs related to the Local Board's functions.

As with infrastructure costs, other system costs must be allocable according to the proportion of benefit received by each of the AJCC partner programs, consistent with the partner's authorizing federal statute and Uniform Guidance. The MOU must also include an agreed upon budget for these other costs along with the agreed upon cost sharing methodology.

Unlike the IFA, other system costs are not limited to the non-personnel costs of operating an AJCC. They can include shared personnel costs such as a center receptionist or staff who are cross trained in and deliver services for multiple partner programs. Everything in the other system costs budget must be agreed to by all partners locally. There is no SFM for other system costs that will be triggered due to lack of agreement at the local level.

### *Establishing Other System Costs Budgets*

The other system costs budget must be a consolidated budget that includes a line item for applicable career services. The MOU requires identifying the career services that were applicable to each partner program. Accordingly, this budget must include each of the partner's costs for the service delivery of each applicable career service and a consolidated system budget for career services applicable to more than one partner.

The budget may also include shared services, which have been agreed upon by all partners, which are authorized for and may be commonly provided through the One-Stop system. Examples of these types of services include, but not limited to, the following:

- Initial intake, assessment of needs, appraisal of basic skills, identification of appropriate services to meet such needs, and referrals to other AJCC partners.

This may include costs such as technology and tools that increase integrated service delivery through the sharing of information and service delivery processes.

- Business services.

This may include costs related to a local or regional system business services team that has one or more partners on the team or has delegated a specific partner to provide business services on behalf of the system.

- AJCC partner staff cross training.

This may include any staff cross training on partner programs and eligibility identified in the shared services and/or shared customers portion of the MOU.

- One-Stop operator.

This may include the system role of the One-Stop operator (e.g., coordinating service providers across the One-Stop delivery system) when the role is not specific to the operation of the AJCC and/or specific partner programs, so long as the role was defined by the Local Board in the procurement process and agreed to by all AJCC partners in the MOU.

- Shared personnel (and other non-infrastructure costs) for colocated partners.

This may include center receptionists and/or center managers.

### **Local Funding Mechanism**

One of the hallmarks of WIOA is an increased emphasis on local control. By initiating negotiations via a local funding mechanism it allows for decision making to be kept at the local level. However, if a Local Board is unable to complete IFAs with all of its AJCC partners, then the SFM will be triggered and the Governor and SPI must then determine the required contributions of each AJCC partner. The advantages of Local Boards establishing self-negotiated, successful IFAs under the local funding mechanism include the following:

- Local autonomy – Under the local funding mechanism, decisions remain at the local level which ensures the IFAs will be tailored to each Local Area’s unique needs.
- Stronger regional partnerships – The more each partner can have a direct say in the local negotiations, the stronger the partnerships will be.
- No caps on partner contributions – Under the state funding mechanism, specific caps are set on the amount and percent of each partner’s funds that may be contributed. However, under the local funding mechanism there are no caps.
- Flexibility on funds used – Title I programs are allowed to use program funds to pay their proportionate share of the infrastructure costs when negotiating under the local funding mechanism. If the state funding mechanism is triggered, Title I programs may be required to pay their proportionate share only out of administrative costs.

California's goal is to provide the support and guidance necessary to help all Local Areas reach agreement under the local mechanism rather than the SFM. Local Boards are urged to seek guidance and support from the state throughout the negotiation process to help prevent the triggering of the SFM.

### **State Funding Mechanism**

***If a Local Area is unable to reach agreement regarding joint infrastructure costs with any of their AJCC partners they must notify their Regional Advisor by April 1 annually to trigger the SFM.*** A signed agreement is not required by April 1, but negotiations must be on track to have a completed and signed IFA by June 30 in order to avoid triggering the SFM. Once the notification has been received, the California Workforce Development Board (CWDB) will initiate a process to determine each AJCC partner's contributions to infrastructure costs in the Local Area for that program year under the SFM. The process will include all appropriate state level authorities to enact the SFM.

The CWDB will initiate extensive technical assistance to any Local Board and partners who have not reached consensus as a first step. If the CWDB can help the partners come to a consensus, even after the deadline, the partners will not be required to use the SFM. As the SFM can lead to unnecessary oversight and potential under funding due to the program caps, it is in the Local Area's best interest to avoid the SFM.

It is important to note that if a Local Board triggers the SFM, it will trigger for all of their MOUs for the Local Area. If one affiliate or specialized AJCC cannot come to agreement, it can affect any agreed upon MOUs due to the statewide caps and funding sources that will then be placed upon the Local Area's AJCCs.

The SFM only applies to the Local Area's IFA, it will not impact the negotiations and decisions for the other system cost budget. The SFM also only applies to the required WIOA partners and will not include the calculations for any additional local partners.

The eight steps of the SFM are as follows:

1. The Local Board notifies their Regional Advisor of impasse.
2. The Local Board submits all of the submission documents.
3. The CWDB provides extensive technical assistance to build on negotiations to attempt to successfully negotiate a local funding mechanism.
4. The CWDB determines the one-stop or network budget.
5. The CWDB determines the cost allocation methodology.
6. The CWDB determines the partners' proportionate shares.
7. The CWDB calculates the statewide partner caps.
8. The CWDB applies the caps and determines how it affects the Local Area partners and if adjustments are necessary.



It is possible to trigger the SFM anywhere between April 1 and June 30. Late notification of triggering the SFM could result in the Local Area receiving delayed decisions and lower spending caps due to the nature of the statewide calculations. If the Local Board and partners fall out of agreement at any point after April 1, they must immediately alert their Regional Advisor.

### *Submission Instructions*

A formal letter signed by both the Chair of the Local Board and the Chief Elected Official must be submitted along with all, but not limited to, the following:

- Infrastructure funding agreement and budget details (If a budget has been approved and accepted by the Local Board and all partners, the CWDB may accept this budget).
- Local Workforce Development Plan.
- The cost allocation method or methods proposed by the partners.
- The amount of total partner funds included.
- The type of each partner funds (cash, non-cash, or third-party in-kind).
- The reconciliation schedule, responsible party, and names/titles of any partners who will approve each reconciliation.
- Any agreed upon or proposed MOUs.
- Summary of the meetings held to discuss the MOU and IFA (including dates, materials, and a list of participating partners).
- Identification of which partners have and have not agreed upon the budget and cost allocation methodology.
- A summary of technical assistance requested and received from the state.

### *Statewide Caps*

To determine statewide budget caps for each partner program, the CWDB will utilize the methodology outlined in WIOA Joint Final Rule Section 678.738. The caps are a percentage of the program's administrative budget for the entire state; they are not a percentage of each Local Area's program budget. It is also important to note that caps are applied to Local Areas and not AJCCs specifically. If one AJCC within a Local Area triggers the SFM, all contributions at all AJCCs within the Local Area will be capped.

### *Federally mandated statewide caps:*

- WIOA youth, adult, and dislocated worker programs = 3 percent
- Wagner-Peyser programs = 3 percent
- All other WIOA programs, excepted outlined here = 1.5 percent
  - Carl Perkins 1.5 percent cap is calculated based upon the amount made available for postsecondary programs and activities and the amount used by the state during the prior year to administer the postsecondary programs and activities.
- Vocational Rehabilitation has an increasing amount.

- PY 19 = 1.25 percent of federal funds provided for PY 18
- PY 20 and beyond = 1.5 percent of federal funds provided for the previous year
- Federal direct spending program = Cap based on Governor’s determination.
- Temporary Assistance for Needy Families = 1.5 percent of the state’s previous year’s expenditures for work, education, and training activities combined plus any additional federal funds the state agency reasonably determines to have been expended for administrative costs associated with these activities.
- Community Services Block Grant programs = 1.5 percent of the total expenditures incurred by the state for the provision of employment and training activities during the prior federal fiscal year for which information is available.

### *Funding Sources*

Under the SFM, different programs are required to fund their proportionate share through specific funds.

- WIOA Title I may use either administrative and/or program funds
- WIOA Title II must be paid from local administrative funds and/or non-federal cash, in-kind, or third-party contributions
- Carl D. Perkins programs must be paid from local, post-secondary administrative funds and/or non-federal cash, in-kind, or third-party contributions
- Title V of the *Older Americans Act* may use either administrative and/or program funds
- All other partners are limited to administrative funds, as appropriate.

### *Appeals Process*

All AJCC partner programs and/or the Local Board may appeal the SFM decision. Appeals must include justification by the program and/or Local Board and be based on believed noncompliance with WIOA Section 121(h)(3) that outlines the Governor’s funding allocations. All appeals must be submitted to the state, via the Regional Advisor, no later than 30 days after receiving the SFM decision. The state will respond to the appeal no later than June 30.

### **Update versus Amendment to the MOU(s)**

Under WIOA Section 121(c)(2)(A)(v) the MOUs are required to include their duration, amendment procedures, and an assurance to update not less than once every three years. The MOUs must be amended anytime there are significant changes to the shared customers, services, and/or costs. If an MOU gets amended, the Local Board shall notify their Regional Advisor of the amendment and approvals. An amendment to the MOU does not change the effective dates of the overall MOU.

For example, the splitting of the initial MOU negotiation process did not create separate three-year timeframes for the MOUs. The addition of the IFAs and Other System Cost budgets was an amendment and addition to the already negotiated shared customers and services and did not restart the effective dates of the MOU(s).

Whenever there is an amendment to the MOU, the Local Board must submit the changes and approvals to their Regional Advisor.

### **Mid-Point Update and Final Submission**

Local Boards should begin meeting with all AJCC partners immediately in order to start reviewing and updating their MOUs. Any questions or concerns that arise should be submitted to their Regional Advisor immediately to provide technical assistance.

#### *Mid-Point Update*

***To ensure progress is being made towards the deadline, each Local Board must submit a progress report/timeline outlining all completed and upcoming MOU activities to their Regional Advisor by March 15.*** A sample MOU timeline is included as Attachment 3.

The purpose of the mid-point update is to help Local Boards chart out their MOU development process, as well as to notify the state of any outstanding technical assistance needs.

#### *Final Submission*

Upon completion, the MOUs must be signed by an authorized representative of the Local Board, CEO, and all AJCC partners. An electronic copy must then be submitted to their Regional Advisor no later than 5:00 p.m. on June 30.

Some Local Boards may be unable to obtain signature(s) of accepted MOUs by this deadline (e.g. due to the scheduling of the respective board meetings). If so, the Local Board may submit an unsigned copy of the MOUs with an explanation for the absent signature(s) and the date by which the signed original will be sent.

### **Timeline**

The WIOA requires that every MOU contain an assurance that they will be reviewed and updated at least every three years. It is also required that the IFAs and Other System Costs Budgets be reviewed annually and if any substantial changes have occurred, be amended. The reviews should be ensuring accurate, up-to-date information regarding funding, delivery of services, additional partners, and any changes in the signatory official of the Local Board, CEO, or AJCC partners. ***In order to allow for state monitoring and policy development, all MOUs shall be effective on the same three year schedule starting on July 1, 2019.***

The following deadlines occur annually. Every three years these dates apply to the entire MOU during the update process. On years two and three of the MOU, they only apply to the IFA and Other System Costs Budget. To ensure discussions are occurring, the midpoint check in with the Regional Advisor is an annual requirement.

- *March 15*  
Midpoint check-in. Local Board submits progress and timeline to the Regional Advisor.

- *April 1*  
Local Boards must notify their Regional Advisors if negotiations are at impasse and will be triggering the SFM.
- *May 1*  
Governor and SPI notifies Local Boards of AJCC partner contributions under state funding mechanism (if triggered).
- *June 1*  
Appeals to the SFM are due to the Regional Advisor.
- *July 1*  
Effective date for any new MOUs and the annual IFA and other system costs budget.

## ACTION

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Please bring this Directive to the attention of all relevant parties.

## INQUIRIES

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If you have any questions, please contact your Regional Advisor at 916-654-7799.

/s/ JAIME L. GUTIERREZ, Chief  
Central Office Workforce Services Division

Attachments are available on the internet:

1. [WIOA AJCC Required Partners \(Word\)](#)
2. [WIOA Required MOU Content \(Word\)](#)
3. [Sample MOU Development Timeline \(Word\)](#)
4. [Sample MOU Template \(Word\)](#)
5. [Sample IFA and Other System Costs Template \(Word\)](#)
6. [Summary of Comments \(Word\)](#)