

West Virginia State Workforce Development Board

Policy Area: Local and Regional Governance

Title of Policy: Designation of Local Workforce Development Areas

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I. Purpose

This issuance provides guidance to chief local elected officials (CLEOs) and West Virginia one-stop system stakeholders regarding the process to be followed when a unit or a combination of units of general local government, such as county or group of counties, requests designation of local workforce development areas under the Workforce Innovation and Opportunity Act (WIOA).

II. Summary

Under the Workforce Innovation and Opportunity Act (Pub. L. 113-128), the Governor must designate local workforce development areas after consultation with (1) the State Workforce Board and (2) chief local elected officials (CLEOs) and local workforce development boards. In turn, WIOA requires CLEOs to utilize a public comment period and take into consideration comments made during the process as part of their consultative process with the Governor.

WIOA outlines the term “Initial Designation” of local workforce development areas in WIOA section 106(b)(2). WIOA section 106(b)(2) states, “During the first 2 full program years following the date of enactment of this Act, the Governor shall approve a request for initial designation as a local area from any area that was designated as a local area for purposes of the Workforce Investment Act of 1998 for the 2-year period preceding the date of enactment of this Act, performed successfully, and sustained fiscal integrity.”

WIOA outlines the term “Subsequent Designation” of local workforce development areas in WIOA section 106(b)(3). WIOA section 106(b)(3) states, “After the period for which a local area is initially designated under paragraph (2), the Governor shall approve a request for subsequent designation as a local area from such local area, if such area—

- (A) performed successfully;
- (B) sustained fiscal integrity; and
- (C) in the case of a local area in a planning region, met the requirements described in subsection (c)(1).

This policy provides the steps for consideration of WIOA workforce development areas.

III. References

- Workforce Innovation and Opportunity Act (Pub. L. 113-128)
- United States Department of Labor, *Workforce Innovation and Opportunity Act; Final Rule*, 20 CFR, Part 679, Subpart B, Workforce Innovation and Opportunity Act Local Governance
- Training and Employment Notice No. 05-14, *Workforce Innovation and Opportunity Act Announcement and Initial Informational Resources*
- Training and Guidance Letter No. 19-14, *Vision for the Workforce System and Initial Implementation of the Workforce Innovation and Opportunity Act of 2014*
- West Virginia Code, §5B-2B-4(E). *Designation of Regions*.

IV. Policy

Consistent with WIOA section 106(b)(4), the West Virginia State Workforce Development Board (WVSWDB), in consultation with Local Boards and chief local elected officials, reviews all requests for local workforce development area designation using established policies and procedures, and makes a recommendation to the Governor. In reviewing initial and subsequent designation requests, the WVSWDB shall evaluate the extent that requested areas meet the following:

1. Are consistent with labor market areas in the state;
2. Are consistent with regional economic development areas in the state; and
3. Have available the federal and non-federal resources necessary to effectively administer activities under provisions of WIOA, including whether the areas have the appropriate education and training providers, such as institutions of higher education and career and technical education schools.

WIOA section 106(b)(2) outlines the criteria by which a Governor must designate a local workforce development area under Initial Designation. WIOA section 106(b)(3) outlines the criteria by which a Governor must designate a local workforce development area under Subsequent Designation. Even under an application for Initial Designation, the CLEOs shall utilize a public consultation process and outline how the local workforce development area follows the three criteria outlined above.

V. Procedures

The procedures for designating local workforce development areas are outlined below:

Initial Designation: For the first two full program year following the date of enactment of WIOA and clarified through the WIOA Final Rule to mean Program Years 2016 and 2017 (July 1, 2016-June 30, 2018), the Governor shall approve a request for designation as a local workforce development area from any area that was designated as a local area for purposes of the Workforce Investment Act of 1998 for the 2-year period preceding the date of enactment of this Act, performed successfully, and sustained fiscal integrity.

Subsequent Designation: After the period of Initial Designation, the Governor shall approve a request for Subsequent Designation as a local workforce development area from such local area, if such area:

- (A) performed successfully;
- (B) sustained fiscal integrity; and
- (C) in the case of a local area in a planning region, met the requirements of local planning regions outlined in WIOA.

The Governor may review a subsequent designation local area at any time to evaluate whether that the area continues to meet the requirements for subsequent designation.

The Governor must review all designated local areas before submitting the WIOA State Plan during each 4-year state planning cycle to evaluate whether the area continues to meet the requirements for subsequent designation.

For purposes of subsequent designation, the local area and chief elected official must be considered to have requested continued designation unless the local area and chief elected official notify the Governor that they no longer seek designation.

Performed Successfully Defined: The term “performed successfully” means the local workforce development area met or exceeded the adjusted levels of performance for primary indicators of performance described in WIOA section 116(b)(2)(A) (or, if applicable, core indicators of performance described in section 136(b)(2)(A) of the Workforce Investment Act of 1998, as in effect the day before the date of enactment of this Act) for each of the last 2 consecutive years for which data are available preceding the determination of performance.

Fiscal Integrity Defined: The term “sustained fiscal integrity” means that the Secretary of Labor has not made a formal determination, during either of the last 2 consecutive years preceding the determination regarding such integrity, that either the grant recipient or the administrative entity of the area mis-expended funds provided under subtitle B (or, if applicable, title I of the Workforce Investment Act of 1998 as in effect prior to the effective date of such subtitle B) due to willful disregard of the requirements of the provision involved, gross negligence, or failure to comply with accepted standards of administration.

Requirements of Local Planning Regions: The WVSDB shall evaluate all requests for subsequent designation in accordance with policies, procedures, and guidance issued regarding planning region identification and participation by local workforce development areas.

WEST VIRGINIA LOCAL WORKFORCE DEVELOPMENT AREA DESIGNATION PROCESS

The process outlined below is to be followed by a unit or units of local government seeking designation of local workforce development areas under WIOA, including requests for Initial and Subsequent Designation that meet the definitions outlined in the law.

Step 1. The local government unit(s) seeking designation of a local workforce development area(s) should coordinate and consult with the chief local elected officials of the local areas (county commission for a single county local area or the consortium for multi-county local areas) and existing local workforce development boards.

Step 2. If a decision is made by the local government unit(s), in coordination with the chief local elected officials, to seek designation under WIOA, the local government units must undertake a formal public comment period and provide documentation of the results of the formal public comment period with the designation request to partners, including existing local workforce investment boards. The formal comment period must allow for comments by businesses, labor organizations, institutions of higher education, community-based organizations, and the public at-large.

Step 3. The request for designation of a local workforce development area under WIOA shall include the following information:

1. How the proposed local workforce development area is aligned with labor market areas including information on growth industries and occupations in the local labor market.
2. How the proposed local workforce development area is aligned with a regional economic development area within the State of West Virginia.
3. How the proposed local workforce development area can effectively administer activities under provisions of WIOA with available federal and non-federal resources, including a description of area education and training providers, a description of how the available resources will be made available for training activities, and a description of the percentage of overall resources administered by the local area that will be dedicated to training activities.
4. Whether the proposed local workforce development area is seeking Initial or Subsequent Designation as defined by WIOA and a statement of assurance that the proposed local workforce development area meets the requirements for Initial or Subsequent Designation under WIOA.
5. For Subsequent Designation requests, a discussion of how the local workforce development area meet the three criteria outlined in WIOA section 106(b)(3).

Step 4. After submission of the designation request, the WWSWDB shall review the request and provide a consultative opinion and recommendation for the Governor. As required by WIOA, the Governor shall use the consultation of the WWSWDB and consult with chief local elected officials prior to designating local workforce development areas in West Virginia. The Governor may rely on the submissions from the requestor(s) as meeting the requirement for consultation with chief local elected officials, including the public records of meetings and any recorded votes or resolutions regarding the designation request.

Step 5a. Pursuant to WIOA section 106(b) and the WIOA Final Rule, the Governor shall formally designate local workforce development areas in the State of West Virginia for a period beginning on July 1, 2016, and ending on June 30, 2018.

Step 5b. Pursuant to WIOA section 106(b), the Governor shall subsequently designate local workforce development areas in the State of West Virginia for two-year periods, as appropriate. For purposes of subsequent designation, the local area and chief elected official must be considered to have requested continued designation unless the local area and chief elected official notify the Governor that they no longer seek designation.

Opportunity to Appeal: Pursuant to WIOA section 106(b)(5), a unit(s) of local government may submit an appeal to the WVSWDB. The appeal shall describe the reasons why the decision by the Governor should be reconsidered, with specific data being provided to back-up the appeal. After submission of an appeal, a final determination shall be made by the Governor, following a recommendation from the WVSWDB within 30 calendar days.