

**DRAFT DIRECTIVE TRANSMITTAL
WORKFORCE SERVICES**

Number: wsdd-111

Date: January 16, 2015

TO: WORKFORCE DEVELOPMENT COMMUNITY

SUBJECT: INITIAL LOCAL AREA DESIGNATION AND LOCAL BOARD
CERTIFICATION UNDER WIOA

IMMEDIATE ACTION

Bring this draft to the attention of the appropriate staff.

SUBJECT MATTER HIGHLIGHTS:

This directive communicates policy and procedures regarding the initial designation of local areas and the initial certification of local boards under the Workforce Innovation and Opportunity Act of 2014 (WIOA).

Note: To ensure consistency with Department Of Labor guidance, this directive will not be finalized prior to publication of the Department of Labor WIOA regulations.

COMMENTS ARE DUE BY: 10 15 30 working days
 30 calendar days

Comments can be submitted through one of the following ways:

Fax	WSD, Attention: Melissa Williams at 916-654-9753
E-Mail	MelissaM.Williams@edd.ca.gov (Include "draft comments" in the subject line)
Mail	WSD / P.O. Box 826880 / MIC 50 / Sacramento, CA 94280-0001

All comments received by the end of the comment period will be considered before the final directive is issued. The Workforce Services Branch does not respond individually to each comment received. However, a summary of comments will be released with the final directive. **Comments received after the specified due date will not be considered.**

If you have any questions, contact Melissa Williams at 916-654-0205.

DRAFT DIRECTIVE

WORKFORCE SERVICES

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TO: WORKFORCE DEVELOPMENT COMMUNITY

SUBJECT: INITIAL LOCAL AREA DESIGNATION AND LOCAL BOARD
CERTIFICATION UNDER WIOA

EXECUTIVE SUMMARY:

Purpose:

This directive communicates policy and procedures regarding the initial designation of Local Workforce Development Areas (local areas) and the initial certification of Local Workforce Development Boards (local boards) under the Workforce Innovation and Opportunity Act of 2014 (WIOA).

Scope:

This directive applies to all current local areas interested in receiving designation and local board certification under the new WIOA. If a current local area will not be applying for designation, the Chief Elected Official (CEO) must notify the State immediately in order to ensure that workforce development services continue to be provided to the area's residents through alternate means determined by the State.

Effective Date:

This directive is effective on the date of its issuance.

REFERENCES:

- WIOA (Public Law 113-128) Sections 106 and 107
- Title 2 Code of Federal Regulations (CFR) Chapter I, Chapter II, Part 200, et al., Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule (Uniform Guidance)
- Title 29 CFR Part 95: Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations
- Title 29 CFR Part 97: Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

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

- Title 20 CFR Part 652 et. al: Workforce Investment Act; Final Rules
- WIA Section 116
- California Unemployment Insurance Code Section 14202(c)
- WIA Directive WIAD06-10, Subject: Local Area Nonperformance Policy (November 14, 2006)
- WIA Directive WIAD02-6, Subject: Subsequent Designation of Temporary and State Board Recommended Local Areas (September 18, 2002)

STATE-IMPOSED REQUIREMENTS:

This directive contains some State-imposed requirements. These requirements are indicated by ***bold, italic*** type.

FILING INSTRUCTIONS:

Retain this directive until further notice.

BACKGROUND:

The WIOA Sections 106 and 107 provide the criteria for the initial designation of local areas and initial certification of local boards. Specifically, the WIOA Section 106 requires the Governor to designate local areas within the State, while Section 107 requires the Governor to certify one local board for each local area in the State. The California Workforce Investment Board (State Board) and the Employment Development Department (EDD), acting under the authority of the Governor, have established policies and procedures within this directive for the initial designation of local areas and the initial certification of local boards. These policies are intended to provide maximum flexibility to local areas during the first year of WIOA implementation so they may have sufficient time to prepare for and fully comply with the new WIOA requirements for “subsequent” local area designation and local board recertification.

POLICY AND PROCEDURES:

Initial Local Area Designation

As stated in WIOA Section 106, the Governor shall approve a request made for initial designation by any local area if, during Program Years (PYs) 2012-13 and 2013-14, the local area:

- (1) was designated as a local area under WIA;
- (2) performed successfully; and
- (3) sustained fiscal integrity.

Initial designation is effective July 1, 2015, through June 30, 2016. Local areas must apply for initial designation using the process included in this directive. Local areas that would like to modify their current geographical boundaries are eligible to apply under their new structure.

Subsequent designation will be effective July 1, 2016. Therefore, during the initial designation period, local areas should be planning and preparing to meet the WIOA requirements for subsequent designation [i.e., perform successfully, sustain fiscal integrity, and in the case of a local area in a planning region, meet the regional planning requirements in WIOA Section 106(c)(1)]. Additionally, local areas should be preparing to meet the new Office of Management and Budget (OMB) Omni-Circular regulations which apply to new awards and additional funding (funding increments) to existing awards made after December 26, 2014, (i.e., the youth allocations beginning April 1, 2015, and all subsequent allocations).

Definitions

Performed Successfully - a local area has achieved at least 80 percent of their local performance goal on each performance measure for PYs 2012-13 and 2013-14. [WIOA Section 106(e)(1) and WIA Directive [WIA06-10](#)]

Sustained fiscal integrity - the local area has not been found in violation of one or more of the following during PYs 2012-13 or 2013-14:

- (1) final determination finding(s) from audits, evaluations, or other reviews conducted by State or local governmental agencies or the Department of Labor identifying issues of fiscal integrity or misexpended funds due to the willful disregard or failure to comply with any WIA requirement, such as failure to grant priority of service or verify participant eligibility; or
- (2) gross negligence - defined as a conscious and voluntary disregard of the need to use reasonable care, which is likely to cause foreseeable grave injury or harm to persons, property, or both ; or
- (3) failure to observe accepted standards of administration. Local areas must adhere to the uniform administrative requirements set forth in Title 2 CFR Part 200, and Title 29 CFR Parts 95 and 97. **Local areas must have fully met their federally mandated responsibilities for the two previous program years including timely reporting of WIA participant and expenditure data, timely completion and submission of the required annual single audit, and have not been placed on cash hold for longer than 30 days.** [in alignment with WIOA Section 106(e)(2)]

Existing Local Area - A local area that was designated as a local area under WIA.

Modified Local Area - A local area that is considering local area modification as part of its initial designation application. Examples include: two areas proposing to merge into a new combined single local area, various local areas that will be combined in a new, single local area, or a local area that will be expanded to include part or parts of another current local area.

Initial Local Area Designation Application Process

In order to request initial designation, the local Chief Elected Official (CEO) must follow the applicable process noted below:

- Existing Local Areas
Complete the [Existing Local Area - Application for Initial Local Area Designation and Initial Local Board Certification Program Year 2015-16](#) (Attachment 1).
- Modified Local Areas
For local areas that are requesting local area modification as part of their initial designation, complete the [Modified Local Area - Application for Initial Local Area Designation and Initial Local Board Certification Program Year 2015-16](#) (Attachment 2).

The local CEO must submit the completed application to the State Board no later than 5:00 p.m., March 31, 2015, to:

Mail: California Workforce Investment Board
P.O. Box 826880
Sacramento, CA 94280-0001

Courier: California Workforce Investment Board
800 Capitol Mall, Suite 1022
Sacramento CA 95814

Hand Deliver: California Workforce Investment Board
800 Capitol Mall, Suite 1022
Sacramento CA 95814

Note: Some local areas may be unable to obtain local approval by the submission deadline (e.g., due to the scheduling of their respective board meetings). If so, the local area may submit an unsigned copy of the application with an explanation for the absent signature(s) and the date by which the signed original will be sent. The signed application must be submitted to the State Board by June 30, 2015. Failure to meet this deadline will result in the local area not receiving full initial designation status until a signed application is received.

Assessment of the Application

Once a completed application is received, the State Board, in collaboration with the appropriate staff from the EDD, will verify the information provided in the application. The State Board will use the results of this assessment to determine whether to recommend approval or denial of the application.

The local CEO will be notified in writing by May 10, 2015 regarding the approval or denial of its initial designation application. If approved, the initial designation will be

effective July 1, 2015 through July 1, 2016. If denied, the local CEO may contest the decision using the appeal process below.

Appeal Process for Initial Designation

In accordance with Section 106 of WIOA, a unit of local government (or combination of units) which has requested and been denied initial designation as a local area under WIOA may appeal the denial to the State Board.

An entity which has been denied initial designation may appeal the decision and request a hearing. An appeal and request for hearing must be mailed to the State Board within 20 calendar days from the mailing date of the notice of denial of initial designation. The appeal must: (1) be in writing and state the grounds for the appeal, and (2) state the reasons why the appellant should be initially designated. Within five calendar days of the receipt of the appeal, the State Board will contact the appellant to schedule a hearing date. The hearing will be scheduled within five calendar days. The State Board will conduct the appeal hearing process and provide a written decision to the appellant no later than five calendar days after the hearing.

Appeal of State Board Decision

A unit or combination of units of general government whose appeal has not resulted in designation as a local area may also appeal the denial to the Department of Labor. [WIOA Section(b)(5)]

Initial Local Board Certification

The WIOA Section 107 requires the Governor to certify one local board for each local area in the State. In order to provide local areas an opportunity to restructure their local boards in accordance with WIOA requirements, local boards will be initially certified as follows:

- Local Boards within Existing Local Areas:

Complete the [Existing Local Area - Application for Initial Local Area Designation and Initial Local Board Certification Program Year 2015-16](#) (Attachment 1). Note: this application is used for both initial local area designation and initial local board certification.

Upon approval of initial designation of a local area, the existing local board will be automatically initially certified through PY 2015-16.

- Local Boards for Local Areas requesting designation as new, modified, Local Areas:

Complete the [Modified Local Area - Application for Initial Local Area Designation and Initial Local Board Certification Program Year 2015-16](#) (Attachment 2). Note:

DR this application is used for both initial local area designation and initial local board certification.

The local CEO will be notified in writing by May 10, 2015, regarding the approval or denial of its initial local board certification.

Initial local board certification will be effective July 1, 2015, through June 30, 2016.

Subsequent local board recertification will be effective July 1, 2016. Therefore, during the initial certification period, local boards will be expected to complete all necessary tasks to meet the subsequent local board recertification requirements under WIOA (e.g., meet WIOA local board membership requirements, procure one-stop operators, meet or exceed performance requirements, and sustain fiscal integrity).

ACTION:

Please bring this directive to the attention of the local CEO, local board, and other relevant parties.

INQUIRIES:

If you have questions concerning this directive, contact your assigned [Regional Advisor](#).

JOSÉ LUIS MÁRQUEZ, Chief
Central Office Workforce Services Division

Attachments are available on the Internet:

1. [Existing Local Area - Application for Initial Local Area Designation and Initial Local Board Certification Program Year 2015-16](#)
2. [Modified Local Area - Application for Initial Local Area Designation and Initial Local Board Certification Program Year 2015-16](#)