

LOCAL AREA SUBSEQUENT DESIGNATION AND LOCAL BOARD RECERTIFICATION

EXECUTIVE SUMMARY

This policy provides the guidance and establishes the procedures regarding subsequent designation of Local Workforce Development Areas (Local Area) and recertification of Local Workforce Development Boards (Local Board) under the *Workforce Innovation and Opportunity Act* (WIOA), and is effective on the date of issuance.

This policy applies to all current Local Areas interested in receiving subsequent designation and all current Local Boards interested in receiving recertification under WIOA.

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

This Directive finalizes Workforce Services Draft Directive Local Area Subsequent Designation and Local Board Recertification (WSDD-219), issued for comment on December 7, 2020. The Workforce Development Community submitted two comments during the draft comment period. A summary of comments, and all changes made as a result of those comments, is provided as Attachment 2.

This policy supersedes Workforce Services Directive (WSD) Subsequent Local Area Designation and Local Board Recertification (WSD18-14), dated May 16, 2019. Retain this Directive until further notice.

REFERENCES

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- WIOA (Public Law 113-128) Sections 106 and 107
 - Title 2 Code of Federal Regulations (CFR) Part 200: “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” (Uniform Guidance)
 - Title 2 CFR Part 2900: “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” [Department of Labor (DOL) Exceptions]
 - California Unemployment Insurance Code Section 14202

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

- WSD20-05, Regional and Local Planning Guidance for 2021-2024 (January 29, 2021)
- WSD14-10, Initial Local Area Designation and Local Board Certification under WIOA (February 20, 2015)

BACKGROUND

The WIOA Sections 106 and 107 provide criteria for subsequent designation of Local Areas and recertification of Local Boards. Specifically, WIOA Section 106 requires the Governor to designate Local Areas within the state and WIOA Section 107 requires the Governor to certify one Local Board for each Local Area.

According to WIOA Section 106, a Local Area must have performed successfully, sustained fiscal integrity, and engaged in the regional planning process in order to receive subsequent designation. According to WIOA Section 107, a Local Board must have performed successfully, sustained fiscal integrity, and met membership requirements in order to receive recertification.

The application for Local Area subsequent designation and Local Board recertification is combined into one and, if approved, will be effective July 1, 2021 - June 30, 2023.

POLICY AND PROCEDURES

The unanticipated economic impact of the COVID-19 pandemic and related shutdowns has made it necessary to provide state imposed flexibility on some of the definitions outlined below for this round of Local Area subsequent designation and Local Board recertification. However, as California moves forward in responding to, and ultimately recovering from the pandemic, the California Workforce Development Board (CWDB) intends to look at ways to better align the workforce development system with industry and labor needs in order to address skills gaps for the future by investing in training that leads to meaningful employment.

Definitions

Membership Requirements – The Local Board is in compliance with the membership requirements outlined under WIOA Section 107(b).

Performed Successfully — ***The Local Area has met 80 percent of their negotiated performance goals in Program Year (PY) 2018-19 or PY 19-20 for the following indicators:***

- ***Employment Rate 2nd Quarter After Exit***
- ***Median Earnings***

Sustained Fiscal Integrity — The Local Area hereby certifies that it has not been found in violation of one or more of the following during PY 18-19 or PY 19-20:

- *Final determination of significant 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 WIOA requirement.
- *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.
- *Failure to observe accepted standards of administration* – Local Areas must have adhered to the applicable uniform administrative requirements set forth in Title 2 CFR Part 200.

Engaged in Regional Planning — The Local Area has participated in and contributed to regional planning, regional plan implementation, and regional performance negotiations.

Application Process

In order for a Local Area to request subsequent designation and a Local Board to request recertification, the local Chief Elected Official (CEO) and the Local Board Chair must complete and sign the Local Area Subsequent Designation and Local Board Recertification Application for PY 21-23 (Attachment 1).

The completed application must be submitted electronically to the CWDB no later than 5 p.m. by March 31, 2021, to CWDBPolicyUnit@cwdb.ca.gov. Please place the title “Local Area Subsequent Designation and Local Board Recertification Application” in the subject line.

Due to COVID-19, electronic signatures will be permitted for the PY 21-23 application.

Note – Some Local Areas may be unable to obtain local CEO 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. Local Areas will not receive full subsequent designation status until a signed application is received.

Assessment of the Application

The CWDB, in coordination with the Employment Development Department, will verify the information provided in the application to ensure the required criteria is met. The CWDB will then determine whether to recommend approval, conditional approval, or denial of the application. The local CEO will be notified in writing regarding the approval, conditional approval, or denial of their subsequent designation application. If subsequent designation is

conditionally approved, the local CEO must submit a “Corrective Action Plan” indicating how and when they will meet the requirements.

Appeal Process

A unit of local government (or a combination of units) that has requested and been denied subsequent designation as a Local Area under WIOA may appeal the denial to the CWDB, in accordance with WIOA Section 106. An entity which has been denied subsequent designation may appeal the decision and request a hearing. An appeal and request for hearing must be emailed to the CWDB within 15 calendar days from the email 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 designated. The CWDB will contact the appellant to schedule a hearing date within 15 calendar days of the receipt of the appeal. The CWDB will conduct the appeal hearing process and provide a written decision to the appellant no later than 15 calendar days after the hearing.

Appeal of CWDB 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.

ACTION

Bring this Directive to the attention of the local CEO, Local Board, and appropriate staff.

INQUIRIES

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

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

Attachments:

1. [Local Area Subsequent Designation and Local Board Recertification Application for Program Year 2021-23 \(DOCX\)](#)
2. [Summary of Comments \(DOCX\)](#)