



**Administrative Policy**

**Policy  
Number  
94**

<b>Title:</b>	<b>Local Workforce Development Area Designation</b>
<b>Program:</b>	<b>Workforce Innovation and Opportunity Act</b>
<b>Adopted:</b>	<b>March 20, 2017</b>
<b>Effective:</b>	<b>March 20, 2017</b>

**I. PURPOSE AND SCOPE**

The purpose of this policy is to outline the process for new and subsequent area designation for local workforce development boards (LWDBs) under the Workforce Innovation and Opportunity Act (WIOA).

**II. BACKGROUND**

Under the Workforce Innovation and Opportunity Act (Pub. L. 113-128), the Governor must designate local workforce development areas after consultation with the State Workforce Board (SWB), local chief elected officials (CEO) and LWDBs.

WIOA requires that the Governor approve a request for initial designation as a local workforce development area from any area that was designated as a local workforce development area for purposes of the Workforce Investment Act (WIA) of 1998 for the two-year period preceding the enactment of WIOA, provided the area performed successfully and sustained fiscal integrity.

**III. AUTHORITY**

[Workforce Innovation and Opportunity Act](#) (Pub. L. 113-128, Section 106, 107 and 116)

[Training and Employment Guidance Letter \(TEGL No. 19-14\)](#), *Vision for the Workforce System and Initial Implementation of the Workforce Innovation and Opportunity Act*, February 19, 2015

[Training and Employment Guidance Letter \(TEGL\) No. 27-14](#), *Workforce Innovation and Opportunity Act Transition Authority for Immediate Implementation of Governance Provisions*, April 15, 2015

[Training and Employment Guidance Letter \(TEGL\) No. 10-16](#), *Performance Accountability Guidance for Workforce Innovation and Opportunity Act (WIOA) Title I, Title II, Title III and Title IV Core Programs*, December 19, 2016

20 CFR 679.230-679.260; 20 CFR 683.630(a); 20 CFR 683.640; 20 CFR 677.205-677.210

#### **IV. POLICIES AND PROCEDURES**

The purpose of the local workforce development area is to serve as the jurisdiction for the administration of workforce development activities using Adult, Dislocated Worker and Youth funds allocated by the State and to coordinate efforts related to the other core programs at a community level. The Governor shall approve a request for designation of an area from a unit of general local government as a local workforce development area in accordance with the process and considerations outlined in WIOA Section 106b(1)(A) and (B).

Under the authority granted to states in WIOA Section 106(b)(2), each of Florida's existing local workforce investment areas that were operating in accordance with WIA were automatically granted an initial designation as a local workforce development area. This initial designation became effective July 1, 2015 and will expire on June 30, 2017.

##### **1. New Area Designation**

The Governor may approve a request at any time for designation as a local workforce development area from any unit of general local government, including a combination of such units, if the SWB recommends designation after determining that the area:

- a. Is consistent with local labor market areas;
- b. Has a common economic development area; and
- c. Has the Federal and non-Federal resources, including appropriate education and training institutions, to administer activities under WIOA subtitle B.

If local representatives have concluded that a new local workforce development area is needed, the CEOs shall make a request to the Department of Economic Opportunity (DEO) and CareerSource Florida. The new designation request requires the following steps:

- a. A completed request that addresses the required designation criteria as described in WIOA Section 106:
  - i. Consistency with local labor market areas.
  - ii. Has a common economic development area.

- iii. Has the federal and non-federal resources, including appropriate education and training institutions, to administer activities under the Youth, Adult and Dislocated Worker formula programs.
- b. The request must contain the signature of all of the CEOs of the units of local government that will make up the new local workforce development area, to demonstrate that the request is the consensus of all the units of local government involved.
- c. A statement of how the proposed new area designation will impact those other workforce areas from which it is withdrawing. It should be understood by any county, city or combination of such seeking designation, that the new area will only secure the formula allocated funds for each WIOA funding stream based on the formula factors as defined by WIOA.
- d. CareerSource Florida will review all public comments received and include those comments in the recommendation packet for approval or disapproval of local workforce development area designations to the Governor.
- e. CareerSource Florida will submit its recommendation to the Governor within ten business days of CareerSource Florida decision.
- f. The final decision rests with the Governor (or designee) and shall be made no later than six weeks prior to the beginning of the new program year (July 1st).

Additionally, the Governor may re-designate a local workforce development area if the re-designation has been requested by a local workforce development area and the Governor approves the request.

## 2. Subsequent Designation

Local workforce development areas that receive an initial designation shall be granted a *subsequent designation* if, for the two most recent program years, the local workforce development area performed successfully and sustained fiscal integrity, and in the case of a local workforce development area in a planning region, met the regional planning requirements as described in WIOA Sec. 106(c)(1). The process for a local area to submit a subsequent designation request is outlined below:

- a. The CEOs must submit a request for subsequent designation (Attachment A) to CareerSource Florida and DEO every two years beginning July 1, 2017. The completed form must be submitted via email to: [WIOA@deo.myflorida.com](mailto:WIOA@deo.myflorida.com). The application to request subsequent designation is due by April 15 of the renewal year.
- b. DEO and CareerSource Florida will review the request submitted to verify that the stated requirements were met. The submissions will be made available for public review at [www.careersourceflorida.com/wioa](http://www.careersourceflorida.com/wioa) for a period not to exceed ten days.

- c. After the receipt and review of public comment, CareerSource Florida will review the submissions along with any public comments received, and make recommendations to the Governor regarding the local workforce development area's subsequent designation.
- d. Each local workforce development area will be notified of the Governor's designation decision within ten business days of receipt by DEO and CareerSource Florida.

The Governor may review a local workforce development area at any time to evaluate whether that area continues to meet the requirements for subsequent designation. Additionally, the Governor must review a local workforce development area before submitting the State Plan during each four-year State planning cycle to evaluate whether the area continues to meet the requirements for subsequent designation.

### 3. **Performed Successfully**

For the purpose of determining subsequent local workforce development area designation, the term "**performed successfully**" means the local workforce development area met or exceeded the adjusted levels of performance for primary indicators of performance for the last two consecutive years for which data are available, and that the local area has not failed the same measure for the last two consecutive program years.

### 4. **Sustained Fiscal Integrity**

**Sustained Fiscal Integrity** for all program years means the Secretary of the United States Department of Labor has not made a formal determination that either the grant recipient or the administrative entity of the area misexpended funds due to willful disregard of the requirements of the provision involved, gross negligence or failure to comply with accepted standards of administration for the two-year period preceding the determination.

## V. **APPEAL PROCEDURES FOR DENIAL OR OTHER ADVERSE ACTION(S) PERTAINING TO LOCAL WIOA AREA DESIGNATION**

If the Governor denies a local area designation or makes a decision related to designation that adversely affects an area, the unit of general local government or grant recipient may submit an appeal to CareerSource Florida. The appeal procedures are as follows:

### 1. **State Appeal Procedures**

- a. The request for appeal must be sent by certified mail, return receipt to the President, CareerSource Florida, Inc. c/o the Department of Economic Opportunity, Attention: OSPS Program Management Unit, MSG-229, 107 East Madison Street, Tallahassee, FL 32399 and/or email the request for appeal to [WIOA@deo.myflorida.com](mailto:WIOA@deo.myflorida.com). The request must include the name of the contact person and the address where official notices are to be mailed. The appeal request must be legible, written/typed clearly and

- concisely, and include the title “**REQUEST FOR APPEAL**” at the top of the first page in all capital letters. The written/typed appeal must specifically state why the designation as a WIOA local workforce development area should be approved. The request shall be no longer than five pages. (Exhibits and attachments are not included in the five-page limit.)
- b. As specified in WIOA Regulations, 20 CFR 683.630(a)(2), CareerSource Florida must provide an opportunity for a hearing and prescribe appropriate time limits to ensure prompt resolution of the appeal. CareerSource Florida must conduct a hearing and make a determination of designation within 60 calendar days of receipt of the request. At least ten calendar days prior to the hearing, the designated local contact person shall receive by certified mail, return receipt, a written/typed notice of the hearing from CareerSource Florida.
- c. The notice shall inform the local contact/board of the following:
- i. The date, time, and place of the hearing;
  - ii. The reason the WIOA local workforce development area designation was denied, including the pertinent sections of the WIOA and any federal regulations involved;
  - iii. That the affected parties that they may present witnesses or documentary evidence at the hearing;
  - iv. That the affected parties that they may be represented at the hearing by an attorney or other representative;
  - v. That the parties are entitled to a written/typed decision of findings to be issued within 30 calendar days after the date of the hearing; and
  - vi. That the local area has the right to appeal to the Secretary of the United States Department of Labor (USDOL).

## **2. Federal Appeal Procedures**

- a. If the appeal does not result in a designation, the appellant may request a review by the Secretary of USDOL to determine if procedural rights were granted or if the minimum criteria of WIOA Section 106(b)(2) or Section 106(b)(3) were met. This appeal must be filed no later than 30 days after receipt of written notification of the denial from CareerSource Florida, and must be submitted by certified mail, return receipt requested to: Secretary, U.S. Department of Labor, 200 Constitution Avenue, N.W. Washington, DC 20210, Attention: ASET. A copy of the appeal must be provided to CareerSource Florida at the same time it is sent to USDOL.
- b. The appellant must establish that it was not accorded procedural rights under the appeal process set forth in the State Plan or that it meets the requirements for designation as specified in WIOA.

- c. The USDOL Secretary may consider any comments submitted in response by CareerSource Florida. If the USDOL Secretary determines that the appellant has met its burden of establishing that it was not accorded procedural rights under the appeal process or that it met the requirements for designation in WIOA, the Secretary may require that the area be designated a local area. The Secretary must issue a written decision to the Governor and the appellant.

## **VI. DEFINITIONS**

**Initial Designation** – The period of initial designation applies to July 1, 2015 through June 30, 2017.

**Subsequent Designation** – The period of subsequent designation applies to program years 2017 and beyond.

**New Designation** – Creation of a new local area.

## **VII. ATTACHMENT**

[Attachment A – Application for Subsequent Local Workforce Development Area Designation](#)