

**COMPILED RESPONSES TO ADMINISTRATIVE CONSULTATION PAPER  
LOCAL WORKFORCE DEVELOPMENT AREA DESIGNATION**

LWDB Comments/Feedback/Questions	Submitted by (Name/LWDB)	DEO Response
<p>CareerSource Broward Offers the following comments</p> <p>1. We agree that all areas that existed under WIA were initially designated.</p> <p>2. We submit the following comment to the section titled Subsequent Designation</p> <p>The paper reads as follows:  “Local workforce development areas that receive an initial designation <b>may</b> be granted a <i>subsequent designation</i> if, for the two most recent program years, the local area performed successfully and sustained fiscal integrity, and in the case of a local 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 are outlined below:”</p> <p><u>We submit that the word “may” should be changed to “shall” pursuant to WIOA section 106(b)(3) and in accordance both with the clarifying comments from USDOL to the Final Regulations and the Final Regulations at section 679.250</u></p> <p>Both sections are quoted below for your convenience. The USDOL has clarified numerous times that local areas which existed under WIA and were initially designated <b>MUST</b> be subsequently designated so long as they meet performance and fiscal integrity as defined in the statute and regulation.</p> <p>This means that only local areas that do not fit the above description are subject to the Governor’s determination and public comment regarding designation. <u>We respectfully suggest you differentiate between existing designated local areas and new areas seeking subsequent designation</u></p> <p>3. Pursuant to Final Regulations once designated local areas are assumed to have requested continuing designation unless they inform the state otherwise (“(e) <b>For purposes of subsequent designation under paragraphs (b) and (d) of this section, the local area and chief elected official must be considered to have requested</b></p>	<p>Rochelle Daniels Region 22</p>	<p>Updated.</p> <p>Florida’s existing areas were grandfathered in under WIA as Florida did not have any areas designated that did not exist under WIA.</p>

continued designation unless the local area and chief elected official notify the Governor that they no longer seek designation.”) Therefore we recommend existing areas be excluded from the requirements of this policy

WIOA

(3) *SUBSEQUENT DESIGNATION.*—

*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).*

*Final Regulations:*

*Comments*

*Comments:* One commenter supported this section as proposed. A few commenters, including a State WDB, suggested that the Department add language to the regulation that will provide Governors the flexibility to apply the factors outlined in § 679.240(a) following subsequent designation regardless of whether the area was designated previously.

***Department Response:* WIOA sec. 106(b)(3) outlines the requirements of subsequent eligibility: “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).” WIOA does not require other criteria, and this provision permits existing areas to continue so long as they meet the statutory criteria. No change to the regulatory text was made in response to these comments.**

**[§ 679.250](#)**

**What are the requirements for initial and subsequent designation of workforce development areas that had been designated as local areas under the Workforce Investment Act of 1998?**

We have submitted this question to CareerSource Florida for review.

<p>(a) If the chief elected official and Local WDB in a local area submits a request for initial designation, the Governor must approve the request if, for the 2 program years preceding the date of enactment of WIOA, the following criteria are met:</p> <p>(1) The local area was designated as a local area for purposes of WIA;</p> <p>(2) The local area performed successfully; and</p> <p>(3) The local area sustained fiscal integrity.</p> <p><b>(b) Subject to paragraph (c) of this section, after the period of initial designation, if the chief elected official and Local WDB in a local area submits a request for subsequent designation, the Governor must approve the request if the following criteria are met for the 2 most recent program years of initial designation:</b></p> <p><b>(1) The local area performed successfully;</b></p> <p><b>(2) The local area sustained fiscal integrity; and</b></p> <p>(3) In the case of a local area in a planning region, the local area met the regional planning requirements described in WIOA sec. 106(c)(1).</p> <p>(c) No determination of subsequent eligibility may be made before the conclusion of Program Year (PY) 2017.</p> <p>(d) The Governor:</p> <p>(1) May review a local area designated under paragraph (b) of this section at any time to evaluate whether that the area continues to meet the requirements for subsequent designation under that paragraph; and</p> <p>(2) Must review a local area designated under paragraph (b) of this section before submitting its State Plan during each 4-year State planning cycle to evaluate whether the area continues to meet the requirements for subsequent designation under that paragraph.</p> <p><b>(e) For purposes of subsequent designation under paragraphs (b) and (d) of this section, 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.</b></p>		
<p>A few comments on the Designation of Local Areas:</p> <ul style="list-style-type: none"> <li>•Section IV, line 4 “approve” should be “approves”</li> <li>•Throughout the document, there are references to the CEO...I think each mention should spell out either Chief Elected Official or LWDB Executive Director/CEO. While I’m pretty</li> </ul>	<p>Diane Head Region 6</p>	<ul style="list-style-type: none"> <li>• Updated.</li> <li>• The first use of these acronyms was spelled out. No change.</li> </ul>

<p>sure Chief Elected Official is the correct assumption, it isn't something I just want to assume.</p> <ul style="list-style-type: none"> <li>•Section IV. 1. c. I think there should be some buy-in for the redesignation from (or consideration for) the area from which an is being withdrawn from. For example, a letter or statement from the affected area (CEO) should be required, either in support of or expressing concerns of the redesignation. It should be a part of the packet that goes out for public comment.</li> <li>•Section V. 1. b. line 3 “The CareerSource...” Which CareerSource? Again, I just don't want to assume.</li> <li>•Attachment A. In the section under “performed successfully” it says, “As is shown in Attachment A...” Is that in reference to this same document? If so, where does the info need to be provided? Or does it mean there should be an attachment to this form when it is submitted?</li> </ul>		<ul style="list-style-type: none"> <li>• There is no requirement in the law for this.</li> <li>• When mentioned in this document, the references are to CareerSource Florida.</li> <li>• The attached document. No additional information is required.</li> </ul>
<p>Regarding the consultation paper providing guidance regarding the process for subsequent local area designation of LWDBs - I have the following question:</p> <p>Section #3 Performed Successfully – the paper is speaking of core indicators of performance – previously called common measures will be the measurement. Will they also be looking at Performance Funding Model performance? I'm thinking no as not all LWDBs are participating, but wanted to check with you.</p>	<p>Robin Dawson Region 18</p>	<p>We will not look at the Performance Funding Model for the process. This criteria only evaluates the core indicators.</p>
<p>I am circling back to the Subsequent Designation proposed guidance sent out by DEO and still have my initial question as well as a few others.</p> <p>On page 3, item (a) states “the application to request subsequent designation is due April 15 of the renewal year.”</p> <p>Under item 1. (f) (same page), “final decision...shall be made no later than six weeks prior to beginning the new program year.” That date would be May 21. That means we really need to get on our county commissions' calendars. <b>When will the final version of this policy be released?</b></p> <p>My question about performance remains – we failed two youth measures in the year that we had to end our in school youth programs; however, we exceeded all others. In the prior years we met three measures and exceeded 9 others. We don't have two years' of failures but I am concerned about the way “performed successfully” is described – it isn't clear that a failure has to be the same measure twice in a row, which was my understanding.</p>	<p>Jennifer German Region 4</p>	<p>As dated on the policy.</p> <p>In order for a local area to be fail the “Performed</p>

<p><b>And, if a region can't fail ANY measure in a two year period, what happens?</b></p> <p>In reading the draft Policy, I need some clarification on page 4 item 3 Performed Successfully. I read that to mean that a local area that has not failed the same measure in two consecutive years would be considered to have performed successfully. So, for example, if a region failed Adult Entered Employment Rate in 14-15 but exceeded it in 15-16 would be considered to have successfully performed. Am I reading tis properly?</p>		<p>Successfully” criteria, the local area would have had to fail the same individual measure for the last two consecutive program years.</p>
<p>CareerSource Heartland (LWDA 19) appreciates the opportunity to review and comment on the consultation paper that provides guidance regarding the process for new and subsequent local area designation for local workforce development boards. We have one “housekeeping” item, and one concern.</p> <p>Housekeeping: Page 2, under item IV. Policies and Procedures The end of the third line of the first paragraph says “The Governor <b>approve</b> a request...” Should this say “The Governor <b>may</b> approve a request...” or The Governor <b>approves</b> a request...”?</p> <p>Concern: On page 4, under <b>Performed Successfully</b>, “... the term “performed successfully” means that the local area met or exceeded the levels of performance the Governor negotiated with the Local WDB and chief elected official for core indicators of performance, and that the local area has <u>not failed any individual measure for the last two consecutive program years</u>.  This reads differently than the statement on Attachment A, which says: “The Term “performed successfully” means the local workforce development area met or exceeded the adjusted levels of performance for primary indicators of performance <u>for the last two consecutive years for which data are available.</u>”</p> <ol style="list-style-type: none"> <li>1. These statements can be interpreted differently. The first suggests the local area can fail to meet a measure as long as they don't fail to meet that measure two years in a row. The second suggests a board cannot fail to meet any measure and must meet all measures for two consecutive years. It would help to have the statements in both places reflect the same information.</li> </ol>	<p>Donna Doubleday Region 19</p>	<p>Updated.</p> <p>Updated.</p> <p>We will not look at the Performance Funding Model for the process. This criteria only evaluates the core indicators.</p>

<p>2. “Performance for <b>primary</b> indicators”- is this the common measures only? Or does this include Performance Funding Model measures?</p> <p>3. Looking at the State’s common measures report for PY 15/16, which includes the last two years performance of local boards, and which would seem to be the data to be reviewed for the “subsequent local area designation” applications that must be submitted by April 15, there are fourteen boards that potentially would not meet the definition of performed successfully, as fourteen boards have at least one measure that was not met for either 2014/15 or 2015/16.</p> <p>While we understand the intent, the language would suggest that fourteen boards could not and would not be approved moving forward, as they would be unable to certify that they had performed successfully based on the language in Attachment A.</p> <p>Also, the language does not allow any flexibility in the standard. Either way, as written, it is an absolute.</p> <p>We believe Boards should be able to present information for consideration if goals have not been met, and the Governor should have the option of considering any information presented that may have impacted the Board’s ability to meet the measure(s).</p> <p>There have been no common measure negotiations for PY 16/17, and unless my memory fails me, while negotiations occurred for PY 15/16, negotiations did not occur for PY 14/15. Therefore, there was no opportunity for Board’s to request changes to that year’s performance goals that might have been unrealistic for an area.</p> <p>B. There are a number of situations that could impact a board’s inability to meet a performance goal or goals in a given year. For example, a natural disaster could impact wage rates, retention rates, and even entered employment rates.</p> <p>Having the process and the application form allow for realistic flexibility in the standard appears to us to be a more reasonable and practical approach. Perhaps an additional paragraph that addresses a method for reporting extenuating circumstances during the application process instead of having to be denied and having to go through the appeals process?</p> <p>Also, considering this process is expected to begin by April of this year, if the definition of performed successfully does not</p>		<p>In order for a local area to be fail the “Performed Successfully” criteria, the local area would have had to fail the same individual measure for the last two consecutive program years.</p>
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<p>change, you might consider adding language so that boards that did not meet one or more measures in either 14/15 or 15/16 are not immediately negatively impacted this first go-round.</p> <p>Thank you again for the opportunity to comment. We appreciate your consideration of this issue. Please feel free to contact me with any questions or concerns, or if additional information or clarification is needed.</p>		
<p>Thank you, Christa. This re-designation seems pretty straight forward. <b>My main question is why we are certifying that we have met performance requirements when DEO already knows that information?</b> That portion seems unnecessary and would likely cause confusion for my elected officials. They would ask me the same question: “Doesn’t the state already know our performance?”</p>	<p>Bruce Ferguson, Jr. Region 8</p>	<p>This is a part of the overall application for redesignation, along with the other items listed.</p>