

## SUBSEQUENT LOCAL AREA DESIGNATION AND LOCAL BOARD RECERTIFICATION

### EXECUTIVE SUMMARY

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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 as a Local Area and Local Board 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 *Subsequent Designation and Local Board Certification* (WSDD-196), issued for comment on February 26, 2019. The Workforce Development Community submitted no comments during the draft comment period.

This policy supersedes Workforce Services Directive *Local Board Recertification* (WSD15-13), dated January 22, 2016. 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.*

- Workforce Services Directive WSD16-07, Subject: *Regional and Local Planning Guidance for 2017-2020* (September 16, 2016)
- WSD15-13, Subject: *Local Board Recertification* (January 22, 2016)
- WSD14-10, Subject: *Initial Local Area Designation and Local Board Certification under WIOA* (February 20, 2015)

## BACKGROUND

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The WIOA Sections 106 and 107 provide the criteria for subsequent designation of Local Areas and recertification 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 that has received initial designation status. The California Workforce Development Board (CWDB) and the Employment Development Department (EDD), acting under the authority of the Governor, established policies and procedures and completed the initial designation of Local Areas in June 2015, which were effective for Program Years (PY) 2016-2018 and completed Local Board recertification in June 2016.

WIOA Section 106 required Local Areas to apply for initial designation and the Governor to approve requests for Local Areas that were designated as a Local Area under *Workforce Investment Act*, had performed successfully, and had sustained fiscal integrity. After the period that a Local Area was initially designated, WIOA Section 106 calls for a *subsequent designation* process and requires the Governor to approve a request for any subsequent designation from a Local Area, if the area performed successfully, sustained fiscal integrity, and engaged in the regional planning process as described in Section 106 (c)(1).

WIOA Section 107 provides criteria for the recertification of Local Boards. Specifically, it requires the Governor to certify one Local Board for each Local Area in the state once every two years. It states that, in order to be recertified, the Local Board must have met WIOA membership requirements, met or exceeded performance accountability measures, and achieved sustained fiscal integrity.

Subsequent Designation and Recertification of Local Boards will be effective July 1, 2019 for a two-year period, ending June 30, 2021.

## POLICY AND PROCEDURES

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### Definitions

*Performed Successfully* – For the purposes of subsequent designation for PY 2019-20 and PY 2020-21, the definition of performed successfully is defined as a Local Area that has

successfully negotiated PY 18-19 and PY 19-20 performance goals within their designated RPU. For any subsequent designation and recertification request received from a Local Area after PY 20-21, that Local Area's WIOA Title I Adult, Dislocated Worker, and Youth performance goals must be successfully negotiated within their RPU and must meet or exceed negotiated performance for the two previous program years. Failure to negotiate regionally or perform successfully on any one indicator two years in a row will be justification to deny application approval. Note that, the State Board will use the negotiated performance goals submitted with the application for Local Area designation and Local Board certification as evidence of successful performance.

*Sustained fiscal integrity* – the Local Area has not been found in violation of one or more of the following during PY 16-17 or PY 17-18:

- Issues of fiscal integrity or misexpended funds due to the willful disregard or failure to comply with any WIOA requirement, such as failure to grant priority of service or verify participant eligibility, as identified in final determination of significant finding(s) from audits, evaluations, or other reviews conducted by state or local governmental agencies or the DOL.
- Gross Negligence - defined as a conscious and voluntary disregard for the need to use reasonable care, which is likely to cause foreseeable grave injury or harm to persons, property, or both.

Local Areas must have adhered to the applicable uniform administrative requirements set forth in WIOA statute, regulations, Uniform Guidance, and state guidance.

*Existing Local Area* – A Local Area that received initial designation from the Governor.

*Modified Local Area* – A Local Area that has completed or is considering Local Area modification as part of its subsequent designation application. Examples include the following: two Local Areas that have been or are proposing to merge into a new combined single Local Area, various Local Areas that have been or will be combined in a new single Local Area, or a Local Area that has been or will be expanded to include part or parts of another current Local Area.

*Engaged in Regional Planning* – WIOA Section 106 (c)(1) requires Local Areas to engage in regional planning in order to be subsequently designated. ***“Engaged in regional planning” is defined as participating in, and having contributed to, regional planning and regional plan implementation (for example, participating in regional planning meetings, leading regional plan implementation efforts, and review and approval of regional plan and modifications by Local Boards and local Chief Elected Officials [CEO]), and participating in regional***

**performance negotiations.** Failure to demonstrate this may result in denial or conditional approval of subsequent designation.

### **Subsequent Local Area Designation Application Process**

WIOA Section 106 calls for a subsequent designation process and requires the Governor to approve a request from local CEO for subsequent designation for a Local Area if the Local Area performed successfully, sustained fiscal integrity, and engaged in the regional planning process as described in WIOA Section 106 (c)(1). To request subsequent designation, the local CEO must follow the applicable process included below.

### **Local Board Recertification**

In accordance with WIOA Section 107(c)(2), the CWDB will recommend recertification of a Local Board if they have met WIOA membership requirements, met or exceeded performance accountability measures, and achieved sustained fiscal integrity.

To request recertification, Local Boards must follow the application process included below.

### **Subsequent Local Area Designation and Local Board Recertification Application Process**

- Existing Local Areas  
Complete “Existing Local Area - Application for Subsequent Local Area Designation and Local Board Certification Program Year 2019-21 (Attachment 1)”
- Modified Local Areas for Local Areas that are requesting Local Area modification as part of their subsequent designation, complete “Modified Local Area - Application for Subsequent Local Area Designation and Local Board Certification Program Year 2019-21 (Attachment 2)”

The completed application must be submitted both in hard copy and electronically to the CWDB no later than 5:00 p.m. by June 14, 2019, to [cwdbinfo@cwdb.ca.gov](mailto:cwdbinfo@cwdb.ca.gov). Hard copy applications must be submitted by one of the following methods:

Mail	California Workforce Development Board PO Box 826880 Sacramento, CA 94280-0001
Courier	California Workforce Development Board 800 Capitol Mall, Suite 1022 Sacramento, CA 95814
Hand Deliver	California Workforce Development Board 800 Capitol Mall, Suite 1022 Sacramento, CA 95814

Note the following: 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. 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 EDD, will verify the information provided in the application once a completed application is received. The CWDB will consider all information provided and determine whether to recommend approval, conditional approval, or denial of the application. The local CEO will be notified in writing regarding the approval or denial of its subsequent designation application. If subsequent designation is conditionally approved or denied, the local CEO must submit a corrective action plan indicating how they will meet the requirements and/or may contest the decision using the appeal process below.

### **Appeal Process for Initial Designation**

A unit of local government (or a combination of units) which 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 mailed to the CWDB 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 designated. The CWDB will contact the appellant to schedule a hearing date within five 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 five 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 DOL (WIOA Section 106[b][5]).

## **ACTION**

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

## INQUIRIES

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If you have any questions, contact your assigned [Regional Advisor](#) at 916-654-7799.

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

Attachments are available on the internet:

1. [Existing Local Area - Application for Subsequent Local Area Designation and Local Board Recertification Program Year 2019-21 \(DOCX\)](#)
2. [Modified Local Area - Application for Subsequent Local Area Designation and Local Board Recertification Program Year 2019-21 \(DOCX\)](#)