

**Nevada Department of Employment, Training and Rehabilitation  
(DETR)  
Workforce Innovation and Opportunity Act of 2014  
State Compliance Policy**

**Policy Number: 1.1**

**Originating Office:** Workforce Investment Support Services

**Subject:** Identification of Regions, Designation of Local Workforce Development Areas and Appeals Process.

**Issued:** September 2005, Workforce Investment Act (WIA)

**Revised:** July 2015, pursuant to the Workforce Innovation and Opportunity Act (WIOA) 2014; replaces 1.1 adopted by the State Board in September 2005.

**Purpose:** To establish policy and procedure for the identification of regions, designation of local workforce development areas and the process for appealing designation decisions in compliance with the Workforce Innovation and Opportunity Act (WIOA; ‘The Act’) – Public Law 133-128, enacted on July 22, 2014.

**Background:** WIOA Title I, Chapter 2, Section 106 delineates the requirements and process for the determination of regions and local areas including: Identification, types of regions, initial designation, subsequent designation, process, considerations, designation on recommendation by the State Board, and the appeal process. Further guidance regarding this requirement is outlined in the U.S. Department of Labor’s *Training and Employment Guidance Letter (TEGL) 27-14, 5(B)*, issued on April 15, 2015.

**Definitions:** In addition to the definitions of ‘*performed successfully*’ and ‘*sustained fiscal integrity*’ in WIOA, Section 106(e), the following definitions apply for the purposes of determining initial local area designations in accordance with TEGL 27-14, Section 5.C:

**Performed successfully:** The local area met or exceeded the levels of performance the Governor negotiated with the local board and chief elected local official, and the local area has not failed any individual performance measures for the last two (2) consecutive program years prior to the enactment of WIOA (TEGL 25-13).

- **Exceeded:** When the actual performance achieved against an individual performance measure is in excess of 100 percent of the negotiated level of performance for the measure.

- **Met:** When the actual performance achieved against an individual performance measure falls in the range of 80-100 percent of the negotiated level of performance for the measure.
- **Failed:** When the actual performance achieved against an individual performance measure is less than 80 percent of the negotiated level of performance for the measure.

**Sustained fiscal integrity:** The Secretary of the U.S. Department of Labor has not made a *formal* determination that either the grant recipient or the administrative entity of the area misspent funds due to willful disregard of the requirements of the provision involved, gross negligence, or failure to comply with accepted standards of administrations for the two years preceding the determination (TEGL 27-14).

**Nevada’s Governor’s Workforce Development Board:** Formerly known as the Governor’s Workforce Investment Board; ‘GWDB’; aka ‘State Board’.

**Process:**

The Governor of the State shall designate local workforce development areas within the State:

- A. Through consultation with the State board; and
- B. After consultation with chief elected officials and after consideration of comments received through the public comment process as described in section 102(b)(2)(E)(iii)(II).

WIOA further states that the considerations should include the following:

- A. The extent to which the areas are consistent with the labor market areas in the State;
- B. The extent to which the areas are consistent with regional economic development areas in the State; and
- C. The extent to which the areas have available the Federal and non-Federal resources necessary to effectively administer activities under subtitle B and other applicable provisions of this Act, including whether the areas have the appropriate education and training providers, such as institutions of higher education and area career and technical education schools.

WIOA states that a unit of general local government (including a combination of such units) or grant recipient that requests, but is not granted designation of an area as a local area, may submit an appeal to the State board under an appeal process established in the State plan.

**Policy:**

**Designation and Re-designation Policy**

WIOA requires that existing federally recognized workforce areas are designated during the first two program years, which is referred to as Initial Designation, and again after the first two

program years, which is referred to as Subsequent Designation. Units of general local government that desire to become a new local workforce area should follow the New Area designation requirements in TEG 27-14, 5(C).

- A. **INITIAL WIOA DESIGNATION FOR EXISTING REGIONS:** Existing workforce regions operating in accordance with the Workforce Investment Act of 1998 may request initial designation as a Local Workforce Development Area if they have performed successfully and sustained fiscal integrity. A request for initial designation must be submitted by June 30, 2015 to the Governor’s Workforce Development Board (aka Governor’s Workforce Investment Board), through the Nevada Department of Employment, Training and Rehabilitation (DETR) for consideration for the next program year (July 1 – June 30).

An area seeking initial designation must address the following:

1. Submit the request in writing to the Chairperson of the Governor’s Workforce Development Board (GWDB) by sending an email to the GWDB Liaison - [kknelson@nvdeetr.org](mailto:kknelson@nvdeetr.org), or via USPS to: 500 E. Third Street, Carson City, Nevada 89713. Receipt of the request must be documented by electronic return confirmation and/or USPS return/receipt requested. **If the requestor does not receive confirmation before 5:00 PM on June 30, 2015, it is their responsibility to contact the GWDB Liaison at (775)684-3891 to ensure that the notice has been received.**
2. The respective Local Workforce Development Board/One-Stop Operator must be a WIOA-compliant board per WIOA Title I, Section 107, and have no familial relationship to the 3<sup>rd</sup> degree of consanguinity, business, financial, or political ties with any member of the One-Stop Operators, its staff, Local Elected Officials Consortium, or an employee of a mandatory core program located within the One-Stop in the respective Local Workforce Development Area(s).
3. Provide evidence that the area, in program years 2012 and 2013, met or exceeded the agreed upon adjusted levels of performance for the Common Measures, as defined by existing performance agreements, and was not subject to the sanctions process resulting from missing the same measure two years in a row. Said evidence must be demonstrated, documented and included in the request.
4. Provide assurance that during program years 2012 or 2013, the U.S. Secretary of Labor, or the State in place of the Secretary, has not made a formal determination that the grant recipient or administrative entity for the local area has mis-expended funds due to willful disregard, gross negligence, or failure to comply with accepted standards of administration.
5. Provide evidence that the area, in program years 2012 and 2013, was committed to providing quality service through continuous improvement efforts and

implemented plans that supported sector partnerships or career pathways; or enhanced services to employers or outreach efforts to the local community. Progress reports submitted to the GWDB on annual plans for these years will serve as sufficient data.

6. The Local Workforce Development Board/One-Stop Operator will be on the State's case management system at the time of certification. The State may issue a six-month waiver should said system be in development.

If the request meets all requirement criteria, the GWDB will recommend approval to the Governor of a local area's request that satisfies these requirements in accordance with WIOA section 106(b)(2). Initial designation as a local area will remain valid until June 30, 2017.

**B. SUBSEQUENT WIOA DESIGNATION:** Local areas that receive initial designation may request subsequent designation as a Local Workforce Development Area if they have performed successfully, sustained fiscal integrity, and met the requirements for involvement in WIOA regional planning. A request for subsequent designation for those receiving initial designation for July 1, 2015 must be submitted to the GWDB by March 2, 2017 for consideration for the next program year (July 1 – June 30, 2017).

An area seeking subsequent designation must address the following:

1. Submit the request in writing to the Chairperson of the GWDB and to the Liaison of the GWDB by sending an email to - [kknelson@nvdetr.org](mailto:kknelson@nvdetr.org), or via USPS to: 500 E. Third Street, Carson City, Nevada 89713. Receipt of the request must be documented by electronic return confirmation and/or USPS return/receipt requested. **If the requestor does not receive confirmation before 5:00 PM on March 2, 2017, it is their responsibility to contact the GWDB Liaison at (775)684-3891 to ensure that the notice has been received.**
2. The respective Local Workforce Development Board/One-Stop Operator must be a WIOA-compliant board per WIOA Title I, Section 107, and have no familial relationship to the 3<sup>rd</sup> degree of consanguinity, business, financial, or political ties with any member of the One-Stop Operators, its staff, Local Elected Officials Consortium, or an employee of a mandatory core program located within the One-Stop in the respective Local Workforce Development Area(s).
3. Evidence that the area, in program years 2014 and 2015, met or exceeded the adjusted levels of performance for the Common Measures and was not subject to the sanctions process resulting from missing the same measure two years in a row. Said evidence must be demonstrated, documented and included in the request.
4. Assurance that during program years 2014 or 2015, the U.S. Secretary of Labor, or the State in place of the Secretary, has not made a formal determination that the grant recipient or administrative entity for the local area has misspent funds due to

willful disregard, gross negligence, or failure to comply with accepted standards of administration.

5. Evidence that the area, if a part of a WIOA planning region, has fulfilled its obligations to engage in regional planning efforts during program years 2015 and 2016. Regional plans can be submitted to demonstrate fulfillment of obligations.
6. Provide evidence that the area, in program years 2014 and 2015, was committed to providing quality service through continuous improvement efforts and implemented plans that supported sector partnerships or career pathways; or enhanced services to employers or outreach efforts to the local community. Progress reports submitted to the GWDB on annual plans for these years will serve as sufficient data.
7. The LWDB/One-Stop Operator will be on the State's case management system at the time of certification. The State may issue a six-month waiver should said system be in development.

The GWDB will recommend approval to the Governor of a local area's request that satisfies these requirements in accordance with WIOA section 106(b)(2).

**C. WIOA DESIGNATION FOR NEW AREAS:** Any unit of general local government may request designation as a Local Workforce Development Area under WIOA. New local area designations will only become effective on July 1 of the subsequent program year. An area seeking new designation must perform the following:

1. A statement of intent to request designation **must be submitted to the GWDB no later than February 15<sup>th</sup> to be considered for the subsequent program year through email to the GWDB Liaison at [kknelson@nvdetr.org](mailto:kknelson@nvdetr.org), or via USPS to: 500 E. Third Street, Carson City, Nevada 89713**
2. The GWDB will work with the requesting area to determine the deadline for the full request. Submitted materials will be made available for **public comment** as a part of the review process. The full request for designation as a Local Workforce Development Area must include the following components and steps:
  - i. Submit the request in writing to the Chairperson of the GWDB and to the Liaison of the GWDB through email to [kknelson@nvdetr.org](mailto:kknelson@nvdetr.org), or via USPS to: 500 E. Third Street, Carson City, Nevada 89713. Receipt of the request must be documented by electronic return confirmation. If the requestor does not receive confirmation, it is their responsibility to contact the Liaison of the GWDB to ensure that the notice has been received.
3. The respective LWDB/One-Stop operator must be WIOA-compliant per WIOA Title I, Section 107, and have no familial relationship to the third degree of consanguinity, business, financial, or political ties with any member of the One-

Stop Operators, its staff, Local Elected Officials Consortium, or an employee of a mandatory core program located within the One-Stop in the respective Local Workforce Development Area(s).

4. The request must clearly state the circumstances for the request of local area designation.
5. The request must also address and clarify how the following criteria are to be met:
  - i. Consistency with the labor market areas in the State;
  - ii. Consistency with regional economic development areas in the States;
  - iii. Existence of education and training providers, such as institutions of higher education and career and technical education schools in the area;
  - iv. Submission of a service delivery plan that includes a description of resources that would be available to the area to provide services;
  - v. Coordination of multiple resources within areas that are based on labor markets and natural travel patterns of local residents;
  - vi. Local support of the implementation strategies to provide quality services to employers and individuals by county commissioners, municipal elected officials including mayors and/or city council members where appropriate, and business or community leaders within the area as demonstrated by letters of support or a vote of support by a city council or other applicable board;
  - vii. Local ownership, exhibited by strong involvement of local elected officials and community leaders on the LWDB;
  - viii. Local capacity to manage funds, provide oversight of programs, and provide for the proper stewardship of public funds;
6. The request must address how the proposed new area designation will impact those other workforce areas from which it is withdrawing, if applicable. It should be understood by any unit of general local government 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. If the area in question becomes part of a consortium, the consortium will determine the distribution of WIOA funds within its region(s).
7. If opposition to the request is voiced by municipalities or counties within the area seeking designation, then the requesting entity will address their request at a public hearing. The requesting entity will have the opportunity to respond to concerns and questions at the hearing, and all comments will be recorded and used to inform the GWDB's action on the request. If a hearing is necessary, it will be held within 45 days of receipt of the request. Time and place is to be determined by the GWDB Liaison.

8. The GWDB Liaison and Chair will take the request and comments from the public as well as from a public hearing, if applicable, and determine a recommendation.
9. The GWDB will submit its recommendation to the Governor within five (5) business days following the GWDB's vote.
10. The final decision resides with the Governor and shall be made prior to May 29th, i.e., four weeks prior to July 1 beginning of the respective fiscal and program year.
11. The LWDB/One-Stop operator will be integrated into and utilizing the State's case management system at the time of certification. The State may issue a six-month waiver should said system be in development.

### **Appeals Process Policy**

Local area(s) seeking to be designated or re-designated, as a local workforce development area, which have been denied, may appeal the decision to the Nevada Governor's Workforce Development Board (GWDB) by performing the following:

1. An appeal must be submitted in writing and filed with the GWDB within fourteen (14) working days after notification of the decision. Submit the appeal to the Chairperson of the GWDB and to the Liaison of the GWDB by sending an email to [kknelson@nvdeetr.org](mailto:kknelson@nvdeetr.org), or via USPS to: 500 E. Third Street, Carson City, Nevada 89713.
2. The appeal must contain a specific declaration of the grounds upon which the appeal is sought.
3. The GWDB will review the appeal at its next scheduled meeting, and make a recommendation to the Governor. The review will take into account the information in the original request and supplemental information provided in the appeal to determine if the criteria set in this policy have been met.
4. The final decision and authority resides with the Governor, and shall be made within a timely manner.
5. If the appeal is connected to a request for initial or subsequent designation as prescribed in this policy, and if the appeal does not result in designation, the entity may request review by the Secretary of Labor 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 second level of appeal must be sent within 14 days to:

Assistant Secretary of Employment and Training  
U.S. Department of Labor  
200 Constitution Avenue, N.W. Washington, DC 20210

cc: ETA Regional Administrator, U.S. Department of Labor  
90 7<sup>th</sup> Street, Suite 17-300  
San Francisco, CA 94103-1516

Governor's Workforce Development Board  
c/o State Board Liaison  
5000 E Third Street  
Carson City, NV 89713

If the final decision of any appeal reverses the prior decision, it will become effective July 1<sup>st</sup> of the following year.

**Authorities/References:** WIOA Title I, Section 106; Section 107; U.S. Department of Labor's *Training and Employment Guidance Letter (TEGL) 27-14*