

 <p>POLICY</p>	<p>POLICY NAME: Identification of Regions and Designation of Local Workforce Development Areas Policy Number: 15-004 Date of Issue: May 14, 2015 Effective Date: May 14, 2015</p> <p>For more info contact: Department of Workforce Investment Commissioner, 502-564-0372</p>
	<p>Applies /Of Interest To: Local Workforce Development Boards (LWDBs), Local Workforce Development Areas (LWDAs) staff, Chief Local Elected Officials (CLEOs) and Local Elected Officials (LEOs)</p>

Purpose	To establish policy for identification of regions and designation of local workforce development areas in compliance with the Workforce Innovation and Opportunity Act (WIOA) (Public Law 113-128, July 22, 2014).
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Background	<p>WIOA Title 1, Chapter 2, Section 106 outlines 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 appeals.</p> <p>Per Training and Employment Guidance Letter (TEGL) 27-14 issued by the US Department of Labor on April 15, 2015, <i>“the Governor must develop a policy for designation of local workforce development areas. The purpose of a local area is to serve as a 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 local community level. WIOA Section 106(b) establishes that the Governor must designate local workforce development areas (local areas) in order for the State to receive Adult, Dislocated Worker, and Youth funding under Title I subtitle B. ... The Governor must follow the requirements provided in this guidance until the final regulations take effect.”</i></p> <p>By July 1, 2015, the Governor, in consultation with the Kentucky Workforce Investment Board or its successor (State Board), must develop a policy and procedure for the designation of all local areas, as well as a policy for the designation of new local areas. The policy must include:</p> <ol style="list-style-type: none"> a. Consultation with the State Board; b. Consultation with the chief elected officials and affected Local Boards; and c. Consideration of comments received through a public comment process. <p>The public comment period must offer adequate time for public comment prior to designation of the local workforce development area and provide an opportunity for representatives of interested business, education, and labor organizations to have input into the development of the formation of the local area.</p>
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<p>Definitions</p>	<p>In addition to the definitions of “performed successfully” and “sustained fiscal integrity” in WIOA, Section 106(e), the following definitions apply for the purpose of determining initial local area designations in accordance with TEGL 27-14, section 5.C.:</p> <p>Performed successfully- the local area met or exceeded the levels of performance the Governor negotiated with the local board and chief elected official and the local area has not failed any individual measure for the last two consecutive program years before the enactment of WIOA (per TEGL 27-14)</p> <p>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 (per TEGL 25-13);</p> <p>Met- when the actual performance achieved against an individual performance measure falls in the range of 80 to 100 percent of the negotiated level of performance for the measure (per TEGL 25-13);</p> <p>Failed- when the actual performance achieved against an individual performance measure is less than 80 percent of the negotiated level of performance (per TEGL 25-13).</p> <p>Sustained Fiscal Integrity- the Secretary of the US 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 (per TEGL 27-14).</p>
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<p>Policy</p>	<p>IDENTIFICATION OF REGIONS</p> <p>As noted in WIOA Section 106(a)(1) and (2), the Commonwealth shall identify regions:</p> <p><i>(a) REGIONS.—</i></p> <p><i>(1) IDENTIFICATION.—Before the second full program year after the date of enactment of this Act, in order for a State to receive an allotment under section 127(b) or 132(b) and as part of the process for developing the State plan, a State shall identify regions in the State after consultation with the local boards and chief elected officials in the local areas and consistent with the considerations described in subsection (b)(1)(B).</i></p> <p><i>(2) TYPES OF REGIONS.—For purposes of this Act, the State shall identify—</i></p> <p><i>(A) which regions are comprised of 1 local area that is aligned with the region;</i></p> <p><i>(B) which regions are comprised of 2 or more local areas that are (collectively) aligned with the region (referred to as planning regions, consistent with section 3); and (C) which, of the regions described in subparagraph (B), are interstate areas contained within 2 or more States, and consist of labor market areas, economic development areas, or other appropriate contiguous subareas of those States.</i></p>
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LOCAL AREAS

As outlined in WIOA Section 106(b)(1) through (5), the Governor must designate local areas in accordance with the following:

(b) LOCAL AREAS.—

(1) IN GENERAL.—

(A) PROCESS.—Except as provided in subsection (d), and consistent with paragraphs (2) and (3), in order for a State to receive an allotment under section 127(b) or 132(b), the Governor of the State shall designate local workforce development areas within the State— (i) through consultation with the State board; and (ii) after consultation with chief elected officials and local boards, and after consideration of comments received through the public comment process as described in section 102(b)(2)(E)(iii)(II).

(B) CONSIDERATIONS.—The Governor shall designate local areas (except for those local areas described in paragraphs (2) and (3)) based on considerations consisting of the extent to which the areas—(i) are consistent with labor market areas in the State; (ii) are consistent with regional economic development areas in the State; and (iii) 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.

(2) INITIAL DESIGNATION.—During the first 2 full program years following the date of enactment of this Act, the Governor shall approve a request for initial designation as a local area from any area that was designated as a local area for purposes of the Workforce Investment Act of 1998 for the 2-year period preceding the date of enactment of this Act, performed successfully, and sustained fiscal integrity.

(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).

(4) DESIGNATION ON RECOMMENDATION OF STATE BOARD. — The Governor may approve a request from any unit of general local government (including a combination of such units) for designation of an area as a local area if the State board determines, based on the considerations described in paragraph (1)(B), and recommends to the Governor, that such area should be so designated.

(5) APPEALS.—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 under paragraph (2) or (3) may submit an appeal to the State board under an appeal process established in the State plan. If the appeal does not result in such a designation, the Secretary of Labor, after receiving a request for review from the unit or grant recipient and on determining that the unit or grant recipient was not accorded procedural rights under the appeals process described in the State plan, as specified in section 102(b)(2)(D)(i)(III), or that the area meets the requirements of paragraph (2) or (3), may require that the area be designated as a local area under such paragraph.

Additional OET Guidance/Clarification for Regions and Local Areas:

In accordance with WIOA, Section 106(b)(4) and TEGL 27-14, change 1, section 2.A., at any time the CLEO and LWDB from any unit of general local government or combination of units may submit a request for designation as a workforce development area. The State Board must determine if the request for a new local area meets the considerations required in WIOA section 106(b)(4) and TEGL 27-14, section 5.B. and recommend to the Governor approval or denial of the request. The Governor may approve or deny the request, after reviewing the State Board’s recommendation and the considerations, and notify in writing the CLEO and LWDB.

As authorized by TEGL 27-14, change 1, section 2.B., a Concentrated Employment Program (CEP) grant recipient that requested designation as a local are in accordance with Workforce Investment Act (WIA) section 116(a)(2)(B) and which was designated a local area for the two-year period preceding the date of enactment of WIOA may request designation as a local area under WIOA in accordance with the procedures in 5.C. of TEGL No. 27-14. Any such requests for initial designation are subject to the requirements in WIOA section 106(b)(2) that the CEP local area performed successfully and sustained fiscal integrity.

The process for identification of regions and designation of local areas is as follows:

- For a designation of a local area, request made to Governor.
- Establish Steering Committee;
- Steering Committee develops draft recommendations for consideration;
- DWI completes local input and public comment process on recommendations and any other alternatives;
- Steering Committee considers feedback, federal guidance and finalizes recommendations;
- KWIB reviews the input received and the final recommendations from the Steering Committee;
- KWIB makes recommendation to the Governor on region and local area designations;
- Governor issues Executive Order on regions and local area designation/redesignation; and
- Appeals process is initiated for initial and subsequent designation requests.

The appeal process is outlined as follows:

- 1) A unit or combination of units of local government or a rural concentrated employment program grant recipient that requests but is not granted designation of an area as a local area under WIOA Section 106(b)(2) or (3) by the Governor may submit an appeal to the State Board. 29 U.S.C.A. § 3121(b)(5).
- 2) The appeal shall be filed no later than thirty days after receipt of the denial of designation of an area as a local area by the Governor.
- 3) The appeal shall be conducted pursuant to the administrative hearing requirements

	<p>in KRS Chapter 13B.</p> <p>4) A unit or combination of units of local government or a rural concentrated employment program grant recipient that is dissatisfied with the decision of the State Board may request a review by the United States Department of Labor Secretary.</p> <p>5) The request for review shall be filed no later than thirty days after receipt of written notification of the denial from the State Board. The request for review shall be submitted by certified mail, return receipt requested, to the Secretary, United States Department of Labor, Washington, D.C. 20210, Attention: ASET. A copy of the request for review shall be simultaneously provided to the State Board in care of the Executive Director, Kentucky Workforce Investment Board, Education and Workforce Development Cabinet, 500 Mero Street, 3rd Floor, Frankfort, KY 40601 and the Executive Director, Office of Employment and Training, 275 East Main, Frankfort, Kentucky 40621.</p> <p>6) On review, the United States Department of Labor Secretary shall consider whether:</p> <ul style="list-style-type: none"> a. The unit or grant recipient was not accorded procedural rights under the appeal process set forth in the State plan, or b. The unit or grant recipient meets the requirements for designation as a local area under 29 U.S.C.A. § 3121(a)(2) or (a)(3), as appropriate. <p>7) The request for review shall be conducted in accordance with procedures established by the United States Department of Labor Secretary.</p> <p>8) The United States Department of Labor has confirmed that there is no appeal available regarding determinations under WIOA Section 106(b)(4).</p> <p>Process to Date:</p> <p>Prior to the issuance of TEGL 27-14, the following activities occurred in accordance with a process adopted by the State Board in November 2014 regarding regional and local area designation based on WIOA Section 106.</p> <p>A Steering Committee was formed including State Board members, state partners, local partners, core programs and stakeholders to consider requests and regions. The Steering Committee utilized the criteria outlined in Section 106 and other relevant factors to make an initial recommendation on regions and local areas for designation and any redesignation.</p> <p>Once draft recommendations were formed, a meeting with the current CLEOs was held by the Department of Workforce Investment (DWI). Then a series of three regional convenings in the Eastern, Western and Central part of the Commonwealth were conducted by DWI. The three convenings included a LEOs session, a Local Workforce Investment Board (LWIB) members session and a Stakeholders session open to system customers, staff, partners and stakeholders. In addition, the recommendations were posted for public comment at the same time.</p> <p>After the input sessions were completed by DWI, the Steering Committee met to consider the input received through the multiple forums and insights from State Board WIOA policies</p>
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	<p>and made final recommendations.</p> <p>The KWIB will review the Steering Committee recommendations and processes. Determinations by the KWIB will then go to the Governor for review and final action.</p>
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Other References	<p>Training and Employment Guidance Letter 25-13 Training and Employment Guidance Letter 27-14</p>
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