

State Policy

Workforce Innovation and Opportunity Act (WIOA)

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	Governance
	Effective date
	December 2, 2020
	Supersedes
	Local Areas and Planning Regions (effective January 12, 2018)

Local Workforce Development Areas and Statewide Planning Region

REFERENCE

Federal and state laws, regulations, rules, and other guidance and documentation relied upon for the development of this policy are cited in footnotes.

BACKGROUND

In order for a state to receive WIOA¹ Title I adult, dislocated worker, and youth program funding, the state must identify regions in the state before the second full program year after enactment of WIOA.² Regions comprising two or more local workforce development areas (local areas) are considered planning regions.³ In addition, a Governor must designate local areas in order for the state to receive Title I funding.⁴

ACTION

This policy supersedes and cancels the State's⁵ Local Areas and Planning Regions policy (effective date January 12, 2018). Questions and comments on this policy may be submitted in writing to the WIOA policy mailbox at ndol.wioa_policy@nebraska.gov.

¹ WIOA refers to the Workforce Innovation and Opportunity Act of 2014.

² WIOA Sec. 106(a)(1)

³ WIOA Sec. 106(a)(2)(B)

⁴ WIOA Sec. 106(b)(1)(A)

⁵ The term "State" refers to the Nebraska Workforce Development Board and the Nebraska Department of Labor (acting on the Governor's behalf pursuant to the Governor's Executive Order No. 15-03).

CHANGES

This policy establishes the following material changes to the superseded policy.

1. Provisions in the superseded policy regarding requirements for initial designation of local areas have been excluded from this policy as all local areas received initial designation prior to the date of this policy.
2. [Section III](#) reflects the Governor's designation of a *single* statewide planning region, in lieu of the three previously designated planning regions, and assignment of all local areas to the statewide planning region.

POLICY

This policy acknowledges that Nebraska's local areas received initial designation prior to the date of this policy and:

- establishes requirements and procedures for subsequent designation and redesignation of local areas; and
- establishes a single statewide planning region.

This policy is organized in three sections and one appendix.

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Section I. Initial and subsequent designation and redesignation of local areas

(a) Initial designation

All Nebraska local areas have received initial designation prior to the effective date of this policy in accordance with WIOA Sec. 106(b)(1)-(2) and 20 CFR § 679.250(a)-(b).

(b) Subsequent designation

If a local board and CEO request subsequent designation of their local area, the request must be approved if the local area, for the two most recent program years of initial designation:⁶

- performed successfully and sustained fiscal integrity;⁷ and

⁶ WIOA Sec. 106(b)(3); 20 CFR § 679.250(b)

⁷ Refer to the State's current performance accountability policy for definitions of *performed successfully* and *sustained fiscal integrity*. The policy is accessible at <https://dol.nebraska.gov/EmploymentAndTraining/Training/WIOA/Policies> under *Performance Accountability*.

- if assigned to a planning region, participated in regional planning activities that resulted in *all* of the following activities:⁸
 - preparation of a regional plan;
 - establishment of regional service strategies, including use of cooperative service delivery agreements;
 - development and implementation of sector initiatives for in-demand industry sectors or occupations for the region;
 - collection and analysis of regional labor market data (in conjunction with the state);
 - establishment of administrative cost arrangements for the region, including pooling of funds for administrative costs;
 - coordination of transportation and other supportive services for the region, as appropriate;
 - coordination of activities with regional economic development providers; and
 - establishment of an agreement on how the local boards in the planning region will:
 - collectively negotiate and reach agreement with NDOL on local levels of performance for their respective local Title I programs; and
 - report on the performance accountability measures described in WIOA Sec. 116(c) for the local areas.

(c) Redesignation

Local boards and CEOs may make a joint written request for redesignation of their respective local areas as a single local area. The Governor may redesignate two or more local areas as a single local area if the redesignation has been requested jointly and the Governor approves the request.⁹ If the Governor approves the request, the Nebraska Workforce Development Board must authorize use of statewide WIOA Title I funds to facilitate redesignation activities.¹⁰ If WIOA Title I statewide funds are not available, funds for redesignation activities may be provided during the next program year.¹¹ Activities that may be carried out by local areas approved for redesignation may include:¹²

- convening sessions and conferences on the topic of redesignation;
- renegotiating contracts and agreements impacted by redesignation; and

⁸ WIOA Sec. 106(c)(1); 20 CFR § 679.250(b)(3)

⁹ 20 CFR § 679.240(c)

¹⁰ WIOA Sec. 106(b)(6); 20 CFR § 679.280(a)

¹¹ 20 CFR § 679.280(b)

¹² 20 CFR § 679.280(c)

- other activities directly associated with redesignation deemed appropriate by the Nebraska Workforce Development Board.

Section II. Procedures

(a) General procedural requirements

General procedural requirements for subsequent designation and redesignation of local areas include:¹³

- consultation with the Nebraska Workforce Development Board, local boards, and CEOs;
- consideration of comments received through a public comment process observed by NDOL, which must:
 - provide an opportunity for comment by representatives of local boards, CEOs, businesses, institutions of higher education, labor organizations, other primary stakeholders, and the general public regarding designation or redesignation of local areas; and
 - offer adequate time for public comment prior to designation or redesignation of local areas;
- consideration of the extent to which the local areas:
 - are consistent with labor market areas in the state;
 - are consistent with regional economic development areas in the state; and
 - have available the Federal and non-Federal resources necessary to effectively administer activities required under WIOA Title I and other applicable provisions of WIOA, including whether the areas have the appropriate education and training providers, such as institutions of higher education and area career and technical education schools.

(b) Subsequent designation procedural requirements

To request subsequent designation as a local area, the applicable local board and CEO must submit written documentation to NDOL at ndol.wioa_policy@nebraska.gov demonstrating that the requirements of [Section I\(a\)\(2\)](#) have been met. The request and documentation may be submitted at any time. Following receipt of the request and documentation, a determination will be made regarding the request for subsequent designation within 120 calendar days, after consultation among the Governor, Commissioner of the Nebraska Department of Labor, and the Nebraska Workforce Development Board.

¹³ WIOA Sec. 106(b)(1); 20 CFR § 679.230

For local areas that have received subsequent designation, the local board and CEO are considered as having requested continued designation unless the local board and CEO notify the Governor that they no longer seek designation.¹⁴

(1) Review following subsequent designation

The Governor must review a local area that has received subsequent designation during each four-year state-plan planning cycle to evaluate whether the local area continues to meet requirements for subsequent designation.¹⁵ In addition, the Governor may review a local area at any time to evaluate whether it continues to meet requirements for subsequent designation described in [Section I\(b\)](#).¹⁶

(c) Redesignation procedural requirements

In addition to the general procedural requirements for redesignation of local areas described in [Section II\(a\)](#), the following procedures must be followed.

1. Local boards and CEOs seeking redesignation as a single local area must:
 - a. submit a joint written request by email to NDOL at ndol.wioa_policy@nebraska.gov requesting redesignation of their respective local areas as a single local area; and
 - b. provide written documentation that describes reasonable and verifiable projected costs for redesignation activities.
2. NDOL reviews the request and documentation to ensure the request meets the requirements of 20 CFR § 679.280 and this policy and verifies the availability of Title I statewide funds for the current program year.
3. NDOL provides the request and documentation to the Nebraska Workforce Development Board for review and consideration during its next regularly scheduled meeting.
4. Following the Nebraska Workforce Development Board's review and consideration of the request, NDOL forwards the request and documentation to the Governor, along with the Nebraska Workforce Development Board's recommendation regarding redesignation.
5. The Governor reviews the request, documentation, and the Nebraska Workforce Development Board's recommendation and makes a determination regarding the request.
6. NDOL notifies the local boards and CEOs of the Governor's determination.
7. If the Governor approves the request, the Nebraska Workforce Development Board authorizes use of WIOA Title I statewide funds during its next regularly scheduled meeting, provided statewide Title I funds are available for the current program year. If statewide funds are not available for the current program year, funds from the next program year may be provided.

¹⁴ 20 CFR § 679.250(e)

¹⁵ 20 CFR § 679.250(d)(2)

¹⁶ 20 CFR § 679.250(d)(1)

(d) Appeal of a denied request for designation

A local board and CEO may appeal a denied request for designation (or redesignation) as a local area to the Nebraska Workforce Development Board and United States Secretary of Labor (Secretary), according to the procedures described below.¹⁷

(1) Appeal to the Nebraska Workforce Development Board

The local board and CEO must submit a written request for a hearing to the Chair of the Nebraska Workforce Development Board within 15 calendar days of the date of notification of denial of the request for designation. The written request must include a description of the basis for the appeal and be submitted by certified mail, return receipt requested, to: Chair, Nebraska Workforce Development Board, Attention: State WIOA Team, Division of Reemployment Services, Nebraska Department of Labor, 550 South 16th Street, Lincoln, NE 68508. In addition, a copy of the appeal must be submitted simultaneously by email to NDOL at ndol.wioa_policy@nebraska.gov.

Absent extenuating circumstances, the Chair of the Nebraska Workforce Development Board will assign a hearing officer and a hearing will take place within 15 calendar days of the Chair's receipt of the written request for a hearing. The hearing will include:

- a statement of the reason(s) for denial of the request for designation; and
- an appeal by the local board and CEO describing why the decision should be reversed or a compromise established.

The Chair will render a decision within 15 calendar days of the date of the hearing.

(2) Appeal to the Secretary of Labor¹⁸

If a decision on the appeal is not rendered by the Chair of the Nebraska Workforce Development Board within a reasonable amount of time *or* if the appeal does not result in designation, the local board and CEO may request a review by the Secretary. When appealing to the Secretary, the local board and CEO must file the appeal no later than 30 calendar days after receipt of written notification of denial from the Chair of the Nebraska Workforce Development Board. In the appeal to the Secretary, the local board and CEO must establish that:

- procedural rights under the appeal process set forth in this policy were not afforded; or
- the local area meets the requirements for designation provided under WIOA Secs. 106(b)(2) or 106(b)(3) and 20 CFR § 679.250.

The appeal to the Secretary must be submitted by certified mail, return receipt requested, to: Secretary, United States Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210, Attention: ASET.

In addition, a copy of the appeal to the Secretary must be submitted simultaneously by certified mail, return receipt requested, to: Chair, Nebraska Workforce Development Board, Attention: State WIOA Team, Division of Reemployment Services, Nebraska Department of Labor, 550

¹⁷ WIOA Secs. 102(b)(2)(D)(i)(IV) and 106(b)(5); 20 CFR § 679.290

¹⁸ 20 CFR § 683.640

South 16th Street, Lincoln, NE 68508. In addition, a copy of the appeal to the Secretary must also be submitted simultaneously by email to NDOL at ndol.wioa_policy@nebraska.gov.

In making a determination, the Secretary may consider any comments submitted by the Nebraska Workforce Development Board in response to the appeal. The Secretary must issue a written decision to the Governor and the appellant.

Section III. Statewide planning region

In lieu of the three previously designated planning regions, the Governor has designated a *single* statewide planning region pursuant to the designation letter identified in the State's current regional and local plans policy.¹⁹ All Nebraska local areas have been assigned to the statewide planning region.

DISCLAIMER

This policy is based on NDOL's reading of the applicable statutes, regulations, rules and guidance released by the US Government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules and guidance are issued.

¹⁹ The policy is accessible on the WIOA Policies page at <https://dol.nebraska.gov/EmploymentAndTraining/Training/WIOA/Policies> under *Governance > Regional and Local Plans, MOUs, and Funding Agreements*.

APPENDIX I. Definitions

PURPOSE. Definitions in this appendix are provided as supplemental information that supports the provisions of the policy. The terms and phrases defined in this appendix should be read and understood in the context in which they are used in the policy and not as stand-alone information independent of that context.

1. chief elected official (CEO)

The term *chief elected official* (or CEO) means:²⁰

- the chief elected executive officer of a unit of general local government in a local area; or
- in the case of a local area that includes multiple units of general local government, the individual(s) designated under a written agreement executed among the chief elected officials of the local area in accordance with WIOA Sec. 107(c)(1)(B).

CEO also refers to a chief elected officials board (CEOB) established in accordance with WIOA Sec. 107(c)(1)(B).

2. consultation

Consultation means the process by which state or local stakeholders convene to discuss changes to the public workforce system and constitutes a robust conversation in which all parties are given an opportunity to express thoughts and opinions.²¹

3. in-demand industry sector or occupation

The phrase *in-demand industry sector or occupation* means:²²

- an industry sector that:
 - has a substantial current or potential impact on the state's economy or regional or local economies, including positions that lead to economic self-sufficiency and opportunities for advancement; and
 - contributes to the growth or stability of other supporting businesses or the growth of other industry sectors;
- an occupation that currently has or is projected to have a number of positions, including positions that lead to economic self-sufficiency and opportunities for advancement within an industry sector and has or will have a significant impact on the state's economy or regional or local economies.

The determination of whether an industry sector or occupation is in-demand is made by the Nebraska Workforce Development Board or a local board, as appropriate, using state and regional business and labor market projections and information.

²⁰ WOA Sec. 3(9)

²¹ 20 CFR § 675.300

²² WIOA Sec. 3(23)

4. unit of general local government

The term *unit of general local government* means any general-purpose political subdivision of a state that has the power to levy taxes and spend funds and has general corporate and police powers.²³

²³ WIOA Sec. 3(62)