



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF TALENT AND ECONOMIC DEVELOPMENT  
LANSING

STEPHANIE BECKHORN  
ACTING DIRECTOR

**OFFICIAL**  
**Policy Issuance (PI): 19-25**

**Date:** August 5, 2019

**To:** Chief Elected Officials (CEOs)  
Workforce Development Board (WDB) Chairs  
Michigan Works! Agency (MWA) Directors

**From:** Krista Johnson, Division Administrator **SIGNED**  
Talent Development Division  
Workforce Development Agency

**Subject:** Subsequent and New Discretionary Designation of Local Workforce Development Areas Under the Workforce Innovation and Opportunity Act (WIOA) of 2014

**Programs Affected:** The WIOA Programs

**Rescissions:** PI 15-11, Change 1

**References:** The WIOA of 2014, Public Law 113-128 (29 United States Code Section 3101, *et. seq.*)  
  
The WIOA Final Regulations as Published in the Federal Register on August 19, 2016  
  
Training and Employment Guidance Letter No. 27-14, WIOA Transition Authority for Immediate Implementation of Governance Provisions, issued April 15, 2015, and subsequent change issued May 12, 2015

**Background:** The WIOA was signed into law on July 22, 2014, and emphasizes a broad vision of workforce development programs that respond to the needs of employers by preparing workers with the skills and resources needed to compete for in-demand jobs. The WIOA also stresses the importance of alignment of the workforce investment, education, and economic development systems and promotes improvement in the structure and delivery of services. The WIOA provides Michigan with new opportunities to enhance service delivery systems, enrich services to customers, and advance partner linkages.

Local workforce development areas are designated for the purpose of implementing the WIOA and administering workforce development programs through the MWAs. Under the federal legislation, the Governor, in consultation with local CEOs is required to designate local workforce areas. The definition of CEO is the chief elected executive officer of a unit of general local government in a local area. To implement the WIOA, the CEO has the responsibility to request local workforce development area designation.

Some local areas were initially granted two-year designation for Program Years (PYs) 2015 and 2016; and then, received extensions until a process for submitting requests for subsequent designation could be established. This policy establishes the process for subsequent designation of local workforce development areas, and the process for local areas wishing to receive *new* discretionary designation should they meet the applicable criteria.

**Policy:**

The subsequent designation process for local workforce development areas is data-driven and includes the following activities:

- Analysis of the required workforce activities under the WIOA and criteria for a local workforce development area.
- Assessment of the current local workforce investment area as previously designated under the WIOA and surrounding areas with regards to regionalization.

Pursuant to Section 106(b) of the WIOA, the Governor shall designate local workforce development areas within the state through consultation with the State Board, CEOs and local boards, and after consideration of comments received during a public comment process.

The MWAs requesting re-designation as a WIOA local area for PYs 2019 thru 2023 must submit a request for subsequent designation. Hereinafter, subsequent designation will occur every four years, consistent with submission of the State's Unified Plan and the MWAs' four-year Local and Regional Plans.

The Governor must approve the request if, for the two program years preceding the subsequent designation determination, the following criteria are met:

- Performed successfully,
- Sustained fiscal integrity, and
- Met requirements under the WIOA Section 106(c)(1).

For the purposes of local area subsequent designation under the WIOA, the following definitions apply:

Performed Successfully. For the purposes of subsequent designation, the term “performed successfully” means that the local area met or exceeded all of the negotiated levels of performance and the local area has not failed any individual performance measure for the previous two consecutive years prior to their request for subsequent designation. The U.S. Department of Labor (USDOL) interprets this to mean that a local area satisfies the “performed successfully” criterion providing that the local area did not fail the same performance measure twice within the two-year period in question. The terms “met or exceeded” and “failure” are defined at the time performance levels are negotiated. Specifically:

- Local areas must meet or exceed 50 percent of their negotiated level of performance for each performance indicator; and
- Local areas must attain a minimum of 90 percent achievement rate for the same indicator across all Title I and Title III programs (Adult, Dislocated Worker, Youth, and Wagner-Peyser), or across all individual program measures.

For purposes of subsequent designation determinations for PYs 2019 thru 2023, the following performance indicators apply:

- Employment Rate – 2<sup>nd</sup> Quarter after Exit,
- Employment Rate – 4<sup>th</sup> Quarter after Exit,
- Median Earnings – 2<sup>nd</sup> Quarter after Exit, and
- Credential Attainment.

The Effectiveness in Serving Employers performance indicator will not be used for the purposes of determining subsequent designation for PYs 2019 thru 2023, as the USDOL and the U.S. Department of Education are still evaluating the various states’ experiences and approaches prior to identifying a standard indicator. Once a standard indicator for Effectiveness in Serving Employers is determined by the Departments, local areas will be required to meet or exceed this indicator as well.

Final performance is based on the WIOA Annual Report submitted to the USDOL for the most recent program year at the time of the local area’s request for subsequent designation.

Sustained Fiscal Integrity. For the purposes of determining subsequent designation, the term “sustained fiscal integrity” means that there has not been a formal determination by the Secretary that either the grant recipient or the administrative entity of the area mis-expended 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 years preceding the determination.

Met Requirements Under the WIOA 106(c)(1). For the purposes of subsequent designation, the term “met requirements under the WIOA 106(c)(1)” means that the Regional Plan has been submitted and approved by the Workforce Development Agency (WDA).

#### Requesting Local Workforce Area Subsequent Designation

Requests for subsequent designation are initiated by completing the WIOA Local Workforce Development Area Subsequent Designation Application (Attachment A), which is signed by the CEO, and submitted electronically to [TED-TSDIV@michigan.gov](mailto:TED-TSDIV@michigan.gov). Applications must be submitted by no later than **October 1, 2019**. Local areas that are unable to meet the October 1, 2019, deadline should contact the WDA prior to September 16, 2019, to discuss an appropriate submission deadline, as determined by the WDA.

#### Requesting Local Workforce Area **New** Discretionary Designation

The MWAs that were originally approved under initial designation criteria, may be considered at any time for approval under discretionary designation criteria if the local area meets the following requirements pursuant to Section 106(b)(1)(B) of the WIOA:

- Is consistent with labor market areas,
- Is consistent with regional economic development areas,
- Has available the Federal and non-Federal resources necessary to effectively administer WIOA activities,
- Has appropriate education and training providers,
- Is consistent with the geographical boundaries of the WIOA planning regions (see Attachment B), and
- Meets the aforementioned criteria for subsequent designation.

At any point during the discretionary designation process, the CEO may request technical assistance from the WDA to support the process.

Regardless of the method used to obtain designation (subsequent or discretionary designation), the local area shall have one official CEO and one official WDB, consistent with the WIOA. However, local areas may have additional advisory boards that advise the official CEO board and the official WDB. Furthermore, additional board members representing the region may be appointed as official members of the WDB, consistent with federal and state policy.

**Note: Subsequent designation requirements do not apply to those local areas that were previously approved under discretionary designation requirements per PI 15-11 and Change 1.** (i.e. GSTI; Great Lakes Bay; Southeast Michigan Consortium; West Central; West Michigan & UPWARD)

Appeals Process Relating to Subsequent Designation of Local Areas

The WDA Grievance and Complaint Policy 11-37, Change 2, establishes a process for grievances filed by participants, sub-grantees, subcontractors, service providers, employees, One-Stop partners, training service providers, and other interested parties. The policy also establishes a process for appeals filed by local grant recipients regarding non-designation or subsequent non-designation of local areas, monitoring findings, single audit resolution findings/issues, and other matters.

If a local area is denied subsequent designation, the CEO may submit an appeal to the state consistent with the WDA Grievance and Complaint Policy and WIOA Section 106(b)(5). Appeals to the WDA are to be filed no later than 30 days from the receipt of the WDA's decision to not approve subsequent or new discretionary designation requests. All appeals are to be submitted by certified mail to the WDA, with return receipt requested.

The WDA may take any of the following actions:

1. Reject the Appeal. An appeal may be rejected, and a final determination issued for any of the following reasons:
  - a. It lacks merit.
  - b. The appeal does not state a grievable issue.
  - c. There is no relief that can be granted.
  - d. The petitioner fails to comply with the applicable procedures (e.g., the 30-day filing requirement).
2. Hearing. An opportunity for a hearing must be provided unless the appeal is rejected by the WDA, the parties agree to waive a hearing, or the appellant withdraws the appeal. If a hearing is to be held, it is to be conducted within 30 days of the receipt of the appeal.
  - a. Hearing Notice. The parties will be provided a written notice of the date, time, and place of the scheduled hearing and of the opportunity to present evidence, including witnesses. The notice of hearing shall indicate the issues to be decided. Notice is to be given not less than ten days prior to the scheduled hearing date.
  - b. Hearing Process. At a minimum, the hearing process shall include:
    - i. A hearing officer.

- ii. An opportunity for each party to present witnesses (subpoenas are not authorized under this policy) and evidence.
  - iii. An opportunity for each party to ask questions of all witnesses providing testimony at the hearing.
  - iv. A record of the hearing and a list of all evidentiary exhibits presented at the hearing. At the discretion of the hearing officer, there may be an opportunity to exchange evidentiary information prior to the hearing.
3. Decision. A written decision is issued no later than 60 days after the filing of the appeal. The local grant recipient may appeal non-compliant grievance procedures of the WDA to the Michigan Future Talent Council (formerly the Governor's Talent Investment Board). If the appeal does not result in subsequent designation, an appeal may be filed with the Secretary of the USDOL within 60 days of the receipt of the Michigan Future Talent Council decision by certified mail, with a return receipt requested. A copy of the appeal must be simultaneously provided to the USDOL Regional Administrator and the WDA. A decision by the Secretary of the USDOL is final.

**Action:** The CEO from any workforce development area that wishes to receive approval for subsequent designation or any workforce development area that wishes to be designated as a **new** discretionary local workforce area for the purposes of delivering services under the WIOA, must submit a WIOA Local Workforce Development Area Designation Application (Attachment A), consistent with the procedures and directives contained within this policy.

Requests for subsequent designation applications (Attachment A) must be submitted by no later than **October 1, 2019**.

**Inquires:** Questions regarding this policy should be directed to Ms. Voni Booyinga, at [BooyingaV@michigan.gov](mailto:BooyingaV@michigan.gov) or via telephone at 517-930-4529.

This policy is available for downloading from the [WDA's website](#). The WDA is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Please contact Ms. Paula Hengesbach by telephone at 517-241-3678 or by email at [HengesbachP@michigan.gov](mailto:HengesbachP@michigan.gov) for details.

The WDA is funded by State and Federal funds; more details are available on the Legal Disclaimer page at [www.michigan.gov/WDA](http://www.michigan.gov/WDA).

**Expiration Date:** Continuing

KJ:VB:ph  
Attachments

**Workforce Innovation and Opportunity Act (WIOA)**  
**Local Workforce Development Area Designation Application**

Requests for local workforce development area subsequent designation and *new* discretionary designation are initiated by completing this application and submitting it to the Workforce Development Agency (WDA) at [TED-TSDIV@michigan.gov](mailto:TED-TSDIV@michigan.gov). The subject line of the email should state "WIOA Local Area Designation Application."

***Section 1 – Point of Contact***

The following information identifies the individual who is completing the application on behalf of the local workforce development area and will be the point of contact for all future correspondence.

Name: Click here to enter text.

Title: Click here to enter text.

Address: Click here to enter text.

Phone: Click here to enter text.

E-mail: Click here to enter text.

Date of Application: Click here to enter text.

***Section 2 – Participating Counties***

Please list all participating counties who will form the local workforce area.

Click here to enter text.

### **Section 3–Type of Designation Requested**

Select one of the following:

- Subsequent Designation – Review Step 4
- New** Discretionary Designation – Review Step 5

### **Section 4 – Subsequent Designation Criteria**

By signing and submitting to the WDA this completed application, consistent with the provisions of this policy, the Chief Elected Official (CEO) requesting subsequent designation attests that the Workforce Development Area meets each of the following criteria:

1. The local area identified in Step 2 above was designated previously as a local area for the purposes of the WIOA.
2. The local area identified in Section 2 above performed successfully (met or exceeded all WIOA performance metrics) during Program Years (PYs) 2017 and 2018 (July 1, 2017 – June 30, 2019) per the WIOA/Wagner-Peyser Annual Reports for PYs 2017 and 2018.
3. The local area identified in Section 2 above sustained fiscal integrity, as defined in this policy, during the last two consecutive years.

### **Section 5 – New Discretionary Designation Criteria**

By signing and submitting to the WDA this completed application, consistent with the provisions of this policy, the CEO requesting **new** discretionary designation attests that the proposed Workforce Development Area meets each of the following criteria:

1. The local area identified in Section 2 above performed successfully (met or exceeded all WIOA performance metrics) during PYs 2017 and 2018 (July 1, 2017 – June 30, 2019) per the WIOA/Wagner-Peyser Annual Reports for PYs 2017 and 2018.
2. The local area identified in Section 2 above sustained fiscal integrity, as defined in this policy, during the last two consecutive years.
3. The local area identified in Section 2 above is part of a WIOA Planning Region that has an approved WIOA Regional Plan in place.
4. The geographic area is consistent with the labor market areas in the state.
5. The geographic area is consistent with the regional economic development areas in the state.
6. The geographic area is served by local educational agencies and intermediate educational agencies.
7. The geographic area is served by post-secondary education institutions and area vocational education schools.
8. The geographic area has available resources (federal and non-federal) necessary to effectively administer workforce development activities.
9. Is consistent with the geographical boundaries as outlined in the WIOA Planning Regions Map (Attachment B).

**Section 6 – Signature of the Chief Elected Official from the Proposed (Subsequent or New Discretionary) Local Workforce Development Area**

The CEO from the proposed Workforce Development Area must sign and date below.

Chief Elected Official Name (Please Print): \_\_\_\_\_

Chief Elected Official Title: \_\_\_\_\_

Chief Elected Official Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Section 7 – Approvals of Subsequent or New Discretionary Local Workforce Development Area**

The members of the local CEO board representing the workforce development area approve this request for subsequent/**new** discretionary designation.

- Yes. Please attach the appropriate board meeting minutes.
- No. Please explain why below.

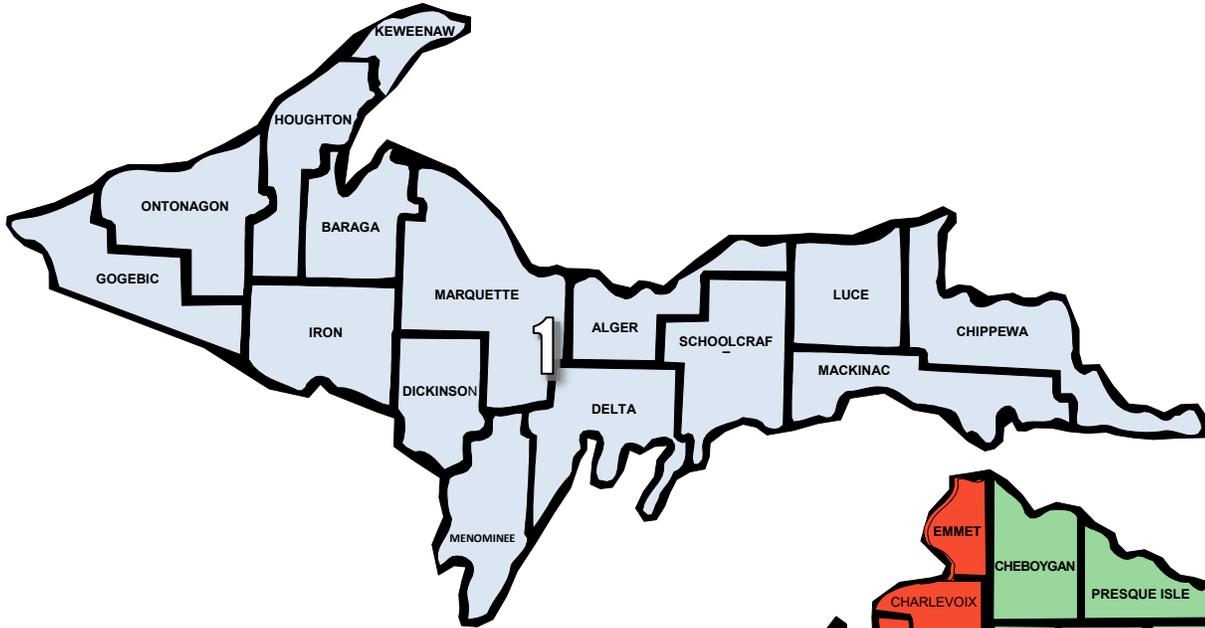
[Click here to enter text.](#)

**Requests for New Discretionary Designation Assistance**

Recognizing costs will be incurred by those local workforce development areas who desire to pursue discretionary designation, assistance is available. Pursuant to Section 106(b)(6) of the WIOA, upon request, the state may provide funding to assist the local area in carrying out activities to facilitate **new** discretionary designation of the local workforce development area.

Local workforce development areas designated under the subsequent designation criteria are not eligible for designation funding assistance.

Requests for designation funding assistance may be sent to Ms. Voni Booyinga at [BooyingaV@michigan.gov](mailto:BooyingaV@michigan.gov). The request must contain a project narrative describing how the funds will be used and a detailed budget.



1. Upper Peninsula Region

- UPWARD Talent Council

2. Northwest Region

- Networks Northwest/Northwest Michigan Works!

3. Northeast Region

- Michigan Works! Northeast Consortium
- Michigan Works! Region 7B

4. West Michigan Region

- Michigan Works! West Central
- West Michigan Works!

5. East Central Michigan Region

- Great Lakes Bay Michigan Works!

6. East Michigan Region

- Genesee-Shiawassee-Thumb (GST) Michigan Works!

7. South Central Region

- Capital Area Michigan Works!

8. Southwest Michigan Region

- Kinexus
- Michigan Works! Southwest

9. Southeast Michigan Region

- Michigan Works! Southeast

10. Detroit Metro Region

- Detroit Employment Solutions Corporation
- Macomb-St. Clair Workforce Development Board
- Oakland County Michigan Works!
- Southeast Michigan Community Alliance (SEMCA) Michigan Works!

