

TITLE 11 LABOR AND WORKERS' COMPENSATION
CHAPTER 2 JOB TRAINING
PART 4 WORKFORCE INNOVATION AND OPPORTUNITY ACT LOCAL GOVERNANCE

11.2.4.1 ISSUING AGENCY: New Mexico Department of Workforce Solutions (DWS)
[11.2.4.1 NMAC - N, 7/1/2018]

11.2.4.2 SCOPE: State workforce development board (state board), department of workforce solutions (DWS), chief elected officials (CEOs), local workforce development boards (local boards), local workforce system administrative entities (local administrative entities), workforce system sub-recipients and workforce system partners.
[11.2.4.2 NMAC - N, 7/1/2018]

11.2.4.3 STATUTORY AUTHORITY: Title I of the Workforce Innovation and Opportunity Act (WIOA), 29 U.S.C. Chapter 32, Subchapter I, and NMSA 1978, Section 50-14-1 *et seq.*
[11.2.4.3 NMAC - N, 7/1/2018]

11.2.4.4 DURATION: Permanent.
[11.2.4.4 NMAC - N, 7/1/2018]

11.2.4.5 EFFECTIVE DATE: July 1, 2018, unless a later date is cited at the end of a section.
[11.2.4.5 NMAC - N, 7/1/2018]

11.2.4.6 OBJECTIVE: This policy outlines the local guidance structure in New Mexico as required by WIOA, to administer the implementation of workforce development activities in the local areas. This policy also provides guidance on the appointment of local boards and outlines the roles, responsibilities, and authority of the CEOs and the local boards in regard to the local workforce system.
[11.2.4.6 NMAC - N, 7/1/2018]

11.2.4.7 DEFINITIONS:

A. “Chief elected official (CEO)” is the chief elected executive officer of a unit of general local government in a local area. CEOs shall consist of one county commissioner, or their designee, from each county located in the area. In a case in which a local area includes more than one unit of general local government, the points of contact shall only be the recognized CEOs for each county located in that area. This does not prevent participation from other elected officials in the community, however, the only voting member is the CEO who may consider the input and contributions from the other elected officials.

B. “chief lead elected official (CLEO)” is the individual selected by the participating chief elected officials who may act on behalf of the other chief elected officials in a given local workforce development area (local area).

C. “Local administrative entity” means the entity designated by the local board for the administration of WIOA in the local area.

D. “Local area” means a workforce development area designated by the governor for the administration of workforce development activities; and the area within which local boards oversee workforce development activities.

E. “Local board grant agreement” means the grant agreement between the recipient of WIOA funding (DWS), and the sub-recipient of WIOA funding (local board), to fund and direct the administration of WIOA in the local area.

F. “Local workforce development board (local board)” means the local area workforce development board established by the CEOs under WIOA section 107(b).

G. “One-stop delivery system” means a one-stop delivery system, as described in WIOA section 121.

H. “One-stop operator” means a public, private, or nonprofit entity, or a consortium of entities designated or certified under WIOA section 121.

I. “One-stop partner” means an entity described in WIOA section 121 that is participating in the operation of a one-stop delivery system.

J. “State workforce development board (state board)” means the state workforce development board established by the governor under WIOA section 101.

K. “Technical assistance guidance” means technical advisories issued by state or federal government authorities to aid in the implementation of WIOA.

L. “Unit of general local government” means any general purpose political subdivision of a state that has the power to levy taxes and spend funds, as well as general corporate and police powers.

M. “Workforce connection center” means a physical one-stop center within the one-stop delivery system, as described in WIOA section 121, and partner of the American job center network.

N. “Workforce solutions department” means the state administrative agency designated by the governor for the administration of WIOA in New Mexico, commonly referred to as the department of workforce solutions (DWS). DWS is also the agency designated by the governor as the pass-through entity for WIOA funding. [11.2.4.7 NMAC - N, 7/1/2018; A, 06/22/2021]

11.2.4.8 BACKGROUND: The purpose of WIOA Title I includes:

A. Increasing access to, and opportunities for, individuals to receive the employment, education, training, and support services necessary to succeed in the labor market, with a particular focus on those individuals with disabilities or other barriers to employment including out of school youth with the goal of improving their outcomes;

B. Enhancing the strategic role for states and elected officials, and local boards in the public workforce system by increasing flexibility to tailor services to meet employer and worker needs at state, regional and local levels;

C. Streamlining service delivery across multiple programs by requiring co-location, coordination, and integration of activities and information to make the system understandable and accessible for individuals, including individuals with disabilities and those with other barriers to employment, and businesses;

D. Supporting the alignment of the workforce investment, education, and economic development systems in support of a comprehensive, accessible, and high-quality workforce development system at the federal, state, and local levels;

E. Improving the quality and labor market relevance of workforce investment, education, and economic development efforts by promoting the use of industry and sector partnerships, career pathways, and regional service delivery strategies in order to both provide America’s workers with the skills and credentials that will enable them to secure and advance in employment with family-sustaining wages, and to provide America’s employers with the skilled workers the employers need to succeed in a global economy;

F. Promoting accountability using core indicators of performance measured across all WIOA authorized programs, sanctions, and high quality evaluations to improve the structure and delivery of services through the workforce development system to address and improve the employment and skill needs of workers, job seekers, and employers;

G. Increasing the prosperity and economic growth of workers, employers, communities, regions, and states; and

H. Providing workforce development activities through statewide and local workforce development systems to increase employment, retention, and earnings of participants and to increase industry-recognized postsecondary credential attainment to improve the quality of the workforce, reduce welfare dependency, increase economic self-sufficiency, meet skill requirements of employers, and enhance productivity and competitiveness of the nation.

[11.2.4.8 NMAC - N, 7/1/2018]

11.2.4.9 SHARED LIABILITY AGREEMENT: Per WIOA section 107, if a local area includes more than one unit of general local government, the CEOs of such units must execute a written agreement that specifies the respective roles and liability of the individual CEOs. If the CEOs are unable to reach agreement after reasonable effort, the governor may appoint the members of the local board from individuals nominated or recommended.

A. Required inclusions. CEOs must enter into an agreement with each other that, at a minimum, includes the following sections:

(1) Liability of funds. The agreement must acknowledge financial liability per WIOA section 107, and outline the process for determining each CEO’s share of responsibility as laid out in the CEO agreement. This determination could be based on allocation, population, expenditures, and other criteria determined by the CEOs.

(2) Grant recipient and signatory. The agreement must acknowledge the CEOs are the grant recipient for all local WIOA funds or have designated grant recipient authority to the local board. If the CEOs will serve as the grant recipient, they must outline the process they will use to sign contracts and enter into agreements related to WIOA. This may be accomplished by designating signatory authority to a chief lead elected official (CLEO).

(3) Fiscal agent designation. To assist in the administration of the grant funds, the CEOs may designate an entity to serve as a local fiscal agent and describe the process for designating a local fiscal agent within the guidelines required by state and local procurement laws and policies.

(4) Local board budget approval. The agreement must describe the process for reviewing and approving the local board annual budget that is signed by the CLEO and the local board chair.

(5) Participating CEOs. The agreement must contain the name, representation, contact information, and signature of each participating CEO in the local area, which at a minimum includes at least one county commissioner, or their designee, for each county.

(6) Election of a new CEO. Within 90 days of when a new CEO is elected within the local area, either participating as a signatory on the agreement or as a participating CEO, DWS or the local board must ensure the individual submits to DWS and the local board a written statement acknowledging that he or she:

(a) has read, understands, and will comply with the current CEO agreement; and

(b) reserves the option to request negotiations to amend the CEO agreement at any time during the official's tenure as a CEO.

(7) Amendment or change to the CEO agreement. The agreement must outline the process that will be used for amendments or changes to the CEO agreement. All amendments or changes must be maintained at the local administrative entity office and available for monitoring by DWS.

B. Recommended inclusions. To improve the coordination and functionality of the local workforce system, CEOs should also address the following items in their agreement:

(1) Designation of a CLEO. CEOs are liable for all WIOA funds in the local area and are required by WIOA to approve or provide guidance on a number of local board activities. DWS encourages CEOs to select a CLEO who will act on behalf of the other CEOs. If a CLEO is appointed, the following information must be sent to DWS and the local administrative entity and kept on file:

(a) appointment process and term of CLEO;

(b) designation of the CLEO to serve as the signatory for the CEOs;

(c) outline of decisions that may be made by the lead on behalf of the CEOs; and

(d) inclusion of the name, title, and contact information of the appointed CLEO.

(2) Local board member representation. The agreement should outline how CEOs will ensure local board representation is fair and equitable across the local area.

(3) Communication. The agreement should describe how the CEOs will communicate with each other regarding local board activities, determining how many times a year the CEOs will meet, and how often a joint meeting with the local board will be held.

[11.2.4.9 NMAC - N, 7/1/2018; A, 06/22/2021]

11.2.4.10 CEO AND LOCAL BOARD PARTNERSHIP AGREEMENT:

A. To ensure the criteria established by the state are acknowledged by both the CEOs and the members of the local board, a partnership agreement is required. The partnership agreement must establish roles and responsibilities of the CEOs and the local board along with a description of the partnership and specific responsibilities. The local board and CEOs must enter into a partnership agreement that at a minimum, addresses the following sections:

(1) describes the respective roles and responsibilities of the respective parties;

(2) acknowledged the authority of the CEOs to appoint the members of the local board in accordance with the criteria established under WIOA section 107, and in accordance with the required criteria in state technical assistance guidance;

(3) describes how the local plan will be developed in partnership between the CEOs and the local board;

(4) describes how the local board will develop the local area budget and the process for obtaining the CEO's approval, per WIOA section 107;

(5) establishes the guidelines that will be followed by the local board for selection of a one-stop operator, including the process for getting CEO agreement on the selection;

(6) describes the process for approving local workforce policy;

(7) describes the process for demonstrating the CEO agreement on the memoranda of understanding between workforce system partners and the board;

(8) describes the process for demonstrating agreement between the CEOs and the local board on the methods for funding the infrastructure costs of workforce connection centers in the local area;

(9) describes the process for demonstrating agreement between the CEOs and the local board on local performance indicators; and

(10) describes the process for demonstrating CEO agreement on the appropriate use of funds and oversight of adult, dislocated worker, and youth workforce development activities, and the entire one-stop delivery system in the local area; and the appropriate use, management, and investment of funds to maximize performance outcomes under WIOA section 116.

B. The partnership agreement must be signed by the current CEOs that have been identified as participating in the CEO agreement and by the local board chair at the time of signing.

C. Any amendment or change to the partnership agreement, notice of an election of a new CEO, or notice of an election of a new local board chair must be maintained at the local administrative entity office and available for monitoring by DWS. If a new CEO or local board chair is elected within the local area, the newly elected individual must submit to the local board a written statement acknowledging the following:

(1) the individual has read, understands, and will comply with the current partnership agreement; and

(2) the individual reserves the option to request negotiations to amend the partnership agreement at any time during the individual's tenure.

D. The partnership agreement should establish requirements for informing the CEOs on a regular basis regarding activities, performance outcomes, and budgets with at least one joint meeting held annually between the CEOs and the local board.

[11.2.4.10 NMAC - N, 7/1/2018]

11.2.4.11 LOCAL BOARD MEMBERSHIP: The local board is appointed by the CEOs in each local area every two years. All members must be individuals with optimum policy-making authority within the entities they represent. An individual may be appointed as a representative of more than one entity if the individual meets all the criteria for representation; however, individuals representing more than one category must have the optimum policy-making authority within each of the entities they are representing. All required local board members must have voting privileges. The CEO may convey voting privileges to non-required members. The local board must elect a chairperson from among the business representatives on the local board.

A. Representatives of business. The majority (fifty-one percent) of the members of the local board must be representatives of business in the local area. At a minimum, two members must represent small business as defined by the US small business administration. Business representatives serving on local boards may also serve on the state board. Each business representative must meet the following criteria:

(1) be an owner, chief executive officer, chief operating officer, or other individual with optimum policymaking or hiring authority;

(2) provide employment opportunities in in-demand industry sectors or occupations, as those terms are defined in WIOA section 3, and provide high-quality, work-relevant training and development opportunities to its workforce or to the workforce of others; and

(3) are appointed from among individuals nominated by local business organizations and business trade associations.

B. Representatives of the workforce. Not less than twenty percent of the members of the local board must be workforce representatives. These representatives:

(1) must include two or more representatives of labor organizations, where such organizations exist in a local area. Where labor organizations do not exist, representatives must be selected from other employee representatives; and

(2) must include one or more representatives of a joint labor-management or union affiliated, registered apprenticeship program within the area who must be a training director or a member of a labor organization. If no union affiliated registered apprenticeship programs exist in the area, a representative of a registered apprenticeship program with no union affiliation must be appointed, if one exists.

(3) In addition to the above representatives, the board may also include the following to contribute to the twenty percent requirement:

(a) one or more representatives of community-based organizations that have demonstrated experience and expertise in addressing the employment training or education needs of individuals with

barriers to employment including organizations that serve veterans or provide or support competitive integrated employment for individuals with disabilities; and

(b) one or more representatives of organizations with demonstrated experience and expertise in addressing the employment, training, or education needs of eligible youth, including representatives of organizations that serve out-of-school youth.

C. Representatives of education and training. The balance of local board membership must include:

(1) at least one eligible provider administering adult education and literacy activities under WIOA Title II;

(2) at least one representative from an institution of higher education providing workforce investment activities, including community colleges; and

(3) may include representatives of local educational agencies, and of community-based organizations with demonstrated experience and expertise in addressing the education or training needs of individuals with barriers to employment.

D. Representatives of governmental and economic and community development entities. Each local board must include at least one appropriate representative from:

(1) economic and community development entities;

(2) the state employment service office under the Wagner-Peyser Act (29 USC 49 et seq.) serving the local area;

(3) the programs carried out under title I of the Rehabilitation Act of 1973, other than section 112 or part C of that title, serving the local area; and

(4) may include representatives from:

(a) agencies or entities administering programs serving the local area relating to transportation, housing, and public assistance;

(b) philanthropic organizations serving the local area; and

(c) other appropriate individuals deemed appropriate by the CEO.

[11.2.4.11 NMAC - N, 7/1/2018]

11.2.4.12 LOCAL BOARD ROLES AND RESPONSIBILITIES: The local board must perform the following functions per WIOA section 107 and must describe the implementation of these functions in the agreement with its CEOs, including:

A. develop and submit a four-year local plan for the local area, in partnership with the CEO per WIOA section 108;

B. conduct workforce research and regional labor market analysis to include:

(1) analyses and regular updates of economic conditions, needed knowledge and skills, workforce and workforce development, including:

(a) education and training activities;

(b) strengths and weaknesses; and

(c) the capacity to provide services to address the identified education and skill needs of the workforce and the employment needs of employers.

(2) assistance to DWS in developing the statewide workforce and labor market information system under the Wagner-Peyser Act for the region; and

(3) other research, data collection, and analysis related to the workforce needs of the regional economy after receiving input from a wide array of stakeholders, as necessary.

C. convene local workforce development system stakeholders to assist in the development of the local plan and in identifying non-federal expertise and resources to leverage support for workforce development activities. Such stakeholders may assist the local board and standing committees in carrying out the convening, brokering, and leveraging functions at the direction of the local board;

D. lead efforts to engage with a diverse range of employers and other entities in the region to:

(1) promote business representation on the local board;

(2) develop effective linkages, including the use of intermediaries, with employers in the region to support employer utilization of the local workforce development system and to support local workforce activities;

(3) ensure workforce investment activities meet the needs of employers and support economic growth in the region by enhancing communication, coordination, and collaboration among employers, economic development entities and service providers; and

(4) develop and implement proven or promising strategies for meeting the employment and skill needs of workers and employers, such as the establishment of industry and sector partnerships, that provide the skilled workforce needed by employers in the region and that expand employment and career advancement opportunities for workforce development system participants in in-demand industry sectors or occupations.

E. with representatives of secondary and postsecondary education programs, lead efforts to develop and implement career pathways within the local area by aligning the employment, training, education, and supportive services that are needed by adults and youth, particularly individuals with barriers to employment;

F. lead efforts in the local area to identify and promote proven and promising strategies and initiatives for meeting the needs of employers, workers and job seekers, and identify and disseminate information on proven and promising practices carried out in other local areas for meeting such needs;

G. develop strategies for using technology to maximize the accessibility and effectiveness of the local workforce development system for employers, workers, and job seekers by:

(1) facilitating connections among the intake and case management information systems of the one-stop partner programs to support a comprehensive workforce development system in the local area;

(2) facilitating access to services provided through the one-stop delivery system involved, including access in remote areas;

(3) identifying strategies for better meeting the needs of individuals with barriers to employment, including strategies that augment traditional service delivery, and increase access to services and programs of the one-stop delivery system, such as improving access in remote areas;

(4) leveraging resources and capacity within the local workforce development system, including resources and capacity for services for individuals with barriers to employment.

H. in partnership with the CEOs for the local area:

(1) conduct oversight of youth workforce investment activities authorized under WIOA section 129, adult and dislocated worker employment and training activities under WIOA section 134, and the entire one-stop delivery system in the local area;

(2) ensure the appropriate use and management of the funds provided under WIOA Title I for the youth, adult, and dislocated worker activities and one-stop delivery system in the local area; and

(3) ensure the appropriate use, management, and investment of funds to maximize performance outcomes under WIOA section 116.

I. negotiate and reach agreement on local performance indicators with the CEO and DWS;

J. negotiate with CEOs and required partners on the methods for funding the infrastructure costs of one-stop centers in the local area or must notify DWS if they fail to reach agreement at the local level and will use a state infrastructure funding mechanism;

K. select the following providers in the local area, and where appropriate terminate such providers:

(1) providers of youth workforce investment activities through competitive grants or contracts based on the recommendations of the youth standing committee (if such a committee is established); however, if the local board determined there is an insufficient number of eligible training providers in the local area, the local board may award contracts on a sole-source basis as per WIOA section 123;

(2) providers of training services consistent with the criteria and information requirements established per WIOA section 122;

(3) providers of career services through the award of contracts, if the one-stop operator does not provide such services; and

(4) one-stop operators.

L. work with the state to ensure there are sufficient numbers and types of providers of career services and training services serving the local area and providing the services in a manner that maximizes consumer choice, as well as providing opportunities that lead to competitive integrated employment for individuals with disabilities per WIOA section 107;

M. coordinate activities with education and training providers in the local area, including:

(1) reviewing applications to provide adult education and literacy activities under WIOA Title II, for the local area to determine whether such applications are consistent with the local plan;

(2) making recommendations to the eligible agency to promote alignment with such plan; and

(3) replicating and implementing cooperative agreements to enhance the provision of services to individuals with disabilities and other individuals, such as cross training of staff, technical assistance, use and sharing of information, cooperative efforts with employers, and other efforts at cooperation, collaboration, and coordination;

- N. develop a budget for the activities of the local board, with the approval of CEOs and consistent with the local plan and the duties of the local board;
 - O. assess on an annual basis, the physical and programmatic accessibility of all one-stop centers in the local area per WIOA section 188, if applicable, and applicable provisions of the Americans with Disabilities Act of 1990 (42 USC 12101 et seq.);
 - P. certify one-stop centers;
 - Q. produce an annual report that must be submitted to the state administrative entity, per guidelines established by the state administrative entity;
 - R. promote workforce connection center programs and activities; and
 - S. conduct business in an open manner by making available to the public information about the activities of the local board.
- [11.2.4.12 NMAC - N, 7/1/2018]

11.2.4.13 BYLAWS: The local board must establish bylaws that include, at a minimum, the following sections:

- A. Establishment. Acknowledge that the local board is established in accordance with WIOA section 107;
- B. Name. Identify the name of the local board.
- C. Purpose. Acknowledge the establishment of the local board consistent with WIOA sections 107;
- D. Duties and responsibilities. Acknowledge the duties and responsibilities as outlined in WIOA and in the partnership agreement between the CEOs and the local board.
- E. Membership. Include a description of membership as outlined in WIOA section 107 and in the CEO agreement, as required by this rule.
- F. Local board chair election. Describe the process used to elect a local board chair, including term details.
- G. Election of officers. Outline officer positions, the process used to elect officers, officer terms, removal of officers, and specific officer roles and responsibilities.
- H. Meetings.
 - (1) Information on how often local board and committee meetings will be held.
 - (2) Acknowledgement of open meeting requirements and compliance.
 - (3) Description of the process of announcing regular and special meetings.
 - (4) Acknowledgement that a quorum shall consist of at least a simple majority of the currently appointed membership.
 - (5) Clarification as to whether phone and web-based meetings will be permitted.
- I. Delegation of local board duties. Acknowledge that local board members will not be permitted to delegate any local board duties to proxies or alternates.
- J. Committees. Include a list of standing committees including the descriptions for each and composition, and description of the process for having ad hoc committees.
- K. Conflict of interest. Acknowledge that local board members shall adhere to the following in regard to conflict of interest:
 - (1) A local board member may not vote on any matter that would provide direct financial benefit to the member or the member's immediate family, or on matters of the provision of services by the member or the entity the member represents.
 - (2) A local board member shall avoid even the appearance of a conflict of interest. Prior to taking office, local board members shall provide to the local board chair a written declaration of all substantial business interests or relationships they, or their immediate families, have with all businesses or organizations that have received, currently receive, or are likely to receive contracts or funding from the local board. Such declarations shall be updated annually or within 30 days to reflect any changes in such business interests or relationships. The local board shall appoint an individual to timely review the disclosure information and advise the local board chair and appropriate members of potential conflicts.
 - (3) Prior to a discussion, vote, or decision on any matter before a local board, if a member, or a person in the immediate family of such member, has a substantial interest in or relationship to a business entity, organization, or property that would be affected by any official local board action, the member shall disclose the nature and extent of the interest or relationship and shall abstain from discussion and voting on or in any other way participating in the decision on the matter. All abstentions shall be recorded in the minutes of the local board meeting and be maintained as part of the official record.

(4) It is the responsibility of the local board members to monitor potential conflict of interest and bring it to the local board's attention in the event a member does not make a self-declaration.

(5) In order to avoid a conflict of interest, a local board shall ensure that the local board's workforce service providers shall not employ or otherwise compensate a current or former local board member or local board employee who was employed or compensated by the local board or its administrative entity, fiscal agent, or grant recipient anytime during the previous 12 months.

(6) Local board members or their organizations may receive services as a customer of a local workforce service provider or workforce system partner. To avoid conflict of interest, a local board shall ensure that the local board, its members, or its administrative staff do not directly control the daily activities of its workforce service providers, workforce system partners or contractors.

L. Compensation and reimbursement of expenses. A description of the policy on compensating local board members and reimbursing expenses shall be included.

M. Amendment. Include a description of the process for amending the bylaws.

N. Compliance with law.

(1) Acknowledgement stating, in execution of its business, the local board shall comply with all applicable New Mexico statutes and regulations including, but not limited to, the state Procurement Code, the state Open Meetings Act, NMSA 1978 Compilation, and the state Mileage and Per Diem Act.

(2) Acknowledgement stating, in execution of its business, the local board shall comply with WIOA and related regulations as well as state policies and directives.

[11.2.4.13 NMAC - N, 7/1/2018]

11.2.4.14 LOCAL BOARD CERTIFICATION:

A. Initial certification. DWS must certify the composition of each local board in the state.

B. Subsequent certification. Upon completion of initial certification, DWS must recertify local boards every two years.

C. Certification criteria.

(1) Initial certification criteria. Initial certification shall be based on criteria established under WIOA section 107, including compliance with membership, appointment process, chairmanship, and standing committee requirements.

(2) Subsequent certification criteria. Subsequent certification shall be based on the initial certification criteria, as well as the extent to which the local board has ensured that workforce investment activities carried out in the local area have enabled the local area to meet the corresponding performance accountability measures and achieved sustained fiscal integrity, as defined in WIOA section 106, and as outlined in the local board grant agreement.

(a) If a local board meets all membership requirements, but fails to meet performance measures and outcomes, certification will be granted for only a one-year review period, instead of a two-year period.

(b) At the end of the one-year review period, the recertification process will be repeated with an updated review of performance and membership composition. If this review shows the local board is meeting all performance measures and outcomes, a two-year certification will be granted.

(c) During the two-year certification period, if more than ten percent of the local board membership is removed for cause, a recertification shall occur to ensure membership compliance and board stability.

D. Decertification.

(1) Conditions for decertification. A local board is subject to decertification under the following conditions:

(a) failure to meet all local board certification requirements;

(b) failure to carry out required functions of the local board;

(c) fraud; or

(d) abuse.

(2) Performance and decertification. If a local board has already been placed on a one-year review period due to lack of meeting performance measures and outcomes, and fails to meet performance measures and outcomes for a second year, the local board may be decertified.

(3) Notice and comment. A written notice and opportunity for comment will be provided prior to decertification.

(4) Reorganization plan. Per WIOA section 107, if a local board is decertified, DWS, acting on behalf of the governor, may require a new local board be appointed and certified for the local area pursuant to a reorganization plan developed by DWS, in consultation with the CEOs in the local area and in accordance with the certification criteria referred to in this policy.
[11.2.4.14 NMAC - N, 7/1/2018]

11.2.4.15 Planning regions:

A. Background:

(1) WIOA envisions a workforce development system that is customer-focused on both the job seeker and businesses, and is able to anticipate and respond to the needs of regional economies. Strong collaboration among government, local employers and industry, training providers and educational institutions, service and advocacy organizations, philanthropy and other local organizations is often needed to support and deliver effective workforce services. It requires chief elected officials (CEOs) and local workforce development boards (LWDB) to design and govern the system regionally, to align workforce policies and services with regional economies, and to support service delivery strategies tailored to these needs. To support this regional approach, WIOA requires states to identify planning regions. Per section 106 (a)(2) of WIOA, the state shall identify:

- (a) which regions are comprised of one local workforce development area (local area) that is aligned with the region;
- (b) which regions are comprised of two or more local areas that are collectively aligned with the planning region; and
- (c) which, of the planning regions, are interstate areas contained within two or more states, and consist of labor market areas, economic development areas, or other appropriate contiguous sub-areas of those states.

(2) As part of the identification of planning regions, New Mexico also uses the following criteria:

- (a) a single labor market;
- (b) a common economic development area;
- (c) possession of federal and non-federal resources to administer workforce development activities;
- (d) commuting patterns, which shows movement of workers from their residence to their workplace;
- (e) population centers;
- (f) similar economic bases, including percentage of employment in a particular industry;
- (g) labor force conditions, including labor force data and unemployment data; and
- (h) industrial composition, including industry employment patterns (jobs by industry and share of total employment by industry).

(3) Planning regions are areas identified by the state. The purpose of planning regions is to promote alignment of workforce development activities and resources with larger regional economic development areas and available resources to provide coordinated and efficient services to both individuals and employers. The development of comprehensive regional partnerships facilitates this alignment and provides support for the execution and implementation of sector strategies and career pathways. Identification of planning regions is important, because regional economic development areas are established in order to ensure that training and employment services:

- (a) support economic growth and related employment opportunities;
- (b) meet the needs of individuals, including those with barriers to employment;
- (c) meet the skill competencies and unique cultural requirements of the region; and
- (d) meet the specific needs of regional employers the skills they require.

B. State requirements:

(1) The state is required to identify regions in consultation with local CEOs and LWDBs. In New Mexico, consultation will entail one or more of the following activities:

- (a) collaboration with the state workforce development board;
- (b) collaboration with the New Mexico department of economic development;
- (c) e-mail notification of proposed planning regions to the CEOs and LWDB directors with the opportunity to provide comment at least 30 days prior to any final action;

(d) public notice of proposed planning regions to allow affected businesses, institutions of higher education, labor organizations, other primary stakeholders and the general public the opportunity to provide public comment at least 30 days prior to any final action;

(e) dialogue with one or more of the following associations which provide support and guidance to the CEOs and LWDBs:

(i) New Mexico Municipal League; and

(ii) New Mexico Association of Counties;

(f) in-person meetings or teleconferences with individual CEOs and LWDBs;

(g) presentations at training events or at CEO or LWDB meetings; and

(h) through legal public comment processes for workforce policies.

(2) CEOs and affected LWDBs shall be provided opportunity for consultation throughout the designation process. Consultation shall include

(a) collaboration with the State;

(b) notice of proposed planning regions and opportunity to provide comment at least 30 days prior to final action;

(c) dialogue with one or more of the following associations which provide support and guidance to the CEOs and LWDBs;

(i) New Mexico municipal league; and

(ii) New Mexico association of counties;

(d) in-person meetings or teleconferences with the state; and

(e) through legal public comment processes for workforce policies.

(3) In addition to WIOA law and the state's criteria for identification of planning regions, the following guidelines have been used to identify and designate planning regions for New Mexico:

(a) a single local area may be split across two planning regions;

(b) local areas must be contiguous in order to be a planning region;

(c) a local area may share part of one planning region (interstate planning); and

(d) alignment with statewide economic development regions.

(4) Planning regions shall be identified using the state criteria and the associated WIOA guidelines. Announcements of planning regions shall be included in correspondence and guidance documents issued by DWS and communicated to the local areas when regional and local planning is conducted.

(5) DWS may identify interstate planning regions if necessary. Announcements regarding interstate planning regions shall be communicated to the local areas when regional and local planning is conducted. If interstate planning regions have not been identified by DWS, New Mexico may still plan with other states for the purposes of that state's regional or local planning requirements.

(6) The identified regions are required to be included in local area planning. Local workforce development boards are required to coordinate and include regional plans into their local plan every four years; additionally, LWDBs will be required to address and include activities with planning regions who share common labor markets. Regional and local planning activities will include but are not limited to the following:

(a) the preparation of a regional plan;

(b) the establishment of regional service strategies, including use of cooperative service agreements;

(c) the development and implementation of sector strategies for in-demand industry sectors or occupations for the planning region;

(d) the collection and analysis of regional labor market data;

(e) the coordination of administrative cost arrangements, including the pooling of funds for administrative costs, as appropriate;

(f) the coordination of transportation and other supportive services as appropriate;

(g) the coordination of services with regional economic development service, partners and providers;

(h) development of strategies to serve common employers;

(i) coordination of rapid response and layoff aversion activities; and

(j) identification, development and coordination of training programs and providers to support job seekers and employers.

(7) The state workforce development board will review or modify the identification of single local areas and planning regions when local area designation is reviewed or modified, including local area subsequent designation, ongoing review of local area subsequent designation, and local area re-designation.

(8) DWS will assist the planning regions and local areas in obtaining the necessary labor market data, operational data elements, and any other data that will support the process of regional and local planning. DWS will also provide ongoing support to meet the purpose of the regional and local planning.

(9) Each planning region, including the individual local workforce development board, in partnership with CEO's, shall prepare, submit and obtain approval of a local plan that includes a description of the policies, procedures, and local activities that are carried out in the regional area that contains all the requirements outlined in 679.560 of Title 20 of the Federal Regulations.

C. Public comment:

(1) Public notice shall be issued for any contemplated actions concerning changes to proposed planning regions or workforce policies;

(2) notice shall be provided by email notification to the CEOs and LWDB directors and published in a newspaper of general circulation in the local affected area at least 30 days prior to any final action

(3) notice to interested parties shall include the method by which comments will be accepted and any applicable deadlines.

D. Technical Assistance:

(1) Ongoing support, guidance, training and technical assistance on development of local and regional planning is available to all local areas.

(2) Requests for technical assistance may be sent to DWS to the attention of the WIOA Department at PO Box 1928, Albuquerque, NM 87103.
[11.2.4.15 NMAC - N, 7/28/2020; A, 06/22/2021]

HISTORY OF 11.2.4 NMAC:

History of Repealed Material:

11.2.4 NMAC, Workforce Investment Act (WIA) Policy/Program Issuance and State Information Notice (SIN) System, filed 6/16/2000 - Repealed effective 7/1/2003.

11.2.4 NMAC, Workforce Investment Act (WIA) Program Policies and State Technical Assistance Guide (STAG) System, filed 6/13/2003 - Repealed effective 12/31/2005.

11.2.4 NMAC, Workforce Investment Act (WIA) Rulemaking Procedures, filed 12/15/2005 - Repealed effective 8/15/2012.

11.2.4 NMAC, Workforce Investment (WIA) Act Local Boards, filed 6/16/2000 - Repealed effective 8/15/2012.

11.2.4 NMAC, Workforce Investment Act Local Governance, filed 8/15/2012 - Repealed effective 7/1/2018.