

TITLE 11 LABOR AND WORKERS' COMPENSATION
CHAPTER 2 JOB TRAINING
PART 32 WORKFORCE INNOVATION AND OPPORTUNITY ACT LOCAL AREA
DESIGNATION PROCEDURE

11.2.32.1 ISSUING AGENCY: New Mexico Department of Workforce Solutions (DWS)
[11.2.32.1 NMAC - N, 10/29/2019]

11.2.32.2 SCOPE: State workforce development board (state board), New Mexico department of workforce solutions, 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.
[11.2.32.2 NMAC - N, 10/29/2019]

11.2.32.3 STATUTORY AUTHORITY: Title I of the Workforce Innovation and Opportunity Act, 29 USC Subchapter I of Chapter 32 (WIOA), and Section 50-14-1 et seq., 1978 NMSA.
[11.2.32.3 NMAC - N, 10/29/2019]

11.2.32.4 DURATION: Permanent.
[11.2.32.4 NMAC - N, 10/29/2019]

11.2.32.5 EFFECTIVE DATE: October 29, 2019, unless a later date is cited at the end of a section.
[11.2.32.5 NMAC - N, 10/29/2019]

11.2.32.6 OBJECTIVE: To establish the process by which the governor shall designate local workforce development areas within the state that are eligible to receive funding under Title 1 of WIOA, after consultation with local boards and chief elected officials and after consideration of comments received through the public comment process.
[11.2.32.6 NMAC - N, 10/29/2019]

11.2.32.7 DEFINITIONS: [RESERVED]

11.2.32.8 BACKGROUND:

A. Title 1 of the Workforce Innovation and Opportunity Act (WIOA) requires DWS to issue a policy to provide guidance regarding the process for designation of workforce development areas in New Mexico, along with the process for appealing designation decisions. WIOA mandates that the State Workforce Development Board must assist the governor in designation of workforce development areas, as required in WIOA Section 106, and requires an established appeals process.

B. The governor shall designate local workforce development areas within the state through consultation with the state board, after consultation with chief elected officials, and after consideration of comments received through the public comment process as described in WIOA, Section 102(b)(2)(E)(iii)(II). Considerations shall include:

- (1) the extent to which the areas are consistent with the labor market areas in the state;
- (2) the extent to which the areas are consistent with regional economic development areas in the state; and
- (3) the extent to which the areas have available 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.

[11.2.21.8 NMAC - N, 10/29/2019]

11.2.32.9 LOCAL AREA DESIGNATION PROCEDURE

A. At any time, CEOs from local areas, the state board, any unit of general local government, or the governor may propose or request a local area designation. A request is initiated by filing a written request to DWS, the state administrative entity (SAE) authorized by the governor to implement Title I of WIOA.

B. Requests for local workforce development area designations must be sent in writing to the department of workforce solutions at 401 Broadway NE, Albuquerque, NM 87102, to the attention of the cabinet secretary.

C. Requests must be received by the governor through DWS no later than October 1 of the year previous to the program year the designation would be in effect. A program year (PY) is from July 1 through June 30. (i.e.: PY 2018 is July 1, 2018 through June 30, 2019)

D. The full request for the designation as a local workforce development area must:

(1) Address the following questions:

(a) Is the proposed designation consistent with labor market areas in the state; and

(b) Is the proposed designation consistent with regional economic development areas in the state; and

(c) Are there available federal and non-federal resources, including appropriate education and training institutions, to effectively administer activities pursuant the youth, adult and dislocated worker programs under Title I of WIOA.

(2) Submit a service delivery plan that includes a description of resources available to the area to provide services and the ability to coordinate multiple resources;

(3) demonstrate local support for the designation by chief elected officials, including, but not limited to, county commissioners, mayors, city council, or other applicable boards;

(4) demonstrate local capacity to manage funds per federal and state guidelines, and the capacity to provide oversight of the programs;

(5) provide evidence that the proposed entity, in the two program years for which data is available prior to the request, met or exceeded the adjusted levels of performance, successfully met the state and federal fiscal requirement, and was not subject to the sanctions process per DWS and USDOL guidelines; and

(6) address how the proposed new area designation will impact other local workforce areas or regions. It should be understood by any county, city, or combination of such seeking the designation, that the new area will secure formula allocated funds for each WIOA funding stream (i.e.: adult, dislocated worker, and youth) based on the formula factors identified by USDOL.

E. If the requirements are met, the governor, through DWS, will forward the request to the state board for consideration. The state board must provide public notice pursuant to the New Mexico Open Meetings Act. The SWDB shall provide notice of the time, place and agenda for any meeting where designation will be discussed. The notice must be specific enough to permit citizens to recognize matters of interest.

F. If the state board determines that there is compelling evidence for designation, the state board will recommend the designation of the local area to the governor. The governor may approve the request and recognize the resulting configuration of the local area(s).

[11.2.32.9 NMAC - N, 10/29/2019]

11.2.32.10 APPEAL PROCEDURES: Any changes to existing local area designation by the state board may be appealed to the governor through DWS.

A. Appeals must be sent in writing to the department of workforce solutions, 401 Broadway NE, Albuquerque, NM 87102, to the cabinet secretary's attention.

B. The appeal must be filed within 14 calendar days after notification of the decision.

C. The appeal must contain a specific statement of the grounds upon which the appeal is sought.

D. The state board will have 60 days from the date the appeal is received to hold a public hearing to allow for comments and objections concerning the request

E. The state board will review the record, including public comments, and will submit a recommendation to the governor within 25 business days of the hearing. The final decision rests with the governor.

F. If the decision of the appeal changes the designation, the changes will become effective on July 1st of the following year.

G. If a decision on appeal is not rendered in a timely manner, or if the appeal does not result in designation, the entity may request review by the US Secretary of Labor, under the procedures set forth in 20 CFR 667.640(a).

[11.2.32.10 NMAC - N, 10/29/2019]

HISTORY OF 11.3.100 NMAC: [RESERVED]