
**Western Arkansas Workforce Development Area
Policies and Procedures**

TITLE	Dislocated Worker
NUMBER	P0004-21
TYPE	Policy – Programmatic
APPROVING AUTHORITY	Western Arkansas Workforce Development Board
EFFECTIVE DATE	3/16/2021
NEW/REPLACED	Replaces P#0013-18

The local Workforce Development Board has defined the policy as follows:

Dislocated workers are individuals who have lost jobs through no fault of their own. The goal of services to dislocated workers is to help them find appropriate jobs in in-demand industries [Introduction to Part 680 of WIOA Final Rule].

To be eligible for the Dislocated Worker program, an individual must be at least 18 years old [20 CFR 680.120], must meet all criteria in ADWS Policy No. WIOA I-B – 2.1 (Common Eligibility Requirements), and must meet the eligibility criteria in one of the categories given below [WIOA § 3(15 & 16)]. As with all WIOA Title I-B programs, priority for services is given to veterans (see ADWS Policy No. WIOA I-B – 2.2 Veterans Priority of Service) [20 CFR 680.650; 38 U.S.C. 4215; 20 CFR part 1010]. Priority should also be given to dislocated workers in targeted populations selected by the LWDB (see ADWS Policy No. WIOA I-B – 2.8 Priority for Individuals with Barriers to Employment) [TEGL 19-16].

Eligibility for the Dislocated Worker program does not make an individual eligible for all services available through the program. Certain eligibility requirements apply to some services, and the individual must demonstrate need for any services given. See ADWS Policy No. WIOA I-B – 3.1 (Services for Adults and Dislocated Workers) for eligibility requirements for specific services. Although there is no low-income priority of services for the Dislocated Worker program [20 CFR 680.610], income may be a consideration in determining needed services.

Provision of services is based on available funding to the local area and the needs of participants. Nothing in this policy implies that an individual who qualifies for the Dislocated Worker program is guaranteed receipt of all individualized career services and training services provided through the program.

Documentation of eligibility may vary by category and will be required to validate eligibility. Eligibility documentation may include documents listed in ADWS WIOA I-B 1.3 that establishes guidelines of documentation as it relates to a category that a participant is applying under this policy also refer to local policy P0002-20 for documentation that may apply.

CATEGORIES OF ELIGIBILITY FOR THE DISLOCATED WORKER PROGRAM:

A person is classified as a dislocated worker (DLW) for the purposes of WIOA Title I-B if the individual meets the criteria in one of the following categories [WIOA § 3(15 & 16); 20 CFR 680.130]:

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CATEGORY A – INDIVIDUAL LAY-OFF.

The applicant must meet all three of the numbered conditions [WIOA 3(15)(A)]:

- I. Has been terminated or laid off or has received a notice of termination or layoff, from employment.
- II. Meets one of the following conditions concerning unemployment compensation.
 - a. Is eligible for or has exhausted entitlement to unemployment compensation.
 - b. Has been employed long enough to demonstrate attachment to the workforce (that is, has received wages in at least one (1) quarter in the last year immediately prior to eligibility determination [ADWS Policy No. WIOA I-B – 1.2 Definitions]), but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer not covered under a state unemployment compensation law.
- III. Is unlikely to return to a previous industry or occupation (In compliance with TEGl 19-16, it is Arkansas state policy that local areas must define “unlikely to return to a previous industry or occupation”).

The local Workforce Development Board has defined “unlikely to return to work in a previous occupation”, as follows:

- I. Labor market information verifying the previous job was not a demand occupation.
- II. Applicant statement that he/she has been unemployed for eight consecutive weeks and has been unable to find work.
- III. Documentation that the applicant has been drawing U.I. benefits for eight consecutive weeks and has been unable to find employment.
- IV. Qualifications for occupation/industry changed and individual is no longer qualified.
- V. Finding employment in current occupation will require skills upgrading.
- VI. Excess number of workers with similar skill sets and experience seeking limited employment opportunities in the region.
- VII. Individuals cannot return to their previous industry or occupation because they have physical or other limitation, which would prevent reentry into the former industry or occupation, as documented by a physician or other applicable professions (e.g., psychiatrist, psychiatric social worker, chiropractor, etc.)

Special rules for service members: A separating service member qualifies as a dislocated worker under Category A if the separation is anything other than dishonorable, whether he or she receives or is eligible for Unemployment Compensation. A DD-214 from the Department of Defense or other appropriate documentation that shows a separation or imminent separation from the Armed Forces qualifies as the notice of termination or layoff to meet the dislocated worker definition. ETA policy dictates that a separating service member meets the Dislocated Worker requirement that an individual is unlikely to return to his or her previous industry or occupation. A separating service member may be provided career services while he or she is still part of the Active-Duty military if the service member has an imminent separation date and the discharge will be anything other than dishonorable [TEGL 19-16].

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CATEGORY B – BUSINESS CLOSURE OR SUBSTANTIAL LAYOFF.

The applicant must meet one of the following conditions [WIOA § 3(15)(B)]:

- I. Has been terminated or laid off or has received a notice of termination or layoff from employment because of any permanent closure of, or any substantial layoff at, a plant, facility, or enterprise.
- II. Is employed at a facility at which the employer has made a general announcement that such facility will close within 180 days.

Notes: An applicant who is employed at a facility at which the employer has made a general announcement that such facility will close, with no specific date or a date greater than 180 days in the future, may receive services other than training services described in WIOA § 134(c)(3), career services described in WIOA § 134(c)(2)(A)(xii), or supportive services. The person may qualify for these services when one of the above numbered conditions is met [WIOA § 3(15)(B)].

In compliance with TEGl 19-16, it is Arkansas state policy that local areas must define “general announcement of a plant closing”.

The company has made a public announcement that their facility is closing. Once the announcement is made the employees of the company meet the criteria as being eligible for dislocated worker services. The notice may be a newspaper clipping, notice to employee, notice from Governor Dislocated Workers Task Force. The client will list the employer on the work history of his WIOA application.

Arkansas state policy defines “substantial layoff” as 50 employees or 33% of the facility workforce, whichever is less, not including employees who have worked less than 6 months in the last 12 months and those who work an average of less than 20 hours a week.

CATEGORY C – SELF-EMPLOYED INDIVIDUALS.

An individual who was previously self-employed (including employment as a farmer, a rancher, or a fisherman) but is unemployed because of general economic conditions in the community in which the individual resides or because of natural disasters qualifies as a dislocated worker [WIOA § 3(15)(C)]. In compliance with TEGl 19-16, it is Arkansas state policy that local areas must define “unemployed because of general economic conditions in the community to which an individual resides or because of natural disasters.” Eligible dislocated workers may be those individuals who were self-employed (including farmers and ranchers) and became unemployed because of natural disaster. Natural disasters include, but are not limited to, such things as hurricanes, floods, tornados, storms, high water, flooding, earthquakes, landslides, snowstorms, drought, fires, or explosions or other catastrophic events.

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CATEGORY D – DISPLACED HOMEMAKER.

To qualify as a displaced homemaker, an individual must meet all three of the numbered conditions [WIOA § 3(15)(D); WIOA § 3(16); 20 CFR 680.630]:

- I. Has been providing unpaid services to family members in the home (See ADWS Policy No. WIOA I-B – 1.2 for definition of “family”).
- II. Meets one of the conditions of losing the income of another family member:
 - a. Has been dependent on the income of another family member but is no longer supported by that income (See ADWS Policy No. WIOA I-B – 1.2 for definition of “family”).
 - b. Is the dependent spouse of a member of the Armed Forces on active duty, and the family income is significantly reduced because of a deployment, a call or order to active duty, a permanent change of state, or the service-connected death or disability of the member (See 10 U.S.C. 101 & 991(b), 38 U.S.C. 101(16), and ADWS Policy No. WIOA I-B – 1.2 for definitions of these terms).
- III. Is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

CATEGORY E – SPOUSE OF AN ACTIVE-DUTY MEMBER OF THE ARMED FORCES

To qualify as a spouse of an active-duty member of the Armed Forces an individual meets one of the following conditions [WIOA § 3(15)(E); 20 CFR 680.630; TEGL 19-16]:

- I. Has lost employment as a direct result of a relocation due to a permanent change in the duty station of such member.
- II. Is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

LIMIT OF TIME BETWEEN DISLOCATION AND TIME A PERSON QUALIFIES FOR DLW PROGRAM:

The local workforce board has adopted the state position of no limits on the time between an individual’s separation from a job and the determination of eligibility for the Dislocated Worker program. To be eligible for Dislocated Worker services, the individual must have been unemployed and/or underemployed (as defined in the Employment Status Clarification section below) during the entire interval between the qualifying separation and the eligibility determination.

EMPLOYMENT STATUS CLARIFICATION:

An individual who meets one of the categories to be eligible for the Dislocated Worker program must be unemployed or underemployed at the time of application [TEGL 19-16]. The intent of this rule is to allow dislocated workers to take lower-paying employment in order to meet financial obligations while looking for appropriate employment. ETA encourages states to

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develop policies for determining the criteria for an individual to be considered “underemployed” [TEGL 19-16].

The Arkansas state policy for the definition of “underemployed” is someone who meets one of the criteria below:

- I. Employed less than full-time and seeking full-time employment (Arkansas state policy defines “less than full-time” as either working less than 30 hours per week or working part-time as defined by employer’s policies).
- II. Employed in a position that is inadequate with respect to his or her skills and training.
- III. Employed and meets the definition of a low-income individual.
- IV. Meets the definition of a dislocated worker and is currently employed, but whose earnings in the current job are less than the earnings in the job from which the individual was terminated.

The local Workforce Development Board has defined the policy as follows:

The individual accepts employment with an employer other than the one from which the individual was dislocated for the purpose of income maintenance while researching training programs and/or waiting on a training program to begin. If any of the following applies the individual is still DLW eligible:

- I. The individual accepts a position which a temporary agency, OR
- II. The individual gets one or more jobs which totals less wages than the laid off position, OR
- III. The individual is employed in a position that the income does not make them self-sufficient.

Approval Signature: 

Cathy Nesbit, Board Chair