

WORKFORCE INVESTMENT ACT
DISLOCATED WORKER ELIGIBILITY CRITERIA
and
TECHNICAL ASSISTANCE MANUAL
DECEMBER 2000

Prepared by the Colorado Department of Labor and Employment

**ELIGIBILITY CRITERIA FOR
WORKFORCE INVESTMENT ACT (WIA) TITLE I
DISLOCATED WORKERS**

The Workforce Investment Act (WIA) institutes the delivery of services through a One-Stop delivery system. WIA provides for employment and training services to persons through three funding streams under Title I. The three funding streams are: Adult, Dislocated Worker, and Youth. The dislocated worker's funding stream can only be utilized for services to those individuals who meet the eligibility definition of a dislocated worker.

In order to be considered a dislocated worker, **there must be a job of dislocation**. The only exception to this rule applies to a displaced homemaker who will be defined under specific eligibility criteria. The job of dislocation is the job that qualifies the individual to be designated as a dislocated worker. This determination is necessary for providing intensive and/or training services. Supporting documentation for the job of dislocation must be maintained and/or available for both internal and external monitoring.

I. GENERAL ELIGIBILITY CRITERIA These requirements are mandatory for all dislocated workers who are registered in Intensive or Training services:

- ✓ All registered participants must be citizens or nationals of the United States, lawfully admitted permanent residents, lawfully admitted refugees and parolees, or other individuals authorized by the Attorney General to work in the United States.
- ✓ All participants must be in compliance with Section 3 of the Military Selective Service Act (Section 504). Veterans may obtain a "Selective Service Waiver" document in lieu of providing proof of selective service registration.

II. SPECIFIC ELIGIBILITY CRITERIA Under the WIA Sec. 101. Definitions (9) and (10) are the following criteria for a dislocated worker:

DISLOCATED WORKER – The term "dislocated worker" means an individual who:

(A)(i) has been terminated or laid off, or who has received a notice of termination or layoff, from employment;

(ii) (I) is eligible for or has exhausted entitlement to unemployment compensation; **or**

II) has been employed for a duration sufficient to demonstrate, to the appropriate entity at a workforce center referred to in section 134 (c), attachment to the workforce, but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer that were not covered under a State unemployment compensation law; **and**

(iii) is unlikely to return to a previous industry or occupation;

(B) (i) has been terminated or laid off, or has received a notice of termination or layoff, from employment as a result of 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; **or**

(iii) for purposes of eligibility to receive services other than training services described in section 134(d)(4), intensive services described in section 134(d)(3), or supportive services, is employed at a facility at which the employer has made a general announcement that such facility will close;

(C) was self-employed (including employment as a farmer, a rancher, or fisherman) but **is unemployed** as a result of general economic conditions in the community in which the individual resides or because of natural disasters; **or**

(D) is a displaced homemaker.

DISPLACED HOMEMAKER means an individual who has been providing unpaid services to family members in the home and who:

(A) has been dependent on the income of another family member but is no longer supported by the income; **and**

(B) is unemployed or underemployed is experiencing difficulty in obtaining or upgrading employment.

III. OTHER DEFINITIONS

Forced Retirement - Individuals who accept early or “forced “ retirement as part of a reduction in a work force may be considered to have been terminated or laid off, or received notice of termination or layoff, as appropriate.

Incumbent Workers – are individuals who are working; **however**, not all incumbent workers are also eligible for services to “employed workers” as described in WIA section 134(d)(3)(A)(ii). **Training for incumbent workers is specifically authorized only as a Statewide Workforce Investment Activity under WIA section 134(a)(3)(A)(iv)(I) and §665.210(d).**

North American Free Trade Act (NAFTA) related Secondary firms - is a worker in a firm that is indirectly affected by the NAFTA. These firms would include suppliers of the firms that are directly affected by imports from Mexico or Canada. Secondary firms also include "upstream" producers, such as direct processors, that assemble or finish products made by directly-affected NAFTA firms. Family farmers

and farm workers who are adversely affected by the NAFTA but do not meet the "group of workers" requirement under NAFTA's primary component, would be eligible under this component. Workers who are not eligible under the first component and who may not be eligible for UI are eligible for dislocated services under this secondary component.

Public Announcement – the process by which a plant, facility, or enterprise makes the general public aware of its permanent closure. The announcement must include a projected closure date and be verifiable.

Rapid Response – an activity provided by the State or by an entity designated by the State, in the case of a permanent closure or mass layoff at a plant, facility, or enterprise, or a natural or other disaster, that results in mass job dislocation, in order to assist dislocated workers in obtaining reemployment as soon as possible. (See the Rapid Response Guidelines PGL.)

Self-sufficiency - The WIA regulations provide maximum flexibility, requiring only that self-sufficiency mean employment that pays at least the lower living standard income level. State Boards or Local Boards are empowered to set the criteria for determining whether employment leads to self-sufficiency. For a dislocated worker, self-sufficiency should be defined in a relation to a percentage of the lay-off wage.

UI Profiled – a dislocated worker selected through the UI Profiling system is considered automatically eligible.

WARN Notice – Legislation that went into effect on February 4, 1989 to protect workers, their families and communities by requiring employers to provide notice 60 days in advance of covered plant closings and covered mass layoffs. This notice must be provided to either affected workers or their representatives (e.g. a labor union); to the State Dislocated Worker Unit; and to the appropriate official of local government. If more information is needed on the WARN notice, it can be accessed on the Internet at <http://employsvcs.cdle.state.co.us/Layoffassistance.htm>

IV . Considerations for Eligibility Determination

A. *Unlikely to Return to a previous industry or occupation*

For the purpose of determining dislocated worker eligibility under the Layoff/Unlikely to Return category, reasoning for "unlikely to return to work" may include, but not be limited to, the following:

- Skill Oversupply - State or local supply of persons with the specific skills of the applicant exceeds **current** demand for those skills; or

- Obsolete Skills - Applicants can no longer meet the minimum requirements of jobs available in their occupation (e.g. clerical worker without word processing skills, carpenter without updated safety training, etc.);
 - Only Stop-Gap Available - Jobs available to applicant would be temporary or substantially below applicant's accustomed skill, hour, or wage level (see stop-gap); or
 - Local Layoff Impact - A local plant or business closing or layoff has had a significant negative impact on the availability of jobs in the applicant's primary occupation and accustomed wage/hour/skill level; or
 - No Job Offers Received - Applicant has been available and looking for work for a number of weeks, and has not received an offer of work; "number of weeks" might range from 6 to 12 weeks, depending upon the occupation, economy, and/or applicant's verified job search efforts; or
- Physical Limitations or Disabilities - Newly-acquired physical limitations or injuries occurring away from the job may make an individual unlikely to return to the previous occupation; such individuals are dislocated workers if they meet the dislocated worker definition and fit one of the categories.
- Other Factors - Factors that can be recorded in the participant's file from written or verbal sources, including counselor judgment.

If the applicant is enrolled, the reasons used to support "unlikely to return" should be documented in the participant's file as part of eligibility determination.

**DISLOCATED WORKER
TECHNICAL ASSISTANCE GUIDE
DECEMBER 2000**

DISLOCATED WORKER TECHNICAL ASSISTANCE GUIDE

The purpose of this technical assistance guide is to suggest a process for determining dislocated worker eligibility and to offer clarification on the appropriate documentation for eligibility categories.

A. Suggested Steps to Determine Eligibility

1. Have the applicant complete a work history.

The work history should contain at least the following information: employer, dates of employment, job title, wage and hours, description of duties and reason for leaving. This information is all relevant to the identification of the job of dislocation.

2. Identify the job of dislocation.

The job from the work history that qualifies the applicant under one of the eligibility categories must be identified. Only one job may be selected. If more than one job qualifies as a job of dislocation, the most appropriate one should be selected. This job should be marked on the work history or the eligibility checklist as a reminder that the documentation of eligibility must be for this job.

3. Select the category of eligibility.

The one eligibility category that best describes how and why the job of dislocation ended should be selected. This category should be obvious from the reason for leaving on the work history. Only one category of eligibility may be selected.

4. Document the job and category of eligibility.

In order to document in the client file that an applicant is a dislocated worker, it must be shown that the person actually held the job of dislocation, and that this job ended in a manner that fits into one of the eligibility categories.

B. Documentation of Eligibility

As described above, both the job of dislocation and the eligibility category must be documented. The ideal documentation of dislocated worker status is a notice of layoff or termination, as this covers both requirements. However, a notice of layoff is not always received.

The client may have other documentation that would easily prove dislocation if the right questions are asked. For example, a letter of recommendation sometimes states that a person was a good employee and was let go only because of economic cutbacks. Also, a notice from UI that a claim has been approved against the employer proves both job and layoff status. In some cases, a public notice of closure may have been issued.

As a last resort, the counselor or intake worker can make phone calls and record the information learned in the client file with a signature and date. Wagner-Peyser staff, for example, can be called upon to assist in determining that the client is unlikely to return due to conditions in the local job market; LMI data, including occupational Supply & Demand outlook, produced by the Colorado Department of Labor and Employment is most often used. Remember that information from a third party source received by telephone is not valid unless it is in writing accompanied by the signature of the staff person receiving the information and the date.

1. Layoff/UI/Unlikely to Return

Document all three conditions. A UI printout can be obtained to document a UI covered position. Unlikely to return must be addressed in this category either with occupational outlook data, verification by Wagner-Peyser staff utilizing LMI data, or a description of the conditions that exist preventing this client from returning to the job or occupation of dislocation. (See "Unlikely to Return" in the Special Circumstances section of the Eligibility Manual.)

2. Plant Closure/Substantial Layoff

Document that the client worked at the facility and was the victim of a closure or substantial layoff. If a notice of layoff or termination was not received, use a paycheck stub, W-2, or UI record to document that the client worked there and a newspaper article, public notice or personal knowledge that the facility shut down. However, in the case of a mass layoff, you must show that the client was one of the employees laid off.

3. Self-employed - Out of Business

Document that the client was in business, or meets the definition of farmer/rancher, fisherman, etc. and that the client has lost the business (or farm/ranch). This category cannot be used for entrepreneurs in the process of starting a business. Tax returns are often the best documentation for verifying both the business and the lack of profit. Prepared financial statements and notices of default from the bank can also be useful. Bankruptcy procedure papers and statements from lending institutions would also serve as documentation.

Be careful to show that this business was or is the main source of income for this individual. A person with a full time job who is running a business on the side as a hobby is not a dislocated worker unless he becomes dislocated from his full time job.

WIA TITLE I - DISLOCATED WORKERS

ELIGIBILITY DOCUMENTATION LOG

ELIGIBILITY CRITERIA	DOCUMENTATION SOURCE
1. U.S. Citizen/Eligible Non-Citizen Birth Date/Age	<input type="checkbox"/> Local Governments <input type="checkbox"/> Bureau of Vital Statistics <input type="checkbox"/> INS Documentation <input type="checkbox"/> Passport <input type="checkbox"/> Hospital Birth Record <input type="checkbox"/> Birth Certificate <input type="checkbox"/> Foreign Service Documentation <input type="checkbox"/> Social Security Letter with printout <input type="checkbox"/> School Records <input type="checkbox"/> Armed Forces Records <input type="checkbox"/> Church Records <input type="checkbox"/> Phone Verification
2. Selective Service Registration	<input type="checkbox"/> Selective Service Letter/Card <input type="checkbox"/> Phone Verification <input type="checkbox"/> Selective Service Waiver Document <input type="checkbox"/> Selective Service Application Completion
3. Evidence of Dislocation (one of the following categories A thru G)	
A. Terminated/Laid Off Eligible/Exhausted UI Unlikely to Return to Previous Industry/Occupation	<input type="checkbox"/> Letter from Employer <input type="checkbox"/> UI monetary determination <input type="checkbox"/> UI confirmation of employer coverage <input type="checkbox"/> LMI documents <input type="checkbox"/> Local labor market information <input type="checkbox"/> No job offers
B. Plant Closure Or Substantial Layoff	<input type="checkbox"/> Letter from employer <input type="checkbox"/> Copy of Public Announcement <input type="checkbox"/> Newspaper clipping with employment verification <input type="checkbox"/> WARN notice <input type="checkbox"/> Notice from Dept. of Defense, etc.

C. Formerly Self-Employed

- Business license/permit
- IRS documentation
- UI verification
- Foreclosure notice
- Bankruptcy documentation
- Lending institution documentation
- Financial statements from accountant

F. Permanently Dislocated because
of Natural Disaster

- Federal/State declaration of disaster