



Policy Name: Adult, Dislocated Worker, Youth Eligibility & Priority of Service Policy

Policy: 54

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PURPOSE

To provide guidance on eligibility for applicants interested in receiving Youth, Adult or Dislocated Worker career or training services under the Workforce Innovation and Opportunity Act of 2014, Public Law No. 113-128(WIOA).

POLICY

Note: The Area's Eligibility Verification Method for Adults, Dislocated Workers and Youth is 100% verification prior to Enrollment. Applicants' Self-Attestations will be accepted to document eligibility when allowed by the State and Federal Regulations.

YOUTH

I. OUT-OF-SCHOOL YOUTH – WIOA § 3 (46) and 129 (a) (1) (B)

The term "out-of-school youth" means an individual who is:

- A. Not attending any school (as defined under state law as a public, private, or home study program that meets requirements under O.C.G.A. § 20-2-690); However, for purposes of, USDOL does not consider providers of Adult Education under title II of, YouthBuild programs, and Job Corps programs to be schools. Therefore, youth programs may consider a youth to be out-of-school youth for purposes of youth program eligibility if he/she is attending Adult Education provided under title II of, YouthBuild, or Job Corps. It is the policy of OWD that student attendance at a post-secondary institution qualifies as "attending school" and does not apply to this section.
- B. Not younger than age 16 or older than age 24 at the time of enrollment and one or more of the following:
 - i. A school dropout;
 - ii. A youth who is within the age of compulsory school attendance, but has not attended school for at least the most recent complete quarter or semester. The definition of a quarter or semester is based on how a local school district defines the terms;

- iii. A recipient of a secondary school diploma or its recognized equivalent who is a low-income individual and is either basic skills deficient or an English language learner;
- iv. An individual who is subject to the juvenile or adult justice system;
- v. A homeless individual (as defined in § 41403 (6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043 e-2 (6)), a homeless child or youth (as defined in section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434 a (2)), a runaway, in foster care or has aged out of the foster care system, a child eligible for assistance under section 477 of the Social Security Act (42 U.S.C. 677), or in an out-of-home placement;
- vi. An individual who is pregnant or parenting;
- vii. A youth who is an individual with a disability;
- viii. A low income individual who requires additional assistance to enter or complete an educational program or to secure or hold employment. The term "requires additional assistance" is defined by local policy.

II. IN-SCHOOL YOUTH – WIOA § 3 (27) and 129 (a) (1) (C)

The term "in-school youth" means an individual who is:

- A. Attending school (Georgia compulsory education laws require children between the ages of six and 16 to attend school);
- B. Not younger than age 14 or (unless an individual with a disability who is attending school under state law) older than age 21 at the time of enrollment;
- C. A low-income individual who meets one or more of the following criteria:
 - i. An individual who is basic skills deficient. The term "basic skills deficient" means a youth that:
 - a. has English reading, writing, or computing skills at or below the 8th grade level on a generally accepted standardized test; or
 - b. is unable to compute or solve problems, read, write, or speak English at a level necessary to function on the job, in the individual's family, or in society (WIOA § 3 (5))
 - ii. An English language learner;
 - iii. An offender;
 - iv. A homeless individual (as defined in section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043 e-2 (6)), a homeless child or youth (as defined in section 725 (2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)); a runaway, in foster care or who has aged out of the foster care system, a child eligible for assistance under section 477 of the Social Security Act (42 U.S.C. 677), or in an out-of-home placement;

- v. An individual who is pregnant or parenting;
- vi. An individual with a disability;
- vii. An individual who requires additional assistance to complete an educational program or to secure or hold employment. The term "requires additional assistance" is defined by local policy.

III. LOW INCOME ELIGIBILITY REQUIREMENT

All ISY and some OSY must be low income to meet eligibility criteria except those that fall under the low income exception.

- A.** A low income individual, as applicable, is an individual who:
 - i. Receives, or in the past 6 months received, or is a member of a family that is receiving or in the past 6 months has received assistance through the Supplemental Nutrition Assistance Program (SNAP), or the supplemental security income program established under Title XVI of the Social Security Act, or state or local income based public assistance;
 - ii. Is a family with a total income that does not exceed the higher of (a) the poverty line, or (b) 70 percent of the lower living standard income level;
 - iii. A homeless individual (as defined in section 41403(6) of the Violence Against Women act of 1994 (42 U.S.C. 1403 e-2 (6)), or a homeless child or youth (as defined under section 725 (2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434 a (2)));
 - iv. Receives or is eligible to receive a free or reduced price lunch under the Richard B. Russell National School Lunch Act (41 U.S.C 171 et seq.);
 - v. A foster child on behalf of whom state or local government payments are made; or
 - vi. Is an individual with a disability whose own income meets the requirements of (2).
- B.** Special Rule § 129 (a) (2) – The term low income also includes a youth living in a high poverty area. A high-poverty area is a Census tract, a set of contiguous Census tracts, Indian Reservation, tribal land, or Native Alaskan Village, or county that has a poverty rate of at least 25 percent as set every 5 years using American Community Survey 5-Year data.

IV. EXCEPTION AND LIMITATION

- A.** Exception for persons who are not low income: not more than 5% of all youth participants may be persons who are not low income, but who otherwise meet the definition of covered individuals. WIOA § 129 (a) (3) (A) (i) defines a covered individual as any ISY or an OSY who meets all other eligibility requirements and who meets the following conditions:

- i. Recipient of a secondary school diploma or its recognized equivalent who is basic skills deficient or an English language learner, and
- ii. An individual who requires additional assistance to enter or complete an educational program or to secure or hold employment.

Individuals who are not low income must provide documentation (no self-attestation) to prove they are covered individuals.

- B. Limitation: WIOA § 129 (a)(3) further defines that not more than 5% of the in-school youth may be eligible based on the criteria for requiring additional assistance to complete an educational program or to secure or hold employment.
- C. The above exception/limitation percentages are calculated on a yearly basis.

ADULT & DISLOCATED WORKER SERVICES

SERVICE PRIORITY FOR INDIVIDUALIZED SERVICES AND TRAINING SERVICES

Priority of service is not an eligibility criterion. Priority of service is a means to ensure emphasis on providing services to these populations (WIOA Commentary 6. Subpart E). Priority of service applies regardless of the amount of funds available in a local area. Individualized career services and training services must be given on a priority basis, regardless of funding levels, to:

- A. Public assistance recipients and other low-income adults; and
- B. Individuals who are basic skills deficient.

Veterans under WIOA § 3 (63) (A) receive priority of service as described in the Jobs for Veterans Act (38 U.S.C. 4215 (2)). Veterans and eligible spouses of veterans who otherwise meet the eligibility requirements for adult programs must receive the highest priority for services. TEGl 19-16 references TEGl 10-09 regarding order of priority for veterans and eligible spouses. TEGls 05-03 and 10-09 implemented veterans priority of service requirements. Priority must be provided in the following order:

- First, to veterans and eligible spouses who are also recipients of public assistance, are low income individuals, or who are basic skills deficient. Military earnings are not to be included as income for veterans and transitioning service members.
- Second, individuals who are not veterans or eligible spouses who meet WIOA priority criteria.
- Third, to veterans and eligible spouses who are not included in WIOA's priority groups.
- Last, to individuals outside the groups given priority under WIOA.

LOW INCOME INDIVIDUALS

An individual who meets any one of the following criteria, as applicable, satisfies the low-income requirement for WIOA adult services:

- A. Receives, or in the past six months has received, or is a member of a family that is receiving, or in the past six months has received, assistance through SNAP, TANF, or the Supplemental Security Income (SSI) program, or state or local income-based public assistance;
- B. Is a member of a family with a total family income that does not exceed the higher of – (I) the HHS poverty line; or 70 percent of the United States Department of Labor (USDOL) Lower Living Standard Income Level (LLSIL)cent Lower Living Standard Income Level;
- C. Is a homeless individual, as defined in § 41403 (6) of the Violence Against Women Act of 1994, or a homeless child or youth as defined in § 725 (2) of the McKinney-Vento Homeless Assistance Act;
- D. Receives or is eligible to receive a free or reduced-price lunch under the NSLA
- E. Is a foster youth, on behalf of whom state or local government payments are made; or
- F. Is an individual with a disability whose own income meets income requirements, even if the individual's family income does not meet the income requirements of the income eligibility criteria for payments under any federal, state, or local public assistance program.

BASIC SKILLS DEFICIENT

An individual who is unable to compute or solve problems, read, write, or speak English at a level necessary to function on the job, in the individual's family, or in society satisfies the basic skills deficient requirement for WIOA adult services. In assessing basic skills, assessment instruments that are valid and appropriate for the target population must be used and reasonable accommodation must be provided in the assessment process, if necessary, for individuals with disabilities.

TRANSITIONING MILITARY SERVICE MEMBERS

Still-active, transitioning military service members may qualify for Dislocated Worker services. While these individuals may be eligible to receive WIOA Dislocated Worker services and funds, they would not be considered 'veterans' for the purposes of DOL reporting or be eligible for Priority of Service.

For the purposes of serving still-active transitioning service members under the "notice of termination or layoff" eligibility criterion, documentation must align with the DOL



Data Element Validation (DEV) requirement for “Date of Actual Qualifying Dislocation.” Military Personnel are eligible to begin receiving Dislocated Worker Program services upon receipt of discharge orders (Effective Termination of Service “ETS” Orders or DD-2648-ACAP Transition Checklist).

Length of service to qualify an individual for such discharges or separations under WIOA guidance may be as few as one day of service. Qualified individuals can receive services up to 18 months prior to retirement or 12 months before normal separation. If a transitioning service member successfully reenlists into active military duty, then that service member is no longer eligible for services.

ADULT ELIGIBILITY

A. To be eligible to receive services in the adult program, an individual must:

1. Be 18 years of age or older; and
2. Be a citizen or noncitizen authorized to work in the United States; and
3. Meet Military Selective Service registration requirements (males who are 18 or older and born on or after January 1, 1960, unless an exception is justified).

B. Additional Requirements for Adults

1. Adults must be either unemployed or underemployed
2. Adults must have a prior six month personal or family income that is at or below 200% of the LLSIL (Reference local Lacks Self Sufficiency Policy).
3. Individuals who are underemployed include persons who are employed less than full-time and are seeking full-time employment; are employed in a position not commensurate with the individual’s demonstrated level of educational attainment and skills; are working full time and meets the LWDB definition of “lacks self- sufficiency” (Reference local Self Sufficiency Policy); or are employed, but whose current job earnings are not sufficient compared to their previous earnings.

DISLOCATED WORKER ELIGIBILITY*

A. To be eligible to receive services in the dislocated worker programs, an individual must:

1. Be a citizen or noncitizen authorized to work in the United States; and
2. Meet Military Selective Service registration requirements (males who are 18 or older and born on or after January 1, 1960, unless an exception is justified).

B. Additional Eligibility Requirements for Dislocated Workers

A dislocated worker is defined as an individual who meets one of the following categories:

Category I - Has been terminated or laid off through no fault of their own or who has received a notice of no-fault termination or layoff from employment **and** is eligible for or has exhausted entitlement to unemployment compensation **and** is unlikely to return to a previous industry or occupation;

Category II - Has been terminated or laid off through no fault of their own, or who has received a notice of no-fault termination or layoff from employment **and** has been employed for a duration sufficient to demonstrate, to the appropriate entity at a One-Stop center, attachment to the workforce, but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer that was not covered under a state's unemployment compensation law **and** is unlikely to return to a previous industry or occupation.

Category III - Has been terminated or laid off through no fault of their own, or has received a notice of no-fault termination or layoff, from employment as a result of any permanent closure of, or **any substantial layoff** at, a plant, facility, or enterprise;

Category IV - Is employed at a facility at which the employer has made a **general announcement** that such facility will close within 180 days; or for purposes of eligibility to receive services other than training services, career services or support services, is employed at a facility at which the employer has made a **general announcement** that such facility will close;

Category V - Was self-employed (including employment as a farmer, a rancher, or a fisherman) but is unemployed as a result of **general economic conditions in the community** in which the individual resides or because of natural disasters. This includes individuals working as independent contractors or consultants but not technically employees of a firm.

Category VI - Is a displaced homemaker, as defined in WIOA § 3 (16). A displaced homemaker is an individual who has been providing unpaid services to family members in the home and who:

- (a) Is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment; **and**
- (b) Has been dependent on the income of another family member but is no longer supported by that income; or
- (c) Is the dependent spouse of a member of the Armed Forces on active duty and whose family income is significantly reduced because of a deployment, a call or order to active duty, a permanent change of station, or the service-connected death or disability of the member.

Category VII - The individual is the spouse of a member of the Armed Forces on active duty (as defined in section 101(d) (1) of title 10, United States Code, who:

- (a) has experienced a loss of employment as a direct result of relocation to accommodate a permanent change in duty station of such member; or

Category VIII - The individual is the spouse of a member of the Armed Forces on active duty (as defined in section 101(d) (1) of title 10, United States Code, who:

- (b) is unemployed or underemployed and experiencing difficulty obtaining or upgrading employment.

Category XIII (State-Defined Dislocated Worker Eligibility) – The individual is underemployed, which is defined as:

- (a) A person who was laid off from a previous employer, but has found employment earning wages that are 85% or less of the salary that was paid at the employer of dislocation; and/or
- (b) A person who is in employment that uses significantly less skills or abilities than the job of dislocation and is not commensurate with the individual's demonstrated level of educational attainment.

**Note: An individual who may have been separated for cause, filed an appeal to unemployment insurance (UI) and was determined to be 'no-fault' and eligible for UI (based on that employer's contributions) may be eligible as a dislocated worker*

SEPARATING SERVICE MEMBERS

If an individual is a separating service member from the Armed Services with a discharge other than dishonorable, the separating service member qualifies for dislocated worker activities based on the following criteria:

- a. The separating service member has received a notice of separation (DD214) from the Department of Defense or other documentation showing a separation or imminent separation from the Armed Forces to satisfy the termination or layoff eligibility criteria (These documents must meet the requirement that the individual has received a notice of no-fault termination or layoff, to meet the required dislocated worker definition);
- b. The separating service member is eligible for or has exhausted of unemployment compensation for Ex-service members (UCX); and
- c. As a separating service member, the individual meets the eligibility criteria that the individual is unlikely to return to a previous industry or occupation in the military. (TEGL 19-16).

In order to be consistent in the determination of customers as a specific **Category of Dislocation**, the State and LWDB 17 have defined some criteria for dislocated workers:

DISLOCATED WORKER DEFINITION CRITERIA

1) Demonstrating sufficient attachment to the workforce:

- a) An individual who is not eligible for unemployment compensation but was employed for at least 3 consecutive months during the past 12 months of the most recent layoff.
- b) A seasonal worker who had been employed 30 out of the last 52 weeks of the most recent layoff.

2) Unlikely to return criterion:

- a) An individual who has worked in a declining industry/occupation as documented on state and locally developed labor market information such as Georgia Labor Market Explorer, Burning Glass or EMSI (local high demand as well as declining occupation lists must be developed by an appropriate entity such as the local workforce board, local Chamber of Commerce, economic development agency, a qualified consultant/educational entity, or other valid public use quality source of labor market information);

- b) A plant closure or substantial layoff (within the labor market area in the same industry or occupation) has occurred in the last six months;
- c) An individual that has been actively seeking but unable to find employment in their previous industry or occupation for a period of ninety (90) days or more;
- d) An individual was “separated” from active military duty under conditions other than dishonorable;
- e) A spouse of active military personnel who must leave their job in order to follow their spouse to their new permanent station and meets the definition of “unlikely to return” to previous industry/occupation;
- f) An individual who worked in an industry or occupation for which there are limited job orders in Employ Georgia at the time of eligibility determination as documented by the Local Workforce Development Area (LWDA);
- g) An individual who is not sufficiently educated and/or does not have the necessary skills for reentry into the former industry or occupation, as documented through an assessment of the individual’s educational achievement levels (Since a WIOA fund assessment cannot be conducted until after WIOA eligibility, a self-assessment or prior assessment of skills by another qualified entity may be used);
- h) An individual has had a lack of job offers as documented by the LWDA, rejection letters from employers in the area or other documentation of unsuccessful efforts to obtain employment in the prior industry or occupation;
- i) An individual cannot return to their previous industry or occupation because of physical or other limitations which would prevent reentry into the former industry or occupation, as documented by a physician or other applicable professional (e.g. psychiatrist, psychiatric social worker, chiropractor, etc.)

Note: Individuals laid off on a temporary basis with a specific return date and/or determined by UI to be attached to an employer (leave of absence, etc.) do not meet the criteria of unlikely to return to work in a previous industry or occupation

3) Substantial Layoff criterion:

- a) Any reduction in workforce which is not the result of a plant, facility, or enterprise closure which results in an employment loss at a single site of

employment during any 30-day period that represents at least one of the following:

- i. The closure of an entire department
- ii. The elimination of an entire class or occupation(s)
- iii. Cessation of production on a product or manufacturing line
- iv. The termination of at least 25% of all employees who worked 20 or more hours per week
- v. The termination of at least 50 employees who comprised at least one third of layoff employer's workforce

4) General announcement of plant closing:

- a) A federal and/or state WARN Notice
- b) A published or electronically generated report, publication or article generated from Georgia Department of Labor or State or local LMI monthly or quarterly report

5) Unemployed as a result of general economic conditions in the community in which the individual resides:

- a) The local unemployment rate reaches 2 percentage points higher than national unemployment rate
- b) A dominant local industry experiences a downsizing of 500 or more employees

6) Unemployed as a result of a natural disaster:

- a) An individual who lost employment as a result of a natural disaster as declared by Federal Emergency Management Agency (FEMA) or the Governor of the State of Georgia.

7) Displaced homemaker experiencing difficulty in obtaining or upgrading employment:

- a) An individual who has been providing unpaid services to family members in the home, and
 - i. who has been dependent on the income of another family member but is no longer supported by that family member's income, and

- ii. is unemployed or underemployed and experiencing difficulty in obtaining or upgrading employment.

ELIGIBILITY FOR TRAINING SERVICES

Under 20 CFR § 680.210 training services may be made available to employed and unemployed adults who:

- A. Are determined (by the one-stop operator) after an interview, evaluation, or assessment and career planning to be:
 - 1. Unlikely or unable to obtain or retain employment that leads to economic self-sufficiency or wages comparable to or higher than wages from previous employment through career services,
 - 2. In need of training services to obtain or retain employment leading to economic self-sufficiency or wages comparable to or higher than wages from previous employment, and
 - 3. Have the skills and qualifications to participate successfully in training services;
- B. Have selected a program of training services that is directly linked to employment opportunities (ref: local Demand Occupation List) in the planning region or in another area to which the individual is willing to commute or re-locate; and
- C. Are unable to obtain grant assistance from other sources to pay the costs of training, including HOPE, Pell, and TAA, or require WIOA assistance in addition to the other sources of grant assistance.