

Eastern Area Workforce Development Board Workforce Innovation and Opportunity Act

POLICY 01-20 ADULT/DISLOCATED WORKER ELIGIBILITY

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PURPOSE

To provide guidance to the subrecipient on the procedures to determine participant eligibility for Adult and Dislocated Workers under WIOA Title 1, Adult and Dislocated Worker training programs.

REFERENCE(S)

[Workforce Innovation and Opportunity Act of 2014](#), Section 1 134.

Workforce Innovation and Opportunity Final Rule August 19, 2016, 20 CFR 680.120, 680.130, and 680.210-220.

USDOL TEGLs 19-01 Change 1, 19-16

USDOL TEGL 23-19

USDOL TEGL 07-20

NMDWS Workforce Guidance Letter: DWS 20-001

BACKGROUND

Local boards are required to establish and formally approve a local policy for making eligibility determinations for the WIOA Adult/Dislocated Worker funding stream. Local board policy must also include guidance on the use of self-attestation as a last resort when other documentation cannot be found or accessed.

Eligibility determination must be made prior to enrollment in WIOA and must include an initial determination of need for services to ensure that employment and training opportunities are being provided to those who can benefit from and are in need of such opportunities to obtain or retain employment. WIOA is not an entitlement program and eligibility alone does not entitle an individual to receive services.

In addition, eligibility criteria vary according to each type of career or training service, in accordance with sections 20 CFR 680.120, 680.130, and 680.210-220.

1. To be eligible to receive career services as an adult in the adult and dislocated worker programs, an individual must be 18 years of age or older and meet the criteria of section 680.120.
2. To be eligible for any dislocated worker program services, an eligible adult must meet the criteria of section 20 CFR 680.130.
3. Eligibility criteria for training services are found at sections 20 CFR 680.210 and 680.220.

WIOA ADULT ELIGIBILITY CRITERIA

Documentation verifying the eligibility of participants in WIOA is mandatory. Eligibility determination must be made prior to enrollment in WIOA and must include an initial determination of need for services to ensure that employment and training opportunities are being provided to those who can benefit from and need such opportunities to obtain or retain employment. WIOA is not an entitlement program and eligibility alone does not entitle an individual to receive services.

WIOA emphasizes providing services to individuals with barriers to employment as defined in WIOA sec. 3(24), including some of the same populations that are to receive priority in the WIOA Adult program. Recipients of public assistance, individuals who are basic skills deficient, or those identified as being low-income represent some of the workforce system's most in need participants, and are the three priority groups that WIOA specifically mandates are entitled to receive priority of service (in addition to veterans and eligible spouses) for individualized career or training services under the WIOA Adult program.

At least 75 percent of WIOA participants receiving individualized career and training services in the Adult program must be from at least one of the following:

- Recipients of public assistance,
- Individuals who are basic skills deficient,
- Those who identified as being low-income

Each of the following eligibility elements must be documented for each participant **prior to the receipt of WIOA Title I services**. Required documentation must be obtained for each eligibility data element as outlined in the comprehensive checklist of allowable forms of eligibility documentation contained in the included attachment. Scanned documents stored must be stored in the electronic document management systems and must be legible.

- A. **Right to Work**— Participation shall be open to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General to work in the United States as required in WIOA section 188 (a)(5). **(Exception:** Per TEGL 19-01, Change 1, Victims of Trafficking and Violence Protection Act of 2000; Trafficking Victims Protection Reauthorization Acts of 2003 and 2005; and the Role of the Workforce Investment System in the Delivery of Services for Victims of Trafficking, operators may not deny WIOA-funded services to victims of severe forms of human trafficking based on their immigration status. See TEGL 19-01, Change 1 for further information.)

*Deferred Action for Childhood Arrivals (DACA) participants may not possess a lawful presence document, and also may have been issued a driver's license or ID not valid for public benefits. USDOL **TEGL 02-14 requires that we serve these individuals even though they will not be able to demonstrate lawful presence. As a result, an Affidavit of Immigration is not required for eligibility.***

Note: WIOA can pay for a picture ID or DL as a supportive service if the client is enrolled in the program. (Additional types of documentation that can be used to demonstrate citizenship are listed in the attached Documentation Checklist and must be maintained in the file until an ID or DL is obtained). A picture ID or DL must be obtained and uploaded to the electronic record within 30 days of the enrollment date. The subsequent document that was used to determine right to work and age must be deleted from the participants electronic file when the ID/DL is uploaded.

- B. **Selective Service/Military Status** – All participants must be in compliance with the Selective Service Act requirements as required by WIOA section 189(h).
- C. **Age** at application must be 18 or older.

*Deferred Action for Childhood Arrivals (DACA) participants may not possess a lawful presence document, and also may have been issued a driver's license or ID not valid for public benefits. USDOL **TEGL 02-14** requires that we serve these individuals even though they will not be able to demonstrate lawful presence. As a result, an Affidavit of Immigration is not required for eligibility.*

- D. Unemployed or employed and **in need of services in order to obtain or retain employment.**

Eligibility of Employed Workers

- A. An employed worker is an individual currently working who has been determined to be in need of services in order to obtain or retain employment that leads to self-sufficiency, in accordance with the locally established definition of that term. The EAWDB has adopted a level of \$31.21 per hour based on the NMDWS self-sufficiency guidelines.
- B. Staff is required to complete a WIOA application utilizing the electronic document management systems and verify that the worker meets all program eligibility criteria including right to work, selective service, and age.
- C. Employed workers must be given the same customer choice options as other WIOA participants (except for eligible employed workers who are enrolled in customized or incumbent worker training with their employers).
- D. Training must be provided in compliance with the Eligible Training Provider List and Individual Training Account (ITA) requirements unless it is customized training or On-the-Job Training.
- E. WIOA employed worker services primarily are provided for the benefit of the employed worker but it is recognized that these services may also benefit the employer.

ELIGIBILITY DOCUMENTATION REQUIREMENTS

DOCUMENTATION: Physical evidence, which is obtained during the verification process, is maintained in participant files. Such evidence would be copies of documents, completed telephone verification/document inspection forms, or signed self-attestation forms. Documents must be stored in an electronic document management system. Subrecipients must ensure all information or documentation stored in an electronic document management system are uploaded in a timely manner to ensure record security. The crash of a computer system is not a valid excuse for loss of information.

CASE NOTES: Case notes refer to either paper or electronic statements by the career coach that identifies, at a minimum, the following: a participant's status for a specific data element, the date on which the information was obtained, and the career coach who obtained the information.

SELF-ATTESTATION: Self-attestation occurs when a participant states his or her status for a specific data element and then signs and dates a form acknowledging this status. The key elements for self-attestation are:

- (a) the participant identifying his or her status for permitted elements; and
- (b) signing and dating a form attesting to this self-identification.

The form and signature can be on paper or in the state management information system, with an online signature.

DOCUMENTING ELIGIBILITY WITH SELF-ATTESTATION

Self-attestation cannot be used to document the basic WIOA eligibility data elements of **right to work, selective service, and age** for services provided beyond staff assisted service with significant staff assistance. Documenting **eligibility requirements** with self-attestation is a method of last resort when no other source of documentation can be found or accessed. Self-attestation can also be used to clarify documentation that is considered insufficient by itself. Case notes should document efforts made to obtain other sources and state why they were not available. Please review the most current or relevant Data Validation TEGL (23-19) to assist in determining when it is appropriate to use self-attestation; or consult with your local AE staff if the data element in question is not addressed in this policy. Local Boards may create their own self-attestation form; however, it must include all elements of the self-attestation form included in this policy.

DISLOCATED WORKER ELIGIBILITY

Documentation verifying the eligibility of participants in WIOA is mandatory. Eligibility determination must be made prior to enrollment in WIOA and must include an initial determination of need for services to ensure that employment and training opportunities are being provided to those who can benefit from and are in need of such opportunities to obtain or retain employment. WIOA is not an entitlement program and eligibility alone does not entitle an individual to receive services.

Each of the following eligibility elements must be documented for each participant **prior to the receipt of WIOA Title I services**. Required documentation must be obtained for each eligibility data element as outlined in the comprehensive checklist of allowable forms of eligibility documentation contained in the included attachment. Scanned documents stored must be stored in the electronic document management systems and must be legible.

- A. **Right to Work**– Participation shall be open to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General to work in the United States as required in WIOA section 188 (a)(5).
(Exception: Per TEGL 19-01, Change 1, Victims of Trafficking and Violence Protection Act of 2000; Trafficking Victims Protection Reauthorization Acts of 2003 and 2005; and the Role of the Workforce Investment System in the Delivery of Services for Victims of Trafficking, operators may not deny WIOA-funded services to victims of severe forms of human trafficking based on their immigration status. See TEGL 19-01, Change 1 for further information.)
- B. **Selective Service/Military Status** – All participants must be in compliance with the Selective Service Act requirements as required by WIOA section 189(h). See the Selective Service section of this STAG.
- C. **Age Note:** The Dislocated Worker program does not have an age requirement. An individual must meet the eligibility of WIOA section 3(15), which does not include age among its criteria.
- D. In addition to the basic WIOA eligibility criteria, staff making eligibility determinations must verify that the applicant qualifies under **one** of the following categories:
 1. **(a)** Has been terminated or laid off, or has received a notice of termination or layoff, from employment, including separation notice from active military service (under other than dishonorable conditions); or,

- (b) Is eligible for or has exhausted entitlement to unemployment compensation; or has been employed for a duration sufficient to demonstrate 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 State unemployment compensation; and,
 - (c) Is unlikely to return to a previous industry or occupation.
- 2. (a) Has been terminated or laid off, or has received a notice of termination or layoff, from employment as a result of any permanent closure of, or any substantial layoff at a plant, facility, military installation or enterprise; or,
 - (b) Is employed at a facility where the employer has made a general announcement that such facility will close within 180 days, or,
 - (c) For purposes of eligibility to receive services other than training services, career services, or supportive services, is employed at a facility at which the employer has made a general announcement that such facility will close.
- 3. 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;
- 4. Is a displaced homemaker; or
- 5. Is the spouse of a member of the Armed Forces on active duty, and who has experienced a loss of employment as a direct result of relocation to accommodate a permanent change in duty station.

Eligibility of Employed Workers

- A. Dislocated workers who have become re-employed in "income maintenance" jobs (a job with a lower rate of pay than the job of dislocation) may also be served if the wage earned does not exceed the local criteria for self-sufficiency.
- B. Employed workers may be enrolled in the Dislocated Worker Program for career or supportive services (not training services) up to 180 days prior to the date of layoff if the worker can provide a copy (or the workforce region is able to obtain a copy) of the notice of layoff or the announcement of plant closure made by the employer that contains the date of the layoff or closure.
- C. Employed workers must be given the same customer choice options as other WIOA clients.
- D. Training must be provided in compliance with the Eligible Training Provider List and Individual Training Account (ITA) requirements unless it is an apprenticeship or On-the-Job Training.
- E. WIOA employed worker services primarily are provided for the benefit of the employed worker but it is recognized that these services may also benefit the employer.

Eligibility of Self-Employed Individuals as Dislocated Workers (Category 3)

For Dislocated worker program eligibility purposes, the EAWDB has identified these as operations likely to terminate as evidenced by one or more of the following conditions:

- 1. Business foreclosure or notice of intent to foreclose;
- 2. Inability to turn a profit during the preceding 12 months;
- 3. Entry into bankruptcy proceedings;
- 4. Inability to make four (4) payments on loans secured by tangible business assets resulting in a loss that directly affects closure;

5. Inability to obtain capital necessary to continue operations;
6. Debt-to-asset ratio is sufficiently high to indicate the likely insolvency of the farm, ranch or business; or
7. Other events indicated by likely insolvency of the farm, ranch or business.

SERVING SEPERATING MEMBERS AND MILITARY SPOUSES WITH DISLOCATED WORKER FUNDS

Under 20 CFR 608.660, service members exiting the military, including, but not limited to, those who receive or are eligible for Unemployment Compensation for Ex-service members (UCX), generally qualify as dislocated workers. Dislocated Worker funds under title I can help separating service members to enter or reenter the civilian labor force. Generally, a separating service member needs a notice of separation, a DD-214 from the Department of Defense, or other appropriate documentation that shows a separation or imminent separation from the Armed Forces, for reasons other than dishonorable. These documents meet the requirement that the individual has received a notice of termination or layoff, to meet the required dislocated worker definition.

In the case of separating service members, because they may be on a terminal leave from the military, it may make sense to begin providing basic career services while the service member may still be part of the Active Duty military, but has an imminent separation date. It is appropriate to provide career services to separating veteran's service members who will be imminently separating form the military, provided that their discharge will be anything other than dishonorable. Lastly, ETA policy generally 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 in the military.

WIOA expands the definition of dislocated workers to allow military spouses who meet any of the following criteria to be eligible for WIOA-funded dislocated worker services. Military spouses are eligible who:

- Lost their job as a direct result of moving with their spouses to a new permanent duty location; or
- Area dependent spouse of a member of the Armed Forces on active duty whose family income is significantly reduced, as determined by the state or local area, 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 service member ;or
- Are unemployed or underemployed and are experiencing difficulties in obtaining or upgrading employment.

ELIGIBILITY DOCUMENTATION REQUIREMENTS

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Self-attestation cannot be used to document the basic WIOA eligibility data elements of **right to work and selective service** for services provided beyond staff assisted core service with significant staff assistance. Documenting **eligibility requirements** with self-attestation is a method of last resort when no other source of documentation can be found or accessed. Self-attestation can also be used to clarify documentation that is considered insufficient by itself. Please review the most current or relevant Data Validation TEGl to assist in determining when it is appropriate to use self-attestation; or consult with your local AE staff if the data element in question is not addressed in this STAG. Local Boards may create their own self-attestation form; however, it must include all elements of the self-attestation form included in this policy. All items for adult eligibility must be verified as well as the additional items identified below.

PRIORITY OF SERVICE

Section 134(c)(3)(E) of WIOA establishes a priority requirement with respect to funds allocated to a local area for adult employment and training activities. Under this section, Workforce Connection Center (WCC) staff when using WIOA funds to provide individualized career services, training services or both, must give priority to recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient. Individuals who are English language learners meet the criteria for “basic skills deficient” and must be included in the priority population for the Title I adult program. Under WIOA, priority must be implemented regardless of the amount of funds available to provide services in the local area.

WIOA emphasizes providing services to individuals with barriers to employment as defined in WIOA sec. 3(24), including some of the same populations that are to receive priority in the WIOA Adult program. Recipients of public assistance, individuals who are basic skills deficient, or those identified as being low-income represent some of the workforce system’s most in need participants, and are the three priority groups that WIOA specifically mandates are entitled to receive priority of service (in addition to veterans and eligible spouses) for individualized career or training services under the WIOA Adult program. **At least 75 percent** of WIOA participants receiving individualized career and training services in the Adult program are from at least one of the priority groups mentioned above.

Across all titles, WIOA focuses on serving “individuals with barriers to employment” and seeks to ensure access to quality services for these populations. The priority populations under WIOA are:

Individuals with Barriers to Employment

The population included in the “individuals with barriers to employment” in WIOA sec 3(24) include:

- (a) Displaced Homemakers
- (b) Low-Income individuals
- (c) Indians, Alaska natives, and Native Hawaiians
- (d) Individuals with disabilities, including youth who are individuals with disabilities.
- (e) Older Individuals (age 55 and older)
- (f) Ex-offenders
- (g) Homeless individuals or homeless children and youths
- (h) Youth who are in, or have aged out of the foster care system;
- (i) Individuals who are:

- (1) English language learners
- (2) Individuals who have low levels of literacy (an individual is unable to compute or solve problems, or read, write or speak English at a level necessary to function on the job, or in the individual's family or in society); and
- (3) Individuals facing substantial cultural barriers
- (j) Eligible migrant and seasonal farmworkers
- (k) Individuals within two years of exhausting lifetime TANF eligibility
- (l) Single parents (including single pregnant women)
- (m) Long-term unemployed individuals (unemployed for 27 or more consecutive weeks); and
- (n) Such other groups as the Governor determines to have barriers to employment.

Veterans Priority

A veteran is defined as a person who served at least one day in the active military, naval, or air service, and who was discharged or released under conditions other than dishonorable. Although veteran priority should not be confused with eligibility, subrecipient staff must verify veteran status when enrolling a veteran or qualifying spouse. Verification documents will be submitted as part of the applicant's enrollment packet and maintained in the participant's electronic file.

Veterans and eligible spouses covered by Public Law 107-288, continue to receive priority of service for all DOL funded job training programs. The veteran or covered person must otherwise meet the eligibility requirements for enrollment. For income-based eligibility determination and for determining priority of service, military pay or allowances paid while on active duty or paid by the Department of Veteran's Affairs (VA) for vocational rehabilitation, disability payments, or related VA funded programs are not to be considered as income, in accordance with 38 U.S.C. 4213 and 20 CFR 683.230.

Active service includes full-time Federal service in the National Guard or a Reserve component. This definition of "active service" does not include full-time duty performed strictly for training purposes which is often referred to as "weekend" or "annual" training. Nor does it include full-time active duty performed by National Guard personnel who are mobilized by State rather than Federal authorities.

A qualifying spouse is the spouse of any of the following:

- Any veteran who died of a service-connected disability; or,
- Any member of the Armed Forces who is listed in one of the following categories for at least 90 days: missing in action, captured in the line of duty, forcibly detained by a foreign government; or,
- Any veteran who has a total disability resulting from a service-connected disability; or,
- Any veteran who died while a disability was in existence.

Order of Priority

Priority of Service must always be given to covered persons (i.e. veterans and eligible spouses, including widows and widowers) regardless of whether or not the priority of service is in place. Priority of service is required for the provision of career services and training services, including individual training accounts, a veterans' priority as well as priority to public assistance recipients and low-income individuals required in WIOA regulations will be established as follows:

- First priority will be provided to recipients of public assistance, low-income or individuals who are basic skills deficient *who are also* veterans or eligible spouses of veterans.
- Second priority will be provided to recipients of public assistance, low-income, or individuals who are basic skills deficient *who are not* veterans or spouses of veterans.

- Third priority will be provided to veterans or eligible spouses of veterans who are not recipients of public assistance, low-income or basic skills deficient.
- Last priority will be provided to Adults in need of service who are not recipients of public assistance, not low- income or basic skills deficient.

Note: When past income is an eligibility determinant for training programs, any amounts received as military pay or allowances by any person who served on active duty, and certain other specified benefits must be disregarded for the veteran and for other individuals for whom those amounts would normally be applied in making an eligibility determination. Military earnings are not to be included when calculating income for veterans or transitioning service members for this priority, in accordance with 38 U.S.C. 4213.

Additionally, the WIOA Final Rule at 20 CFR 680.230, requires coordinated WIOA funded training with “other grant assistance”, such as Federal Pell Grants. However, VA benefits for education and training services do not constitute “other grant assistance” under WIOA’s eligibility requirements. Therefore, eligibility for VA benefits for education or training services do not preclude a veteran or the veteran’s eligible spouse from receiving WIOA funded services, including training funds. Similarly, WIOA program operators may not require veterans or spouses to exhaust their entitlement to VA funded training benefits prior to allowing them to enroll in WIOA funded training.

SELECTIVE SERVICE REGISTRATION REQUIREMENTS

Men born on or after January 1, 1960 are required to register with Selective Service within 30 days of their 18th birthday (i.e. 30 days before or 30 days after their birthday.) This includes males who are:

- A. Citizens of the U.S.;
- B. Non-citizens, including illegal aliens, legal permanent residents, seasonal agricultural workers, and refugees, who take up residency in the U.S. before their 26th birthday; and/or
- C. Dual nationals of the U.S. and another country regardless of whether they live in the U.S.

For U.S. citizens, Selective Service registration is not required if the man falls within one of the following categories:

- A. Men who are serving in the military on full-time active duty;
- B. Men attending the service academies;
- C. Disabled men who were continually confined to a residence, hospital or institution; and/or
- D. Men who are hospitalized, institutionalized, or incarcerated are not required to register during their confinement; however, they must register within 30 days after being released if they have not yet reached their 26th birthday.

For non-U.S. citizens, Selective Service registration is not required if the man falls within one of the following categories:

- A. Non-U.S. male who came into this country for the first time after his 26th birthday. Acceptable forms of supporting documentation include:
 1. Date of entry stamp in his passport;
 2. I-94 with date of entry stamp on it; or
 3. Letter from the U.S. Citizenship and Immigration Services (USCIS) indicating the date the man entered the United States presented in conjunction with documentation establishing the individual’s age.
- B. Non-U.S. male who entered the U.S. illegally after his 26th birthday. He must provide proof that he was not living in the U.S. from age 18 through 25.

C. Non-U.S. male on a valid non-immigrant visa.

This list is not intended to be exhaustive. Please visit the Selective Service website for more information about the registration requirements at www.sss.gov. The Selective Service System also provides a quick reference chart showing who must register located at <http://www.sss.gov/PDFs/WhoMustRegisterChart.pdf>.

Registration Requirements for Males Under 26

Before being enrolled in WIOA Title I-funded services, all males who are not registered with the Selective Service and have not reached their 26th birthday must register through the Selective Service website at www.sss.gov. If a male turns 18 while participating in any applicable services, registration with Selective Service must be completed no later than 30 days after he becomes 18 to continue to receive WIOA Title I-funded services. If a man under the age of 26 refuses to register with the Selective Service, WIOA Title I-funded services must be suspended until he registers.

Registration Requirements for Males 26 Years and Over

Before enrolling in WIOA Title I-funded services, all males, 26 years of age or older, must provide documentation of compliance with the Selective Service registration requirement. Individuals who did not register for Selective Service or who cannot provide any of the documentation listed above must obtain a *Status Information Letter* from Selective Service indicating whether he was required to register. The *Request for Status Information Letter* form can be accessed at <http://www.sss.gov/PDFs/infoform.pdf> and the instructions can be accessed at <http://www.sss.gov/PDFs/instructions.pdf>. The individual will need to describe, in detail, the circumstances that prevented him from registering (e.g., hospitalization, institutionalization, incarceration, military service) and provide documentation of those circumstances. The documentation should be specific as to the dates of the circumstances.

If the *Status Information Letter* indicates that an individual was not required to register for the Selective Service, then he is eligible to enroll in services authorized or funded by Title I of WIOA. **If the Status Information Letter indicates that the individual was required to register and now cannot because he is 26 or older, he is presumed to be disqualified from participation in WIOA Title I-funded activities and services until it can be determined that his failure to register was not knowing and willful.** All costs associated with grant-funded services provided to non-eligible individuals may be disallowed.

Determining Knowing and Willful Failure to Register

If the individual was required but failed to register with the Selective Service, **the individual may only receive services if they establish by a preponderance of the evidence that the failure to register was not knowing and willful.** The local board, subrecipient, or contractor that enrolls individuals in WIOA Title I-funded activities, and is thereby authorized to approve the use of WIOA Title I grant funds, is the entity responsible for evaluating the evidence presented by the individual and determining whether the failure to register was a knowing and willful failure.

Evidence presented may include the individual's written explanation and supporting documentation of his circumstances at the time of the required registration and the reasons for failure to register. The individual should be encouraged to offer as much evidence and in as much detail as possible to support his case. The following are examples of documentation that may be of assistance in making a determination in these cases:

1. Service in Armed Forces. Evidence that a man has served honorably in the U.S. Armed Forces such as DD Form 214 or his Honorable Discharge Certificate. Such documents may be considered

sufficient evidence that his failure to register was not willful or knowing.

2. Third Party Affidavits. Affidavits from parents, teachers, employers, doctors, etc. concerning reasons for not registering, may also be helpful to local boards in making determinations in cases regarding willful and knowing failure to register.

To establish consistency regarding the implementation of the requirement, local boards should consider the following questions when determining whether a failure to register is knowing and willful.

In determining whether the failure was “knowing,” the authorized organization should consider:

- Was the individual aware of the requirement to register?
- If the individual knew about the requirement to register, was he misinformed about the applicability of the requirement to him (e.g., veterans who were discharged before their 26th birthday were occasionally told that they did not need to register)?
- On which date did the individual first learn that he was required to register?
- Where did the individual live when he was between the ages of 18 and 26?
- Does the status information letter indicate that Selective Service sent letters to the individual at that address and did not receive a response?

In determining whether the failure was “willful”, the authorized organization should consider:

- Was the failure to register done deliberately and intentionally?
- Did the individual have the mental capacity to choose whether to register and decided not to register?
- What actions, if any, did the individual take when he learned of the requirement to register?

If an authorized organization determines it was not a knowing and willful failure and the individual is otherwise eligible, services may be provided. If the authorized organization determines that evidence shows that the individual’s failure to register was knowing and willful, WIOA services must be denied. Individuals denied services must be advised of available WIOA grievance procedures. Authorized organizations must keep documentation related to evidence presented in determinations related to Selective Service.

SELF SUFFICIENCY WAGE DETERMINATION

The term “self-sufficiency” in this policy only applies in the context of establishing eligibility for employed adults and employed dislocated workers to receive training services under WIOA. A determination that an employed adult or dislocated worker is in need of services to obtain or retain employment that leads to self-sufficiency is one of the criteria for the receipt of such services. This provision serves as a “limiter” in determining service eligibility for such employed workers, which helps ensure that services are provided to those employed adults or dislocated workers most-in-need of such services, such as individuals employed in low skill/low wage jobs and dislocated workers who may be working but who have not achieved self-sufficiency as defined by the Local Board. The local board has adopted the NMDWS State WIOA wage self-sufficiency guidance level of \$31.21 per hour for the eastern area in determining eligibility of employed workers. Self Sufficiency eligibility wage cannot be waived for any participant.

Local Boards must also develop a policy that sets the criteria for determining whether employment leads to self-sufficiency. At a minimum, such criteria must provide that self-sufficiency means employment that pays

at least the lower living standard income level, the special needs of individuals with disabilities or other barriers to employment should be considered when setting criteria to determine self-sufficiency. The EAWDB has identified this criterion to be an individual who is employed full time at 32 hours or more per week and is earning 125% of the LLSIL.

Exceptions

- Local Boards can determine the eligibility of an employed worker using the most current Lower Living Standard Income Level (LLSIL). If a worker's current pay rate is at or below 125% of the LLSIL, a determination shall be made that the individual does not meet the definition of "Employment Leading to Economic Self-Sufficiency".
- If the individual is an eligible Dislocated Worker, "self-sufficiency" shall be defined as full-time employment at a rate of pay equal to or greater than the pre-layoff wage rate – even if the pre-layoff wage was greater than the designated self-sufficiency wage.

Requirements for Documenting Self-Sufficiency

1. Information about the customer's current hourly wage must be recorded in the "Work History" portion of the State's management information system, including each of the following elements:
 - (a) Job Title;
 - (b) Employer Name;
 - (c) Dates of Employment: From / To (Month, Year);
 - (d) Wage;
 - (e) Wage Type (Hourly, Annual, Other); and
 - (f) Hours per Week.
2. Acceptable verification sources include:
 - (a) Copy of a recent paycheck or paystub;
 - (b) Employer letter or other document describing the customer's current wage

ATTACHMENT A -GLOSSARY

ACTIVE DUTY - means full-time duty in the active military service of the United States. Such term includes full-time training duty, annual training duty, and attendance while in the active military service, at a school designated as service school by law or by the Secretary of the military department concerned. Such term does not include full-time National Guard duty.

ADULT - Except as otherwise specified in WIOA section 132, the term “adult” means an individual who is age 18 or older.

APPLICANT - An individual who applies for training and/or services provided under WIOA through a WIOA grant recipient or sub-recipient.

BASIC SKILLS DEFICIENT - An individual who is unable to compute or solve problems, or read, write, or speak English, at a level necessary to function on the job, in the individual’s family, or in society. This may also include lack of computer “literacy”

Document basic skills deficient with one of the following:

- Basic skills assessment questions or test results
- School records
- Referral or records from a Title II Adult Basic Education program
- Referral or records from an English Language Learner program

A youth 18 or older, who was determined basic skills deficient for the WIOA Youth Program, may be co-enrolled in the Adult Program without an eligibility redetermination, and be counted as an individual who meets Adult priority of service, if the original determination was made no more than 6 months prior to the date of co-enrollment.

For youth eligibility, this is defined as at or below the 8th grade level. In defining this for workforce basic skills proficiency it is defined as an individual who is unable to compute or solve problems, or read, write, or speak English, at a level necessary to function on the job, in the individual’s family, or in society. WIOA affords local boards the flexibility to establish this definition for adults and dislocated workers. The eastern board has defined this as below gold level Career Readiness Certification Level (CRC) using WorkKeys or WorkKeys Curriculum test; below an educational functioning level (EFL) 6 on a standardized adult education assessment, English language learners, and college placement exams resulting in placement into remedial education. When determining basic skills deficiency for Adults/Dislocated workers or anyone that would be determined eligible for literacy services under the Adult education program see Attachment 4.

Note on Standardized Tests: When using formal assessment tests to determine basic skills deficient, local programs must use assessment instruments that are valid and appropriate for the target population, and must provide reasonable accommodation in the assessment process, if necessary, for individuals with disabilities. In addition, if a standardized test is used to assess basic skills, the test should include reading, writing, or computing skills. Lacking soft skills or specific skills needed for a particular job may not be used to assess otherwise high-functioning individuals as basic skills deficient. As a result, tests such as Prove-It are generally not appropriate for determining basic skills deficient or computer literacy as they are focused on occupational skills rather than basic skills.

CASE NOTES - Electronic statements by the career coach that identifies, at a minimum, the following: a participant's status for a specific data element, the date on which the information was obtained, and the career coach who obtained the information.

CITIZENSHIP – Designation of an applicant as a citizen of the United States or a lawfully admitted permanent resident alien, lawfully admitted refugee or parolee, and other individuals authorized by the Attorney General to

work in the United States. If the applicant indicates that he/she is not a citizen or an “eligible non-citizen,” the applicant is ineligible for WIOA. (Per state statute, an Affidavit of Immigration Status shall be completed as part of the enrollment process for applicants 18 years or older, effective August 1, 2006).

CONTRACTED EMPLOYEES - Employees working within a set contract (not through a temporary agency) that ends on schedule, are not eligible for the WIOA Dislocated Worker program. If the job ends prior to the set contract end date and the applicant is not at fault for the separation, they are considered to have a job of dislocation.

DECLINING OCCUPATIONS - Declining industry or occupations are industries and occupations that are showing a decrease in demand. The growth projections are either negative or the occupation is not growing at the same rate of economic growth. This may include industries or occupations that were previously full time but due to economic conditions have largely transitioned to part time employment. With regards to furloughed workers that were previously employed full time the inability of the employer to provide full time employment, due to public health orders or governors orders, at call back would indicate a decline for the occupation.

DEPENDENT CHILD – A child, related by blood, marriage, or decree of court, living in a single residence with his/her parent(s) or guardian. When determining up to what age an out-of-school youth could be considered a dependent child of a parent or guardian, use the IRS definition of dependent. (See IRS Publication 501 – Exemption for Dependent)

Note: If a college student is not claimed as a dependent on anyone else’s tax return, they are NOT a dependent child

DISLOCATED WORKER- ELIGIBLE SPOUSE/VETERAN -

- A. 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), and who has experienced a loss of employment as a direct result of relocation to accommodate a permanent change in duty station of such member; or
- B. is the spouse of a member of the Armed Forces on active duty and who meets the criteria described in the Displaced Homemaker Eligible Spouse definition below; **OR**
- C. Dislocated members of the Armed Forces (service members who are transitioning to the civilian workforce, are within 12 months of separating or 24 months of retirement, expect to be discharged with other than a dishonorable discharge, and are unlikely to return to a previous industry or occupation) as defined in TEGl 22-04: “Serving Military Service”. Members. For this category the DD214 or separation orders may document both the layoff and UI eligible; **OR**
- D. Recently separated veterans who are within 48 months of discharge (other than dishonorable) or release from active military, naval, or air service. For this category, the DD214 may document both the layoff and UI eligible.

DISPLACED HOMEMAKER – 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 that income; or
- (B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

Note: alimony is not considered replacement for lost income

DISPLACED HOMEMAKER- ELIGIBLE SPOUSE - The dependent spouse of a member of the Armed Forces on active duty (as defined in section 101(d)(1) of title 10, United States Code) and whose family income is significantly reduced because of a deployment (as defined in section 991(b) of title 10, United States Code, or pursuant to paragraph (4) of such section), a call or order to active duty pursuant to a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code, a permanent change of station, or the service-connected (as defined in section 101(16) of title 38, United States Code) death or disability of the member.

EARLY/FORCED RETIREMENT - Individuals who accept early or forced retirement as part of a reduction in force may be considered to have been terminated or laid off or received notice of termination or layoff as appropriate. These individuals would be eligible for the WIOA Dislocated Worker program if they retire as a result of a permanent closure of, or any substantial layoff at a plant, facility or enterprise.

ELIGIBLE FOR UNEMPLOYMENT INSURANCE (UI) COMPENSATION - Any individual who:

- (A) Is eligible for or has exhausted entitlement to unemployment compensation; or
- (B) Has been employed for a duration sufficient to demonstrate attachment to the workforce (has a history of working), 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.

ELIGIBLE MIGRANT FARMWORKER. —the term “eligible migrant farmworker” means—

- (A) an eligible seasonal farmworker described below whose agricultural labor requires travel to a job site such that the farmworker is unable to return to a permanent place of residence within the same day; and
- (B) a dependent of the farmworker described in (A).

ELIGIBLE SEASONAL FARMWORKER. —the term “eligible seasonal farmworker” means—

- (A) a low-income individual who—
 - (i) for 12 consecutive months out of the 24 months prior to application for the program involved, has been primarily employed in agricultural or fish farming labor that is characterized by chronic unemployment or underemployment; and
 - (ii) faces multiple barriers to economic self-sufficiency; and
- (B) a dependent of the person described in (A).

ENGLISH LANGUAGE LEARNER. —The term “English language learner” means an individual who has limited ability in reading, writing, speaking, or comprehending the English language, **AND**

- A. Whose native language is a language other than English; **OR**
- B. Who lives in a family or community environment where a language other than English is the dominant language.

Note: Individuals who are English language learners meet the criteria for basic skills deficient.

EXHAUSTED UI COMPENSATION - Has received all of the unemployment compensation benefits for which an individual has been determined eligible.

EX-OFFENDER – Any adult or juvenile who has been subject to any stage of the criminal justice process, for whom services may be beneficial; or who requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction. An Out-of-School Youth may have been subject to either the juvenile or adult justice system.

FAMILY – Two or more persons related by blood, marriage (common law or ceremonial), civil union, or decree of court, who are living in a single residence, and are included in one or more of the following categories:

- A. A married couple and dependent children.
- B. A parent or guardian and dependent children.
- C. A married couple, meaning:

- A husband and wife; or
- Two individuals of the same sex, who are legally married, or in a civil union;

FAMILY INCOME – Family income includes total 6 months cash receipts before taxes (i.e. Gross wages) from all sources as defined in “Family” above, except:

- A. If the applicant reports little or no includable income, s/he shall indicate other resources relied upon for life support during the last six months on the Applicant Statement. Such resources may include such things as unpaid debts, gifts, loans, unemployment compensation, etc.
- B. In addition, when a Federal statute specifically provides that income or payments received under such statute shall be excluded in determining eligibility for and the level of benefits received under any other federal statute, such income or payments shall be excluded in WIOA eligibility determinations.

INCOME (Includable):

- Money wages and salaries (gross wages) before any deductions;
- Net receipts from non-farm self-employment (receipts from a person’s own unincorporated business, professional enterprise, or partnership after deductions for business expense);
- Net receipts from farm self-employment (receipts from a farm which one operates as an owner, renter, or sharecropper, after deductions for farm operating expenses);
- Regular payments from Social Security, including SSDI (Social Security Disability Insurance), railroad retirement, strike benefits from union funds, worker’s compensation, training stipend, and death benefits
- Alimony;
- Military family allotments (including Hazardous Duty Incentive Pay) or other regular support from an absent family member or someone not living in the household;
- Pensions (retirements) whether private, government employee (including military retirement pay);
- Regular insurance or annuity payments;
- College or university grants, fellowships and assistantships;
- Dividends, interest, net rental income or royalties, periodic receipts from estates or trusts;
- Net gambling or lottery winnings.
- Unemployment compensation;
- Child support payments, including foster care child payments;
- Old-age survivors’ insurance benefits

INCOME (Excludable):

- Welfare payments (including Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), Refugee Cash Assistance (RCA). (Note: General Assistance (GA) became obsolete with welfare reform, and is not an eligible category);
- Financial assistance under Title IV of the Higher Education Act, i.e., Pell Grants, Federal Supplemental Education Opportunity Grants and Federal Work Study. PLUS, Stafford and Perkins loans like any other kind of loan are debt and not income;
- Needs-based scholarship assistance; state & private grant aid;
- Military pay or allowances while the veteran or transitioning military member was on active military duty; and certain other veteran’s benefits, i.e., compensation for service-connected disability, compensation for service-connected death, vocational rehabilitation, and education assistance;
- Capital gains;
- Any assets drawn down as withdrawals from a bank, sale of property, a house or a car;
- Tax refunds, gifts, loans, lump-sum inheritances, one-time insurance payments, or compensation for injury;
- Non-cash benefits such as employer paid fringe benefits, food or housing received in lieu of wages, Medicare, Medicaid, USDA Food Stamps, school meals, and housing assistance;
- ALL WIOA payments, excluding OJT wages.

FARM/RANCH WORKER (applies to self-employed category) - A person who is self-employed or employed by another, on a farm or ranch which produces agricultural products and who receives at least 50% of their family or individual income from agricultural production.

FOSTER CARE YOUTH – A youth 14-18 years of age on whose behalf state or local government payments (excluding OASI) are made. This may include youth who have been made a ward of the state by a court, including those in the following categories:

- Youth in State institutions
- Youth in Community Group Homes
- Youth in Foster Homes

WIOA also defines a foster care youth as an individual in foster care, or who has aged out of the foster care system, or who has attained 16 years of age and left foster care for kinship, guardianship or adoption; a child eligible for assistance under sec. 477 of the Social Security Act (42 U.S.C. 677); or in an out-of-home placement. This definition encompasses youth who were formerly in foster care, but may have returned to their families before turning 18.

For Adults: an individual who was previously in foster care or aged out of foster care.

GENERAL ECONOMIC CONDITIONS - Conditions that cause an individual to lose a business include, but are not limited to:

- Failure of one or more businesses to which the self-employed individual supplied a substantial proportion of products or services; or
- Failure of one or more businesses from which the self-employed individual obtained a substantial proportion of products or services; or
- Substantial layoffs, or permanent closure(s) of one or more plants or facilities that support a significant portion of the State or local economy; or
- Depressed price(s) or market(s) for the article(s) produced by the self-employed individual.

HOMELESS PERSON – An individual who meets any of the following criteria:

(A) lacks a fixed, regular, and adequate nighttime residence ; this includes a participant who:

- Is sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason;
- Is living in a motel, hotel, trailer park, or campground due to a lack of alternative adequate accommodations;
- Is living in an emergency or transitional shelter;
- Is abandoned in a hospital; or
- Is awaiting foster care placement;

(B) Has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, such as a car, park, abandoned building, bus or train station, airport, or camping ground;

(C) Is a migratory child who in the preceding 36 months was required to move from one school district to another due to changes in the parent’s or parent’s spouse’s seasonal employment in agriculture, dairy or fishing work; or

(D) is under 18 years of age and absents himself or herself from home or place of legal residence without the permission of his or her family (i.e. runaway youth)

EXCLUSION – The term “homeless” or “homeless individual” does not include any individual imprisoned or otherwise detained pursuant to an Act of Congress or a State law.

A homeless individual who meets the above criteria is presumed to be low income for purposes of eligibility under the WIOA unless demonstrated otherwise. Refer to the Steward B. McKinney Assistance Act (PL100-77).

INDIVIDUAL – (Family of one) – A person not meeting the definition of family is considered to be an individual. Youth aged 18 years and older living with parents or other family member(s) shall document individual status by completing the Applicant Statement form verifying that status.

INDIVIDUAL WITH A BARRIER TO EMPLOYMENT - An individual who is a member of 1 or more of the following populations: Displaced homemakers; Low-income, Indians, Alaska Natives, and Native Hawaiians (as defined in section 166); Individuals with disabilities, including youth who are individuals with disabilities; Older individuals, Ex-offenders, Homeless (as defined in section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6))), or homeless children and youths (as defined in section 725(2) of the McKinley-Vento Homeless Assistance Act (42 U.S.C. 11434a(2))); Youth who are in or have aged out of the foster care system; Individuals who are English language learners, individuals who have low levels of literacy, and individuals facing substantial cultural barriers; Eligible migrant and seasonal farmworkers (as defined in section 167 (i)); Individuals within 2 years of exhausting lifetime eligibility under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq); Long-term unemployed individuals; and Other groups the Governor involved determines to have barriers to employment.

INDIVIDUAL WITH A DISABILITY – the term “individual with a disability” means an individual with a disability as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102), as follows:

- A. **Disability:** The term “disability” means, with respect to an individual—
 - 1. a physical or mental impairment that substantially limits one or more major life activities of such individual;
 - 2. a record of such an impairment; or
 - 3. being regarded as having such an impairment (as described in paragraph (3)).

- B. **Major life activities**
 - 1. **In general:** For purposes of paragraph (1), major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.
 - 2. **Major bodily functions:** For purposes of paragraph (1), a major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

- C. **Regarded as having such an impairment:** For purposes of paragraph (1)(C):
 - 1. An individual meets the requirement of “being regarded as having such an impairment” if the individual establishes that he or she has been subjected to an action prohibited under this chapter because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.
 - 2. Paragraph (1)(C) shall not apply to impairments that are transitory & minor. A transitory impairment has an actual or expected duration of 6 months or less.

Note: An Individual with a Disability may be eligible based on the family of one income guideline. New Mexico Workforce Connection On-line System (NMWCOS) data entry shall still include the accurate dollar amounts for individual 6 month and (estimated) family 6 month as well as the accurate number of family members. Do **not** leave the family 6-month income field blank and do not enter 01 for number in family unless the Individual with a Disability meets the criteria of an “Individual” as shown above. NMWCOS will use the fields necessary to figure the individual income for the Individual with a Disability.

JOB OF DISLOCATION - The economic dislocation of an individual as described in the WIOA Dislocated Worker program implies the existence of a job of dislocation. The job of dislocation is the job that qualifies the individual under one of the eligibility categories. Under the categories for Plant Closing/Substantial Layoff and Layoff/UI/Unlikely to Return, the job of dislocation is the job from which the applicant has been laid off. The general guideline for classifying the job of dislocation is interim jobs are considered to be temporary. For a self-employed individual, evidence that the business has been lost verifies a job of dislocation. The general guideline is to identify the job or pattern of jobs that defines the true job of dislocation. The job of dislocation should include the job title and the name of the business (or industry). Often, the variance in wages can help to distinguish the job of dislocation from other temporary employment. For a self-employed individual, evidence that the business has closed (or is in the process of closing) or business financial records show a major decline in profits can help verify the job of dislocation.

LIVING IN A SINGLE RESIDENCE

- A. Temporary, voluntary residence elsewhere – an individual is included in a single residence if they are temporarily and voluntarily living outside of the residence. This may include individuals attending school or college, or visiting relatives. It does not include involuntary temporary residence elsewhere (i.e. incarceration or placement as a result of a court order).
- B. Temporary, involuntary residence elsewhere – an individual is NOT included in a single residence if they are temporarily and involuntarily living outside of the residence. This may include individuals who are incarcerated or placed as a result of a court order.

Note: A person not meeting the definition of family is considered to be an individual (family of one). Individuals ordinarily included in the definition of family, but no longer claiming to be dependent shall complete an applicant statement attesting to individual status. Such statements should be corroborated by the head of household in which the individual resides. (S)He shall also show source of his/her support. The individual shall provide over 50% of his/her support to be considered a family of one. Income tax records are also a good source of documentation to support that the youth is not claimed by the parents. Youth aged 18 years and more, see “Individual” definition.

LONG TERM UNEMPLOYED INDIVIDUAL - (Bureau of Labor Statistics definition) – a person who has been unemployed for 27 or more consecutive weeks

LOW-INCOME INDIVIDUAL —The term “low-income individual” means an individual who—

- 1. Receives, or in the past 6 months has 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 – food stamps) established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), the program of block grants to States for temporary assistance for needy families program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), or the supplemental security income program established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or other federal, state or local income-based public assistance; or
- 2. Receives, or in the past 6 months has received, or is a member of a family that is receiving or in the past 6 months has received Refugee Cash Assistance, LEAP, Section 8 Housing, or CCAP (Child Care Assistance Program) payments;
- 3. Is in a family with total family income that does not exceed the higher of—
 - a. the poverty line; or
 - b. 70 percent of the lower living standard income level; or
- 4. Is a homeless individual (as defined in section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e–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. 11434a(2)); or

5. For Adults: Was previously a foster child (or aged out of the foster care system) on behalf of whom State or local government payments were made; or
6. Is an individual with a disability whose own income meets the income requirement of #2, but who is a member of a family whose income does not meet this requirement; or
7. Receives or is eligible to receive a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.). For the Adult Program, this can be an individual 18-21 years old and still attending secondary school or the parent of an in-school youth who is eligible for the lunch program. (The Community/School/School District Eligibility Provision of the Act may **not** be utilized; only the individual eligibility provision may be used.)

NOTE: Use of item 7 for Adult Priority of Service is now approved. Per the USDOL ETA Only Final PIRL (Participant Individual Record Layout)

PIRL 802 – Low Income (WIOA)

The Department has determined that the parents of youth who are eligible to receive free and reduced price lunch are eligible to be served under the low income priority provisions in the Adult program. However, the Department has determined that the parents of a youth living in a high poverty area are NOT eligible to be served under the Adult low income priority.

8. Underemployed individuals who are employed full- or part-time may also be eligible for the Adult priority if they also meet the definition of a low-income individual.

Local boards may adopt a more stringent definition for “low-income” or include additional criteria (specifically for the purposes of determining Adult program priority) that may be applied to one or more of the low-income categories listed above and is consistent with local economic conditions and other criteria determined by the board.

A youth 18 or older, who was determined low-income for the WIOA Title I Youth Program, may be co-enrolled in the Title I Adult Program without an eligibility redetermination, and be counted as an individual who meets Adult priority of service, if the original determination was made no more than 6 months prior to the date of co-enrollment.

LOWER LIVING STANDARD INCOME LEVEL —The term “lower living standard income level” means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary of Labor based on the most recent lower living family budget issued by the Secretary of Labor in the Federal Register. (DWS issues annual memo)

NATURAL DISASTERS - Natural disasters that cause the unemployment of a self-employed individual include: hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, avalanche, drought, fire, explosion, snow storm or other catastrophe.

OLDER INDIVIDUAL — The term “older individual” means an individual age 55 or older.

PARTICIPANT - (20 CFR 677.150) - is a reportable individual who has received services other than the services described in paragraph (a)(3) of this section, after satisfying all applicable programmatic requirements for the provision of services, such as eligibility determination.

PLANT CLOSING - The permanent shutdown of a plant, business or facility.

POVERTY LINE-The term “poverty line” means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved

PREVIOUS OCCUPATION/INDUSTRY - For the purposes of WIOA Dislocated Worker program eligibility, previous occupation or industry relates directly to the job of dislocation.

PRIMARY OCCUPATION-Occupation in which an individual has had most experience; and/or most training; and/or which the individual prefers; and/or one in which the individual has remained for an extended period without seeking more appropriate employment (new primary occupation).

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.

PUBLIC ASSISTANCE-The term “public assistance” means federal, state, or local government cash payments for which eligibility is determined by a needs or income test. (i.e. TANF, Refugee Cash Assistance, Supplemental Security Income, LEAP, Title 8 Housing, or CCAP – Child Care Assistance Program). **Note:** Supplemental Security Disability Income (SSDI) is not considered cash welfare and does not make a person automatically eligible for WIOA.

SELF-EMPLOYED- Any professional, independent trades person, or other businessperson who works for him/herself. Such a person may or may not be incorporated or in a limited partnership. A family member who provides professional services in the affected business of at least 15 hours per week and receives a salary or wage from the self-employed individual may also be considered to be a self-employed individual. Self-employed may also include employment as a farmer, rancher or fisherman.

SELF-ATTESTATION-Self-attestation occurs when a participant states his or her status for a particular data element and then signs and dates a form acknowledging this status. The key elements for self-attestation are:

- (a) the participant identifying his or her status for permitted elements; and
- (b) signing and dating a form attesting to this self-identification.

The form and signature can be on paper or in the state management information system, with an online signature and may only be used as a last resort.

SERVICE CONNECTED-means, with respect to disability or death, that such disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in line of duty in the active military, naval or air service

SINGLE PARENT – a single, separated, divorced or widowed individual who has responsibility for one or more dependent children under age 18, or a single pregnant woman

STOP – GAP EMPLOYED - The WIOA dislocated worker program regulations specify that an eligible dislocated worker remains eligible if, either prior to or during participation in a training program he/she accepts temporary employment for the purpose of income maintenance and with the intention of ending the temporary employment and entering permanent employment at the completion of training. The concept of "stop-gap" employment is intended to help define and clarify this type of temporary employment, and to help prevent arbitrary decisions of eligibility/ineligibility.

First, stop-gap employment may be applied to all dislocated workers, whatever their category of eligibility, whether plant closure/ substantial layoff, individual layoff, or other.

Second, it is clear that dislocated workers may accept stop-gap employment for a variety of reasons other than the maintenance of income during training; for example, many do not know at that point that training is

available. However, when learning that training is available, the applicant for WIOA dislocated worker retraining may then consider his/her employment temporary. In such cases, it is best to use the "rules of thumb" to determine if employment can be considered "stop-gap" when such an individual applies for the WIOA dislocated worker retraining: does it pay less than 80% of the earnings at dislocation, and/or does it require a far lesser skill level than the job of dislocation or is it out of the "primary" occupation, and/or does it offer less than 80% of the weekly hours of the job of dislocation (e.g. less than 32 hours compared to a previous 40 hours per week)?

Individuals who are **Underemployed** can be considered as having stop-gap employment.

Third, the employment should not constitute a new primary occupation for the dislocated worker. Some guidelines that may be helpful in determining this are:

- 1) Is there a demand in the area for the individual's previous occupation (making it likely that he/she would have returned to it if not interested in starting a new primary occupation);
- 2) Has the individual made verifiable efforts to seek more permanent and appropriate employment;
- 3) Does the individual need retraining in order to gain appropriate employment that is comparable to the job of dislocation in terms of skill level and earnings; and,
- 4) How long has the individual held the stop-gap employment (suggesting that a year or more in an occupation that is comparable in hours, skill, and pay to the job of dislocation is probably a new primary occupation, particularly if the individual has conducted no serious job search)? (See definition of Primary Occupation)

SUBSTANTIAL LAYOFF: A substantial layoff is any reduction-in-force which is not the result of a plant closing and which results in an employment loss at a single site of employment for at least 25 percent of the employees (excluding employees regularly working less than 20 hours per week).

NOTE: Permission to use a copy of the State Rapid Response report should be obtained from the local Rapid Response coordinator and/or a local supervisor to ensure the confidentiality of this document.

TEMPORARY EMPLOYEES: An applicant cannot be automatically disqualified for WIOA Dislocated Worker program enrollment because the job of dislocation was not considered a permanent position. An employee under a temporary contract or placed by a temporary employment agency with an employer may be made eligible under the same category as regular employees of the company (substantial layoff, plant closing). Temporary employees directly under contract with the company are considered eligible as are regular employees if their dislocation was caused by a layoff or closing. If the dislocation was not caused by a closing or substantial layoff, the applicant must be shown to be unlikely to return (UI or the temporary agency can confirm). However, temporary employees who are unemployed because the project or undertaking for which they were hired has been completed are not considered Dislocated Workers.

UNLIKELY TO RETURN TO PREVIOUS INDUSTRY OR OCCUPATION -

- 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, etc.); or
- 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
- No Job Offers Received - Applicant has been available and looking for work for a number of weeks and has not received an offer for 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
- 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
- Declining Occupation-Unemployed and their most recent job is on a declining occupation list as defined by the local board; or

- Physical Limitations or Disabilities - Newly acquired physical limitations or injuries occurring which limit the individual's ability to perform the job from which they were dislocated may make an individual unlikely to return to the previous occupation. Such individuals are eligible if they fit one of the categories of the WIOA Dislocated Worker program eligibility, but must have a doctor's release to work; or

UNDEREMPLOYED - is an individual who is:

- Employed less than full-time but is seeking full-time employment; or
- Employed in a position that is inadequate with respect to their skills and training; or
- Employed and meets the definition of low income; or
- Employed, but whose current job's earnings are not sufficient compared to their earnings from their job of dislocation.

ATTACHMENT B

ADULT ELIGIBILITY DOCUMENTATION

Eligibility	Required Documentation
<p>Right to Work in the US (1 is required)</p> <p>Note: a Document Inspection Form may be used for any of these required documents for this eligibility element.</p>	<p><input type="checkbox"/> Social Security Card AND Real ID compliant Driver's License or other government issued picture ID containing a photograph or information such as name, date of birth, gender, height, eye color and address. (If under 18 years old and does not have a Driver's License; may use school record or doctor/hospital record with signed Social Security Card.)</p> <p><input type="checkbox"/> U.S. Passport (unexpired or expired)</p> <p><input type="checkbox"/> Permanent Resident Card or Alien Registration Receipt Card (Form I-551)</p> <p><input type="checkbox"/> An unexpired foreign passport with a temporary I-551 stamp</p> <p><input type="checkbox"/> An unexpired Employment Authorization Document that contains a Photograph (Form I-766)</p> <p><input type="checkbox"/> An unexpired foreign passport with Form I-94 or I-94A bearing the same name as the passport and containing an endorsement of the alien's nonimmigrant status, as long as the period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form</p> <p><input type="checkbox"/> Original or certified copy of a Birth Certificate issued by a state, county, municipal authority or territory of the US bearing an official seal (Document Inspection Form is allowed.)</p> <p><input type="checkbox"/> Certification of Birth Abroad (Form DS-1350) issued by the Department of</p> <p><input type="checkbox"/> DD-214, Report of Transfer or Discharge (if place of birth is shown)</p> <p><input type="checkbox"/> Hospital Record of Birth</p> <p><input type="checkbox"/> T-visa issued to victims of human trafficking (See Attachment 9: TEGL 09-12)</p> <p><input type="checkbox"/> Naturalization Certification</p> <p><input type="checkbox"/> Certificate of Degree of Indian Blood</p> <p><input type="checkbox"/> Unexpired US Citizen ID card (Form I-197)</p> <p><input type="checkbox"/> Native American Tribal Document</p> <p><input type="checkbox"/> I-9 complete including signature by authorized employer or designee</p>
<p>Selective Service (1 is required for those required to register)</p>	<p><input type="checkbox"/> Screen printout of the On-line verification at www.sss.gov</p> <p><input type="checkbox"/> Acknowledgement Letter from Selective Service</p> <p><input type="checkbox"/> Selective Service Verification Form (For 3A)</p> <p><input type="checkbox"/> Selective Service Registration Card</p> <p><input type="checkbox"/> Stamped Post Office Receipt of Registration</p> <p><input type="checkbox"/> DD-214 - Certificate of Release or Discharge from Active Duty</p>
<p>Social Security Number (Not required for eligibility, but must be requested and validated. A Document Inspection Form may be used for any of these required</p>	<p><input type="checkbox"/> DD-214 - Certificate of Release or Discharge from Active Duty</p> <p><input type="checkbox"/> IRS Form Letter 1722</p> <p><input type="checkbox"/> Letter from Social Security Agency</p> <p><input type="checkbox"/> Pay Stub with Social Security number</p> <p><input type="checkbox"/> Social Security Benefits</p> <p><input type="checkbox"/> Social Security Card</p> <p><input type="checkbox"/> W-2 Form</p>

documents for this element.)	
Age (1 is required) (NOTE: Source documentation requirements differ based on the level of service received)	___ Baptismal Record ___ Birth Certificate ___ Driver's License ___ Federal, State or Local photo ID ___ DD 214 – Certification of Discharge or from Active Duty ___ Passport ___ Hospital Record of Birth ___ Public Assistance/Social Service Record ___ School Records or ID Card ___ Work Permit ___ Cross Match with Department of Vital Statistics ___ Tribal Records ___ Self-Attestation (Self-Service Only)
Priority of Service Low Income – Public Assistance Basic Skills Deficient	Low Income – Public Assistance ___ Pay stubs ___ Employer statement: written or telephone verification ___ Alimony agreement ___ Award letter from Veteran's Administration ___ Bank statements ___ Compensation award letter ___ Court award letter ___ Pension statement ___ Family or business financial records ___ Housing authority verification ___ Social Security benefits statement ___ Public assistance records ___ UI documents ___ Quarterly estimated tax (self-employed persons) ___ Self- attestation Basic Skills Deficient ___ Basic skills assessment questions or test results ___ Referral/records from Title II Adult Basic Ed Program ___ Referral/records from English Language Learner Program
Self Sufficiency (Employed Workers Only)	___ Copy of a recent paycheck or paystub ___ Employer letter or other document describing the customer's current wage rate

ATTACHMENT C

DISLOCATED WORKER ELIGIBILITY DOCUMENTATION

<p>Right to Work in the US (1 is required)</p> <p>Note: a Document Inspection Form may be used for any of these required documents for this eligibility element.</p> <p>Note: All documents should be unexpired</p>	<p><input type="checkbox"/> Social Security Card AND Real ID compliant Driver's License or other government issued picture ID containing a photograph or information such as name, date of birth, gender, height, eye color and address. (If under 18 years old and does not have a Driver's License; may use school record or doctor/hospital record with signed Social Security Card.)</p> <p><input type="checkbox"/> U.S. Passport (unexpired or expired)</p> <p><input type="checkbox"/> Permanent Resident Card or Alien Registration Receipt Card (Form I-551)</p> <p><input type="checkbox"/> An unexpired foreign passport with a temporary I-551 stamp</p> <p><input type="checkbox"/> An unexpired Employment Authorization Document that contains a Photograph (Form I-766)</p> <p><input type="checkbox"/> An unexpired foreign passport with Form I-94 or I-94A bearing the same name as the passport and containing an endorsement of the alien's nonimmigrant status, as long as the period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form</p> <p><input type="checkbox"/> Original or certified copy of a Birth Certificate issued by a state, county, municipal authority or territory of the US bearing an official seal (Document Inspection Form is allowed.)</p> <p><input type="checkbox"/> Certification of Birth Abroad (Form DS-1350) issued by the Department of</p> <p><input type="checkbox"/> DD-214, Report of Transfer or Discharge (if place of birth is shown)</p> <p><input type="checkbox"/> Hospital Record of Birth</p> <p><input type="checkbox"/> T-visa issued to victims of human trafficking (See Attachment 9: TEGL 09-12)</p> <p><input type="checkbox"/> Naturalization Certification</p> <p><input type="checkbox"/> Certificate of Degree of Indian Blood</p> <p><input type="checkbox"/> Unexpired US Citizen ID card (Form I-197)</p> <p><input type="checkbox"/> Native American Tribal Document</p> <p><input type="checkbox"/> I-9 complete including signature by authorized employer or designee</p>
<p>Selective Service (1 is required for those required to register)</p>	<p><input type="checkbox"/> Screen printout of the On-line verification at www.sss.gov</p> <p><input type="checkbox"/> Acknowledgement Letter from Selective Service</p> <p><input type="checkbox"/> Selective Service Verification Form</p> <p><input type="checkbox"/> Selective Service Registration Card</p> <p><input type="checkbox"/> Selective Service Advisory Opinion Letter</p> <p><input type="checkbox"/> Selective Service Registration Record (Form 3A)</p> <p><input type="checkbox"/> Selective Service Waiver Document (for veterans)</p> <p><input type="checkbox"/> Stamped Post Office Receipt of Registration</p>
<p>Social Security Number (Not required for eligibility)</p>	<p><input type="checkbox"/> DD-214 - Certificate of Discharge or Release from Active Duty</p> <p><input type="checkbox"/> IRS Form Letter 1722</p> <p><input type="checkbox"/> Letter from Social Security Agency</p> <p><input type="checkbox"/> Pay Stub with Social Security number</p>

<p>• Does not have to be signed.</p> <p>• SSN may be required for participation in paid work experiences, internships, or wage subsidy programs</p>	<p>___ Social Security Benefits ___ Social Security Card ___ W-2 Form</p>
<p>Age (1 is required for data validation purposes)</p> <p>(NOTE: Source documentation requirements differ based on the level of service received)</p>	<p>___ Baptismal Record ___ Birth Certificate ___ Driver's License ___ Federal, State or Local photo ID ___ DD 214 – Certification of Discharge or from Active Duty ___ Passport ___ Hospital Record of Birth ___ Public Assistance/Social Service Record ___ School Records or ID Card ___ Work Permit ___ Cross Match with Department of Vital Statistics ___ Tribal Records ___ Self-Attestation (Self-Service Only)</p>
<p>1. Layoff/UI/Unlikely to Return (Note: Honorable military discharge can count as a layoff, but the customer must also meet the other two criteria.) (Note: All three circumstances must be documented)</p>	<p>Layoff/UI:</p> <p>___ Letter from employer or documented telephone verification with date of dislocation ___ UI Notice of Decision with date of dislocation ___ Layoff or closure notice with date of dislocation ___ State Rapid Response Report ___ Public layoff notice with UI data cross-match and paystub with date of dislocation ___ Unemployment Insurance "Employment History" with date of dislocation ___ DD-214 Certificate of Discharge or Release from Active Duty</p> <p>Unlikely to Return:</p> <p>___ Skill Oversupply ___ Obsolete Skills ___ Only Stop-Gap Available ___ No Job Offers Received ___ Local Layoff Impact ___ Declining Occupation ___ Physical Limitations or Disabilities</p>

<p>_____ 2. Plant Closure, Substantial Layoff</p> <p>(Note: Two circumstances must be documented – the fact that the business closed or a substantial layoff occurred and that the applicant worked there.)</p>	<p>Self-Employed:</p> <p>___ Business License/Permit ___ Tax Records ___ Self-Employment Worksheet signed and attested ___ UI wage data screen</p> <p>Business Closed:</p> <p>___ Business closure notice ___ Tax records ___ Bankruptcy documentation ___ Lending Institution documentation ___ Financial statements from accountant</p> <p>Economic Conditions or Natural Disaster:</p> <p>___ Public notice ___ USDOL Advisory</p>
<p>_____ 4. Displaced Homemaker</p> <p>(Note: Two circumstances must be documented –1) The fact that the applicant was dependent on the income of a spouse and is no longer being supported by that income; and 2) the applicant is unemployed or underemployed.)</p>	<p>___ Cross Match with Public Assistance Records ___ Copy of Spouses Layoff Notice ___ Copy of Spouse’s Death Record ___ Copy of Spouse’s Permanent Change of State (PCS) Orders (for a military move or assignment) ___ Copy of Divorce Records ___ Copy of Bank Records (showing financial dependence on spouse, no spate individual income support, or no employment income earned) ___ UI wage data indicating no wages ___ Self-attestation</p>
<p>Spouse of a Veteran Dislocated Worker</p> <p>(Note: Two circumstances must be documented – 1) proof of marriage; and 2) that there was loss of employment or change in employment status</p>	<p>Marriage</p> <p>___ Marriage Certificate ___ Affidavit</p> <p>Loss of Employment or change in employment status</p> <p>___ Payroll documents ___ Copy of Spouse’s Permanent Change of State (PCS) Orders (for a military move or assignment) _____ Unemployment Insurance Records</p>