



**NORTH CAROLINA DEPARTMENT OF COMMERCE  
DIVISION OF WORKFORCE SOLUTIONS**

**DWS Operational Guidance Number: OG 09-2021**

**Date: April 22, 2021**

**Subject: Guidance on Eligibility for Participation in the  
Workforce Innovation and Opportunity Act (WIOA)  
Title I Dislocated Worker Program**

**From:**

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**Purpose:** To provide guidance on eligibility for participation in the WIOA Title I Dislocated Worker Program and to rescind PS 14-2020.

**Background:** WIOA does not impose an age or income level standard or criterion on dislocated workers.

Customers must meet the following eligibility requirements in order to participate in the Dislocated Worker Program:

- A U.S. Citizen or otherwise legally entitled to work in the United States.
- Registered with Selective Service, if applicable (males born after January 1, 1960).
- Eligible for Training Services as defined in U.S. Department of Labor (USDOL) Training and Employment Guidance Letter (TEGL) 19-16.
- Meet the criteria of one of the following nine categories (WIOA definition Section 3(15)).

**A(i)(ii)(iii)**

An individual who has been terminated or laid off, or received notice of 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.

**A(II)**

An individual who has been terminated or laid off, or received notice of termination or layoff, from employment; AND 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 a State Unemployment Compensation law; AND is unlikely to return to previous industry or occupation.

Guidance for Section 3(15)(A)(i)(ii)(iii) and A(II):

- Includes returning military service members that were honorably discharged defined in TEGL 19-16.
- Includes permanent full-time and part-time employees as well as leased employees through a staffing agency that were separated through “no-fault” of his or her own.
- Does not include Independent Contractors on temporary assignment or seasonal workers.
- Previous industry is the specific industry which the employee was displaced from his or her job such as tobacco industry, apparel industry, or telecommunications industry.
- Previous occupation is the specific job the employee was displaced from such as cigarette maker, sock maker, or customer service representative.

**B(i)**

An individual who 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, or enterprise.

Guidance for Section (B)(i):

- A number of Rapid Response services may be provided on-site such as employee information sessions, customized job seeking skills workshops, and partner presentations.
- The thrust is to serve employees in training prior to separation from employment as to protect the solvency of the Unemployment Insurance (UI) Trust Fund.
- Any notice filed in compliance to the Worker Adjustment and Retraining Notification (WARN) Act serves as a notice of termination.
- A notice of termination may also be a letter addressed to the employee and on company letterhead.
- Self-attestation is acceptable if the company immediately closes, and the employee is unable to get a letter of termination from his or her employer.
- Substantial layoff is defined as 20 or more employees.
- Laid off permanent full-time and part-time employees as well as leased employees through a staffing agency that will be separated through “no-fault” of his or her own.
- This does not include Independent Contractors on temporary assignment.

**B(ii)**

An individual 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 supportive services, is employed at a facility at which the employer has made a general announcement that such facility will close.

Guidance for Section 3(B)(ii):

- A number of Rapid Response services may be provided on-site such as employee information sessions, customized job seeking skills workshops, and partner presentations.
- The thrust is to serve employees in training prior to separation from employment as to protect the solvency of the Unemployment Insurance (UI) Trust Fund.
- Employees may begin to receive WIOA Training Services 6-months, 26-weeks or 180 days prior to his or her separation date.
- Includes permanent full-time and part-time employees as well as leased employees through a staffing agency that will be separated through “no fault” of his or her own.
- This does not include Independent Contractors on temporary assignment.

**(C)**

An individual that 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.

Guidance for Section 3(C):

- Includes Independent Contractors.
- Paying into the Unemployment Insurance Trust Fund is not a requirement for participation in Career or Training Services.

**(D)**

An individual who is a displaced homemaker. The term “displaced homemaker” means an individual who has been providing unpaid services to family members in the home and who has been dependent on the income of another family member but is no longer supported by that income; OR is the dependent spouse of a member of the Armed Forces on active duty and whose family income is significantly reduced because of deployment, a call or order to active duty, a permanent change of station or the service-connected death or disability of the member; AND is unemployed or underemployed and is expecting difficulty in obtaining or upgrading employment (WIOA Section 3(16)).

**E(i)**

An individual who 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 of such member.

**E(ii)**

An individual who is the spouse of a member of the Armed Forces on active duty and is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

**F- Additional State Eligibility**

An individual who is long-term unemployed through no fault of his or her own.

**WIOA Section 170**

For an individual who does not meet criteria outlined for Dislocated Workers in categories 1 – 9 but is an individual that meets Dislocated Worker Grant (DWG) eligibility outlined under WIOA Title I National Programs, Section 170 National Dislocated Worker Grants, relating to Section 170(b)(1)(A) workers affected by major economic dislocations **or** Section 170(b)(1)(A) workers affected by an emergency or major disaster.

**Division Technical Assistance**

In some instances, determining whether an individual is a dislocated worker is based upon his or her eligibility (or lack thereof) for the State's Unemployment Insurance (UI) as stated in A(i)(ii)(iii) and A(II). A customer that has separated from employment through "no fault" of his or her own such as a company layoff, company closure, or lack of work; and is unlikely to return to a previous industry or occupation, qualifies as a WIOA Title I Dislocated Worker.

The following four scenarios may qualify an individual to be eligible as a WIOA Title I Dislocated Worker customer and receipt of Unemployment Insurance (UI) would suffice as documentation for the participant or the participant can attest to the reason:

- Fired/Terminated/Separated due to the inability to do the job.
- Quit due to medical reasons - the person can no longer perform his or her job.
- Quit due to an abusive spouse and is in a protective shelter program.
- Spouse who had to quit his or her job due to the other spouse being physically transferred/moved to another location and relocated in order to keep the family unit together.

Notice all of these reasons are based upon "no-fault" of the worker. The Case Manager will determine, "unlikely to return" status, which is whether or not the person can reasonably return to the same industry or the same occupation.

During the eligibility process the following should be considered:

- Part-time jobs or side jobs are not included in making the initial determination for Dislocated Worker eligibility.
- If someone is working a job that is not comparable to his or her last job, he or she can select "underemployed" rather than state "not employed".

**Action:** Case Managers should use one of these definitions when determining Dislocated Worker eligibility. For additional clarification, Case Managers may also reference the list of scenarios included on the Attachment.

**Effective Date:** Immediately

**Expiration:** Indefinite

**Contact:** DWS Accountability Programmatic Monitor

**Attachment:** Dislocated Workers Scenarios