

North Central Workforce Development Area

240 N. Mission • Wenatchee, WA 98801 • (509) 663-3091 • Fax (509) 663-5649 • www.skillsource.org

LOCAL DIRECTIVE

Directive #: <u>18-172 REV 7</u> Date: July 1, 2023

TO: SkillSource Staff and Service Providers
FROM: Lisa Romine, CEO
SUBJECT: Dislocated Worker Eligibility Determination
SUPERCEDES: Directive 18-172 REV 6

REV 7 Change Summary

- **Updated verification checklist to include QUEST eligibility**
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Eligibility:

After receiving at least one career service and being determined in need of additional services individuals must meet the following eligibility criteria for the Dislocated Worker Program:

- U.S. citizen or otherwise legally entitled to work in the U.S.; and
- Selective Service Registration (males who are 18 or older and born on or after January 1, 1960), unless an exception is justified
- One of the Dislocated Worker criteria as defined in WIOA Section 3(15) and TEGL 22-04.

Application & Documentation:

To ensure adequate eligibility determinations, documentation for each applicant is required. Adequate documentation includes:

- A completed application for each applicant.
- Copies of documents used to determine eligibility as outlined in the attached verification form.
- The Dislocated Worker Verification Form outlines acceptable forms of documentation including self-attestation where appropriate. Self-attestation may be used, where indicated, when other forms of documentation cannot be obtained. Self-attestation can be a signed and dated WIOA eligibility application as it includes an acknowledgment that falsification of the information shall be grounds for immediate termination and may subject the applicant to other penalties under the law.
- A Training Manager or his/her designee will review each file for correct eligibility determination and sign at the top of the Eligibility Verification Record upon review. Data will be entered into the ETO/WAWIN data system.

Definitions / Criteria:

- **Substantial Lay off:**
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 during any 30 day period for:
 - (a) (1) At least 33 percent of the employees (excluding employees regularly working less than 20 hours per week); **and**
 - (2) At least 50 employees (excluding employees regularly working less than 20 hours per week); **or**
 - (b) At least 500 employees (excluding employees regularly working less than 20 hours per week).

- **Unlikely to return to a previous industry or occupation:**
A person may be considered unlikely to return to their previous industry or occupation when any of the following apply:
 - 1) The previous industry or occupation is in low demand or decline within the local area.
 - 2) The individual's skills are outdated to re-enter the labor market in that occupation or industry.
 - 3) Current job listings show no position openings (for same job from which applicant was separated) with wages higher than 90% of previous wage.
 - 4) The individual has a physical or mental limitation that has rendered them unable to perform their previous occupation.
 - 5) The individual is 55 years of age or older
 - 6) The individual was terminated for conduct that precludes them from returning to that specific occupation.

- **General Announcement of Plant Closure:**
Criteria:
 - 1) Announcement must be made by the employer, **and**
 - 2) Indicate a planned closure date

- **Unemployed as a result of general economic conditions** in the community in which the individual resides or because of natural disaster: For individuals who were self-employed (including farmers, ranchers and fisherman) and are unemployed.
 - 1) Categories of economic conditions resulting in the dislocation of a self-employed individual may include, but are not limited to:
 - a) Failure of one or more businesses to which the self-employed individual supplied a significant proportion of products or services;
 - b) Failure of one or more businesses from which the self-employed individual obtained a significant proportion of products or services;
 - c) Substantial layoff(s) from, or permanent closure(s) of, one or more plants or facilities that support a significant portion of the local economy.

 - 2) Categories of natural disaster include, but are not limited to, any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, drought, fire or explosion.

Military Service Members

As per TEG 22-04, a military service member who is separated from military service under conditions other than dishonorable, or, who receives a notice of future separation, may be eligible under the WIOA Dislocated Worker program based on the "termination" criteria. This may include National Guard or Reserve members who have been discharged from active duty service, but not necessarily from other reserve commitments, such as training.

WorkSource Policy 1019 Rev 8 States that Washington State has determined that still active, transitioning military service members may also qualify for Dislocated Worker Program services. While these individuals may

be eligible to receive WIOA Dislocated Worker Program services and funds, they would not be considered 'veterans' for the purposes of DOL reporting.

For the purposes of serving still-active transitioning service members under the "notice of termination or layoff" eligibility criterion, documentation must align with the DOL Data Element Validation (DEV) requirement for "Date of Actual Qualifying Dislocation". Military personnel are eligible to begin receiving Dislocated Worker Program services upon receipt of discharge orders (Effective Termination of Service "ETS" Orders or DD2648-ACAP Transition Checklist). Length of service to qualify an individual for such discharges or separations under WIOA guidance may be as few as one day of service. Qualified individuals can receive services up to 180 days prior to date of discharge.

The following serves as an outline of Dislocated Worker eligibility criteria as it applies to military service members:

- Has been terminated or laid off or received notice of termination or layoff. TEGL 22-04 states that a discharge from the military under honorable circumstances meets the "termination" criterion. A DD-214 form is the most common documentation used to determine discharge status. WorkSource Policy 1019 Rev 6 specifies that persons retiring from military service do not qualify as "terminated" or "laid off".
- Is eligible for unemployment insurance (UI) benefits or has exhausted UI entitlement; or has had an employment duration that shows attachment to the workforce. 20 CFR 680.660 and TEGL 19-16 state that separating service members automatically meet this criterion. Is unlikely to return to a previous industry or occupation. 20 CFR 680.660 and TEGL 19-16 state that separating service members automatically meet this criterion.

Spouses of Military Service Members

TEGL 22-04 clarifies that the term "military spouse" includes individuals who are married to active duty service members (including National Guard or Reserve personnel on active duty) and surviving spouses of active duty service members who lost their lives while on active duty service in combat-related areas (e.g. Afghanistan or Iraq).

When the spouse is unable to continue an employment relationship due to the service member's permanent change of military station, or the military spouse loses employment as a result of the spouse's discharge from the military, then the separation from employment meets the termination component of the WIOA definition of Dislocated Worker. Eligibility determinations must align with UI policy regarding "good cause" for voluntary quits. Below are two common scenarios that would qualify:

- The spouse of a military service member voluntarily quits because he/she is relocating with the service member to a new duty location.
- The spouse of a military service member is no longer eligible to work on the base as a result of the (military service member's) discharge.

NOTE: Good cause is **not** found when a claimant quits work to relocate someplace other than the military spouse's or domestic partner's new duty location, including relocation to the home of record or elsewhere.

As provided in TEGL 22-04 Change 1, "termination" of military spouses based on the circumstances described above can be considered to meet the "unlikely to return to a previous industry or occupation" in order to qualify as a dislocated worker. Determination is a matter of judgment based on relevant circumstances, but in most cases, military spouses impacted by a service member's duty reassignment or discharge will meet the "unlikely to return to a previous industry or occupation" criterion of WIOA and could be served as dislocated workers.

A military spouse can also be served as Dislocated Worker if he/she meets the definitional requirements for Displaced Homemaker (see definition).

Employed Dislocated Workers:

Employed Dislocated Workers must meet the underemployed/ not self-sufficient definition to receive career and training services. (See Local Directive)

Stop Gap Employment: is temporary work an individual accepts only because they have been laid off from the customary work for which their training, experience or work history qualifies them. Stop-gap employment must be temporary in nature with the intent to end employment upon completion of training, obtaining self-sufficient employment or as specified in the individual employment plan (IEP).

Typically, stop-gap employment will pay less than the self-sufficiency wage, however, there may be specific circumstances where stop-gap employment does provide a sufficient wage temporarily but is not considered permanent employment that leads to self-sufficiency. (i.e., temporary, seasonal or lower skilled work, or a position that is inconsistent with the participant's occupational goal and/or IEP) This stop-gap employment would not change the individual's dislocated worker status if it meets the WDC's criteria.

An otherwise eligible Dislocated Worker remains eligible if either prior to, or during DW program participation, stop-gap employment is obtained for the purpose of income maintenance. If dislocation from a stop-gap position occurs, the job of dislocation remains the original job that established the self-sufficient income. If, at any time, an individual obtains employment that meets self-sufficiency, then that position would be considered the self-sufficient job of dislocation in the event of a future dislocation.

UI Good Cause Voluntary Quits: Individuals can qualify as a dislocated worker under Category 1 (General Dislocation) if they file for, and are approved for, UI benefits after having been determined by the ESD as having voluntarily left employment due to no fault of their own for one of the following good cause reasons:

- Illness or disability of the claimant or death, illness, or disability of an immediate family member.
- Relocate to follow spouse's or registered domestic partner's employment.
- Need to protect the claimant or immediate family member from domestic violence or stalking.
- Usual hours, compensation, or benefits are reduced by 25 percent or more.
- Involuntary change in work site or location (no minimum distance or mile threshold).
- Work site safety has deteriorated.
- Illegal activities at work site
- Usual work changed to work that violates religious or moral beliefs.
- Left part-time work to accept full-time job that was eliminated without prior knowledge.

Under these circumstances, claimants have satisfied criteria 1.1. because ESD recognizes them as terminated even though they, rather than their employers, are the moving party. Such individuals must also be determined unlikely to be return to the industry or occupation they left for a UI good cause voluntarily quit reason (criteria 1.2). Finally, they must satisfy criteria 1.3.1 (1.3.2 is not an option) by documenting their status as having been determined eligible for or exhausted UI benefits through separation determination letters provided by ESD or, if that is not available, other documentation in the form of UI correspondence from the ESD. UI Good Cause Voluntary Quit rationale (as listed above) will be documented in eligibility case notes.

QUEST Eligibility: Reference local directive [23-181](#) for QUEST eligibility requirements.

For additional information: refer to TEGL 10-16 Change 1, [WorkSource System Policy 1019 \(Rev 8\)](#), and [WIN 0132](#).

The following forms are available separately at <https://skillsource.org/local-directives>:

- Eligibility Application
- Income & Family Size Worksheet
- Self-Attestation Form (Adult/Dislocated Worker)
- Priority and Income Levels for current Program Year
- Verification Checklist
- Data Sharing and Compliance notices (EO, Complaint)

Dislocated Worker Criteria

**Criteria 1)
General
Dislocated
Worker**

(a). Terminated or Laid off, or who has received notice of termination or layoff from employment (Date of Actual Qualifying Dislocation); **and**

- Lay-off notice or termination notice from employer
- Contact with last employer
- UI Printout from ESD
- Certification of expected Separation (Federal Civilian Employees)
- DD-214 (Military separation)
- Self-Attestation

Must document:

- **A and**
- **B or C, and**
- **D**

(b). Eligible for or has exhausted entitlement to unemployment compensation; **or**

- UI Printout from ESD

(c). Has been employed for a duration sufficient to demonstrate to the appropriate entity at a one-stop center referred to in WIOA section 134 (c), attachment to the workforce, but is not eligible for UI due to insufficient earnings or having performed services for an employer that were not covered under a State unemployment compensation law; (local policy defines attachment to the workforce as “employed at least 680 hours during the 12 months prior to dislocation”) **and**

- UI Printout from ESD
- Pay stubs
- Employer Collateral Contact
- Self-attestation

(d). Is unlikely to return to a previous industry or occupation:

(i) low demand or decline

- (i)
 - Occupations In Demand list
 - Labor market information
 - Labor analysis

(ii) wage comparison

- (ii)
 - Comparison of current job listing wages to previous wage

(iii) skills are outdated

- (iii)
 - Work History
 - Labor Market Information
 - Self-attestation

(iv) physical or mental limitation

- (iv)
 - Doctor’s Statement
 - Vocational Rehab or L&I Statement

(v) individual is 55 or over

- (v)
 - Driver’s license or other document listed on verification checklist

(vi) terminated for conduct that precludes returning to that specific occupation

- (vii)
 - Termination letter or other document substantiating reason for dismissal.

<p>Criteria 2) Plant Closure</p> <p><i>Must Document A and B</i></p>	<p>(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 or enterprise, and</p> <p>(b) Worked with Employer</p>	<ul style="list-style-type: none"> • Lay-off or termination notice or letter from employer • WARN • Newspaper article • Self- attestation • Employer list of laid of employees • Printout from ESD • Pay Stub • Self-attestation (work history)
<p>Criteria 3) 180 Days Prior Notice</p> <p><i>Must Document A and B</i></p>	<p>a). Is employed at a facility at which the employer has made a general announcement that such facility will close within 180 days, and</p> <p>(b) Works with Employer</p>	<ul style="list-style-type: none"> • Any general announcement made by the employer, reported by the media or communicated in some other fashion indicating date of closure • Employer list of employees • Printout from ESD • Current Pay Stub • Self-attestation (work history)
<p>Criteria 4) Public Notice</p> <p><i>Must Document A and B</i></p>	<p>(a). For the purposes of eligibility to receive services other than employment and training services in WIOA section 134(d)(1 or support services, is employed at a facility at which the employer has made a general announcement that the facility will close, and</p> <p>(b) Works with Employer</p>	<ul style="list-style-type: none"> • Any general announcement made by the employer, reported by the media or communicated in some other fashion indicating date of closure • Employer list of employees • Printout from ESD • Pay Stub • Self-attestation (work history)
<p>Criteria 5) Self Employed and Unemployed</p> <p><i>Must Document A and B or A and C</i></p>	<p>(a). Was self-employed (including employment as a farmer, a rancher, or a fisherman) but is unemployed, and</p> <p>(b) as a result of general economic conditions in the community in which the individual resides or</p> <p>(c) because of natural disasters</p>	<ul style="list-style-type: none"> ▪ Tax returns ▪ Business license ▪ Newspaper articles ▪ Foreclosure notice ▪ Document that disaster caused going out of business ▪ Self-attestation
<p>Criteria 6) Displaced Homemaker</p> <p><i>Must Document A and B</i></p>	<p>Is a displaced homemaker. An individual who has been providing unpaid services to family members in the home and who—</p> <p>(a) has been dependent on the income of another family member but is no longer supported by that income; and</p>	<ul style="list-style-type: none"> ▪ Separation or divorce decree ▪ Divorce Papers or Court records ▪ Spouse’s layoff notice or UI claim ▪ Spouse’s death record ▪ Tax Returns/Bank Records ▪ Self-attestation

	<p>(b) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.</p> <p>The definition in WIOA Section 3(15) includes only those individuals who were dependent on a family member's income. Those individuals who have been dependent on public assistance may be served in the adult program.</p>	<ul style="list-style-type: none"> ▪ UI Printout from ESD ▪ Self-attestation
<p>Criteria 7: Military Service Members <i>(Must document A, B and C)</i></p>	<p>(a) A <u>non-retiree</u> military service member who was discharged or released from service under conditions other than dishonorable, or has received a notice of military separation, and</p> <p>(b) <u>As a separating service member</u>, is determined unlikely to return to a previous industry or occupation, and</p> <p>(c) <u>As a separating service member</u>, is eligible for or has exhausted entitlement to Unemployment Insurance; or has had an employment duration that shows attachment to the workforce.</p>	<p>Use General Dislocation Criteria 1 (Still active military service members may apply for services prior to date of discharge, but must be <u>within 180 days of date of separation</u> from the military to be determined eligible for and receive services)</p>
<p>Criteria 8: Spouses of Military Service Members <i>(Must document A or B)</i></p>	<p>(a) A military spouse who is unable to continue an employment relationship due to the service member's permanent change of military station; or</p> <p>(b) A military spouse who lost employment as a result of the service member's discharge from the military.</p> <p>Note: A military spouse may also qualify as a displaced homemaker.</p>	<ul style="list-style-type: none"> ▪ Lay-off notice or termination notice from employer ▪ Contact with last employer ▪ UI Printout from ESD ▪ Certification of expected Separation (Federal Civilian Employees) ▪ DD-214 (Military separation) ▪ Self-attestation

QUEST DWG ONLY: Verify ONE of the 4 QUEST criteria below.

To be eligible for enrollment in the QUEST DWG, an individual must be determined eligible based on one of the following criteria, per Section 4.b.iii of TEGL 2-22:

A. A dislocated worker as defined at 29 U.S.C. 3102(3)(15);

A1. Self-Attestation

A2. UI Printout from ESD

A3. One of Criteria 1-8 (documented above)

B. A long-term unemployed worker: For the QUEST DWG, “long term unemployed” is defined as individuals legally entitled to work in the U.S. and of legal working age, who are looking for a job, available for work, and :

B1. Self-Attestation

B2. UI Printout from ESD

- Have never been employed (i.e., no prior attachment to either an employer or self-employment);
- Have dropped out of the labor force, but desire to return (e.g., discouraged workers – who were not actively looking for work because they did not think they could find work; individuals who took time off to raise a child or care for another family member; individuals who took time off to further their education);
- Have regular or frequent spells of unemployment (i.e., seasonal or sporadic attachment to work);
- Are determined ineligible for WIOA Title I Dislocated Worker programs but unemployed for 13 or more weeks;
- Are under-employed (i.e., working part-time out of necessity but desirous of full-time work; working full-time but wages or working conditions are unsuitable);
- Are ex-offenders who are unemployed after incarceration;
- Are currently incarcerated offenders within one year of release;
- Are individuals who suffered an on-the-job injury, non-work-related injury or illness, were institutionalized, or were victims of a crime and have been out of work as a result; or
- Are active-duty service members (or spouses) who face involuntary, other than dishonorable, discharge from the military.

C. A self-employed individual who became unemployed or significantly underemployed due to the COVID-19 pandemic disaster.** For the QUEST NDWG, “significantly underemployed” is defined as an individual who meets the definition of “under-employed worker” reflected in state policy at Section 4.3.1 of the Eligibility Policy Handbook affiliated with WorkSource System Policy 1019, Revision 6.

C1. Self-Attestation

D. Temporarily or permanently laid off as a consequence of the COVID-19 pandemic disaster: For the QUEST NDWG, the State defines individuals “temporarily or permanently laid off as a consequence of the COVID-19 pandemic disaster” as individuals who were working prior to the COVID-19 pandemic but who became unemployed. For example, an individual who was fired for failing to report to work in order to stay home and care for a family member might be, for the purposes of this grant, “laid off as a consequence of the declared disaster”, as would an individual who quit in order to stay home and care for a family member.

D1. Self-Attestation