

# Adult and Dislocated Worker Policy



**Effective Date: 10/01/2018**

**Duration: Indefinite**

**BACKGROUND:** The Workforce Innovation and Opportunity Act (WIOA) was signed into law in 2014. WIOA is designed to help job seekers access employment, education, training, and support services to succeed in the labor market and to match employers with the skilled workers they need to compete in the global economy. Priority of service will be determined during initial assessment, eligibility, and/or enrollment process.

Section 134(c)(3)(E) of WIOA stipulates that recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient are given priority to receive services under WIOA. Individuals who meet the definition of an individual with a barrier to employment who are underemployed may also be served in the Adult program. Nothing in this policy shall constitute a right for any individual to receive services. The following guidelines apply to services for Adult participants.

The priority of service for veterans and eligible spouses always applies across all qualified employment and training programs. The priority of service for public assistance recipients, other low-income individuals, and individuals who are basic skills deficient is a statutory priority that applies only to the recipient of individualized career and training services in the WIOA Title I Adult program. Basic Career Services will be made available to all job seekers without Adult program priority.

## **Adult Program Eligibility**

To be eligible to receive WIOA Adult Individual Career or Training services, an individual must be all of the following:

- 18 years of age or older;
- Citizen or noncitizen authorized to work in the United States; and
- Meet Military Selective Service registration requirements (males only)

## **AND**

Be a member of at least one of the following groups:

- Recipients of Public Assistance
- Low-Income
- Basic Skills Deficient
- Unemployed with at least 1 barrier to employment
- Underemployed with at least 1 barrier to employment
- **Local Discretionary Priority:** The NETLWDB has defined a Local Discretionary Priority that includes Adult eligibility for other individuals not covered above for individualized career services and training services but that meet the NETLWDB Self-Sufficiency Eligibility for Adult Program Career and Training Services. This Local Discretionary Priority may apply to individuals who are employed or unemployed with an income below the self-sufficiency standard and who are in need of training to obtain or retain employment.

**Need for Local Discretionary Priority** - Data reviewed by the local board to determine the need for Local Discretionary Priority may include but is not limited to:

cost of living information, job shortages in critical employer occupations, employer need for particular skill sets, unemployment levels, demographics, individuals with barriers to employment, individuals facing cultural barriers, and long-term unemployed individuals.

**Eligibility Under Local Discretionary Priority** - Documentation to support eligibility under the Local Discretionary Priority may include but is not limited to: check stub, employer statement, self-attestation, W2, and/or other agency documentation.

The NETLWDB has defined a Local Discretionary Priority that includes Adult eligibility for other individuals not covered above for individualized career services and training services but that meet the NETLWDB Self-Sufficiency Eligibility for Adult Program Career and Training Services as defined:

1. For a participant with no dependents: 267% of Lower Living Standard Income Level (LLSIL) or Poverty Level – Compare Poverty Level against either Metro or Non-Metro LLSIL using the higher of the two.
2. For a participant with 1 or more dependents: 200% OF LLSIL or Poverty Level (Compare Poverty Level against either Metro or Non-Metro LLSIL using the higher of the two.)
3. For a married participant: 200% OF LLSIL or Poverty Level – Compare Poverty Level against either Metro or Non-Metro LLSIL using the higher of the two.
4. Exception to use of family income: An individual who is married and whose own income meets the requirements above, but who is a member of a family whose income does not meet the definition of self-sufficiency, may be considered as not being self-sufficient.
5. For Dislocated Workers, self-sufficiency may be determined as earnings which would be considered to be “replacement wages,” that is earnings less than wages paid in employment position previously held upon which dislocated worker eligibility was based.
6. The NETLWDB has defined an additional priority that includes Adult eligibility for other individuals not covered above for career and training services that meet the statutes and guidelines for locally funded Consolidated Business Grants as defined by USDOL & TDLWD

Under WIOA , as explained in 20 CFR 680.640, an individual with a disability, whose family does not meet income eligibility criteria, will qualify for priority as a low-income adult as defined in WIOA Section 3(36).

Title I providers must take into account those individuals who will benefit from training services, especially for individuals determined as low-income and/or low-income combined with a disability. Only after that has been completed are applicants prioritized for services for those in most need, such as:

1. Low-income individuals and low-income individuals with disabilities who have existing skills to build upon, or
2. Individuals who are chronically unemployed or have an inconsistent work history.

An individual with a disability, whose family does not meet income eligibility criteria, qualifies for priority as a low-income adult as defined in WIOA Section 3(36). Priority will be given to Tennessee residents. Referrals will be made to the closest appropriate American Job Center

based on residency or location of training services.

**Priority of Services for Adult Program** - (Please see NETLWDB Policy regarding Priority of Service for Veterans and Eligible Spouses) The Title I Adult program, must be applied in the following order:

1. Veterans and eligible spouses who meet the statutory priority (such as public assistance recipients, other low-income individuals including the underemployed, or those who are basic skills deficient) and Title I Adult program eligibility must receive the highest level of priority for services;
2. Other individuals (not veterans or eligible spouses) who meet the statutory priority (such as public assistance recipients, other low-income individuals including underemployed, or those who are basic skills deficient) and Title I Adult program eligibility then receive the second level of priority for services;
3. All other veterans and eligible spouses who meet Title I Adult program eligibility then receive the third level of priority for services;
4. Other individuals (not veterans or eligible spouses) who do not meet the statutory priority (such as public assistance recipients, other low-income individuals including underemployed, or those who are basic skills deficient), but do meet a local discretionary priority and Title I Adult program eligibility, then receive the fourth level of priority for services.
5. Other individuals (not veterans or eligible spouses) who do not meet the statutory priority (such as public assistance recipients, other low-income individuals including underemployed, or those who are basic skills deficient) and do not meet the local discretionary priority, but do meet Title I Adult program eligibility, then receive the fifth level of priority for services.

### **Dislocated Worker Program**

The WIOA Dislocated Worker program offers employment and training services for eligible workers who are unemployed through no fault of their own or who have received an official layoff notice. WIOA expands the definition of dislocated worker to include the spouse of active military who lost employment as a result of a permanent change in duty location or is unemployed or underemployed and experiencing difficulty in obtaining or upgrading employment.

### **WIOA Dislocated Worker Eligibility**

To be eligible to receive WIOA services as a dislocated worker in the Dislocated Worker programs, an individual must:

- be a citizen or noncitizen authorized to work in the United States;
- meet Military Selective Service registration requirements (males only); and
- meet the definition of dislocated worker at WIOA §3(15).

### **Definition of Dislocated Worker:**

The individual:

1. has been terminated or laid off, or has received a notice of termination or layoff, from employment; 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 a state's UI law; and is unlikely to return to a previous industry or occupation that is determined through an evaluation of the labor market which

determines that:

- the industry or occupation shows either no growth or a decline in available job opportunities as documented by labor market statistics or Jobs4TN labor market analyses;
  - the individual has been seeking, since termination, layoff, or receipt of notice of layoff, but has been unable to find employment in his or her previous industry or occupation due to economic conditions and/or skill limitations;
  - the individual was profiled and determined likely to exhaust UI benefits; or there is a lack of suitable matches in Jobs4TN.
2. has been terminated or laid off, or has received a notice of termination or layoff, and has been employed for a sufficient duration based on TDLWD policy to demonstrate workforce attachment, but is not eligible for UI due to insufficient earnings or the employer is not covered under the UI laws and is unlikely to return to previous industry or occupation
  3. Is terminated or laid off, or has received notice of termination or layoff, from employment as a result of the permanent closures of or substantial layoff at a plant, facility or enterprise.
  4. Is employed at facility at which the employer has made a general announcement that the facility will close.
  5. Was previously self-employed, but is unemployed due to general economic conditions in the community of residence or because of natural disaster.
  6. Is a Displaced Homemaker
  7. Is a 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 or is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

Note: Individuals laid off on a temporary basis, with a specific recall date, are not eligible under Category 1 of the WIOA Dislocated Worker eligibility criteria. Temporary or Seasonal Workers - Individuals laid off or terminated because of the cyclical, intermittent, or seasonal nature of their employment may be provided individualized career services and training services under the dislocated worker program. However, such services should be available only to those individuals interested in developing skills in non-seasonal occupations rather than in continuing as temporary or seasonal workers.

Note: Military Service members, separating military personnel, or recently separated veterans qualify as Category 1 Dislocated Workers if they are discharged under conditions other than dishonorable, whether voluntarily or involuntarily and are non-retirees. WIOA §3(63)(B) defines "Recently Separated Veteran" to mean any veteran who applies for participation under WIOA within 48 months after the discharge or release from active Armed Forces services.

**Veteran's Priority of Services:** The WIOA regulation states that veterans must receive priority of service in programs for which they are eligible. Veterans and eligible spouses must first meet any and all of the statutory eligibility criteria in order to be considered for:

- a) Enrollment in the program;
- b) Receipt of priority for enrollment in the program; and
- c) Priority of receipt of services.

Priority means that veterans and eligible spouses take precedence, with all other qualifying eligibility requirements being equal, over non-veteran and eligible spouses in obtaining services and program enrollment. This action means that veterans and eligible spouses are given priority

over non-covered persons for the receipt of career assistance provided under workforce services. A veteran, or an eligible spouse of a veteran, will receive access to a service earlier than a non-covered person.

**DEFINITIONS:** Definitions pertaining to this policy are included herein.

**Low-Income Individual (LII):** WIOA defines the term “Low Income Individual” as one who has a barrier to employment and who is in a family with a total family income that does not exceed the higher of the poverty line or 70 percent of the Lower Living Standard Income Level (LLSIL). LLSIL is used for several purposes under WIOA. Specifically, WIOA Sec. 3(36)(A)(B) defines the term “low income individual” for eligibility purposes, and Sec. 127(b)(2)(c), Sec. 132(b)(1)(B)(IV),(v)(bb) define the terms “disadvantaged youth” and “disadvantaged adult” in terms of the poverty line or LLSIL for State formula allotments. LLSIL is determined annually by the Secretary of Labor based on the most recent lower living family budget issued by the Secretary and is adjusted for regional, metropolitan, urban, and rural differences and family size

A low-income individual is defined as a person who meets any of the following criteria and will satisfy the low-income requirement for WIOA Title I Adult services:

- (A) **Recipient of Public Assistance** includes individuals who receive, or in the past six (6) months have received, or are a member of a family that is receiving or in the past six (6) months has received, assistance through one or more of the following:
- Supplemental Nutrition Assistance Program (SNAP);
  - Temporary Assistance for Needy Families (TANF) program;
  - Supplemental Security Income (551) program; or
  - State or local income-based public assistance.
- (B) **Low-income** includes:
- a) Recipients of public assistance (defined above)
  - b) A family with total family income that does not exceed the higher of the poverty line; or 70 percent of the lower living standard income level
  - c) A homeless individual (as defined in section 41403(6) of the Violence Against Women Act of 1994, 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))
  - d) An individual who receives or is eligible to receive a free or reduced price lunch under the Richard Russell National School Lunch Act (42 U.S.C. 1751 et seq.)
  - e) An individual with a disability whose own income meets the income requirement of clause (ii), but who is a member of a family whose income does not meet this requirement.

In programs that require income-based eligibility to receive services, amounts paid while on active duty or paid by the Department of Veterans Affairs (VA), or Vocational Rehabilitation (VR) disability, or other related Veteran Affairs programs are not considered as income when determining low-income status. Generally, this means many separating service members may qualify for the WIOA Adult Program because it provides services for low-income individuals where military earnings are not to be considered income.

For income-based eligibility determinations, amounts paid while on active duty or paid by the Department of Veterans Affairs (VA) for vocational rehabilitation, disability payments, or related

VA-funded programs are not to be considered as income in outlined in WIOA. Veteran means 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, as specified in 38 U.S.C. 101(2). Active service also includes full-time duty in the National Guard or a Reserve component, other than full time duty for training purposes. The definition of a Veteran and eligible spouse is defined in TEGL 15-10 and 10-09. Also reference TDLWD on-line guidance.

**Barrier to Employment** – An individual who meets 1 or more of the following populations:

1. Displaced homemakers
2. Low-income individuals
3. Indians, Alaska Natives, and Native Hawaiians, defined in Section 166
4. Individuals with disabilities, including Youth who are individuals with disabilities
5. Older individuals
6. Ex-offenders
7. Homeless individuals (as defined in section 41403(6) of the Violence Against Women Act of 1994 or homeless children and youths as defined in section 725(2) of the McKinney-Vento Homeless Assistance Act
8. Youth who are in or have aged out of the foster care system.
9. Individuals who are English language learners, individuals who have low levels of literacy, and individuals facing substantial cultural barriers.
10. Eligible migrant and seasonal farmworkers, as defined in section 167(i).
11. Individuals within 2 years of exhausting lifetime eligibility under part A of title IV of the Social Security Act
12. Single parents (including single pregnant women).
13. Long-term unemployed individuals.

**Basic Skills Deficient: WIOA Section 3(5)(8)** defines basic skills deficient as "an individual who is unable to compute or solve problems, read, write, or speak English at a level necessary to function on the job, in the individual's family, or in society."

It is expected that any such basic skills deficiencies will be determined by an objective, valid, and reliable assessment such as the Comprehensive Adult Student Assessment Systems (CASAS) or the Test for Adult Basic Education (TABE). If priority of service is based on basic skills deficient criteria, then the participant's file must contain academic tests (including the participant's name, date of test, and results). The term Basic Skills Deficient shall also mean an adult 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 as defined in WIOA Section 3(5)(B). Please refer to ITA Policy and Procedures discussion of Basic Skills levels associated with training.

WIOA allows the use of previous assessments for determining appropriate career and training services for participants. A new assessment of a participant is not required if Provider staff determines that it is appropriate to use a recent assessment (defined herein) of the participant conducted pursuant to another education or training program. Title I Provider staff will ensure the previous assessment is valid and reliable, appropriate for the target population and contains current information and is no more than six months old. In assessing basic skills, Provider staff must provide reasonable accommodation in the assessment process, if necessary, based on the assessment/test specified guidelines. Assessments may include, but are not limited to, Career Scope, CASAS, Test for Adult Basic Education (TABE), and National Career Readiness Certificate (NCRC). In addition, reference TDLWD

WSG TN-WIOA (17-05).

**Underemployed** - Individuals are employed full or part-time and must also meet the definition of a low-income individual in order to be eligible for the Adult priority.

- Employed less than full-time and is seeking full-time employment
- Employed in a position that is inadequate with respect to their skills and training as determined by a staff interview
- Employed and meets the definition of a low-income individual
- Employed but whose current job's earnings are 90% (or less) of their previous job's earnings, from their previous employment. The previous employment must be within the last 5 years.

**Career Services** - There are three types of "career services": basic career services, individualized career services, and follow-up services. These services can be provided in any order; there is no sequence requirement for these services. The three categories of career services are defined below.

**Basic Career Services:** Basic career services must be made available to all individuals seeking services served in the one-stop delivery system, and include:

- Determinations of whether the individual is eligible to receive assistance from the adult, dislocated worker, or youth programs;
- Outreach, intake (including identification through the state's Worker Profiling and Reemployment Services system of unemployment insurance (UI) claimants likely to exhaust benefits or RESEA program), and orientation to information and other services available through the one-stop delivery system; Initial assessment of skill levels including literacy, numeracy, and English language proficiency, as well as aptitudes, abilities (including skills gaps), and supportive service needs;
- Labor exchange services, including—
  1. Job search and placement assistance, and, when needed by an individual, career counseling, including— Provision of information on in-demand industry sectors and occupations (as defined in sec. 3(23) of WIOA); and,
  2. Provision of information on nontraditional employment (as defined in sec. 3(37) of WIOA);
- Provision of referrals to and coordination of activities with other programs and services, including those within the one-stop delivery system and, when appropriate, other workforce development programs;
- Provision of workforce and labor market employment statistics information, including the provision of accurate information relating to local, regional, and national labor market areas, including—
  - ◆ Job vacancy listings in labor market areas;
  - ◆ Information on job skills necessary to obtain the vacant jobs listed; and
  - ◆ Information relating to local occupations in demand and the earnings, skill requirements, and opportunities for advancement for those jobs;
- Provision of performance information and program cost information on eligible providers of training services by program and type of providers;
- Provision of information about how the local area is performing on local performance accountability measures, as well as any additional performance information relating to the area's one-stop delivery system;
- Provision of information relating to the availability of supportive services or assistance, and appropriate referrals to those services and assistance, including: child care; child

support; medical or child health assistance available through the State's Medicaid program and Children's Health Insurance Program; benefits under the Supplemental Nutrition Assistance Program (SNAP); assistance through the earned income tax credit; housing counseling and assistance services sponsored through the U.S. Department of Housing and Urban Development (HUD); and assistance under a State program for Temporary Assistance for Needy Families (TANF), and other supportive services and transportation provided through that program; and

- Assistance in establishing eligibility for programs of financial aid assistance for training and education programs not provided under WIOA.

**Individualized Career Services:** If staff determine that individualized career services are appropriate for an individual to obtain or retain employment, these services must be made available to the individual. These services must be available in all one-stop centers. Staff may use recent previous assessments by partner programs to determine if individualized career services would be appropriate. These services include:

- Comprehensive and specialized assessments of the skill levels and service needs of adults and dislocated workers, which may include—
- Diagnostic testing and use of other assessment tools; and
- In-depth interviewing and evaluation to identify employment barriers and appropriate employment goals;
- Development of an individual employment plan, to identify the employment goals, appropriate achievement objectives, and appropriate combination of services for the participant to achieve his or her employment goals, including the list of, and information about, eligible training providers;
- Group and/or individual counseling and mentoring;
- Career planning (e.g. case management);
- Short-term pre-vocational services, including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct to prepare individuals for unsubsidized employment or training, in some instances pre-apprenticeship programs may be considered as short-term pre-vocational services;
- Internships and work experiences that are linked to careers;
- Workforce preparation activities that help an individual acquire a combination of basic academic skills, critical thinking skills, digital literacy skills, and self-management skills, including competencies in utilizing resources, using information, working with others, understanding systems, and obtaining skills necessary for successful transition into and completion of postsecondary education, or training, or employment;
- Financial literacy services;
- Out-of-area job search assistance and relocation assistance; and
- English language acquisition and integrated education and training programs.

**Training Services:** The term training services shall mean one or more of the activities described in WIOA Section 134(3)(D):

- occupational skills training, including training for nontraditional employment;
- on-the-job training;
- incumbent worker training in accordance with subsection (d)(4);
- programs that combine workplace training with related instruction, which may include cooperative education programs;
- training programs operated by the private sector;
- skill upgrading and retraining;



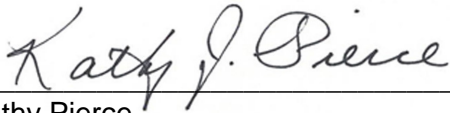
- entrepreneurial training;
- transitional jobs in accordance with subsection (d)(5);
- job readiness training provided in combination with services;
- adult education and literacy activities, including activities of English language acquisition and integrated education and training programs, provided concurrently or in combination with services described in any of clauses (i) through (vii); and
- customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training.

**Follow-up Services:** Follow-up services must be provided as appropriate for participants who are placed in unsubsidized employment, for up to 12 months after the first day of employment. Counseling about the work place is an appropriate type of follow-up service. Follow-up services do not extend the date of exit in performance reporting.

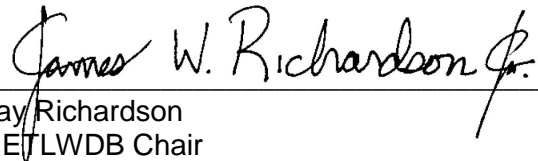
**CONTACT:** Questions concerning the above may be addressed to Kathy Pierce, Executive Director of the NETLWDB at [kpierce@ab-t.org](mailto:kpierce@ab-t.org).

This policy will remain in effect until amended, modified, or set aside by the Northeast Tennessee Local Workforce Development Board.

APPROVED:



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