

**Workforce Development System
Program Guidance Letter #22-01
September 14, 2022**

To: Workforce Development Community

SUBJECT: New York State Department of Labor (NYSDOL) guidance and interpretation on the Workforce Innovation and Opportunity Act (WIOA) definition of Dislocated Worker (DW) and recording DWs in the One-Stop Operating System (OSOS)

ACTION

I. DW Definition

The definition of DW under WIOA Section 3(15) includes five (5) categories of DWs per subsections (A) – (E). Eligibility for the DW program is based on the WIOA definition, but states have some flexibility in how this definition is applied. The United States Department of Labor (USDOL) Employment and Training Administration (ETA) encourages states and Local Workforce Development Boards (LWDBs) to review their DW policies to ensure impacted individuals who may be eligible receive the services they need.

This guidance provides the NYSDOL interpretation of the terms and guidelines within each of the WIOA Section 3(15) subsections to expand access to WIOA services for unemployed and underemployed populations and help address the workforce-related impacts of the COVID-19 public health emergency. Therefore, as of July 1, 2022, NYSDOL allows the following interpretation of the five (5) WIOA DW categories:

A. Category 1 – DW

- i. Has been terminated or laid off, or who has received notice of termination or layoff, from employment, including separation from active military service (unless dishonorably discharged); **and**
- ii. (1) Is eligible for or has exhausted entitlement to **unemployment compensation**; **or**

Interpretation: NYSDOL interprets “**unemployment compensation**” to include any compensation or assistance received under Subtitle A – Unemployment Insurance (UI) provisions of the [Coronavirus Aid, Relief, and Economic Security \(CARES\) Act](#), and any similar compensation received under subsequent federal law(s). This includes:

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- Pandemic Unemployment Assistance (PUA);
- Federal Pandemic Unemployment Compensation (FPUC);
- Pandemic Emergency Unemployment Compensation (PEUC);
- Federal-State Extended Benefits (EB); and
- Mixed Earner Unemployment Compensation (MEUC).

As of January 18, 2021, NYSDOL uses an “hour-based” approach to define how part-time work impacts unemployment benefits, where individuals can work up to seven (7) days per week without losing full unemployment benefits for that week, if the individual is searching for work and meets current hourly or earnings criteria. Therefore, these individuals can also be designated as DWs.

(2) Has been employed for a **duration sufficient to demonstrate, to the appropriate entity at a Career Center referred to in WIOA Section 121(e), 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**

Interpretation: NYSDOL interprets “**duration sufficient to demonstrate...an attachment to the workforce**” as any labor performed in any occupation where the employee has worked for two full pay periods or one month, whichever is less.

NYSDOL extends this interpretation to also recognize individuals who have accepted stopgap employment in lieu of applying for UI benefits, and can therefore be designated as a DW.

iii. **Is unlikely to return to a previous industry or occupation;**

Interpretation: NYSDOL considers an individual to be “**unlikely to return to a previous industry or occupation**” if they have been unemployed since their termination/layoff or is underemployed.

An individual collecting UI and exempt from work search because they are a member of a union who receives work through a union hiring hall, on temporary layoff (TLO), or seasonal loss of employment where the employer has given a definite return to work date within eight weeks are **not considered unlikely to return and thus are not a DW.**

Individuals who are active UI claimants profiled as “Likely to Exhaust Benefits” or UI Exhaustees, are considered to meet the definition of DW and can be designated as such.

Participant attestation is sufficient to determine if the individual is unlikely to “**return to a previous industry or occupation.**” Self-attestation must include a “reasonable” explanation of why the individual would be unable to return to the previous occupation. This explanation must include an analysis

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of Labor Market Information (LMI) data around the economic outlook of the occupation or a personal reason why the individual would be unable to return to a previous occupation.

Staff may also utilize **Attachment A: Dislocated Worker (DW) Eligibility Desk Guide and One Stop Operating System (OSOS) and File Requirements** in making a determination on whether someone can be considered “unlikely to return to a previous industry or occupation.”

B. Category 2 – DW Mass Layoff or Closure

- i. Has been terminated or laid off, or has received a notice of termination or layoff, from employment because of any permanent closure of, or any **substantial layoff** at, a plant, facility, military installation, or enterprise;
Interpretation: NYSDOL interprets “**substantial layoff**” as the layoff of five (5) people or 10% of that employer’s workforce, whichever is less.
- ii. Is employed at a facility at which the employer has made a general announcement that such facility will close within 180 days; **or**
- iii. For purposes of eligibility to receive services other than training services described in WIOA Section 134(c)(3), career services described in Section 134(c)(2)(A)(xii), or supportive services, is employed at a facility at which the employer has made a general announcement that such facility or military installation will close;

C. Category 3 – DW Self-Employed

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, a nationwide public health emergency, or other unforeseen events.

Interpretation: NYSDOL interprets “**the community in which the individual resides**” as the geographic area in which the individual resides or as the industry, sector, or occupational community not bound by physical location which may be affected by general economic conditions. An individual’s economic community may extend beyond the geographical location of that person and/or their business or source of income. Conditions that affect general economic conditions may include the logistical supply chain or location of product/service delivery.

D. Category 4 – DW Displaced Homemaker

Is an individual who has been providing **unpaid services** to family members in the home and who has been:

- i. Either (a) **dependent on the income** of another **family member** but is **no longer supported by that income**; or (b) Is the dependent spouse of a member of the Armed Forces on active duty and whose family income is **significantly reduced** because of a deployment, a call or order to active

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duty, a permanent change of station, or the service-connected death or disability of the member; **and**

Interpretation: NYSDOL interprets “**unpaid services**” as any service provided without an employer/employee relationship between family members.

NYSDOL interprets “**dependent on the income**” as receiving financial or other form of assistance from a family member to meet any basic need (food, shelter, clothing, transportation, or any other need necessary for self-sufficiency) of the individual.

NYSDOL interprets “**family member**” as a spouse, dependent child, spouse's child, daughter-in-law, son-in-law, brother, sister, mother, father, grandparents, grandchild, step-brother, step-sister, step-parents, parents-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, guardian, ward, or domestic partner.

NYSDOL interprets “**no longer supported by that income**” as the removal of financial or other form of assistance that is provided to meet any basic need of the individual. This definition is not limited to the removal of the total assistance received by the individual, rather the assistance received per basic need, and may include individuals who work part-time if that work does not cover the individual's basic need.

NYSDOL interprets “**significantly reduced**” as any reduction in family income due to deployment.

- ii. Is either (a) unemployed and is **having trouble** in obtaining or upgrading employment; or (b) **underemployed** and is **having trouble** in obtaining or upgrading employment.

Interpretation: NYSDOL interprets “**having trouble**” as being unsuccessful in finding employment or upgrading employment, as determined by self-attestation.

NYSDOL interprets “**underemployed**” Displaced Homemakers to include, but not be limited to, (1) individuals employed less than full-time who are seeking full-time employment; (2) individuals who are employed in a position that is inadequate with respect to their skills and training; (3) individuals who are employed who meet the definition of a low-income individual in WIOA sec. 3(36); (4) individuals who are employed, but whose current job's earnings are less than the self-sufficiency wage rate set by the LWDB, or are not sufficient based on their training and experience or compared to their earnings from their previous employment; and (5) individuals who are employed in stopgap employment.

E. Category 5 – DW Spouse of a Member of the Armed Forces

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- i. 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; **or**
- ii. Is the spouse of a member of the Armed Forces on active duty and who meets required WIOA criteria.

Under the WIOA regulations at [20 CFR 680.660](#), 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 DWs. Generally, a separating service member needs a notice of separation, either a DD-214 from the Department of Defense, or other appropriate documentation that shows a separation or imminent separation from the Armed Forces. These documents meet the requirement that the individual has received a notice of termination or layoff, to meet the required DW definition. ETA policy generally dictates that a separating service member meets the DW requirement that an individual is unlikely to return to his or her previous industry or occupation in the military.

II. Additional DW Designations

In addition to the WIOA DW categories, NYSDOL also recognizes the following individuals as DWs:

- A. Individuals dislocated due to Foreign Trade, including participants in the Trade Adjustment Assistance (TAA) Program who are part of a worker group covered under a certified trade [petition](#), which demonstrates an increase in imports, a shift or acquisition in production, or a loss of sales and/or production which contributed importantly to the worker(s)'s separation or threat of separation (additional information on the TAA program is located in Workforce Development System Technical Advisory (WDS TA) [#21-03](#));
- B. Long-term unemployed (LTU) individuals: Individuals who receive Unemployment Compensation benefits for at least 27 weeks and are still unemployed; and
Note: LTU may include those individuals originally designated DWs as part of a National Dislocated Worker Grant (NDWG) and who remain unemployed once they are no longer funded with the NDWG.
- C. Underemployed individuals: Individuals who have been determined to be DWs may remain DWs, even after they have obtained employment, if they are (1) individuals employed less than full-time who are seeking full-time employment; (2) individuals who are employed in a position that is inadequate with respect to their skills and training; (3) individuals who are employed who meet the definition of a low-income individual in WIOA sec. 3(36); (4) individuals who are employed, but whose current job's earnings are less than the self-sufficiency wage rate set by the LWDB, or are not sufficient based on their training and experience or compared to their earnings from their previous employment; and (5) individuals who are employed in stopgap employment.

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III. LWDB Responsibilities

LWDBs must develop policy/procedure(s) for identifying DWs under the DW definition who are not profiled as “Likely to Exhaust” or UI Exhaustees, that adheres to this NYSDOL guidance. LWDBs must use the expanded NYSDOL interpretations of DW in this guidance in developing these policies and procedures to ensure all individuals who can qualify as DWs receive WIOA services.

IV. Recording DWs in OSOS

The One-Stop Operating System (OSOS) translates DWs identified in WIOA Section 3 (15) subsections (A) – (E) and those dislocated due to foreign trade into categories as follows:

- (A) – Category 1 – Dislocated Worker;
- (B) – Category 2 – Mass layoff or closure;
- (C) – Category 3 – Self-employed;
- (D) – Category 4 – Displaced homemaker;
- (E) – Category 5 – Dislocated due to Foreign Trade (includes TAA participants); and
- (F) – Category 6 – Spouse of a member of the Armed Forces.

LTU and underemployed individuals, other than those designated as Displaced Homemakers, should be recorded into OSOS under Category 1 – Dislocated Worker.

REFERENCES

[CARES Act](#)

WIOA Sections 3(15) and 3(16)

20 CFR [680.130](#), [680.630](#), and [680.660](#)

Documenting Dislocated Worker Status OSOS [Guide](#)

TEGL No. [19-16](#) Guidance on Services provided through the Adult and Dislocated Worker Programs under the Workforce Innovation and Opportunity Act (WIOA) and the Wagner-Peyser Act Employment Service (ES), as amended by title III of WIOA, and for Implementation of the WIOA Final Rules

TEGL No. [16-21](#): Updated National Dislocated Worker Grant Program Guidance

USDOL ETA COVID-19 [Frequently Asked Questions](#)

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USDOL ETA [Trade Adjustment Assistance for Workers](#)

WDS TA #[21-03](#): Trade Adjustment Assistance for Workers (“Trade Act”) Program (the Trade Adjustment Assistance Reform Act (TAA) Program, the Trade and Globalization Adjustment Assistance (TGAA) Program, the Trade Adjustment Assistance Extension Act (TAAEA) Program, and the Trade Adjustment Assistance Reauthorization Act (TAARA) Program) (04/27/2021)

INQUIRIES

Questions regarding this Program Guidance Letter should be sent to your State Program Representative.

ATTACHMENTS

Attachment A: Dislocated Worker (DW) Eligibility Desk Guide and One Stop Operating System (OSOS) and File Requirements

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Dislocated Worker (DW) Eligibility Desk Guide and One Stop Operating System (OSOS) and File Requirements

These are the minimum OSOS and file requirements to show that the customer is a DW. All other relevant OSOS and file guidance must be followed. Generally, customer files are only maintained when the customer is participating in Workforce Innovation and Opportunity Act (WIOA)-funded training.

DW1 – Unlikely to return to a previous occupation or industry

Yes	No	<i>Must answer yes to any one of the following:</i>
		<u>Customer was automatically determined to be a DW by OSOS (OSOS Pgms/PA tab, Current Programs section, WIOA Dislocated Worker has a Reg Date but no Term Date).</u> 1. Update Work History Reason for Leaving to DW1. If there is no job entry on the Work History tab, one must be added. 2. Enter a comment similar to “OSOS automation determined customer is a DW1/unlikely to return to a previous industry or occupation.” 3. File requirements: None.
		<u>Customer is a UI Exhaustee (OSOS Gen Info tab UI Claimant Status shows Exhaustee).</u> 1. Update Work History Reason for Leaving to DW1. If there is no job entry on the Work History tab, one must be added. 2. Enter a comment similar to “Customer is a DW1 and unlikely to return to a previous industry or occupation due to being a UI exhaustee.” 3. File requirements: None.
		<u>Customer is profiled as Likely to Exhaust UI (OSOS Gen Info tab Profiled Date box has a date in it and the UI Claimant box shows Seek – Subject to Work Search).</u> 1. Update Work History Reason for Leaving to DW1. If there is no job entry on the Work History tab, one must be added. 2. Enter a comment similar to “Customer is a DW1 and unlikely to return to a previous industry of occupation due to being profiled as likely to exhaust UI benefits.” 3. File requirements: None.
		<u>Customer is unemployed or underemployed:</u> <ul style="list-style-type: none"> • Customer has been terminated or laid off, or has received a notice of termination or layoff, from employment, including separation from active military service (under other than dishonorable conditions); and • Is eligible for or has exhausted entitlement to unemployment compensation or has been employed for a duration sufficient to demonstrate attachment to the workforce (has worked for two full pay periods or one month, whichever is less); and • Has been unemployed since their termination or layoff or is underemployed. 1. Update Work History Reason for Leaving to DW1. If there is no job entry on the Work History tab, one must be added. 2. Enter a comment similar to “Customer is a DW1 and unlikely to return to a previous

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	<p>industry or occupation due to being unemployed/underemployed since termination/layoff.” 3. File requirements include one of the following: signed application or enrollment form; signed applicant statement (self-attestation); verification from employer; Rapid Response list; notice of layoff; Public announcement (such as WARN Notice) with follow-up cross-match with UI database.</p>
	<p><u>Customer is unlikely to return to a previous industry or occupation for personal or economic (labor market) reasons:</u></p> <ul style="list-style-type: none"> • Customer has been terminated or laid off, or has received a notice of termination or layoff, from employment, including separation from active military service (under other than dishonorable conditions); and • Is eligible for or has exhausted entitlement to unemployment compensation or has been employed for a duration sufficient to demonstrate attachment to the workforce (has worked for two full pay periods or one month, whichever is less); and • Is unlikely to return to a previous industry or occupation for personal or economic (labor market) reasons. <p>1. Update Work History Reason for Leaving to DW1. If there is no job entry on the Work History tab, one must be added. 2. Enter a comment describing the personal or labor market conditions that make the customer unlikely to return to a previous industry or occupation (see examples following this chart). 3. File requirements include one of the following: signed application or enrollment form; signed applicant statement (self-attestation); verification from employer; Rapid Response list; notice of layoff; Public announcement (such as WARN Notice) with follow-up cross-match with UI database.</p>

An individual collecting UI and exempt from work search because they are a member of a union who receives work through a union hiring hall, on temporary layoff (TLO) or seasonal loss of employment where the employer has given a definite return to work date within eight weeks are not considered unlikely to return and thus are not a DW.

Comment examples for when the reason the customer is unlikely to return to an occupation or industry is **economic**:

1. Customer was employed as a **telephone operator** and is unlikely to return to that occupation -- O*Net shows this occupation is declining rather than growing.
2. Customer was employed at Family Video. Per Newsweek (2/27/21), Family Video is the nation's last **video rental chain**, and they are closing all remaining stores. An internet search showed there are no other video rental stores in customer's commuting area so he's unlikely to return to this industry.
3. Customer was employed as a **floral designer**, but the business closed due to declining sales. She is unlikely to

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return to that occupation; BLS indicates that employment will decline 20% between 2020 and 2030.

Comment examples for when the reason a customer is unlikely to return to a previous occupation or industry is **personal**:

4. Customer was employed as a **medical coder** for 23 years but is unlikely to continue in that occupation because he lacks the newest certifications that are currently required in the field.
5. Customer was employed as a **plumber** for many years but is unlikely to return to the occupation because she is no longer able to perform hard physical labor.
6. Customer has a lot of experience in the **restaurant** industry but will not return to that industry for medical reasons (see file for details). *In this case, staff entered a note in the file that the customer is being served under the Opioid grant and is seeking employment outside the restaurant industry since there is illicit drug use in the industry he wishes to avoid.*
7. Customer worked in the **banking** industry but is unable to continue working in that industry due to personal legal circumstances.
8. Customer is **long-term unemployed**; she worked as a CNA in the early 2000s but was laid off during the recession and hasn't worked since. She's unlikely to return to that occupation because her certification expired and she's no longer capable of heavy lifting.
9. Customer is **long-term unemployed**; he exhausted 26 weeks of UI benefits and is therefore unlikely to return to the same industry or occupation.

DW2 – Mass Layoff or Closure

Yes	No	<i>Must answer yes to any one of the following:</i>
		Was employed at a business that closed or experienced a substantial layoff (must select one): a. Business closed; or b. Five (5) people or 10% of that employer's workforce were laid off, whichever is less.
		Is employed at a facility at which the employer has made a general announcement that such facility will close within 180 days; or
		Is employed at a facility at which the employer has made a general announcement that such facility or military installation will close (<i>no firm date or date not within 180 days</i>). <i>Note that DWs in this category are ineligible for training and supportive services and some career services unless/until they have a firm closing date within 180 days.</i>

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DW2 OSOS and File Requirements:

1. Update Work History Reason for Leaving to DW2. If there is no job entry on the Work History tab, one must be added.
2. Add a comment stating how the customer meets the eligibility requirements for DW2.
3. File requirements (for the first category – closure/substantial layoff only) include one of the following: verification from employer; worker list from firm; cross-match with state MIS database; signed intake application or enrollment form; case notes or self-attestation (self-attestation only in cases when other allowable source documentation is not available due to records retention timelines expiring.)

DW3 – Self-Employed

Yes	No	<i>Must answer yes to the following:</i>
		<p>Was self-employed but is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters.</p> <p><i>“The community in which the individual resides” is the geographic area in which the individual resides, or the industry, sector, or occupational community not bound by physical location which may be affected by general economic conditions. An individual’s economic community may extend beyond the geographical location of that person and/or their business or source of income. Conditions that affect general economic conditions may include the logistical supply chain or location of product/service delivery.</i></p>

DW3 OSOS and File Requirements:

1. Update Work History Reason for Leaving to DW3. If there is no job entry on the Work History tab, one must be added.
2. Add a comment stating how the customer meets the eligibility requirements for DW3.
3. File requirements: signed applicant statement.

DW4 – Displaced Homemaker

Yes	No	<i>Must answer yes to all three sections to be a DW4</i>
		Has been providing unpaid services (<i>any service provided without an employer/employee relationship</i>) to family members in the home; and
		<p>(Must select one)</p> <p>a. Is <u>unemployed</u> and having trouble in obtaining or upgrading employment (<i>difficulty in obtaining or upgrading employment can be satisfied by self-attestation</i>); or</p>

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		<p>b. Is <u>underemployed</u> and having trouble in obtaining or upgrading employment (<i>difficulty in obtaining or upgrading employment can be satisfied by self-attestation</i>).</p> <p>Underemployed includes but is not limited to:</p> <ul style="list-style-type: none"> • Individuals employed less than full-time who are seeking full-time employment; or • individuals who are employed in a position that is inadequate with respect to their skills and training; or • individuals who are employed who meet the definition of a low-income individual in WIOA sec. 3(36); or • individuals who are employed, but whose current job's earnings are not sufficient based on their training and experience or compared to their previous job's earnings • individuals who are employed in stopgap employment.
		<p>(Must select one)</p> <p>a. Has been dependent on the income (<i>receiving financial or other assistance to meet any basic need – food, shelter, clothing, transportation, or any other need necessary for self-sufficiency</i>) of another family member (<i>spouse, child, spouse's child, daughter-in-law, son-in-law, brother, sister, mother, father, grandparent, grandchild, step-brother, step-sister, step-parents, mother-in-law, father-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, guardian, ward, or domestic partner</i>) but is no longer supported by that income (<i>the removal of financial or other form of assistance that is provided to meet any basic need; this is not limited to the removal of the total assistance received, rather the assistance received per basic need</i>); or</p> <p>b. Is the dependent spouse of a member of the Armed Forces on active duty and whose family income is significantly reduced (<i>any reduction in family income due to deployment</i>) because of deployment, a call or order to active duty, a permanent change in station, or the service-connected death or disability of the member.</p>

DW4 OSOS and File Requirements:

1. Update Work History Reason for Leaving to DW4. If there is no job entry on the Work History tab, one must be added.
2. Add a comment stating how the customer meets the eligibility requirements for DW4.
3. File requirements include one of the following: self-attestation; signed intake application or enrollment form; cross-match with Public Assistance records; copy of spouse's layoff notice; copy of spouse's death record; copy of spouse's permanent change status (PCS) orders (for a military move or assignment); copy of divorce records; copy of applicable court records; copy of bank records (showing financial dependence on spouse, no separate individual income

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support, or no employment income earned); needs assessment; or signed individual employment plan (IEP).

DW5 – Dislocated due to Foreign Trade

Yes	No	
		<p>Individuals dislocated due to foreign trade, including participants in the Trade Adjustment Assistance (TAA) Program who are part of a worker group covered under a certified trade petition, which demonstrates an increase in imports, a shift or acquisition in production, or a loss of sales and/or production which contributed importantly to the worker's separation or threat of separation.</p> <p>List of Trade Act petitions: https://www.doleta.gov/tradeact/petitioners/taa_search_form.cfm</p>

DW5 OSOS and File Requirements:

1. Update Work History Reason for Leaving to DW5 and complete all required fields. If there is no job entry on the Work History tab, one must be added.
2. Add a comment stating how the customer meets the eligibility requirements for DW5.
3. File requirements include one of the following: verification from employer; Rapid Response list; notice of layoff; public announcement with follow-up cross-match to UI database; signed intake or application form.

DW6 – Spouse of a Member of the Armed Forces

Yes	No	<i>Must answer yes to any one of the following:</i>
		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; or
		Is the spouse of a member of the Armed Forces on active duty who is unemployed or underemployed and is having trouble in obtaining or upgrading employment.

DW6 OSOS and File Requirements:

1. Update Work History Reason for Leaving to DW6. If there is no job entry on the Work History tab, one must be added.
2. Add a comment stating how the customer meets the eligibility requirements for DW6.
3. File requirements include one of the following: self-attestation; signed intake application or enrollment form; copy of spouse's layoff notice; copy of spouse's death record; copy of spouse's Permanent Change of Station (PCS) Orders (for a military move or assignment); copy of divorce records; copy of applicable court records; copy of bank records (showing financial dependence on spouse, no

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separate individual income support or no employment income earned); needs assessment; signed individual employment plan (IEP).

Definitions

Long Term Unemployed (LTU) Individuals

Individuals who receive Unemployment Compensation benefits for at least 27 weeks and are still unemployed. LTU may include those individuals originally designated DWs as part of a National Dislocated Worker Grant (NDWG) and who remain unemployed once they are no longer funded with the NDWG.

Underemployed Individuals

Individuals who have been determined to be Dislocated Workers may **remain** DWs even after they have obtained employment, if they meet one of the following criteria: (1) individuals employed less than full-time who are seeking full-time employment; (2) individuals who are employed in a position that is inadequate with respect to their skills and training; (3) individuals who are employed who meet the definition of a low-income individual in WIOA sec. 3(36); (4) individuals who are employed, but whose current job's earnings are less than the self-sufficiency wage rate set by the LWDB, or are not sufficient based on their training and experience or compared to their earnings from their previous employment; and (5) individuals who are employed in stopgap employment.

Stopgap Employment

Stopgap employment means work an individual does only because they have lost the customary work for which their training, experience or work history qualifies them (individual is underemployed). Employment would be considered stopgap if:

- the employment is not in the individual's primary occupation;
- the salary is substantially below the salary of the individual's primary occupation;
- the individual is working substantially under the skill level of his/her customary occupation; and
- the individual has been in the stopgap job less than one (1) year.

There may be times when stopgap employment provides a self-sufficient wage (e.g., contract employment, seasonal employment, or employment obtained through a temporary employment services agency). Such employment would not change the individual's DW status. The determination about whether an individual's employment since dislocation is stopgap employment must be made on a case-by-case basis and take into consideration an individual's personal, family, financial, and employment situation.

Resources

- Workforce Innovation and Opportunity Act (WIOA) 3(15);
- Training and Employment Guidance Letter (TEGL) No. 23-19;
- TEGL No. 19-16; and

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- New York State Department of Labor (NYSDOL) Program Guidance Letter (PGL) #22-01

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