Workforce Solutions	**North Carolina Department of Commerce Division of Workforce Solutions**
	DWS Policy Statement Number: PS 02-2017
	Date: January 23, 2017
	Subject: Guidance on Eligibility for Participation in the Workforce Innovation and Opportunity Act Title 1 Dislocated Worker Program.
	From: William H. Collins, Jr. **Assistant Secretary for Workforce**

Purpose: To provide guidance on eligibility for participation in the WIOA Title 1 Dislocated Worker Program.

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:

- 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 USDOL TEGL 3-15, page 6.
- 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 3-15 and TEGL 22-04.
- Includes permanent full-time and part-time employees as well as leased employees through a staffing agency that were separated through "no-fault" of their own.
- Does not include Independent Contractors on temporary assignment or seasonal workers.
- Previous industry is the specific industry which the employee was displaced from their 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, partner presentations, etc.
- 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 their employer.
- Substantial layoff is defined as 20 or more employees.
- 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 their own.
- 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, partner presentations, etc.
- 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 their 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 their own.
- 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)
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
Individuals who are long-term unemployed as defined as unemployed for 13 consecutive weeks or more are eligible as a Dislocated Worker.

WIOA Section 170
Individual 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 1 national programs, Sec. 170 National Dislocated Worker Grants, relating to Sec. 170(b)(1)(A) workers affected by major economic dislocations **or** Sec. 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 their 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 their 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 Workforce Innovation & Opportunity Act (WIOA) Dislocated Worker.

The following four scenarios may qualify an individual to be eligible as a WIOA 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 their job.
- Quit due to an abusive spouse and is in a protective shelter program.
- Spouse that had to quit their 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.

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 Attachment A.

Effective Date: Immediately
Expiration: Indefinite
Contact: Field Services Programmatic Monitors
Attachment 1: Division Dislocated Workers Scenarios