



# CENTRAL ARKANSAS Workforce Development Board

Proudly Serving the Counties of Faulkner, Lonoke, Monroe, Prairie, Pulaski, Saline

A proud partner of the  
**americanjobcenter**  
network

---

Policy Number: Section 2, Policy 14 Effective Date: 11-26-19 (Updated 6-10-2024)

---

## Eligibility for Dislocated Worker Program Policy

### Purpose:

The purpose of this policy is to outline the eligibility requirements for the Dislocated Worker (DLW) program in accordance with the Workforce Innovation and Opportunity Act of 2014 (WIOA), the WIOA Final Rule, Training and Employment Guidance Letters (TEGLs) published by the Employment and Training Administration of the U.S. Department of Labor (ETA), and policies of the Arkansas Workforce Development Board (AWDB).

### References:

WIOA § 3(15 & 16)  
WIOA § 134(c)(2)(A)(xii)  
WIOA § 134(c)(3)  
20 CFR 680.130, 680.610, 680.630, & 680.650  
20 CFR part 1010  
Comments in WIOA Final Rule concerning §§680.610 & 680.650  
Introduction to Part 680 of WIOA Final Rule  
TEGL 19-16  
10 U.S.C. 101 & 991(b)  
38 U.S.C. 101(16)  
38 U.S.C. 4215  
ADWS Policy No. WIOA I-B – 1.2, Change 1 (Definitions) (or most recent version)  
ADWS Policy No. WIOA I-B – 2.1 (Common Eligibility Requirements)  
ADWS Policy No. WIOA I-B – 2.2 (Veterans Priority of Service)  
ADWS Policy No. WIOA I-B – 2.8 (Priority for Individuals with Barriers to Employment)  
ADWS Policy No. WIOA I-B – 3.1 (Services for Adults and Dislocated Workers)

### Policy:

Dislocated workers are individuals who have lost jobs through no fault of their own. The goal of services to dislocated workers is to help them find appropriate jobs in in-demand industries. Priority of Service will be given in order set forth by CAWDB Policy (WIOA Priority for Individuals with Barriers to Employment)

To be eligible for the Dislocated Worker program, an individual must be at least 18 years old [20 CFR 680.120], must meet all criteria in ADWS Policy No. WIOA I-B – 2.1 (Common Eligibility

Requirements), and must meet the eligibility criteria in one of the categories given below [WIOA § 3(15 & 16)]. As with all WIOA title I-B programs, priority for services must be given to veterans (see ADWS Policy No. WIOA I-B – 2.2 Veterans Priority of Service) [20 CFR 680.650; 38 U.S.C. 4215; 20 CFR part 1010]. Priority must also be given to dislocated workers who are individuals with barriers to employment.

Eligibility for the Dislocated Worker program does not make an individual eligible for all services available through the program. Certain eligibility requirements apply to some services, and the individual must demonstrate need for any services given. See ADWS Policy No. WIOA I-B – 3.1 (Services for Adults and Dislocated Workers) for eligibility requirements for specific services. Although there is no low-income priority of services for the Dislocated Worker program [20 CFR 680.610], income may be a consideration in determining needed services.

Availability of services is based on the available funding in the local areas and the needs of participants. Nothing in this policy implies that an individual who qualifies for the Dislocated Worker program is guaranteed receipt of all individualized career services and training services provided through the program.

To be eligible for Dislocated Worker services, the individual must have been unemployed and/or underemployed (as defined in the Employment Status Clarification section below) during the entire interval between the qualifying separation and the eligibility determination.

To be eligible for the Dislocated Worker program, an individual must:

1. Be at least 18 years old;
2. Meet all requirements in CAWDB Policy (Common Eligibility Requirements); and
3. Meet the eligibility criteria in **one** of the following categories:

### **Categories of Eligibility**

A person is classified as a dislocated worker (DLW) for the purposes of WIOA title I-B if the individual meets the criteria in one of the following categories [WIOA § 3(15 & 16); 20 CFR 680.130]:

**Category A – Individual Lay-off.** The applicant must meet all three of the numbered conditions [WIOA 3(15)(A)] OR the Special Veteran's Criterion [TEGL 19-16]:

1. Has been terminated or laid off or has received a notice of termination or layoff, from employment
2. Meets one of the following conditions concerning unemployment compensation:
  - a. Is eligible for or has exhausted entitlement to unemployment compensation
  - b. Has been employed long enough to demonstrate attachment to the workforce (that is, has received wages in at least one (1) quarter in the last year immediately prior to eligibility determination [ADWS Policy No. WIOA I-B – 1.2, Change 1 - Definitions]), but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer not covered under a state unemployment compensation law.

3. Is unlikely to return to a previous industry or occupation (In compliance with TEGL 19-16, it is Arkansas state policy that local areas must define "unlikely to return to a previous industry or occupation.")

Special Veteran's Criterion: A separating service member qualifies as a dislocated worker under Category A if the separation is anything other than dishonorable, whether or not he or she receives or is eligible for Unemployment Compensation. A DD-214 from the Department of Defense or other appropriate documentation that shows a separation or imminent separation from the Armed Forces qualifies as the notice of termination or layoff to meet the dislocated worker definition. ETA policy dictates that a separating service member meets the Dislocated Worker requirement that an individual is unlikely to return to his or her previous industry or occupation. A separating service member may be provided career services while he or she is still part of the Active Duty military if the service member has an imminent separation date and the discharge will be anything other than dishonorable [TEGL 19-16].

**Category B – Business closure or substantial layoff.** The applicant must meet one of the following conditions [WIOA § 3(15)(B)]:

1. 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
2. Is employed at a facility at which the employer has made a general announcement that such facility will close within 180 days

Notes: An applicant who is employed at a facility at which the employer has made a general announcement that such facility will close, with no specific date or a date greater than 180 days in the future, may receive services other than training services described in WIOA § 134(c)(3), career services described in WIOA § 134(c)(2)(A)(xii), or supportive services. The person may qualify for these training, career, and supportive services when one of the above numbered conditions is met [WIOA § 3(15)(B)].

#### Definitions:

**General Announcement** - For the purpose of Dislocated Worker Program career and training eligibility purposes, "general announcement" refers to an individual employed at a facility at which the employer has made a general announcement that such facility will close. [The Worker Adjustment and Retraining Notification Act \(WARN\)](#) protects workers, their families, and communities by requiring employers with 100 or more employees to provide notification sixty (60) calendar days before plant closures and mass workforce reductions. Advance notice gives workers and their families some transition time to adjust to the prospective loss of employment, to seek and obtain other jobs, and, if necessary, to enter skill training or retraining that will allow these workers to compete successfully in the job market.

**Substantial layoff** - Arkansas state policy defines "substantial layoff" as at least 50 employees or 33% of the facility workforce, whichever is less, not including employees who have worked less than 6 months in the last 12 months and those who work an average of less than 20 hours a week.

In addition to the definition of "substantial layoff", Arkansas state policy clarifies that being laid off as a result of any substantial layoff must meet one of the following conditions:

1. Has been laid off permanently
2. Has been laid off indefinitely (no end date)
3. Has been laid off with a call-back date no less than 30 days after the lay-off date

Although upskill/backfill strategies are normally used with layoff aversion for incumbent workers [TEGL 19-16], upskilling may be used with dislocated workers declared eligible under Category B with the documented intent of the employer to rehire the worker and to give a pay increase to the worker after the training is completed. A letter of intent to rehire, including the required training and the increased pay, must be obtained from the employer before the training is arranged.

**Unemployed as a Result of General Economic Conditions or Natural Disasters:** General economic conditions can include, but is not limited to:

1. The closure or substantial lay-off of a primary supplier or customer affecting the self-employed applicant's products or services.
2. Less demand for the occupation or product within the community.
3. A decline in profits significant enough to lead to closure, documented by most recent tax return or other company documents showing negative gains/losses statement.
4. Natural disaster, as defined by State or Federal declaration.

**Unlikely to Return to Previous Industry or Occupation:** Status of an unemployed worker or military spouse as having limited opportunities for employment or re-employment. Examples include but are not limited to:

1. The number of jobs in the applicant's previous industry/occupation is declining based on Labor Market Information (LMI) data.
2. The applicant is dislocated from a job not found on the most recent local or state list of demand occupations (if applicable).
3. The applicant has conducted a dedicated but unsuccessful job search in the previous industry/occupation, as evidenced by employer rejection letters or employer contact logs.
4. The applicant is unable to perform the duties of the previous job due to age, ability, or disability.
5. A military spouse who leaves his/her job to follow his/her spouse to a new duty assignment.

**Category C – Self-employed individuals.** An individual who was previously 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 qualifies as a dislocated worker [WIOA § 3(15)(C)].

**Self Employed Dislocation:** An individual who was self-employed but is unemployed as a result of: General economic conditions in the Central Workforce Development Area where the individual resides. Unemployed as a Result of General Economic is defined as individuals who are now unemployed, including self-employed, due to economic conditions in the community in which she or he resides. General economic conditions can include, but are not limited to, the failure, closure or substantial layoffs in one or more businesses in the community that had a direct effect on the individual's unemployment, such as:

1. Failure of one or more businesses to which the self-employed individual supplied a substantial portion of products or services.

2. Failure of one or more businesses from which the self-employed individual obtained substantial proportion of products or services.
3. Substantial layoffs from, or a permanent closure of, one or more plants or facilities that support a significant portion of the state or local economy; or Depressed prices or markets for articles produced by the self-employed individual.
4. A natural disaster

**Self Employed Farmer, ranch worker or fisherman:** An individual who is self-employed or employed by another, on a farm, ranch, or boat, which produces agricultural or food products. These are operations likely to terminate as evidenced by one or more of the following conditions:

1. Business foreclosure or notice of intent to foreclose.
2. Inability of farm/ranch or business to turn a profit during the preceding 12 months.
3. Entry of a self-employed person into bankruptcy proceedings.
4. Inability to make four payments on loans secured by tangible business assets resulting in a loss that directly affects closure.
5. Inability to obtain capital necessary to continue operations.
6. Debt-to-asset ratio is sufficiently high to indicate the likely insolvency of the farm/ranch or business.
7. Other events indicated by likely insolvency of the farm, ranch or business.

**Category D – Displaced homemaker.** To qualify as a displaced homemaker, an individual must meet all three of the following numbered conditions [WIOA § 3(15)(D); WIOA § 3(16); 20 CFR 680.630]:

1. Has been providing unpaid services to family members in the home.

#### Definition of family

Family – Unless stated otherwise, for the purposes of WIOA title I-B, a “family” is two or more persons related by blood, marriage, or decree of court, who are living in a single residence, and are included in one of more of the following categories [20 CFR 675.300]:

- a. A married couple and dependent children.
- b. A parent or guardian and dependent children 1.2 (Change 1) Definitions Page 12.
- c. A married couple In compliance with comments in the Final Rule concerning 20 CFR 681.250, the definition of “dependent child” follows the IRS guidelines for claiming a qualifying child on a tax return. A dependent child is a child who meets all of the following requirements:
  - Is the married couple’s, parent’s, or guardian’s child or stepchild (whether by blood or adoption), foster child, sibling or stepsibling, or a descendant of one of these.
  - Has the same principal residence as the married couple, parent, or guardian for more than half the previous year (Exceptions: children of divorced or separated parents with joint custody, kidnapped children, absences due to college attendance, and children who were born or adopted or otherwise were added to the family during the year.

- At the time of eligibility determination, was under the age of 24 and a full-time student or between semesters, or any age if totally disabled.
  - Did not provide more than one-half of his/her own support for the year.
  - If married, did not file a joint tax return with the child's spouse.
2. Meets one of the following conditions of losing the income of another family member:
    - a. Has been dependent on the income of another family member, but is no longer supported by that income
    - b. Is the dependent spouse of a member of the Armed Forces on active duty, and the family income is significantly reduced because of a deployment, a call or order to active duty, a permanent change of state, or the service-connected death or disability of the member (See 10 U.S.C. 101 & 991(b), 38 U.S.C. 101(16),)
  3. Is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment

**Category E** – Spouse of an active-duty member of the Armed Forces who meets one of the following conditions [WIOA § 3(15)(E); 20 CFR 680.630; TEGL 19-16]:

1. Has lost employment as a direct result of a relocation due to a permanent change in the duty station of such member
2. Is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment

### **Employment Status Clarification**

An individual who meets one of the categories to be eligible for the Dislocated Worker program may be unemployed or underemployed at the time of eligibility determination [TEGL 19-16]. The intent of this rule is to allow dislocated workers to take lower-paying employment in order to meet financial obligations while looking for appropriate employment.

ETA encourages states to develop policies for determining the criteria for an individual to be considered “underemployed” [TEGL 19-16]. The Arkansas state policy for the definition of “underemployed” is someone who meets one of the following criteria:

1. Employed less than full-time and seeking full-time employment (Arkansas state policy defines “less than full-time” as either working less than 30 hours per week or working part-time as defined by the employer’s policies.)
2. Employed in a position that is inadequate with respect to his or her skills and training
3. Employed and meets the definition of a low-income individual

4. Meets the definition of a dislocated worker and is currently employed, but whose earnings in the current job are less than the earnings in the job from which the individual was terminated. The State does not set a time limit for the time between termination and eligibility determination for Dislocated Worker services, but the individual must have been unemployed or underemployed during this entire interval.

Approved by: \_\_\_\_\_

Date: 6-10-2024

Title: CAWDB Chair

*Michael Horn*

CAPDD/Arkansas Workforce Center is an "equal opportunity employer/program," and "auxiliary aids and Services are available upon request to Individuals with disabilities." Arkansas Relay Service: 1-800-285-1121 (Voice) 1-800-285-1131 (TDD) or TDD 711