

Region 4 Workforce Board Eligibility Policy-Adult/Dislocated Worker

PURPOSE:

To provide Region 4 guidance regarding eligibility criteria and data element validation requirements for W-P, WIOA, TAA, and VETS Programs. WorkOne offices are to ensure that Priority of Service to Veterans and eligible spouses is observed (See Region 4 Workforce Board Veteran policy).

Staff must review and follow DWD Interim Guidance on Eligibility and Data Validation for all eligibility documentation and data validation.

REFERENCES: Workforce Innovation and Opportunity Act (WIOA) Section 134. DWD Interim guidance on Eligibility and Data Validation version 2, The Trade Act of 1974, as amended, Section 211; WIOA Proposed Regulations, Sections 361.150, 651.10, 678.430, 680.110-130, 680.210 and Training and Employment Guidance Letter, No. 26-13

While WIOA adult eligibility requirements remain mostly consistent with WIA, there are some significant changes to the service priority provisions.

Consistent with WIOA, priority for **Career and Training** services to Adults must be given to recipients of public assistance and other low-income individuals, and for individuals who are basic skills deficient. Under WIOA priority access to services by members of this group applies automatically. **Priority of Service in no longer contingent on funds being limited.**

Adults must meet basic eligibility requirements and any service priority criteria in effect for the Board.

WIOA Adult Eligibility

To be eligible to receive WIOA services as an adult in the adult and dislocated worker programs, an individual must:

- be 18 years of age or older;
- meet Military Selective Service registration requirements (males only);
- be a citizen or noncitizen authorized to work in the United States (see below)

Eligibility to Work in the United States

US citizenship and/or eligibility-to-work in the US are not program eligibility requirements for WIOA Title I. While citizenship does not need to be validated, ***Indiana has determined that an individual's eligibility-to-work in the United States (regardless of citizenship) must be validated*** for all WIOA Title I adults and dislocated workers and TAA clients prior to the receipt of supportive services and/or training services.

Guidance on Validating Eligibility-to-Work:

- The customer “self-declares” when he/she enters data into the labor exchange system or when staff enters data into State’s participant reporting system. **Self-attestation** is an acceptable source of documentation, and no further validation is required for WIOA Title I adults and dislocated workers and Trade Act customers who do **NOT** receive training or supportive services.
- Eligibility to work in the United States must be validated for any WIOA Title I adult or dislocated worker or Trade Act client who receives any type of supportive service and/or training service (i.e., occupational skills training).

See Federal Form I-9 for a list of acceptable documents for employment eligibility. A copy must be maintained or scanned into State's participant reporting system. <http://www.uscis.gov/i-9>

Service Priority for Individualized Career Services and Training Services

Individualized career services and training services must be given on a priority basis, regardless of funding levels, to:

- public assistance recipients and other low-income adults; and
- individuals who are basic skills deficient.

Priority of service status is established at the time of eligibility determination for WIOA Title I **Adult** Registrants and does not change during the period of participation. Priority does not apply to the dislocated worker population.

The existing guidance on priority of service for veterans remains in effect.

Veterans continue to receive priority of service in all DOL-funded training programs but that a "veteran must still meet each program's eligibility criteria." Thus for WIOA Title I Adult services, the program's eligibility and priority considerations must be made first, and then veteran's priority applied.

Providing priority of service does not preclude serving other individuals as long as no 'priority individual' will be placed on a wait list or fail to be served.

Low-Income Individuals

An individual who meets any *one* of the following criteria satisfies the low-income requirement for WIOA adult services:

- Receives, or in the past six months has received, or is a member of a family that is receiving or in the past six months has received, assistance through SNAP, TANF, or the Supplemental Security Income (SSI) program, or state or local income-based public assistance;
- Receives an income or is a member of a family receiving an income that, in relation to family size, is not in excess of the current combined U.S. Department of Labor (DOL) 70 percent Lower Living Standard Income Level and U.S. Department of Health and Human Services (HHS) Poverty
- Is a homeless individual
- Receives or is eligible to receive a free or reduced-price lunch
- Is a foster youth, on behalf of whom state or local government payments are made; or
- Is an individual with a disability whose own income meets:
 - WIOA's income requirements, even if the individual's family income does not meet the income requirements; or
 - the income eligibility criteria for payments under any federal, state, or local public assistance program.

Under WIA, participants were required to undergo a sequence of core and intensive services in order to receive training. The WIOA clarifies that there is no sequence of service requirements in order to receive training. Training is made available to individuals after an interview, assessment, or evaluation determines that the individual requires training to obtain employment or remain employed. WIOA establishes two levels of employment and training services for adults and dislocated workers: Career services and Training services.

Career Services

Career services for adults and dislocated workers must be available in at least one full service WorkOne Office in each local workforce development area. There are three types of career services:

- Basic career services;
- Individualized career services; and
- Follow-up services.

Basic Career Services:

Basic career services must be made available and, at a minimum, must include the following services:

- Determinations of whether the individual is eligible to receive assistance from the adult, dislocated worker, or youth programs;
- Outreach, intake (including worker profiling), and orientation to information and other services
- Initial assessment of skills levels, as well as aptitudes, abilities (including skills gaps), and support service needs;
- Labor exchange services, including:
 - job search and placement assistance, and, including the provision of information on nontraditional employment and in-demand industry sectors and occupations; and
 - appropriate recruitment and other business services on behalf of employers
- Provision of referrals to and coordination of activities with other programs and services and when appropriate, other workforce development programs;

Provision of workforce and labor market employment statistics information, including 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, skills requirements, and opportunities for advancement in those jobs;
- Provision of performance information and program cost information on eligible providers of training services by program and provider type;
- Provision of information relating to the availability of support 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; and
 - assistance under a state program for Temporary Assistance for Needy Families (TANF), and other support services and transportation provided through that program;
- Provision of information and assistance regarding filing claims for unemployment compensation, by which the Board must provide assistance to individuals seeking such assistance.
- Assistance in establishing eligibility for programs of financial aid assistance for training and education programs not provided under WIOA.

Individualized Career Services

Individualized career services must be made available if determined to be appropriate in order consistent with WIOA requirements:

- Comprehensive and specialized assessments of the skills 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 regarding eligible training providers;
- Group counseling;
- Individual counseling;
- Career planning;
- Short-term prevocational services,
- Internships and work experience that are linked to careers;
- Workforce preparation activities;

- Financial literacy services as described in WIOA §129(b)(2)(D);
- Out-of-area job search and relocation assistance; and
- English language acquisition and integrated education and training programs.

Follow-Up Services:

Follow-up services must be made available, as appropriate—including counseling regarding the workplace—for participants in adult or dislocated worker activities who are placed in unsubsidized employment for a minimum of 12 months after the first day of employment.

Training Services

WIOA is designed to increase participant access to training services. Training services are provided to equip individuals to enter the workforce and retain employment. Training is made available to individuals after an interview, assessment, or evaluation determines that the individual requires training to obtain employment or remain employed. Examples of training services include:

- occupational skills training, including training for nontraditional employment;
- on-the-job training (OJT), including registered apprenticeship;
- incumbent worker training in accordance with WIOA §134(d)(4);
- workplace training and cooperative education programs;
- private sector training programs;
- skills upgrading and retraining;
- entrepreneurial training;
- transitional jobs in accordance with WIOA §134(d)(5);
- job readiness training provided in combination with other training described above;
- adult education and literacy activities, including activities of English language acquisition and integrated education and training programs, in combination with training; and
- customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training.

WIOA funding for training is limited to participants who:

- are unable to obtain grant assistance from other sources to pay training costs; or
- require assistance beyond that available under grant assistance from other sources to pay training costs and related support services.

Boards and training providers must coordinate funds available to pay for training and must consider the availability of other grant assistance to pay for training costs, such as TANF, state-funded training funds, and federal Pell Grants, so that WIOA funds supplement other sources of training grants.

A WIOA participant may enroll in WIOA-funded training while the participant's application for a Pell Grant is pending, as long as the Service Provider has made arrangements with the training provider and the WIOA participant regarding allocation of the Pell Grant. If the Pell Grant is subsequently awarded, the training provider must reimburse the Service Provider the WIOA funds used to underwrite the training for the amount the Pell Grant covers.

Reimbursement is not required from the portion of Pell Grant assistance disbursed to the WIOA participant for education-related expenses, which includes support services.

Service Provider must ensure that WIOA funds are not used to pay:

- for any portion or term of training for which the participant has signed a loan as part of financial aid; or
- that were paid by the participant (or other source) prior to WIOA program registration

Eligibility for Training Services

Training services may be made available to employed and unemployed adults and dislocated workers who:

- after a determination of need is made using an employment plan:
 - are unlikely or unable to obtain or retain employment that leads to economic self-sufficiency or wages comparable to or higher than wages from previous employment through career services;

- are in need of training services to obtain or retain employment leading to economic self-sufficiency or wages comparable to or higher than wages from previous employment; and
- have the skills and qualifications to participate successfully in training services;
- have selected a program of training services that is directly linked to:
 - occupations that are on the Occupations in Demand list, or are on the targeted occupations list for another local workforce development area (workforce area) to which an adult or dislocated worker is willing to commute or relocate; or
 - occupations that have been determined on a case-by-case basis to have a high potential for sustained demand and growth in the workforce area, based on sufficient and verifiable documentation and approved by the One Stop Operator

Dislocated Workers:

Definition of Dislocated Worker

See categories 1 – 5 of DWD Interim guidance for DW eligibility.

Intervening Employment' as defined for Dislocated Workers (DWD TAB 2010-04)

- *The eligible event that made the participant eligible as a dislocated worker should not have occurred more than three years ago – the look back period;*

"Look Back Period" - For purposes of Dislocated Worker eligibility, a "look back period" shall be defined as the time period in a participant's past between the dislocation event that established WIOA Dislocated Worker eligibility and the present. The "look back period" shall be limited to a maximum of three years from the date of initial program enrollment.

- The individual is otherwise eligible as a dislocated worker; and
- You will need to document why the employment the participant accepted is considered as "intervening" or "stop-gap" employment

"Intervening Employment" - "Intervening employment" is defined as stopgap employment accepted by an otherwise eligible Dislocated Worker that was taken for the purposes of maintaining economic stability during the look back period. In order for a position to be considered as "intervening employment," the following criteria must be met:

- Intervening employment was temporary in nature; *or*
- Intervening employment may not pay more than 80% of the wage and benefits the participant was earning at his/her job as part of the qualifying dislocation; and
 - Intervening employment was not the predominant occupation or field of expertise for the participant; or
 - Intervening employment was not in the same occupational field as the position that was part of the dislocation event.

Documenting Intervening Employment

When utilizing intervening employment to establish eligibility for a Dislocated Worker, case managers must document in case notes all positions the participant has worked during the look back period, specifically indicating how each position meets the definition of intervening employment. If the participant was terminated for cause from any intervening employment positions, the participant does not meet the Dislocated Worker eligibility criteria.

If any of the positions do not qualify as intervening employment or the individual does not meet any other Dislocated Worker eligibility criteria, the case manager shall not enroll the individual as a Dislocated Worker.

Locally Defined Dislocated Worker Guidelines

A. The Region 4 Workforce Board (R4WB) defines “unlikely to return to a previous industry or occupation” as:

- Leaving an occupation which is not on the Occupation in Demand list for the local region. Specific occupations are identified in the Growth & Demand Occupations list.
- Has antiquated skills that would hinder return to occupation even if occupation is on the Occupation in Demand list
- Must be documented in case notes.

C. The R4WIB considers self-sufficiency income for adults and dislocated workers as such:

1. Employment is not a guarantee of self-sufficiency. Therefore, all Hoosiers seeking assistance through the WorkOne system employed or not, are considered to lack self-sufficiency.

R4WIB further defines:

2. **Self-sufficiency** for individuals participating in training under the **WIOA Adult** Program is 200% of the economically Disadvantage Criteria level based on family size.
Self-sufficiency for individuals participating in training under the *Dislocated Worker* Program is the higher of at least 80% of the participant’s wage at layoff or the Economically Disadvantage Criteria level, and the participant is in permanent employment. An eligible Dislocated Worker who is in stopgap or temporary employment following economic dislocation shall not be considered self-sufficient even though the prevailing wage proves otherwise

Selective Service:

- In order to participate in a program established by or receiving assistance under Title I of WIOA, all males born on or after January 1, 1960 must present documentation showing compliance with the Selective Service registration requirement. **Refer to Regional Selective Service policies for additional guidance and required documentation.**

Determining Knowing and Willful Failure to Register. If the individual was required but failed to register with the Selective Service as determined by the *Status Information Letter* or by his own acknowledgment, the individual may only receive services if he can establish by a preponderance of the evidence that the failure to register was not knowing and willful. The grantee, sub-grantee, or contractor that enrolls individuals in WIOA Title I-funded activities is responsible for evaluating the evidence presented by the individual and determining whether the failure to register was a knowing and willful failure.

Evidence presented may include the individual's written explanation and supporting documentation of his circumstances at the time of the required registration and the reasons for failure to register. The individual should be encouraged to offer as much evidence and in as much detail as possible to support his case. The following are examples of documentation that may be of assistance in making a determination in these cases:

1. Service in Armed Forces. Evidence that a man has served honorably in the U.S. Armed Forces such as DD Form 214 or his Honorable Discharge Certificate. Such documents may be considered sufficient evidence that his failure to register was not willful or knowing.
2. Third Party Affidavits. Affidavits from parents, teachers, employers, doctors, etc. concerning reasons for not registering, may also be helpful to grantees in making determinations in cases regarding willful and knowing failure to register.

In order to establish consistency regarding the implementation of the requirement, grantees should consider the following questions when determining whether a failure to register is knowing and willful.

In determining whether the failure was “knowing,” the authorized organization should consider:

- Was the individual aware of the requirement to register?
- If the individual knew about the requirement to register, was he misinformed about the applicability of the requirement to him (e.g., veterans who were discharged before their 26th birthday were occasionally told that they did not need to register)?

- On which date did the individual first learn that he was required to register?
- Where did the individual live when he was between the ages of 18 and 26?
- Does the status information letter indicate that Selective Service sent letters to the individual at that address and did not receive a response?

In determining whether the failure was “willful,” the authorized organization should consider:

- Was the failure to register done deliberately and intentionally?
- Did the individual have the mental capacity to choose whether or not to register and decided not to register?
- What actions, if any, did the individual take when he learned of the requirement to register?

If an authorized organization determines it was not a knowing and willful failure and the individual is otherwise eligible, services may be provided. If the authorized organization determines that evidence shows that the individual's failure to register was knowing and willful, WIOA services must be denied. Individuals denied services must be advised of available WIA grievance procedures. Authorized organizations must keep documentation related to evidence presented in determinations related to Selective Service.

Effective July 1, 2015

Updated December 2015 to reflect link to I-9 form.

LISTS OF ACCEPTABLE DOCUMENTS
All documents must be UNEXPIRED

Employees may present one selection from List A
or a combination of one selection from List B and one selection from List C.

LIST A Documents that Establish Both Identity and Employment Authorization	OR	LIST B Documents that Establish Identity	AND	LIST C Documents that Establish Employment Authorization
1. U.S. Passport or U.S. Passport Card		1. Driver's license or ID card issued by a State or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address		1. A Social Security Account Number card, unless the card includes one of the following restrictions: (1) NOT VALID FOR EMPLOYMENT (2) VALID FOR WORK ONLY WITH INS AUTHORIZATION (3) VALID FOR WORK ONLY WITH DHS AUTHORIZATION
2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)		2. ID card issued by federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address		2. Certification of Birth Abroad issued by the Department of State (Form FS-545)
3. Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa		3. School ID card with a photograph		3. Certification of Report of Birth issued by the Department of State (Form DS-1350)
4. Employment Authorization Document that contains a photograph (Form I-766)		4. Voter's registration card		4. Original or certified copy of birth certificate issued by a State, county, municipal authority, or territory of the United States bearing an official seal
5. For a nonimmigrant alien authorized to work for a specific employer because of his or her status: a. Foreign passport; and b. Form I-94 or Form I-94A that has the following: (1) The same name as the passport; and (2) An endorsement of the alien's nonimmigrant status as long as that period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form.		5. U.S. Military card or draft record		5. Native American tribal document
		6. Military dependent's ID card		6. U.S. Citizen ID Card (Form I-197)
		7. U.S. Coast Guard Merchant Mariner Card		7. Identification Card for Use of Resident Citizen in the United States (Form I-179)
		8. Native American tribal document		8. Employment authorization document issued by the Department of Homeland Security
		9. Driver's license issued by a Canadian government authority		
		For persons under age 18 who are unable to present a document listed above:		
		10. School record or report card		
		11. Clinic, doctor, or hospital record		
		12. Day-care or nursery school record		
6. Passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI				

Illustrations of many of these documents appear in Part 8 of the Handbook for Employers (M-274).

Refer to Section 2 of the instructions, titled "Employer or Authorized Representative Review and Verification," for more information about acceptable receipts.