

## ***Workforce Innovation and Opportunity Act***

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Nebraska Department of Labor  
Office of Employment & Training

### **Interim Policy on Eligibility for Dislocated Workers**

#### **References:**

Workforce Innovation and Opportunity Act Sections 3, 134, and 189. [Workforce Innovation and Opportunity Act – Notice of Proposed Rulemaking](#), 20 CFR §§ 680.110, 680.120, 680.130, 680.210, 680.220, 680.650, 681.430, 681.440, 683.230; Neb. Rev. Stat. § 4-108; 38 U.S.C. §§ 101, 4215.

#### **Background:**

Eligibility criteria for dislocated workers are defined under the provisions of the Workforce Innovation and Opportunity Act.

#### **Action:**

After a 10-day review period, this Policy will be considered final. Questions and comments should be submitted in writing to the WIOA Policy Mailbox: [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

Local areas need to establish a policy on eligibility for dislocated workers addressing the provisions identified in this policy as well as ensure their local WIOA Plan addresses the requirements set forth in this policy.

#### **Policy:**

WIOA Section 3(15) defines “dislocated worker”, for purposes of qualifying for services under WIOA Section 134, as an individual who meets one of the following five parts:

##### Part I

1. Has been terminated or laid off, or who has received a notice of termination or layoff, from employment;
  - a. is eligible for or has exhausted entitlement to unemployment compensation; **or**
  - b. has been employed for a duration sufficient to demonstrate, to the appropriate entity at a One-Stop center referred to in 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**

2. is unlikely to return to a previous industry or occupation (see “Unlikely to Return” subheading below);<sup>1</sup>

#### Part II

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; **or**
3. for purposes of eligibility to receive services other than training services described in 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 will close;<sup>2</sup>

#### Part III

1. 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;<sup>3</sup>

#### Part IV

1. Is a displaced homemaker;<sup>4</sup>  
**Displaced Homemaker** – WIOA Section 3(16) defines “displaced homemaker” as an individual who has been providing unpaid services to family members in the home and who:
  - Is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment; and either
    - 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<sup>5</sup> and whose family income is significantly reduced because of
      - A deployment;<sup>6</sup>
      - A call or order to active duty pursuant to a provision of law referred to in Section 101(a)(13)(B) of Title 10, United States Code;
      - A permanent change of station; **or**
      - The service-connected<sup>7</sup> death or disability of the member.<sup>8</sup>

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<sup>1</sup> WIOA Section 3(15)(A)

<sup>2</sup> WIOA Section 3(15)(B)

<sup>3</sup> WIOA Section 3(15)(C)

<sup>4</sup> WIOA Section 3(15)(D)

<sup>5</sup> As defined in 10 U.S.C. 101(d)(1)

<sup>6</sup> As defined in 10 U.S.C. 991(b)

<sup>7</sup> As defined by 38 U.S.C. 101(16)

<sup>8</sup> WIOA Section 3(16)

## Part V

1. Is the spouse of a member of the Armed Forces on active duty<sup>9</sup> 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**
2. 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.<sup>10</sup>

In order to receive services as a dislocated worker, the individual must be 18 years of age or older.<sup>11</sup>

In determining eligibility, the governor and local boards may establish policies and procedures for One-Stop operators to use in determining an individual's eligibility as a dislocated worker, consistent with the definition at Section 3(15) of WIOA. These policies and procedures may address such conditions as:

1. What constitutes a "general announcement" of plant closing under Section 3(15)(B)(ii) or (iii) of WIOA; and
2. What constitutes "unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters" for determining the eligibility of self-employed individuals, including family members and farm workers or ranch hands, under Section 3(15)(C) of WIOA.<sup>12</sup>

## Unlikely to Return

In order to be considered as unlikely to return to a previous industry or occupation, an individual must meet at least one of the following criteria:

- Individual worked in a declining industry or occupation, as documented on state or locally developed labor market statistic lists of such industries or occupations. State labor market data lists are available from the Nebraska Department of Labor's Labor Market Information Division. Local lists must be developed by an appropriate entity, such as the local workforce development board, economic development agency, a qualified consultant/educational entity, or other valid public use quality source of labor market information.
- Individual worked in an industry or occupation for which there are limited job orders in NEworks at the time of eligibility determination, as documented by the assigned Career Planner.
- Individual is insufficiently educated and/or does not have the necessary skills for reentry into the former industry or occupation, as documented through an in-take orientation process or assessment of the client's educational achievement levels, testing, or other suitable means.

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<sup>9</sup> As defined by 10 U.S.C. § 101(d)(1)

<sup>10</sup> WIOA Section 3(15)(E)

<sup>11</sup> 20 CFR § 680.120

<sup>12</sup> 20 CFR § 680.130

- Individual has had a lack of job offers as documented by the assigned Case Manager, rejection letters from employers in the area, or other documentation of unsuccessful efforts to obtain employment in the prior industry or occupation.
- Individual cannot return to their previous industry or occupation because they have physical or other limitations, which would prevent reentry into the former industry or occupation, as documented by a physician or other applicable professional (e.g., psychiatrist, psychiatric social worker, chiropractor, etc.). In circumstances where support documentation is not available, an applicant self-attestation may be utilized to demonstrate unlikely to return.
- Individuals that may have worked seasonally can be considered unlikely to work<sup>13</sup> in a previous industry or occupation as a temporary or seasonal worker, for a variety of reasons such as:
  - Change in family situation that requires higher income;
  - Disability that precludes returning to the same industry or occupation;
  - Natural disaster that results in lost wages;
  - Loss of agricultural land;
  - Mechanization; or
  - Any significant variance to normal seasonal employment patterns resulting in uncertain return-to-work dates.
- Individuals laid off on a temporary basis with a specific return date and/or determined by Unemployment Insurance to be attached to an employer do not meet the criteria of unlikely to return work in a previous industry or occupation.

### **Required Employment and Training Activities**

WIOA divides required employment and training activities provided by One-Stop operators and One-Stop partners into two categories: career services and training services. The eligibility requirements for services in these categories are different.

#### Required Career Services

Section 134(c)(2)(A) of WIOA requires that local areas provide services that include, at a minimum:

1. Determinations of whether the individuals are eligible to receive assistance;
2. Outreach, intake (which may include worker profiling), and orientation to the information and other services available through the One-Stop delivery system;

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<sup>13</sup> In making the determination if an applicant is unlike to return to a previous industry or occupation, it is important to recognize that data may be collected looking at either the industry in which the individual previously worked, or the specific occupation. For example, if an individual previously worked as a welder, supporting documentation could be gathered looking at the occupation (welding) or the industry (manufacturing). Using data collected from either occupation or industry is sufficient, documentation of both is not required. All data collected should be reflective of the industry or occupation in the area the applicant resides or previously worked.

3. Initial assessment of skill levels (including literacy, numeracy, and English language proficiency), aptitudes, abilities (including skills gaps), and supportive service needs;
4. Labor exchange services, including—
  - a. Job search and placement assistance and, in appropriate cases, career counseling, including—
    - i. Provision of information on in-demand industry sectors and occupations; and
    - ii. Provision of information on nontraditional employment and
  - b. Appropriate recruitment and other business services on behalf of employers, including small employers, in the local area, which services may include services described in this subsection, such as providing information and referral to specialized business services not traditionally offered through the One-Stop delivery system;
5. Provision of referrals to and coordination of activities with other programs and services, including programs and services within the One-Stop delivery system and, in appropriate cases, other workforce development programs;
6. 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—
  - a. Job vacancy listings in such labor market areas;
  - b. Information on job skills necessary to obtain the jobs described in (a); and
  - c. Information relating to local occupations in demand and the earnings, skill requirements, and opportunities for advancement for such occupations;
7. Provision of performance information and program cost information on eligible providers of training services as described in Section 122 of WIOA, provided by program, and eligible providers of youth workforce development activities described in Section 123 of WIOA, providers of adult education described in Title II, providers of career and technical education activities at the postsecondary level, and career and technical education activities available to school dropouts, under the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et. Seq.), and providers of vocational rehabilitation services described in Title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.);
8. Provision of information, in formats that are usable by and understandable to One-Stop customers, regarding how the local area is performing on the local

performance accountability measures and any additional performance information with respect to the One-Stop delivery system in the local area;

9. Provision of information, in formats that are usable by and understandable to One-Stop center customers, relating to the availability of supportive services or assistance, including:
  - a. Childcare, child support, medical or child health assistance under Title XIX or XXI of the Social Security Act (42 U.S.C. 1396 et seq. and 1397aa et seq.);
  - b. Benefits under the Supplemental Nutrition Assistance Program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.);
  - c. Assistance through the earned income tax credit under Section 32 of the Internal Revenue Code of 1986
  - d. Assistance under a State program for Temporary Assistance for Needy Families funded under part A of Title IV of the Social Security Act (42 U.S.C. 601 et seq.); and
  - e. Other supportive services and transportation provided through funds made available under such part, available in the local area;
10. Referral to the services or assistance described in item 9 as appropriate;
11. Provision of information and assistance regarding filing claims for unemployment compensation;
12. Assistance in establishing eligibility for programs of financial aid assistance for training and education programs that are not funded under WIOA;
13. Services, if determined to be appropriate in order for an individual to obtain or retain employment, that consist of—
  - a. Comprehensive and specialized assessments of the skill levels and service needs, which may include:
    - i. Diagnostic testing and use of other assessment tools; and
    - ii. In-depth interview and evaluation to identify employment barriers and appropriate employment goals;
  - b. Development of an individual employment plan, to identify the employment goals, appropriate achievement objectives, and appropriate combination of services for the participant to achieve the employment goals;

- c. Group counseling;
  - d. Individual counseling;
  - e. Career planning
  - f. Short-term prevocational services, including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct;
  - g. Internships and work experiences that are linked to careers;
  - h. Workforce preparation activities;
  - i. Financial literacy services
  - j. Out-of-area job search assistance and relocation assistance; or
  - k. English language acquisition and integrated education and training programs; and
14. Follow-up services, including counseling regarding the workplace, for participants in workforce development activities who are placed in unsubsidized employment, for not less than 12 months after the first day of employment, as appropriate.<sup>14</sup>

#### *Eligibility for Career Services*

There are no special eligibility requirements for participation by dislocated workers in career services under Section 134(c)(2) of WIOA. Unlike individuals in the adult program, there is no priority of service to low income individuals.<sup>15</sup>

#### Required Training Services

As defined by Section 134(c)(3)(D) of WIOA, training services may include:

1. Occupational skills training, including training for nontraditional employment;
2. On-the-job training;
3. Incumbent worker training;
4. Programs that combine workplace training with related instruction , which may include cooperative education programs;
5. Training programs operated by the private sector;
6. Skill upgrading and retraining;

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<sup>14</sup> WIOA Section 134(c)(2)

<sup>15</sup> 20 CFR § 680.610

7. Entrepreneurial training;
8. Transitional jobs;
9. Job readiness training provided in combination with the other services in this list;
10. Adult education and literacy activities, including activities of English language acquisition and integrated education and training programs, provided concurrently or in combination with any of the other services in this list; and
11. Customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training.

#### *Linkage to Occupations in Demand*

Training services provided must be directly linked to an in-demand industry sector or occupation in the local area or the planning region, or in another area to which a dislocated worker receiving such services is willing to relocate, except that a local board may approve training services for occupations determined by the local board to be in sectors of the economy that have a high potential for sustained demand or growth in the local area.<sup>16</sup>

#### *Eligibility for Training Services*

Under Section 134(c)(3)(A) of WIOA, training services may be made available through dislocated worker funds to employed and unemployed dislocated workers who:

1. After an interview, evaluation, or assessment, and career planning, have been determined by a One-Stop operator or One-Stop partner, as appropriate, to
  - a. Be 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 the career services;
  - b. Be in need of training services to obtain or retain employment that leads to economic self-sufficiency or wages comparable to or higher than wages from previous employment; and
  - c. Have the skills and qualifications to successfully participate in the selected program of training services;

**Use of Previous Assessment** – A One-Stop operator or One-Stop partner is not required to conduct a new interview, evaluation, or assessment of a participant if it determines that it is appropriate to use a recent interview, evaluation, or assessment of the participant conducted pursuant to another education or training program.<sup>17</sup>

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<sup>16</sup> WIOA Section 134(c)(3)(G)(iii)

<sup>17</sup> WIOA Section 134(c)(3)(A)(ii)



2. Select programs of training services that are directly linked to the employment opportunities in the local area or the planning region, or in another area to which the adults or dislocated workers are willing to commute or relocate; and
3. Are unable to obtain other grant assistance for such training, including such sources as state-funded training funds, Trade Adjustment Assistance, and Federal Pell Grants, or require WIOA assistance in addition to other sources of grant assistance, including Federal Pell Grants.<sup>18</sup> For further information, see the “Individual Training Accounts” policy.

**Require assistance** – When making the determination about whether an individual requires assistance, a One-Stop operator may take into consideration the full cost of participating in training services, including the costs of dependent care and transportation, and other appropriate costs.<sup>19</sup>

The case file must contain a determination of need for training services under 20 CFR § 680.210 as determined through the interview, evaluation, or assessment, and career planning informed by local market information and training provider performance information, or through any other career service received. There is no requirement that career services be provided as a condition to receipt of training services; however, if career services are not provided before training, the local board must document the circumstances that justified its determination to provide training without first providing the services described in 20 CFR § 680.220.<sup>20</sup> There is no Federally-required minimum time period for participation in career services before receiving training services.<sup>21</sup>

### **Permissible Employment and Training Activities**

In addition to the required career and training activities, local areas may provide:

1. Customized screening and referral of qualified participants in training services to employers;
2. Customized employment-related services to employers, employer associations, or other such organizations on a fee-for-service basis;
3. Implementation of a pay-for-performance contract strategy for training services, for which the local board may reserve and use not more than 10 percent of the total adult or dislocated worker funds allocated to the local area;
4. Customer support to enable individuals with barriers to employment (including individuals with disabilities) and veterans, to navigate among multiple services and activities for such populations;

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<sup>18</sup> 20 CFR § 680.210

<sup>19</sup> WIOA Section 134(c)(3)(B)(i)

<sup>20</sup> 20 CFR § 680.220(b)

<sup>21</sup> 20 CFR § 680.220(c)

5. Technical assistance for One-Stop operators, One-Stop partners, and eligible providers of training services, regarding the provision of services to individuals with disabilities in local areas, including the development and training of staff, the provision of outreach, intake, assessments, and service delivery, the coordination of services across providers and programs, and the development of performance accountability measures;
6. Employment and training activities provided in coordination with—
  - a. Child support enforcement activities of the state and local agencies carrying out part D of Title IV of the Social Security Act (42 U.S.C. 651 et seq.);
  - b. Child support services, and assistance, provided by state and local agencies carrying out part D of Title IV of the Social Security Act (42 U.S.C. 651 et seq.);
  - c. Cooperative extension programs carried out by the Department of Agriculture; and
  - d. Activities to facilitate remote access to services provided through a One-Stop delivery system, including facilitating access through the use of technology;
7. Activities—
  - a. To improve coordination between workforce development activities and economic development activities carried out within the local area involved, and to promote entrepreneurial skills training and microenterprise services;
  - b. To improve services and linkages between the local workforce development system (including the local One-Stop delivery system) and employers, including small employers, in the local area, through services described in this section; and
  - c. To strengthen linkages between the One-Stop delivery system and unemployment insurance programs;
8. Training programs for displaced homemakers and for individuals training for nontraditional occupations, in conjunction with programs operated in the local area;
9. Activities to provide business services and strategies that meet the workforce development needs of area employers, as determined by the local board, consistent with the local plan, which services—

- a. May be provided through effective business intermediaries working in conjunction with the local board, and may also be provided on a fee-for-service basis or through the leveraging of economic development, philanthropic, and other public and private resources in a manner determined appropriate by the local board; and
  - b. May include—
    - i. Developing and implementing industry sector strategies (including strategies involving industry partnerships, regional skills alliances, industry skill panels, and sectoral skills partnerships);
    - ii. Developing and delivering innovative workforce development services and strategies for area employers, which may include career pathways, skills upgrading, skill standard development and certification for recognized postsecondary credential or other employer use, apprenticeship, and other effective initiatives for meeting the workforce development needs of area employers and workers;
    - iii. Assistance to area employers in managing reductions in force in coordination with rapid response activities and with strategies for the aversion of layoffs, which strategies may include early identification of firms at risk of layoffs, use of feasibility studies to assess the needs of and options for at-risk firms, and the delivery of employment and training activities to address risk factors; and
    - iv. The marketing of business services offered under Title I, to appropriate area employers, including small and mid-sized employers;
10. Activities to adjust the economic self-sufficiency standards<sup>22</sup> for local factors, or activities to adopt, calculate, or commission for approval, economic self-sufficiency standards for the local areas that specify the income needs of families, by family size, the number and ages of children in the family, and substate geographical considerations;
11. Improved coordination between employment and training activities and programs carried out in the local area for individuals with disabilities, including programs carried out by state agencies relating to intellectual disabilities and developmental disabilities, activities carried out by Statewide Independent Living Councils established under section 705 of the Rehabilitation Act of 1973 (29 U.S.C. 796d), programs funded under part B of Chapter 1 of Title VII of such Act (29 U.S.C. 796e et seq.), and activities carried out by centers for independent living, as defined in section 702 of such Act (29 U.S.C. 796a); and

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<sup>22</sup> Referred to in WIOA Section 134(a)(3)(A)(xii)

12. Implementation of promising services to workers and businesses, which may include support for education, training, skill upgrading, and statewide networking for employees to become workplace learning advisors and maintain proficiency in carrying out the activities associated with such advising.<sup>23</sup>

### Rule of Construction

Nothing in this policy or in WIOA should be construed to mean an individual is required to receive career services prior to receiving training services.<sup>24</sup>

### **Work Support Activities for Low-Wage Workers**

Funds for dislocated workers may be used to provide work support activities designed to assist low-wage workers in retaining and enhancing employment. The One-Stop partners of the system shall coordinate the appropriate programs and resources of the partners with the activities and resources provided under Section 134(d)(1)(B) of WIOA [Work Support Activities for Low-Wage Workers].

These activities may include the provision of activities in a manner that enhances the opportunities of such worker to participate in the activities, such as the provision of activities described in this section during nontraditional hours and the provision of onsite child care while such activities are being provided.<sup>25</sup> Work support activities may also include any activities available under the WIOA dislocated worker program in coordination with activities and resources available through partner programs.<sup>26</sup>

### **Supportive Services**

Funds for dislocated workers may be used to provide supportive services to dislocated workers who:

1. Are participating in programs with career or training activities; and
2. Are unable to obtain such supportive services through other programs providing such services.<sup>27</sup>

**Supportive Services Definition** – Section 3(59) of WIOA defines supportive services as services such as transportation, child care, dependent care, housing, and needs-related payments, that are necessary to enable an individual to participate in activities authorized by WIOA.

See the Supportive Services policy for additional information.

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<sup>23</sup> WIOA Section 134(d)

<sup>24</sup> WIOA Section 134(c)(3)(A)(iii)

<sup>25</sup> WIOA Section 134(d)(1)(B)

<sup>26</sup> 20 CFR § 680.140

<sup>27</sup> WIOA Section 134(d)(2)

## Needs-Related Payments

Funds for dislocated workers may be used to provide needs-related payments to dislocated workers who are unemployed and do not qualify for (or have ceased to qualify for) unemployment compensation for the purpose of enabling such individuals to participate in programs of training services.<sup>28</sup>

### Eligibility Requirement for Needs-Related Payments

A dislocated worker who has ceased to qualify for unemployment compensation may be eligible to receive needs-related payments only if such worker was enrolled in the training services

1. By the end of the 13<sup>th</sup> week after the most recent layoff that resulted in a determination of the worker's eligibility for employment and training activities for dislocated workers; or
2. If later, by the end of the 8<sup>th</sup> week after the worker is informed that a short-term layoff will exceed 6 months.<sup>29</sup>

See the Supportive Services policy for additional information.

### Priority for Veterans

Covered persons receive priority of service in all Department of Labor-funded training programs under 38 U.S.C. § 4215 and described in 20 § CFR 1010.<sup>30</sup> A veteran must still meet each program's eligibility criteria to receive services under the respective employment and training program.<sup>31</sup>

The term "**covered person**" as defined in section 2(a) of the Jobs for Veterans Act [38 U.S.C. 4215(a)] means a veteran or eligible spouse.<sup>32</sup>

"**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 includes full-time Federal service in the National Guard or a Reserve component.<sup>33</sup> Active service does not include full-time duty performed strictly for training purposes unless the individual was disabled or died from a disease or injury incurred or aggravated in the line of duty.<sup>34</sup>

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<sup>28</sup> WIOA Section 134(d)(3)(A)

<sup>29</sup> WIOA Section 134(d)(3)(B)

<sup>30</sup> 20 CFR § 680.650

<sup>31</sup> 20 CFR § 680.650

<sup>32</sup> 38 U.S.C. § 4215(a)(1)

<sup>33</sup> 38 U.S.C. §§ 101(21), (24)

<sup>34</sup> 38 U.S.C. § 101(24)

**“Eligible Spouse”** means the spouse of any of the following:

1. Any veteran who died of a service-connected disability;
2. Any member of the Armed Forces serving on active duty who, at the time of application for the priority, is listed in one or more of the following categories and has been so listed for a total of more than 90 days: (I) missing in action, (II) captured in the line of duty by a hostile force, or (III) forcibly detained or interned in the line of duty by a foreign government or power;
3. Any veteran who has a total disability resulting from a service-connected disability, as evaluated by the Department of Veterans Affairs; or
4. Any veteran who died while a disability, as indicated in paragraph 3 (above), was in existence.<sup>35</sup>

The term **“priority of service”** means, with respect to any qualified job training program, that a covered person shall be given priority over a non-covered person for the receipt of employment, training, and placement services provided under that program, notwithstanding any other provision of the law.<sup>36</sup>

For income-based eligibility determinations, amounts paid while on active duty or paid by the Department of Veterans Affairs for vocational rehabilitation, disability payments, or related VA-funded programs are not to be considered as income in accordance with 38 U.S.C. § 4213 and 20 CFR § 683.230.<sup>37</sup> This applies when determining if a person is a “low-income individual” for eligibility purposes (for example, in WIOA youth programs). It also applies when income is used as a factor when the local area provides priority of service for “low income individuals” with Title I WIOA funds.<sup>38</sup>

## **Registration**

Registration is the process for collecting information for supporting a determination of eligibility. This information may be collected through methods that include electronic data transfer, personal interview, or an individual’s application.

- Adults who receive services funded under WIOA Title I other than self-service or informational activities must be registered and determined eligible and must be a participant.<sup>39</sup>
- Equal Employment Opportunity data must be collected on every individual who is interested in being considered for WIOA Title I financially assisted aid, benefits, services, or training by a recipient, and who has signified that interest by submitting personal information in response to a request from the grant recipient or designated service provider.<sup>40</sup>

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<sup>35</sup> 38 U.S.C. § 4215(a)(1)(B)

<sup>36</sup> 38 U.S.C. § 4215(a)(3)

<sup>37</sup> 20 CFR § 680.650

<sup>38</sup> 20 CFR § 683.230

<sup>39</sup> 20 CFR § 680.110(b)

<sup>40</sup> 20 CFR § 680.110(c)

## Concurrent Enrollment

Under Section 3 of WIOA, eligible adults are defined as individuals age 18 or older.<sup>41</sup> WIOA defines eligible youth as 14 through 21 years of age, if in-school youth,<sup>42</sup> and 16 through 24, if out-of-school youth.<sup>43</sup> Thus, individuals between the ages of 18 through 24 [at registration] may be eligible for both adult and youth programs.

- Eligible individuals who are 18 through 24 years old [at registration] may participate in adult and youth programs concurrently. Such individuals must be eligible under the youth and adult/dislocated worker eligibility criteria applicable to the services received. Local program operators should determine the appropriate level and balance of services under the youth and adult programs. This determination should be driven by program design and services provided.<sup>44</sup>
- Local program operators must identify and track the funding streams which pay the costs of services provided to individuals who are participating in youth and adult/dislocated worker programs concurrently, and ensure that services are not duplicated.<sup>45</sup>

A local program should determine the appropriate program for the participant based on the service needs of the participant and if the participant is career-ready based on an objective assessment of their occupational skills, prior work experience, employability, and participants needs as required in Section 129(c)(1)(A) of WIOA.<sup>46</sup>

## Application Time Limit

NEworks is used by all of the American Job Centers in Nebraska to collect data items of several of the One-Stop partners. The WIOA Application Date is the date when the WIOA Application is created. When entering it on NEworks, it cannot be a date in the future. The WIOA Participation Date is the date following a determination of eligibility (when necessary) to participate in the program when the individual begins receiving a service funded by the program in either a physical location (American Job Center) or remotely through electronic technologies. It counts as the official point when the participant begins counting in performance measures. Under this policy, if over 90 days elapse between the WIOA Application Date and the WIOA Participation Date, then the application will be closed. Even with the ninety-day limit, there are several items on NEworks that must be verified and updated (when appropriate) at the date of WIOA participation including: Education Level; School Status, Employment Status, Enrolled in Education at Participation, Unemployment Compensation, and Age at Participation. A youth's dropout status must be verified at the time of WIOA youth program enrollment.<sup>47</sup>

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<sup>41</sup> WIOA Section 3(2)

<sup>42</sup> WIOA Section 129(a)(1)(C)

<sup>43</sup> WIOA Section 129(a)(1)(B)

<sup>44</sup> 20 CFR § 681.430(a)

<sup>45</sup> 20 CFR § 681.430(b)

<sup>46</sup> 20 CFR § 681.440

<sup>47</sup> 20 CFR § 681.240

## **Nondiscrimination**

Section 188 of WIOA provides that no individual may be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of race, color, religion, sex, national origin, age, disability, or political affiliation or belief.<sup>48</sup>

Participation in programs and activities must also be available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General to work in the United States. Individuals with employment authorization may access any WIOA services for which they otherwise would qualify.<sup>49</sup>

## **Verification of Lawful Presence**

Each agency responsible for determining eligibility for WIOA benefits in Nebraska is required to:

1. Have each applicant for WIOA services attest that he or she is a U.S. citizen or a qualified alien. This must be done using the format prescribed by the Nebraska Department of Administrative Services (DAS).<sup>50</sup>
  - If in the above Step 1, the applicant indicates he or she is an alien, then complete Step 2 as follows:
2. Verify his or her lawful presence in the United States using the SAVE (Systematic Alien Verification for Entitlements) Program operated by the U.S. Department of Homeland Security.

## **Enforcement of Military Selective Service Act**

Local programs shall ensure that each individual participating in any program established under Title I of WIOA or receiving any assistance or benefit under such Title, has not violated Section 3 of the Military Selective Services Act (50 U.S.C. App. 453) by not presenting and submitting to registration as required pursuant to such section.<sup>51</sup>

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<sup>48</sup> WIOA Section 188(a)(2)

<sup>49</sup> WIOA Section 188(a)(5)

<sup>50</sup> Neb. Rev. Stat. § 4-108

<sup>51</sup> WIOA Section 189(h)



**Disclaimer**

This policy is based on NDOL's reading of the statute along with the Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional federal regulations and TEGs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.