

**Adult and Dislocated Worker Eligibility Policy for the
Northeast Ohio Consortium Council of Governments
Workforce Innovation and Opportunity Act Policy A-01**

I. Purpose and General Outline.

There are no eligibility requirements for individuals seeking self-service basic career services, or staff assisted basic career services requiring minimal staff assistance from OMJ Center operators, partners, and/or providers. **See Area Workforce WIOA Policy A-02.** These services may be provided without the need to consider eligibility, self-sufficiency, appropriateness, etc.

For those seeking the identified services below, statutory eligibility (**this policy**), appropriateness for services (**See Area Workforce WIOA Policy C-04**), and determination of other criteria that control whether an individual will be permitted to receive adult and dislocated worker services, may/will have to be determined (**See Area Workforce WIOA Policies, C-02 through C-12**).

1. Staff assisted basic career services that involve more than minimal staff assistance (**See Area Workforce WIOA Policy A-02**);
2. Individualized Career Services (**See Area Workforce WIOA Policy A-02**);
3. any and all training services (**See Area Workforce WIOA Policy A-03**);
and/or
4. all supportive services (**See Area Workforce WIOA Policy A-04**).

This policy sets forth all of the Area Workforce's policies on determining WIOA statutory eligibility for adult and dislocated worker programming.

II. Effective Date.

July 1, 2015.

III. Background to Statutory Eligibility.

Basic career services that are self-service, and/or basic career services requiring minimal staff assistance from OMJ Center operators, partner, and/or providers are available to all who seek them. No elements of statutory eligibility, appropriateness, etc. need be applied.

All other WIOA services provided by OMJ Center operators, partners, and/or providers may only be provided to individuals who are determined to be eligible pursuant to WIOA statute, regulations, and federal and state policies.

WIOA recognizes two defined categories/populations of eligible individuals. They are:

1. adult workers; and
2. dislocated workers.

Only those individuals meeting all of the elements of the statutory definition of an adult worker and/or dislocated worker as set forth within this policy may be deemed eligible to receive services in addition to the self-service basic career services, and/or basic career services involving minimal staff assistance.

Even if an individual is determined to be an eligible adult and/or dislocated worker per the statute, that determination does not entitle an individual to receive services. There is no individual entitlement to WIOA services. Even if statutory eligibility is determined to exist, an individual must also have been deemed appropriate, and meet other terms and conditions set forth within the **Area Workforce's WIOA Policies C-01 through C-12**, before being offered the privilege to receive services.

Until eligibility plus all other terms and conditions of the Area's Workforce policies have been established and are supported by the documentation required, no individual may be enrolled as a registered participant to receive WIOA services other than self-assisted basic career services, or minimally staff assisted basic career services.

IV. Base Statutory Eligibility Requirements for Adult and Dislocated Workers.

All individuals wishing to receive employment and training services funded through the adult and/or dislocated worker programs must meet each of the following requirements:

1. be legally authorized to work in the United States;
2. be 18 years of age or older; and
3. be properly registered for selective service (**See Area Workforce WIOA Policy C-02, Selective Service Registration**).

V. Additional Statutory Eligibility Criteria for the Adult Program.

There are no additional statutory eligibility criteria for the adult program. However, there are a number of other criteria that must be considered before an individual can be enrolled as a WIOA Adult participant. **See Area Workforce WIOA Policies, Section C 01-12.**

VI. Additional Statutory Eligibility Requirements for Dislocated Workers.

In addition to the requirements listed in Section IV., of this policy, an individual must also fall into one of the two categories listed below.

A. The Five Statutory Definitions of Dislocated Workers Outlined in Section 3(15)(A-E) of WIOA:

1. Category A: Terminated or Laid Off, or Received a Notice of Termination or Layoff From Employment.
 - Has been terminated or laid off or has received a notice of termination or layoff from employment. **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, 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. For purposes of this policy **attachment to workforce** means an individual who, at the time of application for WIOA services, worked at the same company or in the same occupation for 15 out of the last 26 weeks. **AND**
- Is unlikely to return to a previous industry or occupation.

2. Category B: Plant Closure or Substantial Layoff.

- 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. **OR**
- Is employed at a facility where 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 described in section 134(c)(3) of WIOA, career services described in section 134(c)(2)(A)(xii) of WIOA, or supportive services, is employed at a facility at which the employer has made a general announcement that such facility will close.

3. Category C: Self-Employed Individual.

- Was self-employed (including employment as a farmer, a rancher, or a fisherman) but is unemployed as a result of natural disasters; or general economic conditions in the community where the individual resides.

4. Category D: Displaced Homemaker.

- Is a displaced homemaker.

5. Category E: Military Spouse.

- Is the spouse of a member of the Armed Forces on active duty (as defined in section 101(d)(1) of title 10, United States Code), and who has experienced a loss of employment as a direct result of relocation to accommodate a permanent change in duty state of such member. **OR**
- Is the spouse of a member of the Armed Forces on active duty and who meets the criteria of a displaced homemaker who is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

B. Special Circumstances Allowing a Worker to be Determined Eligible as a Dislocated Worker.

In addition to the requirements listed in Section IV., of this policy, if an individual satisfies any of the following special circumstance, s/he may be deemed eligible as a dislocated worker, under Statutory Definition Category A listed in Section VI of this policy.

1. Re-Employment and Eligibility Assessment (REA).

The REA system is an early intervention approach for providing dislocated workers with reemployment services to expedite their return to productive employment. The Ohio Job Insurance (OJI) system selects claimants who have no return to work date, are not job attached, have received a first UC payment, and were previously employed in a declining industry for participation in the REA program. These selected claimants are considered to be unlikely to return to their previous occupations or industries and are considered dislocated workers under Category A: Terminated or Laid Off, or Received a Notice of Termination or Layoff From Employment.

2. Trade Eligible.

The Trade Adjustment Act (“TAA”) is a program that assists individuals, who became unemployed as a result of increased imports, with their return to suitable employment based upon an approved petition. The TAA program provides reemployment services and allowances for eligible individuals. Applicants are considered to be dislocated workers under Category A: Terminated or Laid Off, or Received a Notice of Termination or Layoff From Employment, when the affected worker provides a copy of the petition approval letter or a screen shot from the "Program Data" tab on "Basic Intake" from the Ohio Workforce Case Management System (OWCMS) indicating that the individual is trade eligible.

3. Locked-out Workers.

Locked-out workers are considered to be dislocated workers under Category A: Terminated or Laid Off, or Received a Notice of Termination or Layoff From Employment, when an ODJFS Office of Unemployment Compensation hearing officer has issued a determination that a lockout exists.

The listing of ODJFS Unemployment Compensation lockouts can be found at: http://jfs.ohio.gov/owd/WorkforceProf/policy_info.stm.

4. Buyouts and Forced or Early Retirements.

Workers who receive buyouts or who are forced to retire are considered dislocated workers under Category A: Terminated or Laid Off, or Received a Notice of Termination or Layoff From Employment, when all of the following conditions are met:

- The employer has offered a buyout or early retirement or forced an early retirement as a means to reduce its workforce by providing a financial incentive for long-term (and therefore better paid) workers to leave their employment; and
- The participating workers would not be voluntarily leaving their positions or retiring from employment at this time; and
- The worker is eligible for Unemployment Insurance (UI); and
- Is unlikely to return to a previous industry or occupation.

Workers in the situation listed above are considered to be preserving the jobs for employees with less seniority.

5. Veterans.

Veterans are considered dislocated workers under Category A: Terminated or Laid Off, or Received a Notice of Termination or Layoff From Employment, when the following conditions are met:

- The veteran has been discharged under honorable circumstances; and
- Is unlikely to return to his or her industry or occupation.

VII. Reporting.

As recipients of WIOA funds, the Area Workforce, the OMJ operators, partners, and providers will be required to maintain and report accurate program and financial information. Pursuant to rule 5101:9-30-04 of the Ohio Administrative Code, information regarding WIOA participants and their activities and performance must be entered into Ohio Workforce Case Management System (“OWCMS”) accurately and timely. OWCMS may be used to assist in the determination of eligibility. However, OWCMS cannot be used as verification of adult or dislocated worker eligibility. **Area Workforce WIOA Policy C-09** regarding Source Documentation for WIOA Eligibility, lists the type of acceptable documentation to verify eligibility for the WIOA adult and dislocated worker programs.

VIII. Definitions.

Attachment to workforce: An individual who, at the time of application for WIOA services, worked at the same company or in the same occupation for 15 out of the last 26 weeks.

Disability: Any person who has a physical, sensory, or mental impairment, which substantially limits one or more major life activities per the American Disabilities Act of 1990 (42 U.S.C. 12102) and has record of such impairment or is regarded as having such impairment.

Displaced homemaker: 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**
- 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 (as defined in section 101(d)(1) of title 10, United States code) and whose family income is significantly reduced because of a deployment (as defined in section 991(b) of title 10, United States code, or pursuant to paragraph (4) of such section); 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 a service-connected (as defined in section 101(16) of title 38, United States code) death or disability.

Eligible for or has exhausted unemployment insurance: An individual who has been determined to be eligible for benefit payments under one or more State or Federal unemployment compensation programs whether or not he or she has exhausted his/her benefit rights. An individual need not actually receive benefits to be eligible.

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 with annual sales of \$1,000 or more, or who receives at least 50 percent of their family or individual income from agricultural or food production.

General announcement: A communication by an employer stating intent to close a business within 180 days.

Laid-off or layoff: A separation due to the lack of work or other factor(s) not related to the behavior of the employee.

Natural disaster: Events that may include a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mud-slide, snowstorm, ice storm, drought, fire, explosion, or other catastrophe.

Notice of termination from employment: A written notice from an employer concerning the layoff or termination of an employee. Such written notice of layoff or termination may consist of:

- A final letter from an employer laying off or terminating the employee (which includes the layoff or termination date); or
- A public announcement by an employer about an upcoming lay-off or termination affecting groups of employees, provided that the announcement makes clear that the applicant is a member of that group.

Occupation: An individual's usual or principal work, business, profession, or trade used as a means of earning a living.

Permanent closure: The permanent shutdown of a plant, facility or enterprise.

Plant, facility or enterprise: A distinct unit of business or industry; for example the closure of a division of a corporation, the entire facility at a specific site or location, or the closure of a functional unit, such as a warehouse.

Self-employed: Persons who work for profit or fees in their own business, profession, trade, or farm, and during the COVID-19 pandemic and/or those effected by the same, all those defined herein that are independent contractors and/or those working in the gig economy.

Substantial layoff: Any reduction in force that is not the result of a total plant/branch/office closing, but still results in an employment loss at a single site of employment during any sixty (60) day period for:

1. Twenty-five percent (25%) of the employees, or
2. A minimum of 50 employees.

Termination of employment: Separation from employment due to reasons other than discharge for cause, voluntary departure or retirement; OR individuals who accept early or forced retirement as part of a reduction in workforce; OR an individual who has been dismissed but is still eligible for unemployment compensation.

Underemployment: An individual who is working part time but desires full time employment, or who is working in employment not commensurate with the individual's demonstrated level of educational and/or skill achievement. Also includes individuals who fall below the dislocated worker self-sufficiency threshold, as defined by the local WDB.

Unemployed individual: An individual who is without a job, who is able to work, and who is available for work. The determination of whether an individual is without a job is made in accordance with the criteria used by the Bureau of Labor Statistics in defining individuals as unemployed.

Unemployed as a result of general economic conditions or natural disaster: Business lost due to one of the following reasons:

- The closure or substantial lay-off of a primary supplier or customer affecting the self-employed applicant's products or services;
- Less demand for the occupation or product within the community;
- 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;
- Natural disaster, as defined by State or Federal declaration; or
- Self-employed individuals, including contractors and those working in the gig economy, who are unable to work due to the COVID 19-pandemic.

Unlikely to return to previous industry or occupation: An individual who is laid off and falls into one of the following categories or another category.

1. Ex-Offender – unlikely to return due to legal constraints.
2. Disabled – unlikely to return due to physical or emotional impairment, or age.
3. Basic Skills Deficient – unlikely to return due to inability to perform basic reading, writing, and other skills needed currently.
4. Dropout – unlikely to return due to current need of GED or high school diploma.
5. Homeless – unlikely to return due to basic shelter and safety needs.
6. Long-term unemployed – unlikely to return if unemployed 15 out of the last 26 weeks.
7. Fired from past employment – unlikely to return if unable to perform.
8. Few job skills – unlikely to return if job skills are not in demand.
9. COVID-19 separated – unlikely to return because of novel COVID-19 coronavirus.
10. Laid off from declining industry – unlikely to return if industry is declining as documented by LMI data, including but not limited to.
 - a. The number of jobs in the applicant's previous industry/occupation is declining based on Labor Market Information (LMI) data.
 - b. The projected annual increase in employment growth within the local area based on LMI or O*Net is fewer than 100 jobs in the previous industry (including replacements) or the projected annual increase in growth openings is fewer than 30 jobs in the previous occupation.
 - c. The applicant is dislocated from a job not found on the most recent local or state list of demand occupations (if applicable).
 - d. 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. -And; Or-
 - e. Evidence, preferably from several sources including OhioMeansJobs.com, professional journals, etc., of few openings in the previous industry or occupation.

Veteran: An individual who served in the active military, naval, or air service, and who was discharged or released from such service under conditions other than dishonorable, which may include National Guard or Reserve personnel.

IX. Monitoring.

The area will conduct oversight and monitoring of the implementation of all WIOA programming by all OMJ Center operators, partners, and/or providers pursuant to **Area Workforce WIOA Policy D-03**. Any issues discovered will be handled through the area's monitoring resolution process.

X. Technical Assistance.

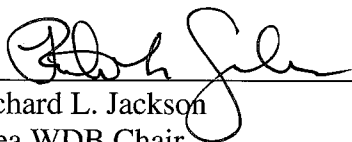
To get questions answered and technical assistance regarding this policy or issues regarding administration of WIOA, you are urged to contact the Executive Director of the NOC COG at craigsernik@neohio.twcbc.com.

The question/issue will be researched, analyzed, and a formal written response will be provided. If a second opinion is required, the director is not available, or there is no clear answer to the question/issue, either the Executive Director or any OMJ Center or provider staff may seek additional guidance by submitting the same to the Office of Workforce Development: WIAQNA@jfs.ohio.gov; and by copying your request to the Executive Director of the NOC COG.

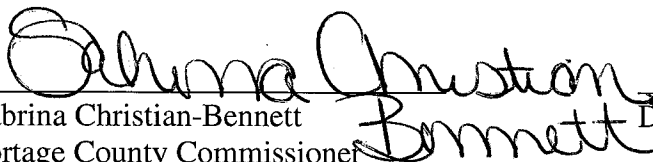
XI. References.

- Workforce Innovation and Opportunity Act, Pub. L. 113-128.
- 20 CFR Parts 603 et al.
- 29 U.S.C. 3101 et seq.
- Ohio Rev. Code 4141.29(D)(2)(ii).
- Ohio Admin. Code 5101:9-30-04.
- ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 14-XX, Source Documentation for WIOA Eligibility, (date).
- ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 14-XX.
- Selective Service Registration, ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 14-XX, Training Services for Adult and Dislocated Worker.

XII. Signatures.


Richard L. Jackson
Area WDB Chair

9/24/20
Date


Sabrina Christian-Bennett
Portage County Commissioner
Northeast Ohio Consortium Council of Governments,
Chief Elected Official

11/23/2020
Date

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