

Policy and Procedure

Title:	Unlikely to Return to Previous Occupation or Industry	Number:	OP-12-11
Effective Date:	July 1, 2012	Revised:	7/11/19

Purpose

WIOA defines a Dislocated Worker, in part, as an individual who has been terminated/laid off, or who has received a notice of termination or layoff, from employment; is eligible for or has exhausted entitlement to unemployment compensation; or has been employed for a duration sufficient to demonstrate, to the appropriate entity at a one stop center, attachment to the workforce, but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer that were not covered under a State unemployment compensation law; and is unlikely to return to a previous industry or occupation. The phrase "unlikely to return to a previous industry or occupation" is not specifically defined in the Act or in the regulations. It is the local WDB's charge to define this term, within the parameters of the Act. This policy shall define the phrase "unlikely to return" for purposes of WIOA Dislocated Worker eligibility and clarify the acceptable documentation for this area.

Reference

DOL TEGL 3-15 "WIOA Adult, Dislocated Worker, ES"
WIOA -Section 3(15)(A)(iii)

Policy

Definitions:

"Industry" means any field of business or trade

"Occupation" means the type of work in which the person was primarily engaged

Guidance

A. Unlikely to return (to work) may include, but is not limited to:

1. The individual cannot return to her/his previous industry or occupation because she/he lacks necessary skills due to technological or other changes in the occupation; or
2. The individual cannot return to her/his previous industry or occupation because she/he has physical or mental disabilities which prevent her/him from returning to her/his previous industry or occupational area; or
3. The individual has exhausted her/his unemployment compensation benefits and has been unable to find a job in her/his previous industry or occupation; or
4. The individual has been long term unemployed (12 Weeks of the Last 20 months) and has been unable to find a job in her/his previous industry or occupation; or
5. The individual has been assessed by the contractor as being unable to find employment in her/his previous industry or occupation or to find employment at a compensation level comparable to her/his previous occupation; or
6. The contractor has determined that the individual needs additional assistance in order to retain employment leading to self-sufficiency; or
7. The separating employer has provided documentation that the individual is unlikely to return to their previous occupation for a period of six months, or longer; or
8. The most current Labor Market Information (LMI) from the Virginia Workforce Connection for LWIOA IV indicates a decline in the previous occupation. If no LMI is available for this area, or if this LMI does not indicate a decline in the occupation, LMI for the Commonwealth of Virginia can be used. For purposes of determining "Unlikely to Return", Program Operators shall consider the long term (ten year) employment projections for that occupation. LMI that reflects a projected employment

outlook that is less than the most recent estimated employment for the occupation will be considered a declining occupation.

B. "Previous industry or occupation" means the type of work the person was "primarily engaged in" and includes:

1. The occupation the participant was trained in; or
2. The occupation from which applicant received highest income; or
3. The occupation in which applicant has had the most time.

Procedure

The contractor shall prepare, or gather, and maintain documentation of this "unlikely to return" status, if it is being utilized as the eligibility criteria for enrollment.

For each of the eight items listed above, documentation may include, but is not limited to:

- #1. Assessment results, IEP, and job market data documenting skills deficiencies.
- #2. Independent evaluations which reflect the physical or mental disability and occupational data indicating the job requirement. May include DRS recommendations, as well as physician information.
- #3. Print out of benefits paid reflecting exhaustion of benefits.
- #4. Assessment results and IEP reflecting additional assistance needed to obtain a job providing self-sufficiency, as defined by the SVWDB.
- #5. Letter from the previous employer indicating the person is unlikely to, or will not, be returning to their employ.
- #6. Print-outs of LMI information reflecting a decline in the previous occupation. This data can be obtained from the occupational profile in the labor market services of the Virginia Workforce Connection.

Revisions:

July 11, 2019