



CENTRAL REGION

Workforce Innovation and Opportunity Act (WIOA) Program Policy # 109

Subject: Unlikely to Return Determination

Date of Issuance: January 10, 2018

References: TEGL #19-16

Policy Statement:

The purpose of this policy is to establish criteria for determining “unlikely to return” in LWDA 07, Central Region.

Definition:

The Central Virginia Workforce Development Board (WDB) allows the use of any of the following considerations in defining “unlikely to return” when documentation is available to prove:

- The jobseeker has been a receipt of UI benefits for the duration of at least 12 of the previous 26 weeks.
- The qualifications for previous industry/occupation has changed and the jobseeker is no longer qualified.
- The jobseeker’s skills are obsolete in demand occupations which makes the individual non-competitive.
- A skill upgrade is necessary in order for the jobseeker to find employment in current in demand occupations.
- The jobseeker became disabled and cannot perform in his/her previous occupation or industry.
- Industry was represented by only one employer within (at least) a 25 mile radius and is now out of business.
- Excess number of workers with similar skill sets and experience seeking limited employment opportunities in the region within (at least) a 25 mile radius.

In order to determine if a participant’s prior occupation/industry is declining for WIOA Dislocated Worker Program eligibility, Title 1 DLW staff will utilize Labor Market Information obtained through www.VirginiaLMI.com, ONET or other reputable sources for labor market information. Documentation should be attached to the local form “Unlikely to Return to Industry/Occupation Analysis” and filed in the participant record.

Separating Service Members and Military (Eligible) Spouses

Under 20 CFR 680.660, service members exiting the military, including, but not limited to, those who receive or are eligible for Unemployment Compensation for Ex-service members (UCX), generally qualify as dislocated workers. Generally a separating service member needs a notice of separation, either a DD-214 from the Department of Defense, or other appropriate documentation that shows a separation or imminent separation from the Armed Forces. These documents meet the requirement that the individual has received a notice of termination or layoff,

to meet the required dislocated worker definition. It is appropriate to provide career services to separating service members who will be imminently separating from the military, provided that their discharge will be anything other than dishonorable. Lastly, ETA policy generally 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 in the military.

Regarding military (eligible) spouses, 20 CFR 680.630 expands the definition of dislocated workers to include military spouses who have experienced a loss of employment as a direct result of relocation to accommodate a permanent change in duty station or discharge of the spouse. In Central Region, a military spouse is considered “unlikely to return” if they meet one of the criteria as established above or:

- There are frequent gaps in employment which may make it difficult to return to the previous occupation/industry.
- Local labor market information indicates the military spouse would take a significant cut in salary or seniority from their previous employment.

Definitions:

ELIGIBLE SPOUSE - means an individual whose military active duty or veteran spouse was-

- a. Any veteran who died of a service-connected disability;
- b. 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;
- c. Any veteran who has a total disability resulting from a service-connected disability, as evaluated by the Department of Veterans Affairs; or
- d. Any veteran who died while a disability was in existence. A spouse whose eligibility is derived from a living veteran or service member (i.e., categories b. or c. above) would lose his or her eligibility if the veteran or service member were to lose the status that is the basis for the eligibility (e.g. if a veteran with a total service-connected disability were to receive a revised disability rating at a lower level). Similarly, for a spouse whose eligibility is derived from a living veteran or service member, that eligibility would be lost upon divorce from the veteran or service member.