

VI WORKFORCE DEVELOPMENT BOARD POLICY DOCUMENT

Workforce Program Guidance WIOA 313-19

TO: Virgin Islands Single State Workforce Development Area

SUBJECT: **DISLOCATED WORKER ELIGIBILITY – ADDITIONAL CRITERIA**

DATE: April 11, 2019

PURPOSE: To Establish Additional Eligibility Criteria for Dislocated Workers

References: Workforce Innovation and Opportunity Act of 2014 - Sections 3(15), 3(16) and 3(36); Section 134 (c)(2)(3); 20 CFR 680.130; 20 CFR 680.210; 20 CFR 680.630; Local Policy WIOA 301-15

Background: In accordance with WIOA Final Rule at 20 CFR 680.130(b) Governors and Local Workforce Development Boards may “establish policies and procedures for one-stop centers to use in determining an individual’s eligibility as a dislocated worker, consistent with the definition at WIOA sec. 3(15)”. Policies may address such conditions as: what constitutes a “general announcement” of plant closing under WIOA sec. 3(15); what constitutes “unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters”; and what constitutes “unlikely to return to a previous industry or occupation”.

Policy: In addition to the determination of eligibility of a dislocated worker based on the definition found in WIOA sec. 3(15), an individual may be determined to be a dislocated worker based on additional circumstances affecting the dislocation, to include: individuals who are underemployed; individuals who are employed in intervening employment; and individuals who have been impacted through extended distressed economic conditions and/or natural disasters.

Underemployed

In addition to providing career and training services to individuals who are unemployed, a significant number of job seekers are underemployed. An individual who is underemployed may qualify as a dislocated worker if the individual is considered underemployed. The definition of an underemployed individual includes:

- Individuals employed less than full-time who are seeking full-time employment
- Individuals who are employed in a position that is inadequate with respect to their skills and training;
- Individuals who are employed who meet the definition of a low-income individual in WIOA sec. 3(36); and
- Individuals who are employed, but whose current job’s earnings are not sufficient compared to their previous job’s earnings from their previous employment.

Intervening Employment

Intervening employment occurs when an individual who has been dislocated for an extended period of time and seeks temporary employment for the purposes of maintaining economic stability while anticipating a return to their previous employment either at the same facility or a like facility. Additionally, the eligible event that made the participant eligible as a dislocated worker should have occurred not more than three years prior, otherwise called a “look back period”.

A “look back period” is 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 look back period must be consistent with:

- Determination that the individual is otherwise eligible as a dislocated worker; and
- Proper documentation established for consideration as intervening employment

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

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.

Dislocation due to extended distressed economic conditions and/or natural disasters

Outlying territories face the additional disadvantage of being geographically distant from numerous employment options. At the time of a significant dislocation event, caused by extended distressed economic conditions and/or natural disasters, affected businesses may face a lengthy period of inoperability and recovery, and workers left in limbo for the duration. In the event of an extended period of economic distress and/or the aftermath of a natural disaster, dislocated individuals may seek temporary employment away from the Territory as a stopgap employment option.

For the purposes of dislocated worker eligibility, an individual who was dislocated and relocated away from the Territory in order to obtain temporary or intervening employment with the intention of returning to the Territory as soon as the economic recovery permits may be considered to be a dislocated worker. The following criteria must be met:

- The individual otherwise qualifies as a dislocated worker;
- The individual relocated away from the Territory directly due to the extended distressed economic conditions and/or natural disaster; and

- The individual is seeking reemployment in the Territory in the same industry as at the time of dislocation,
 - o Based on an announcement of reopening of the business(es) that closed due to extended economic distress and/or natural disaster;
 - o Based on an upturn of general economic conditions resulting in employment options that were previously unavailable

This policy is effective immediately and is applicable to both formula funded and discretionary dislocated worker programs.

Inquiries: Questions should be addressed to the:

Workforce Development Board at VI Workforce Board, 4401 Sion Farm, Christiansted, VI 00820; (340) 713-3411

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