

On Page 49326 WIA Rules and Regulations Subpart C-Training Services Third Column First Full Paragraph..."Employed" adults and **dislocated workers** may also receive training services through the One Stop System under WIA when certain conditions are met. These individuals must meet the statutory definition of an eligible adult or **dislocated worker** and, to receive intensive services, and ultimately training, an "employed" individual must be determined by a One-Stop operator to be need of such services to obtain or retain employment that leads to self sufficiency. Funding for these activities comes from the "formula funds" provided to the Workforce Area.

Region VI Proposed Dislocated Worker Definition

Dislocated Worker _ The term "**dislocated worker**" means an individual who:

- (A)(i) Has been terminated or 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
 - (ii)(I) Has been employed for a duration sufficient to demonstrate, to the appropriate entity at a workforce center referred to in section 134©, 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 State unemployment compensation law; and
 - (iii) Is **unlikely to return** to a previous **industry or occupation**;
- (B)(i) has been **terminated** or laid off, or **has received a notice of termination or layoff**, from employment as a result of any **substantial layoff** at, a plant, facility, or enterprise;
- (ii) is employed at a facility at which the employer has made a general announcement that such facility will close within 180 days; or
- (iii) for purposes of eligibility to receive services described in section 134(d)(3), or supportive services, is employed at a facility at which the employer has made a general announcement that such facility will close;
- (c) was self employed (including as a farmer, a rancher, or fisherman) but is unemployed as a result of **general economic conditions** in the community in which the individual resides or because of natural disasters; or
- (D) is a displaced homemaker

Considerations for Eligibility determination

A. **unlikely to return** (to work) may include, but not limited to, the following:

1. The individual cannot return to her/his previous industry or occupation because she/he lacks the 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 The individual has been assessed by the ACMC 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
5. ACMC' has determined that the individual needs additional assistance in order to retain employment leading to self-sufficiency; or

B. "Previous industry or occupation" Includes the following

- ❖ Industry means any business manufacturing or trade.

- ❖ Occupation means the type of work the person was “primarily engaged in” may be defined as;
 1. the occupation the participant was trained in; or
 2. occupation from which applicant received highest income; or
 3. occupation in which applicant has had the most time.

C. “Terminated” may be defined as;

- i. Individuals who accept early or “forced” retirement as part of a reduction in a work force.
- ii. Separation from employment due to reasons other than discharge for cause, voluntary departure, or retirement
- iii. Terminated for cause if, while filing for UI, they contested certain elements of the “for cause”
- iv. Individual who has been dismissed, but still eligible for unemployment compensation

D. “Substantial layoff” may be defined as:

- i. Any event that results in the temporary or permanent reduction in workforce by 10% of employees either by department or total company, but not necessarily resulting in permanent closure.
- ii. Have been laid off from their primary employment; they have started work in a second position that:
- iii.
 - *Is intended to be stop gap employment for purposes of providing income maintenance for the dislocated worker (stop gap employment may not last longer than 2 years-after that time, it will be considered full time employment and the worker will no longer be considered a dislocated worker); and

* Pays less than 75% of their wage at time of dislocation from their primary employment.

E. “General economic conditions” which result in the dislocation of a self-employed individual includes;

- i. Failure of one or more businesses to which the self employed individual supplied a substantial proportion of products or services;
- ii. Failure of one or more businesses to which the self-employed individual obtained a substantial proportion of products or services;
- iii. Substantial layoff(s) from, or permanent closure(s) of, one or more plants or facilities that support a significant portion of the State or local economy;
- iv. Depressed price(s) or market(s) for the article(s) produced by the self-employed individual; or
- v. Generally high level of unemployment in the local area.

Eligibility Criteria
US Citizen

Document Source

Selective Service Registration

Evidence of Dislocation *one of the following categories (1-4)

1. Terminated/Laid Off Eligible? Exhausted UI

Letter From Employer
UI monetary determination
UI confirmation of employer coverage

1(a) Unlikely to return to previous Industry/Occupation

Local Labor market info

2. Plant Closure or Substantial Layoff

No Job Offers

Letter from employer stating he/She may not be able to retain employment without skills upgrade.

Letter from employer

Copy of Public Announcement

Newspaper clipping with employment verification

WARN Notice

3. Formerly Self employed

Buss. License Permit

IRS documentation

UI Verification

Foreclosure notice

Bankruptcy documentation

4. Permanently Dislocated because of Natural Disaster

Fed/State declaration of disaster

20 CFR 663.720 Requirements for customized training for employed workers?

- The employee is not earning a self-sufficient wage as determined by Local Board policy;
- The requirements in sec.663.715 are met; and
- The customized training relates to the purposes described in Sec. 663.705 (c) or other appropriate purposes identified by the Local Board.

663.715- Customized training is training:

- ✓ that is designed to meet the special requirements of an employer (including a group of employers);
- ✓ that is conducted with a commitment by the employer to employ or in the case of employed workers, continue to employ an individual on successful completion of the training; and
- ✓ for which the employer pays for not less than 50 percent of the cost of the training (WIA section 101(8).)

663.705 What are the requirements for OJT contracts for employed workers?

- ✓ The employee is not earning a self-sufficient wage as determined by Local Board policy;
- ✓ The requirements in Sec. 663.700 are met; and
- ✓ The OJT relates to the introduction of new technologies, introduction to new production or service procedures, upgrading to new jobs that require additional skills, workplace literacy, or other appropriate purposes identified by the Local Board.

663.700 On-the-job training (OJT) is defined at WIA section 101(31).

- ✓ OJT is provided by an employer in the public, private non-profit, or private sector. A contract may be developed between the employer and the local program that provides occupational training for the WIA

participant in exchange for the reimbursement of up to 50 percent of the wage rate to compensate for the employer's extraordinary costs. (WIA section 101(31)(B).)

- ✓ The local program must not contract with an employer who has previously exhibited a pattern of failing to provide OJT participants with continued long-term employment with wages, benefits, and working conditions that are equal to those provided to regular employees who have worked a similar length of time and are doing the same type of work. (WIA section 195(4).)
- ✓ An OJT contract must be limited to the period of time required for a participant to become proficient in the occupation for which the training is being provided. In determining the appropriate length of the contract, consideration should be given to the skill requirements of the occupation, the academic and occupational skill level of the participant, prior work experience, and the participant's individual employment plan. (WIA section 101(31)(C).)

As stated in the WIA federal regulations, there is no language in that section WIA title IA, Section 101(9) authorizing eligibility an eligibility definition based on industry.... Thereby allowing any exclusion based on the same.” Any blanket exclusion based on any occupation, industry, or association with any identifiable group would be contrary, then to the intent of the WIA, which is to consider and respond to the uniqueness and the needs of individuals by fully utilizing the available WIA services.

The WIA provides local areas increased flexibility to implement systems that best suit the needs of local communities, including dislocated worker services.

*Incumbent Workers may not be served with formula funds. The funding comes from state set - aside for special incumbent worker contracts. An employed dislocated worker may be served in formula funded programs when eligibility requirements are met. An incumbent worker does not necessarily have to meet the eligibility requirements for intensive and training services (20 CFR 665.220)