
Unlikely to Return to a Previous Industry or Occupation

PURPOSE

This policy defines and establishes the criteria for "Unlikely to Return" to a previous industry or occupation for determining eligibility for the Workforce Innovation and Opportunity Act (WIOA) Dislocated Worker program.

BACKGROUND

WIOA Section 3(15)(A)(iii) defines the term dislocated worker and identifies the dislocated worker categories individuals may qualify for WIOA services. Unlikely to return to a previous industry or occupation is an eligibility requirement for Dislocated Worker Category 1 and Category 2. The WIOA regulations allow the local Workforce Development Boards to define the criteria for establishing unlikely to return to a previous industry or occupation.

POLICY

Definition

"Unlikely to Return" - May be defined in terms of family, personal or financial circumstances that may affect the likelihood of an individual returning to his or her previous industry or occupation for employment. The definition does not need to be based solely on economic conditions and job availability.

Criteria for "Unlikely to Return"

Pacific Gateway has determined a dislocated worker is unlikely to return to a previous industry or occupation if one of the following criteria is met:

- Worked in a declining industry or occupation, as documented on State or locally developed lists of such industries/occupations.
- Has had a lack of job offers as documented by local EDD Workforce Services or Unemployment Insurance staff, rejection letters from employers in the area, or other documentation of unsuccessful efforts to obtain employment in the prior industry or occupation.
- Does not have the education and/or the necessary skills or can no longer meet the minimum requirements for reentry into the former industry or occupation, as documented through the assessment of the customer's educational achievement levels, testing, or other suitable means.
- Has a physical limitation or an injury which limits the individual's ability to perform the job from which they were dislocated or other problems which would preclude reentry into the former industry

- or occupation, as documented by a physician or other professional (e.g., psychiatrist, psychiatric social worker, chiropractor, etc.).
- Has a poor employment history indicating a reduced capacity or ability to be reemployed in the former industry or occupation. Documentation to verify poor employment history may include but is not limited to, proof that:
 - Employment has been limited to one or more part-time (20 hours per week or less), or short-term (four months or less), jobs within the prior year, which were for the income maintenance rather than a career path (i.e., employment in "dead-end" jobs, which would not prepare the individual for permanent reemployment in the previous industry or occupation); or
 - Unemployment insurance (UI) benefits and/or public assistance receipt in the prior year, with little or no employment in interim periods, indicating a poor work history; or
 - Terminated or laid-off due to mechanization ("to do or operate by machinery, not by hand").
 - Determination by staff that an individual's likelihood of returning to his/her previous industry or occupation is unlikely due to circumstances that cause significant barriers to employment. Barriers to employment include:
 - Offender
 - High school dropout
 - Homeless
 - Cultural or language barrier
 - Older worker (Age 55+)
 - Basic skills deficient
 - Referred through the Worker Profiling and Reemployment System
 - Has exhausted UI Benefits and has been unable to find a job in their previous industry or occupation.
 - Has been unemployed 12 weeks within the last 20 months and has been unable to find a job in their former industry or occupation.
 - Needs additional assistance to retain employment leading to self-sufficiency.
 - Has a change in a family situation that requires higher income, includes a claim of financial hardship supported by documentation. (e.g., pay stubs, bank statements, family or business financial records, tax documents, public benefits award letters).
 - Does not have a specific recall date from the employer of the qualifying dislocation.
 - The specific recall date from the employer of the qualifying dislocation is within eight (8) weeks of termination or layoff.
 - Has a gap in employment that decreases their chances of returning to the same level of occupation or type of job.
 - Has limited employment opportunities in the occupation or industry within the local area.
 - Lacks a credential required by employers.
 - Has been actively seeking but unable to find employment in their previous industry or occupation for a period of 60 days or more.
 - The negative economic conditions and sudden economic impact on industries or occupations experienced by the nation, such as a pandemic.

Additional Criteria for "Unlikely to Return"

Recently Separated Service Members

Recently separating service members who are within 48 months of discharge (other than dishonorable) or release from active military, naval, or air service automatically meet the dislocated worker requirement that the individual is unlikely to return to his or her previous industry or occupation.

Military Spouses

A military spouse may be documented as "unlikely to return" if the spouse was required to leave employment due to a result of a military member's transfer and certain circumstances prevent the spouse to return immediately to his/her previous industry or occupation for the following reasons:

- The spouse resumes employment with the same employer in a new location, and may not be the same structurally or organizationally as in the prior location;
- The spouse's job in their new location starts at a lower level of seniority than their position at their previous location;
- A gap in employment may lessen their likelihood of returning to the same level of occupation or job;
- The skills of the spouse may be obsolete or inadequate to meet the advancing competency needs of the current workforce and economy.

For the purposes of WIOA Dislocated Worker program eligibility, the previous industry or occupation relates directly to the job of dislocation, not the most recent job if it is considered stop-gap employment. Stop-gap employment is temporary work an individual accepts only because they have been laid off from the customary work for which their training, experience or work history qualifies them. Typically stop-gap employment will pay less than the individual's layoff wage or will pay significantly less than the self-sufficiency standard.

PROCEDURE

The evaluation and documentation for determining "Unlikely to Return" to a previous industry or occupation are required for individuals applying to the WIOA Dislocated Worker program under Dislocated Worker Category 1 and Category 2. Pacific Gateway staff and service providers must adhere to the criteria outlined in this policy.

Documentation to verify "Unlikely to Return" includes, but is not limited to, the following:

- Labor market information showing that the applicant skills are not currently in demand.
- Labor market information showing that the applicant cannot meet the skills requirements for jobs currently available in their chosen occupation.
- Labor market information showing no jobs or only stop-gap jobs are available that match the applicant's skills.
- Job search logs that demonstrate no job offers received for a period of weeks prior to WIOA enrollment.
- Documentation of acquired physical limitations or injuries that make an individual unable to perform the same work as the job of dislocation.
- A letter or screen print for Profiling and Reemployment Services (i.e., PJSA, IAW, RESEA) from the Employment Development Department (EDD) or CalJOBS.
- Program staff determination
- Self-Attestation (Customer Statement Form)

REFERENCES

- WIOA Section 3(15)(A)(iii)

INQUIRIES

For questions or assistance related to this policy, please contact the Pacific Gateway Workforce Innovation Network staff at (562) 570-3748.