## DISLOCATED WORKER (STATE)

State Dislocated Worker Eligibility Policy (State)

### SUMMARYThis Policy provides background for eligibility criteria related to enrollment in the State Dislocated Worker Program.

#### **RELEVANT LAWS, RULES, OR POLICIES**

Workforce Innovation and Opportunity Act (WIOA) (42 USC 3101 et seq)

Code of Federal Regulations (CFR) [45 CFR Part 164](https://www.ecfr.gov/current/title-45/part-164)

Code of Federal Regulations (CFR) [20 CFR Part 618](https://www.ecfr.gov/current/title-20/part-618/section-618.325)

Code of Federal Regulations (CFR) [20 CFR Part 680](https://www.ecfr.gov/current/title-20/part-680)

[Training and Employment Guidance Letter (TEGL) 07-20](https://www.dol.gov/agencies/eta/advisories/training-and-employment-guidance-letter-no-07-20) (November 24, 2020)

[Training and Employment Guidance Letter (TEGL) 19-16](https://www.dol.gov/agencies/eta/advisories/training-and-employment-guidance-letter-no-19-16) (March 1, 2017)

[Training and Employment Guidance Letter (TEGL) 10-09](https://www.dol.gov/agencies/eta/advisories/training-and-employment-guidance-letter-no-10-09) (November 10, 2009)

[Minnesota State Statutes, Section 116L.17](https://www.revisor.mn.gov/statutes/cite/116L.17)

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**CONTACT**

**Email:** DWFAPrograms.DEED@state.mn.us
**Tel:** 651-259-7503

#### **POLICY**

Local Policy Required?

Yes. Local providers (Hereinafter “Providers”) must have an updated policy on file that includes, at minimum, the information required by this policy. Local policies must be made available to the Minnesota Department of Employment and Economic Development (DEED) upon request, either in hard copy or electronic formats.

#### **SUMMARY**

DEED administers two Dislocated Worker (DW) programs: the Federal DW Program under the Workforce Innovation and Opportunity Act (WIOA) and the State DW Program. Both offer employment and training services for eligible workers. The State DW Program has expanded eligibility criteria. Eligibility determination must be made by the program operator prior to a person's enrollment in the Program. All applicants must be allowed to receive an eligibility determination.

**Note:** *Italicized* terms mean definitions can be found in DEED’s “Dislocated Worker and Federal Adult Programs (DWFAP) Terms and Definitions” in the “Related Links” at the bottom of this policy.

#### **STATE DISLOCATED WORKER ELIGIBILITY:**

State DW participants must meet the following criteria:

1. Be eligible to work in the United States, **and**
2. Be a resident of Minnesota, or working in Minnesota, at the time employment ended[[1]](#endnote-2), **and**
3. Meet **at least one** of the following DW categories:
	1. Is part of an Individual or Small Group Layoff,[[2]](#endnote-3)
	2. Is part of a Permanent Closure or Mass Layoff,[[3]](#endnote-4)
	3. Was Self Employed, but now unemployed,[[4]](#endnote-5)
	4. Is a *Displaced Homemaker,*[[5]](#endnote-6)
	5. Is a Separating or Separated Member of the U.S Armed Forces (Including National Guard and Reserves Veterans),[[6]](#endnote-7)
	6. Is *Long-Term unemployed*,[[7]](#endnote-8)
	7. Is a *Military Spouse*,[[8]](#endnote-9)
	8. Has a *Non-Work-Related Injury or Illness*,[[9]](#endnote-10)
	9. Is an *Adult* who is *Low-Income*, a recipient of *Public Assistance* or is *Basic Skills Deficient*.[[10]](#endnote-11)

#### **CATEGORY ONE: INDIVIDUAL OR SMALL GROUP LAYOFF**

Is an individual who meets the following:

1. Has been terminated or laid off, or who has received a notice of termination or layoff; **and**
2. Is unlikely to return to a previous industry or occupation, **and**
3. Meets **one** of the following:
* Is eligible for or has exhausted unemployment compensation, **or,**
* Has been employed long enough to demonstrate to the provider attachment to the workforce but is not eligible for unemployment compensation because earnings were not enough to qualify or the job from which the participant was laid off was with an employer that was not covered under a state unemployment compensation law.

NOTE:

* Employment loss may be from a physical or virtual site.
* An individual does not need to be employed full-time or permanently at the time of dislocation to be eligible. This includes individuals employed through a temporary agency contract, as a consultant, or as a seasonal worker whose employment *prematurely* ended due to a closure or layoff.
* Seasonal, temporary and/or contract workers whose assignments end according to a pre-determined contract end date or who reasonably anticipate returning to the same position are not considered eligible for the program because these circumstances are not considered dislocation events.
* Individuals laid off on a temporary basis, with a specific recall date to return to work for 180 days or less only (i.e., the return to work is time-limited, and the individual will be permanently laid off after that time) are still eligible under this definition. In a temporary recall, the employer still clearly intends to terminate the worker after the recall period has ended. This does not apply to seasonal workers who intend to return to the same occupation when the season work resumes on an ongoing basis (i.e., the layoff would never be considered permanent, only seasonal).
* The previous occupation or industry relates directly to the job of dislocation, not the most recent job *if* the most recent job is considered interim or stopgap employment. The job of dislocation is the job that qualifies the individual under one of the dislocated worker definition eligibility categories.

#### **CATEGORY TWO: PERMANENT CLOSURE OR MASS LAYOFF**

Is an individual who meets **one** of the following:

1. Has been terminated or laid off, or has received a notice of termination or layoff, as a result of a permanent closure of, or mass layoff at, a plant, facility, or enterprise, **or**,
2. Works at a site/facility at which the employer has made a general announcement that such site/facility will close within 180 days, **or**,
3. Works at a site/facility at which the employer has made a general announcement that such site/facility will close, and the closure will take place in more than 180 days or with no specific date of closure. In this case, the individual may only receive basic career services that do not cause participation\* until the scheduled closure is to occur within 180 days.

NOTE:

* \*An individual described above will meet DW eligibility, but because the individual is only able to access basic career services that do not cause participation, the individual would be a reportable individual and not a program participant.
* \*Once a closure date that is within 180 days is identified, the individual can begin to receive all basic career services, individualized career services, and training. The individual then becomes a DW participant and factors into performance measures.
* An individual does not need to wait until their last day of work in order to receive Dislocated Worker program services. Once the individual has been given an individual layoff letter/notice and has been determined eligible for the program, they are eligible for all DW services. If a worker does not have an individual layoff letter/notice but is employed at a facility where the employer has made a general announcement of a planned closure within 180 days, the worker is also eligible for all services. If the employer has made a general announcement that does not include a specific closure date, or the closure date is more than 180 days in the future, the worker is eligible to receive basic career services only.

#### **CATEGORY THREE: SELF-EMPLOYED**

An individual who was self-employed (including employment as a farmer, a rancher, fisherman, independent contractor, or consultant) but is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters.

#### **CATEGORY FOUR: DISPLACED HOMEMAKER**

An individual who has spent a substantial number of years in the home providing homemaking service and meets **one** of the following:

1. Has been dependent upon the financial support of another; and now due to divorce, separation, death, or disability of that person, must find employment to self-support, **or,**
2. Derived the substantial share of support from public assistance on account of dependents in the home and no longer receives such support.

NOTE:

* To be eligible under this clause, the support must have ceased while the worker resided in Minnesota.
* Individuals enrolled in the "MN Family Resiliency Partnership (MFRP)" program are eligible for State DW.

#### **CATEGORY FIVE: SEPARATING OR SEPARATED MEMBERS OF THE U.S ARMED FORCES (INCLUDING NATIONAL GUARD AND RESERVES VETERANS)**

An individual is a veteran separating or has separated from the *U.S Armed Forces* with a discharge other than dishonorable within the last 36 months and meets **one** of the following:

1. Is unemployed, **or**,
2. Is employed in a job verified to be below the skill level and earning capacity of the veteran.

#### **CATEGORY SIX: LONG-TERM UNEMPLOYED**

An individual who meets **both** of the following:

1. Has been unemployed for 15 weeks or more in the last 52 weeks, **and**,
2. Has limited reemployment in the same or a similar occupation in the area in which the individual resides.

NOTE: The 15 weeks do not have to be consecutive.

#### **CATEGORY SEVEN: MILITARY SPOUSE**

A spouse of a member of the *U.S Armed Forces* on *Active Duty* who meets at least **one** of the following:

1. Has lost employment as a direct result of relocation to accommodate a permanent change in the service member's duty station, **or**,
2. Unemployed or underemployed and facing barriers to obtaining or upgrading employment.

#### **CATEGORY EIGHT: NON-WORK-RELATED INJURIES OR ILLNESSES**

An individual with non-work-related Injuries or illnesses who does not have a workers' compensation case but needs support to reenter or remain in the workforce.

**Note:** Co-enrollment with the Retaining Employment and Talent after Injury/Illness Network (RETAIN) initiative is encouraged.

#### **CATEGORY NINE: LOW-INCOME ADULT, RECIPIENTS OF PUBLIC ASSISTANCE, BASIC SKILLS DEFICIENT**

An individual who meets at least **one** of the following:

1. Is at least 18 years old, and Is *Low-Income*, **or**,
2. Receives *Public Assistance*, **or**,
3. Is *Basic Skills Deficient*.

**Note:** Program operators with WIOA Adult funding or contracts must consider using the WIOA Adult funding to serve individuals who meet the eligibility requirements of category nine. Co-enrollment is not allowed.

Program operators must demonstrate that their service delivery models are responsive to the needs of their region.

#### **TRADE ADJUSTMENT ASSISTANCE (TAA) PRIORITY**

Any individual receiving a notice of termination from a work site certified for Trade Adjustment Assistance (TAA) is generally eligible for State DW services[[11]](#endnote-12).

If a TAA-eligible customer seeks State DW services, the service provider must enroll the individual so that they receive immediate services[[12]](#endnote-13). Even if an individual is already working again, if they were laid off from a trade-certified site, is 50 or older, and is making less than his/her previous wage and no more than $50,000, that individual would be eligible for Reemployment Trade Adjustment Assistance (RTAA) and would be eligible for co-enrollment in the Dislocated Worker program.

 **Note:** See the "TAA Co-Enrollment Policy" in the “Related Links” section at the bottom of this policy for additional guidance.

#### **DISLOCATED WORKER ELIGIBILITY EXCLUSIONS**

Individuals who were, at the time employment ceased, employees of a political committee, political fund, principal campaign committee, or party unit, as defined in Minn. Stat. Chapter 10A, or who were working for an organization required to file with the U.S. Federal Elections Commission, are not eligible for the State DW Program.

#### **DISLOCATED WORKER ELIGIBILITY DISQUALIFICATIONS**

There is a general presumption of continuing eligibility: Unless a customer takes a specific action listed in this section, the customer remains eligible for the program until completing the program, exits voluntarily (e.g., relocates and chooses not to continue participating), or exits due to circumstances beyond the customer's control (e.g., death). Providers may pre-emptively exit a customer only for the reasons stated in this policy, or after consultation with state or federal authorities.

**Compulsory reasons for disqualifying an eligible DW customer:**

Providers must immediately exit a customer if it discovers any of the following:

1. The customer no longer meets one or more of the general requirements.
2. The customer has undertaken full-time work that does not fall under a reasonable interpretation of interim/stop-gap employment or temporary recall.
3. The customer, prior to layoff, accepts a buyout package that essentially qualifies the individual as a voluntary quit (can be confirmed using UI eligibility determination where the individual would be ineligible to receive UI due to a voluntary quit);
4. The customer has provided false or intentionally misleading information that served as the basis for an eligibility determination.
5. The customer is not in training yet but has verifiably stopped a serious search for permanent, full-time work.

**Discretionary reasons for disqualifying an eligible DW customer**:

Providers may exit a customer, at their own discretion, if it determines either of the following:

1. The customer presents a direct threat to the health or safety of any employees of the service provider, or any other customers present at the service provider's location.
2. The customer is uncooperative with all reasonable attempts to work with him or her on a successful transition to permanent, full-time work.

**Documenting disqualifications**:

Providers must carefully document any and all cases of disqualification in Workforce One Case Notes.

#### **PRIORITY FOR SERVICES**

Priority of service must always be given to veterans.[[13]](#endnote-14) This priority of service must be applied at all times, not just when funding is limited. Priority of service should be determined on an individual basis.

Providers must have a policy outlining how the priority of service is implemented at the local level. The criteria should apply to all dislocated workers served and ensure availability of program services throughout the program year for those who meet the priority of service.

Participants who are not in a priority of service category but who are actively enrolled in a career or training service should be allowed to complete the activity. It is not expected that non-priority of service participants must give up their place to an individual who is in a priority of service category and beginning a career and/or training service if they are already enrolled and receiving services.

Individuals with Barriers to Employment[[14]](#endnote-15) are not included in the DW Priority of Services category. However, across all Workforce Innovation and Opportunity Act (WIOA) related programs there is a focus on serving these populations[[15]](#endnote-16).

DEED encourages providers to enact local policies and processes that ensure access to quality services for Individuals with *Barriers to Employment*, so long as the veterans' priority of service is in place at all times.

#### **PARTICIPANT FILE DOCUMENTATION**

Service providers must document in the individual's case file the basis for their Dislocated Worker eligibility. Official government documentation must exist in the individual's file for all general requirements (right to work, military special service act compliance, and age). For more information on what is considered acceptable documentation for the requirements in this policy (See the "Dislocated Worker Acceptable Documentation List" in the “Related Links” section at the bottom of this policy).

Providers must also adhere to all of the case management and data entry requirements outlined in DEED's Case Management and Data Entry Timeliness policies (See the “Related Links” section at the bottom of this policy).

#### **RELATED LINKS**[Dislocated Worker and Federal Adult Programs (DWFAP) Terms and Definitions](https://mn.gov/deed/assets/dwfap-terms-definitions_tcm1045-648050.docx) [Dislocated Worker Acceptable Documentation List](https://mn.gov/deed/assets/wioa-dw-acceptable-documentation-list_tcm1045-648052.docx)

[DEED Data Entry Timeliness Policy](https://apps.deed.state.mn.us/ddp/PolicyDetail.aspx?pol=512)

[DEED Case Management Policy (Dislocated Worker)](https://apps.deed.state.mn.us/ddp/PolicyDetail.aspx?pol=530)

[DEED Case Management Policy (WIOA Adult)](https://apps.deed.state.mn.us/ddp/PolicyDetail.aspx?pol=566)

[DEED TAA Co-Enrollment Policy](https://apps.deed.state.mn.us/ddp/PolicyDetail.aspx?pol=570)

[DEED Definition of Self-Sufficiency and Income Policy](https://apps.deed.state.mn.us/ddp/PolicyDetail.aspx?pol=517)

1. Minnesota Statutes, Section 116L.17, Subdivision 1(C) [↑](#endnote-ref-2)
2. Minnesota Statutes, Section 116L.17, Subdivision 1(C)(1) [↑](#endnote-ref-3)
3. Minnesota Statutes, Section 116L.17, Subdivision 1(C)(3) [↑](#endnote-ref-4)
4. Minnesota Statutes, Section 116L.17, Subdivision 1(C)(4) [↑](#endnote-ref-5)
5. Minnesota Statutes, Section 116L.17, Subdivision 1(C)(7) [↑](#endnote-ref-6)
6. Minnesota Statutes, Section 116L.17, Subdivision 1(C)(5) [↑](#endnote-ref-7)
7. Minnesota Statutes, Section 116L.17, Subdivision 1(C)(2) [↑](#endnote-ref-8)
8. Minnesota Statutes, Section 116L.17, Subdivision 1(C)(8) [↑](#endnote-ref-9)
9. Minnesota Statutes, Section 116L.17, Subdivision 1(C)(9) [↑](#endnote-ref-10)
10. Minnesota Statutes, Section 116L.17, Subdivision 1(C)(10) [↑](#endnote-ref-11)
11. Minnesota Statutes, Section 116L.17, Subdivision 1(C)(6) [↑](#endnote-ref-12)
12. [20 CFR 618.325(a)(1)](https://www.ecfr.gov/current/title-20/part-618/section-618.325#p-618.325(a)(1)) [↑](#endnote-ref-13)
13. [20 CFR 680.650](https://www.ecfr.gov/current/title-20/section-680.650) and TEGL 10-09 (Page Four) [↑](#endnote-ref-14)
14. TEGL 19-16 (Pages Eight and Nine) [↑](#endnote-ref-15)
15. TEGL 07-20 (Page Five) [↑](#endnote-ref-16)