

TEXAS WORKFORCE COMMISSION LETTER

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Effective:	Immediately

To: Local Workforce Development Board Executive Directors
Commission Executive Offices
Integrated Service Area Managers



From: Laurence M. Jones, Director, Workforce Development Division

Subject: **Workforce Investment Act Dislocated Worker Funds: Serving Exiting Military Service Members and Spouses of Active Military Service Members**

PURPOSE:

Current Workforce Investment Act (WIA) regulations provide limited guidance on serving the following populations, both of which may meet WIA dislocated worker eligibility criteria:

- Exiting military service members who are nonretirees and who are being discharged under conditions other than dishonorable; and
- Spouses of active military service members.

This WD Letter provides Local Workforce Development Boards (Boards) with up-to-date guidance regarding eligibility when providing WIA Dislocated Worker services to these populations, including information on:

- definitions;
- eligibility requirements;
- military spouses unlikely to return to a previous industry or occupation; and
- surviving spouses of a military service member.

BACKGROUND:

On March 22, 2005, the U.S. Department of Labor (DOL) issued Training and Employment Guidance Letter (TEGL) No. 22-04, which provided guidance on serving returning military service members (nonretiree) and military spouses as dislocated workers. These populations may be served with WIA Adult Program funds in accordance with the requirements of that program. Unlike the WIA Adult Program, however, the WIA Dislocated Worker Program has basic eligibility criteria that must be met before a participant can be considered a dislocated worker.

Additionally, on September 28, 2007, DOL issued TEGL No. 22-04 Change 1, which provides clarification on the criterion “unlikely to return to a previous industry or occupation” as it pertains to determining WIA Dislocated Worker services eligibility for the spouse of an active military service member.

WD Letter 15-07, issued June 25, 2007, and entitled “Priority of Service for Eligible Veterans and Foster Youth” provides guidance on priority of service for federally qualified veterans and spouses in all employment and training programs funded in whole or in part by DOL, including the WIA Dislocated Worker Program.

A federal qualified veteran or spouse must first meet WIA eligibility criteria to qualify as a dislocated worker and is then given priority over nonveteran dislocated workers.

PROCEDURES:

Definitions

Boards must ensure that the following definitions are used in determining eligibility for WIA Dislocated Worker services.

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Veteran – an individual who:

- served in the active military, naval, or air service—including the National Guard or Reserve; and
- was discharged or released from such service under conditions other than dishonorable.

Military Spouse – an individual who is:

- married to an active duty service member, including one in the National Guard or Reserve; or
- the surviving spouse of an active duty service member who lost his or her life while on active duty service in Afghanistan, Iraq, or other combat area.

Adult – an individual who is 18 years of age or older.

Dislocated Worker – an individual who has been—or is scheduled to be—laid off or terminated and requires assistance in obtaining new employment.

Dislocated workers include, but are not limited to:

- an individual worker;
- a group of workers;
- qualified self-employed individuals; and
- displaced homemakers, as defined in WIA §101(10).

Eligibility Requirements

Boards must be aware of the following eligibility requirements.

NLF

Separating Military Personnel

To meet eligibility criteria as dislocated workers, separating military personnel must:

- be discharged under conditions other than dishonorable, voluntarily or involuntarily;
- be nonretirees; and
- satisfy other WIA criteria for dislocated worker eligibility, including the requirement that the individual is unlikely to return to his or her previous industry or occupation.

Military Spouses

The spouse of an active military service member must:

- leave a job to follow his or her spouse who is a military service member; or
- be unable to continue employment because of his or her spouse's change of military station, or lose employment as a result of his or her spouse's discharge from the military; and
- satisfy other WIA criteria for dislocated worker eligibility, including the requirement that the spouse is unlikely to return to his or her previous industry or occupation.

Boards must be aware that separating military personnel and military spouses who do not meet dislocated worker eligibility requirements may instead be eligible for WIA Adult services.

NLF

Spouses Unlikely to Return to a Previous Industry or Occupation

Boards must be aware that in the majority of cases, the circumstances in which spouses of active military service members are required to leave a job or occupation because of the military member's transfer do not position the spouse to return immediately to his or her previous occupation or industry—particularly at the same pay level—for the following reasons:

NLF

- Spouses are generally not resuming employment with the same employer;
- Even if a spouse resumes employment with the same employer, the employment is in a new location, and occupations will generally not be structurally or organizationally the same as in the prior location;
- When military spouses do get jobs in their new locations, as new employees they will often start at lower levels of seniority than that attained previously in prior locations; and
- There is frequently a gap in employment as spouses make the move and search for new employment, which can lessen their likelihood of returning to the same level of occupation or type of job.

When determining eligibility in these cases, it is recommended that Boards consider a variety of factors, including:

- the spouse’s skills, which may be inadequate to meet the needs of the current workforce and economy;
- any decline—in the region of relocation—of the industry in which the spouse has prior work experience; and
- an excess of workers with similar experience and skill sets seeking limited employment opportunities within the region.

INQUIRIES:

Direct inquiries regarding this WD Letter to wfpolicy.clarifications@twc.state.tx.us.

RESCISSIONS:

WD Letter 32-05

REFERENCE:

Workforce Investment Act of 1998, as amended; §101.9, §101.10, 173(c)(2)(A), and §173(d)(2) Jobs for Veterans Act of 2002 (38 U.S.C. Chapter 4215)

WD Letter 15-07, issued June 25, 2007, and entitled “Priority of Service for Eligible Veterans and Foster Youth”

United States Department of Labor Training and Employment Guidance Letter No. 22-04, issued March 22, 2005, and entitled “Serving Military Spouses as Dislocated Workers under the Workforce Investment Act Dislocated Worker Formula Grant”

United States Department of Labor Training and Employment Guidance Letter No. 22-04, Change 1, issued September 28, 2007, and entitled “Serving Military Spouses as Dislocated Workers under the Workforce Investment Act Dislocated Worker Formula Grant”

FLEXIBILITY RATINGS:

No Local Flexibility (NLF): This rating indicates that Boards must comply with the federal and state laws, rules, policies, and required procedures set forth in this WD Letter and have no local flexibility in determining whether and/or how to comply. All information with an NLF rating is indicated by “must” or “shall.”

Local Flexibility (LF): This rating indicates that Boards have local flexibility in determining whether and/or how to implement guidance or recommended practices set forth in this WD Letter. All information with an LF rating is indicated by “may” or “recommend.”