

Division of Workforce Development

Roderick Nunn
Director

August 8, 2005

DWD ISSUANCE 02-05

Subject: Training and Employment Guidance Letter No. 22-04 (TEGL 22-04)

1. **Purpose:** To Clarify the documentation needed to meet the requirements outlined in TEGL 22-04.

2. **Substance:** The Department of Labor has issued TEGL 22-04 in order to clarify their policy regarding Workforce Investment Act (WIA) Dislocated Worker Formula-funded activities for military service members (non-retirees) and military spouses. This issuance outlines the Division of Workforce Development's (DWD) guidance on acceptable documentation to use while establishing program eligibility for these two populations.

Military Service Members

In order to streamline the eligibility determination process for military service members (non-retirees) to be served with Dislocated Worker formula funds, DWD has determined that a Department of Defense Form 214 (DD-214), reporting a discharge reason other than dishonorable, may be used to document that an individual has been terminated, has earned wages in unemployment insurance covered employment and is unlikely to return to their previous industry or occupation.

In order to complete the eligibility determination, program operators will still need to document the individual's:

- Citizenship or right to work in the United States
- Compliance with the Selective Service Act (if applicable)

Military Spouses

A copy of a military family's Permanent Change of Station (PCS) orders may be used to document the fact that an individual is following their spouse's military transfer and can, therefore, be served with Dislocated Worker formula funds as long as they meet all of the other eligibility criteria for the program.

In order to complete the eligibility determination, program operators will still need to document the individual's:

- Citizenship or right to work in the United States
- Compliance with the Selective Service Act (if applicable)
- Unlikelihood of returning to their previous industry or occupation
- Eligibility for Unemployment Insurance (UI) benefits (either receiving or having exhausted benefits). If the applicant did not qualify for UI, the service provider must document attachment to the workforce through UI wage records, pay stubs, or a letter or properly documented phone statement from the applicant's former employer to document employment. As a last resort, the applicant's signed attestation of the nature of the employment they left because of the military transfer may be used.

3. **Action:** Effectively immediately, this guidance should be used in conjunction with the guidance contained in DWD Issuance 13-99, 13-99 Change 1, and the attached TEGl 22-04 when determining eligibility for the Dislocated Worker program of military service members (non-retirees) and military spouses who leave their jobs to follow their spouse's military transfer.
4. **Contact:** If you have any questions regarding this issuance, please contact Randy Cottrell at (573) 526-8242.

Roderick Nunn, Director

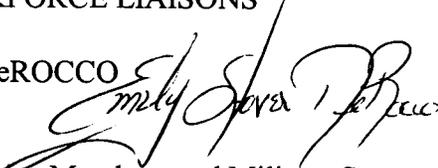
RN/SR/JW

c: DWD Admin Group
DWD Central Office Managers
Regional Managers
WIB Chairs
WIB Contacts
Ron Jewell

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| EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210 | CLASSIFICATION WIA |
| | CORRESPONDENCE SYMBOL OWI |
| | DATE March 22, 2005 |

TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 22-04

TO: ALL STATE WORKFORCE AGENCIES
ALL STATE WORKFORCE LIAISONS

FROM: EMILY STOVER DeROCCO
Assistant Secretary 

SUBJECT: Serving Military Service Members and Military Spouses under the Workforce Investment Act Dislocated Worker Formula Grant

- Purpose.** To clarify the Department of Labor policy regarding Workforce Investment Act Dislocated Worker Formula Grant-funded services for two populations: (1) military service members (non-retirees) and (2) military spouses.
- References.** Workforce Investment Act of 1998 (WIA), as amended; WIA Regulations at 20 CFR Part 663.115; TEGL No. 16-03, Change 1, "NEG Policy Guidance – Assistance for Returning Members of the National Guard and Military Reserves," dated August 18, 2004; TEGL No. 16-03, "NEG Policy Guidance," dated January 26, 2004; and TEGL No. 5-03, "Implementing the Veterans' Priority Provisions of the Jobs for Veterans Act," dated September 16, 2003.
- Background.** A review of current WIA law and regulations indicates there is limited policy guidance on serving returning military service members (non-retiree) or military spouses as dislocated workers. These populations may be served with WIA Adult Formula Grant funds in accordance with the requirements of that program. Unlike the WIA Adult Program, however, the WIA Dislocated Worker Formula Grant Program has basic eligibility criteria that must be met for a participant to be considered a dislocated worker.

The Jobs for Veterans Act (PL 107-288) provides an emphasis on serving veterans by establishing a *priority of service* for veterans and certain spouses in all employment and training programs administered by the Department of Labor. The WIA Dislocated Worker Formula Grant Program is one of the affected programs, and guidance was issued in September 2003 (TEGL No. 5-03) explaining how the veterans' priority of

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service was to be implemented in all employment and training programs. In general, the guidance holds that the veterans' priority must be applied consistent with programmatic eligibility standards and other priorities mandated by statute.

Thus, to be served in the dislocated worker program, a participant must meet the statutory eligibility criteria to qualify as a dislocated worker and then, if the participant is a veteran or a spouse of certain veterans, must be given priority over dislocated workers who are non-veterans.

4. **Definitions.** For the purposes of this guidance, the following definitions apply:

Veteran - an individual who served in the active military, naval, or air service, and who was discharged or released from such service under conditions other than dishonorable, which may include National Guard or Reserve personnel;

Military Spouse - an individual who is married to an active duty service member including National Guard or Reserve personnel on active duty. The surviving spouse of an active duty service member who lost his/her life while on active duty service in Afghanistan, Iraq or other combat-related areas is considered to be a military spouse.

Adult - an individual who is 18 or older.

Dislocated Worker - The term "dislocated worker" is statutorily-defined for receiving services under WIA. The specific requirements for eligibility are at WIA Section 101(9) as well as WIA Sections 173(c)(2)(A) and 173(d)(2) for certain National Emergency Grants (NEGs). Generally, a dislocated worker is an individual who has been or is scheduled to be laid off or terminated and requires assistance (including retraining or upgrading of skills) to find or qualify for new employment in a 21st Century workplace. This includes a single worker or small groups of workers, as well as workers affected by mass layoffs, plant closures, defense downsizing and realignments, certain self-employed individuals as well as displaced homemakers as defined at WIA Section 101(10).

Displaced Homemaker - an individual who has been providing unpaid services to family members in the home and who has been dependent on the income of another family member but is no longer supported by that income, and is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

5. **Policy Clarification.** This guidance provides clarification of the Department of Labor's policy regarding the eligibility of military service members and military spouses for services under the WIA Dislocated Worker Formula Grant Program. It is important to note that WIA regulations provide that state and local boards also have the authority to establish policies and procedures for use in determining an individual's eligibility as a dislocated worker.

1. MILITARY SERVICE MEMBERS

Policy

A basic requirement to qualify as a dislocated worker is that the worker be terminated or laid-off. The term “terminated” is not defined in the law or regulations. It is a Department of Labor policy that being discharged (under honorable circumstances) either voluntarily or involuntarily terminates an employment relationship between an individual and the military and thus falls within the scope of the termination component of the WIA definition of dislocated worker. The separating military personnel must also satisfy the other criteria for dislocated worker eligibility, including the requirement that the individual is “unlikely to return to a previous industry or occupation.” Additionally, under the priority of service provisions of the Jobs for Veterans Act, separating service members who, upon discharge, meet the eligibility criteria for dislocated workers would be afforded priority over individuals who are not veterans.

2. MILITARY SPOUSES

Policy

A military spouse who leaves his/her job to follow his/her spouse can be served with dislocated worker formula grant funds in certain circumstances. When the spouse is unable to continue an employment relationship because of the service member’s permanent change of military station, or the military spouse loses employment as a result of the spouse’s discharge from the military, then the cessation of employment can be considered to meet the termination component of the WIA definition of dislocated worker, as discussed above. The military spouse must also satisfy the other criteria for dislocated worker eligibility, including the requirement that the spouse is unlikely to return to a previous industry or occupation. When these criteria are met, the military spouse is eligible to be served under the Dislocated Worker Formula Grant Program.

Additionally, a military spouse may also qualify to be served as a dislocated worker if he/she meets the definitional requirements for a displaced homemaker.

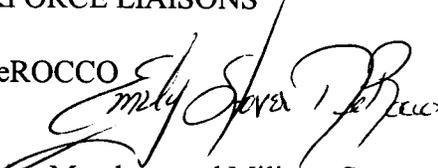
Surviving spouses of veterans and military service members may also be served with WIA funds. If a surviving spouse qualifies as a dislocated worker or displaced homemaker, he/she could be served under the WIA Dislocated Worker Formula Program. These requirements are set forth in section 4 of this document. If a surviving spouse does not meet those requirements, he/she could be served under the WIA Adult Formula Program. In either program, a surviving spouse of a veteran may receive priority of service if he/she qualifies for such priority under the Jobs for Veterans Act (P.L. 107-288 (38 USC 4215 (a)(1)(B))).

6. **Action Required.** States shall distribute this guidance to all appropriate staff.
7. **Inquiries.** Questions concerning this issuance may be directed to the appropriate Regional Office.

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