



POLICY NO. 32
LOCAL WORKFORCE INVESTMENT AREA ELIGIBILITY DEFINITIONS

Local workforce investment areas are often given the flexibility to create local definitions for programs, policies, and procedures. In addition, state and federal directives may contain specific definitions for use in local policies and procedures. Definitions specific to Workforce Investment Act program eligibility, as approved by the Mendocino County Workforce Investment Board, are listed below.

A. GENERAL DEFINITIONS THAT APPLY TO ALL TITLE I PROGRAMS

ADULT - An individual who is 18 or older.

AGE - The following chart references the Act and the regulations, the federally required age for participation, and the applicable Title 1-B programs.

REFERENCE	AGE	TITLE I PROGRAM
WIA Section 101(1)	18 or older	Title I-B – Adult
Title 20 CFR Section 663.110	18 or older	Title I-B – Dislocated Worker
WIA Section 101(13)	14 - 21	Title I-B – Youth

DOCUMENTATION - Means to maintain on-file physical evidence, which is obtained during the verification process. Such evidence includes copies of documents, completed telephone/document inspection forms, and signed applicant statements.

ELIGIBLE TO WORK - Section 9601.5 of the California Unemployment Insurance Code requires that "each state or local government agency or community action agency, or any private organization contracting with a state or local government agency, that provides employment services, including, but not limited to, job training, retraining, or placement, shall verify an individual's legal status or authorization to work prior to providing services to that individual in accordance with procedures established under federal law."

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.

SELECTIVE SERVICE/MILITARY STATUS - Local areas shall ensure that each applicable male participate in any local program or activity established under Title 1-B of the Workforce Investment Act in their workforce investment area, or receiving any assistance or benefit under Title 1-B, has not violated Section 3 of the Military Selective Service Act. All males who are at least 18 years of age and born after December 31, 1959, and who are not in the armed services on active duty, must be registered for the Selective Service. A youth who becomes 18 years of age while participating in a WIA program must register within 30 days of his 18th birthday (Reference: WIA Section 189(h).)

SELF-SUFFICIENCY - The California Self-Sufficiency Standard estimates the level of income necessary for a given family type to become independent of welfare or other public or private subsidies. It assumes that the adult(s) in the household work full-time and includes costs associated with employment, i.e., childcare and transportation, and allows for different family sizes and the age of the child(ren) in the home. It allows for regional differences in housing costs and to a lesser extent, childcare, health care, and transportation. The study includes tax costs and tax credits for working adults and also allows for various cost increases.

VERIFICATION - Means to confirm an eligibility requirement through examination of official documents, e.g., birth certificates, public assistance records, or speaking with official representatives of cognizant agencies.

VETERANS - A covered person is one of the following:

1. A veteran who is an individual who served in the active military, naval, or air service, which may include National Guard or Reserve personnel, and who was discharged or released from such service under conditions other than dishonorable;
2. A recently separated veteran who is any veteran who applies for participation under this title within 48 months after the discharge or release from active military, naval, or air serves; or
3. The spouse of any of the following individuals:
 - a. Any veteran who dies of a service-connected disability;
 - b. Any member of the Armed Forces serving on active duty who, (at the time of spouse's application) is listed as missing in action, captured in the line of duty by a hostile force, or forcibly detained or interned in line of duty by a foreign government or power; or
 - c. A veteran with a total disability from a service-connected disability or one who died while a disability so evaluated was in existence.

Veterans are to be given a priority of service which means, with respect to any qualified job training program, that a covered person shall be given priority over nonveterans for the receipt of employment, training, and placement services provided under that program, notwithstanding any other provision of law. The covered person is entitled to priority of service under any qualified job training program if the person otherwise meets the eligibility requirements for participation in such a program.

B. ADULT AND YOUTH DEFINITIONS:

BASIC SKILLS DEFICIENT - Computes or solves problems, reads, writes or speaks English at or below grade level 8.9 as determined by an assessment test score or school records, or is unable to compute or solve problems, read, write, or speak English at a level necessary to function on the job, in the individual's family, or in society.

DEPENDENT CHILDREN - Dependent children shall be defined as individual, aged 0-21, whose circumstances fall into one of the following categories:

1. Under the age of 18, who are not emancipated minors (emancipated minor is defined below), and are living in a single residence with their parent(s) or guardian(s).
2. Age 18-19 who are full-time students in a secondary school or equivalent, and are living in single residence with their parent(s) or guardian(s).
3. Age 18-21, who are not full-time students in a secondary school or equivalent, and are living in a single residence with their parent(s) or guardian(s), shall have their dependency established according to locally established policy and procedures.

If the 18-21 year-old is a dependent family member (i.e., the youth is claimed as a dependent on the parent's income tax), then income is calculated based on wages, salaries, tips, etc., of all family members. If the older youth is determined not to be a dependent family member (i.e., the youth is not claimed as a dependent on the parent's income tax), the older youth's income is based on his or her own wages, salaries, tips, etc.

It is not possible to develop policy that will cover every situation. At some point, common sense, humanity, and good case records must compensate for the deficiencies of policies to anticipate every situation.

EMANCIPATED MINOR - The California Family Code, Section 7002, defines emancipated minor as any person under the age of 18 years who:

1. Has entered into a valid marriage, whether or not such marriage was terminated by dissolution;
2. Is on active duty with any of the armed forces of the United States of America; or
3. Has received a declaration of emancipation pursuant to California Family Code 7122.

FAMILY - The term family means two or more persons related by blood, marriage, or decree of court, who are living in a single residence, and are included in one or more of the following categories:

1. A husband, wife, and dependent children.
2. A parent or guardian* and dependent children.
3. A husband and wife.

(Reference: WIA Section 101(15).) * For purposes of Category B, references to the term "guardian" refer to LEGAL guardian.

GUARDIAN - The term "guardian" includes caregiver relatives. The term applies to situations where an older or younger youth is permanently or indefinitely residing with a family member other than his or her parents or legal guardians.

HOMELESS - The term homeless, homeless individual, or homeless person includes:

1. An individual who lacks a fixed, regular, and adequate nighttime residence; and
2. An individual who has a primary nighttime residence that is:
 - a. A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);
 - b. An institution that provides a temporary residence for individuals intended to be institutionalized; or
 - c. A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(References: WIA Section 101(25)(D); Section 103 of the Stewart B. McKinney Homeless Assistance Act.)

INCOME ELIGIBILITY DETERMINATION PROCESS - Income eligibility is a function of family resources and family size.

1. Income is:
 - a. Monetary compensation for services, including wages, tip, salary, commissions, or fees before any deductions.

- b. Net receipts from nonfarm self-employment (receipts from a person's own unincorporated business, professional enterprise, or partnership, after deductions for business expense).
 - c. Net receipts from farm self-employment (receipts from a farm which one operates as an owner, renter, or sharecropper, after deductions for farm operating expenses).
 - d. Regular payments from railroad retirement, strike benefits from union funds, worker's compensation, and training stipends (e.g., wages from the California Conservation Corp).
 - e. Alimony, military family allotments, or other regular support from an absent family member or someone not living in the household.
 - f. Private pensions, government employee pensions (including military retirement pay).
 - g. Regular insurance or annuity payments (including state disability insurance).
 - h. College or university scholarships (not needs-based), grants, fellowships, and assistantships.
 - i. Net gambling or lottery winnings.
 - j. Severance payments.
 - k. Terminal leave pay.
 - l. Social Security Disability Insurance payments.
2. Income is not:
- a. Unemployment Insurance.
 - b. Child support payments (including foster care child payments).
 - c. Need-based Public Assistance payments (including TANF, Supplemental Security Income, Emergency Assistance money payments, and nonfederally-funded general assistance or general relief money payments).
 - d. Social Security Old Age and Survivors' Insurance benefit payments.
 - e. Financial assistance under Title IV of the Higher Education Act, i.e., Pell Grants.
 - f. Supplemental Educational Opportunity Grants and Federal Work Study.
 - g. Needs-based scholarship assistance.
 - h. Loans.
 - i. Veterans Benefits.
 - j. Income earned while the veteran was on active military duty and certain other veterans' benefits, i.e., compensation for service-connected disability, compensation for service-connected death, vocational rehabilitation, and education assistance.
 - k. Capital gains.
 - l. Any assets drawn down as withdrawals from a bank, the sale of property, a house, or a car.
 - m. Tax refunds, gifts, loans, lump-sum inheritances, one-time insurance payments, or compensation for injury.
 - n. Noncash benefits such as employer paid or union-paid portion of health insurance or other fringe benefits, food, or housing received in lieu of wages.

- o. The value of food and fuel produced and consumed on farms.
- p. The imputed value of rent from owner occupied nonfarm or farm housing.
- q. Medicare, Medicaid, food stamps, school meals, and housing assistance.
- r. Allowances, earnings, and payments to individuals participating in programs under this Act (except OJT wages).

(Adopted from Section 101(25)(B) and Training and Employment Information Notice 29-91.)

When a federal statute excludes income received under that statute in determining eligibility for programs operated under other federal laws, such income is also excluded in WIA eligibility determination.

The total of included income for the most recent six-month period is multiplied by two to determine the annual income. The income from each family member is included in the total family income. The annual income is located on the published poverty/lower living standard guidelines according to family size (see above for determination of family size).

Since only the income received during the six-month period immediately prior to the individual's application for WIA funded services is used for income determination, the State annually publishes charts that show the six-month, as well as the annual, figures for each family size. An applicant's actual family income during the six-month income determination period can be compared with the six-month figures on the charts. If multiplying the six-month income by two overstates the actual annual income, the actual annual income should be used.

INDIVIDUAL WITH A DISABILITY - The term disability means, with respect to an individual:

- 1. A physical or mental impairment that substantially limits one or more of the major life activities of such an individual;
- 2. A record of such an impairment; or
- 3. Being regarded as having such impairment.

(References: WIA Section 101(17); Title 20 CFR Section 664.250; Section 3 of the American with Disabilities Act of 1990.)

An individual with a disability whose own income meets the low-income criteria, but is a member of a family whose income does not meet the low-income requirements, is a low-income individual.

INDIVIDUAL WHO REQUIRES ADDITIONAL ASSISTANCE TO COMPLETE AN EDUCATIONAL PROGRAM OR TO SECURE AND HOLD EMPLOYMENT -

- 1. Chronic Attendance Problem:
 - a. A student who is absent from school without a valid excuse more than three days; or
 - b. Tardy in excess of 30 minutes on each of more than three days in one year; or
 - c. Is a truant and has been reported to the attendance supervisor or to the superintendent of the school district.
- 2. Discipline Problems:
 - a. A student that has been suspended (on campus or off campus) more than three times in the course of a semester;
 - b. A student that has chronic disciplinary problems coupled with poor attendance and poor grades; or

- c. A student who has been referred to attend alternative schooling due to disciplinary action.
3. Educational Underachievement/Poor Employment History:
- a. A student, including a student with disabilities, who scores one or more levels below their current grade level as determined by TABE scores, or is six months deficient in credits and has been put on academic probation (D and F list) for failing grades; or
 - b. A youth who has been employed during the past six months, but has not been able to maintain employment, subsidized or unsubsidized, for three consecutive months at the same job. The youth must have been employed at some time during the past six months to possibly qualify under this criterion.

LOW-INCOME INDIVIDUAL - The term low-income individual means an individual who:

- 1. Receives, or is a member of a family that receives, cash payments under a federal, state, or local income-based public assistance program;
- 2. Received an income, or is a member of a family that received a total family income, for the six-month period prior to application for the program involved (exclusive of unemployment compensation, child support payments, public assistance, and old-age and survivors insurance benefits received under Section 202 of the Social Security Act) that, in relation to family size, does not exceed the higher of:
 - a. The poverty line, for an equivalent period; or
 - b. Seventy percent of the lower living standard income level, for an equivalent period;
- 3. Is a member of a household that receives (or has been determined within the six-month period prior to application for the program involved to be eligible to receive) food stamps;
- 4. Qualifies as a homeless individual;
- 5. Is a foster child on behalf of whom state or local government payments are made; or
- 6. Is an individual with a disability whose own income meets the requirements of a program described in (A) or (B), but who is a member of a family whose income does not meet such requirements. (Reference: WIA Section 101 (25).)

Public Law 106-501 amended the Older Americans Act of 1965 by stating in part that, eligible individuals under the Older Americans Act may be deemed by local workforce investment boards established under Title I of the Workforce Investment Act of 1998 to satisfy the requirements for receiving services under such title that are applicable to adults.

LOWER LIVING STANDARD INCOME LEVEL - The lower living standard income level (LLSIL) means the income level (adjusted for regional, metropolitan, urban, and rural differences, and family size), determined annually by the Secretary of Labor based upon the most recent lower living family budget issued by the Secretary of Labor. (Reference: published annually in the Federal Register.)

OFFENDER - The term offender means any adult or juvenile who:

- 1. Is or has been subject to any stage of the criminal justice process for whom services under this Act may be beneficial; or
- 2. Requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction. (Reference: WIA Section 101(27).)

OTHER RESPONSIBLE ADULT - For purposes of authorizing a minor to participate in WIA programs, the signature of a parent, guardian, or other responsible adult is required. This provision allows the Local Workforce Investment Areas to enroll minors with the authorization of

individuals other than a parent or legal guardian. The definition of "other responsible adult" includes:

1. A relative with whom the individual resides;
2. An adult who has been delegated custodial or administrative responsibilities in writing, either temporarily or permanently, by parents or by an appropriate agency;
3. An agency or organization representative who is in a position to know the individual's circumstances (i.e., that they could not get a parent's or guardian's signature authorizing participation), for example, a clergy person, a school teacher or other school official, a probation or other officer of the court, a foster parent;
4. A representative of an agency which provided support services to the individual and who is aware of the individual's circumstances (i.e., that they cannot get a parent's or guardian's signature authorizing participation) for example, a social worker, a homeless shelter official, a child protective worker, a health clinic official; or
5. Other responsible adults determined by the Local Workforce Investment Board as Appropriate to authorize the individual's participation.

OUT-OF-FAMILY YOUTH - Court adjudicated youth separated from the family (including incarcerated youth), homeless, runaway, and emancipated youth for purposes of determining income eligibility are a "family of one."

OUT -OF-SCHOOL YOUTH - An individual may be served as an out-of-school youth, if such an individual meets the definition of eligible youth, and

1. Is a school dropout; or
2. Has received a secondary diploma or its equivalent but is:
 - a. Basic skills deficient;
 - b. Unemployed; or
 - c. Underemployed.

(Reference: WIA Section 101(33).)

OUT-OF-SCHOOL YOUTH (DOL CLARIFICATION) - All eligible youth are out-of-school youth except those who are attending any school and have not received a secondary school diploma or it recognized equivalent and except those who are attending post-secondary school and are not basic skills deficient. (References: TEGL 14-00 Change 1.)

POOR EMPLOYMENT HISTORY - An individual who has been employed during the past six months, but has not been able to maintain employment, subsidized or unsubsidized, for three consecutive months at the same job.

POVERTY LEVEL - The poverty level means the income level at which families are considered to live in poverty, as annually determined by the Department of Health and Human Services. (Reference: published annually in the Federal Register.)

PREGNANT or PARENTING - The term pregnant or parenting youth means an individual who is under 22 years of age and who is pregnant, or a youth (male or female) who is providing custodial care for one or more dependents under age 18. (Reference: WIA Sections 101(13) and 129 (c)(5)(D).)

PUBLIC ASSISTANCE - The term public assistance means federal, state, or local government cash payments for which eligibility is determined by a needs or income test. The statutory definition of public assistance contains a two-part test: (1) the program must provide cash

payments, and (2) eligibility for the program must be determined by a needs or income test. (Reference: WIA Section 101(37).)

SCHOOL DROPOUT - The term school dropout means an individual who is no longer attending any school and who has not received a secondary school diploma or its recognized equivalent. Youth enrolled in alternative schools are not school dropouts. A youth's dropout status is determined at the time of application and remains in effect throughout her or his participation. (Reference: WIA Section 101(39); Title 20 CFR Sections 664.310.)

SUBSTANCE ABUSE – The term substance abuse means the client requires substance abuse treatment in order to obtain employment.

TRUANCY - The California Department of Education publication, “2002 Work Permit Frequently Asked Questions,” states that a truant/dropout is in violation of California's compulsory school attendance laws and a school district is not permitted to sanction violation of those laws by issuing a permit to work. A truant/dropout is subject to arrest, and the parents are subject to criminal fines if the minor is found working without a work permit.

C. DISLOCATED WORKER DEFINITIONS

DISLOCATED WORKER - The term “dislocated worker” is statutorily defined for receiving services under WIA. The specific requirements for eligibility are in 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 in WIA Section 101(10).

DIFFICULTY IN OBTAINING OR UPGRADING EMPLOYMENT -

1. An underemployed individual in a job limited to one or more part-time jobs; or
2. Short-term (four months or less) jobs within the year prior to application which were for the purposes of income maintenance rather than part of a career ladder; or
3. An individual who received earnings that equaled no more than minimum wage during the past 12 months; or
4. A person that did not work full-time (30 or more hours per week) in unsubsidized employment for more than 13 consecutive weeks; or
5. A person who is working part-time (less than 30 hours per week) but desires full time employment; or
6. An individual working in a setting not commensurate with their demonstrated level of education and or skill achievement.

EMPLOYED - An employed individual who is currently working as a paid employee or works in his or her own business, profession or farm, worked 15 hours or more as an unpaid worker in an enterprise operated by a member of the family, or is one who was not working, but has a job or business from which he or she was temporarily absent because of illness, bad weather, vacation, labor-management dispute, or personal reasons, whether or not paid by the employer for time off, and whether or not seeking another job.

FURLOUGHS - Furlough means the placing of an employee in a temporary status without duties and pay because of lack of work or funds or other nondisciplinary reasons. As such, it is a temporary termination of employment or layoff. (Reference: Title 5 USC 7511(a)(5).)

Individuals who are furloughed are laid off. Depending on the local definition of "unlikely to return," the circumstances of the applicant, and the local economic conditions, furloughed individuals may or may not be likely to return to their previous industry or occupation. The local areas are in the best position to make this determination. If these individuals are likely to return to their previous industry or occupation and need more than core services, they may be served as adults. When business, company or corporation furloughs are, in fact, substantial layoffs, the unlikely to return provision does not apply. Local areas have the discretion to define "substantial layoff" since the definition depends on local economic conditions.

GENERAL ANNOUNCEMENT - A media article or public notice documenting an employer's intent to close.

GENERAL ECONOMIC CONDITIONS:

1. A business loss due to the closure of substantial layoff of a primary supplier or primary customer affecting the self-employed applicant's products or services;
2. A business loss because the product/occupation has little demand within the community or has been declining;
3. A business loss because of increased nonlabor production costs which are out of the control of management (e.g., energy costs);
4. A business loss because of natural disasters as defined in the Federal Disaster Unemployment Assistance (DUA) program or by State declaration; or
5. Conditions that have a direct adverse affect on a self-employed individual (s) and are beyond their control. Examples include but are not limited to, seasonal factors, unforeseen or unusual operating costs, depressed market conditions, and other market/industry changes.

LAYOFF - Layoff means the permanent or temporary termination of employment of an employee because a position has been abolished, because of insufficient funds, because of lack of work, or for any other reason not reflecting discredit on the employee (such as dismissal for inadequate performance, violation of workplace rules, cause, etc.).

LOCKOUT - Lockout means any refusal by an employer to permit any group of five or more employees to work as a result of a dispute with such employees affecting wages, hours or other terms or conditions of employment of such employees. (Reference: Section 1132.8 of the California Labor Code.)

A lockout does not terminate the employer-employee relationship. Consequently, locked out employees are not eligible dislocated workers since they have not been terminated or laid off, are not eligible for unemployment compensation, and are likely to return to the same industry or occupation once the dispute is resolved. The same guidance applies to employees that are on strike. There may be locked out employees who for financial reasons seek other employment. These individuals may be served as adults.

NOT EMPLOYED - An individual who does not meet the definition of employed or who, although employed, has received notice of termination of employment, or has been engaged in stopgap employment since dislocation.

STOPGAP EMPLOYMENT - Employment would be considered "stopgap" if the salary were substantially below the salary of the individual's primary occupation and/or if he is working substantially under the skill level of his customary occupation. (Adapted from www.kansasjobs.org.)

SUBSTANTIAL LAYOFF -

1. The layoff of 1-499 employees who comprise at least 10 percent of the workforce, excluding temporary or intermittent employees and including part-time employees at 20 hours per week or more; or
2. The layoff of 50 or more employees for a single employer.

SUFFICIENT ATTACHMENT TO THE WORKFORCE - The customer has been employed for three consecutive months during the past twelve months.

UNDEREMPLOYED - Underemployed means an individual who is working part-time but desires full-time employment, or who is working in employment not commensurate with the individual's demonstrated level of educational attainment. (Reference: TEGL 14-00 Change 1.)

UNLIKELY TO RETURN -

1. The customer has worked in a declining industry/occupation;
2. The customer has worked in an industry/occupation having limited job orders in the EDD CalJOBS System;
3. The customer is insufficiently educated and/or does not have the necessary skills for reentry into their former industry/occupation;
4. The customer has a physical or other problem(s), which would preclude reentry into a former industry/occupation as, documented by a physician, psychiatrist, psychiatric social worker (LCSW) or chiropractor; or
5. The customer has been identified as a Dislocated Worker through the UI Profiling System (IAW).

TITLE	LOCAL WORKFORCE INVESTMENT AREA DEFINITIONS		
POLICY NUMBER	32	REVISION NUMBER	
EFFECTIVE DATE	10-12-2005	REVISION DATE	
REFERENCES			
KEY WORDS			
AUTHOR	KATHLEEN SWAIN		
ADOPTED COMM.	OVERSIGHT	DATE:	8-26-2005
ADOPTED WIB	10-12-2005	ATTEST:	