

Policy and Procedure For Unlikely to Return

Purpose: The intent of this policy is to provide clarification regarding acceptable documentation for the “unlikely to return” component of the Category One Dislocated Worker definition. In order to document that an individual is unlikely to return to a previous industry or occupation, the Workforce Investment Board I requiring that Program Operators use the documentation identified below.

WIOA defines a Dislocated Worker, in part, as an individual who has been terminated/laid off, or who has received a notice of termination or layoff, from employment; is eligible for or has exhausted entitlement to unemployment compensation; or has been employed for a duration sufficient to demonstrate, to the appropriate entity at a one stop center, attachment to the workforce, but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer that were not covered under a State unemployment compensation law; and is ***unlikely to return to a previous industry or occupation***. The phrase “***unlikely to return to a previous industry or occupation***” is not specifically defined in the Act or in the regulations. It is the local WDB’s charge to define this term, within the parameters of the Act. This policy shall define the phrase “unlikely to return” for purposes of WIOA Dislocated Worker eligibility and clarify the acceptable documentation for this area.

Reference

- P.L.105-220 Workforce Investment Act (WIOA) sections 101(9)(A)(i)

Policy

Definitions:

“Industry” means any field of business or trade

“Occupation” means the type of work in which the person was primarily engaged

Guidance

A. Unlikely to return (to work) may include, but is not limited to:

1. The individual cannot return to her/his previous industry or occupation because she/he lacks necessary skills due to technological or other changes in the occupation; or
2. The individual cannot return to her/his previous industry or occupation because she/he has physical or mental disabilities which prevent her/him from returning to her/his previous industry or occupational area; or
3. The individual has exhausted her/his unemployment compensation benefits and has been unable to find a job in her/his previous industry or occupation; or

4. The individual has been assessed by the contractor as being unable to find employment in her/his previous industry or occupation or to find employment at a compensation level comparable to her/his previous occupation; or
5. The contractor has determined that the individual needs additional assistance in order to retain employment leading to self-sufficiency; or
6. The separating employer has provided documentation that the individual is unlikely to return to their previous occupation for a period of six months, or longer; or
7. The most current Labor Market Information (LMI) from the Virginia Workforce Connection for LWIOA IV indicates a decline in the previous occupation. If no LMI is available for this area, or if this LMI does not indicate a decline in the occupation, LMI for the Commonwealth of Virginia can be used. For purposes of determining “Unlikely to Return”, Program Operators shall consider the long term (ten year) employment projections for that occupation. LMI that reflects a projected employment outlook that is less than the most recent estimated employment for the occupation will be considered a declining occupation.

B. “Previous industry or occupation” means the type of work the person was “primarily engaged in” and includes:

1. The occupation the participant was trained in; or
2. The occupation from which applicant received highest income; or
3. The occupation in which applicant has had the most time.

Procedure for Documentation of Unlikely to Return

The contractor shall prepare, or gather, and maintain documentation of this “unlikely to return” status, if it is being utilized as the eligibility criteria for enrollment. Case managers will also be responsible for completing the “unlikely to return form” located on the WPWDB’s website.

For each of the seven items listed above, documentation may include, but is not limited to:

- #1. Assessment results, IEP, and job market data documenting skills deficiencies.
- #2. Independent evaluations which reflect the physical or mental disability and occupational data indicating the job requirement. May include DRS recommendations, as well as physician information.
- #3. Print out of benefits paid reflecting exhaustion of benefits.
- #4. Assessment results and IEP reflecting additional assistance needed to obtain a job providing self- sufficiency, as defined by the WPWDB
- #5. Letter from the previous employer indicating the person is unlikely to, or will not, be returning to their employ.
- #6. Print-outs of LMI information reflecting a decline in the previous occupation. This data can be obtained from the occupational profile in the labor market services of the Virginia Workforce Connection.

Approval Signature:



Revision Date: June, 2017

**Unlikely to Return to Previous
 Industry/Occupation Analysis**
 (Please attach LMI for previous industry/occupation or UI as applicable)

Participant Name: _____ Date: _____	
Previous Occupation: _____ Previous Industry: _____	
Employer: _____	
SECTION A	
Unlikely to Return Justification (please check one) <input type="checkbox"/> LMI Data <input type="checkbox"/> Declining LMI OR <input type="checkbox"/> Not Declining LMI (complete SECTION B below) <input type="checkbox"/> Receipt of UI benefits showing duration of receipt of UI for at least 12 of the Previous 26 weeks	
SECTION B	
If LMI does not show declining industry or occupation, list reason for Jobseeker to be unlikely to Return to previous industry or occupation. <i>(Please check all that apply and include forms of documentation from list provided along with detailed explanation in the participant's case notes.)</i>	
<input checked="" type="checkbox"/> The Individual cannot return to his/her previous industry or occupation because:	
<input type="checkbox"/> Lacks necessary skills due to technological or other changes in the occupation.	
<input type="checkbox"/> Has physical or mental disabilities which prevent her/him from returning to previous occupation.	
<input type="checkbox"/> Exhausted unemployment compensation benefits and has been unable to find a job in previous Industry or occupation.	
<input type="checkbox"/> Assessed by WIOA provider as being unable to find employment in previous industry Or occupation Or to find employment at a compensation level comparable to previous occupation Or the Individual need additional assistance in order to retain employment leading to self-sufficiency.	
<input type="checkbox"/> The separating employer has provided documentation that the individual is unlikely to return to their previous occupation for a period of six months, or longer.	
Most current Labor Market Information (LMI) from the Virginia Workforce Connection for LWIA IV indicates a decline in the previous occupation. (If LMI is not available for this area, or if this LMI does not indicate a decline in the occupation, LMI for the Commonwealth of Virginia can be used.	

Indicate proposed WIA Intensive or Training Services to be provided:

Justification for provision of Intensive or Training Services (Indicate benefits):

Ability of participant to benefit from planned training:

Documentation shall be provided if “unlikely to return” status, is being utilized as the eligibility Criteria for enrollment. Documentation may include, but is not limited to:

1. Assessment results, IEP, and job market data documenting skills deficiencies
2. Independent evaluations which reflect the physical or mental disability
3. Print out of benefits paid reflecting exhaustion of benefits
4. Assessment results and IEP reflecting additional assistance needed to obtain a job providing Self-sufficiency, as defined by the WPWIB
5. Letter from the previous employer indicating the person is unlikely to, or will not, be returning To their employment
6. Print-outs of LMI information reflecting a decline in the previous occupation.

SECTION C

I have evaluated the status of the above job seeker and have determined that based on the interview, findings, documentation and industry information, this jobseeker is unlikely to return to previous industry or occupation.

Prepared and evaluated by: _____ Date: _____