



# Mississippi Valley Workforce Development Board

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## Unlikely to Return Eligibility Policy

**Approved Date: February 20, 2023**

**Effective Date: February 20, 2023**

### **PURPOSE**

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This policy outlines the Mississippi Valley Workforce Development Board's (MVWDB) definitions and establishes the criteria for Unlikely to Return to a previous industry or occupation for determining eligibility for the Title I Dislocated Worker Program.

### **BACKGROUND**

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WIOA Section 3(15)(A)(iii) defines the term dislocated worker and identifies the dislocated worker categories individuals may qualify for WIOA services. Unlikely to return to a previous industry or occupation is an eligibility requirement for Dislocated Worker Category 1 and Category 2. § 680.130 allows Local Workforce Development Boards to establish policies to use in determining an individual's eligibility as a Dislocated Worker, including unlikely to return.

### **DEFINITION**

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Definition: "Unlikely to Return"- May be defined in terms of economic conditions, job availability, family, personal or financial circumstances that may affect the likelihood of an individual returning to his or her previous industry or occupation for employment.

### **CRITERIA FOR "UNLIKELY TO RETURN"**

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MVWDB has determined a Dislocated Worker is unlikely to return to a previous industry or occupation if one of the following criteria is met:

- Separating service members.
- Has a physical limitation or an injury that limits the individual's ability to perform the job from which they were dislocated or other problems which would preclude reentry into the former industry or occupation, as documented by a physician or other professional (e.g., psychiatrist, psychiatric social worker, chiropractor, etc.).
- Has exhausted Unemployment Insurance Benefits and has been unable to find a job in their previous industry or occupation.
- Individuals that may have worked seasonally can be considered unlikely to work in a previous industry or occupation as a temporary or seasonal worker, for a variety of reasons such as:
  - Change in a family situation that requires higher income
  - Disability that precludes returning to the same industry or occupation

- Natural disaster that results in lost wages
- Loss of agricultural land
- Mechanization
- Any significant variance to normal seasonal employment patterns resulting in uncertain return-to-work dates
- Individuals laid off on a temporary basis without a specific recall date. An individual is considered as likely to return to a previous industry or occupation if they have a specific recall date from the employer of the qualifying dislocation that is within 12 weeks of termination or layoff. Note: Individuals who have been temporarily laid off due to COVID-19 are eligible under this condition granted they do not have a recall date within 12 weeks of the layoff.
- Recent criminal charges that make the individual ineligible to work in their current industry or occupation.
- Has a gap in employment that decreases the chances of returning to the same level of occupation or type of position.
- Had a change in family/personal situation that prevents them from returning to their previous occupation.
- Unable to obtain credential required by the employer to remain employed.
- The number of jobs in the applicant's previous industry/occupation is declining based on Labor Market Information (LMI) data.
- The projected annual increase in employment growth within the local area based on LMI or O\*Net is fewer than 100 jobs in the previous industry (including replacements) or the projected annual increase in growth openings is fewer than 30 jobs in the previous occupation.
- The applicant is dislocated from a job not found on the most recent local or state list of demand occupations (if applicable).
- The applicant has conducted a dedicated but unsuccessful job search in the previous industry/occupation, as evidenced by employer rejection letters or employer contact logs.

#### **ALLOWABLE SOURCE DOCUMENTATION**

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- DD-214
- Labor Market Information Printout
- Documentation from a Medical Provider
- Unemployment Insurance Records
- Financial Records
- Employment Records/Statement
- Layoff Letter from Employer
- Court Records

## **REFERENCES**

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Workforce Innovation and Opportunity Act (WIOA) Final Rules WIOA Sec 3(15)(A)(iii), 20 CFR § 680.130, § 680.660, Workforce Services Policy Chapter 8 WIOA Title 1B Programs