

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION WIA
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TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 22-04, CHANGE 1

TO: ALL STATE WORKFORCE AGENCIES
ALL STATE WORKFORCE LIAISONS

FROM: EMILY STOVER DeROCCO /s/
Assistant Secretary

SUBJECT: Serving Military Spouses as Dislocated Workers under the
Workforce Investment Act Dislocated Worker Formula Grant

1. **Purpose.** The purpose of this guidance is to clarify Department of Labor policy regarding existing flexibility under the Workforce Investment Act (WIA) to serve military spouses as dislocated workers under the WIA Dislocated Worker formula grant.
2. **References.** Workforce Investment Act of 1998, as amended; WIA Regulations at 20 CFR Part 663.115; TEGL No. 2-05, "Workforce Investment System Support of Actions of the 2005 Base Realignment and Closure Commission (BRAC)," dated August 11, 2005; TEGL No. 22-04, "Serving Military Service Members and Military Spouses under the Workforce Investment Act Dislocated Worker Formula Grant," dated March 22, 2005; 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, 2004.
3. **Background.** Military spouses make an important contribution to the careers of military service members, including helping with retention of military members. However, the careers of military spouses often take a subordinate role to the government's mission, with lifelong consequences for spouses' career advancement and educational attainment. Military spouses experience frequent, and often very significant education and career interruptions due to service

RESCISSIONS	EXPIRATION DATE:
None	Continuing

members' assignments to new duty stations. The workforce investment system is uniquely positioned to leverage the full array of its resources, particularly WIA Dislocated Worker formula funding, to implement innovative education, retraining, and reemployment strategies to ensure that military spouses have full access to the resources necessary for their career stability and advancement.

This guidance is intended to amplify the guidance provided in TEGL No. 22-04, and to encourage the workforce system to take full advantage of the flexibility provided by WIA to serve military spouses as dislocated workers under WIA.

4. **Policy Clarification.** WIA regulations provide that state and local boards have authority to establish policies and procedures for use in determining an individual's eligibility as a dislocated worker, as long as they are consistent with the statutory definition of Dislocated Worker (20 CFR 663.115(b)). The Department has previously issued guidance on permissible ways to apply this authority with regard to military spouses. As outlined in TEGL No. 22-04, a military spouse who leaves his/her job to follow his/her spouse to a new duty assignment can be served with WIA Dislocated Worker formula grant funds in certain circumstances. When the spouse is unable to continue an employment relationship due to 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 (WIA Section 101(9)(A)(i). As provided in TEGL No. 22-04, military spouses in such circumstances must still be determined to be "unlikely to return to a previous industry or occupation" in order to qualify as a dislocated worker.

This policy guidance further clarifies that the spouse's cessation of employment, due to the service member's permanent change of military station or his/her discharge from the military, can also be considered to meet the "unlikely to return to a previous industry or occupation" criterion of the WIA definition of dislocated worker outlined in Section 101(9)(A)(iii). This portion of the definition of a dislocated worker recognizes the breadth of job types and considers whether the individual is likely to return to either his/her prior industry or (not "and") occupation. Furthermore, the phrase specifically uses the term "unlikely" to return; thus, the standard for determining the likelihood of return is not absolute, but rather a matter of judgment based on relevant circumstances. In the majority of cases, the circumstances in which military spouses are required to leave a job/occupation as a result of the military member's transfer do not position the spouse to return immediately to his/her previous occupation or industry, particularly at the same level for the following reasons:

- 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/jobs will generally not be the same structurally or organizationally as in the prior location.
- When military spouses do get jobs in their new locations, it is likely, as new employees, that they will start at lower levels of seniority than the levels of their positions in their prior locations.
- There is frequently a gap in employment as spouses make the move and search for new employment, which may lessen their likelihood of returning to the same level of occupation or type of job.

Based upon the totality of these circumstances, it would be reasonable for states and local areas to conclude that in the vast majority of cases, military spouses impacted by a service member's duty reassignment or discharge will meet the "unlikely to return to a previous industry or occupation" criterion of WIA Section 101(9)(A)(iii) and could thus be served as dislocated workers under WIA Section 101(9). State and local workforce system leaders are strongly encouraged to reexamine their WIA Dislocated Worker program eligibility policies in light of this clarification and to take full advantage of the flexibility provided under the dislocated worker definition to engage and serve military spouses in need of education, training, and career assistance. Workforce system leaders are also reminded of the broad flexibility provided by WIA for Governors and Local Boards to establish policies and procedures for One-Stop Career Center operators to use in determining an individual's eligibility as a dislocated worker (20 CFR Part 663.115(b)). These policies and procedures could take into account a broad variety of additional factors, including:

- The skills of the spouse, e.g., obsolete or inadequate skills to meet the advancing competency needs of the 21st century workforce and economy;
- The decline of the industry in which the spouse has prior work experience, in the region to which the spouse has relocated; and
- An excess number of workers with similar skill sets and experience seeking limited employment opportunities in the region.

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