

## State Policy

## Workforce Innovation and Opportunity Act (WIOA)

Nebraska Department of Labor (NDOL) Division of Reemployment Services 550 South 16 <sup>th</sup> Street Lincoln, NE 68508 402.471.9000 <a href="mailto:ndol.wioa_policy@nebraska.gov">ndol.wioa_policy@nebraska.gov</a>	Policy category
	Youth, Adult, and Dislocated Worker; Program Eligibility and Design
	Effective date
	January 12, 2021
	Supersedes
	None

### Program eligibility for self-employed workers effected by COVID-19

## REFERENCE

Federal and state laws, regulations, rules, and other guidance and documentation relied upon for the development of this policy are cited in footnotes.

## BACKGROUND

Under Category III of Section IV of the State's<sup>1</sup> Program Eligibility for Youth, Adults, and Dislocated Workers, Change 2 policy, eligibility criteria for self-employed workers for local Title I dislocated worker programs (and by extension, eligibility for TET-DWG pursuant to TEGL 2-18) requires that a self-employed worker<sup>2</sup> be unemployed as a result of general economic conditions in the community in which the individual resides or a natural disaster. Based on the Presidential declaration of a national emergency regarding the COVID-19 pandemic and certain Federal laws, rules, and regulations, self-employed workers who are unemployed, partially employed, part-employed, or underemployed as a result of the COVID-19 pandemic are considered dislocated workers and may be eligible to participate in WIOA<sup>3</sup> Title I dislocated worker programs and National Dislocated Worker Grant programs.

<sup>1</sup> State refers collectively to the Nebraska Workforce Development Board and the Nebraska Department of Labor (acting on the Governor's behalf pursuant to the Governor's Executive Order No. 15-03).

<sup>2</sup> Self-employed worker includes those employed in farming, ranching, or fishing industries.

<sup>3</sup> WIOA refers to the Workforce Innovation and Opportunity Act of 2014.

## ACTION

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Questions and comments on this policy may be submitted in writing to the WIOA policy mailbox at [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

## POLICY

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This policy is a supplement to the State's [Program Eligibility for Youth, Adults, and Dislocated Workers, Change 2](#) policy. This policy clarifies eligibility requirements for self-employed workers affected by the COVID-19 pandemic to participate in local Title I dislocated worker programs and TET-DWG program.

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### Section I. General eligibility requirements

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For a self-employed worker affected by the COVID-19 pandemic to be considered eligible for participation in a local Title I dislocated worker program or TET-DWG, the self-employed worker must meet the general eligibility criteria listed in the State's current policy on Program Eligibility for Youth, Adults, and Dislocated Workers, Change 2, which are restated here. The self-employed worker must be a:<sup>4</sup>

- citizen or national of the United States; *or*
- lawfully admitted permanent resident non-citizen, refugees, asylees, parolees, or other immigrants authorized to work in the United States by the Secretary of Homeland Security, or the Secretary's designee.

In addition, self-employed workers who are male *and* age 18 or older must be registered with the Selective Service, as required under the Military Selective Service Act.<sup>5</sup>

### Section II. Dislocated worker and TET-DWG program eligibility for self-employed workers effected by the COVID-19 pandemic

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On March 13, 2020, the President issued the [Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease \(COVID-19\) Outbreak](#). WIOA Sec. 170(a)(1)(B), which governs TET-DWG, defines an *emergency* or *disaster* situation as one of national

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<sup>4</sup> 20 CFR § 683.285(a)(5)

<sup>5</sup> WIOA Sec. 189(h)

significance that could result in a potentially large loss of employment. In addition, 42 USC § 5122(1) defines *emergency* as any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement state and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.

Based on the President's proclamation, WIOA Sec. 170(a)(1)(B), and 42 USC § 5122(1), as well as CARES Act Sec. 2101(h), TEGLs 2-18 and 12-19, and UIPL 16-20, self-employed workers affected by the COVID-19 pandemic who are unemployed, partially employed, part-employed, or underemployed may be eligible to participate in local Title I dislocated worker programs and TET-DWG. In other words, for purposes of this supplemental policy, self-employed workers who are who are unemployed, partially employed, part-employed, or underemployed as a result of the COVID-19 pandemic are considered dislocated workers, including those self-employed workers employed in farming, ranching, and fishing industries,<sup>6</sup> subject to the general eligibility requirements described in [Section I](#).

### **Section III. Nondiscrimination**

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All programs and activities funded or financially assisted in whole or in part under WIOA must comply with all laws on the prohibition against discrimination based on age, disability, or sex, or based on race, color, national origin, or political affiliation or belief.<sup>7</sup> Participation in programs and activities funded under WIOA must be available to eligible:<sup>8</sup>

- citizens and nationals of the United States; and
- lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Secretary of Homeland Security or the Secretary's designee to work in the United States.

### **DISCLAIMER**

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This policy is based on NDOL's reading of the applicable statutes, regulations, rules, and guidance released by the US Government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules and guidance are issued.

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<sup>6</sup> CARES Act Sec. 2101(h); WIOA Secs. 3(15) and 170(a)(1)(B); 42 USC § 5122(1), TEGLs 2-18 and 12-19; UIPL 16-20

<sup>7</sup> WIOA Sec. 188. Also, refer to the State's policy on nondiscrimination and equal opportunity, as well as 29 CFR Part 38, the implementing regulation for WIOA Sec. 188.

<sup>8</sup> 20 CFR § 683.285(a)(5)