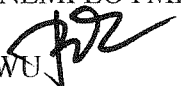


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| <b>EMPLOYMENT AND TRAINING ADMINISTRATION</b><br><b>ADVISORY SYSTEM</b><br><b>U.S. DEPARTMENT OF LABOR</b><br><b>Washington, D.C. 20210</b> | <b>CLASSIFICATION</b><br>UC/Approved Training and WIOA |
|   | <b>CORRESPONDENCE SYMBOL</b><br>OUI/DUIO               |
|   | <b>DATE</b><br>September 23, 2016                      |

**ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 8-16**

**TO:** STATE WORKFORCE AGENCIES  
STATE WORKFORCE LIAISONS  
STATE AND LOCAL WORKFORCE BOARDS  
AMERICAN JOB CENTERS  
STATE UNEMPLOYMENT INSURANCE DIRECTORS

**FROM:** PORTIA WU   
Assistant Secretary

**SUBJECT:** Supporting Unemployment Insurance Beneficiaries Seeking Postsecondary Education or Training

1. **Purpose.** To encourage the public workforce system to consider policies and strategies that support Unemployment Insurance (UI) beneficiaries who are seeking postsecondary education and training opportunities, including longer-term training and education programs.

2. **References.**

- The Workforce Innovation and Opportunity Act (WIOA) of 2014 (Public Law (Pub. L. 113-128)) Title I and Title III;
- The Workforce Investment Act (WIA) of 1998 (Pub. L. 105-220), Title I and Title III;
- Section 3304(a)(8) of the Federal Unemployment Tax Act (FUTA);
- Section 211(e)(1) of the VOW to Hire Heroes Act of 2011 (Pub. L. 112-56) (VOW Act);
- Section 479A of the Higher Education Act of 1965 (Pub. L. 89-329);
- Section 560 of the National Defense Authorization Act for Fiscal Year 2016 (Pub. L. 114-92)
- Training and Employment Guidance Letter (TEGL) No. 3-15, *Guidance on Services Provided through the Adult and Dislocated Worker Program under the Workforce Innovation and Opportunity Act (WIOA or Opportunity Act) and Wagner-Peyser, as Amended by WIOA, and Guidance for the Transition to WIOA Services*;
- Training and Employment Notice (TEN) No. 11-09, *Supporting UI Claimant Training Needs in the One-Stop Career Center*;
- TEN No. 32-08, *Guidance on 2009-2010 FAFSA: New Needs Determination to Include WIA Dislocated Workers*;
- TEGL No. 2-09, *Approved Training for the Unemployment Insurance Program Recommended Policies*;
- TEGL No. 21-08, Change 1, *Pell Grants and the Payment of Unemployment Benefits to Individuals in Approved Training*;

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| <b>RESCISSIONS</b><br>None | <b>EXPIRATION DATE</b><br>Continuing |
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- TEGL No. 21-08, *Pell Grants and the Payment of Unemployment Benefits to Individuals in Approved Training*;
- Unemployment Insurance Program Letter (UIPL) No. 14-16 Change 1, *The National Defense Authorization Act for Fiscal Year 2016 (Pub. L. 114-92) - Provisions that Affect the Unemployment Compensation for Ex-servicemembers Programs*
- UIPL No. 14-16, *The National Defense Authorization Act for Fiscal Year 2016 (Pub. L. 114-92) - Provisions that Affect the Unemployment Compensation for Ex-servicemembers Programs*

3. **Background.** This TEGL was developed in coordination with the Higher Education Student Supports Inter-agency Task Force (Task Force). The Task Force is a coordinated effort among multiple Federal partners, including the Department of Labor (Department), and the Departments of Education and Health and Human Services, to support students' opportunities and success by increasing take-up and alignment of existing supports and resources for low-income students, which may include unemployed or underemployed individuals. A key component of the Task Force's activities is promoting greater awareness and understanding of available educational and related supports, including Federal student aid and other means-tested programs, among groups that may be unaware of such eligibility. For example, the most common explanation among Pell Grant-eligible students for not completing a Free Application for Federal Student Aid (FAFSA) is that they did not think they were eligible. Similarly, many unemployed veterans who sought training assistance under the VOW to Hire Heroes Act of 2011 were unaware that they were already eligible for other veteran's education benefits.

Providing recipients of UI benefits with reemployment and training services continues to be one of the core missions of the public workforce system. In 2009, President Obama encouraged unemployed American workers to consider education and training opportunities to develop their skills while the economy was recovering. In support of the President, the Department issued a series of TEGLS strongly encouraging states to help beneficiaries in pursuing training and education while receiving UI benefits. This guidance also identified flexibilities and resources that may help unemployed workers apply for Pell Grants and other Federal student aid programs both within and outside the workforce system.

Although the economic conditions today are substantially different from 2009, many of the factors that contributed to the President's encouragement of states and unemployed workers to consider education and training as a pathway to reemployment are even more relevant today. By 2020, nearly two thirds of all jobs will require some postsecondary education or training. Additionally, numerous studies have linked post-secondary education to financial self-sufficiency and economic mobility. Allowing UI beneficiaries to continue to receive benefits while enrolled in education/training programs, which the states may do under Section 3304(a)(8), FUTA, may help to reduce reliance on loans and increase enrollment intensity, which is associated with increased rates of program completion and ultimately help these individuals succeed in the labor market.

4. **New Commitments Under the Workforce Innovation and Opportunity Act.** WIOA, which became law on July 22, 2014, supersedes titles I and II of WIA, amends the Wagner-Peyser Act, and amends the Rehabilitation Act of 1973. The WIOA Joint Rule for Unified and Combined State Plans, Performance Accountability, and the One-Stop System Joint Provisions was made publically available on June 30 2016, and published in the Federal Register on August 19, 2016. This guidance reflects the final regulations and the statutory provisions of WIOA.

For many UI beneficiaries, enrollment in the WIOA Dislocated Worker program may be an appropriate and sufficient means of obtaining the career and/or training services necessary for reemployment. However, WIOA also recognizes that some beneficiaries may require assistance beyond that provided by WIOA-authorized programs, and includes new provisions to help define and formalize the role of the public workforce system in assisting customers to identify public education and training assistance.

In the context of serving UI beneficiaries, Section 305 of WIOA specifically amended Section 7(a)(1) of the Wagner-Peyser Act to clearly identify “unemployment insurance claimants” among the groups to be served and Section 7(a)(3)(G) to acknowledge the importance of referring UI claimants to education and training opportunities:

*providing unemployment insurance claimants with referrals to, and application assistance for, training and education resources and programs, including Federal Pell Grants under subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a et seq.), educational assistance under chapter 30 of title 38, United States Code (commonly referred to as the Montgomery GI Bill), and chapter 33 of that title (Post-9/11 Veterans Educational Assistance), student assistance under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), State student higher education assistance, and training and education programs provided under titles I and II of the Workforce Innovation and Opportunity Act, and title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.).*

WIOA includes a similar provision in Section 134(c)(2)(A)(xi) which identifies the career services provided across WIOA’s partners to eligible adults and dislocated workers to include, “assistance in establishing eligibility for programs of financial aid assistance for training and education programs that are not funded under this Act.” This provision is further explained in the WIOA final regulations at 20 CFR 678.430. Information about career services is also provided in TEGl No. 3-15.

Many American Job Centers (AJCs) currently assist UI beneficiaries and other unemployed workers with educational financial aid applications. Others may need to establish policies, provide desk aids, conduct staff training, or upgrade web sites and materials. Some online resources that may support these efforts are listed below:

- The Department of Education’s *Financial Aid Toolkit* provides Federal student aid information and outreach tools for counselors, college access

professionals, nonprofit mentors, and others. AJC staff providing career and training services to UI beneficiaries and other job seekers are strongly encouraged to familiarize themselves with these resources to help inform their education and career counseling (<https://financialaidtoolkit.ed.gov/tk/> ).

- The *Financial Aid Toolkit* includes a downloadable flyer with additional information about the FAFSA. AJCs are encouraged to consider posting and distributing this flier and other FAFSA information at their local offices, websites, and through its routine mailings and outreach to AJC customers (<https://financialaidtoolkit.ed.gov/resources/college-scorecard-fafsa-flyer.pdf> ).
- The Department of Veterans Affairs (VA), in collaboration with the Department of Defense, developed <https://www.ebenefits.va.gov/>. The eBenefits site is a web portal that provides service members, veterans, their families, and authorized caregivers with a single sign-on central access point to clinical and benefits information. The site contains numerous resources that may be useful to frontline staff in assisting veterans in applying for various education and benefit programs. UIPL 14-16 provides additional information about provisions in the National Defense Authorization Act for Fiscal Year 2016 that may affect the UI eligibility of individuals receiving VA administered post 9-11 education assistance.
- The Department sponsors [www.mynextmove.org](http://www.mynextmove.org) and [www.mynextmove.org/vets](http://www.mynextmove.org/vets). These online interactive tools help job seekers and students to learn more about their career options. My Next Move has tasks, skills, salary information, education requirements, and more for over 900 different careers. My Next Move for Veterans provides the same information as My Next Move but also includes specialized tools for veterans. These online tools are valuable resources that can help inform and guide education and career choices.

5. **Financial Aid and Flexibility for Unemployed Workers.** As described in further detail in TEN No. 11-09, unemployed workers have two opportunities to benefit from the flexibility built into the Federal financial aid process.

- In 2009, the FAFSA, a common application used across several Federal aid programs, introduced a question to identify dislocated workers who may qualify for a reduced family contribution. The FAFSA continues to include this question and the FAFSA definition of dislocated worker aligns closely with the WIOA definition of dislocated worker.

The FAFSA online help page available at <https://fafsa.ed.gov/help.htm> provides the following information for the dislocated worker question (question 102 on the paper FAFSA):

*In general, a person may be considered a dislocated worker if he or she:*

- *is receiving unemployment benefits due to being laid off or losing a job and is unlikely to return to a previous occupation;*
- *has been laid off or received a lay-off notice from a job;*
- *was self-employed but is now unemployed due to economic conditions or natural disaster;*
- *is the spouse of an active duty member of the Armed Forces and has experienced a loss of employment because of relocating due to permanent change in duty station;*
- *is the spouse of an active duty member of the Armed Forces and is unemployed or underemployed, and is experiencing difficulty in obtaining or upgrading employment; or*
- *is a displaced homemaker. A displaced homemaker is generally a person who previously provided unpaid services to the family (for example: a stay-at-home mom or dad), is no longer supported by the spouse, is unemployed or underemployed, and is having trouble finding or upgrading employment.*

*Except for the spouse of an active duty member of the Armed Forces, if a person quits work, generally he or she is not considered a dislocated worker even if, for example, the person is receiving unemployment benefits.*

- For unemployed workers whose income level or unemployment status does not qualify them for an adjustment to their expected family contribution under the FAFSA, financial aid officers, as authorized by section 479A of the Higher Education Act, are able to use their “professional judgment” to adjust the applicant’s expected family contribution or the cost of attendance based on special circumstances, such as becoming unemployed and claiming UI benefits. Use of professional judgment is at the discretion of the financial aid officer and varies by institution. To seek an adjustment under this professional judgment authority, individuals must first accurately complete the FAFSA application, indicating income for the base year. After the application has been reviewed, the individual may appeal for professional judgment using the educational institution’s appeal process.

6. **Training Policies that Support Greater Enrollment Intensity and Continuity within Postsecondary Education and Training Programs.** Successful completion of postsecondary education/training is related to both enrollment intensity (full-time or part-time) and the continuity, or consecutiveness, of attendance. Section 3304(a)(8), FUTA, requires that state law include, as a condition of employers in the state receiving credit against the Federal unemployment tax, that:

*Compensation shall not be denied to an individual for any week because he is in training with the approval of the State agency (or because of the application to any such week in training, of State law provisions relating to available for work, active search for work, or refusal to accept work);*

This provision was added to Federal law to ensure that certain state UI eligibility criteria, such as a requirement that a claimant actively seek work, are not an impediment to the individual improving his or her prospects of employment by participating in training. All state laws contain provisions implementing this FUTA requirement. TEGL No. 21-08 and TEGL No. 2-09 strongly encouraged states to revisit and expand their training policies to respond to economic conditions. States are again strongly encouraged to review their UI training policies and consider expanding approved training to include longer term education and training. The Department notes that increased access to longer-term training and education is valuable to employers who face challenges in getting workers with the skills they need in a tight job market and to the economy broadly.

TEGL No. 2-09 identifies several recommended policies regarding payment of UI during approved training. Given the increasing number of occupations for which a post-secondary certificate or degree is essential, states should consider implementing policies that support such programs on a permanent basis. These policies include, but are not limited to:

- ***Post-Secondary Education.*** In many cases, programs in community colleges and other post-secondary institutions are specifically designed to lead to occupations in fields such as criminal justice, health care, information technology, and numerous others. Similarly, many four-year programs may lead to a degree that qualifies the individual for specific occupations, such as teaching or nursing. Some states have a policy of not approving certain postsecondary education programs even when they lead to a specific occupation. The Department encourages states to consider approval of such programs. Additionally, states are encouraged to include flexibility within their approval policies to allow, under certain circumstances, the approval of academic courses leading to a degree or certificate that may not lead to specific occupations. These approvals should be made on an individual basis and generally only where the completion of the degree or certificate is expected to increase the individual's opportunities for reemployment.
- ***Limits for Completing Training.*** In some states, approval of training is limited to courses that can be completed within a relatively short period of time, such as 12 months. Given that many certificate and degree programs require a minimum of two to four years for completion, such limitations can prevent approval of a significant number of valuable educational and other training opportunities that lead to good jobs. The Department recommends that any such time limitation be lengthened. Specifically, state policy should provide for approval if, at a minimum, the individual expects to complete training or a degree or certificate course within two years.

7. **Action Requested.** State Workforce Agencies, State and Local Workforce Development Boards, and AJCs are encouraged to examine their service delivery strategies for UI beneficiaries and other unemployed workers and make adjustments where necessary to ensure that these customers receive appropriate application assistance for training and education resources. States are also encouraged to explore UI eligible training/education program

policies that help support longer-term training and education programs that position these individuals for high-quality jobs.

8. **Inquiries**. All inquiries should be directed to the appropriate regional office.