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
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**Date:** October 30, 2024  
**To:** WIOA Subrecipients of the Orange County Workforce Development Board  
**From:** Nancy Cook  
Director of Workforce Development Board   
**Subject:** WIOA Priority of Service  
Information Notice No. 24-OCWDB-14  
Supersedes Information Notice No. 15-OCWDB-07

## PURPOSE

This policy provides guidance regarding the Workforce Innovation and Opportunity Act (WIOA) Title I Adult Program and Veterans priority of service.

## EFFECTIVE DATE

This policy is effective on the date of the issuance.

## REFERENCES

- WIOA (Public Law 113-128) Sections 3 and 134
- Jobs for Veterans Act (JVA) of 2002 (Public Law 107-288)
- Title 38 United States Code (U.S.C.) Sections 101(2), 4213, and 4215(a), and Chapters 11, 13, 15, 30-31, 33, and 35-36
- Title 20 Code of Federal Regulations (CFR) Part 1010: "Priority of Service for Covered Persons"
- Title 20 Code of Federal Regulations (CFR) WIOA, Final Rule Sections 680.150, 680.600, 680.610, 680.650 and 683.230
- Title 20 Code of Federal Regulations (CFR) Part 1010: "Priority of Service for Covered Persons" • Title 20 CFR Sections 680.600, 680.650, and 683.230
- Workforce Services Directive WSD15-14, Subject: WIOA Adult Program Priority of Service (January 22, 2016)
- Workforce Services Directive WSD 19-04 Subject: Priority of Service for Veterans and Eligible Spouses (September 11, 2019)
- USDOL, Training and Employment Guidance Letter (TEGL) 19-16, Guidance on Services Provided through the Adult and Dislocated under WIOA (March 1, 2017)
- USDOL, TEGL 10-09, Implementing Priority of Service for Veterans and Eligible Spouses in all Qualified Job Training Programs Funded in whole or in part by the U.S. Department of Labor (November 10, 2009)



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## **BACKGROUND**

The WIOA made several changes to the priority of service requirement through the addition of individuals who are basic skills deficient as a priority population, changing intensive services to career individualized services, and removal of the provision which states priority of service is only applied if funds are limited.

The Jobs for Veterans Act (JVA), and the priority of service it requires, acknowledges the sacrifices of the men and women who have served in the U.S. Armed Forces. Priority of service honors veterans and eligible spouses as our “heroes at home” and provides clear entry points into high-growth, high-wage civilian jobs, and easily accessible post-secondary education and training to support their advancement along career pathways. Veterans and eligible spouses possess unique attributes and contribute greatly to the workplace in accordance with the Workforce Directive WSD 19-04.

WIOA emphasizes providing services to individuals with barriers to employment including recipients of public assistance, individuals who are basic skills deficient, or those identified as low-income. These groups, along with veterans and eligible spouses, represent some of the workforce system most in need and are the three priority groups that WIOA specifically mandates are entitled to receive priority of service “who otherwise meet the eligibility requirements for participation” in Department of Labor (DOL) programs.

## **DEFINITIONS**

Basic Skills Deficient - An individual that is unable to compute or solve problems, or read, write, or speak English, at a level necessary to function on the job, in the individual’s family, or in society. Criteria used to determine whether an individual is basic skills deficient includes the below:

- Lacks a high school diploma or high school equivalency and is not enrolled in post-secondary education;
- Enrolled in a Title II Adult Education/Literacy program;
- English, reading, writing, or computing skills at an 8.9 or below grade level;
- Determined to be Limited English Skills proficient through staff-documented observations; or
- Other objective criteria determined to be appropriate by the Local Area and documented in its required policy.

Case Notes - Paper or electronic statements by the case manager that identifies, at a minimum:

- A participant's status for a specific data element;
- Date on which the information was obtained; and
- The case manager who obtained the information.

If case notes are used as a documentation source, the case notes must provide an auditable trail back to the source of information verified. The case manager does not need to keep a hard copy of the information verified in the participant’s case file.

Covered Person - A Veteran or eligible spouse.

Economically Disadvantaged Adult (or Low Income) - An Economically Disadvantaged Adult or Low-Income Adult is defined as an individual who meets one of the four subsequent criteria:

1. Receives, or in the past six months has received, or is a member of a family that is receiving, or in the past six months has received, assistance through the Supplemental Nutrition Assistant Program (SNAP) cash payments under a Federal, State, or local income-based public assistance program (which includes Medi-Cal, Medicaid, or Medicare)
2. Received an income, or is a member of a family that received a total family income, for the 6-month period prior to application for the program involved that, in relation to family size, does not exceed the higher of the following:
  - Poverty level
  - 70% of the Lower Living Standard Income Level/Poverty Standards
3. Qualifies as a homeless individual as defined by the Stewart B. McKinney-Vento Homeless Assistance Act
4. An individual who has a disability and whose own income does not exceed the income requirement in section 2 but is a member of a family whose income does.

Eligible Spouse - The Spouse of any of the following individuals:

- A. Any Veteran who died of a service-connected disability;
- B. Any member of the Armed Forces serving on active duty who, at the time of application for the priority, is listed in one or more of the following categories and has been so listed for a total of more than 90 days:
  - Missing in action;
  - Captured in line of duty by a hostile force; or
  - Forcibly detained or interned in line of duty by a foreign government or power;
- C. Any Veteran who has a total disability resulting from a service-connected disability, as evaluated by the Department of Veterans Affairs (VA);
- D. Any Veteran who died while a disability, as indicated in paragraph (c) of this section, was in existence.

A spouse whose eligibility is derived from a living veteran or service member (i.e., categories B. or C. above) would lose his or her eligibility if the veteran or service member were to lose the status that is the basis for the eligibility (e.g., if a veteran with a total service-connected disability were to receive a revised disability rating at a lower level), or upon divorce from the veteran or service member.

Non-covered Person - Any individual who neither meets the definition of Veteran, nor as defined as a Spouse of a Veteran.

Public Assistance Recipient - An individual that receives federal, state, or local government cash payments for which eligibility is determined by a needs or income test.

Self-Attestation - When a participant states his or her status for a particular data element, such as low income, and then signs and dates a form in acknowledgement of this status. The key elements for self-attestation are:

- The participant to identify his or her status for permitted elements; and
- The participant to sign and date the form to this self-identification.

Note that self-attestation is not to be used as the primary method to gather documentation to verify data elements. Self-attestation as a documentation source is only to be used when the preferred options of paper documentation or third-party corroboration are not available.

Veteran - A Veteran is defined as any individual who served in the active military, naval, or air service, and who was discharged or released under conditions other than dishonorable.

## **POLICY AND PROCEDURES**

As outlined in the WIOA Section 134(c)(3)(E), priority of service for individualized career services and training services funded with WIOA adult funds must be given to recipients of public assistance, other low-income individuals, individuals who are basic skills deficient, or veterans and eligible spouses. This policy ensures that priority populations, especially veterans and eligible spouses, are made aware of their entitlement to priority of services, the full array of employment, training, and placement services available under priority of service, and any applicable eligibility requirements for those programs and/ or services. Additionally, service providers must ensure that written copies of local priority of service policies are maintained at all service delivery points and, to the extent practicable, posted in a way that makes it possible for members of the public to easily access them.

Priority of service means that veterans and eligible spouses are entitled to take precedence over non-covered persons in obtaining employment, training, and placement services. More specifically, a veteran or an eligible spouse either receives access to a service earlier in time than a non-covered person or, if the resource is limited, the veteran or eligible spouse receives access to the service instead of or before the non-covered person in obtaining services.

Veterans and eligible spouses continue to receive priority of service among all eligible individuals; however, they must meet the WIOA Adult Program eligibility criteria and meet the criteria under WIOA Section 124(c)(3)(E).

### **Applying Priority of Service**

The application of priority of service varies depending on the eligibility requirements of the particular program. There are four basic categories of DOL-funded programs: universal access programs, programs that require participants to meet specified eligibility criteria, programs with statutory priorities, and programs with discretionary priorities. The following describes how priority of service applies to these basic types of programs.

Universal Access Programs – For workforce programs that operate or deliver services to the public as a whole without targeting specific groups (e.g., WIOA basic career services), veterans and eligible spouses receive priority of service over all other program participants.

Programs with Eligibility Criteria – Eligibility criteria identify basic conditions that each participant in a specific program is required to meet. For example, for the WIOA Adult, Dislocated Worker, and Youth programs, every participant is required to meet program eligibility requirements (e.g., age, selective service registration, etc.). A veteran or eligible spouse must first meet all of the eligibility criteria in order to be considered eligible for participation in the program. Once determined eligible for participation, the veteran or eligible spouse receives priority for participation in the program and receipt of services.

Programs with Statutory Priorities - In addition to the eligibility criteria that all participants are required to meet, some programs have priorities that target certain populations and establish a rank order for enrolling or serving participants (e.g., the WIOA priority for Adult funds to serve recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient). While veterans' priority is required under federal law and cannot be waived, it is not intended to displace existing eligibility requirements and statutory priorities. Therefore, in these instances, veterans and eligible spouses must first meet both the program's eligibility and statutory priority criteria to receive priority for

participation in the program and receipt of services. Program operators must determine the status of each individual veteran or eligible spouse and apply priority of service in the following order:

1. Veterans and eligible spouses who meet the program's statutory priority requirement (e.g., veterans and eligible spouses who are also recipients of public assistance, other low-income individuals, or individuals who are basic skills deficient).
2. Non-covered persons who meet the program's statutory priority requirement (e.g., non-covered persons who are recipients of public assistance, other low-income individuals, or individuals who are basic skills deficient).
3. Veterans and eligible spouses who do not meet the program's statutory priority requirement.
4. Priority populations established by the Governor and/or Local Workforce Development Board.
5. Non-covered persons outside the program's statutory priority requirement.

Programs with Discretionary Priorities – Programs with discretionary priorities may make an effort to provide a certain level of service to a particular group. However, the law does not mandate that the target group be served before other eligible individuals. With respect to priority of service, the only feature that distinguishes discretionary targeting programs from universal access programs is the additional application of the discretionary targeting criterion to non-covered persons. Therefore, program operators must apply priority of service in the order below:

1. Veterans and eligible spouses.
2. Non-covered persons within the discretionary targeting group.
3. Non-covered persons outside the discretionary targeting group.

### **Identifying Veterans and Eligible Spouses**

Service providers must put processes into place to ensure that veterans and eligible spouses are identified at the point of entry and given an opportunity to take full advantage of priority of service. The point of entry includes physical locations such as American Job Centers of California, as well as websites such as CalJOBS, and other virtual service delivery resources. These processes should ensure that veterans and eligible spouses are aware of their entitlement to priority of service, the full array of employment, training, and placement services available under priority of service, any applicable eligibility requirements for those programs and services, and in cases of online points of entry, how to access assistance via the nearest AJCC. This information must be provided to "covered persons" either verbally or in writing at each point in the program:

1. At the point of entry; and
2. At orientation; and
3. At eligibility determination; and
4. At assessment; and
5. During program activities.

### **General Requirements**

For individualized career services and training services funded by WIOA Adult funds, priority of service must be given to recipients of public assistance, other low-income individuals, or individuals who are basic skills deficient.

Priority of service status is established at the time of eligibility determination and does not change throughout the period of participation. Priority does not apply to the dislocated worker population.

When programs are statutorily required to provide priority, such as the WIOA Adult program, after eligibility for that program is determined, then priority must be provided in the order below:

1. Group 1 - First priority must be given to Veterans and eligible spouses who are also Economically Disadvantaged Adults (i.e., recipients of public assistance and other low income individuals) or individuals who are basic skills deficient. Veterans and Eligible Spouses would receive first priority for services with WIOA Adult formula funds for individualized career services and training services.
2. Group 2 - Second priority must be given to Economically Disadvantaged Adults (i.e., recipients of public assistance or other low income individuals), or individuals who are basic skills deficient.
3. Group 3 - Third priority must be given to Veterans and eligible spouses who are not economically disadvantaged (i.e., not recipients of public assistance or other low income individuals) or are not basic skills deficient.
4. Group 4 - Fourth priority is given to priority populations established by the Governor and/or Local Workforce Development Board.
5. Group 5- Fifth priority is given to non-covered persons outside the groups given priority under WIOA:
  - Individuals employed less than full-time who are in search of full-time employment;
  - Individuals who are employed in a position that is inadequate with respect to their skills and training;
  - Individuals who are employed who meet the definition of a low-income individual in WIOA Sec. 3(36); and,
  - Individuals who are employed, but whose current job's earnings are not sufficient compared to their previous job's earnings from their previous employment, per State and/or local policy.

#### Income Eligibility Requirements

When determining eligibility for programs that have a statutory requirement to serve low income individuals, many types of military service-related income are exempt. Certain pay, financial allowances, and financial benefits must be disregarded for veterans, transitioning service members, or any other individuals for whom these amounts would normally be applied in making an eligibility determination.

The following types of military-related income are not included in low-income calculations:

- Military pay or allowances paid while on active duty;
- b) Military pay or allowances paid by the VA for vocational rehabilitation, disability payments, or related VA-funded programs (including the VA work study allowance), and including any financial benefits received under the following chapters of Title 38 U.S.C.:
  - Chapter 11 - Compensation for service-connected disability or death;
  - Chapter 13 - Dependency and indemnity compensation for service-connected deaths. Chapter 30 - All-volunteer force educational assistance program;
  - Chapter 31 - Training and rehabilitation for veterans with service-connected disabilities;
  - Chapter 33 – Post-9/11 educational assistance;

- Chapter 35 - Survivors' and dependents' educational assistance; and
- Chapter 36 - Administration of educational benefits.
- Any benefits received under Title 10 U.S.C. Chapter 106 - Educational assistance for members of the selected reserve. Page 7 of 8

The following types of military-related income are included in low-income calculations:

- Pension payments authorized by Title 10 U.S.C., such as those received by military retirees, regardless of whether their retirement was based on disability; and
- Pension benefits paid under Title 38 U.S.C. Chapter 15 – Pensions for low-income, wartime veterans who are disabled for reasons not connected or related to their military service.

Also note that VA benefits for education and training services do not constitute “other grant assistance” under WIOA’s eligibility requirements. Therefore, veterans or eligible spouses who are eligible for the GI Bill or other forms of VA-funded education or training are not required to coordinate their entitlement to those benefits with their eligibility for WIOA-funded training, as stipulated under 20 CFR Section 680.230. Staff may not require veterans or eligible spouses to exhaust their entitlement to VA funded training prior to enrolling them in WIOA-funded training.

#### Documentation

It is not necessary for staff to verify the status of priority of service until the individual undergoes eligibility determination and is enrolled in a WIOA individualized career service or training service. Until the point at which the participant receives an individualized career service or training service, an individual who states they meet the priority eligibility criteria must be accorded priority of service on the basis of self-attestation.

In instances in which eligibility determination and enrollment in a WIOA individualized career service occurs at the point of entry, a covered person must be enrolled, provided immediate priority, and permitted to follow-up subsequently with any required verification of his or her status as a covered person. WIOA Programs Documentation Requirements Policy lists sources of documentation that shall be used to verify whether an adult participant qualifies for priority of service under WIOA.

#### **ACTION**

Bring this policy to the attention of all affected staff all relevant parties.

#### **INQUIRIES**

If you have any questions regarding this policy, please email [info@ocworkforcesolutions.com](mailto:info@ocworkforcesolutions.com).

#### **ATTACHMENTS**

None