




COMMONWEALTH OF VIRGINIA
VIRGINIA COMMUNITY COLLEGE SYSTEM

WORKFORCE INNOVATION AND OPPORTUNITY ACT

VIRGINIA WORKFORCE LETTER (VWL) No. 18-04 Change 2

TO: Local Workforce Development Boards

FROM: George Taratsas 
Director, WIOA Administration and Compliance

SUBJECT: Priority of Service

EFFECTIVE DATE: November 1, 2021

PURPOSE: To provide Local Workforce Development Areas guidance on serving individuals under the Priority of Service requirements in accordance with the Workforce Innovation and Opportunity Act (WIOA).

REFERENCES:

- Section 4215 of Title 38 United States Code;
- Workforce Innovation and Opportunity Act, Section 3(24);
- Workforce Innovation and Opportunity Act, Section 102 (2) (C) (21);
- Workforce Innovation and Opportunity Act, Section 134 (c) (2) (A) (xii);
- Workforce Innovation and Opportunity Act, Section 134 (c) (3) (E);
- 20 Code of Federal Regulations 676.105;
- 20 Code of Federal Regulations 679.560 (b) (21);
- 20 Code of Federal Regulations 680.140 (a);
- 20 Code of Federal Regulations 680.650;
- Required Elements for Submission of the Unified or Combined State Plan and Plan Modification under the Workforce Innovation and Opportunity Act – OMB Control # 1205-0522;
- Training and Employment Guidance Letter # 22-04 - Serving Military Spouses as Dislocated Workers under the Workforce Investment Act Dislocated Worker Grant;
- Training and Employment Guidance Letter # 10-16, Change 1 - Performance Accountability Guidance for WIOA Title I, Title II, Title III, and Title IV Core Programs;

- Training and Employment Guidance Letter # 19-16 – Guidance on Services provided through the Adult and Dislocated Worker Programs under WIOA and the Wagner-Peyser Act Employment Service (ES), as amended by Title III of WIOA, and for Implementation of the WIOS Final Rules;
- Training and Employment Guidance Letter # 07-20—Effective Implementation of Priority of Services Provisions for Most in Need Individuals in the Workforce Innovation and Opportunity Act (WIOA) Adult Program;
- Training and Employment Notice # 15-10 – Protocol for 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 (DOL);
- Virginia Board of Workforce Development Policy 600-01 (2016), Veterans’ Priority of Service;

REVISION HISTORY:

This Virginia Workforce Letter (VWL) rescinds and replaces VWL #18-04: Priority of Service Change 1.

Provides technical updates as a result of TEGE #07-20, including new requirement for 50.1-75% of adult participants being from priority groups.

DEFINITIONS:

Priority of Service – is when an eligible individual receives access to a service earlier in time than an individual not in a priority group *or*, if the resource is limited, the person in the priority group receives access to the service instead of a person outside any priority group.

WIOA Priority Groups - The WIOA Title I Adult program has a statutory priority of service criteria for individuals who are:

- i. Recipients of public assistance; or
- ii. Other low income individuals; or
- iii. Individuals who are basic skills deficient.

Other Definitions:

Adult – a person who is 18 years of age or older.

Basic Skills Deficient: WIOA Sec 3(5)(B)—The term “basic skills deficient” means, with respect to an individual—

- (A) who is a youth, that the individual has English reading, writing, or computing skills at or below the 8th grade level on a generally accepted standardized test; or
- (B) who is a youth or adult, that the individual 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.

Covered Person – is a Veteran or eligible spouse who met the required Priority of Service criteria.

Eligible Spouse – the spouse of any of the following:

- a. Any veteran who died of a service-connected disability

- b. Any veteran who has a total disability resulting from a service-connected disability
- c. Any veteran who dies while a disability so evaluated was in existence
- d. Any member of the Armed Forces serving active duty who, at the time of application for assistance, is listed, pursuant to section 556 of title 37 and regulations issued by the Secretary concerned, in one or more of the following categories and has been so listed for a total of more than 90 days:
 - i. Missing in action,
 - ii. Captured in the line of duty by a hostile force, or
 - iii. Forcibly detained or interned in the line of duty by a foreign government or power.

Low -Income Individuals – The term “low-income individual” means an individual who—

- 1. Is in a family with total family income that does not exceed the higher of—
 - a. the poverty line; or
 - b. 70 percent of the lower living standard income level;
- 2. Is a homeless individual (as defined in section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e–2(6)), or a homeless child or youth (as defined under section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a (2));
- 3. Receives or is eligible to receive a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);
- 4. Is a foster child on behalf of whom State or local government payments are made; or
- 5. Is an individual with a disability whose own income meets the income requirement of clause (1), but who is a member of a family whose income does not meet this requirement;
- 6. Is a youth who lives in a “high poverty area” defined in WIOA sec. 3(36)

Individuals with Barriers to Employment:

- (1) Displaced homemakers
- (2) Low-income individuals
- (3) Indians, Alaska Natives, and Native Hawaiians
- (4) Individuals with disabilities including youth who are individuals with disabilities
- (5) Older individuals (55 and older)
- (6) Ex-offenders
- (7) Homeless individuals (as defined in the Violence Against Women Act), or homeless children and youths (as defined in the McKinney-Vento Homeless Assistance Act)
- (8) Youth who are in, or have aged out of, the foster care system.
- (9) Individuals who are English language learners, individuals who have low levels of literacy, and individuals facing substantial cultural barriers
- (10) Eligible migrant and seasonal farmworkers
- (11) Individuals within two years of exhausting lifetime eligibility under part A of title IV of the Social Security Act (TANF)
- (12) Single parents (including single pregnant women)
- (13) Long-term unemployed individuals
- (14) Such other groups as the Governor involved determines to have barriers to employment

[WIOA Sec. 3(24)]

Non-Covered Person - Refers to an individual who isn’t a veteran or eligible spouse, and who may or may not be in the WIOA priority groups.

Recipients of Public Assistance –These are individuals who receive, or, in the past six months received, or are a member of a family that is receiving or in the past six months has received, assistance through one or more of the following:

- a. Supplemental Nutrition Assistance Program
- b. Temporary Assistance for Needy Families
- c. Supplemental Security Income
- d. State or local income-based public assistance

Veteran – a person who served in the active military, naval or air service, and who was discharged or released under conditions *other than* dishonorable.

BACKGROUND:

The Workforce Innovation and Opportunity Act and the Jobs for Veterans Act require that veterans and eligible spouses receive priority when applying for services under employment and training programs funded by the U.S. Department of Labor’s Employment and Training Administration funded programs.

The WIOA Title I Adult program has a statutory priority of service criteria for individuals who are:

- i. Recipients of public assistance; or
- ii. Other low income individuals; or
- iii. Individuals who are basic skills deficient.

WIOA Section 134 (c)(3)(E) establishes a priority of service requirement for all customers served under the Title I Adult program-formula funds for employment and training activities. Under this section, American Job Center staff when using WIOA Adult funds to provide individualized career and/or training services must give priority to recipients of public assistance, other low-income individuals and to individuals who are basic skills deficient. Under WIOA, priority of service must be implemented regardless of the amount of funds available to provide services in the local area.

GUIDANCE:

Applying Priority of Service

In accordance with federal and state policy, veterans and eligible spouses are given priority of service for the receipt of employment, training and job placement services under all DOL funded job training programs and services, including WIOA Title I programs. Virginia Career Works Centers must prominently display, in all public areas, signage that informs individuals of the priority of service for veterans and eligible spouses.

In addition to veterans and eligible spouses, the WIOA Title I Adult program has three mandatory priority populations, the WIOA Priority Groups. For programs that do not have mandatory priority populations (such as the WIOA Dislocated Worker program), veterans always receive first priority followed by all other participants. All individuals meeting the priority of service, including veterans, must still meet the individual program’s eligibility criteria to receive services under the respective employment and training program.

Priority of service guidelines shall determine the order of precedence for delivery of individualized career and training services to those who have **been deemed eligible** under the Adult Title I program.

Priority of service applies to the selection procedure for services, to include individualized career and training services, in the following manner: if there is a waiting list for the service, priority of service is intended to require that a person in a priority group goes to the top of that list. Once a person outside any priority group has been approved for funding and accepted/enrolled in a training class, priority of service does not allow a person in a priority group to “bump” the enrolled person from that training class. Staff will complete the WIOA Priority of Service status form (Attachment A) to document the Priority of Service category and maintain the form in the customer’s file.

When programs are statutorily required to provide priority to a particular group of individuals, as described above, priority must be provided in the following order:

1. First, to veterans and eligible spouses who are also included in the WIOA Priority groups given statutory priority for WIOA Adult formula funds. This means that veterans and eligible spouses who are public assistance recipients, other low-income individuals, or individuals who are basic skills deficient would receive first priority for services provided with WIOA Adult formula funds for individualized career services and training services.
2. Second, to non-covered persons (that is, individuals who are not veterans or eligible spouses) who are included in the WIOA Priority groups given statutory priority for WIOA Adult formula funds.
3. Third, to veterans and eligible spouses who are not included in WIOA’s priority groups.
4. Fourth, to priority populations established by the Governor and/or Local WDB.
5. Last, to non-covered persons outside the WIOA Priority groups given priority under WIOA.

The established priority of service criteria outlined above does not mean that individualized career and/or training services may only be provided to recipients of public assistance, low-income individuals, and individuals who are basic skills deficient. Local Workforce Development Areas (LWDAs) may serve eligible individuals that do not fall into a priority group, and should focus on serving eligible individuals facing barriers to employment. However, Department of Labor (DOL) does expects that 75% of participants should fall within these priority groups and no lower than 50.1% in any state .

Local Workforce Development Boards (LWDB) may also identify local priority groups with barriers to employment, provided that it is consistent with the priority of service for veterans and is approved by the LWDB. Any additional priority groups identified must be included in the Local Priority of Service Policy and the Local Workforce Development Area Plan. The Governor may also identify statewide priority groups and, if so, they will be designated in the Combined State Plan.

Note:

When income is selected as a determinant for a priority of service group under the WIOA Adult employment and training programs, any amounts received as military pay or allowances by any person who served on active duty, and certain other specified benefits, must be disregarded for the veteran and for other individuals for whom those amounts would normally be applied when making a

determination. Military earnings are not to be included when calculating income for veterans for transitioning service members for this priority, in accordance with 38 U.S.C.4213.

Some examples of the application of priority of service:

<p>Example 1: Customer A is a veteran, and meets the WIOA priority of service criteria, and Customer B is not a veteran, and meets the WIOA priority of service criteria, then Solution: Customer A has priority for services</p>	<p>Example 2: Customer A is a not veteran, but meets the WIOA priority of service criteria, and Customer B is a veteran, but does not meet the WIOA priority of service criteria, then Solution: Customer A has priority for services</p>
<p>Example 3: Customer A is a veteran, but does not meet the WIOA priority of service criteria, and Customer B is not a veteran, and does not meet the WIOA priority of service criteria, then Solution: Customer A has priority for services.</p>	<p>Example 4: Customer A is a veteran, but does not meet the priority of service criteria, and Customer B is a veteran, and meets the WIOA priority of service criteria, then Solution: Customer B has priority for services</p>
<p>Example 5: Customer A is a not veteran, and does not meet the WIOA priority of service criteria, and Customer B is a not veteran, but meets the WIOA priority of service criteria, then Solution: Customer B has priority for services</p>	<p>Example 6: Customer A is a veteran, and meets the WIOA priority of service criteria, and Customer B is not a veteran, and does not meet the WIOA priority of service criteria, then Solution: Customer A has priority for services</p>

Policies and Procedures

Local Workforce Development Boards are required to develop policies and procedures for providing and improving the integration of priority of service into existing service delivery strategies for the populations described above. This means that Virginia Career Works Center (American Job Center) managers must work with their LWDB to establish business processes to ensure that priority populations are identified at the “point of entry” and to facilitate the implementation of priority of service by informing customers of:

1. Their entitlement or lack thereof, to priority of service;
2. The full array of employment, training and placement services available under priority of service; and
3. Any applicable eligibility requirements for those programs and/or services.

At the point of entry into the Virginia Career Works system, it is not necessary to require verification of

priority status; at this point self-attestation of priority status is acceptable. Priority status must be verified when a customer is to receive individualized career or training services.

ETA envisions that giving priority of service to these individuals means ensuring that at least 75% of the state's participants receiving individualized career and training services in the adult program are from at least one of the priority groups mentioned and expects this rate will be no lower than 50.1%. The WIOA Title I Administrator shall monitor that LWDB's maintain this expected ratio to ensure the state's performance is in line with DOL's guidance. The WIOA Title I Administrator will monitor and provide technical assistance to ensure the implementation of this measure is achieved.

When developing policies related to applying priority of service, consideration must be given to the following criteria:

- The availability of other funds for providing employment and training programs
- The needs of any locally-identified priority groups in a local area. These groups must be one of the categories of individuals with barriers to employment as defined in WIOA.
- Compliance with the 50.1-75% baseline of Adult program enrollees being members of priority groups.

ACTION REQUIRED:

Local Workforce Development Boards must establish written policies and procedures in their respective areas to ensure priority for the populations as defined in this guidance. LWDBs will be monitored for compliance with the requirement to develop a local policy on the implementation of priority of service. Compliance with local priority of service policies should be regularly monitored by the local board monitors and should be included in any procurement action that impacts service provision for Title I Adults.

INQUIRIES:

Questions regarding this guidance should be emailed to the WIOA Adult & Dislocated Worker Programs State Coordinator at wioa@vccs.edu.

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ATTACHMENTS:

Attachment A: WIOA Priority of Service Status Form