

WORKFORCE SYSTEM POLICY

Priority of Service

Effective Date: Effective Upon Publication

Last Revised: Apr. 28, 2022

Policy Owner: Pennsylvania Department of Labor & Industry Bureau of Workforce Partnership Operations

Policy Contact: Bureau of Workforce Partnership Operations RA-LI-BWPO-VETS@pa.gov.

Purpose of the Policy

This workforce system policy provides guidance to local workforce development boards for the implementation of priority of service for Workforce Innovation and Opportunity Act, or WIOA, title I Adult program customers.

Policy Statement

Priority of service helps individuals in need, and who can most benefit from the public workforce system, onto a pathway to self-sufficiency. WIOA provides a focus on serving individuals with barriers to employment and ensures access on a priority basis regardless of funding levels. WIOA requires priority of service be provided to veterans and their eligible spouses for all U.S. Department of Labor-funded job training programs as well as to public assistance recipients, low-income individuals and individuals who are basic skills deficient (including English language learners) when providing individualized career services and training services using WIOA title I Adult program funds.

Scope

This policy applies to the Office of the Governor, Local Workforce Development Boards, or LWDBs, all entities participating in a local area's workforce system as partners in the delivery of WIOA title I Adult programs, including required or additional partners and third-party entities.

Audience

Local elected officials; LWDB chairs, members and staff; PA Workforce Development Board chair, members and staff; Title I service providers; PA Department of Labor & Industry, or L&I, leadership and management.

Related Policies

WIOA Regional and Local Planning

Definitions

Basic skills deficient is defined as an adult who is unable to compute or solve problems, or read, write, or speak English at a level necessary to function on the job, in the participant's family or in society.

Eligible spouse is an individual who is the spouse of any of the following:

- 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 their spouse applying 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:
 - 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;

- c) Any veteran who has a total disability resulting from a service-connected disability, as evaluated by the Department of Veterans Affairs; or
- d) Any veteran who died while a disability 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). Similarly, for a spouse whose eligibility is derived from a living veteran or service member, that eligibility would be lost upon divorce from the veteran or service member.

Individuals with a barrier to employment are a member of one (1) or more of the following populations:

- a) Displaced homemakers;
- b) Low-income individuals;
- c) Indians, Alaska Natives and Native Hawaiians, as such terms are defined in WIOA Sec. 166;
- d) Individuals with disabilities, including youth who are individuals with disabilities;
- e) Older individuals (to mean an individual age 55 or older);
- f) Ex-offenders;
- g) Homeless individuals (as defined in section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6)), or homeless children and youths (as defined in section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434(a)(2)));
- h) Youth who are in or have aged out of the foster care system;
- i) Individuals who are English language learners, individuals who have low levels of literacy, and individuals facing substantial cultural barriers;
- j) Eligible migrant and season farmworkers, as defined in WIOA Sec. 167(i);
- k) Individuals within two (2) years of exhausting lifetime eligibility under part A of title IV of the Social Security Act (42 U.S.C. 601 et. seq.);
- l) Single parents (including single pregnant women);
- m) Long-term unemployed individuals; or
- n) Such other groups as the Governor involved determines to have barriers to employment.

Individualized career services include comprehensive and specialized assessments, development of an individual employment plan, group and individual counseling, career planning, short-term prevocational services, internships and work experiences, workforce preparation activities, financial literacy services, out-of-area job search and relocation assistance, and English language acquisition and integrated education and training programs.

Low-income Individual means an individual who is a member of one (1) or more of the following populations:

- Recipients of public assistance;
- Individuals in a family with total income below the poverty line or 70% of the lower living standard income level;
- Homeless;
- Foster youth;
- A recipient of or is eligible to receive a free or reduced-price lunch under the Richard B. Russell National School Lunch Act; or
- Individuals with disabilities with individual income below the poverty line or 70% of the lower living standard income level.

Recipients of public assistance means individuals who receive, or in the past six (6) months have received, or are a member of a family that is receiving or in the past six (6) months has received, assistance through one (1) or more of the following:

- Supplemental Nutrition Assistance Program (SNAP);
- Temporary Assistance for Needy Families (TANF);
- Supplemental Security Income (SSI); or
- State or local income-based public assistance.

Statutory priority groups are groups of individuals given priority of service in compliance with the statutory requirements of WIOA. The three (3) groups of individuals targeted for priority when providing individualized career services and training services in the WIOA title I Adult program are:

- Public assistance recipients;
- Low-income individuals; and
- Individuals who are basic skills deficient.

Veteran is a person who served on active duty in the military service (of the U.S.) for a period of more than 180 days and who was discharged or released with other than a dishonorable discharge; or was discharged or released from active duty because of a service-connected disability; or was discharged as a member of a reserve component under an order to active duty pursuant to Section 672(a), (d), or (g), 673 or 673(b) of Title 10, who served on active duty during a period of war or in a campaign or expedition for which a campaign badge is authorized and was discharged from such duty with other than a dishonorable discharge.

Performance Goals

Each LWDB's success in achieving priority of service for the targeted groups within the Adult program will be measured by a state-established formula comparing the percentage of individuals in the three (3) statutory priority targeted groups, adding those in the local discretionary priority group who were enrolled in the Adult program versus the percentage of all other individuals who were enrolled in the program. The goal for each local area is to serve a greater percentage of Adult customers from the priority targeted groups than all other individuals. The Department of Labor's Employment & Training Administration envisions 75% of Adult program participants be from the priority targeted groups. Local areas must ensure a minimum benchmark of 50.1% of Adult participants be composed of individuals in one or more of the three (3) statutory priority groups.

Local areas are expected to conduct active outreach to recruit the statutory priority groups.

Applying Priority of Service

Individuals in the statutory priority groups are given priority over other individuals for receipt of individualized career services and training services funded by the WIOA title I Adult program. Veterans and eligible spouses within these groups receive priority over non-veterans. Adult priority is determined for the targeted groups during eligibility and enrollment.

Veterans' Priority of Service Across Programs

Eligible veterans and eligible spouses receive priority of service across all programs and funding streams. For example, an eligible veteran who is also a dislocated worker will receive priority of service in the dislocated worker program. An eligible spouse who is 20 years old and a displaced homemaker would receive priority of service as a WIOA out-of-school youth **in the Title I Youth program** (after the appropriate Title I OSY eligibility determination is made).

Interaction of the Adult Priority and Veterans' Priority of Service

The priority of service for veterans and eligible spouses applies across all qualified employment and training programs. Priority of service for public assistance recipients, low-income individuals and individuals who are

basic skills deficient applies only to the receipt of individualized career services and training services in the WIOA title I Adult program. LWDBs may establish a local discretionary priority that also gives priority to other individuals specifically for the receipt of individualized career services and training services in the WIOA title I Adult program. With regard to the priority of service for veterans and eligible spouses, priority of service for the WIOA title I Adult program must be applied in the following order:

1. Veterans and eligible spouses who meet the requirements of a statutory priority group and Adult program eligibility must receive the highest level of priority for services;
2. Other individuals (not veterans or eligible spouses) who meet the requirements of a statutory priority group and Adult program eligibility then receive the second level of priority for services;
3. All other veterans and eligible spouses who do not meet the requirements of a statutory priority group but do meet Adult program eligibility, then receive the third level of priority for services;
4. Other individuals (not veterans or eligible spouses) who do not meet the requirements of a statutory priority group but do meet a local area or Governor established discretionary priority and Adult program eligibility, then receive the fourth level of priority for services; and
5. Other individuals (not veterans or eligible spouses) who do not meet the requirements of a statutory priority group and do not meet the local discretionary priority, but do meet Adult program eligibility, then receive the fifth level of priority for services.

Local Area Assessments and Discretionary Priority

Basic Skills Assessment

In assessing basic skills, local workforce staff may only use assessment instruments that are valid and appropriate and must provide reasonable accommodation in the assessment process, if necessary, for individuals with disabilities. Standardized assessments must be administered following published guidelines and locators/appraisals must be used to determine the appropriate level of use of such assessments.

An adult may be assessed as basic skills deficient through case manager observations and documented in case notes. For example, the career planner may observe that the adult is not able to read or fill out an application form or does not have basic computer literacy. A case manager may also document basic skills deficient using any one (1) of the following:

- Basic skills assessment questions or test results;
- School records;
- Referral or records from a title II Adult Basic Education program; or
- Referral or records from an English Language Learner program.

Case notes must include the assessment used. The career planner does not need to keep a hard copy of the information verified in the participant's case file. For example, a career planner verifies an individual is basic skills deficient by viewing school records, specifically, enrollment in a WIOA title II Adult Education/Literacy program. The case notes must include auditable information, such as the name of the school and the date of enrollment, which could allow an auditor/monitor to later retrieve this information.

Example: If a standardized test is used to assess basic skills, the test should include reading, writing or computing skills. Lacking soft skills or specific skills needed for a particular job may not be used to determine otherwise high-functioning individuals as basic skills deficient.

A youth 18 or older, who was determined basic skills deficient for the WIOA title I Youth Program, may be co-enrolled in the WIOA title I Adult Program without an eligibility re-determination, and be counted as an individual who meets Adult priority of service, if the original determination was made no more than six (6) months prior to the date of co-enrollment.

Local policy may further define the criteria that will be used to identify and document basic skills deficient individuals.

A youth 18 or older, who was determined low-income for the WIOA title I Youth Program, may be co-enrolled in the WIOA title I Adult Program without an eligibility re-determination, and be counted as an individual who meets Adult priority of service, if the original determination was made no more than six (6) months prior to the date of co-enrollment.

Local Discretionary Priority

A LWDB may also identify a new priority of service category if it is consistent with the intent of the Adult priority to serve individuals with barriers to employment. For example, a local area may add a discretionary priority to serve individuals with a disability. As a discretionary focus of this type is not a statutorily mandated priority in the law, veterans, eligible spouses and the WIOA statutory priority groups must still receive the highest priority in local areas that set a local discretionary priority. Local discretionary groups receive fourth priority of service and must not affect the statutory priorities for the WIOA Adult or Veteran priority populations as detailed in TEGL 7-20, page 5.

A discretionary priority must be identified in local policy and in the local workforce development area's local plan, including data to support the need of the discretionary priority and how the priority will be documented and implemented.

Local Policy Requirements

Local workforce areas are required to have Adult priority of service policies and procedures in place that include the following:

- Local procedures for determining priority during the eligibility process and enrollment;
- What criteria and procedures will be used to assess priority for basic skills deficient individuals;
- Any local discretionary priorities that will be established in addition to the three (3) statutory priority groups, the data to support the need for the local priority, and the documentation that will be required from an individual for the local priority; and
- Local procedures for internal monitoring of the goal to serve a minimum of 50.1% of Adult participants from the priority targeted groups.

Supporting Information and References

- Workforce Innovation and Opportunity Act of 2014 (WIOA or Opportunity Act), Public Law (Pub. L.) 113-128, enacted July 22, 2014
- Training and Employment Guidance Letter (TEGL) No. 07-20, Effective Implementation of Priority of Service Provisions for Most in Need Individuals in the Workforce Innovation and Opportunity Act (WIOA) Adult Program
- Training and Employment Guidance Letter (TEGL) No. 26-13, Impact of the U.S. Supreme Court's Decision in United States vs Windsor on Eligibility and Services Provided Under Workforce Grants Administered by the Employment and Training Administration
- 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 Guidance Letter (TEGL) No. 06-14, Program Year (PY) 2013/Fiscal Year (FY) 2014 Data Validation and Performance Reporting Requirements and Associated Timelines

Contact Entity

Technical assistance requests and inquiries related to this policy should be forwarded to the attention of Bureau of Workforce Development Administration via the following resource account: RA-LI-BWPO-VETS@pa.gov.

Summary of Changes

There are no changes yet made to this policy.

Public Comment

This policy was made available for public review and comment by LWDBs, authorized administrators of WIOA partner programs and service providers, system stakeholders and the general public at large effective Nov. 2, 2021 until Dec. 2, 2021. No comments were received.

A revised version of the policy was republished for public review from March 31, 2022 through Apr. 14, 2022. The comments received and responses from L&I can be found in **Attachment 1: Epilogue**.