

Pennsylvania Office of Vocational Rehabilitation (OVR)
VR Services Portion of the Pennsylvania WIOA Combined State Plan
Proposed 2019 Amendment or modification to Description (m) ORDER OF SELECTION

**Italicized text and asterisks denote amendment. **

Describe:

1. WHETHER THE DESIGNATED STATE UNIT WILL IMPLEMENT AN ORDER OF SELECTION. IF SO, DESCRIBE:

A. THE ORDER TO BE FOLLOWED IN SELECTING ELIGIBLE INDIVIDUALS TO BE PROVIDED VR SERVICES.

PRIORITY OF CATEGORIES TO RECEIVE VR SERVICES UNDER THE ORDER First Priority: Most Significantly Disabled (MSD) Second Priority: Significantly Disabled (SD) Third Priority: Non—Significantly Disabled (NSD)

DESCRIPTION OF PRIORITY CATEGORIES

First Priority: Most Significantly Disabled (MSD)

- The physical, mental, or sensory impairment(s) must seriously limit three or more of the individual's functional capacities; and
- The individual must be expected to require two or more vocational rehabilitation services that are expected to last six months from the date of the Individualized Plan for Employment (IPE) or be needed on an ongoing basis to reduce an impediment to employment.

Second Priority: Significantly Disabled (SD)

- The physical, mental, or sensory impairment(s) must seriously limit one or more of the individual's functional capacities; and
- The individual must be expected to require multiple vocational rehabilitation services that are expected to last six months from the date of the Individualized Plan for Employment (IPE) or be needed on an ongoing basis to reduce an impediment to employment.

Third Priority: Non—Significantly Disabled (NSD)

- The individual has a physical, mental, or sensory impairment that does not meet the definition for MSD or SD.

**The Order of Selection shall not be based on any other factors, including:*

- *Any duration of residency requirement, provided the individual is present in the State;*
- *Type of disability;*
- *Age, gender, race, color, or national origin;*
- *Source of referral;*
- *Type of expected employment outcome;*
- *The need for specific services or anticipated cost of services required by an individual; or*
- *The income level of an individual or an individual's family*

Pre-Employment Transition Services and OOS:

The Rehabilitation Act, as amended, does not exempt students with disabilities receiving pre-employment transition services prior to the determination of eligibility from a State's OOS.

Students with disabilities can continue to receive ongoing pre-employment transition services while placed on an order of selection wait list (closed order of selection priority category), as long as they have participated in a pre-employment transition services before being determined eligible for VR services and assigned to a closed order of selection priority category.

Federal regulations allow for the continuation of pre-employment transition services only for those students who received such services prior to an eligibility determination and the assignment to a closed order of selection priority category (34 CFR §361.36(e)(3)(i)).

Therefore, students, families, advocates, and educators are advised to carefully consider the need to begin pre-employment transition services as early as possible in the transition process and prior to eligibility determination. Potentially eligible students with disabilities (i.e. students who may or may not have applied for VR services (non-applicants and applicants), and only receive pre-employment transition services) will not be affected by the order of selection and will continue to receive pre-employment transition services.

*Any individual, including a student, in need of an individualized VR service (34 CFR §361.48(b)) will need to apply and be determined eligible for VR services, in order to receive such services under an approved individualized plan for employment (IPE). **

B. THE JUSTIFICATION FOR THE ORDER.

**The Rehabilitation Act, as amended, requires that an Order of Selection for Services be instituted any time that limited resources impede the agency from providing services to all eligible individuals. **

Because OVR does not believe it will be able to serve all eligible individuals with the available resources, it has adopted an Order of Selection.

The Order of Selection in Pennsylvania gives priority first to individuals with the Most Significant Disabilities (MSD); secondly, to individuals with Significant Disabilities (SD); and third to individuals with Non-Significant Disabilities (NSD).

**PA OVR has operated under an Order of Selection since March 1, 1994. OVR has provided vocational rehabilitation services only to customers who have a Most Significant Disability (MSD). With the use of ARRA funds, beginning on October 18, 2010, OVR expanded the Order of Selection to include individuals who have a Significant Disability (SD). Consistent with OVR's policy on the Order of Selection, OVR evaluated its ability to meet the second priority category and, from a fiscal and programmatic standpoint, OVR determined that it was unable to do so and on Monday, April 23, 2012, the SD and Non-Significant Disability (NSD) categories were closed to all new customers. OVR has been serving only MSD customers since 2012.*

The WIOA amendments require a minimum of 15 percent of a state's federal allocation for vocational rehabilitation (which averages approximately \$20 million annually for OVR) to be set aside for Pre-Employment Transition Services for students with disabilities between 14 and 21 years of age. This reserve has resulted in decreased funding for other existing programs. This 15 percent represents the minimum amount that must be utilized for these services. OVR

anticipates exceeding the 15 percent reserve in the current FFY based on current obligations and spending patterns. There are also currently 105,000 commonwealth students with disabilities who might be eligible to enroll in pre-employment transition services. While OVR regularly evaluates availability of funds and administers fiscal forecasting, the inability to accurately predict the number of potentially eligible students will make budgeting for the pre-employment transition services and VR programs challenging.

WIOA prohibits restricting the provision of pre-employment transition services, which resulted in Pennsylvania's program enrollment nearly doubling from 13,946 in fiscal year 2016 to 25,601 in fiscal year 2017 – with the cost to provide these services far exceeding the 15 percent set-aside. To date, OVR has had to invest approximately \$89 million in the pre-employment transition services program.

Due to an anticipated decline in federal reallocation funds, OVR reevaluated its Order of Selection and determined that OVR's available and projected resources will not be adequate to ensure the provision of the full range of vocational rehabilitation services to all eligible individuals. OVR consulted with the Pennsylvania Rehabilitation Council (PaRC) at their March 6, 2019, Full Council meeting and consulted with director of the Client Assistance Program (CAP) on budgetary concerns, analysis, and the need to seek approval from Rehabilitation Services Administration (RSA) to close the Order of Selection which will result in the establishment of a waiting list for the VR program. At the March 7, 2019, OVR State Board meeting, the Board voted unanimously to allow OVR to proceed with taking necessary steps to close the Order of Selection.

Upon approval by the RSA, OVR will close Priority Categories MSD, SD, NSD on July 1, 2019. All categories will be closed. OVR shared this info with RSA, PaRC, OVR State Board & the CAP at public meetings to inform consumers & stakeholders.

New individuals determined eligible will be placed on a waiting list until OVR has the available resources to provide the full range of services to eligible customers. However, services will continue for all customers with approved individualized plans for employment (IPEs) with an effective date prior to July 1, 2019. This wait list will be statewide and based upon customers' assigned priority categories and application dates. OVR will continue to provide pre-employment transition services to potentially eligible (PE) students. OVR will continue to provide pre-employment transition services to eligible students who began receiving them prior to eligibility determination and placement in a closed order of selection priority category.

- Individuals applying for services after the date the Order of Selection is closed on July 1, 2019, will be interviewed and their eligibility and order of selection determination will be made. Eligible customers will be placed on a waiting list per category. When financial resources are available, first priority will be given to customers with a most significant disability, second priority to customers with a significant disability, and third priority to customers with a non-significant disability. This ensures that services are prioritized for individuals with the most significant disabilities. Customers in the MSD category who have been placed on a wait list will be released based on the date they applied, with the oldest application dates being released first. Rationale for placement will appear in the customer's case file.*
- Each customer placed on a waiting list will be notified in writing of the priority categories, his or her assignment to a particular priority category classification, and be informed to alert OVR regarding possible reclassifications due to a change in the individual's*

circumstances or due to any misclassifications. The individual will also be informed of his or her right to appeal the category assignment through informal or formal review and of the availability of assistance from the Client Assistance Program.

- *Customers who do not meet the Order of Selection criteria for receiving VR services will be provided:*
 - a. *Information and referral services will remain available to eligible individuals who are not in an open priority group. These individuals will be given information and referrals to other appropriate Federal and State programs, including programs carried out by other components of the Statewide Workforce Development System, best suited to address the specific employment needs of the individual.*
 - b. *No IPE will be written to provide such services to these individuals.*

Procedure for processing applications:

1. *Upon receipt of referral, counselor meets with applicant to complete application and inform them about Order of Selection and resources that can assist them while on the waitlist.*
2. *Counselor will input data and application date; scan and upload documents in OVR's CWDS database systems; and determine eligibility within 60 days from the date of application.*
3. *After eligibility determinations are made, customers will be assigned to an order of selection priority category based on their functional limitations and need for multiple VR services over an extended period of time (currently defined as 6 months).*
4. *CWDS will add the case to a waiting list in the system, not allowing services to proceed. Notice of such (as outlined above) will be sent to the customer.*

Procedure for putting customers on the waiting list:

1. *For each priority category, customers will be put on the waiting list based upon application date.*
2. *OVR Central Office will maintain this list through the CWDS.*

Procedure for taking customers off the deferred list:

1. *OVR will determine when to open each category based upon financial availability. One priority category will be opened at a time to clear the waiting list for that priority category before opening the next priority category.*
2. *If OVR is unable to serve everyone in a specific category, customers will be taken off the list by month of application, starting with the customers who have been waiting the longest to receive services.*
3. *A monthly list will be generated by CWDS. Each quarter, based on financial availability, OVR will determine how many customers will be taken off the deferred list for the recently opened priority category.*
4. *Notice will be provided to district offices that they can begin developing plans for customers in a certain range of dates, based on the application date.*

5. *The District Administrator will ensure customers are assigned to counselors.*
6. *Counselors will complete an IPE within 90 days from the date the client was taken off the waiting list. **