

WIOA Guidance Letter 16-04



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DATE: June 14, 2017
TO: LWDB Executive Directors
FROM: Mike Beene, Director Workforce Services
CC: Workforce Services, Fiscal, CRC
RE: Priority of Service

Purpose: The purpose of this Guidance Letter is to provide assistance to Local Workforce Development Boards (LWDBs) regarding the priority of service for individuals under Title I of WIOA for participants and special populations.

References: WIOA Sec. 3(24), 3(36), 134 (c)(3)(E), 20 CFR Parts 680.600 through 680.660, 20 CFR Part 1010; 38 U.S.C 4215; TEGL 19-16.

Background: Services provided to adults and dislocated workers under Title I of WIOA can be a pathway to the middle class. Across all titles, WIOA focuses on serving “individuals with barriers to employment”, and seeks to ensure access to quality services for these populations. This Guidance Letter will provide direction for developing local policy to serve individuals under the priorities established under WIOA

Statutory Priority for Adult Funds

Section 134(c)(3)(E) of WIOA establishes a priority requirement with respect to funds allocated to a local area for adult employment and training activities. When using WIOA Adult funds to provide individualized career services, training services, or both must give priority to recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient.

Section 3(36) of WIOA defines a low-income individual as one who

- i. receives, or in the past 6 months has received, or is a member of a family that is receiving or in the supplemental nutrition assistance program, the program of block grants to States for temporary assistance for needy families program, or the supplemental security income program;
- ii. is in a family with total family income that does not exceed the higher of the poverty line or 70 percent (70%) of the lower living standard income level;
- iii. is a homeless individual;
- iv. receives or is eligible to receive a free or reduced priced lunch;
- v. is a foster child on behalf of whom State or local government payments are made; or
- vi. is an individual with a disability whose own income meets the income requirement listed in clause ii, but who is a member of a family whose income does not meet this requirement.

Section 3(5)(B) of WIOA defines basic skills deficient as an individual:

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.

English language learners meet the criteria for basic skills deficient and must be included in the priority populations for the Title I Adult program.

Under WIOA, priority must be implemented regardless of the amount of funds available to provide services in the local area. The priority is to be applied for the provision of Adult individualized career services and training services. There are no restrictions to providing basic career services which may be provided to any eligible adult.

LWDBs must develop policies and procedures to ensure that the priority system under WIOA is implemented.

Veterans Priority – All DOL Funding

Veterans receive priority of service in all Department of Labor-funded training program under 38 U.S.C. 4215 and described in 20 CFR part 1010. A veteran still must meet each program's eligibility criteria to receive services under the respective employment and training program.

Certain targeting provisions are derived from a statutory mandate that requires a priority or preference for a particular group of participants or requires spending a certain portion of program funds on a particular group of participants. These are mandatory priorities. For these programs with mandatory priorities, the veterans' priority is applied as follows:

- An individual meeting both the veterans' and the mandatory priorities or spending requirement or limitation should obtain the highest preference for the program.
- Nonveterans within the programs mandatory priority should receive a preference over eligible veterans outside the program-specific mandatory priority or spending requirement or limitation.
- Similarly, eligible veterans outside the program-specific mandatory priority or spending requirement or limitation should receive priority over nonveterans outside the priority or spending requirement of limitation (once the spending requirement or limitation is met).

Special Populations – All WIOA Funding

Across all titles, WIOA focuses on serving "individuals with barriers to employment" as defined in WIOA section 3(24) and seeks to ensure access to quality services for these populations. The barriers to employment identified (in no particular order) for all titles of WIOA include:

- Displaced homemakers;
- Low-income individuals;
- Indians, Alaska Natives and Native Hawaiians;
- Individuals with disabilities, including youth who are individuals with disabilities;
- Older individuals (age 55 and older);
- Ex-offenders;
- Homeless individuals;
- Youth who are in or have aged out of the foster care system;
- Individuals who are English language learners, individuals who have low levels of literacy, and individuals facing substantial cultural barriers;
- Eligible migrant and seasonal farmworkers;
- Individuals within two years of exhausting lifetime TANF eligibility;
- Single parents (including single pregnant women);

- Long-term unemployment individuals;
- Such other groups as the Governor involved determines to have barriers to employment.

LWDBs should actively seek out individuals with barriers to employment and provide those participants with relevant services under WIOA Title I funded programs, in accordance with the local priority of service policies. Individuals with barriers to employment should be the next level of consideration after statutory priorities in establishing local policy. This does **not** mean that only individuals with barriers to employment can be served.

Local Policy Considerations

Local Boards must establish criteria by which the one-stop center will apply the priority of service. Such criteria may include:

- a. Availability of other funds for providing services
- b. Needs of specific groups in the local area
- c. Other appropriate factors

The local Board may establish a process that also (additionally) gives priority to other eligible individuals, so long as that process remains consistent with Sec. 134 and Veteran priorities.

Priority must be provided in the following order:

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

Policies/Processes that provide service to other eligible individuals while remaining consistent with prevailing statute and regulations could include:

1. Flexibility to serve other individuals when required priority individuals have been served, are not available or are not appropriate to receive a specific service (e.g. OJT, customized training)
2. Service to other eligible individuals does not impair the capacity to fully service required priority individuals (e.g., certain individual career services)

In developing Local Policies and Procedures implementing WIOA's priority of service, Local Boards are reminded:

1. Priority of service is NOT an eligibility factor or criteria to limit which individuals will receive service
2. Although priority for Adult individualized career and training services must be given to recipients of public assistance, other low-income individuals, individuals who are basic skills deficient, and eligible veterans; this does not necessarily mean individualized career services and/or training services may only be provided to such individuals.

3. Except for eligible Veterans, there is no priority of service requirement for ‘basic’ career services or for services funded using WIOA Youth or WIOA Dislocated Worker funding. Veterans receive priority in all DOL funded training programs. Low-income criteria applies to eligibility when specified in the Act as an eligibility factor for certain Youth participants.
4. Except where service to a specific population is authorized by statute (e.g. Sec. 166, Native Americans) it is unlawful under WIOA sec. 188(a)(2) to use demographic information to limit which individuals will receive services.
 - a. Local Boards are strongly discouraged from setting arbitrary percentages, numbers or quotas of public assistance recipients, low income individuals, basic skills deficient, veterans, etc. to be serviced.

For questions or additional technical assistance, please contact Dennis Cooper @ (316) 771-6810, Dennis.Cooper@ks.gov or Trent Howerton @ (913) 908-6223, Tren.Howerton@ks.gov