

New Jersey

Workforce Innovation Notice 11-16 Change 1(A)

TO: Workforce Development System

SUBJECT: Priority of Service under Workforce Innovation and Opportunity Act Title I programs.

DATE: February 21, 2018

Purpose

To provide additional information regarding priority of service policies under Workforce Innovation and Opportunity Act (WIOA) programs. This document updates NJWIN 11-16 by adding sections relating to how local areas may develop policies on serving other individuals with barriers to employment (see page 5) under the WIOA Title I Adult program, in addition to the mandatory priority groups.

Background

WIOA Sec. 134 (c)(3)(E) establishes a priority of service requirement for customers served under the WIOA Title I adult program. Training and Employment Guidance Letter (TEGL) 3-15 provides guidance on applying those priorities as well as the priority of service for veterans and eligible military spouses. This guidance provides the sections of TEGL 3-15 that address priority of service and related definitions and policies.

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. Under this section, One-Stop Center staff responsible for these funds must give priority to recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient in the provision of **individualized** career services and **training** services. Under WIA, priority was required to be given to public assistance recipients and low-income individuals when States and local areas determined that allocated funds were limited. Under WIOA, priority must be provided regardless of the level of funds. WIOA also expanded the priority to include individuals who are **basic skills deficient** as defined in WIOA section 3(5). **(TEGL 3-15)**

Adult Priority Groups

The following are the groups identified for priority of service for the WIOA Adult Program:

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

Other Low Income Individuals

Other low-income individuals include those who are any one of the following:

- (1) 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) A homeless individual as defined in the Violence Against Women Act of 1994, or a homeless child or youth (as defined under section 725(2) of the McKinney-Vento Homeless Assistance Act
- (3) An individual who receives or is eligible to receive a free or reduced price lunch under the Richard B. Russell National School Lunch Act;
- (4) A foster child on behalf of whom State or local government payments are made; or
- (5) 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.

TEGL 3-15 states that individuals who are underemployed (see Adult and Dislocated Worker Program and Training Eligibility Guidelines) **and** meet the definition of a low-income individual may receive career and training services under WIOA on a priority basis.

Basic Skills Deficient Individuals

A basic-skills deficient individual, for the purposes of the WIOA Adult and Dislocated Worker programs, is an adult 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 is an individual who meets any one of the following criteria:

- Has English reading, writing, or computing skills at or below the 8th grade level (at or below 8.9 grade level) on a generally accepted standardized test or a comparable score on a criterion-referenced test
- Lacks a high school diploma or high school equivalency and is not enrolled in secondary education
- Is currently enrolled in a WIOA Title II adult literacy program

Policies and Procedures

The following provides guidance regarding the application of priority of service under the WIOA Adult program and the development of local policies:

WIOA Adult Program Priority-Veterans and eligible spouses (these are defined on page 5) continue to receive priority of service for **all** job training programs funded by the United States Department of Labor, which include WIOA programs. The WIOA Title I **Adult** program has a statutory priority for individuals who are receiving public assistance, other low-income individual and basic-skills deficient individuals. Local areas may also identify local priority groups from among individuals with barriers to employment identified in WIOA (see below).

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

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

- 1.** First, to veterans and eligible spouses who are also included in the 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.
- 2.** Second, to non-covered persons (that is, individuals who are not veterans or eligible spouses) who are included in the groups given statutory priority for WIOA **Adult** formula funds. (public assistance recipients, other low-income individuals and individual who are basic skills deficient)
- 3.** Third, to veterans and eligible spouses who are **not** included in WIOA's priority groups, but who **are** included in the locally-identified priority group.
- 4.** Fourth, to non-covered individuals who are not included in WIOA's priority groups, but are included in the locally-identified priority group.
- 5.** Last, to non-covered persons (not veterans or eligible spouses) who do not meet the statutory priority outside the groups given priority under WIOA (public assistance recipients, other low-income individuals and individual who are basic skills deficient) and the local area priority group.

Individuals may meet multiple categories; in these cases, the highest priority level that a person is eligible for applies to them. For example, a local area identifies ex-offenders as a local priority group. If a person is an ex-offender *and* low income they would receive first or second priority, depending on their veteran status.

Military Pay

When past income is an eligibility determinant for Federal employment or 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 in making an eligibility determination. **Military earnings are not to be included** when calculating income for veterans or transitioning service members for this priority in accordance with 38 U.S.C. 4213.

TEGL 3-15 requires local area to develop policies and procedures for providing priority of service for the populations described above for participants served in the WIOA Title I Adult program. The State is required to monitor local areas to ensure that these procedures have been developed and implemented. When developing policies related to applying priority of service, a One-Stop Operator may consider the following criteria:

- The availability of other funds for providing employment and training programs
- The needs of any individual identified as priority under local policy. These individuals must be individuals with barriers to employment as defined in WIOA. (some of these are already identified in the mandatory priority groups)

LWDBs are encouraged to 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. Where there is overlap in priority groups, WDBs can apply the highest level of priority that is relevant to that group.

Examples:

Determining Eligibility for Priority of Service for Veterans and Eligible Spouses

The following are used to determine eligibility for priority of service over non-veterans for receipt of services (covered person). This priority is only used if the person is already eligible under one of the WIOA programs.

1. Veteran
2. Spouse of any of the following:
 - a. Any veteran who died of a service connected disability.
 - b. Any member of the Armed Forces on active duty, who at the time of application for assistance under this section, is listed in one of the following categories for at least 90 days: missing in action; captured in the line of duty by hostile force; 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.

- d. Any veteran who died while a disability so evaluated was in existence.

Any amounts received as military pay or allowance by any person who served on active duty and certain other specified benefits must be disregarded for veterans and other individuals for whom the amounts would normally be applied in making an eligibility determination. (TEGL 3-15) VA benefits for education and training services do not constitute “other grant assistance” under WIOA’s eligibility requirements. Therefore, eligibility for VA benefits for education or training services do not preclude a veteran or the veteran’s eligible spouse from receiving WIOA funded services, including training funds. Similarly, WIOA program operators may not require veterans or spouses to exhaust their entitlement to VA funded training benefits prior to allowing them to enroll in WIOA funded training.

Note that 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. One-Stop Centers must prominently display, in all public areas, signage that informs individuals of the priority of service for veterans and eligible spouses. The New Jersey Department of Labor and Workforce Development (LWD) has a poster (see **Attachment**) that is available for printing in the **Veterans Services** section of the **Workforce** page of **Inform**.

Local Policies

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. 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.
3. Except where service to a specific population is authorized by statute it is unlawful under WIOA sec. 188(a)(2) to use demographic information to limit which individuals will receive services.
4. Local Boards are strongly discouraged from setting arbitrary percentages, numbers or quotas in developing priority of service policies.
5. Local areas can select populations from the list of individuals with barriers to employment, or identify a locally determined population based on the needs of their local area. Local boards must identify the population they will serve and include this information in their local plan and submit to the State Employment and Training Commission for approval.

Recording Local Priority in America's One-Stop Operating System

If a customer meets only the local priority of services, record by selecting "Yes" from the drop-down for **Local Priority** under **Income Info** in the **Eligibility** tab. (See screenshot below)

The screenshot shows a form titled "Income Info" with three dropdown menus. The first two are "Lower Living Standard" and "Income 70% LLSIL", both set to "Not Disclosed". The third is "Local Priority", which is set to "Yes" and is circled in red. The "Local Priority" dropdown is highlighted in blue.

Definitions

Veteran-The term "veteran" means a person who served at least one day in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable. **Note:** This definition applies specifically to eligibility for priority of service. Eligibility for other veteran services may have different definitions.

Eligible Spouse - means 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 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:
 - 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. **(TEGL 10-09)**

Long-Term Unemployed-An individual with an employment history of a duration sufficient to demonstrate attachment to the workforce to the One-Stop Operator, who has been unemployed for 27 or more weeks in the previous 12 months.

Applying Priority of Service

Priority of Service - This means that 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.

Priority of service applies to the selection procedure for services such as classroom training in the following manner: if there is a waiting list for the formation of a training class, priority of service is intended to require that a person in a priority group goes to the top of that list. Priority of service applies up to the point at which an individual is both approved for funding and accepted or enrolled in a training class. Once a person outside any priority group has been approved for funding and accepted/enrolled in a training class, priority of service is **not** intended to allow a person in a priority group who is identified subsequently to “bump” the other person from that training class.

Verifying Status

At entry into the One-Stop system, it is not necessary to require verification of veteran/eligible spouse status; at this point self-attestation is acceptable. Veteran/eligible spouse status must be verified when a customer is to receive **individualized career or training services**. If an individual is already recorded in America’s One-Stop Operating System as a veteran when seeking WIOA individualized career or training services, but there is no hard documentation of their veteran status in their file, (such as a DD-214) it must be obtained and kept on file. The WIOA Adult and Dislocated Worker Eligibility Guidelines provide the documentation requirements.

Action Required

Local areas must establish written policies and procedures to ensure priority for the populations described above for participants served in the WIOA Adult program. LWD will verify implementation of these policies as part of its annual monitoring. Also, Employment Service Managers and One-Stop Operators must ensure that the attached veteran priority of service poster is prominently displayed in all public areas of One-Stop Career Centers.

Rescissions

NJWIN 11-16

References and Links:

TEGL 10-09 <http://wdr.doleta.gov/directives/attach/TEGL/TEGL10-09.pdf>

Training Employment Notice 15-10

<http://wdr.doleta.gov/directives/attach/TEN/ten2010/ten15-10.pdf>

TEGL 3-15 https://wdr.doleta.gov/directives/attach/TEGL/TEGL_03-15_Acc.pdf

Authority

New Jersey Department of Labor and Workforce Development	X
State Employment And Training Commission	

Questions

For general questions regarding this guidance, contact John Bica, Chief, Office of WDB Coordination and Support, at john.bica@dol.nj.gov

Attachment



ATTENTION

YOU MAY BE ELIGIBLE FOR PRIORITY SERVICE IF –

You served in the United States military; or were activated as a member of a National Guard or Reserve unit

OR

ARE THE SPOUSE OF –

- (1) A veteran who died of a service connected disability;
- (2) A member of the Armed Forces who is:
 - (i) Missing in action;
 - (ii) Captured in line of duty; or
 - (iii) Forcibly detained by a foreign government or power;
- (3) A veteran who has a Department of Veterans Affairs total disability rating
- (4) A veteran who died while a Department of Veterans Affairs total disability rating existed

Let the receptionist know upon check-in.