PRIORITY OF SERVICE POLICY
WORKFORCE INNOVATION AND OPPORTUNITY ACT (WIOA)
FUNDED PROGRAMS

PURPOSE:

To communicate State of New Hampshire, Department of Business and Economic Affairs / Office of Workforce Opportunity guidance on Priority of Service as promulgated in Federal regulation. Implementation of Priority of Service is required by WIOA Title I Section 134(c)(3)(E) including Veterans and Eligible Spouses according to TEGL 10-09.

POLICY:

This policy discusses priority of service requirements for Workforce Innovation and Opportunity Act (WIOA) Title I Adults for both Career Services and Training Services. Priority applies for low-income individuals, participants on public assistance, and individuals who are basic skills deficient. Veterans (and eligible spouses) continue to receive priority of service for all DOL-funded training programs.

ADDITIONAL INFORMATION AND PROCEDURES:

I. WIOA Title I Adult Priority of Service Background:

WIOA Title I Section 134(c)(3)(E) requires that priority of service be given to “recipients of public assistance, other low income individuals, and individuals who are basic skills deficient for receipt of career services … and training services.” Under WIA priority was required only when funds were limited, under WIOA priority must be given regardless of funding levels”. As described in the Act, WIOA increases access to and opportunities for employment, education, training, and support services that individuals need, “particularly those with barriers to employment.”

A. WIOA Title I Adult Priority of Service Policy

The Office of Workforce Opportunity requires that at least 65% of adult participants enrolled within a program year (i.e., between July 1st and June 30th) must fall into one of the priority categories listed below. Priority does not apply to the dislocated worker population, and participants served as incumbent workers are excluded from the priority calculation. Staff must ensure proper identification, documentation and data entry in the ETEAMS case management system.

“Priority of service” status is established at the time of eligibility determination for WIOA Title I Adult Participants and does not change during the period of participation.
Veterans continue to receive priority of service in all DOL-funded training programs but a “veteran must still meet each program’s eligibility criteria.” Thus for WIOA Title I Adult services, the program’s eligibility and priority considerations must be made first, and then veteran’s priority applied.1

Priority of service must be applied to participants that fall into one the below priority categories:

1) Recipients of public assistance.
2) Other low income individuals. The term “low income individual,” defined in WIOA Section 3(36), means an individual who:
   - Receives, or in the past 6 months has received or is a member of a family that is receiving or has received in the past six months, assistance through the supplemental nutrition program (SNAP), TANF, supplemental security income under title XVI of the Social Security Act, or a state or local income-based public assistance program; or
   - Is in a family with total family income that does not exceed the higher of:
     o The poverty line or
     o 70% of the lower living standard income level or
   - Is a homeless individual or
   - Is an individual with a disability whose own income meets the income requirements above, but who is a member of family whose income does not meet this requirement.

3) Individuals who are basic skills deficient. The term “basic skills deficient” is defined in WIOA Section 3(5) to mean a youth or 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 individual’s family, or in society. The Office of Workforce Opportunity is providing guidance for making this determination by defining it as an individual who meets ANY ONE of the following:
   - Lacks a high school diploma or equivalency and is not enrolled in secondary education; or
   - Scores 8.9 or below on an approved assessment test; or
   - Is enrolled in Title II adult education (including enrolled for ESL); or
   - Has poor English language skills (and would be appropriate for ESL even if the individual isn’t enrolled at the time of WIOA entry into participation); or
   - The case manager makes observations of deficient functioning and records those observations as justification in a case note.

B. WIOA Title 1 Adult Additional Priority of Service Participants

The State may identify Additional Priority of Service Participants with barriers to employment provided it is consistent with priority of services for Veterans and the priority provisions of WIOA. OW has established policy that allows a maximum of 35% of all WIOA Adult program enrollments within a program year be enrolled as an additional priority of service participant.

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1 For example, three individuals are applying for services. Two of them are receiving public assistance and one is not. The first two receive priority for enrollment over the third individual. Of the two who fall into the priority categories, one of them is a veteran and the other is not. The veteran would receive priority for enrollment.
• Additional Priority of Service Participants must meet the WIOA general program requirements (i.e., 18 years of age, legally authorized to live and work in the United States, registered for selective service (when applicable) and a resident of the State of New Hampshire), and have a documented barrier to employment.

• A barrier to employment shall be defined as one or more of the following conditions; 55 years of age or older, chronically unemployed, ex-offender, aged out of foster care, individuals enrolled in an addiction program (including the State’s NHE grant), and/or another barrier as approved by the State WIOA Director on a case-by-case basis.

II. Veterans Priority of Service Background:

WIOA Section 102 c. III. vi states that “the State will implement the priority of service provisions for veterans in accordance with the requirements of section 4215 of title 38, United States Code”. In addition, the Jobs for Veterans Act, enacted into Public Law 107–288 on November 7, 2002 made a number of amendments to encourage access for military veterans to services within an integrated one-stop service delivery system. 38 United States Code 4215(a) creates a priority of service for veterans (and some spouses) "who otherwise meet the eligibility requirements for participation" in DOL training programs. On January 19, 2009 Federal regulation went into effect via Final Rule (Part VIII, 20 CFR Part 1010) requiring the United States Department of Labor (USDOL) to implement priority of service for all veterans and eligible spouses of veterans as part of the publicly-funded workforce investment system. WIOA Title IB programs are among the 20 DOL-funded workforce programs that are covered by 38 United States Code 4215 priority (i.e., WIOA Adult, Dislocated Worker, Youth).

A. Veterans Priority of Service Policy

For purposes of this policy, the term “veterans’ priority of service” means that a covered person, who meets program eligibility requirements, shall be given priority over non-veterans for the receipt of all services provided under a DOL funded program, notwithstanding any other provision of law.

A “covered person” is defined as:

– a veteran, or

– the spouse of any of the following individuals:

  o any veteran who died of a service-connected disability;
  o any member of the Armed Forces serving on active duty who, at the time of application for, is listed by the Secretary as concerned in one or more of the following categories and has been so listed for a total of more than 90 days:
    ▪ missing in action,
    ▪ captured in line of duty by a hostile force, or
    ▪ forcibly detained or interned in line of duty by a foreign government or power;
  o any veteran who has a total disability resulting from a service-connected disability;
  or
  o any veteran who died while a disability so evaluated was in existence.

Eligibility for DOL-funded programs will not change with the implementation of veterans’ priority for services as all veterans and other covered persons, as defined above, must meet program
eligibility requirements in order to receive priority of service.

Contractors are not required to change their allocations among services to reserve funds for veterans, but are required to ensure that eligible veteran workers are given priority over non-veterans for all available services.

Contractors are not required to create special procedures for registration or apply different criteria for suitability of a veteran customer for any service. The same assessment procedures and criteria for determining appropriate service interventions should apply to veterans and non-veterans. In the event that there are more customers qualified and available for service than resources allow to be served, priority for service must be given to those eligible veterans in the group of those awaiting service, subject to the statutory targeting provisions discussed above.

**B. Veterans Priority of Service for all USDOL Funded Programs**

Effective July 1, 2012 and reiterated July 1, 2019 the Veterans Priority of Service mandate outlined below shall be enforced. Veterans Priority of Service cannot be waived or modified.

- All dislocated workers who are veterans will receive priority over non-veterans. Veterans who are not dislocated workers may not be served with dislocated worker funds.
- In the event that a youth pursuing access to a WIOA Youth funded program is also a veteran, he/she will be given priority within the context of program eligibility.
- In implementing veterans’ priority in the Adult program, the first population to receive basic career, individualized career and training services would be public assistance and low-income veterans; then public assistance and low-income non-veterans; then veterans who are not low-income or receiving public assistance; and lastly would be adults who are non-veterans who are not low-income or receiving public assistance.

**REFERENCES:**

- Workforce Innovation and Opportunity Act, Section 134(c)(3)(E)
- WIOA Proposed Regulations, Section 680.600
- WIOA Desk Reference – Priority of Service for WIOA Adult Funds
- TEGL 19-16 and TEGL 10-09
- Jobs for Veterans Act, Public Law 107-288 (Nov. 7, 2002)
- Part VIII, 20 CFR Part 1010
- 38 United States Code, Section 101, Chapter 42, Section 4211 and Section 4215
- 10 United States Code, Section 101