



## **Workforce Innovation and Opportunity Act**

# **Priority of Service Policy**

No individual in the United States may, on the basis of race, color, religion, sex, national origin, age, disability, or political affiliation or belief, or, for beneficiaries, applicants, and participants only, on the basis of citizenship or participation in any WIOA Title I-financially assisted program or activity, be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any WIOA Title I-financially assisted program or activity.

# Priority of Service Policy

## I. PURPOSE

The purpose of this policy is to provide guidance to the Northeast Workforce Development Area (NEWDA) system partners for the implementation of Priority of Service (POS) under the WIOA Title I Adult and Dislocated Worker programs. This establishes the Northeastern Workforce Development Board (NEWDB) standards in implementing POS in accordance with applicable State and Federal laws, rules and regulations. Review of this policy and subsequent revisions may be necessitated as a result of changes or additions to current Federal or State guidance.

## II. BACKGROUND

Services provided to adults and dislocated workers under title I of WIOA can be a pathway to the middle class and to maintain and build skills to remain in the middle class. Across all titles, WIOA focuses on serving “individuals with barriers to employment”, defined in WIOA section 3(24), and seeks to ensure access to quality services for these populations. The WIOA Final Rules discuss priority and special populations for the Adult and Dislocated Worker programs at 20 CFR 680.600 through .660. 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.

**Legal Use of Federal Funds:** WIOA funds may not be used to help participants or employers to fill positions or provide support for employment that promotes or supports the use, possession or distribution of marijuana.

## III. REFERENCES

- WIOA Section 134(c)(3)(E) of WIOA
- WIOA Section 3(36) low-income individuals
- WIOA 3(5) basic skills deficient
- 20 CFR §§ 680.600 through .660
- OWDI# 19-2017 CHANGE 1 A/DLW
- NEWDB Memo 02-2020
- OOWD TA 01-2021

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405.269.2821 para pedir asistencia en traducir y entender la información en este documento.

**BABEL NOTICE:** (29CFR 38.9(g)(3)): This document contains vital service information. If English is not your preferred language, please contact:

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#### **IV. POLICY PRIORITY OF SERVICE (POS):**

When using WIOA Adult funds to provide individualized career services and/or training services, priority must be given to recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient. WIOA sec. 3(36) defines “low-income individual” and WIOA sec. 3(5) defines “basic skills deficient”. The Employment and Training Administration (ETA) notes that individuals who are 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. Oklahoma’s Adult and Dislocated Worker Policy, OWDI #07-2020, establishes the procedures for applying this priority. Priority must be provided regardless of the level of funds received by the local Board under the following definitions:

##### **A. The Statutory Priority for Adult Funds**

When using WIOA Adult funds to provide individualized career services and/or training services, Oklahoma Works AJC staff must give priority to, public assistance recipients, other low-income individuals (as defined in WIOA Section 3(36)), and individuals who are basic skills deficient (as defined in WIOA 3(5)). English language learners meet the criteria for “basic skills deficient” and

must be included in the priority populations for the title I Adult programs.

## **B. Priority Populations under WIOA**

Priority and special populations for the Adult and DLW programs are addressed at 20 CFR §§ 680.600 through .660.

The term “individual with a barrier to employment” means a member of one or more of the following populations:

- Low-income individuals;
- Veterans and Eligible Spouses
- Indians, Alaska Natives, and Native Hawaiians;
- Individuals with disabilities, including youth who are individuals with disabilities (as defined in sec. 3 of the Americans with Disabilities Act of 1990 (42 USC 12102) and individuals who are in receipt of Social Security Disability Insurance);
- Older individuals (age 55 and older);
- Ex-offenders;
- Displaced homemakers;
- 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. 11434a(2)));
- Youth who are in or have aged out of the foster care system (if age 18 or older and co-enrolled in the adult program)
- Individuals who are:
  - English language learners (29 USC 3272(7));
  - Individuals who have low levels of literacy (for example, an individual who is unable to compute or solve programs, or read, write, or speak English at a level necessary to function on the job, or in the individual’s family, or in society); and
  - Individuals facing substantial cultural barriers;
- Eligible migrant and seasonal farmworkers (as defined in WIOA 167(i)(1-3));
- Individuals within two years of exhausting lifetime TANF
- Single parents (including single pregnant women); and
- Long-term unemployed individuals (unemployed for 27 or more consecutive weeks).

## **C. Veterans and Adult Priority**

Veterans and eligible spouses continue to receive priority of service for all DOL-funded employment training programs, which include WIOA programs. As for the DLW program, the only priority of service is the veteran’s priority of service. A veteran must, however, meet each program’s eligibility criteria to receive services under the respective employment and training program. For income-based eligibility determinations and for determining priority of service, military pay or allowances paid while on active duty or paid by the Department of Veterans

Affairs (VA) for vocational rehabilitation, disability payments, or related VA-funded programs are not to be considered as income, in accordance with 38 U.S.C. 4213 and 20 CFR § 683.230.

#### D. POS Determination

Priority of Service establishes the parameters under which adults and dislocated workers may be determined eligible for Title I services under the WIOA. In order to manage available WIOA funds, the NEWDB focuses efforts on individuals who are determined low income (meaning continuous priority of service) when determining eligibility for Adult/DLW services. While WIOA allows for funding of individuals not meeting the priority standards, such determinations must be approved by NEWDB Executive Director prior to expenditure of funds.

Under WIOA, **The Statutory Priority for Adult Funds**, Section 134(c)(3)(E), establishes a priority requirement with respect to funds allocated to a local area for adult employment and training activities. **Priority Populations under WIOA**, across all titles, focuses on serving individuals with barriers to employment and seeks to ensure access to quality services for these populations.

**Veterans and Adult Priority** under WIOA, establishes that Veterans and eligible spouses continue to receive priority of service for all DOL-funded employment training programs.

Career Managers are responsible for ensuring Priority of Service determination are conducted in accordance with this policy. **Due to the statutorily required priority for Adult funds, priority must be provided in the following order:**

- Priority 1: 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** receive first priority for services provided with WIOA Adult formula funds for individualized career services and training services.
- Priority 2: Non-covered persons (i.e., individuals who are not veterans or eligible spouses) who are included in the groups given priority for WIOA Adult formula funds. This means adults and dislocated workers who are **recipients of public assistance, low-income, and/or basic skills deficient**.
- Priority 3: Veterans and eligible spouses who are not included in WIOA's priority groups, meaning they are not recipients of public assistance, not low-income, and not basic skills deficient
- Priority 4: Priority populations as determined by the NEWDB who are employed and earning less than a self-sufficient wage OR who's family size and income is less than the self-sufficient threshold (reference NEWDB's current Self-Sufficiency Policy for threshold details) and have at least one of the following barriers:
  - Participant lives in a Promise Zone
  - Participant lives in a High Poverty Area
  - Participant is underemployed

- Participant does not have a High School Diploma or GED
- Participant was previously in the Foster Care system
- Participant lives in a county that has an unemployment rate which is 2% higher than the average unemployment rate for that county for the previous 6-months
- Participant is entering a training program that leads to employment in one of NEWDB's targeted sectors:
  - Any one of the identified barriers as listed in [TA Statutory Adult Funding and Adult Priority Populations](#) as listed as a Low-income individuals as listed in the following Priority 5;
- Priority 5: Non-covered persons outside the groups given priority under WIOA. This priority includes individuals with barriers to employment. Reference OOWD's applicable policies to identify the most current Priority 5 criteria.

Note: NEWDB requires that the Service Provider provides notification of these enrollments via an email to the NEWDB Compliance Monitor with a copy sent to the NEWDB Executive Director. A tracking system will be developed by the Service Provider that identifies participants who are enrolled as Priority Group 4 and Priority Group 5, which will be shared with the NEWDB Board Staff via this [DropBox](#) folder. This folder will be periodically reviewed by NEWDB staff.

The NEWDB Service Provider will inform the NEWDB Executive Director if available participant funds fall below 40% of the annual budget. At such a time, new enrollments and funding requests for individuals in Priority Group 4 or Priority Group 5 may be modified to require NEWDB Executive Director approval and will be made on a case-by-case basis. Continued or potential services of individuals in Priority Group 4 or Priority Group 5 are subject to available funds, and stoppage of provisions laid out in this memo may be communicated to the Service Provider by the NEWDB Executive Director.

All training services should be assigned according to priority group. NEWDB allows an exception to priority when a customer in Priority 4 is enrolled in OJT or Registered Apprenticeship training. In these cases, the employer has interviewed and selected the participant they wish to proceed with and the skills and aptitudes desired by the employer will outweigh the priority of the participants, and a priority categorization for these participants is waived, allowing them to proceed as if they were priority 1 or 2, dependent on their veteran status. At enrollment, verification of this exception is required through case note documentation of the priority status and must include the rationale for waiving priority status.

#### **E. Further Military Consideration in Determining POS:**

When past income is an eligibility determinant for any federal employment or training program, including the Title I Adult and DLW 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 in making an eligibility determination. This applies to the veteran and to other individuals for whom those amounts would normally be applied, e.g., the military spouse.

Military earnings are not to be included when calculating income for veterans or transitioning service members for priority of service, in accordance with 38 U.S.C. 4213.

To further clarify, 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.

- Serving Separating Service Members and Military Spouses with Dislocated Worker Funds  
Service members exiting the military, including, but not limited to, those who receive or are eligible for Unemployment Compensation for Ex-Military members (UCX), generally qualify as dislocated workers. Dislocated Worker funds under title I can help separating service members to enter or reenter the civilian labor force. A separating service member needs a notice of separation, either a DD-214 from the Department of Defense, or other appropriate documentation that shows a separation or imminent separation from the Armed Forces, to meet the required dislocated worker definition. While in most instances an individual will have to be eligible for or have exhausted entitlement to unemployment compensation in order to receive dislocated worker services, separating service members on a terminal leave from the military may be provided career services while the service member is still part of the Active Duty military, but has an imminent separation date, provided that their discharge will be anything other than dishonorable. It must be noted, however, that federal policy requires a separating service member to meet the dislocated worker requirement of being unlikely to return to his or her previous industry or occupation in the military.

**NOTE:** Under WIOA, there is no exclusion of payments for unemployment compensation, child support payments, and old-age survivors’ insurance benefits from the income calculations for determining if an individual is low-income. These exclusions, which were previously provided under WIA sec. 101(25), no longer apply.

## V. DOCUMENTATION

### **Barrier Documentation:**

The following items must be documented in order to validate the participant has a barrier to qualify as Priority Group Four. Supporting documents will be uploaded with participant’s “Adult & Dislocated Worker Eligibility Form”.

- Lives in a Promise Zone
  - NEWDB will periodically review.
- Lives in a High Poverty Area
  - NEWDB will periodically review.



- Participant was previously in the Foster Care system verified with:
  - Court documentation
  - Social Service verification
  - Written statement from state or local agency
- Displaced homemaker
  - Validated as identified in OOWD’s most recent Data Validation Policy
- English Language Learner
  - Validated as identified in OOWD’s most recent Data Validation Policy
- Homeless
  - Validated as identified in OOWD’s most recent Data Validation Policy
- Migrant and Seasonal Farm Workers
  - Validated as identified in OOWD’s most recent Data Validation Policy
- Individual with a Disability
  - Validated as identified in OOWD’s most recent Data Validation Policy
- Underemployed – Underemployment is defined in NEWDB’s Adult & Dislocated Worker Policy. The following documentation can be used to validated underemployment status:
  - Employed less than full-time and seeking full-time employment:
    - Pay stubs showing hours over the previous 6 months do not regularly exceed 32 hours/week.
    - Employer statement/contact verifying hours worked over the previous 6 months does not regularly exceed 32 hours per week.
    - Applicant statement verifying seeking full-time employment.
  - Employed and meet the definition of a low-income individual:
    - Verified by completing WIOA Income Calculation worksheets and identifying customer’s family size and income as being low-income.
  - Employed with current earnings that are insufficient when compared to the individual’s previous earnings from previous employment, per the NEWDB Self-Sufficiency Policy.
- No High School Diploma or GED at enrollment:
  - Validated with participants OK Job Match Demographic Snapshot Self-Attestation.
- Participant lives in a county that has an unemployment rate which is 2% higher than the average unemployment rate for that county for the previous 6-months.
  - Participant’s address at the time of enrollment is in an identified county **AND**
  - County data shows its current unemployment rate is 2% higher than its rate over the previous 6 months. This rate is identified in the following way:
    - County unemployment rate is pulled from OESC’s Local Area Unemployment Statistics from here:  
[https://www.ok.gov/oesc/Labor\\_Market/Local\\_Area\\_Unemployment\\_Statistics/](https://www.ok.gov/oesc/Labor_Market/Local_Area_Unemployment_Statistics/)
    - On the LAUS Data Interactive Tool, Select the “Area Comparison” tab.
    - Select “Unemployment Rate” under the heading “Measure for Line Chart”.
    - Enter the comparison months under the heading for date – Note you will need to select



the most recent month that data is available on the right, and the month that is 6-months before on the left.

- Select “Counties & Equivalents” under the heading for Geography.
- Select the county the participant lives in under the heading for “Select the Area”.
- The resulting graph and chart will be printed and uploaded.
- Participant is one of the priority populations identified by the State of Oklahoma
  - Review OOWD’s current data validation instructions for documentation requirements.

## **VI. EQUAL OPPORTUNITY AND NONDISCRIMINATION STATEMENT:**

*All Recipients, and Sub recipients/Sub grantees must comply with WIOA’s Equal Opportunity and Nondiscrimination provisions which prohibit discrimination on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, political affiliation or belief, or, for beneficiaries, applicants, and participants only, on the basis of citizenship status or participation in a WIOA Title-I financially assisted program or activity.*

## **VII. POLICY ADDITIONS AND CLARIFICATIONS:**

The NEWDB Executive Director is authorized to issue additional instructions, guidance, approvals, forms, etc. to further implement the requirements of this policy.

**Approved by NEWDB Members Present                      2/9/2022**