

COMMONWEALTH OF KENTUCKY
DEPARTMENT OF WORKFORCE DEVELOPMENT
AND
KENTUCKY WORKFORCE INNOVATION BOARD

POLICY NAME: WIOA Priority of Service

POLICY NUMBER: 16-006

DATE OF ISSUE: Reissued March 1, 2023

EFFECTIVE DATE: April 6, 2021

APPLIES/OF INTEREST TO: Kentucky Career Center (KCC) Staff and Local Workforce Development Area (LWDA) staff

POINT OF CONTACT: Compliance.Unit@ky.gov

HISTORY: Initially issued 4/1/2016 as a preliminary placeholder pending the release of final regulations; revised 4/6/2021 to incorporate TEGL 7-20 requirement for a 50.1% floor and 75% as the goal for POS and added staffing flexibility for comprehensive service delivery; reissued 11/1/2021 with change of terminology from “Registrant” to “Participant” and minor changes as cleanup; effective date remains. Reissued March 1, 2023 with no substantive change, thus effective date remains.

BACKGROUND: USDOL issued TEGL 7-20 to galvanize states to strengthen policies and procedures to ensure compliance with priority of service mandates. The USDOL priority of service mandate requires that at least 50.1% of WIOA Adult consumers fall within established priority categories; working towards a goal of 75%. Priority must be given regardless of funding levels and provide access to opportunities for training, education, and support services individuals need, particularly to those with barriers to employment.

Recent changes to staffing flexibility allows states to provide Wagner-Peyser Act-funded or Trade Act-funded services through state merit staff, other state staff, sub-awards to local governments or private entities, a combination of these arrangements, or other allowable staffing solutions under the Uniform Administrative Requirement, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). This allows the priority of service consumer to receive all services provided by One Stop Partners from one individual KCC staff person, ensuring the consumer receives all services for which that consumer is eligible.

PURPOSE: This policy provides guidance with regard to priority of service requirements for WIOA Title I Adults for both Individualized Career Services and Training Services. Priority applies to recipients of public assistance, other low-income individuals and individuals who are basic skills deficient as well as to Veterans (and eligible spouses) who continue to receive priority of service for all DOL-funded training programs under 38 USC §4215 and 20 CFR §1010.

POLICY:

Section 194(1) requires that services be provided to those who can benefit from “*and who are most in need of such opportunities.*” The addition of Temporary Assistance for Needy Families (TANF) as a mandatory partner and the inclusion of Adult Education as a core partner in the one-stop delivery system highlight federal intent to bring the populations served by those programs into the opportunities provided by WIOA. “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. Priority does *NOT* apply to the dislocated worker population.

20 CFR §680.650 re-affirms that veterans continue to receive priority of service in all DOL-funded training programs but that 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 USDOL, through TEGE 7-20, sets the floor that no less than 50.1% of all participants must be from a priority of service category and asks each LWDA to ensure progress towards the target goal of 75% of all participants served fall into a priority of service category.

WIOA Priority Service Categories are as follows:

1. Recipients of public assistance. Reference Section 3 (50): “The term ‘public assistance’ means Federal, State, or local government cash payments for which eligibility is determined by a needs or income test.”
2. Other low-income individuals. The term “low-income individual” is defined at Section 3(36) as an individual who:
 - Receives, or in the past 6 months has received, or is a member of a family that is receiving or in the past 6 months has received, assistance through the Supplemental Nutrition Assistance Program established under the Food and Nutrition Act of 2008 (7 USC §2011 et seq.), the program of block grants to States for temporary

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, *with a discharge that is anything other than dishonorable*, would receive priority for enrollment.

assistance for needy families program under part A of title IV of the Social Security Act (42 USC §601 et seq.), or the supplemental security income program established under title XVI of the Social Security Act (42 USC §1381 et seq.), or State or local income-based public assistance;

- Is in a family with total family income that does not exceed the higher of the poverty line or 70% of the lower living standard income level; OR is an individual with a disability whose own income meets the income requirement above, but who is a member of family whose income does not meet this requirement;
 - Is a homeless individual.
3. Individuals who are basic skills deficient. The term “basic skills deficient” is defined at 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. Guidance for making such determination is an individual who meets ANY ONE of the following:
- Lacks a high school diploma or equivalency and is not enrolled in secondary education;
 - Scores 8.9 or below on the TABE; Is enrolled in Title II adult education (including enrolled for ESL); 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);
 - The case manager makes observations of deficient functioning and records those observations as justification in a case note.

Local areas must give priority of service in the following order:

1. To veterans and eligible spouses who are included in the groups given statutory priority for WIOA Adult formula funding. This means that veterans and eligible spouses who are recipients of public assistance, other low-income individuals, or individuals who are basic skills deficient receive first priority for services with WIOA Adult formula funds for individualized career services and training services.
2. 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.
3. To veterans and eligible spouses who are not included in WIOA’s priority groups.
4. To priority populations established by the Governor and/or Local WDB.
5. To non-covered persons outside the groups given priority under WIOA.

DWD will consider other metrics proposed by the local areas, should other evidence exist to support the priority of service goals. Should a local area fail to meet the metrics established (50.1% of all participants in a priority category or other metric negotiated with USDOL and DWD) corrective action will be required to ensure success in meeting the priority of service metrics established for each local area.

Local areas must record the priority of service category in the state's case management system of record. Available participant characteristics fields, including public assistance, low income and basic skills deficient, must be selected in the case management system. Veteran's priority must be recorded in case notes and recorded in the case management system of record.

Local areas must have and adhere to written policies that delineate how they will give priority of service. Totals must be reported monthly within the monitoring unit. DWD will conduct semi-annual desktop reviews and provide technical assistance to areas with less than 50.1% adult participants enrolled into one of the priority categories. Participants served as incumbent workers are excluded from the priority calculation.

REFERENCE:

- 20 CFR §680.600
 - 20 CFR §682.650
 - TEGL 7-20
 - WIOA Section 3(5)
 - WIOA Section 3(36)
 - WIOA Section 3 (50)
 - WIOA Section 194(1)
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Attachment A

Participant's Initial Core Service Case Note

Met with (participant's name) to discuss employment and training goals. Participant has come to the office seeking assistance to increase marketable skills. Participant is seeking assistance with their resume, cover letter, and job seeking skills. Will work with (participant's name) on their job search skills and pre-training program. Should the participant not be able to obtain/retain employment through the efforts, participant will be referred to individualized career services.

Adult Initial Case Note

(Participant's name) is certified as an Adult in the WIOA program. Participant has not had income for the past (X) months. The Participant has a family size of (X) and has been receiving financial assistance from family members with (Documentation of family and income is in case file.) (Participant's name) has been unable to obtain/retain employment with career services and is in need of individualized career services. Participant will be enrolled into the following service(s).

NOTE: The case note will need to include all assessments, results of the assessments, as well as an analysis of the assessments.

Dislocated Worker Initial Case Note

(Participant's name) is certified as a dislocated worker in the WIOA program. (Participant's name) was laid off on (date) due to "lack of work" as a (former job title) at (company name) making (Documentation form the employer is on file.) The UI determination letter confirms that (Participant's name) is eligible for UI benefits. Per documentation, Participant is unlikely to return to the prior occupation because (former occupation) jobs are listed as declining. A participant statement was signed and confirms that participant's former occupation. The participant has been unsuccessful in finding employment with career services; and is in need of training and/or individualized career services due to their barriers and the types of services that they need.