

**Workforce Development System
Technical Advisory #23-01
January 20, 2023**

To: Workforce Development Community

SUBJECT: Serving Priority Populations and Priority of Service under the Workforce Innovation and Opportunity Act (WIOA) Title I Adult Program

PURPOSE

Provide guidance to the workforce development system regarding: (1) the requirement to serve priority populations under the WIOA Title I Adult Program; (2) priority of service requirements under the WIOA Title I Adult Program; and (3) data entry and data element validation (DEV) requirements.

POLICY

1. Requirement to Serve Priority Populations under the WIOA Title I Adult Program

To comply with WIOA and United States Department of Labor Employment and Training Administration (USDOL ETA) requirements, the New York State Department of Labor (NYSDOL) requires at least 50.1 percent of WIOA Title I Adults receiving individualized career or training services (defined in **Attachment A: Key Terms and Definitions**) in each Local Workforce Development Area (LWDA) to fall into at least one (1) of the following three (3) priority populations:

- i. Recipients of public assistance;
- ii. Other low-income individuals (see definition in **Attachment A**); and
- iii. Individuals who are basic skills deficient (see definition in **Attachment A**), which includes English Language Learners.

2. Priority of Service Requirements Under the WIOA Title I Adult Program

In addition to the three (3) required populations identified in Policy 1. above, veterans and their eligible spouses must also continue to receive priority of service in all NYSDOL-funded training programs, including WIOA programs.

NYSDOL also considers the following individuals with barriers to employment (as defined in **Attachment A**) as priority populations for individualized career and training services, if they do not already fall under one (1) of the WIOA-required populations:

- i. Individuals with disabilities;
- ii. Justice-involved individuals; and
- iii. Single parents.

Local Workforce Development Boards (LWDBs) must develop, review and/or revise their local policy for applying priority of service when funding WIOA Title I Adult Program individualized career and/or training services to align with all of the designated priority of service populations in this Workforce Development System (WDS) Technical Advisory (TA).

3. Data Entry and DEV Requirements

One-Stop Career Center staff must follow procedures outlined in the following One-Stop Operating System (OSOS) Guides to ensure Adult priority of service demographic data is recorded consistently and accurately:

- i. [Creating a Basic Customer Record](#); and
- ii. [Comprehensive Assessment and Supplemental Data](#).

Staff must follow both OSOS Guides to ensure customers are being identified as a member of one (1) or more Adult priority populations at the time of enrollment.

Note: All demographic data must be entered into OSOS prior to recording a staff-assisted service/activity.

In addition, all staff completing data entry must comply with WDS TA #[17-07](#): Use of One-Stop Operating System and Re-Employment Operating System (June 28, 2017).

LWDBs must follow Training and Employment Guidance Letter (TEGL) [No. 23-19, Change 1](#) until an updated DEV policy is issued by NYSDOL. Local staff should reference the Excel version of Attachment II to TEGL No. 23-19, Change 1 and unhide/expand all rows to view all applicable items.

Additional information on programmatic criteria for individualized career and/or training services can be found in TEGL [No. 10-16 Change 2](#), Attachment VII, and TEGL [No. 19-16](#), Attachment II. Career Center staff must reference the OSOS Guides listed in the [References](#) section for instructions on how to add individualized career and/or training services into OSOS.

ACTION

1. Local Area Policies

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When developing, reviewing and/or revising the local policy, LWDBs must establish criteria by which the One-Stop Career Center(s) will apply the Adult priority of service requirement. Such criteria may include:

- Availability of other funds for providing employment and training-related services in the local area;
- Needs of the specific groups within the local area; and
- Other appropriate factors, such as location.

One-Stop Career Center staff must always prioritize services to the priority populations, regardless of the amount of funds available to provide services in the local area.

As part of the local policy, LWDBs may also establish a process that gives priority to other individuals eligible to receive such services, provided it is consistent with priority of service for veterans. Additional priority populations established by the LWDBs must have a lower priority than the required WIOA Adult or veteran priority populations. The local policy must also include the additional three (3) priority populations identified by NYSDOL (individuals with disabilities, justice-involved individuals, and single parents).

Note: The additional priority populations identified by the LWDBs must also be reflected in the Local Plan.

2. Applying Priority of Service Requirements

Recipients of public assistance, other low-income individuals, individuals who are basic skills deficient, and veterans and their eligible spouses must receive priority of service in all NYSDOL-funded training programs, including WIOA programs. However, as described in TEGL [No. 10-09](#), when programs are statutorily required to provide priority for a particular group of individuals, such as the WIOA priority for Adult funds, priority must be provided in the following order:

- i. First, 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 also recipients of public assistance, other low-income individuals, or individuals who are basic skills deficient receive first priority for individualized and career services with WIOA Adult formula funds;
- ii. Second, to non-covered persons (individuals who are not veterans or eligible spouses) who are included in the three (3) populations given priority for WIOA Adult formula funds;
- iii. Third, to veterans and eligible spouses who are not included in WIOA's three (3) priority Adult groups;
- iv. Fourth, to additional priority populations established by NYSDOL and/or the LWDBs; and

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- v. Last, to non-covered persons outside the populations given priority under WIOA (including the three (3) additional priority populations identified by NYSDOL and underemployed individuals).

3. Adult Priority of Service Performance Requirement

One-Stop Career Center staff must record accurate customer demographic data and all barrier-related information into their appropriate case management system to ensure customers are being identified as one (1) or more of the priority Adult populations.

Accurate data reporting will ensure:

- Appropriate enrollments;
- Positive performance outcomes;
- OSOS data integrity; and
- Identification of potential fiscal and programmatic system vulnerabilities.

BACKGROUND

Across all titles, WIOA focuses on serving individuals with barriers to employment and seeks to ensure access to quality services for these populations, including through the Title I Adult priority of service requirement.

USDOL envisions that at least 75 percent of Adult participants in each State who receive individualized career and training services are from at least one (1) of the three (3) priority populations, and expects this rate will be no lower than 50.1 percent. Therefore, NYSDOL will hold LWDBs to the 50.1 percent requirement.

Two (2) significant changes made from the reauthorization of the Workforce Investment Act (WIA) to WIOA include:

1. The addition of basic skills deficient as a priority population; and
2. That all three (3) priority of service populations receive priority regardless of available funding levels.

The statutory priority only applies to Adult Program funds and only applies to providing individualized career and training services. Funds allocated for Dislocated Workers (DWs) and Youth are not subject to this requirement. Additional information on DW eligibility can be found in WDS Program Guidance Letter [#22-01](#): New York State Department of Labor (NYSDOL) guidance and interpretation on the Workforce Innovation and Opportunity Act (WIOA) definition of Dislocated Worker (DW) and recording DWs in the One-Stop Operating System (OSOS) (September 14, 2022).

There are no restrictions to providing basic career services; they may be provided to any eligible Adult. Basic career services are generally entered into OSOS as activities

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and are located in the [L1: Service Definitions](#) OSOS Guide under the L1 – Staff Assisted Basic category.

REFERENCES

WIOA Section 3(5); 3(24); 3(36); and 134(c)(3)(E)

20 CFR §678.430; §680.200; and §680.600-§680.660

TEGL [No. 10-09](#): Implementing Priority of Service for Veterans and Eligible Spouses in all Qualified Job Training Programs Funded in whole or in part by the U.S. Department of Labor (DOL) (November 10, 2009)

TEGL [No. 19-16](#): Guidance on Services provided through the Adult and Dislocated Worker Programs under the Workforce Innovation and Opportunity Act (WIOA) and the Wagner-Peyser Act Employment Service (ES), as amended by title III of WIOA, and for Implementation of the WIOA Final Rules (March 1, 2017)

TEGL [No. 07-20](#): Effective Implementation of Priority of Service Provisions for Most in Need Individuals in the Workforce Innovation and Opportunity Act (WIOA) Adult Program (November 24, 2020)

TEGL [No. 10-16, Change 2](#): Performance Accountability Guidance for Workforce Innovation and Opportunity Act (WIOA) Core Programs (September 15, 2022)

TEGL [No. 23-19, Change 1](#): Guidance for Validating Required Performance Data Submitted by Grant Recipients of U.S. Department of Labor (DOL) Workforce Programs (October 25, 2022)

WDS TA #[12-12.5](#): Implementation of Veterans' Priority of Service for Covered Persons in Qualified USDOL Job Training Programs (July 25, 2019)

WDS TA #[17-07](#): Use of One-Stop Operating System and Re-Employment Operating System (June 28, 2017)

[Creating a Basic Customer Record](#) OSOS Guide

[Comprehensive Assessment and Supplemental Data](#) OSOS Guide

[L1: Service Definitions](#) OSOS Guide

INQUIRIES

Questions regarding this TA may be directed to LWDB@labor.ny.gov.

ATTACHMENTS

Attachment A: Key Terms and Definitions

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KEY TERMS AND DEFINITIONS

1. Low-Income Individual (Workforce Innovation and Opportunity Act (WIOA) Sec. 3(36)(A))

(A) IN GENERAL.—The term “low-income individual” means an individual who—

(i) 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 U.S.C. 2011 et seq.), the program of block grants to States for temporary assistance for needy families program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), or the supplemental security income program established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or State or local income-based public assistance;

***Note:** Local income-based public assistance programs may be used to determine whether someone is low-income. Local Workforce Development Boards (LWDBs) must include these local income-based public assistance programs in their local Adult Priority of Service policy.

(ii) is in a family with total family income that does not exceed the higher of—

(I) the poverty line; or

(II) 70 percent of the lower living standard income level;

(iii) is a homeless individual (as defined in section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e–2(6))), or a homeless child or youth (as defined under section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)));

(iv) receives or is eligible to receive a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);

(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 of clause (ii), but who is a member of a family whose income does not meet this requirement.

***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 that were previously provided under [Workforce Investment Act] WIA sec. 101(25) no longer apply.

2. Basic Skills Deficient (WIOA Sec. 3(5))

(5) BASIC SKILLS DEFICIENT.—The term “basic skills deficient” means, with respect to an individual—

(A) who is a youth, that the individual has English reading, writing, or computing skills at or below the 8th grade level on a generally accepted standardized test; or

(B) 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.

***Note:** 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.

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3. Individuals with Barriers to Employment (WIOA Sec. 3(24) and TEGL No. 19-16)

The populations included in the “individuals with barriers to employment” in WIOA sec. 3(24) include:

- (a) Displaced homemakers (as defined in WIOA sec. 3(16));
- (b) Low-income individuals (as defined in WIOA sec. 3(36));
- (c) Indians, Alaska Natives, and Native Hawaiians (as defined in WIOA sec. 166(b));
- (d) Individuals with disabilities, including youth who are individuals with disabilities (as defined in WIOA sec. 3(25) (includes individuals who are in receipt of Social Security Disability Insurance);
- (e) Older individuals (age 55 and older) (as defined in WIOA sec. 3(39));
- (f) Ex-offenders (“offender” as defined in WIOA sec. 3(38));
- (g) Homeless individuals or homeless children and youths;
- (h) Youth who are in or have aged out of the foster care system;
- (i) Individuals who are:
 - (1) English language learners (WIOA sec. 203(7)),
 - (2) Individuals who have low levels of literacy (an individual 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
 - (3) Individuals facing substantial cultural barriers;
- (j) Eligible migrant and seasonal farmworkers (as defined in WIOA sec. 167(i)(1-3));
- (k) Individuals within two years of exhausting lifetime TANF eligibility;
- (l) Single parents (including single pregnant women);
- (m) Long-term unemployed individuals (unemployed for 27 or more consecutive weeks); and
- (n) Such other groups as the Governor involved determines to have barriers to employment.

4. Individualized Career Service (§678.430)

Individualized career services must be made available if determined to be appropriate in order for an individual to obtain or retain employment. These services include the following services, as consistent with program requirements and Federal cost principles:

- (1) Comprehensive and specialized assessments of the skill levels and service needs of adults and dislocated workers, which may include—
 - (i) Diagnostic testing and use of other assessment tools; and
 - (ii) In-depth interviewing and evaluation to identify employment barriers and appropriate employment goals;
- (2) Development of an individual employment plan, to identify the employment goals, appropriate achievement objectives, and appropriate combination of services for the participant to achieve his or her employment goals, including the list of, and information about, the eligible training providers (as described in § 680.180 of this chapter);
- (3) Group counseling;

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- (4) Individual counseling;
- (5) Career planning;
- (6) Short-term pre-vocational services including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct services to prepare individuals for unsubsidized employment or training;
- (7) Internships and work experiences that are linked to careers (as described in § 680.170 of this chapter);
- (8) Workforce preparation activities;
- (9) Financial literacy services as described in sec. 129(b)(2)(D) of WIOA and § 681.500 of this chapter;
- (10) Out-of-area job search assistance and relocation assistance; and
- (11) English language acquisition and integrated education and training programs.

5. Training Services (§680.200)

Types of training services are listed in WIOA sec. 134(c)(3)(D) and in paragraphs (a) through (k) of this section. This list is not all-inclusive and additional training services may be provided.

- (a) Occupational skills training, including training for nontraditional employment;
- (b) On-the-job training (OJT) (see §§ 680.700, 680.710, 680.720, and 680.730);
- (c) Incumbent worker training, in accordance with WIOA sec. 134(d)(4) and §§ 680.780, 680.790, 680.800, 680.810, and 680.820;
- (d) Programs that combine workplace training with related instruction, which may include cooperative education programs;
- (e) Training programs operated by the private sector;
- (f) Skills upgrading and retraining;
- (g) Entrepreneurial training;
- (h) Transitional jobs in accordance with WIOA sec 134(d)(5) and §§ 680.190 and 680.195;
- (i) Job readiness training provided in combination with services listed in paragraphs (a) through (h) of this section;
- (j) Adult education and literacy activities, including activities of English language acquisition and integrated education and training programs, provided concurrently or in combination with training services listed in paragraphs (a) through (g) of this section; and
- (k) Customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training (see §§ 680.760 and 680.770).

6. Recipients of Public Assistance

Examples of public assistance include:

- Temporary Assistance for Needy Families (TANF);
- Food stamps/ Supplemental Nutrition Assistance Program (SNAP);

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- General Assistance (GA) State/Local;
- Refugee Cash Assistance (RCA);
- Supplemental Security Income (SSI);
- Social Security Disability Insurance (SSDI); and
- Exhausting TANF within two years.

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