

**GLOW WORKFORCE DEVELOPMENT BOARD POLICY  
UNDER THE WORKFORCE INNOVATION OPPORTUNITY ACT (WIOA)**

**NAME OF POLICY:**           **Serving Priority Populations and Priority of Service under the WIOA Title I Adult Program**

**WDB APPROVED DATE:** **March 8, 2016, March 19, 2019**

**EFFECTIVE DATE:**       **March 21, 2023**

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**PURPOSE:** The Workforce Innovation Opportunity Act (WIOA) requires the WDB to establish a Priority of Service Policy for Individualized Career Services and ITAs.

**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

**APPLYING PRIORITY OF SERVICE REQUIREMENTS**

1) 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;

- 2) 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, which are:
  - i. Recipients of Public Assistance;
  - ii. Other low income individuals (see definition in Attachment A); and
  - iii. Individuals who are basic skill deficient (see definition in Attachment A), which includes English Language Learners
- 3) Third, to veterans and eligible spouses who are not included in WIOA's three (3) priority Adult groups;
- 4) Fourth, to additional priority populations established by NYSDOL and/or the LWDBs; and
- 5) 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, which 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.
  - iv. Underemployed

**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

## ATTACHMENT A

### 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.

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