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February 25, 2016

To: WIOA Contractors of the Orange County Workforce Investment Area

From: Andrew Munoz
Community Investment Division Administrator/
Orange County Workforce Investment Board Executive Director 

Subject: WIOA Adult Program Priority of Service
Information Notice No. 15-OCWDB-07
Supersedes Information Notice No. 10-OCWDA-01

Purpose:

This policy provides guidance and establishes the procedures regarding priority of service for recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient served with Workforce Innovation and Opportunity Act (WIOA) adult funds, as administered by the Orange County Workforce Investment Board.

Please note that this guidance was developed using the EDD Workforce Services Directive WSD15-14 dated January 22, 2016 and WIOA Notices of Proposed Rule Making (NPRM) and is subject to change based upon issuance of the final WIOA regulations or further guidance from the Department of Labor (DOL).

Effective Date:

Implementation of WIOA priority of service requirements began July 1, 2015.

References:

- Workforce Services Directive WSD15-14, Subject: *WIOA Adult Program Priority of Service* (January 22, 2016)
- WIOA (Public Law 113-128) Sections 3 and 134
- *Workforce Investment Act (WIA) Section 134*
- Title 20 *Code of Federal Regulations (CFR)* "WIOA, Notice of Proposed Rule Making" (NPRM), Sections 680.150, 680.600, 680.610, and 680.650
- Training and Employment Guidance Letter (TEGL) 06-14, *Program Year 2013/Fiscal Year 2014 Data Validation and Performance Reporting Requirements and Associated Timelines*, Attachment A (September, 10, 2014)
- TEGL 03-15, *Guidance on Services Provided through the Adult and Dislocated under the Workforce Innovation and Opportunity Act and Wagner Peyser, as Amended by WIOA, and Guidance for the Transition to WIOA Services* (July 1, 2015)
- Workforce Services Directive WSD08-10, Subject: *Final Rule on Priority of Service for Veterans and Eligible Spouses* (June 29, 2009)



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BACKGROUND

The WIA required that if funds allocated to a Local Area for adult employment and training activities were limited, priority of service was to be provided to recipients of public assistance and other low-income individuals for intensive services and training services.

The WIOA made several changes to the priority of service requirement by adding individuals who are basic skills deficient as a priority population, changing intensive services to career individualized services, and removing the provision stating priority of service is only applied if funding is limited.

Veterans and eligible spouses continue to receive priority of service for all DOL-funded programs amongst all participants. These requirements were not affected by the passage of the WIOA and must still be applied in accordance with guidance previously issued by the DOL and Workforce Services Directive WSD08-10.

The Employment and Training Administration (ETA) and Veterans' Employment and Training Service (VETS) released guidance for implementing Priority of Service for Qualified Job Training Programs funded in whole or in part by DOL. Training and Employment Guidance Letter No. 10-09 issued on November 10, 2009 states the following:

- (a) Universal access programs. For workforce programs that operate or deliver services to the public as a whole without targeting specific groups, veterans and eligible spouses must receive priority of service over all other program participants. Veterans and eligible spouses receive the first level of priority in universal access programs.
- (b) Programs with Eligibility Criteria. Eligibility criteria identify basic conditions that each and every participant in a specific program is required to meet. For example, for the Senior Community Service Employment Program (SCSEP) every participant is required to meet four criteria: a) age 55 or over; b) low-income; c) resident of a designated area; and, d) not job ready. It is important to note that a veteran or eligible spouse must first meet any and all of the statutory eligibility criteria in order to be considered eligible for: a) enrollment in the program; b) receipt of priority for enrollment in the program; and c) priority for receipt of services.

In addition to the eligibility criteria that all participants are required to meet, some programs also have priorities that establish a rank order to be observed in enrolling or serving participants. These priorities can be of two types: a) statutory; or, b) discretionary. The following two subsections provide guidance on how priority of service interacts with these two types of priorities.

- (a) Programs with Statutory Priorities: Some programs are required by law to provide a priority or preference for a particular group of individuals or require the program to spend a certain portion of program funds on a particular group of persons. An example of this type of priority is the priority for low income individuals, for recipients of public assistance, and for individuals who are basic skills deficient served with Workforce Innovation and Opportunity Act (WIOA) adult funds. For programs with this type of mandatory priority, program operators must determine the status of each individual veteran or eligible spouse and apply priority of service as described below:
 - i. Veterans and eligible spouses who meet the mandatory priorities or spending requirement or limitation must receive the highest level of priority for the program or service;
 - ii. Non-covered persons who meet the program's mandatory priority or spending requirement or limitation then receive the second level of priority for the program or service;
 - iii. Veterans and eligible spouses outside the program-specific mandatory priority or spending requirement or limitation then receive the third level of priority for the program or service; and

- iv. Non-covered persons outside the program-specific mandatory priority or spending requirement or limitation then receive the fourth level of priority for the program or service.
- (b) Programs with Discretionary Priorities: Some qualified job training programs may include a focus on a particular group or make efforts to provide a certain level of service to a particular group without the authorizing law specifically mandating that the target group be served before other eligible individuals. Because a discretionary focus of this type is not a statutorily mandated priority or targeting requirement, veterans and eligible spouses must receive the highest priority for programs or services with a discretionary targeting requirement. Non-covered persons within the discretionary targeting group then receive the second level of priority. Non-covered persons outside the discretionary targeting group receive the third level of priority. With respect to priority of service, the only feature that distinguishes discretionary targeting programs from universal access programs is the additional application of the discretionary targeting criterion to the non-covered persons. Therefore, for veterans and eligible spouses, priority of service applies to discretionary targeting programs and services the same way that it applies to universal access programs, i.e., veterans and eligible spouses first.

POLICY AND PROCEDURES

Priority of Service Requirement

As stated in the WIOA Section 134(c)(3)(E), with respect to individualized career services and training services funded with WIOA adult funds, priority of service must be given to recipients of public assistance, other low-income individuals, or individuals who are basic skills deficient.

Priority of service status is established at the time of eligibility determination and does not change during the period of participation. Priority does not apply to the dislocated worker population.

Veterans and eligible spouses continue to receive priority of service among all eligible individuals; however, they must meet the WIOA adult program eligibility criteria and meet the criteria under WIOA Section 124(c)(3)(E).

As described in TEGL 10-09, when programs are statutorily required to provide priority, such as the WIOA adult program, then priority must be provided in the following order:

Group 1:

First priority must be given to Veterans and eligible spouses who are also Economically Disadvantaged Adults (i.e. recipients of public assistance and other low income individuals) or individuals who are basic skills deficient. Veterans and Eligible Spouses must meet the guidelines indicated in Table I - Definitions. Economically Disadvantaged Adults is defined in Table I-Definitions.

Group 2:

Second priority must be given to Economically Disadvantaged Adults (i.e. recipients of public assistance or other low income individuals), or individuals who are basic skills deficient.

Group 3:

Third priority must be given to Veterans and eligible spouses who are not economically disadvantaged (i.e. not recipients of public assistance or not other low income individuals) or are not basic skills deficient.

Group 4:

Fourth priority is given to other individuals such as Older Workers (55 and older), former Foster Youth, the Disabled, School Dropouts and Offenders who are not economically disadvantaged (i.e. not recipients of public assistance or not other low income individuals), or not basic skills deficient. [Reference – TEGL 3-15 Guidance on Services Provided through the Adult and Dislocated under the Workforce Innovation and Opportunity Act and Wagner Peyser, as Amended by WIOA, and Guidance for the Transition to WIOA Services]

Group 5:

Fifth priority is given to the underemployed workers who do fall within Groups 1 through 4 and who are in need of WIOA individualized services. Individuals who are underemployed may include:

- *Individuals employed less than full-time who are seeking full-time employment;*
- *Individuals who are employed in a position that is inadequate with respect to their skills and training;*
- *Individuals who are employed who meet the definition of a low-income individual in WIOA Sec. 3(36); and,*
- *Individuals who are employed, but whose current job's earnings are not sufficient compared to their previous job's earnings from their previous employment, per State and/or local policy.*

[Reference: TEGL 3-15]

For additional guidance on providing priority of service to veterans through the one-stop system, please reference Workforce Services Directive WSD08-10 issued by EDD on June 29, 2009.

For purposes of this policy, the definitions in Attachment I apply.

Career and Training Services

Under WIOA, the WIA core and intensive services are merged into a new category entitled "career services."

The career services category includes:

1. basic career services, found at WIOA Section 134(c)(2)(A)(i)-(xi), and
2. individualized career services, found at WIOA Section 134(c)(2)(A)(xii).

Basic career services are not subject to the priority of service requirement.

However, individualized career services and training services are subject to the requirement (Title 20 CFR NPRM Section 680.150).

Attachment II lists the WIOA services under Basic, Individualized, or Training services.

Documentation

Attachment III lists sources of documentation that shall be used to verify whether an adult participant qualifies for priority of service under WIOA:

NOTES:

- The EDD does not require a certain percentage requirement for Priority of Service.
- According to Federal Register, Notice of Proposed Rulemaking (NPRM), §680.610, the statutory priority for low-income individuals, public assistance recipients, and individuals who are basic skills deficient only applies to the WIOA adult program and not the WIOA dislocated worker program.

- WIOA 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.
- WIOA Section 3(36) defines the term LOW INCOME INDIVIDUAL. One of the six “low-income individual” definitions refers to 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.”
- All service providers must ensure that all barriers of employment are documented as a way to accurately measure populations served within the one-stop system.

ACTION:

1. Bring to the attention of all staff.
2. For income-based eligibility, use the appropriate Lower Living Standard Income Level (LLSIL) and Poverty Guidelines Chart (Information Notice No. 15-OCWDA-02).

ATTACHMENT(S):

None

INQUIRIES:

If you have any questions regarding this policy, please contact your Contract Administrator by calling (714) 480-6500.

ATTACHMENT I: Definitions

PRIORITY OF SERVICE	
Term	Definition
Basic Skills Deficient	<p>An individual that 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 (WIOA Section 3[5]).</p> <p>Criteria used to determine whether an individual is basic skills deficient includes the following:</p> <ul style="list-style-type: none"> ▪ Lacks a high school diploma or high school equivalency and is not enrolled in post-secondary education. ▪ Enrolled in a Title II Adult Education/Literacy program. ▪ English, reading, writing, or computing skills at an 8.9 or below grade level. ▪ Determined to be Limited English Skills proficient through staff-documented observations. ▪ Other objective criteria determined to be appropriate by the Local Area and documented in its required policy.
Case Notes	<p>Paper or electronic statements by the career consultant that identifies, at a minimum, (1) a participant's status for a specific data element, (2) the date on which the information was obtained, and (3) the career consultant who obtained the information. If case notes are used as a documentation source, the case notes must provide an auditable trail back to the source of information verified. The career consultant does not need to keep a hard copy of the information verified in the participant's case file.</p> <p>Example: A career consultant verifies an individual is basic skills deficient by viewing school records, specifically, enrollment in a Title II Adult Education/Literacy program. The case notes must include auditable information, such as the name of the school and the date of enrollment, which could allow an auditor/monitor to later retrieve this information. The career consultant would not need to keep a hard copy of the school record in the participant's file (TEGL 06-14, Attachment A).</p>
Economically Disadvantaged Adult (or Low Income)	<p>An Economically Disadvantaged Adult or Low Income is defined as an individual who <u>meets one</u> of the following criteria:</p> <ol style="list-style-type: none"> 1. Receives, or in the past six months has received, or is a member of a family that is receiving, or in the past six months has received, assistance through the Supplemental Nutrition Assistant Program (SNAP) cash payments under a Federal, State, or local income-based public assistance program (including Medi-Cal, Medicaid or Medicare) 2. Received an income, or is a member of a family that received a total family income, for the 6-month period prior to application for the program involved that, in relation to family size, does not exceed the higher of the following: <ol style="list-style-type: none"> a. Poverty level b. 70% of the Lower Living Standard Income Level/Poverty Standards 3. Qualifies as a homeless individual as defined by the Stewart B. McKinney-Vento Homeless Assistance Act. 4. An individual who has a disability and whose own income does not exceed the income requirement in section 2, but is a member of a family whose income does. <p><i>[Reference: WIOA Section 3(36)]</i></p>

<p><i>Continuation of Table I</i></p> <p>Public Assistance Recipient</p>	<p>An individual that receives federal, state, or local government cash payments for which eligibility is determined by a needs or income test (WIOA Section 3[50]).</p>
<p>Self-Attestation</p>	<p>When a participant states his or her status for a particular data element, such as low income, and then signs and dates a form acknowledging this status. The key elements for self-attestation are (1) the participant identifying his or her status for permitted elements, and (2) signing and dating a form attesting to this self-identification. The form and signature can be on paper or in the Local Area management information system, with an electronic signature (TEGL 06-14, Attachment A).</p> <p>*Note that self-attestation is not to be used as the primary method of gathering documentation to verify data elements. Self-attestation as a documentation source is only to be used when the preferred options of paper documentation or third party corroboration are not available.</p>
<p>Veteran</p>	<p>A Veteran is defined as any individual who:</p> <ol style="list-style-type: none"> 1. Served in the active military, naval, or air service, and who was discharged or released under conditions other than dishonorable; OR 2. The Spouse of any of the following individuals: <ol style="list-style-type: none"> a. Any Veteran who died of a service-connected disability; b. Any member of the Armed Forces serving on active duty who, at the time of application for the priority, is listed in one or more of the following categories and has been so listed for a total of more than 90 days: <ol style="list-style-type: none"> (i) Missing in action; (ii) Captured in line of duty by a hostile force; or (iii) Forcibly detained or interned in line of duty by a foreign government or power; c. Any Veteran who has a total disability resulting from a service-connected disability, as evaluated by the Department of Veterans Affairs; d. Any Veteran who died while a disability, as indicated in paragraph (c) of this section, was in existence.

ATTACHMENT II – WIOA Services

TYPE OF WIOA SERVICES	EXAMPLES OF SERVICES
<p>Basic Career Services</p>	<p>Basic career services must be made available to all individuals seeking services offered by the one-stop delivery system, and include the following:</p> <ul style="list-style-type: none"> ▪ Determinations of whether the individual is eligible to receive assistance from the adult, dislocated worker, or youth programs. ▪ Outreach, intake (including identification through the state's Worker Profiling and Reemployment Services system of unemployment insurance (UI) claimants likely to exhaust benefits), and orientation to information and other services available through the one-stop delivery system. ▪ Initial assessment of skill levels including literacy, numeracy, and English language proficiency, as well as aptitudes, abilities (including skills gaps), and supportive service needs. ▪ Labor exchange services, including the following: <ul style="list-style-type: none"> ▷ Job search and placement assistance, and, when needed by an individual, career counseling, including the following: <ul style="list-style-type: none"> * Provision of information on in-demand industry sectors and occupations [as defined in WIOA Section 3(23)]. * Provision of information on nontraditional employment [as defined in WIOA Section 3(37) of]. ▪ Provision of referrals to and coordination of activities with other programs and services, including those within the one-stop delivery system and, when appropriate, other workforce development programs. <ul style="list-style-type: none"> ▪ Provision of workforce and labor market employment statistics information, including the provision of accurate information relating to local, regional, and national labor market areas, including the following: <ul style="list-style-type: none"> ▷ Job vacancy listings in labor market areas. ▷ Information on job skills necessary to obtain the vacant jobs listed. ▷ Information relating to local occupations in demand and the earnings, skill requirements, and opportunities for advancement for those jobs. ▪ Provision of performance information and program cost information on eligible providers of training services by program and type of providers. ▪ Provision of information about how the Local Area is performing on local performance accountability measures, as well as any additional performance information relating to the area's one-stop delivery system. ▪ Provision of information relating to the availability of supportive services or assistance, and appropriate referrals to those services and assistance, including (1) child care, (2) child support, (3) medical or child health assistance available through the state's Medicaid program and Children's Health Insurance Program, (4) benefits under the SNAP, (5) assistance through the earned income tax credit, (6) housing counseling and assistance services sponsored through the U.S. Department of Housing and Urban Development, (7) and assistance under a state TANF program, and other supportive services and transportation provided through that program. ▪ Assistance in establishing eligibility for programs of financial aid assistance for training and education programs not provided under WIOA. ▪ Provision of information and assistance regarding filing claims under UI programs, including meaningful assistance to individuals seeking assistance in filing a claim: <ul style="list-style-type: none"> ▷ Meaningful assistance means providing assistance as follows: <ul style="list-style-type: none"> * On-site using staff who are properly trained in UI claims, filing, and/or the acceptance of information necessary to file a claim (note that, staff providing

<p><i>Continuation of Table II</i></p>	<p>UI assistance may be UI, Wagner-Peyser, or other America's Job Center of CaliforniaSM (AJCC) partner staff members who have been properly trained to provide this type of assistance and service. Note that, questions, advice, or decisions that could affect a claimant's eligibility should only be handled by UI program staff).</p> <p>* By phone or via other technology, as long as the assistance is provided by trained and available staff and within a reasonable time.</p> <p>T</p> <ul style="list-style-type: none"> ▷ The costs associated in providing meaningful assistance may be paid for by the state's UI program, the WIOA adult or dislocated worker programs, the Wagner-Peyser Employment Service, or some combination thereof these funding sources.
<p>Individualized Career Service</p>	<p>Individualized career services are subject to priority of service, and consist of the following:</p> <ul style="list-style-type: none"> ▪ Comprehensive and specialized assessments of the skill levels and service needs of adults and dislocated workers, which may include the following: <ul style="list-style-type: none"> ▷ Diagnostic testing and use of other assessment tools. ▷ In-depth interviewing and evaluation to identify employment barriers and appropriate employment goals. ▪ 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, eligible training providers. ▪ Group and/or individual counseling and mentoring. ▪ Career planning (e.g. case management). ▪ Short-term pre-vocational services, including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct to prepare individuals for unsubsidized employment or training, in some instances pre-apprenticeship programs may be considered as short-term pre-vocational services. ▪ Internships and work experiences that are linked to careers. ▪ Workforce preparation activities that help an individual acquire a combination of basic academic skills, critical thinking skills, digital literacy skills, and self-management skills, including competencies in utilizing resources, using information, working with others, understanding systems, and obtaining skills necessary for successful transition into and completion of postsecondary education, or training, or employment. ▪ Financial literacy services. ▪ Out-of-area job search assistance and relocation assistance. ▪ English language acquisition and integrated education and training programs.
<p>Training Services</p>	<p>Training services are subject to priority of service, and consist of the following:</p> <ul style="list-style-type: none"> ▪ Occupational skills training, including training for nontraditional employment ▪ On-the-job training ▪ Incumbent worker training. ▪ Programs that combine workplace training with related instruction, which may include cooperative education programs. ▪ Training programs operated by the private sector. ▪ Skill upgrading and retraining. ▪ Entrepreneurial training ▪ Transitional jobs ▪ Job readiness training provided in combination with another service

<i>Continuation of Table II</i>	<ul style="list-style-type: none">▪ Adult education and literacy activities, including activities of English language acquisition and integrated education and training programs, provided concurrently or in combination with another training service.▪ Customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training.
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ATTACHMENT III - Documentation

PRIORITY OF SERVICE	
Priority of Service Criteria	Acceptable Documentation <i>(Only the documentation sources listed below may be used.)</i>
Recipient of Public Assistance	<ul style="list-style-type: none"> ▪ Cross-match with public assistance database ▪ Copy of authorization to receive cash public assistance ▪ Copy of public assistance check ▪ Medical card showing cash grant status ▪ Public assistance records ▪ Refugee assistance records
Low Income	<ul style="list-style-type: none"> ▪ Alimony agreement ▪ Award letter from veteran's administration ▪ Bank statements ▪ Compensation award letter ▪ Court award letter ▪ Pension statement ▪ Employer statement/contact ▪ Family or business financial records ▪ Housing authority verification ▪ Pay stubs ▪ Public assistance records ▪ Quarterly estimated tax for self-employed persons ▪ Social Security benefits ▪ Unemployment Insurance documents ▪ Self attestation*
Basic Skills Deficient	<ul style="list-style-type: none"> ▪ School Records <ul style="list-style-type: none"> ○ A referral or records from a Title II Basic Adult Education program or English Language Learner program ▪ Results of academic assessment ▪ Case notes* ▪ Self-Attestation*
<p>*Please reference the definition section of this directive for additional guidance on case notes or self-attestation being used for documentation purposes.</p>	