

**Monroe County/Rochester
Workforce Development Board**

WIOA Policy 101

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SUBJECT: Priority of Service

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I. Purpose

WIOA requires the local board to establish a priority of service policy for career and training services. This document contains the current local policy.

II. Definitions

A. Basic Skills Deficient: With regard to WIOA Adults, “Basic Skills Deficient,” defined at New York State Workforce Development System [Technical Advisory #23-01](#), Attachment A, dated January 20, 2023, and WIOA 3(5), and further explained in TEGL 19-16, means an individual 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. This definition includes English Language Learners, defined at WIOA 203(7). Inability to compute or solve problems or to read, write, or speak English at the necessary level may be documented by a score on the TABE test (or other equivalent assessment on the National Reporting System (NRS) benchmarks crosswalk) equivalent to the 8th grade level or below; a WorkKeys level of two (2) or below on the Workplace Documents, Applied Math, or Graphic Literacy assessment; or a self-attestation that an individual with a primary language other than English has limited ability in reading, writing, speaking, or comprehending the English language.

B. Chronically Unemployed (as applicable to Transitional Jobs): Chronically Unemployed means that a worker has been unemployed, as defined by the Bureau of Labor Statistics, for at least:

1. Six (6) of the past 24 months, or
2. Fifteen (15) of the past 60 months.

C. Dislocated Worker: The term “Dislocated Worker” is defined at WIOA 3(15). Our local policy adheres to the New York State Department of Labor (NYSDOL) guidance in Program Guidance Letter #22-01. It further clarifies the time period involved in a dislocated worker determination and defines the terms “attachment to the workforce” and “unlikely to return to a previous industry or occupation” as follows:

1. The Monroe County/Rochester Workforce Development Board recognizes the continuing effect of dislocation events across the Finger Lakes Region, and therefore does not dictate a time frame in which a person must have been dislocated in order to be deemed eligible as a dislocated worker.
2. One-stop center staff may use the following guidelines when determining whether a participant has been employed for a duration sufficient to demonstrate attachment to the workforce: Attachment to the workforce may be demonstrated by any labor performed in any occupation where the employee has worked for two full pay periods or one month, whichever is less. This determination must be adequately documented in OSOS, hard copy employment records, or through a signed participant self-attestation.

3. One-stop center staff may use any reasonable means or explanation to determine that a participant is unlikely to return to a previous industry or occupation. Such means or explanation must be adequately documented, which documentation may include a signed participant self-attestation. Examples of participant characteristics that may be used to determine that a participant is unlikely to return to a previous industry or occupation may include, but are not limited to, the following:

- Profiled as unlikely to return to a previous industry or occupation
- Exhausted entitlement to unemployment compensation
- Job search activities result in no jobs within one hour by automobile or one-and-a-half hours by public transportation
- Long-term unemployed
- Long-term underemployed
- A combination of un/underemployment with a barrier to employment, as defined at WIOA 3(24)
- Labor market information for previous industry or occupation indicates negative growth
- Individual who has been impacted by the Opioid Crisis

4. We will use the NYSDOL definition for “unemployment compensation” published in Program Guidance Letter #22-01.

5. For dislocated workers impacted by a mass layoff or closure, we will use the NYSDOL definition of “substantial layoff” published in Program Guidance Letter #22-01.

6. For dislocated self-employed workers, we will use the NYSDOL definition for “the community in which the individual resides” published in Program Guidance Letter #22-01.

7. For displaced homemakers, we will use the NYSDOL definitions of “unpaid services,” “dependent on the income,” “family member,” “no longer supported by that income,” “significantly reduced,” “having trouble,” and “underemployed” published in Program Guidance Letter #22-01.

8. For all non-displaced homemaker dislocated workers, we will use the following definition of “underemployed individuals” from Program Guidance Letter #22-01: Individuals who have been determined to be DWs may remain DWs, even after they have obtained employment, if they are (1) individuals employed less than full-time who are seeking full-time employment; (2) individuals who are employed in a position that is inadequate with respect to their skills and training; (3) individuals who are employed who meet the definition of a low-income individual in WIOA sec. 3(36); (4) individuals who are employed, but whose current job’s earnings are less than the self-sufficiency wage rate set by the LWDB, or are not sufficient based on their training and experience or compared to their earnings from their previous employment; and (5) individuals who are employed in stopgap employment.

D. Inconsistent Work History (as applicable to Transitional Jobs): Inconsistent Work History means that a worker has been employed:

1. In the same occupation or industry for 39 or fewer months during the past five (5) years, or
2. With three (3) or more different employers during past five (5) years, or
3. With a staffing agency for at least six (6) months during the past two (2) years, or
4. With a staffing agency for at least 15 months during the past five (5) years, or
5. For fewer than 60 months during their lifetime, or
6. In the United States Armed Forces and is a veteran who was discharged within the past five (5) years.

E. Individual With a Disability: The term “Individual With a Disability” is defined at WIOA 3(25). It includes individuals who are in receipt of Social Security Disability Insurance.

F. Justice-Involved Individual: The term “Justice-Involved Individual” means an Offender, as defined at WIOA 3(38).

G. Low-Income Individual: The term “Low-Income Individual” is defined at New York State Workforce Development System [Technical Advisory #23-01](#), Attachment A, dated January 20, 2023, and WIOA 3(36). It is further explained in TEGL 19-16. *Under WIOA, there is no exclusion of payments for unemployment compensation, child support payments, and old-age survivors insurance benefits from income calculations for determining if an individual is low-income. These exclusions that were previously provided under WIA no longer apply.*

H. Priority of Service: Priority of service means that individuals in priority groups are given priority over individuals not in those groups for the receipt of WIOA career and training services. This means that an individual in a priority group either receives access to a service earlier in time than an individual not in the group or, if the resource is limited, the individual in the priority group receives access to the service instead of or before individuals who are not in the group.

For a training service, priority of service applies to the selection procedure as follows. First, if there is a waiting list for the formation of a training class, priority of service is intended to require an individual in a priority group to go to the top of that list. Second, priority of service applies up to the point at which an individual is both approved for funding and accepted or enrolled into the training program. Therefore, once an individual who is not in a priority group has been approved for funding and accepted or enrolled into the training program, priority of service is not intended to allow an individual in a priority group who is identified subsequently to “bump” the individual not in the group from that training program.

For certain service types, indicated below, individuals who are not in a priority group may not be eligible for the service.

I. Recipients of Public Assistance: The term “Public Assistance” is defined at WIOA 3(50). 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.

III. Priority Populations

There are three types of populations that receive priority of service: Federal priority populations, state priority populations, and local priority populations. In addition to these three types of priority populations, veterans and eligible spouses always receive priority of service.

A. Federal Priority Populations. Federal priority populations include:

1. Recipients of public assistance, including cash public assistance, SNAP benefits, and other benefits listed in NYSDOL Technical Advisory #23-01, Attachment A;
2. Other low-income individuals; and
3. Individuals who are basic skills deficient, including English Language Learners.

B. State Priority Populations. State priority populations include:

1. Individuals with a disability;
2. Justice-involved individuals; and
3. Single parents, including single pregnant women.

C. Local Priority Populations. Local priority populations vary by type of service and are described in Section IV, below.

IV. Priority of Service for WIOA Adult-Funded Services by Level and Type of Service

Priority for WIOA Adult-Funded Services depends on the level and type of service provided to the participant. The following paragraphs detail how the local priority of service policy is applied to each service category. This policy has been informed by New York State Workforce Development System [Technical Advisory #23-01](#), dated January 20, 2023. 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 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; and iii. Individuals who are basic skills deficient, which includes English Language Learners.

A. Basic Career Services. Basic Career Services are defined at WIOA Final Rule, §678.430(a). One-stop career center staff must give priority of service to veterans and eligible spouses in the provision of Adult-funded basic career services.

B. Individualized Career Services. Individualized Career Services are defined at WIOA Final Rule, §678.430(b). When providing individualized career services, one-stop career center staff must give priority of service to federal priority populations, veterans and eligible spouses, and state priority populations. Priority of service must be provided to individuals in the following order:

1. First, to veterans and eligible spouses who are *also* members of federal priority populations.
2. Second, to non-covered persons (that is, individuals who are not veterans or eligible spouses) who are members of federal priority populations.
3. Third, to veterans and eligible spouses who are *not* members of federal priority populations.
4. Fourth, to non-covered persons (that is, individuals who are not veterans or eligible spouses) who are members of state priority populations.
5. Last, to non-covered persons outside the priority groups.

C. Follow-up Services. Follow-up Services are defined at WIOA Final Rule, §678.430(c). One-stop career center staff must give priority of service to veterans and eligible spouses in the provision of follow-up services.

D. ITA Training Services. One-stop career center staff must give priority of service in the provision of Adult-funded ITA training services to federal priority populations, veterans and eligible spouses, state priority populations, *individuals who would meet the definition of low income after exclusion of payments for unemployment compensation and/or child support payments*, and employed workers earning \$20.20 per hour or less, prorated to a 40-hour work week, and adjusted annually to account for wage inflation.* **The determination of whether a participant is employed or not employed will be made on the date that the one-stop career center staff member submits the ITA application for approval, as documented in the Date Submitted field of the Classroom Training Submission cover sheet. Please note that the lookback date for determining low income has not changed. “Low income individual” is defined in II.G., above.** Priority of service must be provided to individuals in the following order:

1. First, to veterans and eligible spouses who are *also* members of federal priority populations.
2. Second, to non-covered persons (that is, individuals who are not veterans or eligible spouses) who are members of federal priority populations.

3. Third, to veterans and eligible spouses who are *not* members of federal priority populations.

4. Fourth, to non-covered persons (that is, individuals who are not veterans or eligible spouses) who are members of state priority populations, *individuals who would meet the definition of low income after exclusion of payments for unemployment compensation and/or child support payments*, and employed workers earning \$20.20 per hour or less, prorated to a 40-hour work week, and adjusted annually to account for wage inflation.*

5. No other group will be eligible for an Adult-funded ITA.

No employed worker who is earning more than the self-sufficiency wage established by the Board, which is the current MIT Living Wage for one adult, one child, will be eligible for an Adult-funded ITA.

* The annual adjustment to the employed worker wage to account for wage inflation will be made effective September 1 of each year. The adjustment will be based on a percentage of the base year median wage for all occupations in the Finger Lakes Region, as provided in Occupational Employment and Wage Statistics (OEWS) survey data published on the New York State Department of Labor web site. The base year (2021) median wage for all occupations in the Finger Lakes Region is \$43,210, corresponding to an employed worker wage of \$18 per hour in this policy document.

E. On-the-Job Training Services. One-stop career center staff must give priority of service in the provision of Adult-funded On-the-Job Training (OJT) services to federal priority populations, veterans and eligible spouses, and state priority populations. Priority of service must be provided to individuals in the following order:

1. First, to veterans and eligible spouses who are *also* members of federal priority populations.

2. Second, to non-covered persons (that is, individuals who are not veterans or eligible spouses) who are members of federal priority populations.

3. Third, to veterans and eligible spouses who are *not* members of federal priority populations.

4. Fourth, to non-covered persons (that is, individuals who are not veterans or eligible spouses) who are members of state priority populations.

5. Last, to non-covered persons outside the priority groups.

No OJT participant who is earning more than the self-sufficiency wage established by the Board, which is the current MIT Living Wage for one adult, one child, will be eligible for an Adult-funded OJT.

F. Customized Training Services. Customized training is generally provided to a group of eligible WIOA participants through an application process made by an employer who sponsors the training. Staff must give priority of service in the provision of Adult-funded customized training services to federal priority populations, veterans and eligible spouses, and state priority populations. Priority must be given to the applications submitted by employers who indicate that one or more of their eligible participants are members of a priority group. Priority of service must be provided to individuals in the following order:

1. First, to veterans and eligible spouses who are *also* members of federal priority populations.
2. Second, to non-covered persons (that is, individuals who are not veterans or eligible spouses) who are members of federal priority populations.
3. Third, to veterans and eligible spouses who are *not* members of federal priority populations.
4. Fourth, to non-covered persons (that is, individuals who are not veterans or eligible spouses) who are members of state priority populations.
5. Last, to non-covered persons outside the priority groups.

Priority may be assigned to employer applications according to the percentage of priority participants that they identify in the application.

No employed worker who is earning more than the self-sufficiency wage established by the Board, which is the current MIT Living Wage for one adult, one child, will be eligible for a Customized Training grant.

G. Transitional Jobs. One-stop career center staff must give priority of service in the provision of Adult-funded Transitional Jobs to federal priority populations, veterans and eligible spouses, and state priority populations.

Transitional Jobs may be provided only to individuals who are chronically unemployed and/or have inconsistent work history, as defined in Section II. of this policy. Priority of service must be provided to individuals in the following order:

1. First, to veterans and eligible spouses who are *also* members of federal priority populations.
2. Second, to non-covered persons (that is, individuals who are not veterans or eligible spouses) who are members of federal priority populations.
3. Third, to veterans and eligible spouses who are *not* members of federal priority populations.
4. Fourth, to non-covered persons (that is, individuals who are not veterans or eligible spouses) who are members of state priority populations.

5. Last, to non-covered persons outside the priority groups.

No transitional jobs participant who is earning more than the self-sufficiency wage established by the Board, which is the current MIT Living Wage for one adult, one child, will be eligible for an Adult-funded transitional job.

H. Supportive Services. Eligibility for and provision of supportive services are detailed in WIOA Policy 103. One-stop career center staff must give priority of service in the provision of Adult-funded supportive services to federal priority populations, veterans and eligible spouses, state priority populations, *individuals who would meet the definition of low income after exclusion of payments for unemployment compensation and/or child support payments*, employed workers earning \$20.20 per hour or less, prorated to a 40-hour work week, and adjusted annually to account for wage inflation,* and other unemployed individuals. Priority of service must be provided to individuals in the following order:

1. First, to veterans and eligible spouses who are *also* members of federal priority populations.
2. Second, to non-covered persons (that is, individuals who are not veterans or eligible spouses) who are members of federal priority populations.
3. Third, to veterans and eligible spouses who are *not* members of federal priority populations.
4. Fourth, to non-covered persons (that is, individuals who are not veterans or eligible spouses) who are members of state priority populations, *individuals who would meet the definition of low income after exclusion of payments for unemployment compensation and/or child support payments*, employed workers earning \$20.20 per hour or less, prorated to a 40-hour work week, and adjusted annually to account for wage inflation,* and other unemployed individuals.
5. No other group will be eligible for Adult-funded supportive services.

No employed worker who is earning more than the self-sufficiency wage established by the Board, which is the current MIT Living Wage for one adult, one child, will be eligible for Adult-funded supportive services.

* The annual adjustment to the employed worker wage is explained in Section IV.D., above.

V. 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 WDS TA #[23-03](#): Data Element Validation (DEV) for Titles I and III under the Workforce Innovation and Opportunity Act (WIOA), National Dislocated Worker Grants (NDWGs), the Trade Adjustment Assistance (TAA) Program, and the Jobs for Veterans State Grants (JVSF) Program (April 28, 2023). Local staff should reference the Excel or Word version of [Attachment A](#) to TA #23-03. 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.

VI. Priority of Service for WIOA Dislocated Worker (DW)-Funded Services

One-stop career center staff must give priority of service in the provision of all Dislocated Worker (DW)-funded career and training services to veterans and eligible spouses. One-stop career center staff should make every effort to identify eligible DW participants. It should be noted that under WIOA, the following categories related to veterans and eligible spouses are now included in the definition of Dislocated Worker:

- A.** The spouse of a member of the Armed Forces on active duty who has experienced a loss of employment as a direct result of relocation to accommodate a permanent change in duty station of such member.
- B.** The spouse of a member of the Armed Forces on active duty who is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.
- C.** A displaced homemaker, which definition now includes the dependent spouse of a member of the Armed Forces on active duty and whose family income is significantly reduced because of a deployment, a call or order to active duty, a permanent change of station, or the service-connected death or disability of the member, provided that the dependent spouse is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.
- D.** According to 20 CFR Part 680.660, a separating service member, separating from the Armed Forces with a discharge that is anything other than dishonorable, is eligible for WIOA services as a Dislocated Worker.

VII. Effective Date

This policy is effective immediately upon approval by the Workforce Development Board.

VIII. Revision

RochesterWorks, Inc. has the authority to make technical revisions to this policy. Technical revisions may be made to better align this policy with federal or state laws, statutes, regulations, or policy guidance; to better align this policy with other local policies; to respond to changes in the WIOA budget that impact this policy; or to revise references to source documents cited in this policy. Any revision to this policy that could have a substantial impact on participants must be approved by the Workforce Development Board. The Executive Director has the authority to temporarily approve policy changes until the next Workforce Development Board meeting.

IX. Questions

Questions on this policy may be directed to Lee Koslow, Technical Assistance and Training Manager, RochesterWorks Inc., (585) 258-3500, x-3516 or Lkoslow@rochesterworks.org.

Date Technical Revision Approved by Executive Director: August 21, 2023

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