

<b>WORKFORCE INVESTMENT BOARD OF TULARE COUNTY</b>  <b>WORKFORCE INNOVATION AND OPPORTUNITY ACT TITLE I</b>	<b>DATE:</b> <b>April 13, 2016</b>
	<b>SUBJECT:</b> <b>WIOA Adult Program</b> <b>Priority of Service</b>

**WIB DIRECTIVE**

**TUL 16-01**

APPROVED BY  
WORKFORCE INVESTMENT BOARD  
MINUTES OF 04-13-2016

**TO:           One-Stop Operator**  
**WIB Service Providers**  
**WIB Staff**

**SUBJECT:   WIOA ADULT PROGRAM PRIORITY OF SERVICE**

**EXECUTIVE SUMMARY**

**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.

Please note that this guidance was developed using the 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).

**Scope:**

This directive applies to all Providers of Workforce Innovation and Opportunity Act (WIOA) funded services.

**Effective Date:**

The directive is effective immediately.

**REFERENCES:**

- *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 WSD 08-10, Subject: *Final Rule on Priority of Service for Veterans and Eligible Spouses* (June 29, 2009)

- Workforce Services Directive WSD 15-14, WIOA Adult Program Priority of Service.

## **FILING INSTRUCTIONS:**

This directive supersedes Workforce Investment Board (WIB) Priority of Service Memorandum dated February 5, 2013 and finalizes WIB Draft Directive TUL 16-01 dated, March 15, 2016. The WIB received 21 comments during the comment period. A summary of these comments is provided as an attachment. Retain this directive until further notice.

## **(WIB)—IMPOSED REQUIREMENTS:**

This directive contains some WIB-imposed requirements. These requirements are indicated by *bold, italic* type.

## **BACKGROUND:**

The WIA required that if funds allocated to the WIB 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 WSD 08-10.

## **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 134(c)(3)(E). As described in TEG 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:

1. Veterans and eligible spouses who are also recipients of public assistance, other low Income individuals, or individuals who are basic skills deficient.
2. Individuals who are the recipient of public assistance, other low income individuals, or individuals who are basic skills deficient.
3. Veterans and eligible spouses who are not included in WIOA's priority groups.

[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*]

For additional guidance on providing priority of service to veterans through the one-stop system, please reference Workforce Services Directive WSD 08-10.

The WIB may establish additional priority groups for the local area (e.g., residents of the Local Area, individuals with disabilities, ex-offenders, etc.). If any additional priority groups are established, they should be identified in the WIB local policy

### Definitions

For purposes of this directive, the following definitions apply:

*Basic Skills Deficient* – 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]). ***Criteria used to determine whether an individual is basic skills deficient includes the following:***

- ***Lacks a high school diploma or high school equivalency and is not enrolled in postsecondary 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.***
- ***A standardized test may be used to assess basic skills that includes reading, writing, or computing skills.***

*Case Notes* – ***Paper or electronic statements by the case manager 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 case manager 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 case manager does not need to keep a hard copy of the information verified in the participant’s case file.

Example: A case manager 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 case manager would not need to keep a hard copy of the school record in the participant’s file (TEGL 06-14, Attachment A).

*Low-Income* – An individual that meets one of the four criteria below:

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 Assistance Program (SNAP), Temporary Assistance For Needy Families (TANF), program supplemental security income program, or state or local income-based public assistance.
2. In a family with total family income that does not exceed the higher of the following:
  - a. The poverty line.

- b. 70 percent of the Lower Living Standard Income Level.
3. A homeless individual.
4. An individual with a disability whose own income does not exceed the income requirement, but is a member of a family whose total income does.

(Reference WIOA Section 3[36])

*Public Assistance Recipient* – 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]).

*Self-Attestation* – 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).

\*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.

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

#### *Basic Career Services*

Basic career services must be made available to all individuals seeking services offered by the one-stop delivery system, and include the following:

- 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
  - Job search and placement assistance, and, when needed by an individual, career counseling, including the following:
    - 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.
- 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:
  - 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:
  - Meaningful assistance means providing assistance as follows:
    - 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 UI assistance may be UI, Wagner-Peyser, or other America's Job Center of California<sup>SM</sup> (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).
    - By phone or via other technology, as long as the assistance is provided by trained and available staff and within a reasonable time.
  - 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.

### *Individualized Career Services*

Individualized career services are subject to priority of service, and consist of the following:

- Comprehensive and specialized assessments of the skill levels and service needs of adults and dislocated workers, which may include the following:

- 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.

### *Training Services*

Training services are subject to priority of service, and consist of the following:

- 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 training service.
- 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.

Documentation

Service Providers may use the following sources of documentation to verify whether an adult participant qualifies for priority of service under WIOA:

<b>PRIORITY OF SERVICE</b>	
<b>Priority of Service Criteria</b>	<b>Acceptable Documentation</b> (Only the documentation sources listed below may be used.)
<b>1. Recipient of Public Assistance</b>	<ul style="list-style-type: none"> <li>• Cross-match with public assistance database</li> <li>• Copy of authorization to receive cash public assistance</li> <li>• Copy of public assistance check</li> <li>• Medical card showing cash grant status</li> <li>• Public assistance records</li> <li>• Refugee assistance records</li> </ul>
<b>2. Low Income</b>	<ul style="list-style-type: none"> <li>• Alimony agreement</li> <li>• Award letter from veteran’s administration</li> <li>• Bank statements</li> <li>• Compensation award letter</li> <li>• Court award letter</li> <li>• Pension statement</li> <li>• Employer statement/contact</li> <li>• Family or business financial records</li> <li>• Housing authority verification</li> <li>• Pay stubs</li> <li>• Public assistance records</li> <li>• Quarterly estimated tax for self-employed persons</li> <li>• Social Security benefits</li> <li>• Unemployment Insurance documents</li> <li>• Self-Attestation*</li> </ul>
<b>3. Basic Skills Deficient</b>	<ul style="list-style-type: none"> <li>• School Records               <ul style="list-style-type: none"> <li>○ A referral or records from a Title II Basic Adult Education program or English Language Learner program</li> </ul> </li> <li>• Results of academic assessment</li> <li>• Case notes*</li> <li>• Self-Attestation*</li> </ul>
<p>*Please reference the definition section of this directive for additional guidance on case notes or self-attestation being used for documentation purposes.</p>	

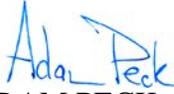
For reporting and statistical purposes, the EDD recommends the WIB to document all barriers of employment in order to accurately measure populations served within the one-stop system.

**ACTION:**

*Please bring this directive to the attention of all WIB Service Providers, WIB One-Stop Operator, and WIB Staff.*

**INQUIRIES:**

*Please direct inquiries regarding this directive to the Workforce Investment Board at (559) 713-5200.*



ADAM PECK  
Executive Director

**ATTACHMENTS**

[Summary of Comments](#)

AP:CE:ERD

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**Summary of Comments**  
**Draft Directive WIOA Adult Priority of Services TUL 16-01**

Commenter #1 Stated per the TAG book an individual needs to be receiving or is a family member of a household that is receiving TANF or SSI are considered low income. However, the Priority of Service Directive is stating that the individual does not need to necessarily be receiving TANF, SSI... as long as they received the benefit in the last 6 months or is a family member of a household that has received in the last 6 months.

Response – Please use the Priority of Service Directive to determine if the individual is low income. The WIB will update the Technical Assistant Guide (TAG) with this definition once EDD updates the WIOA Eligibility TAG.

Commenter #2 Stated if a customer doesn't meet the Priority of Service (income or BSD requirements), how do we keep track of the 51%?

Response – There is no reference to a 51 percent priority of service requirement in the directive. In EDD's draft directive there was a 51 percent requirement, however it was removed from the final EDD directive.

Commenter #3 How will we determine Basic Skills Deficiency?

Response – Basic Skills Deficient – 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]). Criteria used to determine whether an individual is basic skills deficient includes the following:

- Lacks a high school diploma or high school equivalency and is not enrolled into post-secondary education.
- Enrolled in a Title II Adult Education/Literacy program.
- English, reading, or computing skills at an 8.9 or below grade level.
- Determined to be Limited English proficient staff-documented observations.
- A standardized test may be used to assess basic skills that includes reading, writing, or computing skills.

Commenter #4 Stated that it seems exceedingly likely that current One-stop and Adult/DW customers already meet the 51% low-income/BSD requirements simply based on Tulare County's demographic profile (high poverty area, census tract, wage/benefit data?) and the fact that middle/high-income aren't as likely to access One-stop system services. Is there some way to assure services to 51% without doing income eligibility on an individual basis?

Response - There is no reference to a 51 percent priority of service requirement in the directive. In EDD's draft directive there was a 51 percent requirement, however it was removed from the final EDD directive.

Commenter #5 stated that customers are sometimes not willing to take time for additional steps in the intake process unless they can be assured that they will receive training.

Response – It is the purpose of WIOA programs to assist people who are having difficulty finding employment. It is not the intention of this program to discourage participation by imposing difficult documentation and verification requirements. Local areas must make reasonable efforts to document eligibility for WIOA-funded programs. While an applicant statement is not considered a primary documentation source, applicant statements may be used when an item is unverifiable or it is unreasonably difficult to obtain, as allowed in Section X of the WIB Eligibility TAG. The applicant’s difficulty in obtaining documentation does not need to entail hardship or suffering to justify using an applicant statement. In taking an applicant’s statement, it is not necessary to obtain corroboration unless there is reason not to believe the applicant or the applicant is a minor under the age of 18. For cases where documentation cannot or may not be copied, and/or is not readily obtainable, documents may be inspected or information verified by telephone. Telephone verification must be documented in the case notes and must include contact information and specific details.

Commenter #6 expressed concern as customers frequently lack documents needed to verify income.

Response – It is the purpose of WIOA programs to assist people who are having difficulty finding employment. It is not the intention of this program to discourage participation by imposing difficult documentation and verification requirements. Local areas must make reasonable efforts to document eligibility for WIOA-funded programs. While an applicant statement is not considered a primary documentation source, applicant statements may be used when an item is unverifiable or it is unreasonably difficult to obtain, as allowed in Section X of the WIB Eligibility TAG. The applicant’s difficulty in obtaining documentation does not need to entail hardship or suffering to justify using an applicant statement. In taking an applicant’s statement, it is not necessary to obtain corroboration unless there is reason not to believe the applicant or the applicant is a minor under the age of 18. For cases where documentation cannot or may not be copied, and/or is not readily obtainable, documents may be inspected or information verified by telephone. Telephone verification must be documented in the case notes and must include contact information and specific details.

Commenter #7 stated they will be required to obtain 6-months of income for Basic & Individual Career Services - though they don't offer Job Placement.

Response – Basic Career Services must be made available to all individuals and is not subject to Priority of Service. Job search and placement assistance are considered Basic Career Services. Basic and Career Services are listed on page 4 & 5 of the Priority of Service Directive. Individualized Career Services are subject to priority of service and is listed on page 6 of the Priority of Service Directive.

Commenter #8 stated they are concerned that customers may not "buy-in" to the process with the additional documentation and time investment necessary, without the promise of services beyond Job Coaching, Workshops, & Referrals to Training, currently offered

Response – Basic Career Services must be made available to all individuals and is not subject to Priority of Service. Job search and placement assistance are considered Basic Career Services. Basic Career Services are listed on pages 4, 5, 6 of the Priority of Service Directive.

It is the purpose of WIOA programs to assist people who are having difficulty finding employment. It is not the intention of this program to discourage participation by imposing difficult documentation and verification requirements. Local areas must make reasonable efforts to document eligibility for WIOA-funded programs. While an applicant statement is not considered a primary documentation source, applicant statements may be used when an item is unverifiable or it is unreasonably difficult to obtain, as allowed in Section X of the WIB Eligibility TAG. The applicant's difficulty in obtaining documentation does not need to entail hardship or suffering to justify using an applicant statement. In taking an applicant's statement, it is not necessary to obtain corroboration unless there is reason not to believe the applicant or the applicant is a minor under the age of 18. For cases where documentation cannot or may not be copied, and/or is not readily obtainable, documents may be inspected or information verified by telephone. Telephone verification must be documented in the case notes and must include contact information and specific details.

Commenter #9 stated that similarly, is there some way to "tier" Tulare/Dinuba services, stopping short of full One-Stop (in which both eligibility & follow-up services required) could continue to offer a supportive function providing Basic and Individualized Career Services, without doing eligibility on an individual basis? Otherwise, some combination of lower enrollment and additional staffing appear to be needed.

Response – The service provider may continue to follow the Priority of Service memo dated February 5, 2013 through June 30, 2016.

Commenter #10 stated in addition to designing a new intake and assessment process, additional training (plus sufficient experience) in the processes will be necessary before "performance" at a regular, maintainable level should be expected

Response – The WIB will provide necessary training to service provider staff in order to smoothly transition to the new requirements.

Other Comments Various comments were received regarding the effect the new directive will have on service provider performance.

Response: The WIB will address these comments individually with each service provider.