

TITLE 11 LABOR AND WORKERS' COMPENSATION
CHAPTER 2 JOB TRAINING
PART 23 WORKFORCE INVESTMENT ACT (WIA) PRIORITY OF SERVICE

11.2.23.1 ISSUING AGENCY: The New Mexico Office of Workforce Training and Development (OWTD)
[11.2.23.1 NMAC - N, 12/31/05]

11.2.23.2 SCOPE: The Workforce Investment Act (WIA) state administrative entity (SAE), state workforce development board (SWDB), local workforce development boards (LWDBs), and all SAE WIA subrecipients.
[11.2.23.2 NMAC - N, 12/31/05]

11.2.23.3 STATUTORY AUTHORITY: Workforce Development Act, Chapter 50, Article 14, NMSA 1978.
[11.2.23.3 NMAC - N, 12/31/05]

11.2.23.4 DURATION: Permanent
[11.2.23.4 NMAC - N, 12/31/05]

11.2.23.5 EFFECTIVE DATE: December 31, 2005, unless a later date is cited at the end of a section.
[11.2.23.5 NMAC - N, 12/31/05]

11.2.23.6 OBJECTIVE: To establish policy for local workforce development boards regarding priority of services for adults and the veterans' priority mandate.
[11.2.23.6 NMAC - N, 12/31/05]

11.2.23.7 DEFINITIONS: [RESERVED]

11.2.23.8 BACKGROUND:

A. If adult funds allocated to a local workforce development board are "limited", then priority for intensive and training services must be given to recipients of public assistance and other low-income individuals. This requirement ensures that low-income individuals and public assistance recipients receive services beyond core. It also assures that WIA funds are used for low-income individuals who do not qualify for other programs.

B. On September 16, 2003, the U.S. department of labor (USDOL) issued instructions on implementation of the Jobs for Veterans Act. This guidance transmitted in TEGL 5-03 requires priority of services to veterans (and some spouses) for all USDOL training programs. Pending development of specific federal guidance for WIA programs, the USDOL has encouraged states to provide interim guidance for WIA Title I programs. TEGL 5-03 can be accessed at <http://www.doleta.gov>, or on the state wia website at www.wia.state.nm.us.

C. USDOL states that the Jobs for Veterans Act is applicable to operations under current law when a program has its own statutory priorities for certain population groups. WIA Title I has such priorities at section 134(d)(4)(E).
[11.2.23.8 NMAC - N, 12/31/05]

11.2.23.9 ACTION: References include the following: Title I of the Workforce Investment Act, Public Law 105-220, Workforce Investment Act, section 101(25) (low income), Section 101(37)(public assistance), Section 134(d)(4)(E) (priority), Pub. L. 107-288, Jobs for Veterans Act, 20 CFR 652 *et al.* Section 663-600 (low income/public assistance), and USDOL Training and Employment Guidance Letter (TEGL) No. 5-03.

A. LWDBs shall develop a methodology for determining when funding will be considered "limited", for Title I adult intensive and training services. The methodology should have a direct relationship to the individuals awaiting entry into intensive and training services. The system of service priority should include consideration of the adequacy of other available funding sources for adult employment and training-related services such as TANF or Welfare-to-Work. If the LWDB demonstrates that funds are available to meet the needs of all eligible adults for appropriate intensive or training services, the priority requirement for low-income individuals will not apply. Veterans, however, will receive priority over non-veterans.

B. When a LWDB makes a determination that a priority of service system is necessary because funding is limited (i.e., adults awaiting entry into intensive or training services), the local board shall notify the state administrative entity (SAE) in writing. The LWDB shall also notify the SAE in writing when reverting back to a non-priority process.

C. Upon a determination that local adult funds are limited and a priority of services system for the provision of intensive or training services (including individual training accounts) to program eligible adults is necessary, a veterans priority as well as priority to public assistance recipients and low income individuals required in WIA regulations will be established as follows:

(1) First priority will be provided to recipients of public assistance and other low-income individuals *who are also* veterans or spouses of veterans that fall into the following categories:

(a) any veteran who dies of a service connected disability;

(b) any member of the armed services serving on active duty who, at the time of application, is listed in one or more of the categories below for a total of more than 90 days as:

(i) missing in action;

(ii) captured in the line of duty by a hostile force; or

(iii) forcibly detained or interned in the line of duty by a foreign government or power;

(c) any veteran who has a total disability resulting from a service-connected disability;

(d) any veteran who dies while a disability so evaluated was in existence.

(2) recipients of public assistance and other low-income individuals;

(3) veterans, or spouses of veterans as defined above; and

(4) any additional targeted groups for priority of service identified by the LWDB.

D. When a LWDB provides intensive and training services without the limited funds provision for priority of services, veterans receive priority over non-veterans.

E. LWDBs should review local policies related to priority of services priorities and revise them as necessary to comply with this rule and the Jobs for Veterans Act.

F. LWDBs are encouraged to provide information to their subrecipients concerning the Jobs for Veterans Act. No modifications are required for existing contracts but all subsequent contracts and grants where appropriate for service delivery shall include the veterans' priority mandate.

G. The LWDBs, or their designee, shall monitor delivery of intensive and training services for adults to ensure that no individuals receiving public assistance or other low-income individuals are excluded from participation or denied benefits under WIA and that the veterans priority mandate is established.

[11.2.23.9 NMAC - N, 12/31/05]

11.2.23.10 CONTACT ENTITY: Inquiries regarding this rule should be directed to the state administrative entity (SAE) in Santa Fe at (505) 827-6827.

[11.2.23.10 NMAC - N, 12/31/05]

11.2.23.11 DISTRIBUTION: SWDB and LWDB chairpersons, LWDB administrative entities, all SAE WIA subrecipients, SAE legal counsel, SAE EEO officer, USDOL federal representative and New Mexico commission of public records.

[11.2.23.11 NMAC - N, 12/31/05]

HISTORY OF 11.2.23 NMAC: [RESERVED]