



Nebraska Commission for the Blind and Visually Impaired

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Nebraska Commission for the Blind and Visually Impaired (NCBVI)

Order of Selection Frequently Asked Questions

Please Note: Starting March 1, 2019, NCBVI will be in Order of Selection.

What is Order of Selection (OOS)?

Order of Selection is a system or method for prioritizing the Consumers a VR agency intends to serve. The Federal Government requires VR agencies to use an Order of Selection when a VR agency anticipates that they do not have enough money and/or staff to serve everyone who is eligible. Those individuals who fall into the open categories can be served immediately. Those individuals who fall into the closed categories are put on a waiting list and are served when there is capacity/availability. (Section 101(a)(5)(A) of the Rehabilitation Act of 1973 (Act) and 34 CFR 361.36(a)(1))

Why is it necessary for NCBVI to go on an Order of Selection?

- Due in part to the implementation of WIOA in July 2014, 15% of our budget is now required to be reserved for providing Pre-Employment Transition Services (Pre-ETS).
- Reallotment funds and Social Security Reimbursement funds have dramatically decreased causing NCBVI to fall into a budget deficit, which means NCBVI needs to cut expenditures to be able to operate within base grant limits.
- After a thorough fiscal review of our expenditures on case services for the current fiscal year and previous years, we anticipate we will not have enough funds to serve all of our vocational rehabilitation consumers.

What is the process for implementing an Order of Selection?

- NCBVI must review the projected fiscal and personnel resources to determine if all Consumers can be served.
- NCBVI must:
 - Establish an order of selection, including any reevaluation of the need
 - Develop priority categories of the particular order of selection;
 - Determine criteria for determining individuals with the most significant disabilities; and
 - Determine administration of the order of selection.

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- NCBVI must amend the State Plan to include:
 - The order to be followed in selecting eligible individuals to be provided vocational rehabilitation services
 - A justification for the order of selection;
 - Identified service and outcome goals and the time within which the goals may be achieved for individuals in each priority category within the order, as required under §361.29(c)(5); and
 - Assure that:
 - individuals with the most significant disabilities will be selected first for the provision of vocational rehabilitation services; and
 - Individuals who do not meet the order of selection criteria will have access to services provided through the information and referral system established under §361.37.
- The Order of Selection decision and categories must be evaluated whenever there is a change in circumstances throughout the federal fiscal year. A change in circumstances could include a change in funding or personnel.

How do you get off Order of Selection?

Once a State implements an Order of Selection, it may at some point, determine that it is no longer necessary to continue to implement the Order of Selection. In such a case, it must establish that it will be able to provide all needed services to all eligible individuals in the coming fiscal year. This determination must be based on “circumstances that have changed that will allow” the VR agency to provide the full range of services to all eligible individuals, including:

- (1) An estimate of the number of such individuals and the cost of services;
- (2) The costs of administering the program, including personnel costs, outreach activities and required statewide studies; and
- (3) The projected revenue

What are NCBVI’s Order of Selection priority categories and how are they established?

Federal law and state regulations require that the individuals with the most significant disabilities be served first. NCBVI has three priority categories:

- Priority Category (A): Eligible Individual with a most significant disability (Will be served first)
 - An individual with a severe visual impairment or combination of visual, physical, or mental impairments which profoundly limits two or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome; and
 - An individual who requires multiple services over an extended period of time.
- Priority Category (B): Eligible Individual with a significant disability (Will be served second)

- An individual with a severe visual impairment or combination of visual, physical, or mental impairments, which seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome; and
- An individual who requires multiple services over an extended period of time
- Priority Category(C): All Other Eligible individuals with a disability (Will be served third)
 - Does not meet the definition of Individual with a Most Significant Disability or the definition of Individual with a Significant Disability.

What is a significant disability versus a most significant disability?

Note that all of our Consumers who are eligible for our vocational rehabilitation services are considered to at least have a significant disability. However, the majority of our consumers eligible for services are considered to have a most significant disability.

An "individual with a significant disability" is defined in Section 7(21)(A) of the Act as an individual with a disability –

- who has a severe physical or mental impairment which seriously limits one or more functional capacities (mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;
- whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and
- who has one or more physical or mental disabilities listed in section 7(21)(A)(iii) of the Act or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation. Blindness/vision loss is listed in this section.

What is a functional limitation, and what makes it "serious?"

A functional limitation is defined by NCBVI as a vocational barrier or impediment due to a disability that affects mobility, self-direction, self-care, interpersonal skills, work skills, communication, or work tolerance. A serious functional limitation means a reduction in the capacity of the individual to the degree that the person requires services or accommodations not typically made for other individuals in order to prepare for, enter, engage in, retain, or advance in employment.

What does this process look like for Consumers who apply for vocational rehabilitation services?

After the intake is completed and at the time of determining eligibility, a consumer's functional capacities in the following seven categories are assessed:

- Communication
- Mobility
- Self-Care
- Self-Direction
- Interpersonal Skills
- Work Tolerance
- Work Skills

The following question is then answered by the counselor using the information obtained during the assessment phase:

- Does this individual require multiple services over an extended period of time?

The information above is then used to determine what category an individual is placed. If the category is “open”, that individual can immediately begin vocational rehabilitation services. If the category is “closed”, that individual is put on a waiting list until the needs of all members of the “most significant disability” group and any other open category have been met. Then another category can be opened up and those individuals can start to be moved from the waiting list. While there is no guidance on this in federal regulations, most states go chronologically by the date of application and begin serving individuals in that order.

What categories are closed?

All Categories

What alternative resources do Consumers have if they are on a waiting list for services?

When a Consumer is wait listed due to the category they are placed in, NCBVI must provide information and referral services to that individual. The best place a Consumer can go to for resources and services is any Workforce Center. Workforce Centers provide job search classes, computer labs with accessible technology, and job clubs. At the time a Consumer is placed on the waiting list, they will be provided information and referral services.

What about those Consumers who apply that need job retention services? Will they be able to bypass the Order of Selection?

Eligible individuals who are in need of VR services to help them maintain their current employment are exempt from the waiting list. The eligible individual must require specific services or equipment necessary to maintain their current employment, which must be limited and necessary in order to maintain the individual’s current employment. If the individual loses their job or chooses a different employment outcome, they will resume their waiting list status. There must be documentation that the individual would be in jeopardy of losing his or her job without specific VR services.

What about those Consumers who apply that are on social security? Will they be able to bypass the Order of Selection?

Those who are on social security still need to be assessed and placed in a category. If that category is open, they will be served immediately. If that category is closed, they will be placed on the waiting list.

What about those Consumers who are transition students, age 14-21, who will be receiving Pre-Employment Transition Services (Pre-ETS)? Will they be able to bypass the Order of Selection?

VR services will continue to be provided without restriction to all Pre-Employment Transition Services (Pre-ETS) students who have begun to receive services under an IPE prior to the implementation date of the OOS. In order for a transition age student to receive Pre-ETS services after OOS, the student with a vision impairment must be determined “Potentially Eligible” or be an applicant of the VR program in order to receive Pre-ETS services. Once a

potentially eligible student or VR applicant has begun receiving Pre-ETS services, the student can continue to receive Pre-ETS services even if placed on a waiting list. If found eligible for VR services, the student with a disability can continue to receive Pre-ETS services while on the waiting list. If a student with a vision impairment does NOT receive Pre-ETS services as a "Potentially Eligible" student with a disability or as an applicant of the VR program prior to being determined eligible and placed on a waiting list, the student cannot receive Pre-ETS services while on the waiting list.

What about current Consumers? Are they grandfathered in once Order of Selection begins?

Services will continue to be provided without restriction to all individuals who have begun to receive services under an IPE prior to the implementation date of the OOS. All Consumers who have applied and been determined eligible are subject to Order of Selection.