

PA OVR Order of Selection

Public Meeting

This presentation will be available on OVR's website after the public meeting.

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Please contact OVR if additional assistance is required.

- The public meeting will begin with this presentation.
- Following the presentation, OVR will accept and record verbal and typed comments from anyone participating in this meeting and will also accept comments sent by email at [Policy Revision Feedback Resource Account](mailto:ra-liovr-pol-rev-fb@pa.gov) (ra-liovr-pol-rev-fb@pa.gov).
- Participants do not need to attend both public meeting sessions.
- There will not be a question-and-answer session. An OVR response to public comments will be published on the OVR website (Publications page) following the completion of the public comment period.

Please note that this public meeting is not the only opportunity to provide public comments on the proposed changes to the order of selection.

Written public comments will be accepted until October 28, 2024, and should be emailed to [Policy Revision Feedback Resource Account](mailto:ra-liovr-pol-rev-fb@pa.gov) (ra-liovr-pol-rev-fb@pa.gov), with “Order of Selection Comments” in the subject line.

- Prior to the adoption of any substantive changes to the Vocational Rehabilitation (VR) Services Portion of the PA Workforce Innovation & Opportunity Act (WIOA) Combined State Plan, including policies or procedures governing the provision of VR services such as the adoption or amendment to the order of selection (OOS), OVR must obtain public input. (34 CFR §361.20)
- Federal regulations also require public meetings to be held. “Public meeting” means a gathering of people in a physical or virtual location to gather valuable input from individuals with disabilities, community rehabilitation programs, and other stakeholders. (§361.20(a))
- The public comment period and meetings provide individuals, advocates, and other interested parties and organizations opportunities to present their views and recommendations regarding the proposed changes.

- During the week of September 30, 2024, OVR announced a proposed amendment to return to an Order of Selection (OOS) under Descriptions (a), (g), and (f) of the VR Services Portion of the PA WIOA Combined State Plan. It also proposes definition changes.
- The notice announced a public comment period (October 7-28, 2024) and public meetings on October 16, 2024 and October 17, 2024.
- A copy of the proposed, substantive changes to the OOS Descriptions (a), (g), and (f) is available on [OVR's Publications Page](#).
- Written public comments will be accepted until October 28, 2024 and should be emailed to [Policy Revision Feedback Resource Account](mailto:ra-liovr-pol-rev-fb@pa.gov) (ra-liovr-pol-rev-fb@pa.gov), with "Order of Selection Comments" in the subject line.

- Vocational Rehabilitation programs were flat funded nationally.
- This results in states only getting what they received the prior FFY.
- Normally, the VR program would increase slightly each year (by formula) to cover rising program costs.
- Flat funding creates a variety of challenges nationally and in PA:
 - Other states have begun the process of closing categories in their Order of Selection
 - Less money is returned through the reallocation process
 - Less overall funding creates issues within our vendor community and their ability to serve customers
 - The money lost through flat funding never returns to the VR program/state
 - If the VR program loses the COLA more than once, it could become a target during budget negotiations due to the Fiscal Responsibility Act

- The utilization of the Order of Selection is the appropriate mechanism as defined within the Rehabilitation Act for VR programs to manage the customer caseload when there is insufficient funding or staffing to support the demand.
- OVR's RSA liaison has reinforced that the Order enforces the intent of the Rehabilitation Act to serve those customers with the Most Significant Disabilities.
- Utilizing the Order will allow OVR time to adjust programs and implement additional cost saving measures under the assumption that flat funding may continue.

34 CFR Part 361.36 Ability to serve all eligible individuals; order of selection for services (in part):

- The designated State unit must determine, prior to the beginning of each fiscal year, whether to establish and implement an order of selection
- In accordance with criteria established by the State for the order of selection, individuals with the most significant disabilities will be selected first for the provision of vocational rehabilitation services; and
- (B) 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; and
- (v) State whether the designated State unit will elect to serve, in its discretion, eligible individuals (whether or not the individuals are receiving vocational rehabilitation services under the order of selection) who require specific services or equipment to maintain employment, notwithstanding the assurance provided pursuant to paragraph (3)(iv)(A) of this section.

Prohibited Factors

****Factors that cannot be used in determining order of selection of eligible individuals.**** An order of selection may not be based on any other factors, including—

1. Any duration of residency requirement, provided the individual is present in the State;
2. Type of disability;
3. Age, sex, race, color, or national origin;
4. Source of referral;
5. Type of expected employment outcome;
6. The need for specific services except those services provided in accordance with 361.36(a)(3)(v), or anticipated cost of services required by an individual; or
7. The income level of an individual or an individual's family.

- PA OVR first started operating under an Order of Selection on March 1, 1994.
- OVR provided vocational rehabilitation services only to individuals classified as Most Significant Disability (MSD) for many years.
- With the use of ARRA funds, beginning on October 18, 2010, OVR expanded the Order of Selection to include Significant Disability (SD).
- Consistent with OVR's policy on the Order of Selection, OVR evaluated its ability to meet the second priority category. On April 23, 2012, the SD and Non-Significant Disability (NSD) categories were closed to all new customers.
- OVR served only MSD customers from 2012 – July 1, 2019.
- OVR closed the order of selection entirely from July 1, 2019 to August 8, 2022.
- OVR opened the order of selection entirely from August 8, 2022 to the present.

- **Individual with the Most Significant Disability (MSD):** The physical, mental, or sensory impairments must seriously limit three or more of the individual's functional capacities, and the individual must be expected to require multiple vocational rehabilitation services, defined as two or more services, that are expected to last six months from the date of the IPE or be needed on an ongoing basis to reduce an impediment to employment.
- **Individual with a Significant Disability (SD):** The physical, mental, or sensory impairments must seriously limit one or more of the individual's functional capacities, and the individual must be expected to require multiple vocational rehabilitation services, defined as two or more services, that are expected to last six months from the date of the IPE or be needed on an ongoing basis to reduce an impediment to employment.
- **Individual with a Disability that is Not Significant (NSD):** The individual has a physical, mental, or sensory impairment that does not meet the definitions for MSD or SD.

- **MOBILITY** - limitations moving efficiently from place to place
- **SELF CARE** - limitations in skills needed to fulfill basic needs related to health, safety, hygiene, and financial management
- **WORK TOLERANCE** - limitations carrying out physical and/or cognitive work tasks in an efficient and effective manner over a sustained period of time
- **INTERPERSONAL SKILLS** - limitations interacting in a socially acceptable, mature manner with colleagues and the public to facilitate the normal flow of work activities
- **WORK SKILLS** - limitations in critical skills needed to carry out essential work functions such as functional academics, motor skills, processing speed, memory, and communication
- **COMMUNICATION** - limitations accurately and efficiently transmitting or receiving information verbally or non-verbally
- **SELF-DIRECTION** - limitations in planning, initiating, and monitoring behavior with respect to a desired outcome that serves to benefit the individual

****These limitations are standard across states.****

- OVR Order of Selection numbers demonstrate that overwhelmingly cases are categorized as MSD.
 - MSD – 92%
 - SD – 7.5%
 - NSD - .4%
- Training has been reinforced over the years to all staff and when onboarding new staff.
- Case reviews are conducted to review case documentation and decision making with few cases ever determined as not being appropriately categorized based on existing definitions and available documentation.

A workgroup was held prior to the pandemic to review the existing definitions and propose potential changes. At that time, OVR tried re-training staff instead of making the changes to the order. ****We are now recommending these changes****:

1. Individuals with Most Significant Disabilities (MSD) experiencing serious functional limitations in 4 areas, requiring 2 or more services for a period of 6 months or more **** (Increases functional limits from 3 to 4, keep services the same at 2 and keep 6 months the same) ****
2. Individuals with Significant Disabilities (SD) experiencing serious functional limitations in 2 to 3 areas, requiring 2 or more services for a period of 6 months or more **** (Increases functional limits from 1 to 2-3, keep services the same at 2 and keep 6 months the same) ****
3. All Other Eligible Individuals with Disabilities (D) **** (same) ****

Prioritization of Job Retention

- In 2018, OVR chose not to prioritize job retention.
- In 2020, OVR did prioritize job retention.
- The OVR state board recommends that OVR should prioritize job retention.

Language:

Any applicant who has been determined eligible due to their disability, is in immediate risk of losing the job due to the disability, and is determined to be in a category not currently being served, may only receive the services or goods needed to maintain the job.

- The job must be in a competitive integrated setting. If services are needed for other purposes, they may not be delivered and the applicant must wait until their name is removed from a waiting list category and placed into active service. This means that if the individual needs services that are not directly tied to maintaining current employment, the individual's ability to receive those services from the VR program depends on the individual's placement on the waiting list.
- Immediate need means that the individual would almost certainly lose their current job if not provided specific services or equipment in the very near future that would enable them to retain that employment.
- Immediate risk of losing the job due to the disability does not include economic conditions and non-disability related factors.

- RSA is suggesting that states will need to change their mindset about the OOS and view it as a tool to manage the program as fiscal uncertainties arise.
- The effects of flat funding necessitate OVR to reprioritize services and other aspects of agency operations.
- By acting now, we hope to reduce the possibility of further compounding potential problems.

- Recommendation:
 - Begin the process to re-implement the OOS in early 2025 (target Feb. 1, 2025). Close the SD and D categories while monitoring our funding situation and implementing other cost containment measures.
 - Utilize the MSD category closure as needed if cost containment measures are insufficient, and caseloads and Pre-ETS continue to grow.
 - Reemphasize and retrain staff on the current OOS process.
 - Make definition change as previously outlined.
 - ****Note**** – changes would take time as we would have to update the state plan, make CWDS changes, and train staff. Definition change target: July 1, 2025.

- Consultation with RSA was completed
- Public comment/listening sessions – being held in October 2024
- Amend the State Plan with consultation with the PaRC based on public comment
- Receive Board Approval for the State Plan amendments
- Seek RSA approval of the State Plan
- Retrain staff on the OOS process
- As required, Re-implement the OOS in early 2025 closing the SD and D categories
 - Monitor expenditures and the influx of new cases in the MSD categories to ensure there is adequate funding to serve existing customers to determine if additional closures are necessary

Re-implementing the OOS will assist OVR by:

- Being better equipped to deal with additional funding challenges over the next two years.
- Giving us time to create additional cost saving measures across all programs and monitor the creation of new cases.
- Having the OOS active allows us to utilize all categories as needed to control costs and gives us more time to observe new spending patterns if flat funding continues.

Re-defining the definitions in the order of selection will assist OVR by:

- Ensuring that OVR is truly prioritizing individuals with the most significant disabilities.