

Kentucky Office of Vocational Rehabilitation

Public Hearings on Proposed Policy Changes to VR Services

Meeting Notice and Agenda

Date: February 20th, 2025

Time: 1:00PM – 2:00PM

Public Observance Information: Virtual Meeting via Zoom

Virtual Option: [OVR Public Hearing 4](#)

OVR Mission Statement

To empower Kentuckians with disabilities to maximize independence and economic security through competitive, integrated employment.

I. Call to Order

Lametta Isaacs, Vocational Rehabilitation Administrator

II. Opening Remarks:

Susie Edwards, Deputy Director

Introduction

Importance of Public Input

Public Comment Period

III. Presentation of Proposed Policy Changes

Cora McNabb, Executive Director

The Need to Establish an Order of Selection

Explanation of Proposed Changes

Expected Outcomes and Impacts on Services

IV. Open Forum

Susie Edwards, Deputy Director

Guidelines for Participation

Public Comment Period

Members of the public will have the opportunity to comment and/or provide input on matters specifically related to the topics on the agenda at this time.

V. Closing Remarks / Adjournment

Lametta Isaacs, Vocational Rehabilitation Administrator

The Kentucky Education and Labor Cabinet

PUBLIC HEARING ANNOUNCEMENT

NEWS RELEASE

Contact: Lametta Isaacs, Vocational Rehabilitation Administrator, at lametta.isaacs@ky.gov.

FRANKFORT, Ky (January 23, 2025): The Kentucky Office of Vocational Rehabilitation (OVR) has drafted proposed changes to the Vocational Rehabilitation (VR) Services Portion of the 2024-2027 Combined State Plan to implement an Order of Selection. An Order of Selection is a tool defined within the Rehabilitation Act for Vocational Rehabilitation (VR) programs to manage the consumer caseload when there is insufficient funding. OVR has scheduled four (4) public hearings and a 30-day comment period to give stakeholders in the VR community and members of the public the opportunity to provide input and comment on the proposed policy changes affecting VR Services.

The primary purpose of the hearings is to present and discuss proposed changes to the VR Services Portion of the 2024 Combined State Plan to implement an Order of Selection. This hearing will focus on the implications of these changes and provide clarity on how they will enhance OVR's commitment to serving individuals with disabilities. Stakeholders in the VR community and members of the public are encouraged to attend and engage in the discussion.

Members of the public may send written comments via e-mail to OVRPublicComment@KY.gov or by mail to the Kentucky Office of Vocational Rehabilitation, Public Hearing Comment, 500 Mero Street, 4th Floor., Frankfort, KY 40601. The public comment period begins on January 27, 2025, at 4:00 PM EST and ends on February 27, 2025, at 4:00 PM EST.

You may access the draft policy changes from the [Eligibility & Order of Selection page](#) on our website under the heading “Order of Selection”. The information presented will be the same at each hearing. The hearing schedules with links for accessing the meetings are below.

Location	Date	Time	Platform
Charles W. McDowell Center for the Blind	Thursday, February 13, 2025, (Morning)	10:00 AM-11:00 AM EST	Hybrid via Zoom Link: OVR Public Hearing 1
Charles W. McDowell Center for the Blind	Thursday, February 13, 2025, (Evening)	6:30 PM-7:30 PM EST	Hybrid via Zoom Link: OVR Public Hearing 2
Carl D. Perkins Training Vocational Center	Tuesday, February 18, 2025, (Evening)	6:30 PM-7:30 PM EST	Hybrid via Zoom Link: OVR Public Hearing 3
Virtual Only	Thursday, February 20, 2025, (Afternoon)	1:00 PM-2:00 PM EST	Virtual via Zoom Link: OVR Public Hearing 4

Sign language interpreting services will be provided at each hearing. If other accommodations are needed, please contact Lisa McKinney at lisa.mckinney@ky.gov. at least five (5) business days before the hearing.

The Office of Vocational Rehabilitation, an agency of the Kentucky Education and Labor Cabinet’s Department of Workforce Development, assists Kentuckians with disabilities to achieve gainful employment and independence. For more information about services, call the office toll free at 1-800-372-7172 or KCC.ky.gov. The Kentucky Education and Labor Cabinet coordinates learning programs from P-16 and manages and supports training and employment

functions in the Department of Workforce Development. For more information about our programs, visit elc.ky.gov.

DRAFT

Proposed Amendment to the Vocational Rehabilitation (VR) Services portion of the Kentucky 2024-2027 Combined State Plan

Introduction

An Order of Selection (OOS) is a process to follow when an agency has determined there are not enough available resources to serve all individuals with disabilities in the state. The Office of Vocational Rehabilitation's implementation of OOS is governed by 782 KAR 1:030(3). By this process, individuals with the most significant disabilities are given priority over those with less significant disabilities. Kentucky has four (4) Priority Categories with the highest priority being Category 1. This Category gives priority to individuals with the most significant disabilities as defined by having limitations with three (3) or more functional capacities. The Office of Vocational Rehabilitation will close Priority Categories 2, 3 and 4 under the proposed implementation of OOS; however, Priority Category 1 will remain open to ensure those individuals with the most significant disabilities are served first.

Below you will find the amended Sections A, F, and G of the VR Services portion of the KY 2024-2027 Workforce Innovation and Opportunity Act Combined State Plan. The sections will discuss input from the State Rehabilitation Council (SRC), amended estimates for the Federal Fiscal Year (FFY) 2025, a justification for the proposed change, the defined Priority Categories and how the order will be administered.

Section A. State Rehabilitation Council.

A. 4. In accordance with the requirements in Section 101(A)(21)(A)(II)(III) of the Rehabilitation Act, include a summary of the Council's input (including how it was obtained) into the State Plan and any State Plan revisions, including recommendations from the Council's annual reports, the review and analysis of consumer satisfaction and other Council reports.

The Office of Vocational Rehabilitation must consult with the State Rehabilitation Council (SRC) when the agency has determined it will not be able to serve all eligible individuals who apply for services. In accordance with the SRC bylaws, a special meeting for the Executive Committee was called by the SRC Chairperson to discuss the agency's need to implement an OOS. The meeting was held on January 13, 2025, and a quorum was established. A representative from the Client Assistance Program (CAP) was invited to the special meeting and was in attendance. Cora McNabb, Executive Director, gave an overview of the agency's current and projected fiscal data, spending patterns, cost over the last four years and staffing variables contributing to the need for an OOS. All Priority Categories were explained, how the OOS would work and the implications of the order. Other measures put in place were briefly discussed, such as the establishment of a waitlist, cost sharing and providing information and referrals. The Executive Committee was assured that the decision was not taken lightly, and that the agency had consulted the U.S. Department of Education's Rehabilitation Services Administration (RSA), received technical guidance from the Vocational Rehabilitation Technical Assistance Center for Quality Employment (VRTAC-QE) and informed Cabinet leadership regarding the decision. Executive Committee members asked questions and engaged in discussions. Overall, the Executive Committee viewed the need to implement the OOS as necessary given the information received.

On January 27th, the full SRC quarterly meeting was held, and a quorum was established. During the meeting, the Chairperson provided a summary of the

Executive Committee special meeting. The Executive Director, Cora McNabb, provided a detailed PowerPoint presentation regarding the need to implement order of selection, the implications of the Order and how it would be implemented. The Director of Field Services further provided information regarding how cases would be managed, definitions of categories and what an OOS might look like. The SRC members asked questions and made comments. Answers were provided by various staff. A representative from the fiscal department was at the meeting to provide members an opportunity to ask questions regarding the projected funds. Two representatives from the CAP, including the Executive Director of CAP, was present. A motion to approve the agency's decision to implement OOS was passed.

Section F. Annual Estimates

Sections 101(a)(15) and 101(a)(23) of the Rehabilitation Act require all VR agencies to annually conduct a full assessment of their resources and ability to serve all eligible individuals before the start of the Federal fiscal year. In accordance with 34 C.F.R. § 361.29(b), annual estimates must include the following projections:

1. Estimates for next Federal fiscal year—

A. VR Program

For Federal Fiscal Year (FFY) 2025, OVR has projected that it will not have adequate available funds to serve all eligible individuals with disabilities.

Below are previous estimates for FFY 2025 by category. The changes stated in bold print will occur when an OOS is implemented.

Priority Category 1: Eligible individuals with a most significant disability that limits three (3) or more functional capacities.

Previous Estimates: The estimated number of individuals eligible for services was 22,459; the number of eligible individuals expected to receive VR services was the same, indicating that we would be able to serve all those in this category eligible for VR services.

**No Changes: Number of Eligible Individuals Not Receiving Services: 0
(All eligible individuals will receive services)**

Priority Category 2: Eligible individuals with a most significant disability that limits two (2) functional capacities.

Previous Estimates: The estimated number of individuals eligible for services was 6,677; the number of eligible individuals expected to receive VR services was the same, indicating that we would be able to serve all those in this category eligible for VR services.

Changes: There will be eligible individuals not receiving services.

Priority Category 3: Eligible individuals with a significant disability that limits one (1) functional capacity.

Previous Estimates: The estimated number of individuals eligible for services was 1,062; the number of eligible individuals expected to receive VR services was the same, indicating that we would be able to serve all those in this category eligible for VR services.

Changes: There will be eligible individuals not receiving services.

Priority Category 4: Eligible individuals with a non-significant disability.

Previous Estimates: The estimated number of individuals eligible for services was 152; the number of eligible individuals expected to receive VR services was the same, indicating that we would be able to serve all those in this category eligible for VR services.

Changes: There will be eligible individuals not receiving services.

B. Supported Employment Program.

Supported Employment will not be affected by OOS.

Section G. Order of Selection

1. Pursuant to Section 101(A)(5) of the Rehabilitation Act, this description must be amended when the VR agency determines, based on the annual estimates described in description (f), that VR services cannot be provided to all eligible individuals with disabilities in the State who apply for and are determined eligible for services.

The VR agency is implementing an OOS with one or more priority categories closed.

2. For VR agencies that have defined priority categories describe—

A. The justification for the order

After careful review of the agency's current and projected fiscal and personnel resources, a determination has been made to implement an OOS. The projected available funds are not adequate to provide the full range of VR services to all eligible individuals with a disability. Factors influencing this decision include analysis of short- and long-term budgetary outlook, staffing projections, VR counselor's caseload size and expenditures, the needs of individuals with the most significant disabilities in the state's comprehensive needs assessment, population data related to disability incidence, and the State Rehabilitation Council (SRC). Based on these factors, the agency has predicted that it will be unable to provide VR services to all eligible individuals with disabilities who apply for services. When an agency determines after assessing available projected funds and resources that it will not be able to provide services to all qualifying individuals, the agency must implement an OOS to ensure that individuals with the most significant disability are prioritized.

The following factors will not be considered: duration of residency; type of disability; age, sex, race, color, or national origin; source of referral; type of expected employment outcome; 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 income level.

B. The order (Priority Categories) to be followed in selecting eligible individuals to be provided VR services ensuring that individuals with the most significant disabilities are selected for services before all other individuals with disabilities; and

OVR, in consultation with the State Rehabilitation Council (SRC), has determined that it will not be able to serve all eligible individuals with a disability and must implement an OOS. Based on factors stated in the justification for implementing an OOS in this section, the agency will prioritize those individuals with the most significant disability by the assurance of being served, first.

The agency has the following four (4) priority categories to be followed in selecting eligible individuals to be provided VR services to ensure those individuals with the most significant disabilities are selected for services before other individuals with disabilities:

Priority Category	Definition	Status
Category 1	Eligible individuals with a most significant disability and that limit three (3) or more functional capacities	Will remain open
Category 2	Eligible individuals with a most significant disability that limit two (2) functional capacities.	Will be closed
Category 3	Eligible individuals with a significant disability that limit one (1) functional capacity.	Will be closed
Category 4	Eligible individuals with a non-significant disability.	Will be closed

Functional Capacity means the capacity to perform tasks required in employment including a.) mobility; b.) communication; c.) self-care; d.) self-direction; e.) interpersonal skills; f.) work tolerance; or g.) work skills.

Non-significant disability means a disability that does not limit a functional capacity.

C. The VR Agency's goals for serving individuals in each Priority Category, including how the agency will assist eligible individuals assigned to closed priority categories with information and referral, the method in which the VR Agency will manage waiting lists, and the projected timelines for opening priority categories. Note: Priority categories are considered open when all individuals in the Priority Category may be served.

The agency, in consultation with the State Rehabilitation Council (SRC), has determined that the agency lacks available projected funds and personnel resources to serve all consumers. The agency shall follow an OOS to give priority for services according to a ranking of categories of consumers based on the severity of the disability.

The agency will close categories 2, 3 and 4, while category 1 for individuals with the most significant disability with 3 functional capacities will remain open. The Executive Director shall direct the OOS by designating in written memorandum, the Priority Category to be served. The following describes how the agency will assist eligible individuals assigned to closed priority categories and how the wait list, information and referral will be managed.

The OOS shall be implemented on a statewide basis.

The OOS shall be implemented to assure that eligible individuals with the most significant disabilities in Priority Category 1 are provided services before other eligible individuals.

The OOS will not use any of the following factors in determining eligible individual's residency duration, type of disability; age, gender, race, color, or national origin, source of referral, type of expected employment outcome, need for specific services or anticipated cost of services, or the income level of the individual or its family.

The OOS shall not affect: a) the acceptance of referrals and applicants; b) the provision of assessment services to determine whether an individual is eligible for vocational rehabilitation services; c) the individual's Priority Category assignment under the OOS; and d) services needed by any eligible individual who has begun to receive services under an individualized plan for employment prior to the effective date of the OOS, irrespective of the severity of the eligible individual's disability. The office will ensure that all funding arrangements for providing services under the State plan, including third-party arrangements and awards under the establishment authority, are consistent with the OOS.

The office shall conduct an assessment to determine whether an individual is eligible for vocational rehabilitation services and the individual's priority under the OOS. The VR Counselor determines the eligibility of the individual and their Priority Category based on a review of the data from the assessment.

On the day that Priority Categories 2, 3 and 4 closure occurs, the following will be true for these groups of consumers:

1. Individuals who have an Individualized Plan for Employment (IPE) that was implemented prior to the closure of priority categories, will continue to receive services as indicated on their IPE regardless of their Priority Category assignment.
2. Individuals who have been determined eligible and assigned to Priority Category 1, but do not yet have an IPE written, will move forward and complete an IPE then begin receiving services.
3. Individuals who have been determined eligible and assigned to Priority Categories 2, 3 or 4, will be placed on the wait list.

4. Individuals who have applied but have not yet been determined eligible and assigned a Priority Category, will have their eligibility determined and a Priority Category assigned to them.

The process for the waiting list is as follows:

Once an individual has been determined eligible and assigned to a closed Priority Category by the Vocational Rehabilitation Counselor, the individual will receive notification through the counselor in writing of:

- a. The individual's assignment to a Priority Category;
- b. The Priority Categories currently being served;
- c. The individual's right to appeal the Priority Category assignment and the availability of the Client Assistance Program (CAP);
- d. Information and referral services; and
- e. The individual is informed that they have been placed on a wait list until the time the agency is able to provide them with services.
- f. The contact information of their counselor so they may request additional information.

The waiting list will be maintained by the Director of Field Services and reviewed quarterly by both the Director of Field Services and the Regional Managers.

Consumers on the wait list will be contacted annually to inform them of the status of OOS and their specific Priority Category. The consumer will be asked regarding their preference for remaining on the waiting list.

At the time when funds become adequate and a Priority Category will be opened, the following sequence of action will occur for those individuals in a closed Category:

1. The office will assure that eligible individuals, who do not meet the OOS criteria for the Priority Categories, shall have access to services provided through the information and referral system in accordance with the 1973 Rehabilitation Act.

2. Consumers will be provided with contact information for other Federal and State programs including the statewide workforce investment programs.
 - a. Documentation of the nature and scope of information and referral services provided will be included in the individual service record and entered in the Case Management System (CMS).

Consumers who do not wish to remain on the wait list may contact their counselor and request that their case be closed. They will receive notification from their VR Counselor when the case has been closed and of their right to appeal the agency's decision, including information on how to contact CAP. The notification will include information on how they may reapply for services in the future if their circumstances change or if the agency makes changes to OOS.

Quarterly, the Executive Director, Executive Leadership Team, and SRC along with fiscal staff will reevaluate the agency circumstances to determine whether the agency's resources are sufficient in serving all individuals or if there is a need to implement, establish or make changes in OOS. At such time that the agency finds it is able to serve those individuals on the wait list, the consumer will be contacted to determine if they want to move forward with implementing an IPE. If the Agency finds that they have the resources to serve some individuals but not all individuals on the wait list, the date of application will be utilized as a criterion for ranking individuals within a Priority Category. The timeline for this would be a year, unless the agency's financial situation should change, drastically.

Circumstances that would allow this to occur include a decrease in the number of referrals or other sources that would result in additional funds, which could be utilized to serve these individuals.

When a Priority Category is to be opened for services, the Executive Director shall issue an implementing memorandum to staff, with instructions that appropriate services delayed under the OOS may be provided.

Meeting Participation

Vocational Rehabilitation Portion of the 2024-2028 State Plan:

The Office of Vocational Rehabilitation (OVR) encourages the public to review the proposed policy changes to the VR portion of the State Plan, which is provided in this meeting packet. The current VR portion of the State Plan can be found on our website at [Council Minutes, Reports and Publications - Kentucky Career Center](#).

The proposed changes will be made to the following sections of the state plan: Statewide Council for Vocational Rehabilitation (Section A); Annual Estimates (Section F); and Order of Selection (Section G).

Public Comment:

The OVR encourages consumers, families of consumers, stakeholders and the public to provide input and/or comment regarding the proposed policy changes and topics discussed during the hearings.

The agency has provided a 30-day written comment period for the public to send comments and/or questions prior to, during and after the hearings. All public comments and questions should be sent to OVRPublicComment@ky.gov from January 27, 2025, through February 27, 2025. Questions and comments may also be mailed to: Office of Vocational Rehabilitation, Re: Policy Changes 2025, 500 Mero Street, 4th Floor, Frankfort, KY 40601. Questions will be compiled and posted to our website along with answers fourteen (14) business days after the public comment period ends.

Please observe the open forum section on the agenda to provide input or comment. If the public wishes to make their comment during this time, please respectfully adhere to the speaking time of 3-minutes so that others will have the opportunity to speak. If you are part of a group, please be mindful of individuals not part of a group who may also want the opportunity to speak. Please be advised that questions will not be answered during the public hearings but will be compiled and answered fourteen (14) business days after the 30-day public comment period ends and posted on the OVR website.

Disruptions:

Those who disrupt the facilitation of the meeting with offensive language and/or conduct will be dismissed.