



RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/22/01)

Agency: Washington State Department of Services for the Blind	<input checked="" type="checkbox"/> Permanent Rule
(1) Date of adoption: October 1, 2001	<input type="checkbox"/> Emergency Rule
	<input type="checkbox"/> Expedited Rule Making

(2) Purpose: In the event that the Department of Services for the Blind does not have sufficient vocational rehabilitation funds to serve all eligible participants, the federal Vocational Rehabilitation Act requires that a system be established for giving "the most severely disabled" eligible participants priority for services. The proposed rules would establish the state's definition of "the most severely disabled," as well as priority categories, and would provide a description of how order of selection would be implemented.

(3) Citation of existing rules affected by this order: None
 Repealed:
 Amended:
 Suspended:

(4) Statutory authority for adoption: See Attachment A
 Other Authority:

PERMANENT RULE ONLY (Including Expedited Rule Making)
 Adopted under notice filed as WSR 01-14-064 on July 2, 2001 (date).
 Describe any changes other than editing from proposed to adopted version: Added sentence on authority to revoke order of priority.

EMERGENCY RULE ONLY
 Under RCW 34.05.350 the agency for good cause finds:
 (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
 (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

 Reasons for this finding:

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?:
 Yes No If Yes, explain:

(6) Effective date of rule:		CODE REVISER USE ONLY	
Permanent Rules		Emergency Rules	
<input checked="" type="checkbox"/> 31 days after filing	<input type="checkbox"/> Immediately	<div style="border: 1px solid black; padding: 5px;"> CODE REVISER'S OFFICE STATE OF WASHINGTON FILED <div style="border: 1px solid black; padding: 5px; display: inline-block;"> OCT 18 2001 </div> </div>	
<input type="checkbox"/> Other (specify) _____*	<input type="checkbox"/> Later (specify) _____		
*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)			
Name (Type or Print) Rebecca Jensen		TIME _____ 11:58 WSR _____ 01-21-073 PM	
Signature <i>Rebecca Jensen</i>			
Title Confidential Secretary	Date 10/16/01		

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	<u>3</u>	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____



Washington State Department of Services for the Blind

Attachment A Order of Selection

4. **Statutory authority for adoption:** Federal Regulatory Authority for Order of Selection Rehabilitation Act of 1973, as amended, Section 101 (a) (5). 34 Code of Federal Regulations Part 361 Sec. 361.36 Ability to serve all eligible individuals; order of selection for services. Regulatory Authority for Information and Referral Services Rehabilitation Act of 1973, as amended, Section 101(a) (20) Information and Referral services. 34 Code of Federal Regulations Part 361 Sec. 361.37 Information and referral services. The Rehabilitation Act of 1973, As Amended, Title I - Vocational Rehabilitation Services, Part A - General Provisions, Section 100 – Declaration of Policy

NEW SECTION

WAC 67-25-460 What if the department of services for the blind (DSB) vocational rehabilitation (VR) program does not have sufficient resources to serve all eligible individuals? (1) The purpose of an order of priority is to establish an equitable and organized system which, when resources are not sufficient to meet the demand for services, gives the first priority to those eligible VR participants who meet the definition of "most severely disabled," WAC 67-25-470(1).

(2) In the event that sufficient funds or other resources are not available to serve all VR eligible individuals, DSB will use a prioritized order, as established in subsection (3) of this section, for selection of individuals to develop and carry out an individualized plan for employment (IPE) supported by expenditure of VR funds.

(3) When the order of priority is in effect, eligible individuals will be assigned to one of two priority categories:

(a) First priority: New eligible participants who meet the definition of "most severely disabled."

(b) Second priority: New eligible participants who do not meet the definition of "most severely disabled."

(4) Eligible individuals can develop and carry out an IPE based on:

(a) The priority of the category to which they are assigned, and whether or not that category is open for development of new IPEs.

(b) And, the order in which they applied for DSB services as indicated by the date of application.

(5) Individuals who are receiving services under an IPE at the time an order of priority is implemented will continue to receive services as planned. They are not subject to the order of priority and are not a category within that order.

(6) The only services to individuals in a closed order of priority category will be information and referral services. These individuals will not receive counseling and guidance, assessment and training, placement, or other VR services until their category is reopened and they come off the waiting list.

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Department of Services for the Blind

NEW SECTION

WAC 67-25-470 How will DSB determine whether a person meets the definition of "most severely disabled"? (1) Individuals who meet the definition of "most severely disabled" are: Individuals who have three or more functional limitations (mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) related to employment and require services over an extended period of time.

(2) A DSB vocational counselor will gather the information needed to determine whether an eligible participant meets the definition of "most severely disabled." If assessment services are to be purchased, the counselor will provide the participant with information about the providers available, so that the individual can make an informed choice.

NEW SECTION

WAC 67-25-480 How will DSB implement an order of priority?

(1) The director of the department of services for the blind will decide when to implement an order of priority, if necessary, and will determine which priority categories will be open or closed for the development of new IPEs. In the event that sufficient funds or other resources become available to serve all eligible individuals, the order of priority will be revoked by the director.

(2) Participants will be notified in writing of their category status when they are notified of their eligibility, as well as of the conditions pertaining to that category:

(a) Whether the category is open or closed.

(b) Their position on any existing waiting list.

(3) Participants will be placed in the highest priority category for which they are qualified. The date of application will be used whenever it is determined that a waiting list is required for a category.

(4) Participants will be notified of the right to appeal the category decision, and of their responsibility to notify the agency if their condition changes in a way that may affect their priority category placement.

(5) The order of priority will not affect the provision of services needed to determine eligibility WAC 67-25-015 through 67-25-110.

(6) Services being authorized or provided to any individual with an active IPE will not be disrupted as a result of the closing of a priority category.

(7) Comparable services and benefits will be applied, as appropriate, for participants with an IPE.

(8) Information and referral services will be provided to all eligible individuals affected by the closure of their priority

category.