

Order of Selection Fact Sheet

- A State vocational rehabilitation (VR) agency is required to implement an order of selection when it anticipates that it will not have sufficient fiscal and/or personnel resources to fully serve all eligible individuals. (*Section 101(a)(5)(A) of the Rehabilitation Act of 1973 (Act) and 34 CFR 361.36(a)(1)*)
- The decision to establish and implement an order of selection must be made prior to the beginning of each fiscal year and reevaluated whenever changed circumstances indicate that the agency's resources are not sufficient to fully serve all eligible individuals. (*34 CFR 361.36(c)*)
- An order of selection consists of priority categories to which eligible individuals are assigned based on the significance of their disability. (*34 CFR 361.36(d)(1)*)
- Under an order of selection, individuals with the most significant disabilities are selected first for the provision of vocational rehabilitation services. (*Section 101(a)(5)(C) of the Act and 34 CFR 361.36(a)(3)(iv)(A)*).
- An “individual with a significant disability” is defined *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 (such as 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.
- An “individual with a most significant disability” is defined by each State VR agency, using criteria consistent with the statutory definition of “individual with a significant disability.” (*Section 101(a)(5)(C) and 34 CFR 361.36(a)(3)(iv)(A) and (d)(1)*)
- No other factors, including type of disability, referral source, and income, can be used to determine significance of disability or assignment to a priority category. (*34 CFR 361.36(d)(2)*)
- Individuals who are receiving disability benefits from the Social Security Administration (SSA) are considered to be individuals with significant disabilities. (*Section 102(a)(3)(A) of the Act*)

- If a State VR agency is on an order of selection, individuals who are receiving SSA disability benefits must be further assessed to determine if they meet the State agency's criteria for "individuals with the most significant disabilities." (34 CFR 361.36(d))
- If a State VR agency establishes an order of selection, but does not implement the order at the beginning of the fiscal year, it must continue to serve all eligible individuals or it must implement the order by closing one or more priority categories. State VR agencies that are experiencing scarce resources may have one, some, or all priority categories closed. In these instances, some or all individuals receiving SSA disability benefits may be on waiting lists. (34 CFR 361.36(c)(3))
- In a State VR agency operating under an order of selection, the individualized plan for employment (IPE) will be developed and implemented only for those eligible individuals to whom the State VR agency is able to provide services. Thus, an IPE will not be developed for individuals on waiting lists. (Section 101(a)(9)(A) of the Act and 34 CFR 361.45(a)(1))
- Eligible individuals who do not meet the State VR agency's order of selection criteria, i.e., individuals on waiting lists, must be provided with access to the services available through the agency's information and referral system. (Section 101(a)(5)(D) of the Act and 34 CFR 361.37)
- In FY 2004, of the 80 State VR agencies, 40 were on an order of selection, compared to 39 agencies in FY 2003 and 37 agencies in FY 2002. Because the administrative preparations to establish an order of selection are very time consuming, many agencies that implement an order tend to remain on an order. Some agencies have been on an order since the late 1970's. (State Plan Preprint 6.7 and Attachment 4.12)