

WIOA Guidance Letter 18-01



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DATE: November 7, 2017
TO: LWDB Executive Directors
FROM: Mike Beene, Director Workforce Services
CC: Workforce Services, Fiscal, CRC
RE: Veterans' Priority

Purpose: To provide state policy and guidance regarding Veteran's Priority.

References:

Jobs for Veterans Act (Public Law 107-288)
20 CFR part 1010
Workforce Innovation and Opportunity Act – Section 3 (36) A, and Section 225
37 U.S. Code Section 556
38 U.S. Code Chapter 41, Job counseling
38 U.S.C § 4211(1) and (3)
38 U.S.C § 4211(6)
38 U.S. Code 4215 Priority of Service
42 U.S. 11302 (a) Code Section 103 (a)
20 CFR 1010.200
Veteran Program Letter 03-14
Veteran Program Letter 02-15
TEGL 10-09

Background: The "Jobs for Veterans Act" signed in November of 2002 amended legislation governing 20 U.S. Department of Labor (USDOL) services to veterans. Section 2(a) of the Act, 38 U.S.C. 4215(a), created a priority of service for veterans (and some spouses) "who otherwise meet the eligibility requirements for participation" in USDOL training programs.

Veterans' Priority

Overview

The Jobs for Veterans Act affords priority of service to covered veterans and eligible spouses over non-covered persons for the receipt of employment, training, and placement services provided under new or existing job training programs funded in whole or in part, by the U.S. Department of Labor (USDOL).

Eligibility (Section 4215(a) of Title 38)

To be eligible for priority of service, you must meet the following definition as a Covered Person:

A Veteran: A person who served in the active military, naval, or air service, and who was discharged or released under conditions other than dishonorable.

Eligible Spouse: The spouse of any of the following individuals:

- Any veteran who died of a service-connected disability
- Any veteran who has a total disability resulting from a service-connected disability.

- Any veteran who died while a disability so evaluated was in existence.
- Any member of the Armed Forces serving on active duty who, at the time of application for assistance under this section, is listed, pursuant to Section 556 of title 37 U.S.C. and regulations issued by the Secretary concerned, in one or more of the following categories and has been so listed for a total of more than 90 days:
 - Missing in action
 - Captured in the line of duty by a hostile force
 - Forcibly detained or interned in line of duty by a foreign government or power
 - Any Veteran who has total disability resulting from a service-connected disability
 - Any Veteran who died while a disability so evaluated was in existence

What ‘Priority of Service’ means (TEGL 10-09 Sec 7)

Priority of Service means that veterans’ eligible spouses are given priority over non-covered persons for the receipt of employment, training, and placement services provided under a qualified job training program. For example, this could mean:

- The covered person receives access to the service or resource earlier in time than the non-covered person; or
- If the service or resource is limited, the covered person receives access to the service or resource before the non-covered person.

It is the responsibility of all workforce staff to ensure that Priority of Service is carried out and report all issues to their supervisor. For further information see the Priority of Service for Veterans and Eligible Spouses Policy (TEGL 10-09, Sec 8).

Definitions

Priority of Service - A covered person shall be given priority with respect to any qualified job training program, over non-veterans for the receipt of employment, training, and placement services provided under that program, notwithstanding any other provision of law. (20 CFR1010.110)

Covered Person - The term *covered person* means any of the following individuals:

1. A veteran; and
2. The spouse of any of the following individuals:
 - a. Any veteran who died of a service-connected disability;
 - b. Any member of the Armed Forces serving on active duty who, at the time of application for assistance is listed, and has been so listed, for a total of more than 90 days as:
 - missing in action,
 - captured in line of duty by a hostile force, or
 - forcibly detained or interned in line of duty by a foreign government or power;
 - c. Any veteran who has a total disability resulting from a service-connected disability; or
 - d. Any veteran who died while a disability so evaluated was in existence.

Impact on Workforce Development Programs

Priority of service to veterans should be provided within the context of existing policies, operational management, and related work processes. Consistent with this principle, the Jobs for Veterans Act does not change the requirement that participants must meet eligibility requirements for DOL funded programs, nor does it change local area ability to budget funds for individualized and training services. Local programs are not

required to change their allocations among services to reserve funds for veterans, but are required to ensure that eligible covered persons are given priority over non-veterans for all available services.

When there is a registration requirement associated with receipt of services for an impacted program or grant, collection of the individual's veteran status is necessary. Veteran Self-attestation are the only current procedures for verification of service however; The Disabled Veterans' Outreach Program's Coordinator (DVOP) is available to assist local program staff in determining and documenting the eligibility of veterans (and covered persons). In addition, the DVOP will request affirmation of the covered persons' status by utilizing www.archives.com or www.Ebenefits.va.gov through the Veteran's Administration. (Veterans Program Letter 02-15)

The Local Veteran Employment Representative (LVER) monitors the participation of veterans and covered persons in federally funded employment and training programs, monitors federal agency listings of vacant positions with the American Job Center (herein referred to as One-Stop center) reports any information regarding suspected failure to list openings and/or provide required priority or other special consideration to the State Veterans Service Manager (SVSM).

Any informational or service delivery Web site developed with funding from an impacted program or grant shall provide information on veterans' priority and how to access assistance via the nearest One-Stop center in receiving priority service from any applicable program or grant. Self-service tool instructions on accessing veterans' priority assistance are expected to go beyond mention of, or referral to, LVER and DVOP.

Specific grant language on the veterans' priority shall be required in all grant agreements to ensure that grantees are fully aware of the new law's requirements and of their obligation to design service delivery strategies accordingly. However, no formal grant modification will be required. Department of Labor Employment and Training Administration (ETA) will provide all grantees with the necessary grant language (consistent across all grants) in the form of a unilateral modification that elaborates upon the existing ETA grant provision that currently requires compliance with all federal laws (including newly enacted ones).

The Local Workforce Development Board (Local Board) must develop and maintain a policy that addresses how priority of services to veterans and other covered persons will be applied. This policy must apply to all WIOA Title I funded programs.

Interaction With Programs That Target Specific Groups

For programs with existing targeting provisions, the veterans' priority must be applied by assessing a person's status in light of both the veterans' priority and the existing provision(s). The terms used for these targeting provisions (such as priority, preference, and spending requirements or limitations) vary by program and are not as important as the effect the provisions have on the program. It is necessary to distinguish the targeting provisions that are statutory and mandatory compared with those that are regulatory and/or optional. The veterans' priority is a statutory mandate, but one that is not intended to displace the core function of the program.

Interaction with Programs That *Do Not* Target Specific Groups

The law requires that the individual receiving priority must first meet the program's existing eligibility requirements. Thus, for all programs, veterans and/or spouses must meet the program eligibility requirements to obtain priority of service.

Prioritization of Special Populations of Veterans

The primary objective of the Veterans Program is to develop and support programs that increase opportunities for all veterans to obtain employment and job training. However, when services within the population of veterans are limited, the following order of priority should be applied:

1. A special disabled or disabled veteran, as those terms are defined in 38 U.S.C § 4211(1) and (3); Special disabled and disabled veterans are those:
 - a. who are entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Secretary of Veterans' Affairs; or, o were discharged or released from active duty because of a service-connected disability;
2. Homeless, as defined in Section 103(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302(a));
3. A recently-separated service member, as defined in 38 U.S.C § 4211(6), who at any point in the previous 12 months has been unemployed for 27 or more consecutive weeks;
4. An offender, as defined by WIOA Section 225, who has been released from incarceration
5. Lacking a high school diploma or equivalent certificate Veterans Program Letter (VPL) 03-14
6. Low-income (as defined by WIOA at Sec. 3 (36) (A))