

South Central Workforce Development Board (SCWDB)



POLICY: PRIORITY OF SERVICE FOR VETERANS AND ELIGIBLE SPOUSES

EFFECTIVE DATE: JULY 1, 2016

POLICY NUMBER: 2016-04

SUBJECT: PRIORITY OF SERVICE FOR VETERANS AND ELIGIBLE SPOUSES

PURPOSE:

To provide guidance for the application of priority of service for veterans and eligible spouses ('qualified programs') administered in the South Central Kentucky Local Workforce Area that receive funding from the Department of Labor. They include, but are not limited to, Wagner-Peyser, Trade Act, and the Workforce Innovation and Opportunity Act (WIOA).

EFFECTIVE DATE: July 1, 2016

ACTION REQUIRED:

Within 15 days of the receipt of this policy it is the recipient's (e.g., vendors, partners) responsibility to ensure all staff are informed of the policy and to create an internal process to ensure accountability.

BACKGROUND:

The Jobs for Veterans Act (JVA) of 2008 and the Veterans' Benefits, Health Care, and Information Technology Act of 2006 provides that covered Veterans and eligible spouses receive "Priority of Service." The purpose of Priority of Service is to give first consideration for program participation to covered Veterans and eligible spouses who also meet the eligibility criteria of a USDOL training, employment, or placement service in any workforce preparation program. To receive Veterans Priority of Service for a specific program, a Veteran or eligible spouse must meet the statutory definition of a "covered person" and also must meet any other statutory eligibility requirement applicable to the program.

For a few programs, the veterans' priority will compete with existing statutory priorities that favor certain population groups (see below – Interaction of Adult Priority and Veterans Priority). Local Boards must ensure that veterans are afforded priority for DOL-funded employment and training services, if they meet the existing eligibility requirements. Veterans' priority is required under federal law; however, it is not intended to displace existing eligibility requirements for WIOA. An individual must first qualify for WIOA before a priority of service can be applied. Local boards must use the following guidelines when determining priority for DOL-funded services:

- If the existing provisions are mandatory, a veteran must meet both the existing provisions and the veterans' provisions to receive priority. A non-veteran receives priority over a veteran who does not meet the mandatory provisions.
- If the existing provisions are optional, a veteran receives priority.

The Training and Employment Guidance Letter (TEGL) 3-15 provides specific guidance on (a) the interaction of the veteran's priority with existing program requirements that target specific groups, and (b) makes note of the fact that local programs are not required to change their allocations among services to reserve funds for veterans but (c) are required to ensure that eligible veteran workers are given priority over non-veterans for all available services.

POLICY:

Interaction of the Adult Priority and Veterans' Priority of Service. The priority of service for veterans and eligible spouses applies across all qualified employment and training programs. The priority of service for public assistance recipients, other low-income individuals, and individuals who are basic skills deficient is a statutory priority that applies **only to the receipt of individualized career services and training services in the WIOA title I Adult program.** With regard to the priority of service for veterans and eligible spouses, priority of service for the WIOA title I Adult program must be applied in the order specified in South Central WDB policy #2016-01.

Depending on the type of service or resource being provided, Priority of Service may mean:

- Covered person gains access to services or resources earlier than the non-covered persons;
- Covered person receives service or resources instead of a non-covered person when resources are limited.

Veterans Priority of Service should take precedence before applying WIOA Priority of Service for recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient (South Central WDB Policy #2016-01).

For universal access programs, such as Wagner-Peyser, covered persons must receive Priority of Service over all other program participants. However, for programs with specific eligibility criteria, such as the WIOA Title I Adult program, covered persons must first meet all statutory eligibility requirements for the program to receive Priority of Service. For programs that target specific populations without statutory mandate, covered persons must receive the highest priority for enrollment, similarly to the Priority of Service applied to universal access programs.

When past income is an eligibility determinant for Federal employment or training programs, any amounts received as military pay or allowances by any person who served on active duty, and certain other specified benefits must be disregarded for the veteran and for other individuals for whom those amounts would normally be applied in making an eligibility determination. Military earnings are not to be included when calculating income for veterans or transitioning service members for this priority, in accordance with 38 U.S.C. 4213.

Definitions:

The term "Priority of Service" means, with respect to any qualified job training program, that a *covered person* shall be given priority over *non-covered person* for the receipt of employment, training and placement services provided under that program, notwithstanding any other provisions of the law.

“Covered Person” – as defined in section 2(a) of the Jobs for Veterans Act (JVA) of 2008 means a veteran or eligible spouse. A veteran is defined as a person who served at least one day in the active military, naval, or air service and who was discharged under conditions other than dishonorable, as specified in 38 U.S.C. 101(2).

“Eligible Spouse” - as defined in section 2(a) of the JVA means the spouse of any of the following individuals:

- (1) Any veteran who died of a service-connected disability;
- (2) Any member of the Armed Forces serving on active duty who, at the time of application for service under this section, is listed in one or more of the following categories and has been so listed for a total of more than 90 days: (I) missing in action; (II) captured in the line of duty by a hostile force or (III) forcibly detained or interned in line of duty by a foreign government or power;
- (3) Any veteran who has a total disability resulting from a service-connected disability as evaluated by the Department of Veterans Affairs;
- (4) Any veteran who died while having a disability, as indicated in bullet (3) of this definition was in existence.¹ A spouse whose eligibility is derived from a living veteran or service member (i.e., category 2 or 3 above) would lose his or her eligibility if the veteran or service member were to lose the status that is the basis for the eligibility (e.g. if a veteran with a total service connected disability were to receive a revised disability rating at a lower level). Similarly, for a spouse whose eligibility is derived from a living veteran or service member, that eligibility would be lost upon divorce from the veteran or service member.

Requirements:

Identifying Veteran Status

At the point of entry of the South Central Career Center, affiliate site or on line, staff will inform covered persons that by identifying as a Veteran or covered spouse, they are entitled to Priority of Service. One of the responsibilities of the Local Veterans' Employment Representatives (LVERs) is to ensure that signage and detailed sign-in sheets exist at both the physical service delivery point and through the Internet service delivery point.

South Central WDB program operators will enable Veterans and eligible spouses to identify themselves as Veterans at the point of entry to the system or program, so that covered persons take full advantage of Priority of Service. South Central WDB providers will ensure that covered Veterans and eligible spouses are made aware of:

- Priority of Service entitlement
- The full array of employment training and placement services available
- Applicable eligibility requirements for programs and services.

Verifying Veteran Status

Any individual self-identifying as a covered person should be provided immediate priority in the delivery of employment and training services. No covered person should be denied access on a priority basis to any services provided by program staff in order to verify covered person status.

The only services that require eligibility verification are those that involve the use of outside resources, such as classroom training. For example, to receive training services under WIOA Title I programs, veteran status must be verified. In cases such as these, verification is only necessary where a decision is made to commit outside resources to a covered person over

another individual. For all other purposes, covered persons should be enrolled and provided immediate priority before providing verification as a covered person.

It is neither necessary nor appropriate for any staff to require verification of the status of a Veteran or eligible spouse at the point of entry, unless the individual who self-identifies as a covered Veteran or eligible spouse:

1. Is to immediately undergo eligibility determination and must be registered or enrolled in a program; or,
2. The applicable federal program rules require verification of covered Veteran or eligible spouse status at that time.

To receive Priority of Service for career services, covered persons may self-attest their Veteran or eligible spouse status. To receive training services under WIOA, however, Veteran status must be verified.

Serving Separating Service Members and Military Spouses with Dislocated Worker Funds
(to be used in conjunction with Adult and Dislocated Worker Eligibility Policy #2016-05)

Under TEGL 22-04, service members exiting the military, including, but not limited to, recipients of Unemployment Compensation for Ex-Military members (UCX), generally qualify as dislocated workers. Dislocated Worker funds under Title I can help separating service members to enter or reenter the civilian labor force. Generally, a separating service member needs a notice of separation, either a DD-214 from the Department of Defense, or other appropriate documentation that shows a separation or imminent separation from the Armed Forces qualifies as the notice of termination or layoff, to meet the required dislocated worker definition.

Additionally, in most instances an individual will have to be eligible for or exhausted entitlement to unemployment compensation in order to receive dislocated worker services. In the case of separating service members, because they may be on a terminal leave from the military, it may make sense to begin providing career services while the service member may still be part of the Active Duty military, but has an imminent separation date. It is appropriate to provide career services to separating service members who will be imminently separating from the military, provided that their discharge will be anything other than dishonorable.

U.S. DOL policy generally dictates that a separating service member meets the dislocated worker requirement that an individual is unlikely to return to his or her previous industry or occupation. Regarding military spouses, WIOA expands the definition of dislocated workers to include military spouses who have lost employment as a direct result of a relocation to accommodate a permanent change in duty station of the spouse. Military spouses may also qualify if they are a dependent spouse of a member of the Armed Forces on active duty whose family income is significantly reduced, as determined by the State or local area, because of a deployment, a call or order to active duty, a permanent change of station, or the service-connected death or disability of the service member. Military spouses also can qualify if they are unemployed or underemployed and are experiencing difficulty in obtaining or upgrading employment (WIOA sections 3(15)(E) and 3(16)(A) and (B)).

REFERENCES:

- Workforce Innovation and Opportunity Act of 2014 (WIOA or Opportunity Act), Public Law (Pub. L.) 113-128, enacted July 22, 2014
- Jobs for Veterans Act (JVA) of 2008;

- TEGL NO. 3-15 (Guidance on Services Provided through the Adult and Dislocated Worker Program under the Workforce Innovation and Opportunity Act (WIOA or Opportunity Act) and Wagner Peyser, as Amended by WIOA, and Guidance for the Transition to WIOA Services);
- TEGL NO. 22-04 (Serving Military Spouses as Dislocated Workers under the Workforce Investment Act Dislocated Worker Formula Grant)
- 20 CFR Parts 676, 677, and 678 - Workforce Innovation and Opportunity Act; Joint Rule for Unified and Combined State Plans, Performance Accountability, and the One-Stop System Joint Provisions; Final Rule
- Kentucky Career Center, WIOA Preliminary Policy on Adult Priority of Service Policy # 16-006, Date of Issue: April 1,2016

Approved:

3-17-2017
Date of WDB Approval

2-23-2017
Date of Governance
Committee Approval

Signed by:


Ron Sowell, WDB Chairman