

Mass Workforce Issuance

Workforce Issuance No. 09-02

☒ **Policy** ☐ **Information**

To: Chief Elected Officials
Workforce Investment Board Chairs
Workforce Investment Board Directors
Title I Administrators
Career Center Directors
Title I Fiscal Officers
DCS Regional Managers

cc: WIA State Partners

From: Michael Taylor, Director
Department of Workforce Development

Date: January 13, 2009

Subject: **Implementing Veterans' Priority of Service**

Purpose: To provide policy guidance to Local Workforce Investment Boards (LWIBs), One-Stop Career Center Operators and other local workforce investment partners and providers of federally-funded employment and training program services with regard to implementing veterans' priority of service.

Background: The Jobs for Veterans Act (JVA), Public Law 107-288 (38 USC 4215) requires priority of services to all "covered persons" (veterans and certain spouses of veterans) for the receipt of federal employment and training funds. Training and Employment Guidance Letter (TEGL) No. 05-03, Implementing the Veterans' Priority Provisions of the "Jobs for Veterans Act" (9/16/03) (see link below) provided general guidance on the scope of the veterans priority statute and its effect on current employment and training programs.

http://ows.doleta.gov/dmstree/tegl/tegl2k3/tegl_05-03.htm

Additionally, on December 19, 2008 the U.S. Department of Labor (USDOL) published the regulations (Final Rule - 20CFR part 1010) in the Federal Register for the implementation of veterans' priority of service for all applicable USDOL programs. The regulations require that the provision of priority of service begin

at the *point of entry* for each USDOL program, whether or not the point of entry is a physical location or a web site or other virtual service. Click on the following link to access the Final Rule:

<http://edocket.access.gpo.gov/2008/pdf/E8-30166.pdf>

The Commonwealth is committed to assuring the provision of veterans' priority of service with regard to federal employment and training programs and services accessed through the state's One-Stop Career Center System. This issuance describes a policy framework for local WIBs, career center operators and other local service providers to follow in order to develop and implement policies and procedures consistent with the veterans' priority of service requirement of the Jobs for Veterans Act.

Policy: Local WIBs, One-Stop Career Center Operators and other local providers of Federally-funded employment and training programs/services will assure the provision of veterans' priority of service for all "covered persons" (see definition, below) in a manner consistent with the requirements of the Jobs for Veterans Act and the guidance provided herein. Assurance will also be made that veterans' priority of service will be implemented and provided *at the point of entry* for each federally-funded employment and training program.

WIA Adult and Dislocated Worker Program

Eligibility requirements for the WIA Adult and Dislocated Worker program are not changed by the veterans' priority. The Jobs for Veterans Act provides that priority of service applies only to those covered persons who meet the WIA Adult and Dislocated Worker programs' eligibility requirements. TEGL No. 5-03 provides specific guidance on: (a) the interaction of the veterans' 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 covered persons are given priority over non-veterans for all available services.

Dislocated workers who are covered persons will receive priority over non-veterans. Covered persons who are not dislocated workers can not be served with dislocated worker funds. In the WIA Adult and Dislocated Workers Program, the current law requires that first priority for intensive and training services be given to public assistance recipients and low-income individuals when adult funds allocated to a local area are limited.

In regard to covered persons, the priority of provision of services would be established as follows: Available funds would not change. First to be served would be public assistance recipients and low-income individuals who are also covered persons. The second group to be served would be public assistance recipients and low-income non-veterans. Among participants who are not public assistance recipients or low-income individuals, covered persons will receive priority over non-veterans.

Wagner-Peyser Employment Services

Wagner-Peyser program providers (in their capacity as part of the United States Employment Service – USES) have historically provided veterans' priority of service in the public labor exchange system. This priority includes, but is not limited to: registration; counseling; referral to supportive services, and job development. Extensive changes in the provision of Wagner-Peyser labor exchange services are not anticipated.

Universal access to services remains unaffected as there are no program eligibility requirements for Wagner-Peyser Act funded labor exchange services.

WIA Title I Youth Program

Eligibility for the WIA Youth program is not affected by the veterans' priority. The Jobs for Veterans Act provides priority service only to covered persons who meet the program's eligibility requirements.

The priority will not result in extensive changes, but changes will be necessary. It is likely that program operators may need to do things such as design registration forms and other program materials to capture covered persons' status if this is not already being done, and modify ways of doing business in order to carry out the intent of the law.

TEGL No. 5-03 (a) provides specific guidance on the interaction of the veterans' 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 covered person workers are given priority over non-veterans for all available services.

Generally, WIA youth funds are available to serve low-income youth age 14 to 21 with one or more barriers to employment. The priority provision found at WIA sec. 129 (c)(4) requires, with limited exceptions, that program operators ensure that at least 30 percent of local area funds be used to serve out-of-school youth. The veterans' priority does not change these requirements. In providing services to both in-school and out-of-school youth, priority should be given to any covered persons who qualify under the WIA eligibility requirements. However, a person's status as a covered person does not permit the program to avoid the 30 percent out-of-school youth requirement (that is, a program may not exceed 70 percent of expenditures for in-school youth on account of veteran status).

TAA/TRA Program

Eligibility requirements for the TAA/TRA program are not changed by the veterans' priority. The Jobs for Veterans Act provides that priority of service applies only to those covered persons who meet TAA /TRA eligibility requirements. TEGL No. 5-03 provides specific guidance on the interaction of the veterans' priority with existing program requirements that target specific groups,

but are required to ensure that eligible covered persons are given priority over non-veterans for all services available under the program.

TAA/TRA customers who are covered persons will receive priority over non-veterans. Covered persons who are not dislocated workers can not be served with TAA funds or receive TRA benefits.

NOTE 1: Waiver of veterans' priority of service is not applicable to any federally-funded employment and training program and the priority can not be superseded or negated by any state or local statute, regulation, order or policy (including any locally imposed residency requirement).

NOTE 2: Veterans' priority of service is not applicable to the Unemployment Insurance program.

Covered Person Definition

“Covered Person” is the new term that now collectively refers to individuals eligible for the veterans' priority of service provision of the Jobs for Veterans Act. The Jobs for Veterans Act originally defined eligible persons in two categories:

- Eligible Veteran, and
- Other Eligible Person

Eligible Veteran is a person who --

- (A) served on active duty for a period of more than 180 days and was discharged or released with other than a dishonorable discharge;
- (B) was discharged or released from active duty because of a service-connected disability; or
- (C) as a member of a reserve component under an order to active duty pursuant to section 12301(a), (d), or (g), 12302, or 12304 of Title 10, served on active duty during a period of war or in a campaign or expedition for which a campaign badge is authorized and was discharged or released from such duty with other than a dishonorable discharge.”

Other Eligible Person is defined as:

- (A) the spouse of any veteran who died as a result of a service-connected disability,
- (B) the spouse of any member of the Armed Forces serving on active duty who, at the time of application for U.S. Department of Labor employment and training services, has, for a period longer than 90 days either been declared missing in action, has been captured by a hostile force while in the line of duty, or has been forcibly detained/interned while on active duty by a foreign government or power; or
- (C) the spouse of any person who has a permanent, total disability resulting from a service-connected disability, or
- (D) the spouse of a veteran who died while a disability so evaluated was in existence.

The Jobs for Veterans Act specifies that National Guard and Reserve personnel who served in active duty and who were released with other than a dishonorable discharge would qualify as veterans for purposes of the priority of service requirement.

The Jobs for Veterans Act defines a military spouse as an individual who is married to an active duty service member including National Guard or reserve personnel on active duty, or the surviving spouse of an active duty service member who lost his/her life while on active duty service in Afghanistan, Iraq or other combat-related areas.

Action

Required: Please assure that all appropriate staff, including all LVER and DVOP staff are knowledgeable of the content of this issuance. Local WIBs, One-Stop Career Center Operators and other local providers of federally-funded employment and training programs should review all policies and procedures to assure compliance with the veterans' priority of service requirements, including the assurance of priority of service requirements at each point of entry for all applicable employment and training programs.

Effective: Immediately

Inquiries: Please email all questions to PolicyQA@detma.org. Also, indicate Issuance number and description.