

AREA 2 | SUMMIT & MEDINA

WORKFORCE INNOVATION & OPPORTUNITY ACT (WIOA)

POLICY LETTER A-02 | PRIORITY OF SERVICE

- I. **SUBJECT:** Priority of Service for Veterans and Eligible Spouses
 - II. **PURPOSE:** The purpose of this policy is to outline requirements for implementation of service to veteran and eligible spouses for all Department of Labor (DOL) funded training programs.
 - III. **EFFECTIVE DATE:** July 1, 2018
 - IV. **REVISION DATE:** March 6, 2019
May 20, 2019
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V. BACKGROUND

On November 7, 2002, the Jobs for Veterans Act (JVA), Public Law (P.L.) 107-288 was signed into law. One provision of the JVA, codified at 38 USC. 4215, establishes a Priority of Service requirement for covered persons in qualified job training programs. While recipients of DOL funds for qualified job training programs have been required to provide Priority of Service since 2002, the publication of 20 C.F.R. Part 1010, Priority of Service for Covered Persons; Final Rule, which took effect on January 19, 2009, signaled that recipients of DOL funds for these job training programs should review and, if necessary, enhance their current policies and procedures to ensure that adequate protocols are in place. Veterans under WIOA sec. 3(63)(A) and 38 USC. 101 also receive Priority of Service in all Department of Labor-funded training programs under 38 USC. 4215 and described in 20 CFR 1010. A veteran must still meet each program's eligibility criteria to receive services under the respective employment and training program. For income-based eligibility determinations, amounts paid while on active duty or paid by the Department of Veterans Affairs (VA) for vocational rehabilitation, disability payments, or related VA-funded programs are not to be considered as income in accordance with 38 USC. 4213 and 20 CFR 683.230.

VI. DEFINITIONS

Veteran (for priority of service): Any person who served at least one day in the active military, naval, or air service, and who was discharged or released under conditions other than "dishonorable." Active service includes full-time Federal service in the National Guard or a Reserve component, other than full-time duty for training purposes.

Priority of service: With respect to any qualified job training program, a covered person shall be given priority over a non-covered person in obtaining all employment, training, and placement services provided under the program.

Eligible spouse: An individual who is one of the following:

1. The spouse of any person who died of a service-connected disability.
2. The spouse of any member of the Armed Forces serving on active duty who, at the time of application for assistance, is listed in one or more of the following categories and has been so listed for a total of more than 90 days:
 - a. Missing in action;
 - b. Captured in the line of duty by a hostile force;
 - c. Forcibly detained or interned in the line of duty by a foreign government or power for a total of more than 90 days; or
 - d. The spouse of any person who has a total (100%) disability permanent in nature resulting from a service-connected disability or the spouse of a veteran who died while a disability was so evaluated was in existence.

VII. REQUIREMENTS

General Statutory Requirements

Priority of Service means that covered persons are given priority over non-covered persons for the receipt of employment, training, and placement services funded in whole or in part by DOL, including Wagner-Peyser, Trade Adjustment Assistance (TAA), Workforce Innovation and Opportunity Act (“WIOA”), Senior Community Service Employment Program, Indian and Native American Programs, Migrant and Seasonal Farm workers, Workforce Innovation in Regional Economic Development Competitive Grants, and National Emergency Grants. All DOL funded grant recipients must implement and comply with locally developed Priority of Service policies. All program operators are required to ensure that Priority of Service is applied to all subrecipients of DOL funds.

Notification of Priority of Service

Physical copies of Area 2’s Priority of Service policy shall be maintained at all service delivery points, including the OhioMeansJobs One-Stop centers, and to the extent practicable, must be posted in a way that makes it possible for members of the general public easy access to them.

Area 2 shall also help individual customers become aware of the Priority of Service policy by:

1. Creating and publishing posters and handouts strategically placed at the OhioMeansJobs centers to alert covered persons of their Priority of Service rights.
2. Notifying Priority of Service rights by listing them on the local area and/or the OhioMeansJobs centers’ websites or other portals by which job seekers remotely access resources, including self-service resources.
3. Covering Priority of Service during orientations, both in-person or electronically (including local websites) must include a reference to Priority of Service rights.
4. Noticing that all Veterans are provided with Priority of Service with respect to job postings by having all Veterans appear at the top of all employer driven candidate searches within OMJ.

5. Making partner program staff within the OhioMeansJobs Centers and at other service delivery points aware of Priority of Service requirements. This must be accomplished at both the state and local levels through partner meetings and other types of communication such as information sheet or desk aid, self-service kiosks, and information bulletin boards.

Determination of Veteran Status

1. Covered person with significant barrier to employment –

During the initial intake processes with a customer, staff shall further explore the covered person's veteran status (e.g., number of days served and discharge status) and assess whether or not the covered person has a significant barrier to employment using the [JFS 01863](#), Veteran Questionnaire. A covered person is determined to have a significant barrier to employment if he or she attests to meeting one or more of the following criteria:

- a. A special disabled or disabled veteran (or an individual who has a disability claim pending with the Department of Veterans Affairs (VA));
- b. A homeless individual;
- c. A recently-separated service member who has been unemployed for 27 or more weeks in the previous 12 months;
- d. An offender who is currently incarcerated or has been released from incarceration;
- e. An individual who lacks a high school diploma or equivalent certificate;
- f. A low-income individual; or
- g. A veteran of the Vietnam Era (February 28, 1961 to May 7, 1975).

If the covered person has at least one significant barrier to employment and meets the definition of eligible veteran or eligible spouse for the Jobs for Veterans State Grant (JVSG) program, the OhioMeansJobs center staff shall refer this individual to the JVSG program.

OhioMeansJobs center staff shall also refer an eligible veteran age 18 to 24 years to the JVSG program as this population of veterans has experienced a higher rate of unemployment than other veterans as well as nonveterans of the same age. These eligible veterans may need and benefit from the intensive services provided by a DVOP specialist.

2. Transitioning Service Member

The Veterans' Employment and Training Service has also identified the following three categories of transitioning service members as eligible to receive JVSG services and a referral shall be made:

- a. Transitioning service members who are age 18 to 24 years old;
- b. Transitioning service members who have been identified as in need of intensive services because they were assessed as not meeting career readiness standards as documented on the DD-2958, Service Member Career Readiness Standards/Individual Transition Plan; or
- c. Active duty service members being involuntarily separated through a service reduction-in-force.

3. Wounded, Ill, or Injured Service Member

Additionally, members of the Armed Forces who are wounded, ill, or injured and receiving treatment in military treatment facilities or warrior transition units or the spouses or other family caregivers of such wounded, ill, or injured members are to be referred to the JVSG program.

If the covered person, transitioning service member, or wounded, ill, or injured member of the Armed Forces (or spouse or family caregiver of such) does not meet the criteria for the JVSG program as outlined above, then the individual may still be provided career and/or training services through Wagner-Peyser or WIOA funded programs, based upon eligibility and suitability.

VIII. REFERENCES

1. Workforce Innovation and Opportunity Act, Public Law 113-128.
2. ODJFS WIOA Policy Letter 15-20.02 Priority of Service for Veterans and Eligible Spouses
3. The Jobs for Veterans Act (JVA) Public Law 107-288, section 2(a) codified at 38 USC. 4215
4. Priority of Service for Covered Persons Final Rule, 20 CFR Part 1010, Fed. Reg. 78132 December 19, 2008
5. US DOL Training and Employment Guidance Letter No. 10-09 (11/10/2009)
6. US DOL Veterans' Program Letter No. 07-09 (11/10/2009)
7. US DOL Training and Employment Notice 15-10 (11/10/2009)
8. US DOL Training and Employment Guidance Letter No. 19-13 (4/10/2014)
9. US DOL Training and Employment Guidance Letter No. 20-13 (4/10/2014)
10. US DOL Veteran's Program Letter No. 03-14 (4/10/2014)
11. US DOL Veteran's Program Letter No. 04-14 (4/10/2014)