
Priority of Service for Veterans and Eligible Spouses

PURPOSE

This policy provides guidance on determining the Priority of Service for Veterans and Eligible Spouses for U.S. Department of Labor (DOL) funded programs and services. It applies to all recipients and subrecipients of Workforce Innovation and Opportunity Act (WIOA) funding.

BACKGROUND

On November 7, 2002, President Bush signed the Jobs for Veteran’s Act (JVA) into law to revise and improve employment, training, and placement services furnished to veterans. Section 2(a) of the Act mandates priority of service for veterans and eligible spouses who otherwise meet the eligibility requirements for participation in Department of Labor (DOL) programs.

POLICY

Covered persons who are determined eligible for WIOA services are entitled to priority of service under all WIOA Title I and Title III funded programs including, but not limited to, Adult, Dislocated Worker, Youth, 15% and 25 % special projects, National Emergency Grants and other DOL qualified funded workforce programs.

DEFINITIONS

The definitions listed below are for the purposes of implementing priority of service only. The definitions of “veteran” and “eligible spouse” applicable to the priority of service requirement are different from, and broader than, than the definitions of “veteran” and “other eligible persons” applicable to services provided by the Disabled Veterans’ Outreach Program Specialist and Local Veterans’ Employment Representative staff.

Covered Person – a veteran or eligible spouse.

Eligible Spouse – the spouse (including the same-sex spouse) of any of the following:

- 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 the priority, 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.
 - iii. Forcibly detained or interned in the line of duty by a foreign government or power.
- c) Any veteran who has a total disability resulting from a service-connected disability, as evaluated by the U.S. Department of Veterans Affairs (VA).
- d) Any veteran who died while a disability, as indicated in category c. of this definition, was in existence.

A spouse whose eligibility is derived from a living veteran or service member (i.e., categories b. or c. 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), or upon divorce from the veteran or service member.

Note: A surviving spouse who is a widow or widower AND remarries on or after December 16, 2003, AND on or after attaining age 57, is entitled to continue to receive Dependency and Indemnity Compensation.

Non-covered Person – any individual who neither meets the definition of veteran nor the definition of eligible spouse

Point of Entry – the point at which a veteran or eligible spouse expresses an interest in receiving employment, training, and placement services. It may be in-person or online, and can include physical locations such as reception areas, resource areas, and self-service kiosks in an America’s Job Center of California (AJCC), as well as websites such as CalJOBS and other virtual service delivery resources.

Priority of Service – with respect to any qualified job training program, a covered person shall be given priority over a non-covered person for the receipt of employment, training, and placement services provided under that program, notwithstanding any other provision of the law. Such priority includes giving access to such services to a covered person before a non-covered person or, if resources are limited, giving access to such services to a covered person instead on a non-covered person.

Program Operator – a recipient or subrecipient at DOL funds for a qualified job training program

Qualified Job Training Program – any program or service for workforce preparation, development, or delivery that is directly funded, in whole or in part by the DOL.

Recipient – an entity that is awarded federal financial assistance, in whole or in part, directly from the DOL or through a subaward for any qualified job training program.

Subrecipient – an entity that is awarded federal financial assistance through a subaward funded by the DOL for any qualified job training program.

Veteran – a person who served at least one day in the active military, naval, or air service, and who was discharged or released from such service under conditions other than dishonorable). Active service includes full-time duty in the National Guard or a Reserve component, other than full-time duty for training purposes. Active service does not include full-time active duty performed by National Guard personnel who are mobilized by state rather than federal authorities.

PRIORITY OF SERVICE

Pacific Gateway and its subrecipients are required to provide priority of service to veterans and eligible spouses for WIOA and Wagner-Peyser funded activities, including technology-assisted activities. Priority of service means that veterans and eligible spouses are entitled to take precedence over non-covered persons in obtaining employment, training, and placement services. More specifically, a veteran or an eligible spouse either receives access to a service earlier in time than a non-covered person or, if the resource is limited, the veteran or eligible spouse receives access to the service instead of or before the non-covered person.

In implementing priority of service, Pacific Gateway and its subrecipients must ensure veterans and eligible spouses receive basic career services and individualized career services before other noncovered individuals. Additionally, they must ensure veterans and eligible spouses receive first priority on waiting lists for training slots and are enrolled in training prior to non-covered persons. However, once a non-covered participant is enrolled in a workshop or training class, the priority of service is not intended to allow a veteran or eligible spouse to bump the non-covered participant from that class or service.

Pacific Gateway and its subrecipients must ensure that priority of service is applied by all subrecipients of DOL funds. Pertinent language should be included in contracts, subgrants, solicitations for proposals, memorandum of understanding, and other service provision agreements.

APPLYING PRIORITY OF SERVICE

The application of priority of service varies depending on the eligibility requirements of the particular program. There are four basic categories of DOL-funded programs: universal access programs, programs that require participants to meet specified eligibility criteria, programs with statutory priorities, and programs with discretionary priorities. The following describes how priority of service applies to these basic types of programs.

Universal Access Programs

For workforce programs that operate or deliver services to the public as a whole without targeting specific groups (e.g., WIOA basic career services), veterans and eligible spouses receive priority of service over all other program participants.

Programs with Eligibility Criteria

Eligibility criteria identify basic conditions that each participant in a specific program is required to meet. For example, for the WIOA Adult, Dislocated Worker, and Youth programs, every participant is required to meet program eligibility requirements (e.g., age, selective service registration, etc.). A veteran or eligible spouse must first meet all of the eligibility criteria in order to be considered eligible for participation in the program. Once determined eligible for participation, the veteran or eligible spouse receives priority for participation in the program and receipt of services.

Programs with Statutory Priorities

In addition to the eligibility criteria that all participants are required to meet, some programs have priorities that target certain populations and establish a rank order for enrolling or serving participants (e.g., the WIOA priority for Adult funds to serve recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient). While veterans' priority is required under federal law and cannot be waived, it is not intended to displace existing eligibility requirements and statutory priorities. Therefore, in these instances, veterans and eligible spouses must first meet both the program's eligibility and statutory priority criteria to receive priority for participation in the program and receipt of services. Staff must determine the status of each individual veteran or eligible spouse and apply priority of service in the following order:

1. Veterans and eligible spouses who are recipients of public assistance, low-income or basic skills deficient.
2. Eligible non-covered persons (not veterans or eligible spouses) who are recipients of public assistance, low-income or basic skills deficient.
3. Veterans and eligible spouses who are not recipients of public assistance, low-income or basic skills deficient.
4. Other priority populations identified by the Governor or Local Board for priority.
5. Eligible non-covered persons who do not meet any of the priority groups.

Programs with Discretionary Priorities

Programs with discretionary priorities may make an effort to provide a certain level of service to a particular group. However, the law does not mandate that the target group be served before other eligible individuals. With respect to priority of service, the only feature that distinguishes discretionary targeting programs from universal access programs is the additional application of the discretionary targeting criterion to non-covered persons. Therefore,

Pacific Gateway and its subrecipients must apply priority of service in the order below:

1. Veterans and eligible spouses.
2. Non-covered persons within the discretionary targeting group.
3. Non-covered persons outside the discretionary targeting group.

Income Eligibility Requirements

Many types of military service-related income are exempt from eligibility determination for programs that have a statutory requirement to serve low-income individuals. Specifically, veterans, transitioning service members, or any other individuals for whom these amounts would normally be applied in making an eligibility determination must disregard the following pay, financial allowances, and financial benefits.

- Military pay or allowances paid while on active duty.
- Military pay or allowances paid by the VA for vocational rehabilitation, disability payments, or related VA-funded programs (including the VA work study allowance), and including any financial benefits received under the following chapters of Title 38 U.S.C.:
 - Chapter 11 - Compensation for service-connected disability or death.
 - Chapter 13 - Dependency and indemnity compensation for service-connected deaths.
 - Chapter 30 - All-volunteer force educational assistance program.
 - Chapter 31 - Training and rehabilitation for veterans with service-connected disabilities.
 - Chapter 33 – Post-9/11 educational assistance.
 - Chapter 35 - Survivors' and dependents' educational assistance.
 - Chapter 36 - Administration of educational benefits.

Any benefits received under Title 10 U.S.C. Chapter 106 - Educational assistance for members of the selected reserve.

In contrast, the following types of military-related income are included in low-income calculations:

- Pension payments authorized by Title 10 U.S.C., such as those received by military retirees, whether or not their retirement was based on disability.
- Pension benefits paid under Title 38 U.S.C. Chapter 15 – Pensions for low-income, wartime veterans who are disabled for reasons not connected or related to their military service.

It is also important to note that VA benefits for education and training services do not constitute “other grant assistance” under WIOA’s eligibility requirements. Therefore, veterans or eligible spouses who are eligible for the GI Bill or other forms of VA-funded education or training are not required to coordinate their entitlement to those benefits with their eligibility for WIOA-funded training, as stipulated under 20 CFR Section 680.230. Specifically, program operators may not require veterans or eligible spouses to exhaust their entitlement to VA- funded training prior to enrolling them in WIOA-funded training.

IDENTIFYING VETERANS AND ELIGIBLE SPOUSES

Pacific Gateway and its subrecipients are responsible for ensuring covered persons are identified at the point of entry and given an opportunity to take full advantage of priority of service. The point of entry includes physical locations, as well as websites such as CalJOBS and other virtual service delivery resources. Pacific Gateway and its subrecipients shall ensure that covered persons are aware of their entitlement to priority of service, the full array of employment, training and placement services available under priority of service, any applicable eligibility requirements for those programs and services.

DOCUMENTING ELIGIBILITY OF PRIORITY OF SERVICE

It is not necessary to verify the status of a veteran or eligible spouse until the individual undergoes eligibility determination and is enrolled in a WIOA individualized career service or training service. Until the point, at which an individual receives an individual career service or training service, an individual who states they meet the priority the veteran's priority eligibility criteria must be accorded veteran's priority of service on the basis of self-attestation.

In those instances, in which eligibility determination and enrollment in a WIOA individualized career service occur at the point of entry, a covered person must be enrolled, provided immediate priority, and permitted to follow-up subsequently with any required verification of the individual's status as a covered person.

REFERENCES

- WIOA (Public Law 113-128) Sections 3(5), 3(36), and 3(50), and 134
- Veterans Benefits, Health Care, and Information Technology Act of 2006 (Public Law 109-461)
- Jobs for Veterans Act (JVA) of 2002 (Public Law 107-288)
- Title 38 United States Code (U.S.C.) Sections 101(2), 4213, and 4215(a), and Chapters 11, 13, 15, 30-31, 33, and 35-36.
- Title 20 Code of Federal Regulations (CFR) Part 1010: "Priority of Service for Covered Persons"
- Title 20 CFR Sections 680.600, 680.650, and 683.230
- Training and Employment Guidance Letter (TEGL) 19-16, Subject: Guidance on Services provided through the Adult and Dislocated Worker Programs under the WIOA and the Wagner-Peyser Act Employment Services, as amended by Title III of WIOA, and for implementation of the WIOA Final Rules (March 1, 2017)
- TEGL 26-13, Subject: Impact of the U.S. Supreme Court's Decision in *United States v. Windsor* on Eligibility and Services Provided Under Workforce Grants Administered by the Employment and Training Administration (June, 18, 2014)
- TEGL 10-09, Subject: Implementing Priority of Service for Veterans and Eligible Spouses in all Qualified Job Training Programs Funded in whole or part by DOL (November 10, 2009)
- Workforce Services Directive WSD15-14, WIOA Adult Program Priority of Service (January 22, 2016)
- Workforce Services Directive WSD19-04, Priority of Service for Veterans and Eligible Spouses (September 11, 2019)

INQUIRIES

For questions or assistance related to the policy, please contact Pacific Gateway Workforce Innovation Network staff at (562) 570-3748.