



Missouri Division of Workforce Development
DWD Issuance 10-2016

Issued: February 01, 2017
Effective: February 01, 2017

Subject: Priority of Service for Veterans and Eligible Spouses

1. Purpose: This Issuance updates legal and regulatory amendments and procedures regarding providing priority of service for veterans and their eligible spouses who are customers of Missouri Job Centers.

2. Background: The Jobs for Veterans Act (JVA) of 2002,¹ as amended by the VOW to Hire Heroes Act of 2011,² creates a priority of service requirement for all qualified DOL job-training programs. “Qualified job training programs” are defined by the law as:

“any workforce preparation, development, or delivery program or service that is directly funded, in whole or in part, by the Department of Labor and includes the following:

(A) Any such program or service that uses technology to assist individuals to access workforce-development programs (such as job and training opportunities, labor-market information, career-assessment tools, and related support services).

(B) Any such program or service under the public employment service system, one-stop career centers, the Workforce Investment Act of 1998³, a demonstration or other temporary program, and those programs implemented by States or local service providers based on Federal block grants administered by the Department of Labor.

(C) Any such program or service that is a workforce-development program targeted to specific groups.”

The law defines “priority of service”:

“...with respect to any qualified job-training program, that a covered person shall be given priority over nonveterans for the receipt of employment, training, and placement services provided under that program, notwithstanding any other provision of 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 of a non-covered person.”⁴

A “covered person” is a *veteran* or the eligible *spouse* of a veteran.

¹ Pub. Law 107-288 [38 U.S.C. 4215].

² Pub. Law 112-56, Section 239, November 21, 2011 [38 U.S.C. 4215].

³ The Workforce Investment Act of 1998 (WIA), Pub. Law 105-220, Aug. 7, 1998, was repealed and superseded by the Workforce Innovation and Opportunity Act (WIOA), Pub. Law 113-128 [29 U.S.C. 3101 et seq.], July 22, 2014.

⁴ 38 U.S.C. 4215(a)(3).

A “veteran” is a person who served [at least one day] in the active military, naval, or air service, and who was discharged or released under any condition other than “dishonorable.”⁵ “Active service” includes full-time service in the National Guard or a Reserve component, other than full-time duty for training purposes.

A “covered person” is also the *spouse, widow, or widower* of:⁶

- Any veteran who died of a service-connected disability.
- A member of the U.S. Armed Forces on active duty who at the time of the spouse’s application has been listed for more than 90 days as:
 - missing in action; or
 - captured in the line of duty by a hostile force; or
 - forcibly detained or interned in the line of duty by a foreign government or power.
- Any living veteran who has a total (100%) disability rating resulting from a service-connected disability.
- Any veteran who died while a total disability was in existence.

This Issuance updates nomenclature, regulatory, guidance, and contacts changes that have occurred since the preceding Issuance in January 2009.

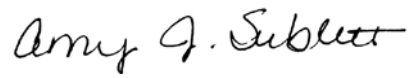
3. Substance: *Attachment 1* is a statement of current federal guidance that serves as an implementation plan for applying priority of service for veterans and eligible spouses in Missouri Job Center operations and service delivery.
4. Action: Effective this date, all staff within Missouri Job Centers must be in full compliance with procedures provided in *Attachment 1*.
5. Contact: Direct questions or comments regarding this Issuance to the DWD Veterans Services Coordinator, at (573) 526-9762, or shams.chughtai@ded.mo.gov.
6. References: Jobs for Veterans Act (JVA) of 2002, Pub. Law 107-288 [38 U.S.C. 4215], as amended.
VOW to Hire Heroes Act of 2011, Pub. Law 112-56, Section 239, November 21, 2011 [38 U.S.C. 4215].
U.S. Department of Labor, Employment and Training Administration, Training and Guidance Letter 10-09, “Implementing Priority of Service for Veterans and Eligible Spouses in all Qualified Job Training Programs Funded in whole or in part by the U.S. Department of Labor (DOL),” November 10, 2009.
20 CFR Part 1010, “Application of priority of service for covered persons.”
7. Rescissions: This issuance supersedes and replaces DWD Issuance 09-2008, “Priority of Service to Veterans,” dated January 20, 2009.

⁵ 38 U.S.C. 101(2).

⁶ 38 U.S.C. 4215; 20 CFR 1010.110; and U.S. Department of Labor, Employment and Training Administration, Training and Guidance Letter 10-09, “Implementing Priority of Service for Veterans and Eligible Spouses in all Qualified Job Training Programs Funded in whole or in part by the U.S. Department of Labor (DOL),” November 10, 2009.

8. Attachments: (1) Veterans Priority of Service Plan

The Missouri Division of Workforce Development is an equal opportunity employer/program.
Auxiliary aids and services are available upon request to individuals with disabilities.
Missouri TTY Users can call (800) 735-2966 or dial 7-1-1.



Amy Sublett
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Veterans Priority of Service Plan

Priority of Service Defined

Priority of Service is the right of eligible, *covered* persons to take precedence over eligible, *non-covered* persons in obtaining services funded, in whole or in part, by the U.S. Department of Labor (DOL). This priority means:

- 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 *instead of, or before*, the non-covered person.

Priority of Service does not change the *eligibility requirements* or the *intended function* of a program or service. To receive priority for a program or service, covered persons still must meet all statutory eligibility and program requirements for participation.

Terminology

- *Covered person(s)* — *Veteran(s)* and *eligible spouse(s)*, as defined by statute (*see below*).
- *Eligible spouse(s)* — An *eligible spouse* is defined at 38 U.S.C. 4215 as the *spouse, widow, or widower*:¹
 - Of any veteran who died of a service-connected disability (as evaluated by the Department of Veterans Affairs); *or*
 - Of a member of the U.S. Armed Forces on active duty who at the time of the spouse's application has been listed for more than 90 days as:
 - Missing in action; *or*
 - Captured in the line of duty by a hostile force; *or*
 - Forcibly detained or interned in the line of duty by a foreign government or power*or*
 - Of any living veteran who has a total (100%) disability rating (as evaluated by the Department of Veterans Affairs) resulting from a service-connected disability; *or*
 - Of any veteran who died while a total disability was in existence (as evaluated by the Department of Veterans Affairs)
- *Veteran* — The definition for *veteran*, specified in Title 38 "Veterans' Benefits" at 38 U.S.C. 101(2), applies across all qualified job-training programs for the purpose of priority of service. That definition includes two key criteria:
 - Service in the active military, naval, or air service; *and*
 - Discharge under any condition *other* than dishonorable

¹ Codified at 20 CFR 1010.110, and given as guidance in U.S. Department of Labor, Employment and Training Administration, Training and Guidance Letter 10-09, "Implementing Priority of Service for Veterans and Eligible Spouses in all Qualified Job Training Programs Funded in whole or in part by the U.S. Department of Labor (DOL)," November 10, 2009.

The preceding definition of *veteran* specified at 38 U.S.C. 101(2) is incorporated by reference in Section 3(63)(A) of the Workforce Innovation and Opportunity Act (WIOA)² and is codified at 20 CFR 651.10, 20 CFR 652.100, and 20 CFR 1010.110. Under WIOA, a veteran's right to priority of service is also codified at 20 CFR 680.650.

Identifying and Informing Covered Persons

The regulations require all recipients of funds for qualified job-training programs to identify covered persons at the *point of entry*. Point of entry may include reception through a One-Stop Job Center established pursuant to WIOA, as part of an application process for a specific program, or through any other method by which covered persons express an interest in receiving services, either in-person or virtually.³

The identification process also must provide the veteran or eligible spouse an opportunity to self-identify (to make their status as a covered person known to staff). The process also must allow qualified job-training programs to initiate data collection for covered entrants.

Once the covered person is identified, the process must provide covered persons with timely and useful information on priority of service at the point of entry. That information includes:

- Their entitlement to priority of service; *and*
- The full array of programs and services available to them under priority of service; *and*
- Any applicable eligibility requirements for those programs and/or services. (Only statutory requirements are applicable.)

Eligibility

Active duty for training, and inactive duty for training relevant to National Guard and Reserve members does *not* fit the definition of "veteran." Full-time National Guard and Reserve duty, other than full-time duty for training purposes, *does* qualify as active duty. For DOL programs, other than the Local Veterans Employment Representative (LVER)/Disabled Veterans Opportunity Program (DVOP) programs, there is no length-of-service requirement for qualification as a "veteran." (That is, active-duty service of one day is sufficient.)

Eligibility of a covered veteran or spouse to qualify for LVER/DVOP programs and services requires that:

- The veteran had 181 days or more on active duty for other than training purposes. *Or*
- The veteran was released because of a service-connected injury. *Or*
- The veteran was called to active service under the Title 10 authority of the President.⁴

Implementing Priority of Service

Priority of service is to be applied across three different types of qualified job-training programs:⁵

- *Universal access programs* that do not target specific groups. Examples include such programs as WIOA Adult State Formula Funded Grants, and Wagner-Peyser State Formula Funded Grants. Veterans and eligible spouses receive the first level of priority in universal-access programs.
- *Discretionary targeting programs* that focus on certain groups but are not mandated to serve target group members before other eligible individuals. Examples include National Dislocated Worker Grants (NDWG), Offender Reentry Grants, Community Based Job Training Grants, Office of Disability Employment Program Grants, and Women's Bureau Grants.
- *Statutory targeting programs* that are mandated by federal law to provide priority or preference to certain groups. Examples include Senior Community Service Employment Program, WIOA

² Pub. Law 113-128, Section 3(63)(A) [29 U.S.C. 3102(63)(A)].

³ 20 CFR 1010.300.

⁴ 10 U.S.C. 12406 (federalization of the National Guard).

⁵ 20 CFR 1010.310.

Dislocated Worker Formula Funded Grants, WIOA Youth Formula Funded Grants, National Farm Worker Job Training Grants (NFJP), Indian and Native American (INA) Program Grants and Job Corps. Under these programs, priority goes first to:

1. Covered persons who meet the program’s mandatory priorities; *then*
2. Non-covered persons who meet the program’s mandatory priorities; *and finally*
3. Covered persons outside the program’s mandatory priorities.

State and local program operators do not have the discretion to establish further priorities within the overall priority established by the regulations. For instance, a disabled veteran does not take priority over a non-disabled veteran; a veteran with an honorable discharge does not take priority over a bad-conduct discharge. Priority of service does *not* permit establishing tiers of veterans.

For those programs that have income guidelines, the Final Rule for WIOA implementation states that,

“...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. This applies when determining if a person is a “low-income individual” for eligibility purposes (for example, in the WIOA youth, or NFJP programs). Also, it applies when income is used as a factor when a local area provides priority of service for “low-income individuals” with Title I WIOA funds... A veteran must still meet each program’s eligibility criteria to receive services under the respective employment and training program.”⁶

Under the regulations, DWD, recipients, and subrecipients implement priority of service. This means that funding recipients must include priority of service for veterans and its associated data-collection and reporting requirements in all requests, awards, subgrants, subcontracts, local plans, and MOU’s.

For a service such as classroom training, priority of service applies to the selection procedure, as follows:

- If there is a waiting list for the formation of a training class, priority of service is intended to require a veteran or eligible spouse to go to the top of that list.
- Priority of service applies up to the point at which an individual is both:
 - Approved for funding; *and*,
 - Accepted or enrolled in a training class.

Therefore, once a non-covered person has been both approved for funding *and* accepted/enrolled in a training class, priority of service does *not* allow a veteran or eligible spouse identified as a covered individual after that point in time to “bump” the already-enrolled non-covered person from that training class.

Responsibilities of States and Localities

The State of Missouri has policy in its strategic State Plan⁷ for the delivery of priority of service by the State Workforce Agencies, Local Workforce Development Boards (Local WDBs), and Missouri Job Centers for all qualified job-training programs delivered through the State’s workforce system. Local WDBs must develop and include, in their strategic Local Plans, policies for service delivery by local Missouri Job Centers and for service delivery by local workforce education and training providers.

Local WDBs must implement policies to ensure that covered persons are aware of the following:

- Their entitlement to priority of service; *and*
- The full array of programs and services available to them; *and*
- Any applicable eligibility requirements for those programs and/or services

⁶ 20 CFR 683.230 “Are there special rules that apply to veterans when income is a factor in eligibility determinations?”

⁷ *Workforce Innovation and Opportunity Act Missouri Combined State Plan, 2016.*

https://jobs.mo.gov/sites/jobs/files/mo_wioa_state_plan_10-2016.pdf

Priority-of-service requirements apply to all DOL employment and training service-delivery programs. All recipients of DOL funding must ensure that all subrecipients apply priority of service. All program activities, including those obtained through requests for proposals, solicitations for grant awards, subgrants, contracts, subcontracts, and (where feasible) memoranda of understanding or other service provision agreements, issued or executed by qualified job-training program operators, must be administered in compliance with priority of service.

Written copies of local priority-of-service policies must be maintained at all service-delivery points. Job Center signage should be displayed prominently to make veterans and eligible spouses (and non-covered customers as well) aware that the priority exists. Signage should encourage customers to identify themselves to staff if they believe they are covered persons.

Priority does not apply to comprehensive Job Centers only. Program operators are required to ensure that priority of service is applied throughout their respective service-delivery systems, including affiliate sites and any other service-delivery point maintained by a subrecipient. Program operators must monitor local service-delivery operations to ensure that policies and procedures comply with the priority-of-service requirements.

Proof of Status

Verification of the status of a veteran, or eligible spouse, will not be required at the point of entry, unless the individual who self-identifies as a veteran or eligible spouse:

- a) Is to immediately undergo eligibility determination and be registered or enrolled in a program; *and*
- b) The applicable federal program rules require verification of veteran or eligible spouse status at that time.

Even in those instances in which eligibility determination and enrollment occur at the point of entry, a veteran or eligible spouse should be enrolled and provided immediate priority and then be permitted to follow-up subsequently with any required verification of his or her status as a veteran or eligible spouse.⁸

For programs or services that cannot rely on self-attestation (e.g., classroom training), verification only needs to occur at the point at which a decision is made to commit outside resources to one individual over another. The commitment of the resource of program-staff effort does not require verification of status by a veteran or eligible spouse. If a veteran or eligible spouse self-identifies, program staff can proceed to enroll the individual and to deliver appropriate individualized career services until the veteran or eligible spouse can corroborate his or her status.

⁸ U.S. Department of Labor, Employment and Training Administration, Training and Guidance Letter 10-09, "Implementing Priority of Service for Veterans and Eligible Spouses in all Qualified Job Training Programs Funded in whole or in part by the U.S. Department of Labor (DOL)," November 10, 2009, and Preamble to Final Rule for 20 CFR Part 1010, 73 FR 78137.