

DRAFT

District of Columbia Department of Employment Services Program Standard Operating Procedures (SOPs)		
DOES-Policy No.	Subject	Date
XXXX-2012	Veterans' Priority of Service	September 2012

SCOPE

The Jobs for Veterans Act (JVA) establishes a priority of service requirement for covered persons (i.e., veterans and eligible spouses, including widows and widowers) in qualified job training programs. Since the passage of the JVA, the U.S. Department of Labor (DOL) Employment and Training Administration (ETA) has provided policy guidance to the District's workforce system regarding implementation of priority of service.

PURPOSE

The purpose of this policy is to establish guidelines and provide information to assist and support the District in applying "Priority of Service" to veterans and eligible spouses.

REFERENCES

- a. Veteran's Benefits, Title 38, United States Code (U.S.C.), Section 101(2) (38 U.S.C. 101(2))
- b. Eligibility Requirements for Veterans under Federal Employment and Training Programs, 38 U.S.C. 4213
- c. Jobs for Veterans Act (JVA) of 2002, Public Law (P.L.) 107-288, section 2(a)
- d. Veterans' Benefits, Health Care and Information Technology Act of 2006, P.L. 109- 461
- e. Priority of Service for Covered Persons Final Rule, 20 CFR Part 1010, Fed. Reg. 78132 Dec.19, 2008

BACKGROUND

On November 7, 2002, the JVA, Public Law 107-288, was signed into law. One provision of the JVA establishes a priority of service requirement for covered persons (*i.e., veterans and eligible spouses, including widows and widowers, as defined by this statute*) in qualified job training programs. The Final Rules took effect on January 19, 2009. While recipients of DOL funds for qualified job training programs have been required to provide priority of service since 2002, the publication of the Final Rules signals that those recipients subject to the regulations should review, and if necessary, enhance their current policies and procedures to ensure that adequate protocols are in place.

Requirements

Recipients (and sub-recipients) of DOL funds for qualified job training programs are subject to priority of service regulations and are required by law to provide priority of service to veterans and eligible spouses. The requirement to provide priority of service applies to all WIA and Wagner-Peyser funded activities, including technology-assisted activities.

Role of States and Local Areas under WIA

Under the Final Rules and WIA planning guidelines ([TEGL 14-08](#)), states are required to address priority of service in their comprehensive strategic plan for the workforce investment system. To meet this requirement, each state, district, or U.S. territory must develop policies for the delivery of priority of service by the state workforce agency or agencies, local workforce investment boards, and American Job Centers (AJC) for all qualified job training programs delivered through the state's workforce system. The policy or policies must require that processes are in place to ensure that veterans and eligible spouses are identified at the point of entry and given an opportunity to take full advantage of priority of service. The purpose of these processes is to ensure that veterans and eligible spouses are aware of the following:

- a. Entitlement to priority of service,
- b. Full array of employment services available under priority of service, and
- c. Any applicable eligibility requirements for those programs and/or services.

The District's Workforce Investment Council (WIC) is required to develop and include in its strategic local plan, policies and procedures implementing priority of service for the local AJC and for service delivery by local workforce preparation and training providers. Written copies of local priority of service policies should be maintained at all service delivery points and, to the extent practicable, should be posted in a way that makes it possible for members of the general public to easily access them.

Eligibility for Priority of Service

Veterans and eligible spouses, including widows and widowers as defined in the statute and regulations, are eligible for priority of service. For the purposes of implementing priority of service, the Final Rule requires that program operators use the broad definition of veteran found in 38 U.S.C. 101(2).

DEFINITIONS

"Veteran" means a 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, as specified in 38 U.S.C. 101(2). Active service includes full-time federal service in the National Guard or a Reserve component. This definition of "active service" does not include full-time duty performed strictly for training purposes (i.e., that which often is referred to as "weekend" or "annual" training), nor does it include full-time active duty performed by National Guard personnel who are mobilized by State rather than federal authorities (State mobilizations usually occur in response to events such as natural disasters).

"Eligible spouse" as defined at section 2(a) of the JVA (38 U.S.C. 4215[a]) means the spouse 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 Department of Veterans Affairs; or

- d. Any veteran who died while a disability 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*). 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.

PROGRAM PROCEDURES/IMPLEMENTATION

The priority of service regulations refer to those veterans and spouses who are eligible for priority of service as “**covered persons**” and refer to those not eligible for priority of service as “**non-covered persons.**”

What it Means to Provide Priority of Service

Priority of service means that veterans and eligible spouses are given priority over non-covered persons for the receipt of employment, training, and placement services provided under a qualified job training program. A veteran or an eligible spouse either receives access to a service earlier 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.

Identifying Veterans and Eligible Spouses

The workforce system and other program operators must enable veterans and eligible spouses to identify themselves at the point of entry to the system or program, and veterans and eligible spouses must be given the opportunity to take full advantage of the priority. AJCs and other grantees and sub-grantees must ensure that veterans and eligible spouses are made aware of their entitlement to service priority, availability of workforce services, and program/services eligibility requirements. Program operators must develop and implement processes to identify veterans and eligible spouses who physically access service delivery points or who access service delivery programs through the Internet in order to provide veterans and eligible spouses with timely and useful information on priority of service at the point of entry. Point of entry may include reception through an AJC as part of an application process for a specific program or any other method by which veterans and eligible spouses receive services, either in-person or virtually.

Verifying Status

The Final Rule does not change or add to pre-existing program requirements regarding verification of the eligibility of a veteran or eligible spouse. It is neither necessary nor appropriate for program operators 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 veteran or eligible spouse:

- a. Immediately undergo eligibility determination and be registered or enrolled in a program, and
- b. Applicable federal program rules require verification of veteran or eligible spouse status at that time.

In those instances where eligibility determination and enrollment occur at the point of entry, a veteran

or eligible spouse should be enrolled, given immediate priority of service and then permitted to follow up with any required verification of his or her status as a veteran or eligible spouse.

Applying Priority of Service

The application of priority of service varies by program depending on the eligibility requirements of the particular program. Qualified job training programs fall into two basic categories: universal access programs and programs that require prospective participants to meet specified eligibility criteria. The first two subsections below describe how priority of service applies to these two basic types of programs.

- a. **Universal access programs.** For workforce programs that operate or deliver services to the public as a whole without targeting specific groups, veterans and eligible spouses must receive priority of service over all other program participants. Veterans and eligible spouses receive the first level of priority in universal access programs.
- b. **Programs with Eligibility Criteria.** Eligibility criteria identify basic conditions that each participant in a specific program is required to meet. It is important to note that a veteran or eligible spouse must first meet any and all of the statutory eligibility criteria in order to be considered eligible for:
 - i. Enrollment in the program;
 - ii. Receipt of priority for enrollment in the program; and
 - iii. Priority for receipt of services.

Some programs are required by law to give a priority or preference to a particular group of individuals or require the program to spend a certain portion of funds on a particular group of persons. An example is the priority given to low-income individuals and recipients of public assistance for the WIA adult formula programs. For programs with this type of *mandatory* priority, program operators must determine the status of each individual veteran or eligible spouse and apply priority of service as described below:

- a. Veterans and eligible spouses who meet the mandatory priorities or spending requirement or limitation must receive the highest level of priority for the program or service.
- b. Non-covered persons who meet the program's mandatory priority or spending requirement or limitation therefore receive the second level of priority for the program or service.
- c. Veterans and eligible spouses outside the program-specific mandatory priority or spending requirement or limitation therefore receive the third level of priority for the program or service.
- d. Non-covered persons outside the program-specific mandatory priority or spending requirement or limitation therefore receive the fourth level of priority for the program or service.
- e. Some qualified job training programs may include a focus on a particular group in the absence of an authorizing law specifically mandating that the target group be served before other eligible individuals. In this instance, veterans and eligible spouses continue to receive the highest priority.

ACTION: This is the official District policy and should be kept in your permanent policy issuance file. Share this information with your staff and anyone else who would benefit from these policies.

APPROVAL

Director's Signature	Date
Lisa María Mallory	

Remove & Destroy:	None
Effective Date:	Date of Signature
Review Date:	Two-Year Anniversary of Signature
Distribution:	All DOES American Jobs Center Employees, Office of Program Performance Monitoring Employees, and the District Eligible
Point-of-Contact:	American Job Center, 202-698-4215