

Policy 12-500a: Priority of Service for Veterans and Eligible Spouses (Covered Persons)

Reference State Policy:	WIOAPL 15-20.2
Board Approved:	October 17, 2023
Revision Approved:	October 17, 2023
Effective Date:	October 17, 2023
Policy Obsoletes:	

Purpose:

To ensure that when Area 12 is implementing policies and processes for Priority of Service to covered persons, covered persons are identified at the point of entry and given an opportunity to take full advantage of Priority of Service with U.S. Department of Labor (DOL) funded training programs and be made aware of any applicable eligibility requirements for those programs. Covered persons must be made aware of their entitlement to Priority of Service per 20 CFR Part 1010. All other things being equal, veterans receive preference within their cohort applicant group.

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 U.S.C. 4215, establishes a Priority of Service requirement for covered persons in qualified job training programs. The DOL published Priority of Service regulations in the December 19, 2008, edition of the Federal Register and were effective as of January 19, 2009. These regulations are identified as 20 C.F.R. Part 1010, Priority of Service for Covered Persons; Final Rule. On November 10, 2009, DOL published Veterans' Program Letter No. 07-09 and Training and Employment Guidance Letter (TEGL) No. 10-09 to establish the implementation of Priority of Service to covered persons under all qualified job training programs funded in whole, or in part by DOL.

Policy:

This policy applies to all employment and training programs, funded in whole or in part by DOL, including, but not limited to, Wagner-Peyser, Trade Adjustment Assistance (TAA), Workforce Innovation and Opportunity Act (WIOA), Senior Community Service Employment Program (SCSEP), Indian and Native American Programs, Migrant and Seasonal Farm Workers, and National Emergency Grants (NEG). All DOL-funded grant recipients must implement and comply with locally developed Priority of Service policies as required by state policy and by federal law and regulation. All program operators are required to ensure that Priority of Service is applied by all sub-recipients of DOL funds. Partner counties will make the necessary adjustments to websites and other portals by which job seekers remotely access resources, including self-service resources, to notify users of Priority of Service to ensure covered persons receive this benefit. Priority of Service cannot be waived. All other things being equal, veterans receive preference within their cohort applicant group.

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Definitions:

Caregiver: With respect to an eligible veteran, an individual who provides personal care services to the veteran.

Covered person: A veteran or his/her eligible spouse.

Disabled veteran: A veteran who is entitled to compensation (or who, except for the receipt of military retired pay, would be entitled to compensation) under the Department of Veteran Affairs, or a veteran who was discharged or released from active duty, because of a service-connected disability.

Disabled Veterans' Outreach Program (DVOP) Specialist: The individual who provides basic and individualized career services and facilitates placements to meet the employment needs of veterans.

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.

Eligible veteran (for Jobs for Veterans State Grant (JVSG) Program): A person who:

1. Served on active duty for a period of more than 180 days and was discharged (or) released with other than a dishonorable discharge;
2. Was discharged or released from active duty because of a service-connected disability; or

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3. Is a member of a reserve component under an order to active duty pursuant to 10 U.S.C. 12301(a), (d) or (g), 12302 or 12304, served on active duty during a period of war or in a campaign or expedition for which a campaign badge was authorized, and was discharged or released from such duty with other than dishonorable discharge.

Family caregiver: With respect to an eligible veteran, a family member who is a caregiver of the veteran.

Family member: With respect to an eligible veteran, an individual who:

1. Is a member of the family of the veteran, including:
 - 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.
2. Lives with but is not a member of the family of the veteran.

Homeless individual (Sections 103 (a) and (b) of the McKinney – Vento Homeless Assistance Act (42 U.S.C. 11302 (a) and (b), as amended)) means:

1. An individual or family
 - a. Who lacks a fixed, regular, adequate nighttime residence;
 - b. With a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
 - c. Living in a supervised publicly or privately operated shelter designated to provide temporary living accommodations (including hotels and motels paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, congregate shelters, and transitional housing); or

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- d. Who resided in a shelter or place not meant for human habitation and who is exiting an institution where he or she temporarily resided; or

2. An individual or family:

- a. Who will imminently lose their housing, including housing they own, rent, or live in without paying rent, are sharing with others, and rooms in hotels or motels not paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, as evidenced by:

- i. A court order resulting from an eviction action that notifies the individual or family that they must leave within 14 days;

- ii. The individual or family having a primary nighttime residence that is a room in a hotel or motel and where they lack the resources necessary to reside there for more than 14 days; or

- iii. Credible evidence indicating that the owner or renter of the housing will not allow the individual or family to stay for more than 14 days, and any oral statement from the individual seeking homeless assistance that is found to be credible evidence for the purposes of this clause; and

- b. Has no subsequent residence identified; and

- c. Lacks the resources or support networks needed to obtain other permanent housing; or

3. Unaccompanied youth and homeless families with children and youth defined as homeless under other Federal statutes who:

- a. Have experienced a long-term period without living independently in permanent housing;

- b. Have experienced persistent instability as measured by frequent moves over such period; and

- c. Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, the presence of a child or youth with a disability, or multiple barriers to employment.

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4. Notwithstanding any of the provisions above, the definition of “homeless” shall include any individual or family who is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions in the individual's or family's current housing situation, including where the health and safety of the children are jeopardized, and who have no other residence or lack the resources or support networks to obtain other permanent housing.

Low-income individual (Section 3(36)(A)(i) and (ii) of the Workforce Innovation and Opportunity Act (WIOA)): For the purposes of this policy, the term "low income individual" means an individual who receives or in the past 6 months has received, assistance through the supplemental nutrition assistance program (SNAP) established under the Food and Nutrition Act of 2008; the program of block grants to States for temporary assistance for needy families (TANF) program under part A of title VI of the Social Security Act, or the supplemental security income (SSI) program established under title XVI of the Social Security Act, or other income-based public assistance, or is in a family with total family income that does not exceed the higher of:

- i. The poverty line; or
- ii. 70 percent of the lower living standard income level.

Non-covered person: Any individual who meets neither the definition of "veteran," nor the definition of "eligible spouse."

Offender (Section 3(38) of WIOA): An adult or juvenile who:

1. Is or has been subject to any stage of the criminal justice process, and for whom services under WIOA may be beneficial; or
2. Requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction.

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.

Recently separated service member: Any veteran during the three year period beginning on the date of such veteran's discharge or release from active duty.

Service-connected disability: A disability resulting from disease or injury incurred or aggravated during active military service.

Special disabled veteran: A veteran who is entitled to compensation under laws administered by the U.S. Department of Veterans Affairs for:

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1. Disabilities rated at 30 percent or higher; or
2. Disabilities rated at 10 to 20 percent, if the individual has a serious employment disability; or
3. A veteran who was discharged or released from active duty because of a service-connected disability.

Spouse: Someone who is married.

Transitioning service member: An individual in active-duty status (including separation leave) who registers for employment services and is within 24 months of retirement or 12 months of separation.

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.

Veteran of the Vietnam Era: Any person who fulfills the previous definition of "Veteran" and served between February 28, 1961, and May 7, 1975.

Eligibility:

Covered Persons/Non-covered Persons

Area 12 will apply the Priority of Service definition to all covered persons who access the workforce system through the One-Stops. Priority of Service gives covered persons the right to take precedence over non-covered persons in obtaining services. Depending on the type of service or resource being provided, taking precedence may mean:

- 1) The covered person receives access to the service or resource earlier in time than the non-covered person; or
- 2) If the service or resource is limited, the covered person receives access to the service instead of or before the non-covered person.

Processes must be in place to ensure that covered persons are identified at the point of entry for services, the full array of programs and services available to them, any applicable eligibility requirements for those programs and/or services and given an opportunity to take full advantage of Priority of Service. This should be accomplished in a number of ways.

- ✓ Awareness through posters and handouts at the point of entry should alert customers of their Priority of Service rights.
- ✓ Orientations, both in-person or electronically (including local websites) should include a reference to Priority of Service rights.

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- ✓ During the initial interview/assessment with a customer it should be determined if that person is a covered person.
- ✓ Written copies of local Priority of Service policies should be maintained at all service delivery points.

How job openings/matches and referrals are given Priority of Service must be specifically addressed in local policies. This includes electronic referral processes, electronic job posting systems, and in-person handling of job orders.

In addition, partner program staff within the One-Stops and at other service delivery points must be made aware of Priority of Service requirements. This must be accomplished at the local levels through partner meetings and other types of communication such as an information sheet or desk aid, self-service kiosks, and informational bulletin boards.

A clause pertaining to covered persons Priority of Service is included in the One-Stop Memorandum of Understanding template and must be utilized by all local workforce investment areas. Priority of Service is also and will continue to be addressed in all DOL funded employment and training program grant agreements.

Priority of Services/Low-Income Covered Persons/Non-Covered Persons:

Priority is given to low-income individuals and to recipients of public assistance. A covered person must first:

Meet the statutory requirements of the DOL funded employment and training program to be eligible for Priority of Service. Any amounts received as military pay or allowances by any person who served on active duty, and certain other specified benefits must be disregarded. This applies when determining if a person is a "low-income individual" for eligibility purposes.

In the case of career services, a covered person who is low-income or recipient of public assistance immediately takes precedence from the time of initiation of services.

This does not allow for "bumping" of non-covered persons who had previously been accepted into a program prior to the covered person applying within the same program. However, when an area has limited funds designation, and if there is a waiting list, the covered persons receive access to the service instead of or before the non-covered person on the waiting list.

Area 12 may not apply additional arbitrary or discretionary conditions or requirements above the program's statutorily mandated eligibility requirements to Priority of Service rights. Therefore, for covered persons, Priority of Service applies to discretionary targeting programs and services the same way that it applies to universal access programs, i.e., veterans and eligible spouses first.

It is neither necessary nor appropriate for program operators to require verification of the status of a covered person at the point of entry, particularly for career services, unless the individual who self- identifies as a covered person: (a) is to immediately undergo eligibility determination and be registered or enrolled in a program; and (b) the applicable federal program rules require

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verification of covered person status at that time.

For DOL-funded employment and training programs administered by state merit staff, eligibility for Priority of Service should be determined at initiation of services or upon referral of services, whichever occurs first.

Local Processes:

Each center has posted notices of Veterans priority of Service at the entrances. All individuals entering the OMJ Career Center for services are asked to complete a registration form. They are, at that point, asked to identify their status as a veteran. When referrals are made to partner agencies or received from partners, veteran status of the individual should be provided.

Monitoring:

Veterans' program managers, Area 12 staff, and program operators share monitoring responsibilities. Policies outline how this shared responsibility will be administered. When compliance/failure concerns are identified through monitoring, the concerns/failures should be handled in accordance with the program's established compliance review processes.

Data Collection and Reporting Requirements

The approved reporting requirements for Priority of Service apply at two levels:

- ✓ Area 12 will adopt the definitions for covered persons that appear in the regulations for their reporting on the services provided to covered persons and to non-covered persons.

- ✓ When data indicates that Area 12 has served an average of 1,000 or more veterans per year during the past three most recent years, it is understood that additional reporting requirements will be adopted for “covered entrants”.

This results in six programs where it is required to implement the additional reporting requirements:

- 1) Wagner-Peyser State Grants
- 2) Workforce Innovation and Opportunity Act (WIOA) – Adult
- 3) Workforce Innovation and Opportunity Act (WIOA) – Dislocated Worker
- 4) National Emergency Grant (NEG)
- 5) Senior Community Service Employment Program (SCSEP)
- 6) Trade Adjustment Assistance (TAA)

The data elements are identified in TEGL No. 10-09 (Implementing Priority of Service for Veterans and Eligible Spouses). However, with the exception of SCSEP, data collection is temporarily deferred. Further guidance will be issued following future DOL direction.