



STATE OF TENNESSEE
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF WORKFORCE SERVICES
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Effective Date: February 10, 2017

Duration: Until Changed

Workforce Services Policy - Veterans and Eligible Spouse Priority of Service

Purpose:

The purpose of this policy is to communicate guidance on federal regulations related to delivery of WIOA services to veterans, and other covered persons, under 38 U.S.C. 4215. These regulations implement the priority of service for veterans and eligible spouse that applies to the delivery of all workforce programs or services that are directly funded, in whole or in part, by the United States Department of Labor (USDOL).

Scope:

Office of the Governor, Tennessee Department of Labor and Workforce Development (TDLWD); Division of Workforce Services (WFS); Tennessee Department of Economic and Community Development (ECD); Tennessee Department of Education (TNED); Tennessee Department of Human Services (DHS); State Workforce Development Board (SWDB); Title I – Adult, Dislocated Worker, and Youth Programs, Title II – Adult Education and Family Literacy Act Program(AE); Title III – Wagner-Peyser Act Program (WP); Title IV – Vocational Rehabilitation Program (VR); Regional Planning Council (RPC); Local Workforce Development Boards (LWDB); Local Workforce Development Areas (LWDA); American Job Center (AJC); One-Stop Operator (OSO); Workforce System Sub-Recipients (Sub-Recipients); Workforce System Partners (Partners)

Background:

On January 19, 2009, a Federal Regulation went into effect that requires the USDOL to implement priority of services for all veterans and eligible spouses of veterans as part of the publicly-funded employment and training programs. The Workforce Innovation and Opportunity Act (WIOA) also expands the definition of displaced homemakers¹ to include dependent spouses of individuals on active duty in the Armed Forces on to ensure that they have access to WIOA Title I services.

¹ WIOA Section 3(16)(A)(ii)

20 CFR 680.650 builds on the USDOL's efforts to ensure veterans are entitled to priority of service in all-department funded training programs under 38 U.S.C. 4215. WIOA states that veterans must receive priority of service in programs for which they are eligible.

In programs that require income-based eligibility to receive services, amounts paid while on active duty or paid by the Department of Veterans Affairs (VA), or Vocational Rehabilitation (VR) disability, or other related Veteran Affairs programs are not considered as income to determine low-income status. Generally, this means many separating service members may qualify for the WIOA Adult Program because it provides services for low-income individuals when military earnings are not considered income.

I. Instruction:

The public workforce system must provide priority of service for all veterans², and their eligible spouse, who receive services under any qualified job training program. This means that veterans and their eligible spouse are given priority over non-covered persons to receive career assistance provided under workforce services. A veteran, or their eligible spouse, will receive access to a service earlier than a non-covered person.

For the purpose of this policy, priority is defined as 'to take precedence over' or 'to precede'. Individuals who meet eligibility requirements under Priority 1 would receive services, such as classroom training, prior to individuals classified as Priority 2, 3, and 4. Individuals who meet eligibility under Priority 2 would receive services prior to those classified as Priority 3 and 4. Individuals classified as Priority 3 would receive services prior to those classified as Priority 4.

The explanation of each of these classifications follows:

- Priority 1: The participant is an eligible veteran or spouse of a veteran who is receiving public assistance and is considered low-income or basic skills deficient.
- Priority 2: This participant is not a veteran or spouse of a veteran who is receiving public assistance and is considered low-income or basic-skills deficient.
- Priority 3: The participant is an eligible veteran or spouse of a veteran who has no barriers.
- Priority 4: This participant is not a veteran or spouse of a veteran.

II. Who is a Veteran?

A veteran is a person who has served at least one (1) day of active duty in the military, naval, or air service, and who was discharged or released from such service with other than a dishonorable discharge.

Career services provided to a veteran by a Disabled Veteran Outreach Program Specialist (DVOP Specialist) specialist still require the veteran to have one-hundred eighty (180) days of active service. The one-hundred eighty (180) day requirement does not apply to priority of service in USDOL-funded employment and training programs. It is the responsibility of the program operator to ensure that policies, procedures, and staff training reflect the correct eligibility definition.

III. Eligible Spouse:

An eligible spouse must meet one (1) of the following qualifications:

² 20 CFR 680.650

- A spouse of any veteran who died of a service connected disability;
- A spouse of 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 ninety (90) days:
 - Missing in action
 - 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;
- A spouse of a veteran who has a total disability resulting from a service-connected disability, as evaluated by the department of Veteran Affairs; or
- A spouse of any veteran who died while a disability was in existence.

A spouse will lose eligibility if it is derived from a living veteran, or a service member, who loses their status which made them eligible. Such a situation would be: if a veteran, with a total service-connected disability, were to receive a revised-disability rating at a lower level.

Similarly, a spouse, whose eligibility is derived from a living veteran or service member, would lose that eligibility upon a divorce from that veteran or service member.

The spouse of a veteran who died as the result of a service-connected disability, or died while a disability was in existence, would not lose covered status through subsequent remarriage.

It is important to distinguish between the identification of a veteran for priority of services and the verification a veteran's status or the verification of an eligible spouse. If an individual self-identifies as a veteran—or an eligible spouse—at the American Job Center, that individual should be given immediate priority in the delivery of employment services. When a veteran or eligible spouse undergoes eligibility determination for enrollment (for example, in WIOA Adult Program), it is appropriate to initiate verification of veteran status.

The only employment services that require prior verification of eligibility for priority of service are those that require a commitment such as classroom training.

American Job Centers (AJCs) must ensure that veterans and their eligible spouse are identified at the "point of entry" (such as the reception area, resource area, web-sites, or self-service and informational bulletin boards). Staff must inform veterans and their eligible spouse of their entitlement to priority of services. AJC staff will use the Military Service Form LB-1118 (April 2016), included with this policy as an attachment, as an initial screening tool to establish eligibility. These services include the full array of employment, training, and placement services.

IV. Procedure to Ensure Priority of Service:

- Identify veterans and other covered persons using Military Service Form LB-1118 (April 2016) when they visit service delivery points.
- Display signs that clearly describe the priority of services and the registration process. This information must also be conveyed when veteran and eligible spouse access services electronically or by telephone.
- It is neither necessary nor appropriate to require verification of the status of a veteran or other eligible at the point of entry.

- If a person self identifies as a veteran, or other eligible person, immediate priority of service is required.
- Coordinate employer outreach development activities with related responsibilities of the Local Veterans Employment Representative (LVER) staff.
- Identify employers who are interested in hiring veterans.
- Promote job fairs for veterans and their eligible spouse.
- Monitor the priority of service at the point of entry and during training or employment services.

References:

20 CFR 680.650; 20 CFR 683.230, 20 CFR 688.31; 29 CFR 31, 33, 35, 36; 42 U.S.C. Section 2000(d); Title VII of the Civil Rights Act of 1964, as amended; Title VII Section 717 of 42 U.S.C. Section 2000e-16; WIOA Sections (3)(15)(A)(i)(ii), 3(16)(A)(ii); WIOA Section 188

Contact:

For any questions related to this policy, please contact the Program Integrity Unit at Workforce.Board@tn.gov.

 JMR
Sterling VanDerSpuy, Administrator

MILITARY SERVICES FORM

Priority of service is the right of every qualifying individual who served in the military or eligible military spouses to receive employment, training, and placement services before non-eligible persons, as long as other provisions of the law are met. Please complete this questionnaire so we can determine your eligibility for services.

SERVED IN THE MILITARY (Section A)

Date: _____

Full Name: _____ SSN: _____

Branch of Service: _____ Discharge Type: _____ Dates of Service: _____ Rank/Rate: _____

Contact Information: () _____ E-Mail: _____
Home Cell Phone

How can we help you today? _____

Have you ever served on active duty in any branch of the Armed Forces, or are you a Transitioning Service Member, Wounded Warrior, Spouse or Family Caregiver of a service member or veteran? If so you may be entitled to additional services if you can attest to at least one of the criteria below;

1. Are you a special disabled or disabled veteran whereas you are;
Entitled to compensation (or who but for the receipt of military retired pay would be entitled to
Compensation)? or _____ Yes No
Have a claim pending with the VA; or _____ Yes No
Were discharged or released from active duty because of a service-connected disability? _____ Yes No
2. Are you homeless or without a permanent residence? _____ Yes No
3. A recently-separated service member, (Within 3 years of End of Active Service) who at any point in
the previous 12 months has been unemployed for 27 or more weeks? _____ Yes No
4. An offender, who is currently incarcerated or has been released from custody? _____ Yes No
5. Are you in need of a high school diploma or equivalent certificate? _____ Yes No
6. Low-income (as defined by the State.(See attached chart)? _____ Yes No
7. Are you between the ages of 18 and 24? _____ Yes No

OTHER ELIGIBLE (Section B)

1. Are you a Transitioning Service Member with any of the criteria as defined in section A? _____ Yes No
2. Do you have a letter from the VA stating you are an eligible spouse? _____ Yes No
3. Does your spouse have a total disability from a service-connected disability? _____ Yes No
4. Has your spouse been listed as forcibly detained or interned by a foreign government or power,
missing in action, or captured in line of duty for a total or more than 90 days? _____ Yes No
5. Are you the surviving spouse of a veteran who died of a service-connected disability as evaluated
by the VA or while having a total permanent service-connected disability? _____ Yes No
6. Are you a "Wounded Warrior" currently in a treatment Facility or a Caregiver of one? _____ Yes No

MILITARY DOCUMENTS

1. Do you need to obtain a DD214? _____ Yes No
2. Did you receive a DD2958 Service Member Career Readiness Standard/Individual Transition Plan?_ Yes No