WIOA Priority of Service For Veterans And Eligible Spouses

EXECUTIVE SUMMARY

This directive provides direction to Los Angeles County America's Job Centers of California (AJCCs) administering Workforce Innovation and Opportunity Act (WIOA) Adult, Dislocated Worker and WIOA Youth programs on the County's policy and procedures regarding the priority of service requirement for veterans and their eligible spouses. This policy applies to all individuals enrolled in WIOA Title I Adult, Dislocated Worker and the WIOA Youth programs (ADWY) and is effective immediately.

This Directive supersedes LA County Directive LACOD-WIA11-04.

REFERENCES

- Workforce Innovation and Opportunity Act (WIOA) (Public Law 113-128), Title I, Sections 3(59), 134(d)(2) – (3), 129 (c)(2)(G)
- 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 (PDF), Subject: WIOA Adult Program Priority of Service (January 22, 2016)
- Workforce Services Directive WSD19-04 Priority of Service for Veterans and Eligible Spouses
- Los Angeles County WDP D18-14 Adult Priority of Service Directive

BACKGROUND

On November 7, 2002, President Bush signed the Jobs for Veterans Act (JVA) into law to revise and improve employment, training, and job 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 WIOA Title I programs.

The JVA, and the priority of service it requires, acknowledges the sacrifices of the men and women who have served in the U.S. Armed Forces. Priority of service honors veterans and eligible spouses as our "heroes at home" and provides clear entry points into high-growth, high-wage civilian jobs, and easily accessible post-secondary education and training to support their advancement along career pathways.

Veterans and eligible spouses possess unique attributes and contribute greatly in the workplace. They are an important source of highly skilled and experienced talent and play an important role in local and regional workforce development strategies.

POLICY AND PROCEDURES

DEFINITIONS

The definitions listed below are for the purposes of implementing priority of service only.

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; or
   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); or

d. Any veteran who died while a disability, as indicated in category c. of this definition, was in existence.

A spouse whose eligibility is based off a living veteran or service member (Category b. or c. above) would lose his or her eligibility if the veteran or service member loses the status that is the basis for eligibility, or upon divorce from the veteran or service member.

Please note that a surviving spouse who is a widow or widower <u>and</u> remarries on or after December 16, 2003, <u>and</u> 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 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.

Veteran - 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. 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.

POLICY

<u>Priority of Service</u>

AJCCs are required to provide priority of service to veterans and eligible spouses for all WIOA 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, AJCCs must ensure veterans and eligible spouses receive basic career services and individualized career services before other non-covered individuals. Additionally, they must ensure veterans and eligible spouses receive 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, priority of service is not intended to allow a veteran or eligible spouse to bump the non-covered participant from that class or service.

AJCCs must ensure that priority of service is applied as indicated in this directive and that language regarding priority of service be included in any service provision agreements including contracts and memorandums of understanding.

PROCEDURES

Applying Priority of Service

The application of priority of service varies depending on the eligibility requirements of the program. There are four basic categories for WIOA Title I funded programs:

i. Universal access programs;

ii. Programs that require participants to meet specified eligibility criteria;

iii. Programs with statutory priorities; and

iv. Programs with discretionary priorities.

The following describes how priority of service applies to each of these basic types of programs:

Universal Access Programs
For workforce programs that operate or deliver services to the public 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 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 Adult Program provides priority of service to 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. AJCCs 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 meet the program's statutory priority requirement (e.g., veterans and eligible spouses who are also recipients of public assistance, other low-income individuals, or individuals who are basic skills deficient);

2. Non-covered persons who meet the program's statutory priority requirement (e.g., non-covered persons who are recipients of public assistance, other low-income individuals, or individuals who are basic skills deficient);

3. Veterans and eligible spouses who do not meet the program's statutory priority requirement;

4. Priority populations established by the Governor and/or Local Workforce Development Board; then

5. Non-covered persons outside the program's statutory priority requirement.

Programs with Discretionary Priorities
Programs with discretionary priorities may try to provide a certain level of service to a 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, AJCCs must apply priority of service in the order below:

1. Veterans and eligible spouses;

2. Non-covered persons within the discretionary targeting group; then

3. Non-covered persons outside the discretionary targeting group.

Income Eligibility Requirements
When determining eligibility for programs that have a statutory requirement to serve low-income individuals, many types of military service-related income are exempt. Certain pay, financial allowances, and financial benefits must be disregarded for veterans, transitioning service members, or any other individuals for whom these amounts would normally be applied in making an eligibility determination.

The following types of military-related income are not included in low-income calculations:

a. Military pay or allowances paid while on active duty;

b. 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.:

   i. Chapter 11 - Compensation for service-connected disability or death;
   ii. Chapter 13 - Dependency and indemnity compensation for service-connected deaths. Chapter 30 - All-volunteer force educational assistance program;
   iii. Chapter 31 - Training and rehabilitation for veterans with service-connected disabilities;
   iv. Chapter 33 – Post-9/11 educational assistance;
   v. Chapter 35 - Survivors' and dependents' educational assistance; and
   vi. Chapter 36 - Administration of educational benefits.

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

The following types of military-related income are included in low-income calculations:

a. Pension payments authorized by Title 10 U.S.C., such as those received by military retirees, regardless of whether their retirement was based on disability; and

b. 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.

Also 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, **AJCCs 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

AJCCs must put processes into place to ensure that veteran and eligible spouses 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 such as AJCCs, as well as websites such as an AJCC's home webpage, and other virtual service delivery resources. These processes should ensure that veterans and eligible spouses 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, and in cases of online points of entry, how to access assistance via your AJCC.

Documenting Eligibility for Priority of Service

It is not necessary for AJCC staff 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 the participant receives an individualized career service or training service, an individual who states they meet the veterans' priority eligibility criteria must be accorded veterans' priority of service based on self-attestation. If eligibility determination and enrollment in a WIOA individualized career service occur at the point of entry, a veteran or their eligible spouse, must be enrolled, provided immediate priority, and permitted to follow-up subsequently with any required verification of his or her status as a covered person. Verification must occur before assisting with subsequent service.

Documentation must be uploaded into CalJOBS with an accompanying case note.

Please note, this priority of service documentation requirement is regarding the verification of veteran status and priority of service only. An individual applying for services must still meet eligibility requirements for program enrollment.

ACTION

Los Angeles County AJCCs must develop and implement policies and procedures incorporating all the requirements written in this directive. Policies must ensure that veteran and eligible spouses are identified at the point of entry, given an opportunity to take full advantage of priority of service and made aware of their entitlement to priority of service, the full array of employment, training, and placement services available under priority of service, and any applicable eligibility requirements for programs and/or services.

Additionally, AJCCs must ensure that written copies of the AJCC's priority of service policy are maintained at the AJCC and affiliate AJCC locations. Policies must be posted at the AJCC in clearly visible locations that make it easily accessible to the general public.

AJCCs must ensure that the policies and procedures described herein are communicated throughout the operations, management and governance structure of the contractor organization and that this Directive is appropriately maintained until further notice.

INQUIRIES

Inquiries regarding this directive and the policies and procedures described herein should be directed ajccops@wdacs.lacounty.gov.

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