



Category/Subject: Priority of Service for Veterans and Eligible Spouses
Colorado Policy Guidance Letter#: VET-2014-02 (prior #14-07-V) Revised July 2015
Revise/Replace: 14-07-V
Date: July 13, 2015
Distribution: Managers, Workforce Development Staff, Workforce Area Directors, Fiscal

July 2015 REVISIONS IN YELLOW

I. REFERENCE(S):

- [Title 38, USC Section 101\(2\)](#), Chapters [41](#) and [42](#);
- [The Jobs for Veterans Act \(JVA\) of 2002, Public Law \(P.L.\) 107-288, section 2\(a\) codified at 38 U.S.C. 4215](#);
- Veterans' Benefits, Health Care Information Technology Act of 2006, [P.L. 109-461](#);
- [Priority of Service for Covered Persons; Final Rule, 20 CFR Part 1010](#) (December 19, 2008);
- [Standards of Performance Governing State Agency Services to Veterans and Eligible Persons, 20 CFR 1001.120 \(a\)\(b\)](#);
- **Title I of the Workforce Innovation and Opportunity Act (WIOA) of 2014, WIOA Section 134(3)(E).**
- [Training and Employment 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, (jointly issued by the Veterans' Employment and Training Service as [Veterans' Program Letter 07-09](#));
- [Veterans' Program Letter 03-14](#), Jobs for Veterans' State Grants (JVSG) Program Reforms and Roles and Responsibilities of American Job Center (AJC) Staff Serving Veterans;
- [Training and Employment Notice 15-10](#), Attachment 1, Protocol for Implementing Priority of Service for Veterans and Eligible Spouses in all Qualified Job Training Programs Funded in whole or in part by USDOL.
- VET-2014-03, Refocused Roles and Responsibilities of Jobs for Veteran State Grant (JVSG) Funded Staff

II. PURPOSE:

To provide information to support the implementation of Priority of Service for Veterans and Eligible Spouses by Local Workforce **Areas** and other grantees that receive funds from the Colorado Department of Labor and Employment (CDLE) to operate qualified job training programs. Specifically:

- To streamline and incorporate guidance from PGLs 10-05-V and 06-03-V and Technical Assistance Notices (TANs) 05-1 and 06-1;
- To provide specific guidance on identifying and verifying veterans and eligible spouses and applying priority of service;
- To provide specific guidance on local policy requirements for priority of service;
- **To establish the Colorado Veterans Employment and Training (CVET) Committee;**

- To require updated local policies be submitted to the State Veterans Coordinator and your Regional Liaison annually by September 30th;
- To require a staff person from each local workforce area be assigned to the CVET Committee by September 1, 2015.

III. BACKGROUND:

On November 7, 2002, the Jobs for Veterans Act (JVA) was signed into law (Public Law 107-288). A provision of the law established a priority of service requirement for covered persons (i.e., veterans and eligible spouses, as defined by this statute) in qualified job training programs.

Since the passage of the JVA, the U.S. Department of Labor (USDOL) has provided policy guidance to the workforce investment system regarding the implementation of priority of service. Section 605 of the Veterans' Benefits, Health Care, and Information Technology Act of 2006 (P.L. 109-461) and 20 CFR Part 1010 required the USDOL to implement priority of service for Veterans and other covered persons for all employment and training programs funded directly, in whole or in part, by USDOL.

The Final Rule took effect on January 19, 2009. While recipients of USDOL funds for qualified job training programs had been required to provide priority of service since 2002, the Final Rule signaled that those recipients of USDOL funds for qualified job training programs are subject to the priority of service regulations, and are required by law to provide priority of service to veterans and eligible spouses.

IV: POLICY/ACTION:

A. Definitions and Eligibility

The following definitions are derived from the federal law (Jobs for Veterans Act) and relevant regulations.

“Recipient” to mean an entity to which Federal financial assistance, in whole or in part, is awarded directly from the USDOL or through sub-award for any qualified job training program.

“Qualified job training program” to mean any program or service for workforce preparation, development, or delivery that is directly funded, in whole or in part, by the USDOL.

“Program operator” is intended to refer to a recipient or a sub-recipient of USDOL funds for a qualified job training program for the purpose of this guidance. Agreement by a program operator to implement priority of service is a condition of receipt of USDOL funds.

The requirement to provide priority of service applies to all Workforce Investment Act (WIA), Workforce Innovation and Opportunity Act (WIOA), Wagner-Peyser funded activities, and also including but not limited to:

- Trade Adjustment Assistance Program;
- Veterans' Workforce Investment Program;
- National Emergency Grants;
- Discretionary grants such as those using H-1B funds; and
- Future grant formula or discretionary programs and grants.

Additionally, all program operators are required to ensure that priority of service is applied by all sub-recipients of DOL funds. All program activities issued or executed by

program operators, regardless of how they are procured, must be administered in compliance with priority of service requirements.

For the purposes of priority of service eligibility, the Final Rule requires that program operators use the following definition of veteran:

“Veteran” means a person who served at least one day of active duty in the United States military, in any branch including the Army, Marines, Navy, Air Force, or Coast Guard, and who was discharged or released under conditions other than dishonorable.

Active duty 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 any of the following:

1. Any veteran who died of a service-connected disability;
2. 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:
 - Missing in action;
 - Captured in line of duty by a hostile force; or
 - Forcibly detained or interned in line of duty by a foreign government;
3. Any veteran who has a total disability resulting from a service connected disability, as evaluated by the Department of Veterans Affairs
4. Any veteran who died while a service-connected disability was in existence (whether or not that disability was the cause of death). 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.

The priority of service statute does not include a disqualification clause pertaining to re-marriage by a widow or widower that is an “eligible spouse.”

This guidance refers to those eligible for priority of service as “veterans and eligible spouses” and those who are not eligible as “non-covered persons.”

B. 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. This means that 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.

It is important to note that local program operators do not have the discretion to establish further priorities within the overall priority established by the regulations. In addition,

local program operators do not have the authority to “hold” or prevent veterans from registration into workforce development programs regardless of whether the local program operators are currently accepting registrations or not. The Jobs for Veterans Act reserves that authority to the Secretary of Labor.

For a service such as classroom training, here’s how veterans’ priority of service applies to the selection procedure:

1. If there is a waiting list for the formation of a training class, priority of service requires a veteran or eligible spouse to go to the top of that list.
2. Priority of service applies up to the point at which an individual is both:
 - a. approved for funding, and
 - b. accepted or enrolled in a training class.

Once a non-covered person has been both approved for funding and accepted/enrolled in a training class, priority of service is not intended to allow a veteran or eligible spouse who is identified subsequently to “bump” the non-covered person from that training class.

C. Identifying Veterans and Eligible Spouses

Local workforce **areas** 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. Workforce center staff must ensure that veterans and eligible spouses are made aware of the following:

- Their entitlement to priority of service;
- The full array of employment, training and placement services available; and
- Applicable eligibility requirements for programs and services.

Local workforce **areas** must develop local policies and implement processes to allow veterans and eligible spouses to identify themselves in order to provide timely and useful information on priority of service at the point of entry. Point of entry includes but is not limited to physically entering a Workforce Center as part of an application process for a specific program, or through any other method by which veterans and eligible spouses express an interest in receiving services, either in-person or virtually.

During intake, if two customers enter the workforce center at the same time, the covered person should be given priority attention over a non-covered individual.

D. Verifying Status and Documentation

It is neither necessary nor appropriate for program operators to require documentation to verify the status of a veteran or eligible spouse at the point of entry, unless:

1. The individual who self-identifies as a veteran or eligible is to immediately undergo eligibility determination and be registered or enrolled in a program (other than Wagner-Peyser); and,
2. The applicable federal program rules require verification of veteran or eligible spouse status at that time.

Verification only needs to occur at the point at which a decision is made to incur direct costs for one individual over another. The commitment of program staff time does not require verification of status by a veteran or eligible spouse. If a veteran or eligible spouse self-identifies, program staff should be permitted to deliver appropriate services, including intensive services, while permitting the veteran or eligible spouse to follow-up subsequently with verification of his or her status.

Even in those instances in which eligibility determination and enrollment occur at the point of entry, a veteran or eligible spouse should be enrolled on the basis of self-attestation 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.

Local workforce **areas** are expected to follow up with the veteran or eligible spouse to encourage submittal of required verification. The **local area** must ask the veteran to obtain the paperwork, the **local area** must provide assistance to the veteran to obtain the documentation, and the **local area** is responsible for ensuring that the appropriate document is provided and placed in the case file. If all methods to obtain the documentation are exhausted (phone, e-mail, postcard) and the documentation is not provided, the efforts should be documented and the individual should not receive priority of service as a veteran under **WIOA** or other programs.

Colorado allows two options for documenting veteran status:

- DD Form 214, Certificate of Release or Discharge from Active Duty; or
- Letter from the Veterans' Administration.

The same documentation requirements apply to eligible spouses of veterans.

Length of service and character of service may appear in different boxes on the DD214 depending upon what era the vet served.

On rare occasions the veteran may receive a DD Form 215, which is a correction to the DD Form 214. The DD Form 215 should accompany the DD Form 214; however the DD Form 214 must be used for documenting veteran status. Jobs for Veterans' State Grant (JVSG) staff are available as a resource to assist with determining length and character of service.

E. Order of Priority for Services to Veterans

After a veteran or eligible spouse has been identified and priority of service explained at the point of entry, the workforce center may proceed to offer the normal services that are usually available to program customers. Veterans and eligible spouses do not receive different services than non-covered customers. However, they are eligible to receive priority treatment in the manner that the services or resources are delivered. 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.

Section 1001.120 of 20 CFR requires that every local workforce center shall provide services to veterans in the following order of priority:

1. Special disabled veterans;
2. Disabled veterans other than special disabled veterans;
3. All other veterans and eligible spouses; and
4. Non-veterans.

JVSG funded staff (DVOPs and RVERs) are not responsible for applying priority of service to veterans; all workforce center staff are responsible for priority of service to all veterans and eligible spouses. For definitions and guidance on the priority populations served by JVSG funded staff, please refer to PGL# 14-08-V.

F. Applying Priority of Service to Programs

Qualified job training programs fall into two basic categories: universal access programs and programs that require prospective participants to meet specified eligibility criteria.

The subsections below describe how priority of service applies to these two types of programs. In addition to the eligibility criteria that all participants are required to meet, some programs also have **statutory** or **discretionary** priorities that establish a rank order to be observed in enrolling or serving participants.

1. 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. The primary universal access services are the “core” services delivered through the workforce system under the Wagner-Peyser program. Veterans and eligible spouses receive the first level of priority in universal access programs.

2. Programs with Eligibility Criteria

Eligibility criteria identify basic conditions that each and every participant in a specific program is required to meet. For example, for the **WIOA** Dislocated Worker program every participant is required to meet basic **WIOA** eligibility for age, Selective Service, and legal work status, and fit in one of the eligible Dislocated Worker categories. 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 enrollment in the program, receipt of priority for enrollment, and priority for receipt of services. For programs with eligibility criteria, program operators must apply priority of service as described below:

- a. Veterans and eligible spouses who meet **WIOA** Dislocated Worker eligibility receive the highest level of priority for the program or service;
- b. Non-covered persons who meet **WIOA** Dislocated Worker eligibility then receive the second level of priority for the program or service.

3. Programs with Statutory Priorities

Some programs are required by law to provide a priority or preference for a particular group of individuals or require the program to spend a certain portion of program funds on a particular group of persons. An example of a statutory priority is the priority for public assistance recipients, other low-income individuals, **and basic skills deficient individuals** for the **WIOA** adult formula programs. Under this statutory priority, priority of service may also include other priority **categories** determined by the local area. 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, local priorities such as residency, and program eligibility must receive the highest level of priority for **enrollment in** the program or service;
- b. Non-covered persons who meet the program’s mandatory priorities, local priorities, and program eligibility then receive the second level of priority for **enrollment in** the program or service;
- c. Veterans and eligible spouses who do not meet the program-specific mandatory priority, but meet program eligibility, then receive the third level of priority for **enrollment in** the program or service;

- d. Non-covered persons outside the program-specific mandatory priority, but meet program eligibility, then receive the fourth level of priority for enrollment in the program or service.

The priority of service for veterans always applies, regardless of program.

4. Programs with Discretionary Priorities

Some qualified job training programs may include a focus on a particular group or make efforts to provide a certain level of service to a particular group without the authorizing law specifically mandating that the target group be served before other eligible individuals. For example, the H-1B Technical Skills Training Grant places a focus on individuals who are underrepresented in the targeted occupations, which includes women and minorities. For this type of discretionary focus, priority of service may be applied as described below:

- a. Veterans and eligible spouses who meet H-1B program eligibility and H-1B target population;
- b. Veterans who meet H-1B program eligibility but not H-1B target population;
- c. Non-covered persons who meet H-1B program eligibility and H-1B target population;
- d. Non-covered persons who meet H-1B program eligibility but not H-1B target population.

Because a discretionary focus of this type is not a statutorily mandated priority or targeting requirement, veterans and eligible spouses must receive the highest priority for programs or services with a discretionary targeting requirement.

Non-covered persons within the discretionary targeting group may then receive the second level of priority. Non-covered persons outside the discretionary targeting group receive the third level of priority.

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 the non-covered persons.

For veterans and eligible spouses, 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.

G. Local Veterans' Priority of Service Policy Requirements

Local workforce areas are required to have veterans' priority of service policies and procedures in place. This PGL requires local workforce areas to review and update their local priority of service policy and procedures within 90 days of publication. The Priority of Service Final Rule regulations require that program operators implement policies and procedures that:

- Identify veterans and eligible spouses at point of entry (physical locations, web sites, and other virtual service delivery resources);
- Advise veterans and eligible spouse of their entitlement to priority of service;
- Make veterans and eligible spouses aware of the full array of employment, training and placement services available; and
- Identify applicable eligibility requirements for programs and services.

Local policies and procedures should address and explain how priority of service is implemented in the following areas:

1. Recruitment

- a. Inclusion of information on priority of service in presentations and printed materials targeted to customers and employers;
- b. Inclusion of priority of service information on local websites; and
- c. Proactive recruitment of veterans by targeted contact strategies or other strategies, particularly when the **local area** is not in compliance with priority of service performance measures.

2. Awareness

In addition to making veterans and eligible spouses aware of priority of service at the point of entry, local workforce **areas** should formally notify veterans through the following means, at a minimum:

- a. A priority of service rights statement in the complaint procedures provided to a veteran customer, and/or
- b. A priority of service rights statement in the signature portion of the WIA (or other covered program) application.

3. Intake/Enrollment

- a. Address how the local workforce **area** will establish applicant status for those individuals who have applied for a program, but are not yet enrolled;
- b. Address at what stage of the intake/assessment process will an individual be placed in applicant status, and at what point will the individual be enrolled in a program; and
- c. Determine what additional assessment factors will be used to make a decision to enroll an individual, once eligibility has been determined.

Note: Staff are advised that Connecting Colorado allows the user to place an individual into applicant status by not entering an enrollment date.

4. File Searches and Job Referrals

- a. All job orders that are entered into Connecting Colorado by staff, employers, or other sources must be file searched for qualified veterans, and local workforce **areas** are required to contact qualified veterans to inform them about job openings before non-veterans.
- b. State policy requires that workforce centers keep all job orders on hold for a minimum of **4 hours** after identifying and contacting qualified veterans by one or more of (but not limited to) the following methods:
 - i. Phone,
 - ii. E-mail, or
 - iii. Postcard (**see Attachment 1 for sample**)
- c. An Auto File Search (AFS) should be run in Connecting Colorado and local workforce **areas** are required to review the contact list.
- d. If the number of veterans contacted is unusually low, local staff should complete a manual Applicant Search to increase the veteran contact pool.
- e. The Veterans' file search is to be documented in Connecting Colorado in the "First AFS" field on the Job Display page, including the date of file search, type of search, and the results.
- f. Regional Veteran's Employment Representatives (RVERs) and state monitors will ensure that priority of service is being applied in all programs, to include file searches and job orders.

5. Contractors

Local workforce **areas** must provide assurances that any contract executed with a sub-recipient will contain the priority of service requirements.

6. Performance and Reporting

Local workforce **areas'** success in achieving priority of service for veterans within each affected program is measured by a formula comparing the percentage of veterans who applied to the program and were accepted versus the non-vets who applied to the same program and were accepted. Local policy should include:

- a. Use of the formula to track success, or the inclusion of a proposal to use a specific alternative to the formula;
- b. A clear indication of how the **local area** will track the results, including use of the Connecting Colorado client characteristics report;
- c. Inclusion of tracking priority of service in the **local area's** internal monitoring processes; and
- d. Preparation of a quarterly report, which is submitted to the State Regional Director and the appropriate Regional Liaison.

See *Attachment 2* for recommendations on improving veteran enrollment percentages.

7. Statewide Activities and Demonstration Grants

- a. A process to insure priority of service must be described in each client-centered discretionary grant proposal; and
- b. Projects involving incumbent workers must include a description of how the employers will be notified or advised of priority of service requirements.

8. Relationship to Adult Priority of Service Policies

Priority of service for veterans always applies, regardless of program. **WIOA adult priority of service only applies to that specific program.** Local policies should address how the veterans' priority of service and the adult priority of service policies impact each other.

H. Monitoring

As stated in the Final Rule, USDOL monitors the implementation of priority of service to ensure that veterans and eligible spouses are made aware of and afforded priority of service. Monitoring at the State level will be performed by the Colorado Department of Labor & Employment (CDLE), in conjunction with the United States Department of Labor/Veterans' Employment and Training Service (USDOL/VETS). Monitoring includes evaluation of the Veterans' enrollment percentages in the **local area**. Program operators are required to ensure that priority of service is applied throughout their respective service delivery systems, including service delivery points maintained by all sub recipients. It is required that local **areas** use the state audit tool (**Attachments 3 & 4**) to review their local service delivery operations annually, at a minimum, to ensure that their internal policies and procedures are in compliance with the priority of service requirements. A copy of updated local policies with any resulting changes clearly identified must be submitted to the State Veterans Coordinator and Regional Liaison via email **by September 30th of each year.**

I. Establishment of the Colorado Veterans Employment and Training Committee

The Colorado Veterans Employment and Training (CVET) Committee is being established to improve employment services and opportunities for transitioning service members, Guard and Reserves, veterans, and their spouses in Colorado. The committee will provide a regional voice, in partnership with the state, to address policies, special initiatives, issues/concerns, and best practices that impact these priority populations. The committee will be composed of one representative from each local workforce area in the state. The ideal representative will act as a liaison on veterans' employment needs in their local area, but should not be JVSG staff (DVOP or RVER). The minimum term for participation on the committee is one year. Each local workforce area director will provide the name of the local representative to the State Veterans Program Coordinator by September 1 2015, and the committee will convene in Fall 2015.

V. IMPLEMENTATION DATE:

Effective immediately. It is required that local areas annually review their local service delivery operations and internal policies and procedures to ensure they are in compliance with the priority of service requirements. **A copy of updated local policies with any resulting changes clearly identified must be submitted to the State Veterans Coordinator and Regional Liaison via email by September 30th of each year.**

In addition, each local workforce area director must assign an appropriate staff person to participate on the CVET Committee. Names must be submitted to the State Veterans Coordinator via email by September 1, 2015.

VI. INQUIRIES:

Please direct all inquiries to Elaine Edon, State Veterans Coordinator at Workforce Development Programs: Elaine.Edon@state.co.us or 303-318-8937.

Elise Lowe-Vaughn, Director
Workforce Programs, Policy, and Special Initiatives

ATTACHMENTS:

1. Veterans Contact Postcard (Frisco Workforce Center)
2. Meeting Veterans Priority of Service Standards for WIOA Programs
3. JVSG Audit Tool
4. JVSG Audit Tool Instructions