

## Department of Labor

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# New York State Workforce Development System Technical Advisory #12-12.4 January 20, 2016

**To:** Workforce Development Community

**Subject:** Implementation of Veterans' Priority of Service for Covered Persons in Qualified USDOL Job Training Programs

## Purpose

To communicate New York State Department of Labor (NYSDOL) guidance on Veterans' Priority of Service as promulgated in Federal regulation.

Please note, TA#12-12.4 rescinds and replaces TA#12-12.3.

## Policy

It is the responsibility of the public workforce system to provide priority of service to all veterans and eligible spouses who receive services under any qualified job training program.

## ***Additional Information and Procedures:***

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.

For a service such as classroom training, priority of service applies to the selection procedure, as follows. First, if there is a waiting list for the formation of a training class, priority of service is intended to require a veteran or eligible spouse to go to the top of that list. Second, priority of service applies up to the point at which an individual is both approved for funding and accepted or enrolled in a training class. Therefore, once a non-covered person has been 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.

## Eligibility

- **Veteran/Covered Person:** A person who served **active duty** and was discharged or released with any status *but dishonorable*. This definition includes *Federal activation of a Reserve Component*, other than **active duty for training**.
  - **Active duty:** Full-time duty in the United States **Armed Forces**, other than **active duty for training**.
  - **Armed Forces:** The United States Army, Navy, Marine Corps, Air Force, and Coast Guard, including their **Reserve Component**.
  - **Active Duty for Training:** Full-time duty in the **Armed Forces performed by a Reserve Component** (i.e. basic training, military job training, drill weekends, annual two week drill, etc.)
  - **Reserve Component:** Generally perform a minimum of 39 days of **active duty for training** annually and are also referred to as the Guard or Reserves:
    - a) The Army Reserve;
    - b) The Navy Reserve;
    - c) The Marine Corps Reserve;
    - d) The Air Force Reserve;
    - e) The Coast Guard Reserve;
    - f) The Army National Guard of the United States;
    - g) The Air National Guard of the United States.
- Please note that the veteran definition that requires an individual to have served on **active duty** for a period of more than 180 days still applies to Wagner-Peyser reporting and to eligibility for Disabled Veteran's Outreach Program specialist, but does not apply to priority of service in DOL funded employment and training programs. It is the responsibility of the program operator to ensure that policies and procedures and staff training reflect the correct eligibility definition.
- Eligible Spouse (must meet one qualification)

- 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 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 any veteran who has a total disability resulting from a service-connected disability, as evaluated by the Department of Veterans Affairs.
- A spouse of any veteran who died while a disability was in existence.

Note: A spouse whose eligibility is derived from a living veteran or service member would lose their eligibility if the veteran or service member was 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, a spouse whose eligibility is derived from a living veteran or service member would lose that eligibility upon divorce from the veteran or service member. However, the spouse of a veteran who died of a service-connected disability or while a disability was in existence would not lose covered status through subsequent remarriage.

## Service Delivery

It is the responsibility of the Career Center manager to establish customized processes for providing veteran's priority of service. At intake, this can be accomplished by establishing a way to greet veterans similar to the way airports provide priority service to some of their priority passengers. Staff should also be trained to ask about veteran status at intake. Whatever policies are established, they should be consistent in providing priority of service for the use of self-service resources and staff assisted services.

It is important to distinguish between identifying a veteran for priority of service and verifying a veteran's status. At the point of entry, it is neither necessary nor appropriate to require verification of the status of a veteran or eligible spouse. If an individual self-identifies as a veteran or eligible spouse at the Career Center, that individual should be provided immediate priority in the delivery of employment and training services for

which they are eligible and qualified. When a veteran or eligible spouse undergoes eligibility determination for enrollment (e.g. in WIOA Adult programs), it is appropriate to initiate verification of veteran status. If a veteran or an eligible spouse, at the point of eligibility determination and enrollment, does not have documentation verifying his/her eligibility for priority of service, he/she is to be afforded access on a priority basis to all services provided by program staff (including intensive services) while awaiting verification.

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

## **Signage**

In order for priority of service to be implemented successfully, NYSDOL recognizes that proper signage will play a pivotal role. As such, NYSDOL has designed, published, and distributed appropriate signage to all local Centers and affiliate service sites throughout the state.

Signage must be placed prominently at or near the entrance, as this may encourage customers to register first so that veteran status can be determined and documented as soon as possible. The placement of additional signage is required; however, the location of this additional signage is at the discretion of the Center. It is strongly advised that the additional signage be placed in strategic locations and high traffic areas throughout the center, such as resource rooms and common waiting areas.

If a Center needs to order more signage, it should be requested through [Ask.vets@labor.ny.gov](mailto:Ask.vets@labor.ny.gov).

## **Website**

All local workforce areas will need to ensure that their web-sites include language advising visitors of the veterans' priority of service policy. Language alerting user to veterans' priority of service will also need to be included in any self-registration process.

## **Contracts, RFPs, and Sub-agreements**

All local workforce investment areas must include the priority of service provision in their contract template, RFP, and sub-agreement language.

## **Gold Card Services for Post-9/11 Veterans**

If the customer is a veteran that served after September 11, 2001, then they should be offered "Gold Card" services in addition to being given priority of service. This program provides specific services to the veteran, including monthly case management by an assigned case manager for six months. In addition, a suite of on-line tools for veterans

has been launched as part of this initiative. These tools can be found on [My Next Move for Veterans](http://www.mynextmove.org/vets/) at [www.mynextmove.org/vets/](http://www.mynextmove.org/vets/). Further details on the program can be found in [NYS DOL Technical Advisory #11-15.1](http://labor.ny.gov/workforcenypartners/ta/TA11-15-1-Gold-Card-Services.pdf) at <http://labor.ny.gov/workforcenypartners/ta/TA11-15-1-Gold-Card-Services.pdf>.

## Background

On January 19, 2009 Federal regulation went into effect via Final Rule (Part VIII, 20 CFR Part 1010) requiring the United States Department of Labor (USDOL) to implement priority of service for all veterans and eligible spouses of veterans as part of the publicly-funded workforce investment system.

## References

- Jobs for Veterans Act, Public Law 107-288 (Nov. 7, 2002).
- 38 United States Code, Section 101, Chapter 42, Section 4211 and Section 4215.
- 10 United States Code, Section 101
- USDOL/ETA Training and Employment Guidance Letter (TEGL) No. 5-03, “Implementing the Veterans’ Priority Provisions of the ‘Jobs for Veterans Act’ (Public Law 107-288).”
- Veterans’ Benefits, Health Care, and Information Technology Act of 2006 (Public Law 109-461), Section 605 (Dec. 22, 2006).
- Federal Register Part VIII, Department of Labor, Veterans’ Employment and Training Service, 20 CFR Part 1010, Priority of Service for Covered Persons, Final Rule, RIN 1293-AA15, (Dec. 19, 2008).
- USDOL/ETA TEGL No. 14-08, “Guidance for Implementation of the Workforce Investment Act and Wagner-Peyser Act Funding in the American Recovery and Reinvestment Act of 2009 and State Planning Requirements for Program Year 2009.”
- Veterans’ Program Letter No. 07-09, “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.”
- USDOL/ETA TEGL No. 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.”

- USDOL/ETA TEN No. 15-10, “Protocol for 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 (DOL).”
- NYSDOL Technical Advisory No. 11-15.1 “Gold Card Services for Post-9/11 Veterans.”

## **Inquiries**

USDOL has prepared a Question and Answer Reference Sheet ([Attachment B](#) to TEGL 10-09) to provide clarity on the many topics associated with Priority of Service. Please direct any additional questions to [Ask.vets@labor.ny.gov](mailto:Ask.vets@labor.ny.gov).