

MERCED COUNTY WORKFORCE DEVELOPMENT BOARD

1900 Airdrome Entry · Atwater, CA 95301 · (209) 724-2000 · Fax (209) 383-4039

POLICY BULLETIN

MCWDB PB # 15-21	Date of Release: September 22, 2021
To:	All Merced County Workforce Development Board Staff and Service Providers
From:	Erick Serrato, Merced County Workforce Development Board
Effective Date:	September 22, 2021
Subject:	Priority of Service for Veterans and Eligible Spouses
Responsible Official:	MCWDB Program Manager

PURPOSE

This policy provides the guidance and establishes the procedures regarding the priority of service requirement for Veterans and their Eligible Spouses for U.S. Department of Labor (DOL) funded programs and services. This policy applies to all recipients and sub recipients of Workforce Innovation and Opportunity Act (WIOA) Title I and Title III funding.

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 DOL programs. The JVA, and the priority of service requires and 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. They are an essential source of highly skilled and experienced talent and play a vital role for regional workforce development strategies.

Covered persons who are determined eligible for WIOA services are entitled to priority of service over non-covered persons under all WIOA Title I funded programs including, but not limited to: Adult, Dislocated Worker, Youth, 15% and 25% Special Projects, National Emergency Grants, and other DOL qualified funded workforce programs; however, a covered person must meet basic eligibility requirements before priority of service is applied.

DEFINITIONS

Covered Person: A veteran or Eligible Spouse

Non-Covered Person: Any individual who meets neither the definition of Veteran nor the definition of Eligible Spouse.

Veteran: A person who served at least one day in the active military, naval, or air service and 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 the state rather than federal authorities.

Eligible Spouse: The spouse (including same-sex spouse) of any of the following:

- Any Veteran who died of a service-connected disability
- 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 Priority of Service to Veterans and Eligible Spouses listed for a total of 90 days or more:

- i. Missing in action.
- ii. Captured in the line of duty by a hostile force.
- 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).
- d. Any Veteran who died while a disability, as indicated in category c. of this definition, was in existence. 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), or upon divorce from the Veteran or service member.

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, self-service kiosks in an America's Job Center of California (AJCC), and websites and other virtual service delivery resources.

POINT OF ENTRY

All MCWDB and sub recipients are expected to provide information on priority of service for the covered person at all Point of Entries and how to access assistance from any applicable program or grant via the nearest One-Stop Career Center.

It is important to note that self-service instructions will be expected to go beyond mention or referral to Local Veterans' Employment Representatives and Disabled Veterans' Outreach Program specialists.

MCWDB staff and sub recipients are responsible for identifying covered persons at the point of entry to programs and/or services and are given an opportunity to take full advantage of priority of service. Once a Veteran or Eligible Spouse has been identified, they must be provided information that is timely, useful, and made aware of:

- a. their entitlement to priority of service;
- b. the full array of employment, training, and placement services available under priority of service; and
- c. any applicable eligibility requirements for those programs and/or services.

Written copies of local priority of service policies should be maintained at all points of entry and, to the extent practicable, should be posted in a way that makes it possible for members of the general public to access them easily.

All physical points of entry are required to provide a notice of the Uniformed Services Employment and Reemployment Rights Act (USERRA) rights, benefits, and obligations to service members. The USERRA Notice of Rights must be posted next to the Priority of Service signage, where it is visible to anyone at the common point of entry for any AJCC location. The USERRA provides employment and reemployment rights for members of the uniformed services, veterans, and reservists. Under the USERRA, the service members who leave their civilian jobs for military service can perform their duties with the peace of mind that they will be able to return to their careers with the same pay, benefits, and status previously attained before going away on duty. The USERRA also prohibits employers from discriminating against these individuals because of their military service.

Priority of Service includes the right to take precedence over non-Veterans in obtaining services. Still, once another participant is enrolled in a WIOA individualized career or training service, that participant may not be displaced by an individual who qualified for Priority of Service.

Priority of Service status is established at the time of eligibility determination and does not change during the period of participation. Priority of Service cannot be waived. (20 CFR 1010.250) Priority of Service does not guarantee that an individual will always receive service by virtue of his/her status. The individual must be eligible and be able to benefit from the services.

When programs are statutorily required to provide priority, such as the WIOA adult program, then the priority must be provided in the following order:

- a. Veterans and Eligible Spouses who are also included in the groups given statutory priority for WIOA Adult formula funds. This means that Veterans and Eligible Spouses who are also recipients of public assistance, other low-income individuals, or individuals who are basic skills deficient will receive first priority for services provided with WIOA adult formula funds.
- b. Non-covered persons (that is, Individuals who are not Veterans or Eligible Spouses) who are the recipient of public assistance, other low-income individuals, or individuals who are basic skills deficient (Per MCWDB Policy #09-21).
- c. Veterans and Eligible Spouses who are not recipients of public assistance, not low-income individuals, or are not basic skills deficient.
- d. Other individuals not included in WIOA's priority groups

APPLYING PRIORITY OF SERVICE

The application of priority of service varies by program depending on the eligibility requirements of the particular program. Qualified job training programs fall into two basic categories: universal access programs and programs that require prospective participants to meet specified eligibility criteria. The information below describes how priority of service applies to these two basic types of programs:

- a. 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. For example, the primary universal access services are the "core" services delivered through the One-Stop system under the Wagner-Peyser and WIOA programs. These services include but are not limited to the usage of computer labs, orientations, and workshops.
- b. Programs with Eligibility Criteria. Eligibility criteria identify basic conditions that each and every participant in a specific program is required to meet. 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:
 1. enrollment in the program;
 2. receipt of priority for enrollment in the program; and,
 3. priority for receipt of services.

For a service such as classroom training, the priority of service applies to the selection procedure.

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:

- a) approved for funding; and,
- b) 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.

VERIFICATION AND DOCUMENTATION

Verification and documentation of Veterans and Eligible Spouse status should be collected at the time of eligibility determination and enrollment into WIOA and other DOL-funded workforce programs.

It is neither necessary nor appropriate to require verification of the status of a Veteran or Eligible Spouse at the point of entry unless the individual who self-identifies as a Veteran or Eligible spouse:

- a) is to immediately undergo eligibility determination and be registered or enrolled in a program; and,
- b) the applicable federal program rules require verification of veteran or eligible spouse status at that time.

Even in those instances in which eligibility determination and enrollment occur at the point of entry, a Veteran or Eligible Spouse should be enrolled 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. Program staff should be allowed to deliver any appropriate intensive services while permitting the veteran or eligible spouse to follow up subsequently with verification of his or her status. For priority of service in training services, documentation is required.

The status of a veteran or an eligible spouse can be verified by referring to a variety of official documents, including, but not limited to:

- a. DD 214 (issued following separation from active duty);
- b. An official notice issued by the Department of Veterans Affairs that establishes entitlement to a disability rating or award of compensation to a qualified dependent;
- c. An official notice issued by the Department of Defense that documents the eligibility of an individual, based on the missing or detained status of that individual's active duty spouse; or
- d. An official notice issued by a State veterans' service agency that documents veteran status or spousal rights, provided that the State veterans' service agency requires Federal documentation of that information.

Service providers may develop other means for verifying status to mitigate the burden of establishing proof of covered participant status. Such as electronic communication with official databases, namely those maintained by State veterans' service agencies, provided that the organizations responsible for those sources can certify the accuracy of their records and have adequate procedures for matching their records with the covered persons seeking services. Veteran status will need to be verified prior to Training Services and cannot be Self-Attested. In addition to the required documentation, Service Providers must enter the qualifying priority group category or categories in the participant's CalJOBS Eligibility Case Note.

Income Exception: When past income is an eligibility determinant for Federal employment or training programs, any amounts received as military pay or allowances by any person who served on active duty, and certain other specified benefits, must be disregarded for the Veteran and for other individuals for whom those amounts would normally be applied in making an eligibility determination. Military earnings are not included when calculating income for Veterans or transitioning service members for this priority.

REFERENCES

WIOA Sections 3(5), 3(36), 3(50) and 134(c)(3)(E)
20 CFR Sections 680.600, 680.610, 680.650, 680.230, 1010.250,
TEGL 03-15, TEGL 07-20, TEGL 10-09, TEGL 19-16, TEGL 26-13,
EDD Workforce Services Directive WSD19-04, WSD 15-14
Department of Labor Employment and Training Administration – WIOA Desk Reference
Jobs for Veterans Act (JVA) of 2002 (Public Law 107-288)
EDD WSIN20-28
MCWDB WIOA Adult Program Priority of Service policy #14-21