

Priority of Service for Veterans and Eligible Spouses: Final Rule

The U.S. Department of Labor (DOL) is issuing new regulations implementing priority of service for veterans and eligible spouses, as provided by the Jobs for Veterans Act (JVA), and as specified by the Veterans' Benefits, Health Care, and Information Technology Act of 2006. JVA calls for priority of service to be implemented by all "qualified job training programs," defined as "any workforce preparation, development or delivery program or service that is directly funded, in whole or in part, by the Department of Labor." Since enactment of JVA in 2002, priority of service has been implemented under policy guidance issued by the Employment and Training Administration. The purpose of these regulations is to further articulate how priority of service is to be applied across all new and existing qualified job training programs. The new regulations appear in the December 19, 2008 edition of the *Federal Register* and are effective as of January 19, 2009.

Key Definitions

- *Covered person* – The regulations adopt and apply this statutory term, which includes *eligible spouses*, as defined by the statute, and *veteran*, as defined by the regulations.
- *Veteran* – The regulations specify that the definition for *veteran* specified at 38 U.S.C. 101(2) applies across all qualified job training programs for the purpose of priority of service. That definition includes two key criteria:
 - Service in the active military, naval, or air service; and,
 - Discharge under conditions other than dishonorable.
- The definition of *veteran* specified by the regulations for priority of service is functionally equivalent to the definition enacted by the Workforce Investment Act (WIA) and codified at 29 U.S.C. 2801(49)(A).

Identifying and Informing Covered Persons

- The regulations require all recipients of funds for qualified job training programs to identify covered persons at the *point of entry* to programs and/or services so they can take full advantage of priority of service. Point of entry includes physical locations, such as One-Stop Career Centers, as well as web sites and other virtual service delivery resources.
- The regulations require all recipients to implement policies to ensure that covered persons are aware of:
 - Their entitlement to priority of service;
 - The full array of programs and services available to them; and,
 - Any applicable eligibility requirements for those programs and/or services.

Implementing Priority of Service

- The regulations provide that priority of service means the right of eligible covered persons to take precedence over eligible non-covered persons in obtaining services. They further specify that taking precedence may mean:
 - The covered person receives access to the service or resource earlier in time than the non-covered person; or
 - If the service or resource is limited, the covered person receives access to the service or resource instead of or before the non-covered person.

- The regulations specify how priority of service is to be applied across three different types of qualified job training programs:
 - Universal access programs that do not target specific groups;
 - Discretionary targeting programs that focus on certain groups but are not mandated to serve target group members before other eligible individuals; and,
 - Statutory targeting programs that are mandated by federal law to provide priority or preference to certain groups.

Responsibilities of States and Localities

- States must develop policies for the delivery of priority of service by:
 - State Workforce Agencies;
 - Local Workforce Investment Boards; and,
 - One-Stop Career Centers.
- The State's policies must require Local Workforce Investment Boards to develop policies for delivery of priority of service by:
 - Local One-Stop Career Centers; and,
 - Local workforce preparation and training providers.

Monitoring Compliance with Priority of Service

- DOL will monitor recipients of funds for qualified job training programs to ensure that covered persons are made aware of and provided priority of service.
- Monitoring will be performed jointly by the Veterans' Employment and Training Service (VETS) and the DOL agency responsible for administering the program.
- If monitoring identifies non-compliance with priority of service, the results of the monitoring: 1) will be handled in accord with each program's compliance review procedures; and, 2) may lead to imposition of a corrective action plan.

Data Collection and Reporting on Priority of Service

- The regulations refer to covered persons at the point of entry as *covered entrants*.
- Those qualified job training programs that have served an average of 1,000 or more covered persons per year over the three most recent years of operation are required to collect and report data on covered entrants.
- Six programs currently meet the size threshold for reporting on covered entrants: 1) WIA Adult; 2) WIA Dislocated Worker; 3) National Emergency Grants; 4) Wagner-Peyser State Grants; 5) Trade Adjustment Assistance (TAA); and, 6) Senior Community Service Employment Program.
- The Information Collection Request (ICR) accompanying the regulations provides that those programs that meet the size threshold will be required to: a) implement reporting on covered entrants; and, b) apply the new definitions for veterans and eligible spouses in their existing reporting on covered participants.
- The ICR further provides that programs below the size threshold will be required to apply the new definitions for veterans and eligible spouses in their existing reporting on covered participants.