

**COMMONWEALTH OF VIRGINIA
VIRGINIA COMMUNITY COLLEGE SYSTEM
WORKFORCE INVESTMENT ACT**

FIELD GUIDANCE MEMORANDUM # 08-09

TO: LOCAL WORKFORCE INVESTMENT BOARDS

FROM: WORKFORCE DEVELOPMENT SERVICES – WIA Office

SUBJECT: PRIORITY OF SERVICES FOR VETERANS

ORIGINAL DATE: April 30, 2009

REVISION DATE: January 2012

Nature of Revision - To reflect rescission of US Department of Labor Training and Employment Guidance Letter (TEGL) 05-03, as replaced by TEGL 10-09.

PURPOSE:

This Field Guidance Memorandum (FGM) provides guidance to the local workforce investment boards on how to establish local policy on satisfying the requirements of Veteran priorities, as appropriate, where veteran priority must be factored in relation to other existing statutory priorities, such as the case with certain Workforce Investment Act (WIA) funded-programs.

REFERENCES:

- WIA Policy 03-03, Revision 2, dated October 23, 2008
- Jobs for Veterans Act (PL 107-288), Section 2(a)
- 20 CFR 1010 – Federal Register, Priority of Service for Covered Persons; Final Rule, dated Friday, December 19, 2008
- Department of Labor (DOL) Training and Employment Guidance Letter (TEGL) No. 10-09

BACKGROUND:

The 'Jobs for Veterans Act' was enacted in 2002 and includes a provision that establishes priority of service for covered persons (veterans and eligible spouses, including widows and widowers) in qualified job training programs.

Because the Workforce Investment Act (WA) is a federal job training program administered by the US Department of Labor, the Commonwealth of Virginia and its local workforce investment

areas are required to comply with administrative regulations issued by DOL in response to the statutory requirement established in the Jobs for Veterans Act. The relevant regulation was established at 20 CFR Part 1010 which took effect on January 19, 2009.

REQUIREMENTS:

1. Recipients and sub recipients of WIA funds are subject to priority of service regulations and are required by law to provide priority of service to veterans and eligible spouses.
2. Any WIA program operators are required to implement veterans' priority of service as a condition of receiving WIA funds.
3. All program activities issued or executed by WIA program operators, regardless of how they are procured, must be administered in compliance with veterans' priority of service requirements.
4. Each local workforce area must have a policy in place to ensure that processes exist such that veterans and eligible spouses are identified at the point of entry for WIA services such that they may take full advantage of priority of service. Such local policy must outline a process that conveys the following elements:
 - a. Awareness of the entitlement to Priority of Service
 - b. Awareness of the full array of services available
 - c. Awareness of the applicable eligibility requirements for those services

ELIGIBILITY FOR PRIORITY OF SERVICE DEFINED:

For purposes of this guidance, the term 'covered person' is used to identify anyone who is a veteran and eligible for veterans' priority of service. The term 'covered person' includes a veteran, as well as eligible spouses of veterans. Both are defined further below:

1. A veteran means a person who served at least one day in active military, naval or air services, and who was honorably discharged or released under conditions other than dishonorable. This includes full-time federal service in the National Guard or a Reserve component.
2. Eligible spouse means the spouse of any of the following:
 - a. any veteran who died of a service-connected disability;
 - b. any member of the armed forces on active duty who, at the time of the spouse's application, is listed in one or more of the categories and has been so listed for 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; or
 - d. any veteran who died while a disability so evaluated was in existence.

APPLICATION OF VETERANS PRIORITY OF SERVICE:

1. For programs that have existing statutory priorities that target certain groups, such as WIA Adult and Youth programs, veterans' priority is applied to covered persons that meet program criteria. Thus, an individual meeting both the veterans and the program requirements would receive the highest priority for WIA Youth or Adult services over a non-covered person satisfying the program requirements.
2. For programs that do not target specific groups, such as WIA Dislocated Worker program, the veterans priority is given to those that first meet the program's existing eligibility requirements. Thus, a covered person would receive a priority for services over a non-covered individual only after satisfying the Dislocated Worker program's eligibility requirements.
3. In cases where targeting of a particular group is discretionary and not required by law, such as in the case of local policy, veterans priority takes precedence over the discretionary priority group.
4. Local programs are not required to change their allocations among services to reserve funds for veterans, but are required to ensure that eligible veteran workers (covered persons) are given priority over non-veterans for available services.
5. In all case, covered person as defined herein receive the first level of priority in WIA core services.

Adult Programs

All service provided under the adult funding stream will provide for priority of service to covered persons. Currently, WIA (Section 134(d)(4)(E)) and its accompanying regulations (20 CFR Section 663.600) requires that when funds allocated to the local area for adult activities is limited, priority for intensive and training services funded with title I must be given to recipients of public assistance and other low-income individuals in the local area. The application of the veterans' priority, however, requires that when local adult funds are limited and it is necessary to implement "priority of service" policies for the provision of intensive and training services (including Individual Training Accounts) to program-eligible adults, veterans' priority as well as priority for public assistance recipients and low-income individuals will be considered. Thus, the following sequence of services priority will apply:

1. First priority will be provided to recipients of public assistance and other low-income individuals in the local area who are covered persons with respect to veterans' priority;
2. Second priority will be provided to recipients of public assistance and other low-income individuals in the local area;

3. Third priority will be covered persons (these would be covered persons not considered to be recipients of public assistance or low-income);
4. Other local discretionary target population groups.

In the event a LWIA claims that adult funds are not limited, all services, including intensive and training services, must still be provided such that covered persons receive priority over non-covered persons.

Dislocated Worker Programs

All services provided under the dislocated worker funding stream will provide for priority of service to covered persons. The WIA and its accompanying regulations (20 CFR 5663.610) hold that dislocated worker funds are not subject to the same requirement as adult funds with regard to priority of service to public assistance recipients or low-income individuals. However, the veterans' priority must be considered. Thus, covered individuals will receive priority over non-covered individuals for the provisions of services funded under the dislocated worker funding stream.

Youth Programs

All services provided under the youth funding stream will provide for priority of service to covered persons. The WIA and its accompanying regulations (see 20 CFR 664) generally provide youth funds to service low-income youth age 14 to 21 with one or more barriers to employment. At least thirty percent (30%) of local area funds must be used to serve out-of-school youth. The application of the veterans' priority does not change these requirements. Thus, in providing services to both in and out of school youth priority does not change these requirements. This, in providing services to both in and out of school youth priority must be given to any covered individuals who qualify under the WIA eligibility requirements.