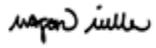


TEXAS WORKFORCE COMMISSION LETTER

ID/No:	WD 25-15
Date:	October 26, 2015
Keyword:	All Programs; Veterans
Effective:	Immediately

To: Local Workforce Development Board Executive Directors
Commission Executive Offices
Integrated Service Area Managers



From: Reagan Miller, Director, Workforce Development Division

Subject: **Applying Priority of Service and Identifying and Documenting Eligible Veterans and Transitioning Service Members**

PURPOSE:

To provide Local Workforce Development Boards (Boards) and other Texas Workforce Commission (TWC) Grantees (other Grantees)¹ with information and guidance on:

- applying priority of service within all new and existing qualified job training programs for eligible veterans, specifically:
 - definitions;
 - applicability of priority of service;
 - identifying and informing eligible veterans;
 - priority order;
 - priority of service for support services;
 - required documentation;
 - data collection; and
 - local policies and procedures; and
- identifying and documenting veteran, qualified spouse, and transitioning service member status for state- or federally funded initiatives or projects.

BACKGROUND:

On November 3, 2011, the Texas Workforce Commission (TWC) issued Workforce Development Letter 35-11, entitled Priority of Service for Eligible Veterans—Update, which provided information on applying priority of service to eligible veterans. This letter updates that information.

Additionally, certain state- or federally funded initiatives or projects require veterans and transitioning service members to provide documentation of their military service and discharge type.

¹ Grantees, other than Boards, that receive funds for Skills Development, Wagner-Peyser 7(b), and Workforce Innovation and Opportunity Act statewide initiatives from TWC's three-member Commission.

PROCEDURES:

Priority of Service

NLF: Boards must ensure that the following definitions are used when implementing priority of service:

Eligible Veteran—any one of the following:

- *Federal/state qualified veteran*—a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable as specified at 38 U.S.C. 101(2). Active services include full-time duty in the National Guard or a Reserve component, other than full-time for training purposes. (*Note: This definition does not apply to eligibility for services provided by Disabled Veterans' Outreach Program/Local Veterans' Employment Representatives staff.*)
- *Federal qualified spouse*—the spouse of:
 - (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:
 - (i) missing in action;
 - (ii) captured in line of duty by a hostile force; or
 - (iii) forcibly detained or interned in line of duty by a foreign government or power;
 - (3) any veteran who has a total disability resulting from a service-connected disability, as evaluated by the U.S. Department of Veterans Affairs;
 - (4) any veteran who died while a disability, as indicated in paragraph (3) of this section, was in existence.

NLF: Boards must be aware that the spouse of a living veteran or service member (definitions 2 or 3 above) will lose his or her eligibility if the veteran or service member loses the status that is the basis for eligibility. For example, the spouse of a veteran with a total service-connected disability will not be eligible if the veteran's disability is revised to a lower level. Similarly, a spouse whose eligibility is derived from a living veteran or service member will lose his or her eligibility upon divorce from the veteran or service member.

- *State qualified spouse*—a spouse:
 - (1) who meets the definition of federal qualified spouse; or
 - (2) of any member of the Armed Forces who died while serving on active military, naval, or air service.

Noneligible person—an individual who does not meet the definition of eligible veteran.

Point of entry—may include reception through a Workforce Solutions Office, as part of an application process for a specific program, or through any other method by which eligible veterans express an interest in receiving services, either in person or online.

Applicability of Priority of Service

NLF: Boards must be aware that requirements for priority of service apply to all workforce service programs funded in whole or in part by the U.S. Department of Labor Employment and Training Administration or state funds.

Specifically, priority of service applies to the following three categories of qualified job training programs:

- Universal access programs (e.g., Wagner-Peyser–funded services) that deliver services as a whole and that do not target specific groups;
- Discretionary targeting programs (e.g., Workforce Innovation and Opportunity Act–funded services) that focus on certain groups but do not specifically mandate that target groups be served before other eligible individuals; and
- Statutory targeting programs (e.g., Temporary Assistance for Needy Families–funded services, TANF) that are mandated by federal law to provide priority or preference to certain groups or spending requirements or limitations.

Identifying and Informing Eligible Veterans

NLF: Boards must ensure that eligible veterans are:

- identified at the point of entry; and
- informed of:
 - their right to priority of service;
 - the full array of employment, training, and placement services available under priority of service; and
 - any applicable eligibility requirements for those programs and services.

NLF: Boards must be aware that Senate Bill (SB) 835, 84th Texas Legislature, Regular Session (2015), amended Texas Penal Code §32.54(c), by increasing the penalty to a Class B misdemeanor to falsely use or claim to hold a military record for the purpose of receiving priority of service. Additionally, SB 664, 84th Texas Legislature, Regular Session (2015), amended the Texas Labor Code by adding §105, which addresses the termination of employment for falsification of military records in obtaining employment or employment benefits.

NLF: Boards must ensure that individuals are informed of the penalties associated with proclaiming eligible-veteran status and/or military records that are fraudulent or fictitious, or have been revoked.

Priority Order

NLF: Boards must determine each individual’s eligible-veteran status and apply priority of service as follows:

- Eligible veterans who meet the mandatory priorities or spending requirement or limitation must receive the highest priority for the program or service;
- Noneligible persons within the program's mandatory priority or spending requirement or limitation must receive priority for the program or service over eligible veterans outside the program-specific mandatory priority or spending requirement or limitation; and
- Eligible veterans outside the program-specific mandatory priority or spending requirement or limitation must receive priority for the program or service over noneligible persons outside the program-specific mandatory priority or spending requirement or limitation.

NLF: Boards must be aware that they do not have the authority to establish additional priorities within the priorities established by the regulations.

Priority of Service and Precedence

NLF: Boards must be aware of the following:

- Priority of service means the right of eligible veterans to take precedence over noneligible persons in obtaining workforce services.
- Taking precedence can mean:
 - eligible veterans receive access to workforce services before noneligible persons; or
 - if workforce services are limited, eligible veterans receive access to workforce services instead of or before noneligible persons.

NLF: Boards must ensure that noneligible persons who are currently receiving workforce services are not displaced in order to provide priority of service to eligible veterans. Boards must ensure that the next available workforce services are provided to eligible veterans.

Example 1: An eligible veteran enters a Workforce Solutions Office to use a resource room computer for job search. However, all computers are being used by noneligible persons and there are several noneligible persons in line. In this case, the eligible veteran would receive priority by being moved to the front of the line, but does not displace one of the noneligible persons already using a computer.

Example 2: 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, the eligible veteran will receive priority by being moved to the top of that list.
- Second, priority of service applies when an individual is both:
 - approved for funding; and
 - accepted or enrolled in a training class.

Therefore, once a noneligible person has been both approved for funding and accepted or enrolled in a training class, an eligible veteran who is identified

subsequently will not take the place of the noneligible person from that training class.

Priority of Service for Support Services

NLF: To ensure that eligible veterans receive priority over all other equally qualified individuals in the receipt of workforce services, Boards must ensure that they also have access to needed support services (e.g., child care, transportation).

Implementing priority of service for the majority of support services is not difficult; however, because child care services are unique, the following additional guidance is provided.

Child Care

NLF: Boards must be aware that the priority for child care services for eligible veterans is contingent upon the availability of TWC's child care funds. Boards with a waiting list for TWC-funded child care services must not discontinue care for a child currently enrolled in child care services in order to serve a child of an eligible veteran.

TWC's Child Care Services rule §809.43(a)(1) establishes that the following populations are assured child care services and are not subject to the child care waiting list:

1. Choices child care as referenced in §809.45;
2. TANF Applicant child care as referenced in §809.46;
3. Supplemental Nutrition Assistance Program Employment and Training child care as referenced in §809.47; and
4. Transitional child care as referenced in §809.48.

TWC rule §809.43(a)(2) provides that the following populations are served subject to the availability of funds, and include, in priority order:

1. children who need to receive protective services child care as referenced in §809.49;
2. children of a qualified veteran as defined in §801.23;
3. children of an eligible foster youth as defined in §801.23;
4. children of teen parents as defined in §809.2; and
5. children with disabilities as defined in §809.2.

Local Policies and Procedures

NLF: Boards must ensure that local procedures are implemented:

- to identify eligible veterans at the point of entry by allowing individuals to self-identify as eligible veterans (e.g., placing a sign-in sheet at the Workforce Solutions Office reception desk that prompts all customers to declare their eligible veteran status prior to receiving services); and
- that do not require completion of a self-attestation form.

NLF: Boards must ensure that written copies of local priority of service policies and procedures are maintained at all service delivery points and, to the extent

practicable, posted in a way that makes it possible for the public to easily access them.

Data Collection

NLF: Boards must document the receipt of basic career services in The Workforce Information System of Texas (TWIST) or in TWC's online job-matching system, WorkInTexas.com.

Documentation Requirements

NLF: Boards and other Grantees must ensure that eligible veterans receiving basic career services sign a self-attestation form to certify that they meet the definition of eligible veteran. (Self-attestation is not required if a DD 214—Certificate of Release or Discharge from Active Duty—is on file in the Workforce Solutions Office, the veteran presents a DD 214 upon arrival, or the veteran indicated their veteran status in WorkInTexas.com.)

LF: Boards and other Grantees may use Attachment 1, Sample Self-Attestation Form, or create their own self-attestation form.

NLF: Boards and other Grantees must be aware that a transitioning service member is defined as an individual in active duty status (including separation leave) who is within 24 months of retirement or 12 months of separation.

NLF: Boards and other Grantees must ensure that eligible veterans participating in state- or federally funded initiatives that require documentation beyond self-attestation provide one of the acceptable documents listed below.

Veteran and Transitioning Service Member Documentation

NLF: Boards and other Grantees must be aware that any one of the following list of items is acceptable for documentation of veteran and transitioning service member status:

- DD 214, Member 4, or Member 6
- DD 215 (Correction to DD 214), which may be associated with the DD 214
- Army Enlisted Records or Officer Records Brief
- Air Force Military Personal Flight Record
- Navy and Marine Corps Electronic Service Records
- State of Service Letter stating service dates and character of service
- Memorandum for Record from the Unit Commander stating service dates and character of service (Unit Commander may be from the lowest organizational unit)
- National Guard Bureau-22 Form

- Military orders detailing the service member’s termination of service or change of duty station
 - Expiration of Term of Service
 - End of Active Service
 - Retirement Orders
- U.S. Department of Veteran Affairs Service Verification Letter
- Texas Department of Public Safety–issued licenses with “veteran” annotated
 - driver license
 - concealed handgun license
- Retired military identification card

Qualified Spouse Documentation

NLF: Boards and other Grantees must be aware that any item from both of the following list of items is acceptable for documentation to be considered as a qualified spouse.

Documentation of spousal relationship:

- Marriage license;
- Military orders, with dependents listed, such as
 - Permanent Change of Station orders; or
- Military dependent identification card (current); and

Documentation of a veteran’s status:

- U.S. Department of Veteran Affairs Verification Letter;
- U.S. Department of Defense Letter; or
- Obituary

INQUIRIES:

Direct inquiries regarding this WD Letter to wfpolicy.clarifications@twc.state.tx.us.

ATTACHMENT:

Attachment 1: Sample Self-Attestation Form

RESCISSIONS:

WD Letter 35-11

REFERENCES:

Workforce Innovation and Opportunity Act
 Title 38 U.S.C. Chapter 42, as amended by Public Law 107-288, the Jobs for Veterans Act
 Title 38 U.S.C. Chapter 1, §101
 20 CFR Part 1010, Priority of Service for Covered Persons

Training and Employment Guidance Letter No. 10-09, issued November 10, 2009, and entitled
“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)”
Texas Labor Code, Chapter 302, Subchapter G
Texas Penal Code §32.54
Senate Bill 664, enacted by the 84th Texas Legislature, Regular Session (2015) (to be codified as
Texas Labor Code §105)
Senate Bill 834, enacted by the 84th Texas Legislature, Regular Session (2015)
Texas Workforce Commission Local Workforce Development Boards Rules: 40 TAC, Chapter
801
WD Letter 43-11, issued November 3, 2011, and entitled “Priority of Service for Eligible Foster
Youth”
WD Letter 35-11, issued November 3, 2011, and entitled “Priority of Service for Eligible
Veterans—Update”

FLEXIBILITY RATINGS:

No Local Flexibility (NLF): This rating indicates that Boards and other Grantees must comply with the federal and state laws, rules, policies, and required procedures set forth in this WD Letter and have no local flexibility in determining whether and/or how to comply. All information with an NLF rating is indicated by “must” or “shall.”

Local Flexibility (LF): This rating indicates that Boards and other Grantees have local flexibility in determining whether and/or how to implement guidance or recommended practices set forth in this WD Letter. All information with an LF rating is indicated by “may” or “recommend.”