

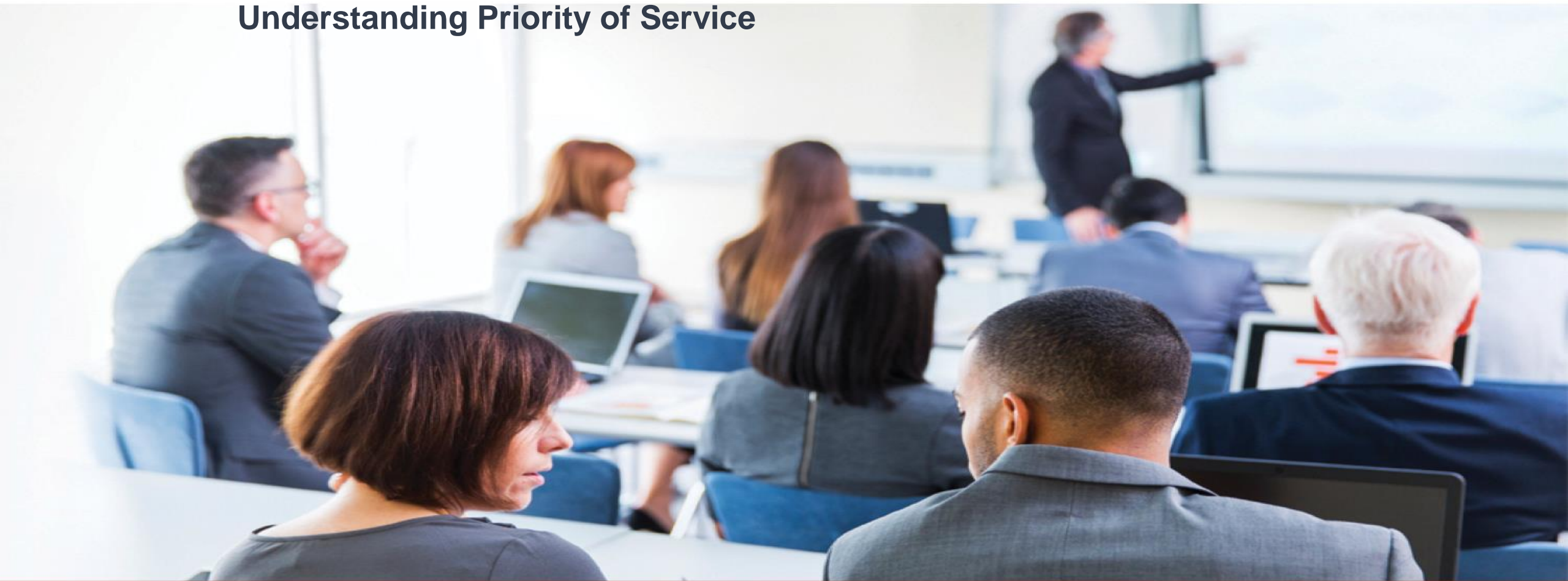


**National Veterans'
Training Institute**

a DOL VETS Program

Department of Labor (DOL) Veterans' Employment and Training Service (VETS)

Understanding Priority of Service



Facilitators



Victor Glover is the state Coordinator for JVSG in North Carolina. He has worked with the State of North Carolina for 10 years. His experience includes working in the AJC as a DVOP specialist, AJC Branch Manager, and as a LVER.



John Savage is the Regional Administrator for VETS Atlanta Region. He joined the Department of Labor in 2007 as a VPS in the Chicago Regional Office. More recently, he served as the Michigan DVET and Atlanta DRA. John worked extensively with ETA as the VETS lead for WIOA, ensuring veterans issues were equitably represented during the WIOA regulation and policy development.

Webinar Focus

- In this webinar we'll discuss how veterans and eligible spouses are entitled to precedence over non-covered persons in the program known as Priority of Service
- We'll discuss what Priority of Service means, its history, and who is eligible
- We'll discuss how states and local areas can implement Priority of Service, the importance and requirement for state and local policies, and describe some best practices from states around the nation regarding their provision of Priority of Service.
- Lastly, we will clarify the difference between veteran Priority of Service and veterans' preference at the state and local levels.

Agenda and Topics

Section 1

- What is Priority of Service?
- How did we get here?

Section 2

- Who gets Priority of Service?
- How is Priority of Service implemented?

Section 3

- How does Veteran Priority of Service affect WIOA?
- Examples

Section 4

- Other considerations
- Veteran's Preference
- Bottom line

What is Priority of Service?

Features of Priority of Service

- **What it is:**

- Statute established in 2002, creating [38 USC § 4215](#)
- 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
- Priority of Service can take many different forms – VETS does not prescribe specific ways to implement priority. States should decide how best to implement it.
- It is also important to note that state and local program operators **do not** have the discretion to establish further priorities within the overall priority established by the regulations

Features of Priority of Service

- **What it is NOT:**

- Sending a veteran directly to a DVOP specialist for service
- DVOP/LVER staff are to supplement, not supplant, other programs and service providers in the One Stop Career system
- DVOP specialist conducting triage or registration
- Veterans' Preference

It is important not to confuse Veterans Priority of Service with “Veterans Preference”

- Leads to the inappropriate and interchangeable use of terms
- POS applies to veterans and eligible persons in the provision of DOL-funded employment and training services. Veterans POS is not waivable
- “Veterans Preference” may be referring to:
 - Application and hiring process for federal employment
 - Some states, counties, municipalities, and even private businesses may adopt laws, regulations, or directives conferring certain rights and benefits to veterans or others as defined by the same

How did we get here?

Issuance of Joint Guidance

- TEGL [10-09](#) issued by ETA and Veterans' Program Letter (VPL) [07-09](#), issued by VETS.
- Identical content issued in each agency's guidance format on the same date – November 10, 2009
 - The first-ever instance of VETS and ETA issuing joint guidance
- The joint guidance provides history, information, and guidance to assist and support agencies and other grantees who receive DOL funds to operate qualified job training programs in the implementation of Priority of Service. The guidance contains the following four attachments:
 - Aspects of Workforce Programs That Relate to Priority of Service
 - Frequently Asked Questions & Answers
 - Individual Record Data Elements Minimum Data Fields
 - Report Formats



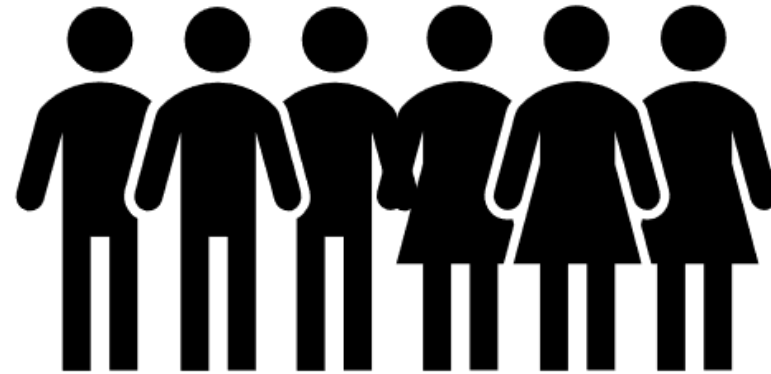
Who gets Priority of Service?

Who gets Priority of Service?

Covered Persons



Non-Covered Persons



- Priority means that veterans and eligible spouses are entitled to precedence over non-covered persons for services and receive these services earlier in time, or instead of the non-covered persons

Veteran Definition I

Veteran definition included in the regulations:

The term “veteran” means a person who served at least one day in the active military, naval, or air service, and who was discharged or released under conditions other than dishonorable, as specified in [38 U.S.C. 101\(2\)](#). Active service includes full-time duty in the National Guard or a Reserve component, other than full-time duty for training purposes.

Veteran Definition II

Veteran definition clarified in joint guidance:

“Active service includes full-time Federal service in the National Guard or a Reserve component. This definition of “active service” does not include ...full-time active duty performed by National Guard personnel who are mobilized by State rather than Federal authorities (State mobilizations usually occur in response to events such as natural disasters).”

Eligible Spouse Clarification

Can an Eligible Spouse Lose Eligibility Under Any of These Conditions?		
Basis of Spouse Eligibility	Divorce	Remarriage
a) <u>Veteran died</u> of service-connected Disability	N/A	No
b) Service Member is missing, captured or detained	Yes	N/A
c) Veteran has a total, service-connected disability, per VA Evaluation	Yes	N/A
d) <u>Veteran died</u> while a disability as defined in c) was in existence	N/A	No

How is POS Implemented?

Priority of Service for Veterans Applies to: Scope

- Any Department of Labor (DOL) funded employment and training program
- Program operators are required to ensure that Priority of Service is applied by all sub-recipients of DOL funds including but not limited to:
 - Workforce Innovation and Opportunity Act (WIOA)
 - Wagner-Peyser Act
 - National Emergency Grants (NEG)
 - Trade Adjustment Assistance (TAA)
 - National Farm Workers (NFW)
- Agreement by a program operator to implement Priority of Service is a condition of receipt of DOL funds

What does Veterans' Priority of Service look like?

- DOL does not dictate how states implement veterans' Priority of Service
- Some states/areas provide:
 - Designated computers in the Resource Room
 - Reserved seating in the waiting area/lobby
 - Assign the first hour of a career fair open to veterans only
 - Electronic kiosks that perform intake and triage to help connect eligible person to the service providers
- What are other examples?

How does Veteran POS affect WIOA?

WIOA Priority of Service vs. Veterans' Priority

- The WIOA statute uses the same term, Priority of Service, in [WIOA sec. 134\(c\)\(3\)\(E\)](#) and [20 CFR §680.600\(a\)](#) to require the provision of career and training services to participants who are recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient
- This has understandably resulted in confusion among AJC staff regarding Priority of Service for veterans. Some even believe this replaced veterans' Priority of Service
- The Local Workforce Development Boards (WDB) and the Governor may establish a process that also gives priority to other individuals eligible to receive such services, *provided that it is consistent with Priority of Service for veterans* (see [20 CFR 680.650](#)) and the priority provisions of [WIOA sec. 134\(c\)\(3\)\(E\)](#) and [§680.600\(c\)](#)

Priority of Service Implementation

- States must describe in their [WIOA Unified \(WIOA § 102\(b\)\(2\)\(C\)\(vi\)\) or Combined \(WIOA §103\(b\)\) Plan](#) how they will implement the Priority of Service provisions for veterans in accordance with the requirements of [38 USC 4215](#)
- The policy or policies must require that processes are in place to ensure that veterans and eligible spouses are identified at the point of entry and given an opportunity to take full advantage of Priority of Service

Clarifying Verification - I

- The regulations state: “The processes for identifying covered persons are not required to verify the status of an individual as a veteran or eligible spouse at the point of entry unless they immediately undergo eligibility determination and enrollment in a program”
- **“Self-attestation”** of covered person status is sufficient to receive Priority of Service

[Training and Employment Notice No. 15-10](#)

Point of entry can look a variety of ways – self-service, through social media or the state’s customer-facing website, or the traditional method of onsite intake.

Clarifying Verification - II

- The regulations state: “Even in those instances in which eligibility determination and enrollment take place at the point of entry, the Department believes that the covered person should be enrolled and given immediate priority and then be permitted to follow-up subsequently with any required verification of his/her status as a covered person”
- **“Self-attestation”** of covered person status is sufficient for program enrollment

Point of entry can look a variety of ways – self-service, through social media or the state’s customer-facing website, or the traditional method of onsite intake.

Clarifying Verification - III

- The joint guidance clarified that, **while awaiting verification**:
 - Program staff may provide individualized career services to covered persons on a priority basis
 - Services based on outside resources, such as classroom training may not be provided to covered persons on a priority basis
 - “Self-attestation” of covered person status is sufficient to receive individualized career services (program staff time) but not activities or services that constitute a financial commitment

Verifying Veteran Status



- When required, status can be verified by referring to the following documents:
 - DD Form 214
 - Official VA notice of disability establishing entitlement to rating or compensation
 - Official notice from DoD documenting eligibility
 - Official notice of entitlement from the state VA agency

Eligibility Criteria and Priorities

- Two categories of programs (Priority of Service applies to):
 - Universal Access Programs
 - Programs with eligibility criteria and/or statutory priorities
- Priority of Service is a statutory priority (a mandatory priority or focus for certain groups)

Universal Access Programs

- Universal Access Programs – Programs that do not require eligibility criteria (e.g., Wagner-Peyser services)

First level of priority- Veterans and eligible spouses

Second level of priority - Non-covered persons

Programs with Other Statutory Priorities

- For persons who meet the statutory priority:

First level of priority - Veterans and eligible spouses

Second level of priority - Non-covered persons

- For persons who don't meet the statutory priority:

Third level of priority - Veterans and eligible spouses outside the program's mandatory priority or spending requirement or limitation

Fourth level of priority - Non-covered persons outside the program's mandatory priority or spending requirement or limitation

These requirements are defined in [20 CFR 1010 § 310](#)

Applying Priority of Service

Universal Access Programs

Veterans and eligible spouses must receive Priority of Service over all others.

Programs with Eligibility Criteria

Veterans and eligible spouses must first meet eligibility criteria and then receive Priority of Service within any sub-group.

Statutory Criteria

Required by law to provide a priority or preference for a particular group (e.g. low income). Priority of Service applies within the sub-group.

Discretionary Priorities

Program includes a focus on serving a particular group without being mandated in law. Priority of Service applies without restriction.

Applying Priority of Service

- Priority of Service requirements for WIOA Priority Populations are not affected by this guidance; direct recipients of DOL funding remain subject to the Priority of Service guidance and regulations [TEGL 10-09](#)
- Priority of Service and the JVSG reforms should not be interpreted to limit veterans and eligible spouses to receiving services only from JVSG or other specialized staff
- Procedures or policies that restrict a veteran's access to WIOA or WP services, *even if such restrictions are intended to provide the veteran with specialized services*, are contrary to the Priority of Service requirements



Examples

Priority of Service: EXAMPLE 1

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 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

Once a non-covered person has been 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.

Priority of Service: EXAMPLE 2

NOTE: Example uses a state's hypothetical assistance program with a statutory qualification level of 100% or less of the Federal Poverty Level, but also allows for participants between 101-200% of FPL to be served.

*You have four applicants for this training program. Who goes first?**

- a) Non-veteran who earns 5% of the FPL
- b) Veteran who earns 99% of FPL
- c) Veteran who earns 180% of FPL
- d) Non-veteran who earns 105% of FPL?

**Assume all applicants are otherwise qualified*

Priority of Service: EXAMPLE 2 ANSWER

For a program with income-based eligibility, Priority of Service applies to the selection procedure as follows in the order below:

- 1) Veteran who earns 99% of FPL
- 2) Non-veteran who earns 5% of the FPL
- 3) Veteran who earns 180% of FPL
- 4) Non-veteran who earns 105% of FPL

Why is this?

Priority of Service: EXAMPLE 2 Rationalization

[20 CFR § 300.310](#) states:

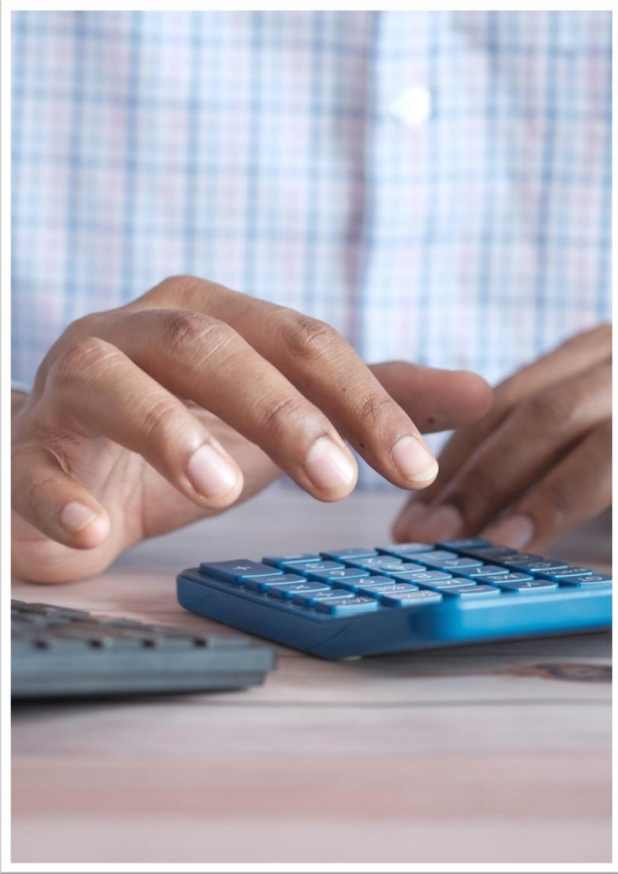
- **Covered persons** who meet the mandatory priorities or spending requirement or limitation must receive the highest priority for the program or service;
- **Non-covered persons** within the program's mandatory priority or spending requirement or limitation, must receive priority for the program or service over covered persons outside the program-specific mandatory priority or spending requirement or limitation; and,
- Covered persons outside the program-specific mandatory priority or spending requirement or limitation must receive priority for the program or service over non-covered persons outside the program-specific mandatory priority or spending requirement or limitation.

Other Considerations

Exclusion of VA Funded Training Allowances

- WIOA regulations require the coordination of WIOA funded training with “other grant assistance” (e.g., Pell Grants)
- VA funded benefits are not included in the statutory and regulatory category of “other grant assistance”
- Program operators may not require veterans or eligible spouses to exhaust their entitlement to VA funded training benefits prior to enrollment in WIOA

Income and Eligibility



- Military pension/retirement income is **not to be excluded** when determining if a veteran or eligible spouse meets a “low income” criterion
- Military income **to be excluded** when determining if a veteran or eligible spouse meets a “low income” criterion
 - Pay or allowances while on active duty
 - Service-connected disability/death compensation
 - VA educational assistance (e.g., “GI Bill”) for Active Military or Reserve Members
 - Training and rehabilitation payments to disabled veterans
 - Survivors' and dependents' educational assistance

Monitoring Priority of Service

- USDOL will monitor the implementation and operation of programs to ensure Priority of Service is observed
- Monitoring is the responsibility of the Veterans' Employment and Training Service (VETS) and the agency responsible for the program's administration and oversight

Bottom Line

Rule of Thumb



All other things being equal, veterans go first (or instead of) non-covered persons.

References

[TEGL 10-09 \(VPL 07-09\)](#)

- Indicates specific requirements placed on state workforce agencies, WDBs and AJC office staff in implementing Priority of Service for veterans and eligible spouses as they relate to USDOL funded training and employment programs
- **Page 4:** Eligibility for Priority of Service as a veteran or eligible spouse
- **Page 7:** Guidance on applying Priority of Service to programs (like WIOA) that have statutory eligibility criteria

[In TEGl 10-09, Attachment A](#)

- **Page 11:** Addresses the exclusion of most military income when programs have a low-income requirement
- **Page 12:** Guidance on verification of veteran status and that of eligible spouses
- **Page 13:** Definition of a veteran for both Priority of Service consideration and for JVSG services, explaining the difference between the two
- **Page 13:** The exclusion of GI Bill benefits from WIA (now WIOA) consideration with other grant assistance funding

References

[VPL 07-09](#) and [TEGL 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

[TEGL 19-13](#), Jobs for Veterans' State Grants (JVSG) Program Reforms and Roles and Responsibilities of American Job Center (AJC) Staff Serving Veterans

[TEGL 19-16](#), Guidance on Services provided through the Adult and Dislocated Worker Programs under the Workforce Innovation and Opportunity Act (WIOA) and the Wagner-Peyser Act Employment Service (ES), as amended by title III of WIOA, and for Implementation of the WIOA Final Rules

[TEN 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)

[38 USC § 4215](#), Priority of Service for Veterans in Department of Labor Job Training Programs

[20 CFR 1010](#), Application of Priority of Service for Covered Persons

Questions?