

TEXAS WORKFORCE COMMISSION
Workforce Development Letter

ID/No:	WD 01-21
Date:	January 22, 2021
Keyword:	ES; TAA; TWIST; Veterans; WIOA; WIT
Effective:	Immediately

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



From: Courtney Arbour, Director, Workforce Development Division

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

PURPOSE:

The purpose of this WD Letter is to provide Local Workforce Development Boards (Boards) and other Texas Workforce Commission (TWC) grantees (other Grantees)¹ with updated information and guidance on applying priority of service within all new and existing qualified employment and training programs for veterans and their spouses, specifically:

- definitions;
- applicability of priority of service;
- identifying and informing eligible individuals about priority of service;
- priority order;
- priority of service for support services;
- local policies and procedures;
- data collection;
- documentation requirements;
- veteran and transitioning service member documentation; and
- qualified spouse documentation.

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

RESCISSION:

WD Letter 25-15

BACKGROUND:

On October 26, 2015, TWC issued WD Letter 25-15, titled “Applying Priority of Service and Identifying and Documenting Eligible Veterans and Transitioning Service Members,” which provided information on applying priority of service for eligible veterans. This WD Letter provides clarifying 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.

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.”

PROCEDURES:

Priority of Service Definitions

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

Veteran—an individual who served in the active military, naval, or air service and who was discharged or released from such service under conditions other than dishonorable, as specified in 38 USC §101(2). Active service includes full-time duty in the National Guard or a Reserve component, other than full-time duty for training purposes only. (Note: This definition does not apply to eligibility for services provided by Disabled Veterans’ Outreach Program or 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:
 - (a) Missing in action
 - (b) Captured in line of duty by a hostile force
 - (c) 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 US Department of Veterans Affairs
- (4) any veteran who died while a disability indicated in (3) of this definition existed.

State qualified spouse—a spouse:

- who meets the definition of federal qualified spouse; or
- of any member of the armed forces who died while serving in the active military, naval, or air service.

Eligible individual—a veteran, federal qualified spouse, or state qualified spouse.

Noneligible individual—an individual who does not meet the definition of veteran, federal qualified spouse, or state qualified spouse.

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

NLF: Boards and other Grantees must adhere to priority of service for veterans and federal qualified spouses for federally funded programs. Additionally, veterans and state qualified spouses must receive priority of service for state-funded programs.

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

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. A transitioning service member is still considered employed by the military and is therefore not a veteran; and
- a transitioning service member on terminal leave with a DD 214 (Certificate of Release or Discharge from Active Duty) who indicates a discharge status other than "dishonorable" is considered a veteran and is eligible for priority of service.

Applicability of Priority of Service

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

NLF: Boards and other Grantees must be aware that priority of service means the right of eligible individuals to take precedence over noneligible individuals in obtaining workforce services. Taking precedence can mean that:

- eligible individuals receive access to workforce services before noneligible individuals; or
- if workforce services are limited, eligible individuals receive access to workforce services instead of noneligible individuals.

NLF: Boards and other Grantees must ensure that a noneligible individual who is currently receiving workforce services is not displaced in order to provide priority of service to an eligible individual. Boards must ensure that the next available workforce services are provided to the eligible individual.

Example 1: An eligible individual enters a Workforce Solutions Office to use a resource room computer for a job search. However, all computers are being used by noneligible individuals and there are several noneligible individuals in line. In this case, the eligible individual would receive priority of service by being moved to the front of the line but would not displace one of the noneligible individuals 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 a training class, the eligible individual will receive priority of service 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 individual has been both approved for funding and accepted or enrolled in a training class, an eligible individual who is identified subsequently will not take the place of the noneligible individual in that training class.

Identifying and Informing Eligible Individuals about Priority of Service

NLF: Boards and other Grantees must ensure that eligible individuals are:

- identified at the point of entry; and
- informed of:
 - their entitlement 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 and other Grantees must be aware that, as set forth in Texas Penal Code §32.54(c), it is a Class B misdemeanor to falsely use or claim to hold a military record for the purpose of receiving priority of service. Additionally, Texas Labor Code Chapter 105

addresses the termination of employment for falsification of military records in obtaining employment or employment benefits.

NLF: Boards and other Grantees must ensure that individuals are informed of the penalties associated with claiming eligible-veteran status and/or military records that are fraudulent or fictitious or have been revoked as described in the paragraph above.

Priority Order

NLF: Boards and other Grantees must integrate priority of service for eligible individuals with any statutory or mandatory priorities for each program, such as the service priority for WIOA individualized career and training services, as defined in the [WIOA Guidelines for Adults, Dislocated Workers, and Youth](#).

Priority of Service for Support Services

NLF: To ensure that eligible individuals receive priority over all other equally qualified individuals to receive workforce services, Boards and other Grantees must ensure that eligible individuals also have access to and receive priority for needed support services such as child care and transportation.

NLF: Boards and other Grantees must be aware that the priority for child care services for eligible individuals 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 individual.

TWC Chapter 809 Child Care Services rule §809.43(a)(1) establishes that the children of parents eligible for the following child care services are not subject to the child care waiting list:

- Choices child care as referenced in §809.45
- Temporary Assistance for Needy Families (TANF) Applicant child care as referenced in §809.46
- Supplemental Nutrition Assistance Program Employment and Training child care as referenced in §809.47
- Transitional child care as referenced in §809.48 (Note: Transitional child care is no longer a relevant child care eligibility category. However, Boards must still give priority to former Choices child care recipients who are within 12 months of TANF denial or withdrawal due to increased earnings or employment and who are eligible for At-Risk care as referenced in §809.50.)

Section 809.43(a)(2) provides that the following populations are served subject to the availability of funds, in the following order of priority:

1. Children who need to receive protective services child care as referenced in §809.49
2. Children of a qualified veteran or qualified spouse as defined in §801.23
3. Children of a foster youth as defined in §801.23

4. Children experiencing homelessness as defined in §809.2 and described in §809.52
5. Children of parents on military deployment as defined in §809.2 whose parents are unable to enroll in military-funded child care assistance programs
6. Children of teen parents as defined in §809.2
7. Children with disabilities as defined in §809.2

Local Policies and Procedures

NLF: Boards and other Grantees must ensure that local procedures are implemented to identify eligible individuals at the point of entry by allowing individuals to self-identify via the Greeter system sign-in.

NLF: Boards and other Grantees 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.

Documentation Requirements

NLF: Boards and other Grantees must ensure that eligible individuals receiving priority of service certify that they meet the definition of a veteran, federal qualified spouse, or state qualified spouse. (Self-attestation is acceptable but is not required if a DD 214 is on file in the Workforce Solutions Office, the veteran presents a DD 214 upon arrival, or the veteran indicated his or her veteran status in WorkInTexas.com.)

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

NLF: Boards and other Grantees must ensure that eligible individuals 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 item from the following list 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
- US Department of Veterans Affairs Service Verification Letter
- Texas Department of Public Safety–issued licenses with “veteran” annotated, as follows:
 - Driver’s license
 - Concealed handgun license
- Retired military identification card

Federal Qualified Spouse and State Qualified Spouse Documentation

NLF: Boards and other Grantees must be aware that any item from either of the following lists is acceptable for documentation to be considered as a federal qualified spouse or state qualified spouse.

Documentation of spousal relationship, including, but not limited to:

- a marriage license;
- military orders, with dependents listed, such as Permanent Change of Station orders; or
- a current military dependent identification card.

Documentation of a veteran’s status, such as:

- a US Department of Veterans Affairs Verification Letter;
- a US Department of Defense Letter; or
- an obituary.

LF: Boards may identify other acceptable sources of documenting a spousal relationship.

INQUIRIES:

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

ATTACHMENT:

Attachment 1: Self-Attestation Form

REFERENCES:

Workforce Innovation and Opportunity Act
 Title 38 USC Chapter 42, as amended by Public Law 107-288, the Jobs for Veterans Act
 Title 38 USC 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 titled “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, 84th Texas Legislature, Regular Session (2015) (codified as Texas Labor Code Chapter 105)
Senate Bill 834, 84th Texas Legislature, Regular Session (2015)
Texas Workforce Commission Chapter 801 Local Workforce Development Boards Rules
Texas Workforce Commission Chapter 809 Child Care Services Rules
WIOA Guidelines for Adults, Dislocated Workers, and Youth, effective April 3, 2020
WD Letter 43-11, Change 2, issued February 19, 2020, and titled “Priority of Service for Eligible Foster Youth—*Update*”