




**Memorandum of Record #348**

**DATE:** JANUARY 29, 2009

**MEMORANDUM TO:** WORKFORCE SOLUTIONS - ALAMO  
CONTRACTORS

**FROM:** FRANCISCO MONCIVAIS  
DEPUTY EXECUTIVE DIRECTOR – PROGRAM  
OPERATIONS 

**SUBJECT:** PRIORITY OF SERVICE FOR ELIGIBLE  
VETERANS AND ELIGIBLE FOSTER YOUTH

---

The Texas Workforce commission (TWC) has released Workforce Development (WD) Letter 04-09, which provides information and guidance on applying priority of service for all new and existing qualified job training programs for eligible veterans and eligible foster youth, specifically:

- applicable definitions;
- identifying and informing eligible veterans;
- implementing priority of service;
- priority order;
- priority of service for support services;
- data collection; and
- Board plans

Workforce Solutions - Alamo adopts this WD Letter as local policy effective immediately. Workforce Solutions - Alamo contractors must ensure that appropriate staff review this information and all procedures are in compliance with this policy.

All comments and inquiries pertaining to this policy should be directed to:

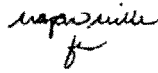
Tim Dusek  
Workforce Services Specialist  
(210) 581-1101  
[tim.dusek@twc.state.tx.us](mailto:tim.dusek@twc.state.tx.us)

Attached: WD 04-09  
WD 04-09, Attachment 1: Sample Self-Attestation Form

## TEXAS WORKFORCE COMMISSION LETTER

<b>ID/No:</b>	WD 04-09
<b>Date:</b>	January 28, 2009
<b>Keyword:</b>	All Programs; Veterans
<b>Effective:</b>	Immediately

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



**From:** Laurence M. Jones, Director, Workforce Development Division

**Subject:** **Priority of Service for Eligible Veterans and Eligible Foster Youth**

---

### **PURPOSE:**

To provide Local Workforce Development Boards (Boards) with information and guidance on applying priority of service for all new and existing qualified job training programs for eligible veterans and eligible foster youth, specifically:

- applicable definitions;
- identifying and informing eligible veterans;
- implementing priority of service;
- priority order;
- priority of service for support services;
- data collection; and
- Board plans.

### **BACKGROUND:**

Texas Labor Code §302.014 and Texas Family Code, Chapter 264, direct the Texas Workforce Commission (Commission) to give priority of service to state qualified veterans and foster youth, respectively.

Additionally, Texas Labor Code §302.014 charges that state qualified veterans receive preference (i.e., priority of service) for training or assistance under a job training or employment assistance program or service. This requirement applies to services funded in whole or in part by state funds.

Texas Family Code §264.121 directs that workforce services be prioritized and targeted to meet the unique needs of foster youth and former foster youth.

The Jobs for Veterans Act (JVA) of 2002 requires that priority of service be implemented by all “qualified job-training programs,” which are 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.”

On December 19, 2008, the U.S. Department of Labor Veterans’ Employment and Training Service (DOL-VETS) issued its final rule (20 C.F.R. Part 1010), implementing Priority of Service for Covered Persons, as set forth in JVA, and as specified by the Veterans’ Benefits, Health Care, and Information Technology Act of 2006. The final rule articulates how to apply priority of service across all new and existing qualified DOL-funded job training programs. In addition, the final rule notifies states that monitoring of the priority of service provisions will be performed jointly by DOL-VETS and the DOL agency responsible for administering the program.

Further, the final rule defines a veteran as “a person who served in the active military, naval, or air service.” Commission rule §801.23(4) defines a “federal qualified veteran” as having “served on active duty for a period of more than 180 days.” Chapter 801 will be amended to reflect this new definition.

The final rule is effective January 19, 2009.

## **PROCEDURES:**

### **Definitions**

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

NLF

Eligible Veteran—any one of the following:

- *Federal 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 Department of Veterans Affairs;

(4) any veteran who died while a disability, as indicated in paragraph (3) of this section, was in existence.

- *State qualified veteran*—an individual who:
  - (1) served in the military for not less than 90 consecutive days during a national emergency declared in accordance with federal law or was discharged from military service for an established service-connected disability;
  - (2) was honorably discharged from military service; and
  - (3) is competent.

Non-eligible person—an individual who does not meet the definition of eligible veteran or the definition of eligible foster youth.

Point of entry—may include reception through a Texas Workforce Center, 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.

#### Eligible Foster Youth

- *Current foster youth*—A youth, age 14 or older, who is receiving substitute care services under the managing conservatorship of the Texas Department of Family and Protective Services (DFPS), including youth residing in private foster homes, group homes, residential treatment centers, juvenile correctional institutions, and relative care; or
- *Former foster youth*—A youth up to 23 years of age, who formerly was under the managing conservatorship of DFPS, until:
  - a court transferred the conservatorship;
  - the youth was legally emancipated (i.e., the youth’s minority status was removed by a court); or
  - the youth attained 18 years of age.

#### **Identifying and Informing Eligible Veterans**

Boards must ensure that eligible veterans are:

NLF

- 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.

Boards must ensure procedures are developed:

NLF

- 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

- reception desk at Texas Workforce Centers 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.

Boards must ensure that eligible veterans receiving staff-assisted services sign a self-attestation form to certify that they meet the definition of eligible veteran. *[Note: If a veteran presents a DD-214 upon arrival at the Texas Workforce Center, staff can use the DD-214 instead of the self-attestation form. If a DD-214 is on file at the Texas Workforce Center, the self-attestation form is neither necessary nor required.]*

NLF

Boards may create their own self-attestation form or use the Sample Self-Attestation Form included as Attachment 1 to this WD Letter.

LF

### **Implementing Priority of Service**

Boards must be aware of three categories of qualified job training programs in which priority of service will apply:

NLF

- 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 Investment 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) that are mandated by federal law to provide priority or preference to certain groups or spending requirements or limitations. Boards must determine each individual's eligible veteran status and apply priority of service as described below:
  - Eligible veterans who meet the mandatory priorities or spending requirement or limitation must receive the highest priority for the program or service;
  - Non-eligible 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 non-eligible persons outside the program-specific mandatory priority or spending requirement or limitation.

Boards must be aware of the following:

NLF

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

- if workforce services are limited, eligible veterans receive access to workforce services instead of or before non-eligible persons.

Boards also must ensure that non-eligible 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.

NLF

*Example:* An eligible veteran enters a Texas Workforce Center to use a resource room computer for job search. However, all computers are being used by non-eligible persons and there are several non-eligible 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 non-eligible persons already using a computer.

### **Priority Order**

Boards must ensure that the following order of priority for workforce services is applied.

NLF

1. Eligible veterans continue to receive priority over all other equally qualified individuals in the receipt of services funded in whole or in part by DOL, in accordance with 38 U.S.C. §4215.
2. Eligible veterans receive priority over all other equally qualified individuals in the receipt of employment assistance or job training services funded in whole or in part by state funds, in accordance with Texas Government Code §657.002(a).
3. Eligible foster youth receive priority over all other equally qualified individuals—except eligible veterans—in the receipt of federal and state-funded services.

### Foster Youth

Boards must ensure that workforce services are prioritized and targeted for youth transitioning out of the foster care system and for former foster youth. Furthermore, where feasible, Boards must ensure that foster youth who need housing are referred for short-term housing stays.

NLF

### **Priority of Service for Support Services**

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

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

Boards must be aware that the priority for child care services for state qualified veterans and eligible foster youth is contingent upon the availability of Commission child care funds. Boards with a waiting list for Commission-funded child care services must not discontinue care for a child currently enrolled in child care services in order to serve a child of a state qualified veteran or a child of a foster youth.

NLF

Section 809.43(a)(1) of the Commission’s Child Care Services rules establishes that the following populations are assured child care services and are not subject to the child care waiting list:

NLF

1. Choices child care as referenced in §809.45;
2. Temporary Assistance for Needy Families Applicant child care as referenced in §809.46;
3. Food Stamp Employment and Training child care as referenced in §809.47; and
4. Transitional child care as referenced in §809.48.

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

NLF

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.

**Data Collection**

Boards must document the receipt of staff-assisted workforce services in TWIST or WorkInTexas.com.

NLF

*Note: Further guidance on data collection will be forthcoming.*

**Board Plans**

Boards must be aware that under the Commission’s forthcoming guidance for Board Contract Year 2010 Board Plan modifications, Boards will be required to amend their local plans to comply with the priority of service final rule.

NLF

**INQUIRIES:**

Direct inquiries regarding this WD Letter to [wfpolicy.clarifications@twc.state.tx.us](mailto:wfpolicy.clarifications@twc.state.tx.us).

**ATTACHMENT:**

Attachment 1: *Sample Self-Attestation Form*

**RESCISSIONS:**

WD Letter 15-07

---

**REFERENCE:**

Workforce Investment 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 C.F.R. Part 1010, Priority of Service for Covered Persons  
Texas Family Code §264.121  
Texas Government Code §657.002(a) and §657.002(c)  
Texas Labor Code §302.014  
Texas Workforce Commission Local Workforce Development Boards Rules: 40 TAC,  
Chapter 801  
Texas Workforce Commission Child Care Services Rules: 40 TAC, Chapter 809  
WD Letter 31-04, issued August 25, 2004, and entitled "Serving Foster Care Youth"  
WD Letter 31-06, issued April 27, 2006, and entitled "Local Memoranda of Understanding with  
the Texas Department of Family and Protective Services to Serve Foster Youth"

**FLEXIBILITY RATINGS:**

**No Local Flexibility (NLF):** This rating indicates that Boards 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 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."

## SAMPLE SELF-ATTESTATION FORM

Please check one of the following definitions that appropriately describes your classification.

FEDERAL 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.

STATE QUALIFIED VETERAN—a person who:

- served in the military for not less than 90 consecutive days during a national emergency declared in accordance with federal law or was discharged from military service for an established service-connected disability;
- was honorably discharged from military service; and
- is competent.

FEDERAL QUALIFIED SPOUSE—the spouse of:

- any veteran who died of a service-connected disability;
- 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;
- any veteran who has a total disability resulting from a service-connected disability, as evaluated by the Department of Veterans Affairs;
- any veteran who died while a disability, as previously indicated, was in existence.

I \_\_\_\_\_ ATTEST THAT I MEET THE DEFINITION  
(PRINT NAME)

MARKED ABOVE AND THE ASSOCIATED ELIGIBILITY CRITERIA. I CERTIFY THE INFORMATION STATED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE, AND I UNDERSTAND THAT IF I HAVE MISREPRESENTED MYSELF, THERE MAY BE GROUNDS FOR IMMEDIATE TERMINATION OF SERVICES AND/OR PENALTIES AS SPECIFIED BY LAW.

\_\_\_\_\_  
INDIVIDUAL'S SIGNATURE and DATE

### CERTIFICATION

I certify that the information recorded on this form was provided by the individual whose signature appears above.

\_\_\_\_\_  
Texas Workforce Center Staff Signature

\_\_\_\_\_  
Print Name

\_\_\_\_/\_\_\_\_/\_\_\_\_  
Date

01/09