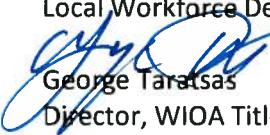




COMMONWEALTH OF VIRGINIA
VIRGINIA COMMUNITY COLLEGE SYSTEM

WORKFORCE INNOVATION AND OPPORTUNITY ACT

The Virginia Community College System
VIRGINIA WORKFORCE LETTER (VWL) No. 19-03

TO: Local Workforce Development Boards

FROM: George Taratsas
Director, WIOA Title I Administration
SUBJECT: Services to Applicants with a Dishonorable Discharge from the Armed Forces
EFFECTIVE DATE: October 24, 2019

PURPOSE:

To provide guidance to the workforce system for providing Workforce Innovation and Opportunity Act (WIOA) Title I funded services to individuals with dishonorable discharge classification.

REFERENCES:

Section 101, Title 38, United States Code;
Training and Employment Guidance Letter No. 10-09; Subject: Implementing Priority of Service for Veterans and Eligible Spouses in All Qualified Job Training Programs Funded in Part or in part by the U.S. Department of Labor; November 10, 2009;
Training and Employment Guidance Letter No. 19-13; Subject: Jobs for Veterans' State Grants (JVSG) Program Reforms and Roles and Responsibilities of American Job Center (AJC) Staff Serving Veterans; April 10, 2014;

REVISION HISTORY:

Rescinds Virginia Workforce Letter # 14-12, dated December 1, 2014.

DEFINITIONS:

From the Workforce Innovation and Opportunity Act:

Subrecipient - a non-Federal entity that receives a sub-award from a pass-through entity to carry out part of a federal program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency.

(63) VETERAN; RELATED DEFINITION —

(A) VETERAN—The term “veteran” has the meaning given to the term in section 101 of title 38, United States Code.

(B) RECENTLY SEPARATED VETERAN—The term “recently separated veteran” means any veteran who applies for participation under this Act within 48 months after the discharge or release from active military, naval, or air service.

From Section 101 Title 38 United States Code definitions:

2. The term “veteran” means a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.

16. The term “service-connected” means, with respect to disability or death, that such disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in line of duty in the active military, naval, or air service.

17. The term “non-service-connected” means, with respect to disability or death, that such disability was not incurred or aggravated, or that the death did not result from a disability incurred or aggravated, in line of duty in the active military, naval, or air service.

18. The term “discharge or release” includes (A) retirement from the active military, naval, or air service, and (B) the satisfactory completion of the period of active military, naval, or air service for which a person was obligated at the time of entry into such service in the case of a person who, due to enlistment or reenlistment, was not awarded a discharge or release from such period of service at the time of such completion thereof and who, at such time, would otherwise have been eligible for the award of a discharge or release under conditions other than dishonorable.

21. The term “active duty” means—

A. Full-time duty in the Armed Forces, other than active duty for training;

B. Full-time duty (other than for training purposes) as a commissioned officer of the Regular or Reserve Corps of the Public Health Service (i) on or after July 29, 1945, or (ii) before that date under circumstances affording entitlement to “full military benefits” or (iii) at any time, for the purposes of chapter 13 of this title;

C. Full-time duty as a commissioned officer of the National Oceanic and Atmospheric Administration or its predecessor organization the Coast and Geodetic Survey (i) on or after July 29, 1945, or (ii) before that date (I) while on transfer to one of the Armed Forces, or (II) while, in

time of war or national emergency declared by the President, assigned to duty on a project for one of the Armed Forces in an area determined by the Secretary of Defense to be of immediate military hazard, or (III) in the Philippine Islands on December 7, 1941, and continuously in such islands thereafter, or (iii) at any time, for the purposes of chapter 13 of this title;

- D. service as a cadet at the United States Military, Air Force, or Coast Guard Academy, or as a midshipman at the United States Naval Academy; and
- E. authorized travel to or from such duty or service.

26. The term "Reserve" means a member of a reserve component of one of the Armed Forces.

27. The term "reserve component" means, with respect to the Armed Forces—

- A. the Army Reserve;
- B. the Navy Reserve;
- C. the Marine Corps Reserve;
- D. the Air Force Reserve;
- E. the Coast Guard Reserve;
- F. the Army National Guard of the United States; and
- G. the Air National Guard of the United States.

BACKGROUND:

With a greater emphasis on services to veterans through a number of programs and initiatives, specifically under the umbrella of the WIOA, there is an awareness that not all who present themselves for services may qualify as a veteran. For purposes of this Virginia Workforce Letter, **veteran** is defined as:

(63) VETERAN; RELATED DEFINITION —

(A) VETERAN—The term "veteran" has the meaning given the term in section 101 of title 38, United States Code.

From Section 101 Title 38 United States Code definitions:

2. The term "veteran" means a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.

GUIDANCE:

Persons who have received a "dishonorable discharge" can be served by WIOA Title I funds. According to Training and Employment Guidance Letter No 10-09, section 6 **Eligibility for Priority of Services**: Veterans and eligible spouses, including widows and widowers as defined in the statute and regulations, are eligible for priority of service. Under this definition, the term "veteran" means a person who served at least one day in the active military, naval, or air services, and who was discharged or released under conditions **other than dishonorable**, as specified in 38 U.S.C. 101 (2). Priority of service regulations refer to those veterans and spouses who are eligible for priority of service as "covered persons" and refer to those not eligible for priority of service as "non-covered persons."

Therefore, an individual who was discharged from the armed forces with a dishonorable discharge is a “non-covered person”; however, that does not preclude them from receiving WIOA services in accordance with state and local eligibility policies.

ACTION REQUIRED:

An Individual with a dishonorable discharge from the military may be served as “non-covered person”, consistent with local workforce development board policies.

INQUIRIES:

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