

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION Veterans
	CORRESPONDENCE SYMBOL OWI
	DATE February 11, 2015

ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 19-13, CHANGE 1

TO: STATE WORKFORCE AGENCIES
 STATE WORKFORCE ADMINISTRATORS
 STATE WORKFORCE LIAISONS
 STATE AND LOCAL WORKFORCE BOARD CHAIRS AND DIRECTORS
 STATE LABOR COMMISSIONERS
 TRADE ADJUSTMENT ASSISTANCE LEADS
 AMERICAN JOB CENTERS
 EMPLOYMENT AND TRAINING ADMINISTRATION GRANTEES

FROM: PORTIA WU /s/
 Assistant Secretary
 Employment and Training Administration

KEITH KELLY /s/
 Assistant Secretary
 Veterans' Employment and Training Service

SUBJECT: Expansion and Clarification of Definition of Significant Barriers to Employment for Determining Eligibility for the Disabled Veterans' Outreach Program (DVOP)

1. **Purpose.** To expand and clarify the definition of significant barriers to employment (SBE) provided in Section 5 of Training and Employment Guidance Letter (TEGL) 19-13, released on April 10, 2014.

2. **References.**

- TEGL 19-13, *Jobs for Veterans' State Grants (JVSG) Program Reforms and Roles and Responsibilities of American Job Center (AJC) Staff Serving Veterans*, dated April 10, 2014;
- TEGL 20-13, Change 1, *Designation of Additional Population of Veterans Eligible for Services from the Disabled Veterans' Outreach Program Specialist – Veterans Ages 18 to 24*, dated May 7, 2014;
- Veterans' Program Letter (VPL) 08-14, *Designation for Additional Populations Eligible for Services from Disabled Veterans' Outreach Program (DVOP) Specialists:*

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Transitioning Service Members in need of Intensive Services; and Wounded, Ill, or Injured Service Members Receiving Treatment at Military Treatment Facilities or Warrior Transition Units (MTFs – WTUs); and the Spouses and Family Caregivers of such Wounded, Ill, or Injured Service Members, dated September 26, 2014;

- VPL 03-14, Change 1, *Expansion and Clarification of Definition of Significant Barriers to Employment for Determining Eligibility for the Disabled Veterans’ Outreach Program (DVOP)*, dated February 11, 2015;
- Section 101 of the Workforce Investment Act of 1998, Pub. L. 105-220; enacted August 7, 1998;
- Section 3 of the Workforce Innovation and Opportunity Act of 2014, Pub. L. 113-128; enacted July 22, 2014.

3. **Background.** The populations eligible to receive services from DVOP specialists have been identified in TEGLs 19-13 and 20-13, Change 1 and VPL 08-14. TEGL 19-13 defined “individuals with significant barriers to employment” or “SBEs” as eligible for services from DVOP specialists. The Secretary of Labor has determined that the definitions of certain SBE categories should be clarified. This Change 1 TEGL provides those clarifications.

Additionally, the Workforce Innovation and Opportunity Act of 2014 (WIOA) will supersede the Workforce Investment Act of 1998 (WIA) on July 1, 2015. TEGL 19-13 originally referenced definitions in WIA. This Change 1 TEGL has been updated to contain references to WIOA. The WIA references will continue to be used until July 1, 2015, when the majority of WIOA provisions become effective.

4. **Expanded and Clarified Definition of Significant Barriers to Employment.** The updated list of eligible veterans and eligible spouses defined as having a SBE is provided below. New language is in bold text, and is further explained below the list. Updated statutory references also appear in bold.

1. A special disabled or disabled veteran, as those terms are defined in 38 U.S.C. § 4211(1) and (3); Special disabled and disabled veterans are those:
 - who are entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Secretary of Veterans Affairs; or,
 - were discharged or released from active duty because of a service-connected disability;
2. Homeless, as defined in Section 103(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302(a));
3. **A recently-separated service member, as defined in 38 U.S.C. § 4211(6), who has been unemployed for 27 or more weeks in the previous 12 months**, i.e. the term of unemployment over the previous 12 months remains 27 weeks; however, the requirement of 27 *consecutive* weeks is eliminated;

4. **An offender, as defined by WIOA Section 3 (38)¹, who is currently incarcerated or who has been released from incarceration**, i.e. the expanded definition of SBE includes any eligible veteran or eligible spouse who is currently or was formerly incarcerated by removing the *within the last 12 months* requirement;
5. Lacking a high school diploma or equivalent certificate; or
6. Low-income individual (**as defined by WIOA Section 3 (36)**)².

In addition to the above clarifications to the definition of SBE, the following guidance is provided to improve the identification and support of disabled veterans. In accordance with prior guidance, the determination of disability under the SBE definitions must be made solely on the basis of self-identification³. Note that any individual who separated from active duty because of a service-connected disability qualifies as a disabled veteran regardless of the number of days of active duty served, as does any veteran with a disability rating provided by the Department of Veterans Affairs (VA) (or a military Service issued disability determination) as described in 38 U.S.C. § 4211(1). An individual who attests to having a disability claim pending with the VA should be considered to have an approved claim for the purposes of determining SBE.

5. **Action Requested.** State Administrators and AJC directors are requested to immediately transmit this Change 1 TEGL to appropriate staff. Staff should ensure intake procedures and referrals to JVSG staff incorporate the modifications to the SBE definition outlined in this Change 1, TEGL immediately.
6. **Inquiries.** All inquiries should be directed to the appropriate ETA or VETS regional office.

¹ Prior to the effective date of WIOA on July 1, 2015, the definition of offender at WIA Section 101(27) will be used. The definition of offender in WIOA is identical to the definition of offender in WIA.

² Prior to the effective date of WIOA on July 1, 2015, the definition of low-income individual at WIA section 101(25) will be used.

³ In requesting this information, all of the following requirements must be met: (1) any written questionnaire used for this purpose must make clear that the information requested is intended for use solely in connection with effort to give priority to persons with disabilities (if no written questionnaire is used, this information must be made clear orally); and (2) the staff member or person seeking the information must state clearly that the information is being requested on a voluntary basis, that it will be kept confidential, that refusal to provide it will not subject the applicant or participant to any adverse treatment, and that it will be used only in accordance with law.