

PART 1000 [RESERVED]

PART 1001—SERVICES FOR VETERANS

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AUTHORITY: 29 U.S.C. 49k; 38 U.S.C. chapters 41 and 42.

Subpart A—Purpose and Definitions

§ 1001.100 Purpose and scope of subpart.

(a) This subpart contains the Department of Labor's regulations for implementing 38 U.S.C. 2001–2012, chapters 41 and 42, which require the Secretary of Labor to provide eligible veterans and eligible persons the maximum of employment and training opportunities, with priority given to the needs of disabled veterans and veterans of the Vietnam era, through the public employment service system established pursuant to the Wagner-Peyser Act, as amended.

(b) This subpart describes the roles and responsibilities of the Assistant Secretary for Veterans' Employment and Training (ASVET) and the staff of the Veterans' Employment and Training Service (VETS).

(c) This subpart describes the performance standards for determining compliance of State agencies in carrying out the provisions of 38 U.S.C., chapters 41 and 42 with respect to:

(1) Providing services to eligible veterans and eligible persons to enhance their employment prospects,

(2) Priority referral of special disabled veterans and veterans of the Vietnam era to job openings listed by

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Federal contractors pursuant to 38 U.S.C. 2012(a), and

(3) Reporting of services provided to eligible veterans and eligible persons pursuant to 38 U.S.C. 2007(c) and 2012(c).

(d) Performance standards are contained in this part at §§ 1001.140–1001.142 on the conduct of the Disabled Veterans Outreach Program (DVOP) in accordance with 38 U.S.C. 2003A.

[49 FR 12919, Mar. 30, 1984. Redesignated and amended at 54 FR 39353, Sept. 26, 1989]

§ 1001.101 Definitions of terms used in subpart.

Assistant Secretary for Veterans' Employment and Training (ASVET) shall mean the official of the Department of Labor as described in § 1001.110 of this part.

Assistant State Director for Veterans' Employment and Training Service (ASDVETS) shall mean a Federal employee who is designated as an assistant to a State Director for Veterans' Employment and Training Service (SDVETS).

Disabled Veteran shall mean a veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Veterans Administration and whos not classified as a Special Disabled Veteran.

Eligible person shall mean:

(1) The spouse of any person who died of a service-connected disability; or

(2) The spouse of any member of the armed forces serving on active duty who at the time of application for assistance under this subpart, is listed, pursuant to 37 U.S.C. 556 and the regulations issued thereunder, by the Secretary concerned, 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; or

(3) The spouse of any person who has a total disability permanent in nature resulting from a service-connected disability or the spouse of a veteran who died while a disability so evaluated was in existence.

Eligible veteran shall mean a person who (1) served on active duty for a period of more than 180 days and was discharged or released therefrom with other than a dishonorable discharge, or (2) was discharged or released from active duty because of a service-connected disability.

Local Veterans' Employment Representative (LVER) shall mean a member of the State agency staff designated and assigned by the State agency administrator to serve veterans and eligible persons pursuant to this subpart.

Regional Director for Veterans' Employment and Training Service (RDVETS) is the representative of the ASVET on the staff of the Veterans' Employment and Training Service (VETS) at the regional level; supervises all other VETS staff within the region to which assigned; and shall report to, be responsible to, and be under the administrative direction of the ASVET.

Service Delivery Point (SDP) shall mean a designated local employment service office which serves an area that may also contain extended service locations.

Special disabled veteran shall mean (1) a veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Veterans Administration for a disability rated at 30 percent or more, or (2) a person who was discharged or released from active duty because of a service-connected disability.

State agency means the State governmental unit designated pursuant to section 4 of the Wagner-Peyser Act, as amended, to cooperate with the United States Employment Service in the operation of the public employment service system.

State Director for Veterans' Employment and Training Service (SDVETS) is the representative of ASVET on the staff of the Veterans' Employment and Training Service (VETS) at the State level.

United States Employment Service (USES) shall mean the component of the Employment and Training Administration of the Department of Labor, established under the Wagner-Peyser

Act, as amended, to maintain and coordinate a national system of public employment service agencies.

Veteran of the Vietnam era shall mean an eligible veteran who (1) served on active duty for a period of more than 180 days, any part of which occurred during the Vietnam era (August 5, 1964, through May 7, 1975) and was discharged or released therefrom with other than a dishonorable discharge; or (2) was discharged or released from active duty for a service-connected disability if any part of such active duty was performed during the Vietnam era.

Veterans' Employment and Training Service (VETS) shall mean the organizational component of the Department of Labor administered by the Assistant Secretary of Labor for Veterans' Employment and Training established to promulgate and administer policies and regulations to provide eligible veterans and eligible persons the maximum of employment and training opportunities according to 38 U.S.C. 2002.

[49 FR 12919, Mar. 30, 1984. Redesignated and amended at 54 FR 39353, Sept. 26, 1989]

Subpart B—Federal Responsibilities

§1001.110 Role of the Assistant Secretary for Veterans' Employment and Training (ASVET).

(a) As the principal veterans' advisor to the Secretary of Labor, the ASVET shall formulate, promulgate, and administer policies, regulations, grant procedures, grant agreements and administrative guidelines and administer them through the Veterans' Employment and Training Service (VETS) so as to provide eligible veterans and eligible persons the maximum of employment and training opportunities, with priority given to the needs of disabled veterans and veterans of the Vietnam era, through existing programs, coordination, and merger of programs and implementation of new programs.

(b) ASVET shall oversee activities carried out by State agencies pursuant to 38 U.S.C., chapters 41 and 42.

(c) ASVET shall ensure that appropriate records and reports are maintained by State agencies within their management information systems to

fulfill their obligations under this subpart.

[49 FR 12919, Mar. 30, 1984. Redesignated at 54 FR 39353, Sept. 26, 1989]

Subpart C—Standards of Performance Governing State Agency Services to Veterans and Eligible Persons

SOURCE: 49 FR 12919, Mar. 30, 1984, unless otherwise noted. Redesignated at 54 FR 39353, Sept. 26, 1989.

§1001.120 Standards of performance governing State agency services.

(a) To the extent required by 38 U.S.C. 2002 and other applicable law, each State agency shall assure that all of its SDPs, using LVERs and other staff, shall provide maximum employment and training opportunities to eligible veterans and eligible persons with priority given to disabled veterans and veterans of the Vietnam-era, by giving them preference over non-veterans in the provision of employment and training services available at the SDP involved. Services are those activities or efforts including but not limited to registration, counseling, referral to supportive services, job development, etc., which are directed to help applicants find jobs or training. When making referrals from the group of applicants meeting the specific eligibility criteria for a particular program, State agencies shall observe the priority order to referral in paragraph (b).

(b) In making referrals of qualified applicants to job openings and training opportunities, to provide maximum employment and training opportunities under 38 U.S.C., SDPs shall observe the following order of priority:

- (1) Special disabled veterans;
- (2) Veterans of the Vietnam era;
- (3) Disabled veterans other than special disabled veterans;
- (4) All other veterans and eligible persons; and
- (5) Nonveterans.

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§ 1001.121 Performance standard on facilities and support for Veterans' Employment and Training Service (VETS) staff.

Each State agency shall provide adequate and appropriate facilities and administrative support such as office space, furniture, telephone, equipment, and supplies to VETS staff.

§ 1001.122 Reporting and budget requirements.

(a) State agencies shall provide RDVETS, SDVETS, and ASDVETS with access to regular and special internal State agency reports which relate in whole or in part with services to veterans and/or eligible persons.

(b) Each State agency shall make reports and prepare budgets pursuant to instructions issued by the ASVET and in such format as the ASVET shall prescribe.

§ 1001.123 Performance standards governing the assignment and role of Local Veterans' Employment Representatives (LVERs).

(a) To carry out the requirements of 38 U.S.C. 2004, at least one member of each State agency staff, preferably an eligible veteran, shall be designated and assigned by each State agency administrator as a full-time or part-time LVER in each SDP in accordance with terms/requirements of a grant agreement approved by the ASVET. The ASVET intends to use the following criteria in establishing the terms and requirements of grant agreements:

(1) At least one full-time LVER shall be assigned in each SDP which has had 1,000 new or renewed applications from veterans and eligible persons during the most recent twelve-month report period unless a waiver based on demonstrated lack of need is granted by the ASVET, and

(2) At least one part-time LVER whose time shall be devoted to veterans' services in proportion to the full-time criteria shall be assigned to each SDP not meeting the criteria for full-time LVERs in paragraph (a)(1) of this section.

(b) Additional full-time or part-time LVERs may be assigned based on a determination of need by the State agency administrator and in accordance

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with terms/requirements of a grant agreement approved by the ASVET.

(c) Each LVER shall perform, at the SDP level, the duties prescribed at 38 U.S.C. 2003(c) required by 38 U.S.C. 2004.

[49 FR 12919, Mar. 30, 1984. Redesignated and amended at 54 FR 39353, Sept. 26, 1989]

§ 1001.124 Standards of performance governing State agency cooperation and coordination with other agencies and organizations.

(a) Each State agency shall establish cooperative working relationships through written agreements with the Veterans Administration (VA) offices serving the State to maximize the use of VA employment and training programs for veterans and eligible persons.

(b) All programs and activities governed by this subpart will be coordinated to the maximum extent feasible with other programs and activities under 38 U.S.C., the Wagner-Peyser Act, the Job Training Partnership Act, and other employment and training programs at the State and local level.

(c) Such relationships or agreements may be described in the Governor's Coordination and Special Services Plan prepared according to section 121(b) of the Job Training Partnership Act (Pub. L. 97-300).

§ 1001.125 Standards of performance governing complaints of veterans and eligible persons.

Each SDP shall display information on the various complaint systems to advise veterans and eligible persons about procedures for filing employment service, Federal contractor, equal opportunity, and other complaints.

Subpart D—State Employment Service Agency Compliance

§ 1001.130 Determination of compliance.

(a) The ASVET shall have authority for applying the requirements and remedial actions necessary to implement 20 CFR part 658, subpart H. In the event of such application, references in 20 CFR part 658, subpart H, to "ETA" shall read instead "OASVET"; references to "Regional Administrator"

shall read instead "RDVETS"; and references to "JS regulations" shall include this part.

(b) The ASVET shall establish appropriate program and management measurement and appraisal mechanisms to ensure that the standards of performance set forth in §§1001.120–1001.125 of this part are met. Specific performance standards designed to measure State agency services provided to veterans and eligible persons required by §1001.120(a) of this part will be developed administratively through negotiations between State agency administrators and SDVETS and numerical values of the standards will be published as public notices in the FEDERAL REGISTER. A full report of those State agencies in noncompliance with the standards of performance and their corrective action plans shall be incorporated into the Secretary's annual report to the Congress cited at §1001.131 of this part.

(c) Every effort should be made by the State agency administrator and the SDVETS to resolve all issues informally before proceeding with the formal process.

(d) If it is determined by the ASVET that certain State agencies are not complying with the performance standards at §§1001.120–1001.125 of this part, such State agencies shall be required to provide documentary evidence to the ASVET that their failure is based on good cause. If good cause is not shown, the ASVET, pursuant to subpart H of 20 CFR part 658, shall formally designate the State agency as out of compliance, shall require it to submit a corrective action plan for the following program year, and may take other action against the State agency pursuant to subpart H of 20 CFR part 658.

[49 FR 12919, Mar. 30, 1984. Redesignated and amended at 54 FR 39353, Sept. 26, 1989]

§ 1001.131 Secretary's annual report to Congress.

The Secretary shall report, after the end of each program year, on the success of the Department and State agen-

cies in carrying out the provisions of this part.

[49 FR 12919, Mar. 30, 1984. Redesignated at 54 FR 39353, Sept. 26, 1989, and amended at 54 FR 39354, Sept. 26, 1989]

Subpart E—Standards of Performance Governing the Disabled Veterans Outreach Program (DVOP)

SOURCE: 49 FR 12919, Mar. 30, 1984, unless otherwise noted. Redesignated at 54 FR 39353, Sept. 26, 1989.

§ 1001.140 Administration of DVOP.

(a) The ASVET shall negotiate and enter into grant agreements within each State to carry out the requirements of 38 U.S.C. 2003A for support of a Disabled Veterans Outreach Program (DVOP) to meet the employment needs of veterans, especially disabled veterans of the Vietnam era.

(b) The ASVET shall be responsible for the supervision and monitoring of the DVOP program, including monitoring of the appointment of DVOP specialists.

(c) DVOP specialists shall be in addition to and shall not supplant local veterans' employment representatives assigned under §1001.123 of this part.

[49 FR 12919, Mar. 30, 1984. Redesignated at 54 FR 39353, Sept. 26, 1989, and amended at 54 FR 39354, Sept. 26, 1989]

§ 1001.141 Functions of DVOP staff.

Each DVOP specialist shall carry out the duties and functions for providing services to eligible veterans according to provisions of 38 U.S.C. 2003A (b) and (c).

§ 1001.142 Stationing of DVOP staff.

DVOP specialists shall be stationed at various locations in accordance with 38 U.S.C. 2003A(b)(2).

Subpart F—Formula for the Allocation of Grant Funds to State Agencies

SOURCE: 70 FR 28406, May 17, 2005, unless otherwise noted.

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§ 1001.150 Method of calculating State basic grant awards.

(a) In determining the amount of funds available to each State, the ratio of the number of veterans seeking employment in the State to the number of veterans seeking employment in all States will be used.

(b) The number of veterans seeking employment will be determined based on the number of veterans in the civilian labor force and the number of unemployed persons. The civilian labor force data will be obtained from the Current Population Survey (CPS) and the unemployment data will be obtained from the Local Area Unemployment Statistics (LAUS), both of which are compiled by the Department of Labor's Bureau of Labor Statistics.

(c) Each State's basic grant allocation will be determined by dividing the number of unemployed persons in each State by the number of unemployed persons across all States (LAUS for the individual States / LAUS for all States) and by dividing the number of veterans in the civilian labor force in each State by the number of veterans in the civilian labor force across all States (CPS for the individual States / CPS for all States). The result of these two ratios will be averaged and converted to a percentage of veterans seeking employment in the State compared to the percentage of veterans seeking employment in all States. Three-year averages of the CPS and LAUS data will be used in calculating the funding formula to stabilize the effect of annual fluctuations in the data in order to avoid undue fluctuations in the annual basic grant amounts allocated to States.

(d) State Plans are prepared in response to estimated basic grant allocation amounts prepared by the Department of Labor, based upon a projection of the appropriation. Variations from Department of Labor projections will be treated as follows:

(1) If the actual appropriation varies from the projection, the Secretary will make every reasonable effort to avoid recalculating the estimated basic grant allocation amounts, in order to maintain the delivery of services to veterans and to minimize the administrative workload required to recalculate grant allocations and to revise State

Plans. Therefore upon enactment and allotment of an appropriated amount, it is the Department's intent to proceed by awarding the estimated basic grant allocation amounts to State agencies, unless the difference between the projection and the appropriation creates a compelling reason to do otherwise.

(2) If the actual appropriation exceeds the projection, the Secretary will determine whether the appropriation and the projection is large enough to warrant recalculating the State basic grant amounts. In such case, state basic grant amounts will be recalculated in accordance with paragraphs (a) through (c) of this section. If it is determined that no compelling reason to recalculate exists, the increased amount available for basic grants will be retained as undistributed funds. These undistributed basic grant funds will be retained separately from the funds retained for TAP workload and other exigencies, as established by § 1001.151(a). The intent will be to award these undistributed basic grant funds to States as basic grant supplements, in response to circumstances arising during the applicable fiscal year.

(3) If the actual appropriation falls below the projection, the Secretary will determine whether the lower appropriation creates a compelling reason to recalculate the State basic grant amounts. If it is determined that not recalculating the State basic grant amounts would jeopardize the availability of sufficient funding for TAP workload and other exigencies, a compelling reason to recalculate would exist. In that case, the State basic grant amounts will be recalculated under paragraphs (a) through (c) of this section in response to the reduced appropriation, to the extent required to assure that sufficient funding is available for TAP workload and other exigencies.

§ 1001.151 Other funding criteria.

(a) Up to four percent of the total amount available for allocation will be available for distribution based on Transition Assistance Program (TAP) workload and other exigencies.

(b) Funding for TAP workshops will be allocated on a per workshop basis.

Funding to the States will be provided pursuant to the approved State Plan.

(c) Funds for exigent circumstances, such as unusually high levels of unemployment, surges in the demand for transitioning services, including the need for TAP workshops, will be allocated based on need.

§ 1001.152 Hold-harmless criteria and minimum funding level.

(a) A hold-harmless rate of 90 percent of the prior year's funding level will be applied after the funding formula phase-in period is completed (beginning fiscal year 2006 and subsequent years).

(b) A hold-harmless rate of 80 percent of the prior year's funding level will be applied for fiscal year 2005.

(c) A minimum funding level is established to ensure that in any year, no State will receive less than 0.28 percent (.0028) of the previous year's total funding for all States.

(d) If the appropriation for a given fiscal year does not provide sufficient funds to comply with the hold-harmless provision, the Department will:

(1) Update, as appropriate, the States' estimates of TAP workload and reserve sufficient funds for that purpose from the total amount available for allocation to the States. Beyond TAP workload, no funds will be reserved for exigent circumstances because the shortfall in the appropriation will be the primary exigent circumstance to be addressed.

(2) Apply proportionally the remaining balance available for basic grant allocations to the States for that fiscal year. The proportion will be calculated by dividing the remaining balance available for allocation by the total estimated State basic grant allocations for that fiscal year. The proportion resulting from that calculation will be applied to each State's estimated basic grant allocation to calculate the amount to be awarded.

Subpart G—Purpose and Definitions

SOURCE: 78 FR 15290, Mar. 11, 2013, unless otherwise noted.

§ 1001.160 What is the purpose and scope of this part?

(a) The purpose of this part is to fulfill the requirement of 38 U.S.C. 4102A(c)(3)(B) to establish a uniform national threshold entered employment rate (UNTEER) achieved for veterans and eligible persons by the State employment service delivery systems. We will use the UNTEER as part of the review process for determining whether a State's program year EER is deficient and a Corrective Action Plan (CAP) is required of that State employment service delivery system.

(b) This part is applicable to all State agencies that are recipients of Wagner-Peyser State Grants, and/or Jobs for Veterans State Grants.

§ 1001.161 What definitions apply to this part?

Department means the United States Department of Labor, including its agencies and organizational units and their representatives.

Eligible person, as defined at 38 U.S.C. 4101(5), means:

(1) The spouse of any person who died of a service-connected disability;

(2) The spouse of any member of the Armed Forces serving on active duty who, at the time of application for assistance under this chapter, is listed, pursuant to 37 U.S.C. 556 and regulations issued thereunder by the Secretary concerned, in one or more of the following categories and has been so listed for a total of more than ninety 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; or

(3) The spouse of any person who has a total disability permanent in nature resulting from a service-connected disability or the spouse of a veteran who died while a disability so evaluated was in existence.

Employment service delivery system, as defined at 38 U.S.C. 4101(7), means a service delivery system at which or through which labor exchange services, including employment, training, and placement services, are offered in accordance with the Wagner-Peyser Act.

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Jobs for Veterans Act (JVA) means Public Law 107-288, 116 Stat. 2033 (2002), codified at 38 U.S.C. chapters 41 and 42.

Jobs for Veterans State Grant (JVSG) means an award of Federal financial assistance by the Department to a State for the purposes of the Disabled Veterans' Outreach Program or the Local Veterans' Employment Representative Program.

Program year is the period from July 1 of a year through June 30 of the following year and is numbered according to the calendar year in which it begins.

§ 1001.162 How does the Department define veteran for purposes of this subpart?

The Department applies two definitions of veteran for the purposes of this subpart and has established two stages for the implementation of these definitions.

(a) The first stage of implementation begins with application of this subpart G to the first program year following May 10, 2013. As of that date, veteran is defined as it is in 38 U.S.C. 4211(4), as a person who:

(1) Served on active duty for a period of more than 180 days and was discharged or released therefrom with other than a dishonorable discharge;

(2) Was discharged or released from active duty because of a service-connected disability;

(3) As a member of a reserve component under an order to active duty pursuant to 10 U.S.C. 12301(a), (d), or (g), 12302, or 12304, served on active duty during a period of war or in a campaign or expedition for which a campaign badge is authorized and was discharged or released from such duty with other than a dishonorable discharge; or

(4) Was discharged or released from active duty by reason of a sole survivorship discharge (as that term is defined in 10 U.S.C.1174(i)).

(b) The second stage of implementation begins with the first day of the program year that begins two years after the first day of the program year that State grantees begin collecting and maintaining data as required by 20 CFR 1010.330(c). As of that date, veteran will be defined as it is in 20 CFR 1010.110:

(1) A person who served in the active military, naval, or air service, and who was discharged or released there from under conditions other than dishonorable, as specified in 38 U.S.C. 101(2).

(2) Active service includes full-time Federal service in the National Guard or a Reserve component, other than full-time duty for training purposes.

(c) During the second stage of implementation, any veteran who meets the definition specified in paragraph (a) of this section will be considered to meet the definition specified in paragraph (b) of this section.

(d) We will notify State grantees when they are required to begin implementing 20 CFR 1010.330(c).

§ 1001.163 What is the national entered employment rate (EER) and what is a State's program year EER for purposes of this part?

(a) For purposes of this part, we use the EER for veterans and eligible persons. This is the EER as applied to veterans (as defined in §1001.162) and eligible persons (as defined in §1001.161) who are participants in State employment service delivery systems.

(b) The EER for veterans and eligible persons measures the number of the participants described in paragraph (a) of this section who are employed after exiting an employment service delivery system compared to the total number of those participants who exited. We will issue policy guidance to establish the method of calculating the EER.

(c) The national EER for veterans and eligible persons is the EER achieved by the national State employment service delivery system for those veterans and eligible persons who are participants in all of the State employment service delivery systems for the program year under review. The national EER resulting from this calculation is expressed as a percentage that is rounded to the nearest tenth of a percent.

(d) A State's program year EER is the EER for veterans and eligible persons (as calculated in paragraph (b) of this section) achieved by a single State's employment service delivery system for those veterans and eligible persons who are included in the EER measure for that State's employment

service delivery system for the program year under review. The program year EER resulting from this calculation is expressed as a percentage that is rounded to the nearest tenth of a percent.

§ 1001.164 What is the uniform national threshold EER, and how will it be calculated?

(a) The uniform national threshold EER for a program year is equal to 90 percent of the national EER for veterans and eligible persons (as defined in § 1001.163(c)).

(b) The uniform national threshold EER resulting from this calculation is expressed as a percentage that is rounded to the nearest tenth of a percent.

§ 1001.165 When will the uniform national threshold EER be published?

When practicable, the Veterans' Employment and Training Service (VETS) will publish the uniform national threshold EER for a given program year by the end of December of the calendar year in which that program year ends.

§ 1001.166 How will the uniform national threshold EER be used to evaluate whether a State will be required to submit a Corrective Action Plan (CAP)?

(a) *Comparison.* Each State's program year EER will be compared to the uniform national threshold EER for that program year. State agencies that do not achieve a program year EER that equals or exceeds the uniform national threshold EER (90 percent of the national EER) for the year under review will be subject to a review by VETS, with input from the Employment and Training Administration (ETA), to determine whether the program year EER is deficient.

(b) *Review.* For each State whose program year EER is subject to review to determine deficiency, the review will consider the degree of difference between the State's program year EER and the uniform national threshold EER for that program year, as well as the annual unemployment data for the State as compiled by the Bureau of Labor Statistics.

(1) The review also may consider other relevant measures of prevailing economic conditions and regional economic conditions, as well as other measures of the performance of workforce programs and/or any information the State may submit.

(2) The review will include consultation with VETS and ETA field staff about findings from their on-site reviews and desk audits of State agency implementation of policies and procedures for services to veterans and also may include consultation with staff affiliated with other agencies of the Department, as appropriate.

(c) *Requirement of a CAP.* After review, a State whose program year EER is determined not to be deficient will be notified that a CAP will not be required; a State whose program year EER is determined to be deficient will be required to submit a CAP to improve the State's performance in assisting veterans to meet their employment needs as a condition of receiving its next-due JVSG.

(1) Any State whose program year EER has been determined to be deficient will be notified by March 31 of the year following the calendar year in which the program year under review ended.

(2) For any State that is required to submit a CAP, VETS will provide technical assistance (TA), with input from ETA, on the development of the CAP. The CAP must be submitted to the Grant Officer's Technical Representative by June 30 of the year following the calendar year in which the program year under review ended.

(3) We will review the CAP submitted by the State and determine, with input from ETA, whether to approve it or to provide additional TA to the State.

(i) If we approve the CAP, the State must expeditiously implement it.

(ii) If we do not approve the CAP, we will take such steps as are necessary to implement corrective actions to improve the State's EER for veterans and eligible persons.

(4) If a State fails to take the actions we impose under paragraph (c)(3)(ii) of this section, the Assistant Secretary for Veterans' Employment and Training may take any actions available to remedy non-compliance under 20 CFR

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1001.130(a) (referring to the compliance measures discussed in 20 CFR part 658, subpart H).

§ 1001.167 In addition to the procedures specified in this part, will the Department be conducting any other monitoring of compliance regarding services to veterans?

Yes. We will continue to monitor compliance with the regulations on veterans' priority of service at 20 CFR 1010.240(b) jointly with the ETA. If a State's program year EER is determined to be deficient for a given program year, that deficiency would constitute information to be considered in monitoring priority of service, since failure to fully implement priority of service could be one of the contributors to a deficient program year EER.

PART 1002—REGULATIONS UNDER THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT OF 1994

Subpart A—Introduction to the Regulations Under the Uniformed Services Employment and Reemployment Rights Act of 1994

GENERAL PROVISIONS

Sec.

- 1002.1 What is the purpose of this part?
- 1002.2 Is USERRA a new law?
- 1002.3 When did USERRA become effective?
- 1002.4 What is the role of the Secretary of Labor under USERRA?
- 1002.5 What definitions apply to USERRA?
- 1002.6 What types of service in the uniformed services are covered by USERRA?
- 1002.7 How does USERRA relate to other laws, public and private contracts, and employer practices?

Subpart B—Anti-Discrimination and Anti-Retaliation

PROTECTION FROM EMPLOYER DISCRIMINATION AND RETALIATION

- 1002.18 What status or activity is protected from employer discrimination by USERRA?
- 1002.19 What activity is protected from employer retaliation by USERRA?
- 1002.20 Does USERRA protect an individual who does not actually perform service in the uniformed services?
- 1002.21 Do the Act's prohibitions against discrimination and retaliation apply to all employment positions?

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1002.22 Who has the burden of proving discrimination or retaliation in violation of USERRA?

1002.23 What must the individual show to carry the burden of proving that the employer discriminated or retaliated against him or her?

Subpart C—Eligibility for Reemployment

GENERAL ELIGIBILITY REQUIREMENTS FOR REEMPLOYMENT

1002.32 What criteria must the employee meet to be eligible under USERRA for reemployment after service in the uniformed services?

1002.33 Does the employee have to prove that the employer discriminated against him or her in order to be eligible for reemployment?

COVERAGE OF EMPLOYERS AND POSITIONS

1002.34 Which employers are covered by USERRA?

1002.35 Is a successor in interest an employer covered by USERRA?

1002.36 Can an employer be liable as a successor in interest if it was unaware that an employee may claim reemployment rights when the employer acquired the business?

1002.37 Can one employee be employed in one job by more than one employer?

1002.38 Can a hiring hall be an employer?

1002.39 Are States (and their political subdivisions), the District of Columbia, the Commonwealth of Puerto Rico, and United States territories, considered employers?

1002.40 Does USERRA protect against discrimination in initial hiring decisions?

1002.41 Does an employee have rights under USERRA even though he or she holds a temporary, part-time, probationary, or seasonal employment position?

1002.42 What rights does an employee have under USERRA if he or she is on layoff, on strike, or on a leave of absence?

1002.43 Does an individual have rights under USERRA even if he or she is an executive, managerial, or professional employee?

1002.44 Does USERRA cover an independent contractor?

COVERAGE OF SERVICE IN THE UNIFORMED SERVICES

1002.54 Are all military fitness examinations considered "service in the uniformed services?"

1002.55 Is all funeral honors duty considered "service in the uniformed services?"

1002.56 What types of service in the National Disaster Medical System are considered "service in the uniformed services?"