

U.S. Department of Labor

Assistant Secretary for  
Veterans' Employment and Training  
Washington, D.C. 20210



February 17, 1989

VETERANS' PROGRAM LETTER NO. 6-89

TO: ALL REGIONAL ADMINISTRATORS AND DIRECTORS  
FOR VETERANS EMPLOYMENT AND TRAINING  
ALL STATE EMPLOYMENT SECURITY AGENCY  
ADMINISTRATORS (SESAs)  
ALL REGIONAL ADMINISTRATORS, EMPLOYMENT  
AND TRAINING ADMINISTRATION (INFO)

FROM: DONALD E. SHASTEEN

SUBJECT: Comments on a Proposed Policy Regarding  
DVOP/LVER Staff Assignment/Appointment

- I. Purpose: To request comments on the attached proposed policy regarding the staff assignments/appointments of Disabled Veterans Outreach Program (DVOP) Specialists and Local Veterans Employment Representatives (LVERs) in State Employment Security Agencies (SESAs).
- II. References: Title 38, Chapter 41, United States Code (USC) and The Veterans Employment, Training and Counseling Amendments of 1988 (P. L. 100-323).
- III. Background: The enactment of Public Law 100-323 requires changes to certain aspects of Veterans Program Letter No. 5-87, dated April 12, 1987 which established policy regarding the provision of preference in the appointment of DVOP Specialists. The attached draft VPL clarifies this policy and provides the policy requirements for affirmative veterans preference in the assignment and appointment of LVERs as well as DVOP staff in accordance with Title 38, Chapter 41, USC as amended by P.L. 100-323.

IV. Actions Required:

- A. **SESAs** are requested to review the attached draft VPL and may submit comments directly to the **ASVET**, ATTN: Jeffrey C. Crandall, **Director** of Field Operations.
- B. **DVETs** should prepare their comments and submit them to their Regional Administrator for Veterans' Employment and Training (**RAVET**) by *March 3, 1989*.
- C. **RAVETs** are to prepare their own comments and a separate summary of all comments received from **DVETs** for submission to their Desk Officer by March 10, 1989.

- V. Inquiries: **SESA's** may contact their DVET with inquiries. **VETS** staff shall contact their Desk Officer with questions.

Attachment



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VETERANS' PROGRAM LETTER NO. \_\_\_\_\_

**TO:** ALL REGIONAL ADMINISTRATORS, DIRECTORS  
AND ASSISTANT DIRECTORS FOR VETERANS'  
EMPLOYMENT AND TRAINING SERVICE

ALL STATE EMPLOYMENT SECURITY AGENCY  
ADMINISTRATORS (**SESAs**)

ALL REGIONAL ADMINISTRATORS, EMPLOYMENT  
AND TRAINING ADMINISTRATION (INFORMATION)

**FROM:** DONALD E. SHASTEEN

**SUBJECT:** **DVOP/LVER** Staff Assignment/Appointment

**I. Purpose:** To provide policy guidance to State Employment Security Agencies (**SESAs**) regarding the impact of the Veterans' Employment, Training and Counseling Amendments of 1988 (P.L. 100-323) upon State procedures for the assignment and appointment of Local Veterans' Employment Representatives (**LVERs**) and Disabled Veterans' Outreach Program (**DVOP**) specialists. This directive amends Veterans' Program Letter (**VPL**) 5-87 and serves to clarify sections of VPL 1-89.

**II. References:** Title 38, Chapter 41, United State Code (USC); the Veterans' Employment, Training and Counseling Amendments of 1988 (P.L. 100-323); **VPLs** 5-87 and 1-89.

**III. Background:** Veterans' Program Letter No. 5-87, dated April 12, 1987, established the policy of the Assistant Secretary for Veterans' Employment and Training (**ASVET**) regarding the provision of preference in the appointment of DVOP specialists, as required by Title 38 USC, Section 2003A. **Preference was required to** be given first to disabled veterans of the Vietnam era, then to other disabled veterans and finally to any veteran. In the absence of first and **second** preference veterans, the SESA could request a waiver to hire a non-disabled veteran, but only after attempting extensive outreach efforts to locate higher preference candidates. In no case could a SESA fill any DVOP vacancy with a non-veteran.

Prior to P.L. 100-323, there was no such specific legislative direction or policy guidance regarding the assignment of individuals to serve as **LVERs**. Veteran status, although preferred, was not a requirement for the appointment of an LVER. State agencies could assign personnel to LVER positions without regard to veterans status or preference categories.

With the enactment of P.L. 100-323, affirmative veterans' preference is now being extended to "appointments. and "assignments" to LVER positions, as well. Additionally, this law requires that preference be given to "qualified" candidates. An opinion regarding the use of the terms "appointment., **"assignment"**, and "qualified" was requested from the Solicitor of Labor before attempting to implement these **P.L. 100-323** provisions.

IV. Policy and Guidance:

A. Definitions of Terms.

The Solicitor of Labor has advised that the terms "appointment" in Section 2003A for **DVOPs** and "assigning" in Section 2004 for **LVERs** have the same functional meaning: the competitive selection between candidates.

Also, a "qualified" individual is interpreted to mean an individual who has been determined to possess the requisite knowledge, skills and abilities (**KSAs**) for DVOP or LVER positions within the context of each State's process for identifying and ranking persons possessing those **KSAs**. The determination as to which applicants are "qualified" rests with each State Civil Service merit system. **However**, in identifying/ranking applicants and in appointing, assigning individuals for **DVOP/LVER** positions from the list of "qualified" candidates, State Civil Service merit systems **must** provide, in some systematic way, preference in selection for qualified veterans in the order indicated in law. In this sense, **VETS** intends that preference can most clearly be demonstrated if the selection system favors those eligible for preference from among all qualified candidates.

B. Preference in Appointment or Assignment of **LVERs**.

**Public Law 100-323** deletes any references to eligible veteran or eligible person status as a qualification for an **LVER**, but mandates that after July 1, 1988 preference must be given to veterans when filling **LVER** positions in the following order of priority:

- (a) "qualified" service-connected disabled veterans;
- (b) "qualified" eligible veterans\*: and
- (c) -qualified" eligible persons.

# DRAFT

- 3 -

It is the policy of the **ASVET** that this appointment preference be followed in the recruitment and selection of LVERs. When preference eligible veterans are not readily available for assignment, **SESAs** should consider conducting special outreach efforts, including search of Job Service applicant files, to recruit potentially qualified preference veterans. To facilitate the provision of such preference, we suggest that each SESA maintain registers (lists) of available first, second and third preference LVER candidates.

Only when current registers and/or outreach efforts fail to identify qualified veterans or eligible persons from the three preference categories can consideration be given to the appointment of an otherwise qualified non-veteran. Although **RAVET** approval of a SESA waiver request is not required for LVSR appointments, P.L. **100-323** requires that the DVET must always be consulted prior to the appointment or assignment of any new LVER staff.

The DVET must be informed, in writing, whenever efforts to provide preference are unsuccessful and that the appointment of a non-preference eligible is being considered. The DVET must also be satisfied that the selection procedures followed were in compliance with the provisions of P.L. **100-323**. States should, therefore, maintain documentation of their efforts to recruit and appoint preference eligible veterans for LVER vacancies which may be reviewed by **DVETs** as part of their grants' monitoring responsibilities.

### C. Preference in Appointment or Assianment of DVOP staff.

Each DVOP position is to be staffed **by** one individual who devotes **full** time to providing employment and training related services to veterans. Preference shall be given in the appointment of such specialists to qualified disabled veterans of the Vietnam era. If no qualified disabled veterans of the Vietnam era are available to fill these positions, following notification to the **DVET**, preference shall then be given to any other qualified disabled veteran.

If in the extreme case, no qualified disabled veterans are found to fill a DVOP position, the SESA must request a waiver to fill that position with a qualified non-disabled veteran. This waiver request must describe recruitment efforts made and provide the reasons for considering the appointment of a veteran from the lowest preference **category** to fill any DVOP vacancy. The DVET will review the **SESAs** request, make a recommendation, and forward it to the RAVET for final written waiver approval or denial. In no case, can a DVOP specialist be a non-veteran. ✓

Written approval of the waiver request from the RAVBT must be received before considering any applicants from the lowest veterans' preference level (non-disabled) to fill a DVOP position.

D. Documenting Appointment Decisions

To ensure compliance with P.L. **100-323**, the minimum records to be maintained by SESAs documenting their appointment and assignment process/decisions relating to DVOP specialists and **LVERs** are the following:

(1) Job vacancy announcements identifying periods of recruitment and the number of vacancies;

(2) Documentation of outreach efforts (e.g., newspaper advertisements, requests to veterans' service organizations for their recruiting assistance, posting vacancies in local veterans' organizational newsletters):

(3) State Civil Service merit system lists of eligible qualified candidates identifying veterans' preference eligibles by candidates: and

(4) DVOP waiver requests and RAVET approval letters, as applicable.

V. DVETs Monitoring of DVOP/LVER Appointments: To ensure adherence to **DVOP/LVER** appointment preference, **DVETs** shall monitor appointment actions to ensure that State agencies comply with the requirements outlined in this directive. DVETs will review the systems developed by the State agency and advise of potential problems in the appointment/assignment process. SESAs are encouraged to request DVET concurrence on each **LVER/DVOP** selection prior to their appointment/assignment to avoid future compliance issues.

VI. Actions Required:

A. SESAs are requested to ensure that procedures for the appointment/assignment of DVOP and LVBR staff meet the guidelines outlined in this directive.

B. DVETs are directed to provide technical assistance to the SESAs as they make procedural adjustments pursuant to this directive and its references.

C. DVETs shall monitor the appointment of **LVERs** and DVOP specialists to ensure compliance with this directive and applicable provisions.

# RAFT

- 5 -

- D. **DVETs** shall advise the RAVET of any deviations by the SESA from the approved appointment, selection and documentation process.
- E. **RAVETs** are directed to ensure that **SESAs** and **DVETs** coordinate efforts to implement the above changes.

**VII. Inquiries:** **SESAs** should direct all inquiries regarding **this directive to** their DVET. VETS staff may contact the appropriate Desk Officer through the **RAVET.**