U.S. Department of Labor

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

October 19, 1999

DIRECTOR'S MEMORANDUM NO. 03-00

MEMORANDUM FOR: REGIONAL ADMINISTRATORS AND DIRECTORS FOR VETERANS' EMPLOYMENT AND TRAINING

FROM: Stanley A. Seidel
STANLEY A. SEIDEL
Director, Operations and Programs

SUBJECT: Policy Concerning Facilities and Support for Veterans' Employment and Training Service (VETS) staff.

REFERENCES: Veterans' Program Letter (VPL) 9-87 dated June 24, 1987 and VPL 8-98 dated June 30, 1998

PURPOSE: To provide a Solicitor's Opinion for Regional Administrators for Veterans' Employment and Training (RAVETs) and Directors for Veterans' Employment and Training (DVETs) to use when addressing questions regarding requirements for State Employment Security Agencies (SESAs) and Workforce Investment Act (WIA) Service Delivery Points (SDPs) to house VETS field staff.

BACKGROUND: In the past, SESAs, following Federal mandates, provided VETS staff with office space, furniture, supplies, and equipment. With the implementation of WIA, SESAs along with their central offices and field facilities/premises, have changed or may undergo changes in structure. Decisions regarding space and use requirements under the new structure are likely to occur. For traditional service providers, there have been Federal statutory, regulatory, and cooperative grant agreement requirements that have applied to the issue of housing VETS field staff in non-Federal office space. As a result of changes based on WIA legislation, VETS asked for an opinion on whether or not the current legal requirements cover the States' obligations to house VETS staff at work sites established under WIA.

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SOLICITOR'S OPINION: The only change mandated by the WIA legislation involving VETS, is that:

> "In carrying out this chapter, the Secretary shall require that an appropriate administrative entity in each State enter into an agreement with the Secretary regarding the implementation or this Act....."

The opinion further states:

> "Thus, WIA does not change the existing requirements under 20 C.F.R. Paragraph 1001.121. While the structure of the Employment Service has changed under the WIA legislation, that does not affect the obligation under the VETS regulations of the States to house the VETS staff."

The Solicitor's Opinion goes on to affirm that the WIA legislation does not invalidate the guidance provided by VPL 9-87 (superseded by VPL 8-98 dated June 30, 1998) regarding how costs for this space may be distributed to other Federally funded programs and not charged back entirely to the DVOP/LVER grant(s).

ACTIONS REQUIRED: VETS is not requiring that any action be taken at this time. We are providing this memo and its enclosures to RAVETs and DVETs for use as a resource. Should the issue arise as to whether or not WIA has changed the requirement for SESAs to provide space for Federal staff, you will have this memo for use as a reference. Any questions on this matter can be directed to Joel Delofsky at (202) 693-4719 or to Miguel A. Hernandez at (202) 693-4708.

Attachments: (II)

I Solicitor's Opinion dated August 19, 1999
II Updated Solicitor's Opinion dated September 3, 1999

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U.S. Department of Labor

Office of the Solicitor
Washington, D.C. 20210

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MEMORANDUM FOR: H. MILES SISSON
Acting Director, Operations and Programs
Veterans' Employment and Training Service

FROM: CHARLES D. RAYMOND CR
Associate Solicitor for
Employment and Training
Legal Services

SUBJECT: Policy Concerning Facilities and Support for Veterans' Employment and Training Service (VETS) Staff

This updates our August 19, 1998 response to your request for a legal opinion on whether the current regulatory requirement that States provide appropriate facilities to Veterans Employment Training Service (VETS) staff still applies at work sites established under the Workforce Investment Act. It is our understanding now that you are interested only in how this requirements applies to VETS staff who are Federal employees, and not the disabled veterans' outreach program specialists (DVOP) or the local veterans' employment representatives (LVER), who are State employees.

As you know, the regulations require, as a condition for receiving the DVOP/LVER grant, that:

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

20 C.F.R. § 1001.121.

The only change mandated by the WIA legislation involving VETS, is that:

> In carrying out this chapter, the Secretary shall require that an appropriate administrative entity in each State enter into an agreement with the Secretary regarding the implementation of this Act . . . .

38 U.S.C. § 4110B. WIA also transferred the JTPA Title IV veterans' programs to Veterans' Workforce Investment Programs under WIA § 168. The programs in 38 U.S.C. were not modified.

Thus, WIA does not change the existing requirements under 20 C.F.R. § 1001.121. While the structure of the Employment Service has changed under the WIA legislation, that does not affect the obligation under the VETS regulations of the States to house the VETS staff.

If you have any questions regarding this advice, please contact this office. Jinny Chun is the ETLS staff attorney assigned to the matter (phone: 219-7857 ext. 145).

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Washington, D.C. 20210

AUG 19 1999

MEMORANDUM FOR: H. MILES SISSON
Acting Director, Operations and Programs
Veterans' Employment and Training

FROM: CHARLES D. RAYMOND CR
Associate Solicitor,
Division of Employment and Training Legal Services

SUBJECT: Policy Concerning Facilities and Support for Veterans' Employment and Training Service (VETS) Staff

This is in response to your June 28, 1999, memorandum requesting a legal opinion on "whether the current requirements cover the States obligation" to house Veterans Employment Training Service (VETS), staff at work sites established under Workforce Investment Act.

Pursuant to 38 U.S.C. § § 4102A(b), the Secretary, through the Assistant Secretary of Labor for Veterans' Employment and Training is required to:

> Make available for use in each State, directly or by grant or contract, such funds as may be necessary (A) to support (i) disabled veterans' out reach program specialists appointed under section 4103A(a)(1) of this title, and (ii) local veterans' employment representatives assigned under section 4104(b) of this title, and (B) to support the reasonable expenses of such specialists and representatives for training, travel, supplies, and fringe benefits . . . .

Id. § 4102A(b)(5).

The statute also requires that the States, which receive such funds, station the disabled veterans' outreach program specialists (DVOPS), at the local employment service offices in such States. *Id.* § 4103A(b)(2). In reference to the local veterans' employment representatives (LVER), the statute requires that the representatives "allocated to a State . . . shall be assigned by the administrative head of the employment service in the State . . . so that as nearly as practical (i) one full-time representative is assigned to each local employment service office." *Id.* § 4104(a)(2)(A).

The only change mandated by the WIA legislation in regards to VETS, is that:

> In carrying out this chapter, the Secretary shall require that an appropriate administrative entity in each State enter into an agreement with the Secretary regarding the implementation of this Act . . . .

§ 4110B.

Thus, WIA does not change the existing requirements under 38 U.S.C. §§ 4103A and 4104 that the DVOPS and the LVER be stationed or assigned to the local employment service offices. However, the structure of the local employment service has changed under the WIA legislation, but that change in itself does not affect the obligation of the States to house the VETS staff. The details of how that is to be accomplished will differ from state-to-state, depending on the new delivery system.

As to how the costs are to be distributed by the States, the WIA legislation also does not invalidate the guidance provided by Veterans' Program Letter No. 9-87.

If you have any questions regarding this advice, please have the appropriate member of your staff contact either Charles D. Raymond, Associate Solicitor, ETLS, (219-7754), or Jinny Chun, the ETLS staff attorney assigned to the matter (219-7857).