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ASVET MEMORANDUM NO. 01-08

MEMORANDUM FOR ALL VETS STAFF

FROM: 
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SUBJECT: Policy and Guidance Update for Fiscal Years 2008 - 2009
(Reference: ASVET Memorandum 01-06, Policy and Guidance for
FY 2006-2008, dated January 4, 2006, re-printed and attached)

THIS IS AN INTERNAL DEPARTMENT OF LABOR/VETERANS EMPLOYMENT AND TRAINING SERVICE DOCUMENT. IT PROVIDES GUIDANCE TO VETS' FIELD AND NATIONAL OFFICE LEADERS AND STAFF. IT IS NOT INTENDED TO BE DIRECTIVE TO STATE WORKFORCE ADMINISTRATORS.

I want to tell every member of VETS how much I appreciate the way in which you have focused on the VETS' missions, our people and our priorities over the past two years. I'm extremely proud of what VETS has been able to accomplish and you are the ones who did it, so you should be very proud too!

When I published the first Policy and Guidance Memo, I asked each of you to work toward achieving three goals:

- Improving the quality of employment services in the One Stop Centers;
- Improving transition employment services; and
- Focusing intensive employment services on those service members who need it the most, especially returning wounded and injured OIF/OEF service members.

What VETS has accomplished is significant

We have made significant progress in achieving these goals over the past two years. For example:

Many One Stop Centers are providing better priority of service for veterans and the important roles of the veteran employment representatives (DVOPs and LVERs) is being recognized and stressed. I recognize it's not perfect, but there is significant improvement across the board.

In addition to this, VETS' management of both the Jobs for Veterans State Grants and our Homeless Veterans Reintegration Program Grants has been superb. In fact, of 35 Department of Labor programs evaluated for effectiveness by the OMB Program Assessment and Rating Tool (PART) over the past two years, HVRP received the second highest rating and the JVSG received the 4th highest rating in the Department! This really speaks to the subject matter expertise and professionalism of our staff.

VETS' administration and enforcement of USERRA has significantly improved. The new regulations have helped and the new USERRA operations manual will vastly improved case processing and the quality of our investigative processes.

The TAP employment workshop curriculum has been restructured so there are now specific 'deliverables' - notably resumes and job interviewing exercises. Participation levels are picking up because the Department of Defense and the military services have committed to increasing TAP attendance (the goal is 85% for every Service). We are also receiving a lot of good feedback about the value of the TAP employment workshop from participants.

Finally, I commend the RAVETs, and especially the DRAVETs and the DVETs in implementing the REALifelines Initiative. We still have a great deal of work to do to properly operate and administer this important program, but it will soon become a real success story. We had to take all the resources for REALifelines, including our new REALifelines Program Manager, Jim Arrington, out of our 'base' and we are making good progress.

In each of our three mission areas -JVSG grant management, USERRA &Veterans Preference, TAP & REALifelines - we have made huge gains. We've also made big progress in management of our special grant programs (HVRP, VWIP and IVIP), in agency budget management, risk assessment, and internal controls. We should all be proud of this record!

Significant challenges remain

As I see the next several years, VETS will continue to face significant challenges:

- Too many active duty transitioning service members do not benefit from the TAP employment workshop experience.
- Transitioning service members need better, smoother ways to get information about employment opportunities and how to find employers who want to hire them.
- Employers who want to hire veterans need to know how to develop veteran hiring strategies and how they can better connect with transitioning service members.
- Many returning Reserve and National Guard (RC/NG) members need transition employment assistance but don't get it.
- Many wounded and injured service members are struggling with disability compensation, the military's discharge evaluation process, and, once they do finally get discharged, they are struggling with employment and adjusting to the civilian workplace.
- USERRA situations are more complex due to the increased duration and frequency of RC/NG deployments, making the job of our investigators more difficult and time-consuming.
- Many employers know the USERRA law better today but many others are dealing with reemployment rights issues for the first time.
- Some employers are struggling with how to deal with returning service members who are wounded and injured or otherwise impacted by their service (e.g., cognitive disabilities or other challenges to a veteran's ability to perform in the workplace).
- As RC/NG mobilizations continue, more returning service members are expressing dissatisfaction with the manner in which they are being reinstated, as well as with other important issues relating to their return to work.
- Some service members are expressing dissatisfaction with the agencies responsible for resolving their complaints, and their number one complaint is always the lengthy resolution process.

All these challenges will continue in the foreseeable future.

JVSG remains our core mission

The core mission of VETS remains the Jobs for Veterans State Grants. We must work through our state partners to ensure that employment services, including DOL-funded training programs, are maximized for veterans.

We must continue to work with States to reinforce and stress the proper roles of the DVOPs and LVERS. LVERs must focus on employer outreach, ensuring veterans receive access to workforce services in the One Stop Career Centers, and the Transition Assistance Program. DVOPs must focus on the case management of veterans who need help the most – those with disabilities, barriers to employment and our wounded and injured transitioning service members. We need to take a firm stand on this because achieving success in properly integrating the DVOP and LVER grant programs in the One Stop Career Centers depends on how well that we and the States reinforce the roles of the veteran employment representatives. This is very important today, with the return of so many combat veterans.

Priority of service needs to be clarified and strengthened. VETS and ETA have agreed to publish Priority of Service Regulations, as well as guidance to the states on strategies to enhance the experience of veterans using the workforce system in terms of both the quality and quantity of services veterans receive, and to improve employment outcomes. DVETs in particular, must continue working with the States to improve the way priority of service is provided for veterans in the One Stop Career Centers. For example, while some states continue to send every veteran to a DVOP or and LVER, not every veteran needs to be serviced by a veterans' representative. Some should go directly into training opportunities or other services by One Stop service and training providers.

Emphasis on the training needs of the DVOPs and LVERs must be maintained. We must continue to improve DVOP/LVER training via NVTI, including use of distance learning programs. All new vet reps must attend the initial training (the goal should be to attend before the mandated 3-years), and we need to begin to develop continuing education programs to maintain their skills.

We must also continue to operate the highest quality homeless veterans and veteran workforce investment employment programs.

The nation remains at war

With this attention to our core mission in mind, we must also remember that our nation is engaged in a War on Terror. This war has changed the environment for us, and we must respond to these changes by confronting the challenges and direct our efforts to counter them.

This means we must first and foremost do everything we can to assist service members returning from the Global War on Terror. When service members exit the military and come into the workforce for the first time, or

return to their pre-Service employer, they undergo a significant adjustment. The problem is that:

- *too many service members, especially those returning from the War on Terror, are unprepared when they transition from the military to their civilian jobs; and*
- *too few service members (those transitioning from active military duty and those deactivating from National Guard and Reserve duty) are using the One Stop Career Centers where they can find help in getting good jobs and careers.*

We need to change this and it will take leadership on everyone's part. I ask that your priorities for this year, in addition to maintaining the effort on our core JVSG mission, focus also on **USERRA, TAP and REALifelines.**

Changing environments have created the need for better USERRA enforcement, enhanced transition employment assistance and intensive employment services for wounded and injured veterans.

Better USERRA enforcement is needed

At no time since World War II has the United States relied so heavily on its Reserve and National Guard Forces (RC/NG) in responding to global contingencies. The RC/NG are no longer just part of the nation's strategic reserve forces. They are operational forces, in many cases doing the same missions as the active duty military.

With these new demands on the Reserve and Guard and with the recent changes in RC/NG deployment policy, these service members are experiencing second, third and fourth deployments, particularly if they have specialized skills or are with first-responder-type occupations.

As a result, VETS is continually being stretched to cover mobilization and demobilization briefings as well as responding to USERRA inquiries and conducting USERRA investigations. We are no longer just dealing with USERRA complaints relating to weekend drills and the 2-weeks of annual training; the cases today involve multiple, complex employment issues.

Thanks to the USERRA Regulations and the extensive education and outreach efforts by VETS and ESGR, as well as DOJ and OSC, employers know the law better today. And the good news is that, for the most part, employers

continue to do a good job supporting their employees who are on military absences.

But employers are also incurring more financial and operational impacts from lengthy and repetitive employee absences. So we are seeing more affirmative defenses, terminations, and issues involving "reasonable accommodations" for disabilities, including cognitive injuries such as traumatic brain injury and post traumatic stress.

I am concerned about the impact of frequent deployments on Federal employers in particular.

All of this is new territory for us and it means we must now step up our USERRA efforts. Here's how:

First, let's all recognize that USERRA is a command responsibility. RAVETs are directly responsible for the conduct of the USERRA program. They must monitor the status of cases and ensure that each case and each referral is continuously worked.

Second, let's recognize that outreach to employers is more important than ever today. Employers need help to know what they can do to mitigate the impact of repetitive activations. As the federal agency that administers USERRA, we must extend our employer outreach/education activities and be strong advocates for the law.

Third, RAVETs and DVETs must be intricately involved in planning and coordinating USERRA outreach and educational forums with employers and employer groups. It is essential that we continue to give and get information from employers.

Fourth, quality and thoroughness of USERRA investigative case work must improve. We are managing USERRA cases primarily by our time standards, e.g., average case processing times and red flag reports that identify when cases that take too long to close. Time standards are important, but too much focus on time leads to cursory case work. On the other hand, we cannot allow any USERRA case to drag on indefinitely because that dilutes any standards that we have for case processing. More importantly, the client loses faith in the Federal Government's ability to help them. The key to success in resolving USERRA cases in a responsive manner is that each case should be investigated and documented thoroughly as if the investigator already knows when the case is opened that it may be referred to Department of Justice or the Office of the Special Counsel. Evidence and witness statements should be gathered in person

whenever the investigator believes a party is purposely delaying or non-responsive. The new USERRA Operations Manual introduces some additional discipline into our investigative processes. RAVETs will be provided the needed funding to support these activities.

Fifth, the specific paragraphs in the Regulations should be cited in all casework.

When a USERRA investigation is opened, the very first thing an investigator should do is to find the relevant, applicable sections of the USERRA Regulations and document those citations right there on the 1010 and throughout the case, along with the applicable USERRA law paragraphs. If it is a Federal USERRA case, the applicable paragraphs in the OPM regulations and the law should be cited. *In addition to these things:*

- *subpoenas should be issued in appropriate circumstances* when we are experiencing a lack of cooperation or unreasonable delays by employers. While subpoenas should be issued only after investigators have attempted other less formal means of obtaining the information, employers need to know that the subpoenas can and will be sought if they do not cooperate fully with the investigations. The procedures for approval and issuance of subpoenas are explained in Chapter 6.14 of the USERRA Operations Manual; and
- *senior investigators should conduct Quality Assessment Reviews of all cases that are running late, beyond our standards for processing.* Where appropriate, RAVETs may consider transferring responsibility for case investigations to the Senior Investigators if it appears a case will go on indefinitely; and
- *finally, USERRA cases must be referred to DOJ or OSC* if we cannot resolve the issues in a reasonable time. The notion that it is a failure on our part to have to refer a case because we are unable to resolve the issues is simply unacceptable. In addition, when investigators do refer a case, the RAVET must expedite the review of that case and deliver it to the RSOL within a very short window (no more than one week). By the same token, our RSOLs must expedite the MOR process.

The bottom line is that it is time for us to look at the bureaucratic USERRA investigative processes that we have created and determine where we can streamline our operations. We have introduced some new guidance in the USERRA Operations Manual, but it's going to take leadership on everyone's part to implement these improvements.

I have asked RAVETs to convene Regional USERRA conferences. I have asked that we convene regular USERRA SI conferences, so we can better

determine if our new USERRA Operations Manual is helping and so we can discern USERRA trends and also exchange good practices in and among the Regions. We also will try to have a national USERRA conference as soon as we can arrange it, if our budget permits.

The USERRA mission will not get easier. In the coming years, we could see an uptick in the number of cases, and we will definitely see an increase in technical assistance requests. We also will continue to see more complexity and multiple issues in these investigations. It is mission-critical that we get this right, because this is what we owe our service men and women. We cannot have a situation where service members lose confidence in the Federal Government's ability to help them get their jobs back. It's really that simple.

In the next two years, you will continue to see more initiatives to improve USERRA compliance and enforcement.

More troops to TAP and Better TAP Classes

For several years now, I have looked closely at the issues that impact service members as they leave the military, especially returning military members from the Global War on Terror (including those who have been wounded and injured). I see some all too common themes.

For example, one thing I have noticed is that while military people are outstanding planners and executors while they're in the service, those qualities don't always come into play when they separate from service. In fact, it seems to me that far too many haven't taken the time to fully plan their transition and future after the military, and far too many are uncertain about what kind of job or career they will pursue.

Another thing I've seen is that in some cases service members are discharged (active duty) or released from active duty (RC and NG) very rapidly. In too many of these situations, troops are short-changed in their transition because they get little in the way of transition employment assistance, or, sometimes the TAP employment workshop is cut short, or the TAP classes are too large, or the facility is not adequate, or access to computers and other resources is limited. Sometimes all of these things go on at the same time. This is not a criticism of the military; the operational requirements military commanders must balance are extremely compelling and each of the military services is working hard to try to provide the TAP experience to every service member.

There are many things VETS does already, and a lot more we can do, to better help separating service members plan their transition. The TAP employment workshop is already a great program of instruction. Troops who attend TAP rate the workshop high for both the content and the instruction. The recent enhancements to the TAP workshop curriculum are a big improvement. Troops understand how important it is to go through the exercise of translating their military experience, education and training onto a draft resume they take with them from the class, and they know how much it helps to develop and practice good interviewing skills.

TAP managers also understand this and they appreciate these enhancements to the workshop. And we are seeing some TAP Managers taking this a step further, incorporating employer panels into the TAP workshop, and encouraging TAP participants to visit resource centers where they can access their state job board and learn how to do a job search, or perhaps even to actually register with their local Career One Stop Center or ES office. Some TAP managers also try to schedule veteran job fairs in conjunction with the TAP workshop.

The Department of Defense and each of the military services understand the importance of the TAP employment workshop experience. Following the President's Task Force on Returning Global War on Terror Heroes, each of the military services has committed to increase TAP participation to at least 85% of those who are separating.

As a result, military installation commanders and TAP managers will be working even harder to increase opportunities for separating service members to attend TAP. That is why VETS must be working closely with them and with our State Workforce Agency counterparts to ensure we can deliver these services.

By giving TAP early along with career counseling, the Navy is actually using the TAP process as a retention tool and the other Military Services are taking note of the value that TAP can bring to their service members whether they separate from the military, or decide to stay in the service. The other military services have also recognized the TAP experience is an effective retention tool.

VETS must continue to look for opportunities to enhance the TAP program. Here's how:

The very first thing we can do, and I believe this is an absolute obligation on our part, is the make certain that only the best DVOPS and LVERS are selected as TAP Facilitators. Most TAP facilitators do a great job, but we also have some who

are not the best at teaching and who do it because they are tasked. That's unfortunate and it's not fair to them. But it's also not fair to the transitioning service members. This is an area where RAVETS and DVETS can have huge influence working directly with State Workforce Agencies to make sure only the best facilitators, whether they are DVOPs, LVERs or from Inverness, are teaching the Workshop. *If we can do one thing to improve the quality of the TAP workshop, this is it.*

Secondly, RAVETS and DVETS must take the opportunity to visit TAP sites frequently, sit in on TAP workshops, and cultivate good relationships with TAP managers. These relationships will solve the problem of getting good MOUs in place and will help increase collaboration and the level of TAP participation. You will be amazed at the impact of your visits in helping the Installation Commanders and their staffs.

Thirdly, wherever possible, we need to encourage incorporating employer panels into the TAP workshop and encourage the sponsoring of veteran career fairs in conjunction with or soon after TAP workshops. These things are already going on at some posts and bases and we can help expand these programs.

Fourth, we need to find more ways to help employers connect their employment opportunities with transitioning service members. We must figure out how we can help employers get their information to transitioning service members about their companies that are looking to hire veterans. We need to make it smoother and easier for service members to find employers who want to hire them. We've must find out "what works" to "push" employer opportunities and information to separating service members and how we can use modern technology to improve the TAP experience.

Fifth, key leaders in VETS need to outreach to employers to help them develop strategies to hire veterans. This is not as hard as some people think and we are developing some brochures that will be out soon that will help employers better understand how to do this. We'll need RAVETS and DVETS to outreach and market these materials to employers.

Finally, DVETS should send another letter to their State Adjutant General making the offer to provide modified TAP workshops for returning National Guard and Reservists on an 'as needed' or demand basis. This should be done immediately.

In the future, our goal is to improve the quality of the TAP experience for all service members. To do this, we need to be thinking about some key objectives:

We need to ensure we get only the best qualified facilitators to teach the TAP workshops.

- We need more active duty and National Guard/Reserve transitioning service members to attend the TAP workshop.
- We need better ways to connect transitioning veterans with the employers who want to hire them, during and after TAP.
- We need better ways to “push” information to separating service members before, during and after the TAP workshop, using modern technology.
- We need more employers and transitioning service members to use the One Stop Career Centers and to participate in the many veteran career fairs around the country.
- We need more National Guard and Reservists in particular to use TurboTAP.Org so they get more of the information they need about their transition, when they need it.
- We need more National Guard and Reserve units and commanders to take advantage of ‘modified’ TAP workshops for their service members at the appropriate times.

I’ve asked the TAP Steering Committee to look at this issue and report back to us. In addition to this, the Under Secretary of Defense has created the Transition Assistance Program (TAP) Executive Steering Committee to help achieve these goals.

Support for REALifelines

Improving transition assistance also includes supporting the REALifelines program that provides personal, face-to-face employment assistance to wounded or injured service members and their caregivers. This is an extraordinarily important program and it’s having more impact every day.

Today, State veteran employment representatives or IPAs are forward positioned at major military medical centers including Walter Reed, Bethesda, Balboa, Brooke, Tripler and Madigan. They are also assigned at the Army’s Warrior Transition Units at Forts Dix, Carson and Drum, and with the US Marine Corps Wounded Warrior Regiment at Quantico and Pendleton. Our DVETs and ADVETs in these locations are overseeing these important efforts and ensuring their success. The Transition Training Academy (TTA) at Naval Medical Facility

Balboa has been very successful and we plan to replicate the TTA at the Army Medical Centers at Brooke and Madigan this year!

We are getting things better organized at the national office level and at the DoD Military One Source (formerly MISC). This includes program structure and guidance to include a reporting system. We're also helping DOD with the Operation War Fighter Program and we may help DOD expand War Fighter to other locations besides Washington DC.

We have briefed the new Federal Recovery Coordinators (FRC). Each FRC is assigned seriously wounded and injured service members for life. The FRC will develop each service member's individual recovery plan and will assist all aspects of the service member's recovery, rehabilitation, and re-entry to the service or reintegration into civilian life. All REALifelines staff will need to work closely with the FRCs.

VETS provides first class employment support to America's veterans

In conclusion, the thing that makes VETS one of the best agencies in the Federal Government is that we have the important mission to help our fellow veterans get good jobs, and we stay on track with that mission and we work collaboratively with DoD, the Military Services and VA to get it done.

Let's continue to stay on track with the JVSG, and let's put our best foot forward on USERRA enforcement, improving the TAP experience, and expanding REALifelines.

Remember, employment is the dominant concern of most service members as they leave the military. The better prepared service members are when they leave the military or de-activate from their National Guard or Reserve units, and the more that employers and veterans know about how to connect with each other, the smoother veterans will transition from the military to civilian life and the easier and better we will make the job of the DVOPs and LVERs.

I have listed a series of priorities in this memorandum. We will define success in FY 2008 by visibly committing to these priorities.