

DIRECTIVE
WORKFORCE SERVICES

Number: WSD12-8

Date: August 28, 2012
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TO: WORKFORCE DEVELOPMENT COMMUNITY

SUBJECT: SELECTIVE SERVICE REGISTRATION

EXECUTIVE SUMMARY:

Purpose:

This directive provides guidance regarding the Selective Service registration requirements for participation in Workforce Investment Act (WIA) funded services. Additionally, this directive contains model questions to help the Local Workforce Investment Area (local area) determine whether failure to register by a current or potential WIA participant was knowing and willful. Finally, this directive clarifies that grantees, subgrantees, or contractors funded by WIA Title I, must establish a policy for potential male participants 26 or older who failed to register with the Selective Service.

Scope:

This directive applies to all local areas.

Effective Date:

This directive is effective upon release.

REFERENCES:

- WIA Section 189(h)
- Title 50 United States Code Appendix 453 (Military Selective Service Act)
- Title 20 Code of Federal Regulations Section 667.250
- Training and Employment Guidance Letter (TEGL) 11-11, Change 2, Selective Service Registration Requirements for Employment and Training Administration Funded Programs (May 16, 2012)
- TEGL 11-11, Change 1, Selective Service Registration Requirements for Employment and Training Administration Funded Programs (January 20, 2012)
- TEGL 8-98, Selective Service Registration (November 4, 1998)
- WIA Job Training Automation System Client Forms Handbook

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STATE-IMPOSED REQUIREMENTS:

This directive contains no State-imposed requirements.

FILING INSTRUCTIONS:

This directive supersedes Workforce Services Directive WSD11-8, dated March 20, 2012 and finalizes Workforce Services Draft Directive WSDD-69, issued for comment on June 14, 2012. The Workforce Services Division received four comments during the draft comment period. This resulted in three substantive changes to the directive which is viewed as highlighted text. The highlighted text will remain on the Internet for 30 days from the issuance date. A summary of the comments is provided as an Attachment. Retain this directive until further notice.

BACKGROUND:

Only those males who are subject to, and have complied with, the registration requirements of the Military Selective Service Act are eligible for participation in WIA funded programs and services. Section 189(h) of the WIA requires the Secretary of Labor to ensure that each individual participating in any WIA program, or receiving any assistance under the Act, has not violated the requirements of Section 3 of the Military Selective Service Act. This section requires that every male citizen and every other male residing in the United States must register with Selective Service between their 18th and 26th birthday. This section also requires the Director of the Selective Service System and the Secretary of Labor to cooperate in carrying out these provisions.

POLICY AND PROCEDURES:

All programs and services established or receiving assistance under WIA Title I must comply with the Selective Service registration requirements. These requirements apply to both formula and discretionary grants awarded by the Employment and Training Administration under WIA. They do not apply to programs funded or solely authorized by the Wagner-Peyser Act.

Selective Service Registration Requirements

Males born on or after January 1, 1960, are required to register with the Selective Service within 30 days of their 18th birthday and up to, but not including their 26th birthday.

This includes males who are:

- Citizens of the U.S.;
- Veterans discharged before their 26th birthday;
- Non-citizens, including illegal aliens, legal permanent residents, seasonal agricultural workers, and refugees who take up residency in the U.S. prior to their 26th birthday; and/or
- Dual nationals regardless of whether they live in the U.S.

For U.S. citizens, Selective Service registration is not required if the male falls within one of the following categories:

- Males who are serving in the military on full-time active duty;

- Males attending the service academies;
- Disabled males who were continually confined to a residence, hospital or institution;
- Males who are hospitalized, institutionalized, or incarcerated are not required to register during their confinement; however, they must register within 30 days after being released if they have not yet reached their 26th birthday; and/or
- Veterans discharged after their 26th birthday.

For non-U.S. citizens, Selective Service registration is not required if the male falls within one of the following categories:

- Non-U.S. male who entered the U.S. for the first time after his 26th birthday. Acceptable forms of supporting documentation include:
 1. Date of entry stamp in his passport;
 2. I-94 with date of entry stamp on it; or
 3. Letter from the U.S. Citizenship and Immigration Services indicating the date the male entered the U.S. (shown along with documentation establishing the male's age).
- Non-U.S. male who entered the U.S. illegally after his 26th birthday. He must provide proof that he was not living in the U.S. from age 18 through 25.
- Non-U.S. male on a valid non-immigrant visa.

NOTE: The requirement for transsexual, transgendered, and intersex individuals to register with the Selective Service depends upon the gender recorded on their birth certificate. If an individual is recorded as a male, that individual would need to register for the Selective Service regardless of their present sexual identity (e.g. sex change from male to female). However, if that individual's birth certificate is later changed to reflect a female identity, that individual would not be required to register.

This list of Selective Service registration requirements is not exhaustive; however, additional information regarding these requirements can be found on the Selective Service website at www.sss.gov. This website also provides a quick reference chart listing who must register at www.sss.gov/PDFs/WhoMustRegisterChart.pdf.

Acceptable Documentation

In order to be eligible to receive WIA-funded services, all males born on or after January 1, 1960, must present documentation showing compliance with the Selective Service registration requirement. Acceptable documentation to determine a person's eligibility for WIA Title 1 programs include:

- Selective Service Acknowledgement letter
- Form DD-214 "Report of Separation," (use only if veteran was discharged after his 26th birthday)
- Screen printout of the Selective Service Verification site:

www.sss.gov/RegVer/wfVerification.aspx. For males who already registered, this website can be used to confirm their Selective Service number as well as the date of registration, by entering a last name, social security number, and date of birth.

- Selective Service Registration Card
- Selective Service Verification Form (Form 3A) and/or
- Stamped Post Office Receipt of Registration

Registration Requirements for Males Under 26

Before being enrolled in WIA-funded services, all males who are not registered with the Selective Service and have not reached their 26th birthday must register through the Selective Service website at www.sss.gov. If a male turns 18 while participating in WIA-funded services, registration with Selective Service must be completed no later than 30 days after he becomes 18 in order to continue to receive WIA-funded services. If a male under the age of 26 refuses to register with Selective Service, WIA-funded services must be suspended until he registers.

Non-Registration by Males 26 and Older

Grantees, subgrantees or contractors, funded or authorized by WIA Title I, must establish a policy for those potential participants who are 26 or older that failed to register with the Selective Service. This policy may request either a Status Information Letter from a potential participant before making a determination of knowing and willful failure to register; or (2) initiate the process to determine if the potential participant's failure was knowing and willful without first requesting a Status Information Letter. The second option may be preferable for entities that have time limits for enrolling participants (e.g. individuals recently released from incarceration).

Before enrolling in WIA-funded services, all males 26 and older, must provide either:

- documentation showing they were not required to register; or
- if they were required to register, documentation establishing that their failure to register was not knowing or willful.

Individuals who did not register for the Selective Service or who cannot provide any of the documentation listed in the "Acceptable Documentation" section of this directive must obtain a Status Information Letter from the Selective Service indicating whether they are required to register. The Request for the Status Information Letter form can be accessed at www.sss.gov/PDFs/infoform.pdf and the instructions can be accessed at www.sss.gov/PDFs/instructions.pdf. The individual will need to describe, in detail, the circumstances that prevented him from registering (e.g., hospitalization, incarceration, military service) and provide documentation of those circumstances. The documentation should be specific as to the dates of the circumstances.

Status Information Letter

If the Status Information Letter indicates that an individual was not required to register for the Selective Service, then he is eligible to enroll in a WIA-funded service. If the Status Information Letter indicates that the individual was required to register and did

not register, he is presumed to be disqualified from participation in WIA-funded activities and services until it can be determined that his failure to register was not knowing and willful. All costs associated with grant-funded services provided to non-eligible individuals may be disallowed.

An individual may obtain a Status Information Letter from the Selective Service if he:

- believes he was not required to register; or
- did register but cannot provide the appropriate documentation.

How to Determine “Knowing and Willful” Failure to Register? (Documentation and Model Questions)

If the individual was required but failed to register with the Selective Service, as determined by the Status Information Letter or by his own acknowledgement, the individual may only receive services if he establishes by a preponderance of the evidence that the failure to register was not knowing and willful. The grantee, subgrantee or contractor that enrolls individuals in WIA-funded activities, and is thereby authorized to approve the use of WIA grant funds, is the entity responsible for evaluating the evidence presented by the individual and determining whether the failure to register was knowing and willful.

Documentation

Evidence presented may include the individual’s written explanation and supporting documentation of his circumstances at the time of the required registration and the reason(s) for failure to register. The individual should be encouraged to offer as much evidence and in as much detail as possible to support his case. The following are examples of documentation that may be of assistance in making a determination in these cases:

- Service in Armed Forces. Evidence that a male has served honorably in the U.S. Armed Forces such as a Form DD-214 or his Honorable Discharge Certificate. These documents serve as evidence that his failure to register was not knowing and willful.
- Third Party Affidavits. Affidavits from parents, teachers, employers, doctors and others concerning reasons for not registering may help grantees in making determinations in cases regarding willful and knowing failure to register.

Model Questions

In order to establish consistency regarding the implementation of the requirement, local areas should consider the following questions as a model when determining whether a failure to register is knowing and willful.

In determining whether the failure was “knowing,” authorized organizations should ask:

- Was the individual aware of the requirement to register?
- If the individual knew about the requirement to register, was he misinformed about the applicability of the requirement to him (e.g. veterans who were discharged before their 26th birthday were occasionally told that they did not need to register)?

- On which date did the individual first learn that he was required to register?
- Where did the individual live when he was between the ages of 18 and 26?
- Does the status information letter indicate that Selective Service sent letters to the individual at that address and did not receive a response?

In determining whether the failure was “willful,” authorized organizations should ask:

- Was the failure to register done deliberately and intentionally?
- Did the individual have the mental capacity to choose whether or not to register and decided not to register?
- What actions, if any, did the individual take when he learned of the requirement to register?

Finally, a participant’s claim of ignorance (e.g. “I did not know...”) regarding Selective Service registration requirements should not suffice as enough evidence to make a determination if his failure was knowing and willful. Ask him for more evidence to support his claim.

Results of Findings

If an authorized organization determines that an individual’s failure to register with the Selective Service was not knowing and willful and the individual is otherwise eligible, services may be provided. However, if the authorized organization determines that evidence shows that the individual’s failure to register was knowing and willful, WIA services must be denied. Individuals denied services must be advised of available WIA grievance procedures. Authorized organizations must keep documentation related to evidence presented in determinations on Selective Service.

ACTION:

Please bring this directive to the attention of all relevant parties.

INQUIRIES:

If you have any questions, please contact your [Regional Advisor](#) at (916) 654-7799.

/S/ MICHAEL EVASHENK, Chief
Workforce Services Division

Attachment

Summary of Comments Draft Directive “Selective Service Registration”

There were four commenters to the draft version of this directive:

Commenter #1 inquired about Selective Service registration requirements and how it relates to discharge dates before and after the 26th birthday on the DD-214.

Resolution: The Selective Service Registration Requirements section on pages 2 and 3 addresses those who are required to register and those who are not required to register with the Selective Service. Veterans discharged before their 26th birthday are required to register, while veterans discharged after their 26th birthday are not required to register with the Selective Service. The EDD inserted an additional bullet in the section for U.S. citizens who are not required to register with Selective Service on page 3 of this directive. The bullet reads “Veterans discharged after their 26th birthday.”

Commenter #2 stated that the DD-214 does not indicate whether or not a client registered with the selective service and should not be listed as acceptable proof of Selective Service registration. The commenter requests that we clarify why serving in the military does not constitute compliance with the Selective Service registration requirement.

Resolution: The DD-214 can only be used to determine eligibility for WIA services if the client was discharged from the military after his 26th birthday. If the client was discharged before his 26th birthday he would have to supply one of the other documents listed in the section titled Acceptable Documentation on page 3 and 4.

Commenter #3 indicated that the EDD should be clear and specific as to what falls under the description of “honorable” discharge.

Resolution: The subject addressed in this directive is Selective Service registration, and a participant’s failure to register. However, the type of discharge (e.g. Honorable, General/Under Honorable Conditions, Other Than Honorable Conditions, Bad Conduct) regardless of category will help establish if the participant served in the military.

Commenter #4 commented that their clients (U.S. citizens and immigrants) often report that they were not aware of the requirement to register with the Selective Service. Commenter #4 asked how do they prove by a “preponderance of evidence” that the failure to register was not knowing and willful, and is the applicant’s statement enough?

Resolution: The EDD had previously included a section titled, “How to Determine ‘Knowing and Willful’ Failure to Register?” This section includes both documentation and model questions to assist the entity responsible for evaluating the evidence presented by the individual in determining whether the failure to register was knowing and willful.