

Pathway to Services, Referral, and Enrollment

Executive Summary

This policy provides the guidance and establishes the procedures regarding verifying authorization to work and making services accessible to all populations. This policy applies to all Local Workforce Development Areas (Local Area) and is effective immediately.

In keeping with the [California Unified Strategic Workforce Development Plan](#), this Directive seeks to support economic growth by preparing a workforce for California's employers, ensuring that the workforce system in California is inclusive of all populations, and promoting flexibility in how services are delivered across the state. By providing clear guidance, the state seeks to assist Local Areas in reviewing evidence of work authorization at the appropriate time to streamline access to valued services to all individuals including, but not limited to, individuals with limited English proficiency, homeless individuals, justice-involved individuals, transient youth, and those engaged in citizenship attainment or who may lack authorization to work.

This policy contains only state-imposed requirements.

This Directive finalizes Workforce Services Draft Directive Pathway to Services, Referral, and Enrollment (WSDD-179), issued for comment on April 13, 2018. The Workforce Development Community submitted 23 comments during the draft comment period. A summary of comments, including all changes, is provided as Attachment 2.

This policy supersedes Workforce Services Directive Authorization to Work Verification Requirements (WSD13-1), dated July 2, 2013, and Workforce Services Draft Directive Authorization to Work Verification Procedures (WSDD-161), dated January 17, 2017. Retain this Directive until further notice.

References

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- *Workforce Innovation and Opportunity Act (WIOA)* (Public Law 113-128), Section 188(a)(5)
 - Title 8 *Code of Federal Regulations* (CFR) Part 274a.6
 - Title 20 CFR Sections 677.150, 680.900, and 680.910

- Training and Employment Guidance Letter (TEGL) [10-23](#), *Reducing Administrative Barriers to Improve Customer Experience in Grant Programs Administered by the Employment and Training Administration* (February 21, 2024)
- TEGL [10-16](#), Change 2, *Performance Accountability Guidance for WIOA Core Programs* (September 15, 2022)
- TEGL [19-16](#), *Guidance on Services Provided through the Adult and Dislocated Worker Program under the WIOA and W-P, as Amended by WIOA, and for Implementation of the WIOA Final Rules* (March 1, 2017)
- TEGL [02-14](#), *Eligibility of Deferred Action for Childhood Arrivals (DACA) Participants for Workforce Investment Act and Wagner-Peyser Act (W-P) Programs* (July 14, 2014)
- Senate Bill (SB) [733](#) (Russell), Chapter 819, Statutes of 1993
- Assembly Bill (AB) [2532](#) (Chiu), Chapter 759, Statutes of 2016
- The United States Citizenship and Immigration Services (USCIS), Handbook for Employers, *Instructions for completing Form I-9*
- USCIS [Form I-9](#), *Employment Eligibility Verification*
- [Workforce Services Directive](#) WSD19-06, *CalJOBSSM Activity Codes* (December 27, 2019)
- [Workforce Services Information Notice](#) WSIN21-52, *WIOA Services for DACA Recipients* (November 22, 2022)

Background

In 1993, the passage of SB 733 created a state-imposed eligibility requirement for employment services. The law required government agencies, community action agencies, and private organizations contracting with the government to verify an individual's legal status or authorization to work prior to providing employment services. Additionally, it required these entities to publicly post that only U.S. citizens and those authorized to work in the U.S. could receive services. In 2016, Governor Brown signed AB 2532, which repealed these requirements.

Therefore, California no longer has a state requirement to verify authorization to work. Additionally, there is no work authorization verification requirement in WIOA. However, the federal *Immigration Reform and Control Act* requires employers to verify a job seeker's authorization to work documents prior to employment. At the same time, federal immigration regulations authorize state employment agencies to verify authorization to work (Title 8 CFR Section 274a.6).

Generally, WIOA participants receive job referrals during their period of participation in a program. Additionally, at times Local Areas are the employer of record or coordinating services concurrently with an employer. In these instances, an individual cannot participate unless they are authorized to work to the U.S.

For these reasons, this Directive provides guidance on verification of authorization to work documents, including which services require verification, when to ask, and where to refer individuals for additional services. This Directive also provides a pathway to services for those

individuals who do not possess authorization to work documents. California seeks to prohibit discrimination and make workforce services accessible to all populations.

Policy and Procedures

Verification Procedures for WIOA and W-P Services

WIOA Title I and Title III staff may verify an individual's authorization to work in accordance with the requirements of the [USCIS Form I-9, Employment Eligibility Verification](#), during the period of participation. Local Areas have the flexibility to postpone requiring the individual to produce evidence of work authorization in order to streamline access to services. However, staff must verify when services necessitate coordination with an employer such as on-the-job training, job referrals and certain supportive services that represent a direct financial benefit. Refer to the chart on page 5 of this directive for more information.

"Period of Participation" Guidance

The period of participation refers to the period of time beginning when an individual becomes a participant and ending on the participant's date of exit from the program. Exit generally occurs when a participant has not received services for a specified period of time and has no additional services scheduled. Local Areas must have procedures in place to verify an individual's authorization to work documents no earlier than the start of participation. When determining the point of asking an individual for authorization to work documentation, Local Areas may take into account the following:

- Whether the individual is awaiting work authorization.
- Whether the individual has limited access to necessary documents, such as youth in foster care, homeless youth or adults, individuals returning to the community from incarceration or individuals recovering from a disaster.
- Nature of the services to be provided.
- Need for services to be provided on an expedited basis.
- Length of time during which services will be provided.
- Co-enrollment opportunities with WIOA Title II.
- The cost of providing the services/training.

In order to prepare participants for employment and foster positive relationships with employers, staff should make participants aware of federal law requiring employers to verify employment authorization prior to employment and must verify a participant's authorization to work documents prior to providing a job referral.

For WIOA Title I and Title III – Participation starts when an individual receives a Staff-Assisted Basic Career service, Individualized Career service, or Training service. Authorization to work verification is not required for Basic Career services that are self-service or information-only activities. For customers who receive self-service or information-only activities, only demographic information is collected and reported. When verifying authorization to work, staff

are not required to retain copies of the individual's Form I-9 documents. It is sufficient, and preferable, to notate in the case file or in CalJOBS the title of the document(s) viewed, and any expiration date associated to the document(s).

The Title I and III service category definitions are briefly described below. For a comprehensive list of definitions and CalJOBS activity codes, refer to *CalJOBS Activity Codes*, WSD19-06:

- **Self-Service Basic Career services** – An individual independently uses services at an America's Job Center of CaliforniaSM (AJCC) with minimal or no staff assistance (e.g., self-service labor market research, job search, use of AJCC resource room, referral to a partner program, etc.). Self-service also includes staff establishing access to CalJOBS for an individual or looking up a password. Individuals using self-services only do not count toward performance measures.
- **Staff-Assisted Basic Career services** – An individual requires an assessment by a staff member of the individual's skills, education, or career objectives (e.g., proficiency testing, resume preparation assistance, job referrals, etc.).
- **Individualized Career services** – An individual receives WIOA-funded services that are appropriate for them to obtain or retain employment (e.g., development of an individual employment plan, English as a second language services, work experience, etc.).
- **Training services** – An individual receives services that include WIOA-funded training and/or support and coaching.
- **Supportive services** – An individual receives supportive services that are necessary for them to participate in activities authorized under WIOA. As outlined in DOL TEGL 10-23, supportive services that represent a direct financial benefit (such as a voucher or reimbursement for transportation and childcare, relocation expenses, or needs-related payments), post-secondary education and training, and work-based learning such as on-the-job training and incumbent worker training are limited to those with valid work authorization.

Finally, as encouraged by the Employment and Training Administration, when serving participants whose work authorization has not been verified, Local Areas should consider policy and procedures for the development of service plans that consider the menu and order of services that best prepare the individual to successfully reside in the community and to eventually secure employment with a livable wage. For example, programs funded through the Adult Education and Family Literacy Act (AEFLA), and authorized by WIOA Title II, provide basic skills instruction for both below and at the high school level, integrated English literacy and civics education, and English language acquisition instruction. For more information, refer to the Referrals to Partner Programs section of this Directive.

Authorization to Work Service Flow Chart

The following chart is intended to aid Local Areas in establishing policy on when to ask for authorization to work documents. The flow chart takes into account which services trigger participation as well as which services impact the Local Area's relationship with employers. Where a service triggers participation and necessitates that the Local Area coordinates the services with an employer, Local Areas must verify the individual's work authorization documents. Local Areas are not required to verify work authorization documents for services that do not require coordination with an employer.

Service	Triggers Participation	Authorization to Work
Basic Career - Self-service and information-only activities, including program referrals, outreach, intake, orientation, eligibility determination	No	Cannot Verify.
Basic Career – Staff-Assisted, including initial assessment, job placement, career counseling	Yes	<u>Need not</u> verify for activities such as initial assessment and career counseling. <u>Must</u> verify for job placement assistance.
Individualized Career	Yes	<u>Need not</u> verify for activities such as occupational career counseling, aptitude testing, mentoring, and group counseling. <u>Must</u> verify for employment activities such as work experiences, transitional jobs, internships, and pre-apprenticeship and on-the-job training.
Training	Yes	<u>Need not</u> verify for classroom training, including basic skills education, English language instruction, high school equivalency. <u>Must</u> verify for employment training activities, including

		occupational skills training that leads to post-secondary credentials.
Supportive Services	Yes	<p><u>Need not</u> verify for support services that do not result in direct financial benefit to the participant, such as a referral to legal services or housing.</p> <p><u>Must</u> verify for support services that represent a direct financial benefit, such as a voucher reimbursement, relocation expenses or needs-related payments.</p>

Single Verification Process

AJCC partners with verification requirements are encouraged to coordinate verification to increase efficiency of the process and prevent participants from having to repeatedly present Form I-9 documents. Once authorization to work is verified by one program, staff in a separate program do not need to re-verify if documents originally utilized have not expired. Further, WIOA Title I and Title III must coordinate a local policy that establishes a point of verification within each program that mirrors each other where possible. For example, WIOA Title I should not require authorization to work verification for Unemployment Insurance claims assistance when Title III does not require authorization to work verification for this activity.

Referrals to Partner Programs

Under WIOA Title II, participation starts when adults who are basic skills deficient, lack a high school diploma or its equivalent, function below the level of a high school graduate, or are unable to speak, read, or write the English language, enroll in and attend WIOA Title II adult education, English language instruction, and/or integrated education from eligible providers (school districts, community colleges, libraries, community based organizations, or other public or private non-profit entities). There is no requirement for a WIOA Title II provider to verify authorization to work or retain documentation. Local Areas are encouraged to refer individuals who are not authorized to work in the United States to WIOA Title II and other programs that do not require authorization to work documentation.

Local Areas are encouraged to work with Title II partners and other partners without authorization to work requirements to co-enroll individuals with the goal of helping the participant obtain citizenship, authorization to work, and meaningful employment. Possible scenarios are included in Attachment 1, Frequently Asked Questions. In the case of co-enrollment between any of the WIOA core partners, both partners may count all performance outcomes achieved. For additional resources to align programs visit [Funding Career Pathways](#)

and Career Pathway Bridges: A Federal Policy Toolkit for States. For a list of services the California Department of Social Services (CDSS) provides to immigrants, visit the [CDSS Immigration Services](#) website.

Local Policy

Local Areas must coordinate with the Title III partner to establish a local authorization to work policy that identifies the point(s) during the period of participation when AJCC staff must verify a participant's work authorization documentation. Local Areas should keep in mind that they can postpone verifying work authorization documentation until the participant is moving into services that require such authorization while streamlining access to valued services to all individuals. Local Areas must have the authorization to work policy in place by March 15, 2019, and ensure it is kept up to date to remain consistent with federal and state guidance.

Public Notification

Because individuals may receive employment services and services from other partners in an AJCC without first providing their authorization to work documents, Local Areas should remove public notices that state employment services are available only to individuals who are U.S. citizens or legally authorized to work in the United States. Posting such signs may discourage individuals who are legally entitled to services from entering an AJCC.

Community Engagement

Community-based organizations (CBO) play an increasingly critical role connecting the state's most vulnerable communities with vital programs and services, including communities that have been underserved by the public workforce development system. A [UCLA Labor Center report](#) finds that CBOs help create new opportunities to transform low-wage work. Accordingly, Local Areas and partner programs are encouraged to forge ties with California worker centers and other CBOs with deep roots in their communities to inform and expand their outreach and education activities and further embed equity in their workforce programs.

Action

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

Inquiries

If you have any questions, contact your [Regional Advisor](#).

/s/ JAVIER ROMERO, Deputy Director
Workforce Services Branch

Attachments:

1. [Frequently Asked Questions \(DOCX\)](#)
2. [Summary of Comments \(DOCX\)](#)
3. [Errata Chronology \(DOCX\)](#)

The EDD is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.
