

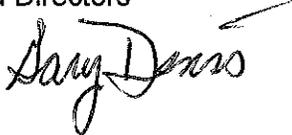
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Date: October 11, 2011
To: Workforce Development Board Directors
From: Gary Denis, Director
Bureau of Workforce Training 
Subject: **WIA Policy Update 11-02: Selective Service Registration**

Purpose

This policy update contains updated information regarding Selective Service registration requirements for WIA participants, and specifically the ASSET reporting requirements. This policy update rescinds and replaces WIA Policy Update 08-06 which was issued December 5, 2008.

Legislative/Regulatory References

- WIA 1998 Public Law 105-220, sections 188(a)(5) and 189(h)
- WIA 1998 Federal Rules and Regulations, section 667.250
- U. S. Department of Labor (DOL) Training and Employment Guidance Letter 8-98 (Selective Service Registration)
- Military Selective Service Act, 50 U.S.C. App. 453, as amended

Background

Section 189(h) of the Workforce Investment Act (WIA) and 20 CFR Part 667.250 requires that a determination of Selective Service registration status be made prior to enrollment in WIA-funded activities and services. Only those male job seekers in compliance with the registration requirements of the Military Selective Service Act (MSSA) are eligible to participate in WIA-funded activities and services. Funds expended on male participants not registered for Selective Service (or not exempted from registration) may be considered disallowed costs.

Every male citizen between 18 and 26 years of age, and every other male of like age legally residing in the United States, is required to register with the Selective Service System (SSS). The following link provides detailed information regarding who must register for Selective Service: <http://www.sss.gov/FSwho.htm>. Section 189(h) of WIA also requires the Secretary of Labor to ensure that individuals participating in WIA activities and services, or receiving assistance under WIA, have not violated these MSSA requirements. The Director of the SSS and the Secretary of Labor also are required to cooperate in carrying out these provisions.

In 1986, MSSA was amended by Public Law 99-661 to require an individual's registration status to be examined and confirmed as follows:

A person may not be denied a right, privilege, or benefit under federal law by reason of failure to present himself for and submit to registration under Section 3 [50 USC App.453] if:

- (1) the requirement for the person to so register has terminated or become inapplicable to the person; and*
- (2) the person shows by a preponderance of the evidence that the failure of the person to register was not a knowing and willful failure to register.*

The Conference Report to the amendment clarified "that a non-registrant is not to be denied any Federal benefit if he can demonstrate that his failure to register was not knowing or willful." This provision was added "in order not to penalize an individual with an obvious disqualifying handicap, such as total paralysis of the limbs, or an individual who has been honorably discharged from the armed services."

SSS has determined that the final decisions on disbursement of federally financed domestic benefits, services, rights, or training rest solely with the various provider agencies that disburse them.

Policy

In accordance with the 1986 amendments to the MSSA, Workforce Development Boards have the responsibility for determining compliance with the MSSA for the purpose of determining eligibility for WIA core, intensive and training services. Decisions are to be made on a case-by-case basis. As such, the following procedures apply:

1. Individuals who are enrolled in WIA prior to age 18: Male applicants who enter the WIA program at age 17 or younger and attain age 18 while participating in the program must be registered for Selective Service by the 30th day after their 18th birthday to remain eligible for WIA services. There is no need to re-determine eligibility when an applicant who enters the WIA program at age 17 or younger attains age 18. The appropriate fields in ASSET must be updated and, if the individual fails to register, all WIA services must be closed by no later than the last day of this 30-day grace period, thus allowing the participant to exit in 90 days. (Note: if Selective Service registration documentation is obtained before the ASSET automated exit occurs – 90 days from last service, then services to the youth may resume). **Funds expended on male participants not registered for Selective Service by the 30th day after their 18th birthday may be considered disallowed costs.**
2. Individuals who are required to register (males between the ages of 18 and 26): Male applicants who have not registered, and have not yet reached their 26th birthdays, must complete their military Selective Service registration prior to receiving WIA services. Selective Service registration can be verified at <https://www.sss.gov/RegVer/wfVerification.aspx>.
3. Males over the age of 26 who did not register: Any male over 26 years of age who possesses a "Status Information Letter" from the SSS indicating that he was required to register, but did not, and now cannot be registered because the law does not allow for registration after the age of 26, is presumptively disqualified from participation in WIA-funded activities and services. The burden then falls on the individual to provide evidence explaining why he failed to register with SSS.

Since the WDB is authorized to make selective service registration compliance determinations for WIA core, intensive, and training service eligibility purposes, staff should evaluate the

evidence presented by the applicant and make a determination regarding whether or not the applicant's failure to register with the SSS when he was required to register was "not a knowing and willful failure to register." If, after reviewing the evidence, staff determines that the preponderance of the evidence shows that the individual met the criterion called for by the MSSA amendment, and he is otherwise eligible, WIA core, intensive, and training services may be delivered. If the determination is that the evidence shows the individual's failure to register was knowing and willful, WIA services must be denied. **Applicants denied services should be advised of the available grievance procedures.**

ASSET Reporting

The attached chart explains the ASSET entries for various selective service registration situations. Since information that is entered on the Manage Programs screen cannot be changed after enrollment, the ASSET data correction request process must be used to update the Selective Service registration indicator field.

Action Required

This policy is effective immediately. It must be applied to all new participants as well as any active participant who was under age 18 at the time of first WIA service and has since turned age 18. In addition, WDBs should develop a local policy and procedure for handling case-by-case situations for those males never registered with the Selective Service.

DET has reviewed Selective Service registration requirements during past monitoring of participant files. Future monitoring will include a review of Selective Service registration requirements, as well as a review of records for those males not age 18 at the time of registration who turned age 18 during program participation.

The Job Center Data Warehouse contains report #83 – JCS Selective Service Registration Verification All Active Males which tracks male program participants whose initial response to the Selective Service indicator on the Manage Programs screen is either “No” or “Not Required.”

Questions and/or Technical Assistance and Training

If you need additional information regarding this policy, please contact the Local Program Liaison assigned to your area.

**Recording Selective Service Registration
In ASSET**

Status	ASSET/Manage Programs/Title I Tab Selective Service Indicator	Comments
Male born prior to January 1, 1960	<ul style="list-style-type: none"> • Not Required 	
Male less than 18 years of age	<ul style="list-style-type: none"> • No 	Must be registered for Selective Service within 30 days of 18 th birthday and ASSET updated appropriately. If not registered within 30 days of 18 th birthday, must be exited from WIA program.
Male born after January 1, 1960	<ul style="list-style-type: none"> • Yes • Click on link labeled "Link to SSS" • Select appropriate action on SSS screens (Register On Line or Check a Registration) • Complete and submit registration form or participant information • Copy and paste Selective Service Number into the ASSET Selective Service Number field 	If the Selective Service Registration website does not have a record of the individual's registration, call the Selective Service Registration Information Office at (888) 655-1825 to ascertain the registration status.
Male over age 26, and never registered	<ul style="list-style-type: none"> • No • Explanation in ASSET case notes and/or locally-developed form 	Since WDB is authorized to make selective service registration compliance determinations for WIA core, intensive, and training service eligibility purposes, staff should evaluate evidence presented by applicant, as well as obtain a copy of "Status Information" letter and make a determination regarding whether or not applicant's failure to register with SSS when he was required to register was "not a knowing and willful failure to register." If, after reviewing the evidence, staff determines that the preponderance of evidence shows that the individual met the criterion, and is otherwise eligible, WIA services may be delivered. If determination is that evidence shows individual's failure to register was knowing and willful, WIA services must be denied.

Status	ASSET/Manage Programs/Title I Tab Selective Service Indicator	Comments
Veteran	<ul style="list-style-type: none"> • Not Required • Explanation in ASSET case notes • ASSET Manage Programs should also indicate veteran status 	Must provide evidence that he served honorably in U.S. Armed Forces (including part-time National Guard or Reservist) by submitting copy of DD-214 or copy of Honorable Discharge Certificate.
Aliens entering U.S. after age 26	<ul style="list-style-type: none"> • Not Required • Explanation in ASSET case notes and/or locally-developed form 	Immigration and Naturalization Service (INS) Form I-94 (Arrival/Departure Record) and INS Form I-551 (Alien Registration Receipt Card, "Green Card") shows birth date of alien. INS has granted legal status and employment authorization to some lawful seasonal agricultural workers (SAWs) and some formerly illegal aliens under 1986 Immigration Reform and Control Act (IRCA).
Immigrant Aliens	<ul style="list-style-type: none"> • Yes, or • Not Required* • Explanation in ASSET case notes and/or locally-developed form 	Immigrant aliens, and refugees, parolees, persons granted asylum, SAWs, and IRCA-legalized aliens with work permits can be enrolled into WIA core, intensive, and training programs <u>only after an SSS registration</u> or *exemption is established as outlined above.
Former Illegal Aliens	See notes	Male aliens 26 years of age or older who entered U.S. illegally and who were subsequently granted legal status by INS or who were born after December 31, 1959, but who are not registered with SSS can be enrolled in WIA ONLY after a "status information" letter has been obtained from SSS. If SSS issues a "status Information" letter that it has no evidence that the individual knowingly and willfully failed to register, the individuals should provide reasons why SSS has no evidence of their registration, and in so doing, provide evidence to convince service provider that they did not willfully fail to register. The individuals can then be enrolled in WIA core, intensive, or training services, if they are otherwise eligible. If SSS does not issue "status information" letter, then service provider must make the "knowingly and willfully failed" determination. <i>WIA core, intensive and training service program participation by an alien requires INS legal status even if the appropriate MSSA determination is made.</i>

Status	ASSET/Manage Programs/Title I Tab Selective Service Indicator	Comments
Non-Immigrant Aliens	<ul style="list-style-type: none"> • Not Required • Explanation in ASSET case notes and/or locally-developed form 	Lawful non-immigrants on visas are <u>not required</u> to register with the SSS, but must be authorized to work in the U.S. under WIA Law, Section 188(a)(5).
Male with Pseudo Social Security Number	<ul style="list-style-type: none"> • No • Explanation in ASSET case notes 	Service provider must assist individual in obtaining social security number. Selective Service registration must be verified/completed and ASSET updates completed. If not completed within 30 days of program registration, individual must be exited from WIA program.
Confined (Incarcerated, or hospitalized or institutionalized for medical reasons)	See notes	Young men in hospitals, mental institutions or prisons do not have to register while they are committed. However, they must register within 30 days of release unless already age 26, or already registered when released, or unless exempt during entire period age 18 through 25.
Disabled (physically or mentally)	See notes	Disabled men who live at home must register if they can reasonably leave their homes and move about independently. A friend or relative may help a disabled man fill out the registration form if he can't do it himself. If the individual is able to function in public <u>with or without</u> assistance, Selective Service registration requirements apply. If the individual is continually confined to a residence, hospital, or institution, Selective Service registration is not required.

Note: Residents of Puerto Rico, Guam, Virgin Islands, and Northern Mariana Islands are U.S. citizens. Citizens of American Samoa are nationals and must register when they are habitual residents in the United States. Habitual residence is presumed whenever a national or citizen of the Republic of the Marshall Islands or the Federated States of Micronesia resides in the U.S. for more than one year in any status, except as a student or employee of the government of his homeland.

Note: Immigrants who did not enter the U.S. or maintained their lawful non-immigrant status by continually remaining on a valid visa until after they were 26 years old were never required to register. Also, immigrants born before 1960 who did not enter the U.S. or maintained their lawful non-immigrant status by continually remaining on a valid visa until after March 29, 1975, were never required to register.