Department of Workforce Development
Employment and Training Division
Bureau of Workforce Training
P.O. Box 7972
Madison, WI 53707-7972
Telephone: (608) 266-5370
Fax: (608) 267-0330
Email: DWDDET@dwd.wisconsin.gov

STATE OF WISCONSIN

Department of Workforce Development

Scott Walker, Governor
Reginald J. Newson, Secretary
Lisa Boyd, Division Administrator

Date: January 22, 2013

To: Workforce Development Board Directors

From: Jane Pawasarat
Bureau Director

Subject: Workforce Investment Act Policy Update 13-04: Selective Service Registration Requirements for Workforce Investment Act Title 1-Funded Programs

Purpose

This policy update contains updated information regarding Selective Service registration requirements for Workforce Investment Act (WIA) participants, primarily relating to recording Selective Service registration status in the Automated System Support for Employment and Training (ASSET) system. Also, for those males over age 26 who did not register for Selective Service, this policy clarifies that it is not necessary to wait for the "Status Information Letter" prior to determining if the potential participant's failure to register was knowing and willful. This policy update rescinds and replaces WIA Policy Updates 08-06: Selective Service Registration (issued 12/5/08), 11-02: Selective Service Registration (issued 10/11/11), and 12-01: Selective Service Registration Requirements for WIA Title 1-Funded Programs (issued 2/1/12).

Legislative/Regulatory References

- WIA 1998 Public Law 105-220, section 189(h)
- WIA 1998 Federal Rules and Regulations, section 667.250
- United States (US) Department of Labor (DOL) Training and Employment Guidance Letter 11-11, Change 2 (Selective Service Registration Requirements for Employment and Training Administration funded programs), issued May 16, 2012
- Military Selective Service Act (50 USC. App. 453), codified at 32 CFR Part 1605
- Job Center Systems Technical Bulletin regarding new functionality in ASSET, issued November 30, 2012

Background

Section 189(h) of the WIA and 20 CFR Part 667.250 requires that a determination of Selective Service registration status be made prior to enrollment in WIA Title 1-funded activities and services. Only those male applicants in compliance with the registration requirements of the Military Selective Service Act (MSSA) are eligible to participate in WIA Title 1-funded activities and services.

Men born on or after January 1, 1960, are required to register with Selective Service within 30 days of their 18th birthday (i.e. 30 days before or 30 days after their birthday.) This includes males who are:

- Citizens of the US;
- Non-citizens, including illegal aliens, legal permanent residents, seasonal agricultural workers, and refugees, who take up residency in the US before their 26th birthday; and/or
- Dual nationals of the US and another country regardless of whether they live in the US

For US citizens, Selective Service registration is not required if the man falls within one of the following categories:

- Men who served continually in the military on full-time active duty from age 18 to 26 (if released from the military before turning age 26 he must register for Selective Service within 30 days);
- Men attending the service academies continually from age 18 to 26 (if released before turning age 26 he must register for the Selective Service within 30 days);
- Disabled men who were continually confined to a residence, hospital or institution; and/or
- Men 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.

For non-US citizens, Selective Service registration is not required if the man falls within one of the following categories:

- Non-US male who came into this country 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 US Citizenship and Immigration Services (USCIS) indicating the date the man entered the US along with documentation establishing the individual's age.

- Non-US male who entered the US illegally after his 26th birthday. He must provide proof that he was not living in the US from age 18 through 25.
- Non-US male on a valid non-immigrant visa.

The Selective Service website provides more information about the registration requirements at www.sss.gov. The Selective Service System also provides a quick reference chart showing who must register located at http://www.sss.gov/PDFs/WhoMustRegisterChart.pdf.

Policy

The service provider that enrolls individuals in WIA Title 1-funded activities, and is thereby authorized to approve the use of WIA grant funds, is the entity responsible 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:

Registration Requirements for Males Under 26: Male applicants who have not registered for the selective service, and have not yet reached their 26th birthdays, must complete their military Selective Service registration prior to receiving WIA services. If a man under the age of 26 refuses to register with the Selective Service, WIA Title 1-funded services cannot be provided.

Registration Requirements for Males Enrolled 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. 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. Applicants denied services should be advised of the available grievance procedures.**

Registration Requirements for Males 26 Years and Over: Before enrolling in WIA Title 1-funded services, all males, 26 years of age or older, must provide (1) documentation of compliance with the Selective Service registration requirement; (2) documentation showing they were not required to register; or (3) if they were required to but did not register, documentation establishing that their failure to register was not knowing and willful.

Some men may have failed to register during the time they were eligible to do so. **However, a non-registrant may not be denied any benefit if he can "show by a preponderance of evidence" that his failure to register was not knowing and willful.** Selective Service 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.

The service provider that enrolls individuals in WIA Title 1-funded activities may require that males 26 years and over, who failed to comply with the Selective Service registration requirement, provide a Status Information Letter (from the Selective Service) along with an explanation for non-registration, before making a determination that the failure to register was knowing and willful. Alternatively, an entity may initiate its process to determine if the failure to register was knowing and willful without first having the applicant request 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). The *Request for Status Information Letter* form can be accessed at http://www.sss.gov/PDFs/infoform.pdf and the instructions can be accessed at http://www.sss.gov/PDFs/instructions.pdf. Evidence presented may include the individual's written explanation and supporting documentation of his circumstances at the time of the required registration and the reasons for failure to register. The individual should be encouraged to present 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:

1. Service in Armed Forces. Evidence that a man has served honorably in the US Armed Forces (continually from age 18 to 26) such as a DD Form 214 or his Honorable Discharge Certificate. Such documents may be considered sufficient evidence that his failure to register was not willful or knowing.
2. Third Party Affidavits. Affidavits from parents, teachers, employers, doctors, etc. concerning reasons for not registering may also be helpful to service providers in making determinations in cases regarding willful and knowing failure to register.

In order to establish consistency regarding the implementation of the requirement, service providers should consider the following questions when determining whether a failure to register is knowing and willful:

- 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 birthdays were occasionally told that they did not need to register)?
- When did the individual 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", the grantee should consider:

- 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?

Since the service provider 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 Selective Service 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 did not knowingly and willfully fail to register, 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 and the individual advised of available WIA grievance procedures. Regardless of the WIA program enrollment decision, service providers must maintain all documentation related to evidence presented in determinations related to Selective Service registration.

ASSET Reporting

The attached chart explains the ASSET entries for various selective service registration situations. Staff can change the selective service information after enrollment and until exit. The ASSET data change request (staff request) process must be used to update the Selective Service registration indicator field once the individual has been exited.

Action Required

This policy is effective immediately. Workforce Development Boards may want to develop a local policy and procedure for handling case-by-case situations for those males never registered with the Selective Service.

The Division of Employment and Training has reviewed Selective Service registration requirements during past monitoring of participant files, and will continue this review in future monitoring.

The Job Center Data Warehouse contains report #83 – Selective Service Registration Verification All Active Males which provides the Selective Service registration status for all male program participants born on or after January 1, 1960.

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	• Not Required	
Male less than 18 years of age	• Less than 18 years old	Must be registered for Selective Service within 30 days of 18th birthday and ASSET updated appropriately. If not registered within 30 days of 18th birthday, must be exited from WIA program.
Male born after January 1, 1960	• 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	• Waived • Explanation in ASSET case notes and/or locally-developed form	Since the WDB and/or service providers are authorized to make selective service registration compliance determinations for WIA core, intensive, and training services 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." **Note:** It is not necessary to obtain the Status Information Letter prior to initiating the process to determine if the applicant's failure to register was knowing and willful. 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. Applicant should be informed of applicable grievance procedures.

Status	ASSET/Manage Programs/Title I Tab Selective Service Indicator	Comments
Veteran; full-time active duty military; and men attending service academies	• Exempted veteran (served in military continually from age 18 to at least age 26), or • Yes (left military service prior to age 26 and is registered) • Explanation in ASSET case notes • ASSET Manage Programs should indicate veteran and/or military service status	Must provide evidence that he served honorably in US Armed Forces (including part-time National Guard or Reservist) by submitting copy of DD-214 or copy of Honorable Discharge Certificate (for those males in the military continually from age 18 to at least age 26). **Note:** If a young man leaves the military before age 26, he must register for selective service within 30 days of release.
Aliens entering US after age 26	• 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	• 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 comments	Male aliens age 26 or older who entered US illegally and were subsequently granted legal status by INS or 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. If SSS issues a "status Information" letter that it has no evidence that the individual knowingly and willfully failed to register, the individual 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 individual can then be enrolled in WIA core, intensive, or training services, if they are otherwise eligible. If "status information" letter not issued, then service provider must make the "knowingly and willfully failed" determination. *WIA core, intensive and training service program participation by an alien requires INS legal status even if appropriate MSSA determination is made.*

Status	ASSET/Manage Programs/Title I Tab Selective Service Indicator	Comments
Non-Immigrant Aliens	• Not Required • Explanation in ASSET case notes and/or locally-developed form	Lawful non-immigrants on visas are not required to register with the SSS, but must be authorized to work in the US under WIA Law, Section 188(a)(5).
Male with Pseudo Social Security Number	• No • Explanation in ASSET case notes	Service provider must assist individual in obtaining social security number. Selective Service registration must be verified 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 comments	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 comments	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 with or without assistance, Selective Service registration requirements apply. If the individual is continually confined to a residence, hospital, or institution, Selective Service registration is not required.
Refused to register (knowing and willful)	No	This individual would not be eligible for WIA services (other than core, self or informational).
Female	Not Required	

Note: Residents of Puerto Rico, Guam, Virgin Islands, and Northern Mariana Islands are US citizens. Citizens of American Samoa are nationals and must register when they are habitual residents in the US. 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 US 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 US 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 US or maintained their lawful non-immigrant status by continually remaining on a valid visa until after March 29, 1975, were never required to register.