



Bay Consortium Workforce Development Board

Policy Number: 20-05

Effective Date: May 6, 2020

Title: WIOA Selective Service Procedure Policy

PURPOSE

This policy clarifies the implementation of the Selective Service registration requirements of the Workforce Innovation & Opportunity Act (WIOA) of 2014 § 189(h), codified at 20 CFR 683.225, and the Military Selective Service Act (50 U.S.C. App. 453), codified at 32 CFR Part 1605. This guidance clarifies that WIOA Service Providers or contractors funded or authorized by Title I of WIOA must follow this policy for potential participants who are males 26 years old or older who failed to register with the Selective Service. The policy may either (1) request 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 to register was knowing and willful without first requesting a Status Information Letter.

Almost all male U.S. citizens and male immigrants, who are 18 through 25, are required to register with Selective Service.

REFERENCES

- WIOA Section 189(h);
- 20 CFR 683.225
- Training and Employment Guidance Letter No. 11-11, Change 2, Dated: May 16, 2012, SUBJECT: Selective Service Registration Requirements for Employment and Training Administration Funded Programs Selective Service Systems - Registration - Men 26 and Older-Born 1960 and Later
<https://www.sss.gov/>
- VWL 19-09 Selective Service Registration Requirements

DEFINITIONS

Status Information Letter - a letter issued by the Selective Service System stating the facts regarding an individual's registration status with the Selective Service System. It states whether or not the individual is registered with Selective Service and whether or not the individual was required to register with Selective Service or if they were exempt from the registration requirement.

BACKGROUND

All programs and services established by or receiving assistance under Title I of WIOA must comply with Selective Service registration requirements. These requirements apply to both formula and discretionary



grants awarded by the Employment and Training Administration under WIOA. In order to participate in a program established by or receiving assistance under Title I of WIOA, all males born on or after January 1, 1960, must present documentation showing compliance with the Selective Service registration requirement.

PROCEDURE

Ensuring Selective Service Compliance in the Public Workforce System

Acceptable documentation to determine a person's Selective Service registration status include:

- Selective Service Acknowledgement letter;
- DD Form 214 - Report of Separation;
- Screen printout of the Selective Service Verification site: <https://www.sss.gov/> For males 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 26 Years and Over

Before enrolling in WIOA Title I-funded services, all males 26 years of age and older must provide:

1. Documentation to support compliance with the Selective Service registration requirement;
2. Documentation showing that 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.

The WIOA service provider who enrolls persons in WIOA Title I funded activities may require that males 26 years and older who failed to comply with Selective Service registration requirement request a Status Information Letter 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 potential program participant request the Status Information Letter. The second option may be preferable for entities that have time limits for enrolling participants (e.g., persons recently released from incarceration).

Requesting a Status Information Letter

A person may obtain a Status Information letter from Selective Service if he (1) believes he was not required to register; or (2) did register but cannot provide any of the documentation listed above. The Request for Status Information Letter form can be accessed at <https://www.sss.gov/>. The person will need to describe in detail circumstances that prevented him from registering (e.g., hospitalization, institutionalization, incarceration, and/or military service from age 18 through 25) and provide documentation of those circumstances. The documentation must be specific as to the dates of the circumstances.

If the Status Information Letter indicates that the individual was not required to register for the Selective Service, then he is eligible to enroll in services authorized and funded by Title I of WIOA. If the Status Information Letter indicates the person was required to but did not register, he is presumed disqualified from participation in WIOA Title I-funded activities and services until it can be determined that his failure was not knowing and willful. All costs associated with grant-funded services provide to non-eligible persons may be disallowed.

Determining Knowing and Willful Failure to Register

If the person was required but failed to register with Selective Service as determined by the Status Information Letter or by his own acknowledgement, the person may only receive services if he can establish by a preponderance of evidence that the failure to register was not knowing and willful. The contractor that enrolls persons in WIOA Title I-funded activities is responsible for evaluating the evidence presented by the person and determining whether the failure to register was a knowing and willful failure.

Evidence presented may include the person's written explanation and supporting documentation of his circumstances at the time of the required registration and the reasons for failure to register. The person 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:

1. Service in Armed Forces. Evidence that a man has served honorably in the U.S. Armed Forces such as 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 grantees in making determinations in cases regarding willful and knowing failure to register.

To establish consistency regarding the implementation of the requirement, grantees should consider the following questions when determining whether a failure to register is knowing and willful.

In determining whether the failure was "knowing", the WIOA Service Provider should consider:

- Was the person aware of the requirement to register?
- If the person knew about the requirement, was he misinformed about the applicability of the requirement to him (e.g., veterans who were discharged before their 26th birthdays were occasionally told they did not need to register)?
- On what date did the person first learn he was required to register?
- Where did the person live when he was between the ages of 18 and 26?
- Does the Status Information Letter indicate that Selective Service sent letters to the person at that address and did not receive a response?

In determining whether the failure was "willful" the authorized organization should consider:

- Was the failure to register done deliberately and intentionally?



- Did the person have the mental capacity to choose whether to register and decided not to register?
- What actions, if any, did the person take when he learned of the requirement to register?

If any WIOA Service Provider determines it was not a knowing and willful failure, and the person is otherwise eligible, services may be provided. If the WIOA Service Provider determines that evidence shows the person's failure to register was knowing and willful, WIOA services must be denied. Persons denied services must be advised of available WIOA grievance procedures. WIOA Service Providers must keep documentation related to evidence presented in determinations related to Selective Service.