



# Montgomery County Workforce Investment Board

Policy: **SELECTIVE SERVICE REGISTRATION REQUIREMENTS FOR WIA**

Effective Date: July 1, 2012

Policy Number: 2012-19

## **SUBJECT: SELECTIVE SERVICE REGISTRATION REQUIREMENTS FOR WIA**

**PURPOSE:** To clarify the implementation of the Selective Service registration requirements based on the US DOL's recent issuance of TEGL 11-11 Change 2, issued on May 16, 2012. Selective Service registration requirements for WIA-funded services is established through WIA § 189(h), codified at 20 Code of Federal Regulations (CFR) 667.250, and the Military Selective Service Act (50 U.S.C. App. 453), codified at 32 CFR Part 1605. This notice supplements WIA eligibility policies for adults, dislocated workers and youth by clarifying requirements for verifying and documenting Selective Service registration for male applicants and participants. TEGL 11-11 Change 2 provided additional clarification concerning males 26 years or older that failed to register with the Selective Service.

### **REFERENCES:**

- TEGL 11-11 Change 2, Selective Service Registration Requirements for Employment and Training Administration Funded programs, issued May 16, 2012
- Workforce Investment Act of 1998, Public Law 105-220 AUG. 7, 1998, Sec. 189 (h)
- 50 U.S.C. Appendix 453 - Military Selective Service Act issued June 24, 1948 as amended by P.L. 99-661, Subsection 1366
- 20 Code of Federal Regulations, Sec. 667.250
- <http://www.sss.gov/default.htm>

**EFFECTIVE DATE:** July 1, 2012

**ACTION REQUIRED:** Within 15 days of the receipt of this policy it is the recipient's responsibility to ensure all staff are informed of the policy and to create an internal process to ensure accountability.

**BACKGROUND:** Section 189(h) [20 C.F.R. §667.250] amendments to the Workforce Investment Act (WIA) 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, 50 U.S.C. App. 453), as amended, are eligible to participate in WIA-funded activities and services. These requirements apply to both formula and discretionary grants awarded under WIA by the U.S. Department of Labor.

Training and Employment Guidance Letter (TEGL) 11-11, Change 2 clarifies the

implementation of the Selective Service registration requirements of the Workforce Investment Act (WIA) of 1998 § 189(h), codified at 20 CFR 667.250, and the Military Selective Service Act (50 U.S.C. App. 453), codified at 32 CFR Part 1605. This guidance clarifies that grantees, subgrantees, or contractors funded or authorized by Title I of WIA must set a policy for potential participants who are males 26 years old or

older that 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 the first requesting a Status Information Letter (see Section 4. Ensuring Selective Service Compliance in the Public Workforce System).

## **POLICY:**

### **a. Selective Service Registration Requirements**

Males 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 U.S.;
- Non-citizens, including illegal aliens, legal permanent residents, seasonal agricultural workers, and refugees, who take up residency in the U.S. before their 26<sup>th</sup> birthday; and/or
- Dual nationals of the U.S. and another country 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 are continually confined to a residence, hospital or institution; and/or
- 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.

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 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 U.S. Citizenship and Immigration Services (USCIS) indicating the date the man entered the U.S. presented in conjunction with documentation establishing the individual'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.

This list is not intended to be exhaustive. Please visit the Selective Service website for more information about the registration requirements at [www.sss.gov](http://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>.

***b. Ensuring Selective Service Compliance in the Public Workforce System***

In order to be eligible to receive WIA Title I-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 Selective Service registration status includes:

- Selective Service Acknowledgement letter;
- Form DD-214 "Report of Separation";
- Screen printout of the Selective Service Verification site: <http://www.sss.gov/RegVer/wfVerification.aspx>. For males who have 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.

***c. Registration Requirements for Males Under 26***

Before being enrolled in WIA Title I-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](http://www.sss.gov). If a male turns 18 while participating in WIA Title I-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 Title I-funded services. If a male under the age of 26 refuses to register with the Selective Service, WIA Title I-funded services must be suspended until he registers.

***d. Registration Requirements for Males 26 Years and Over***

Before enrolling in WIA Title I-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.

The grantee, subgrantee, or contractor that enrolls individuals in WIA Title I-funded activities may require that males 26 years and over who failed to comply with the 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. individuals recently released from incarceration).

***Requesting a Status Information Letter.*** An individual 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 acceptable documentation listed above. 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>. The individual will need to describe, in detail, the circumstances that prevented him from registering (e.g., hospitalization, institutionalization, incarceration, military service) and provide documentation of those circumstances. The documentation should be specific as to the dates of the circumstances.

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 WIA Title I-funded service. **If the Status Information Letter indicates that the individual was required to register and now cannot because he is 26 or older, he is presumed to be disqualified from participation in WIA Title I-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.

***e. Determining Knowing and Willful Failure to Register***

If the individual was required but failed to register with the Selective Service as determined by the Status Information letter or by his own acknowledgment, the individual may only receive services if they establish 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 Title I-funded activities is responsible for evaluating the evidence presented by the individual and determining whether the failure to register was a knowing and willful failure.

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 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.

In order 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 authorized organization should consider:

- 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”, the authorized organization 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?

If an authorized organization determines it was not a knowing and willful failure and the individual is otherwise eligible, services may be provided. If the authorized organization determines that evidence shows that the individual’s failure to register was knowing and willful, WIA Title I-funded 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 related to Selective Service

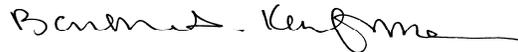
Refer to Attachment A for a chart on who must register.

**Approved:**

February 27, 2013

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Date of Board Approval



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Barbara Kaufmann, WIB Director

**Attachment A: WHO MUST REGISTER FOR SELECTIVE SERVICE?**

<b>CATEGORY</b>	<b>Yes</b>	<b>No</b>
All male U.S. citizens who have attained 18 years of age but are not yet 26 years old, except as noted below:	X	
<b>Military-related</b> Members of the armed forces on Active Duty (Active Duty for training does not constitute <i>Active Duty</i> for registration purposes.)		X*
Cadets and midshipmen at service academies or the Coast Guard Academy		X*
Cadets at the Merchant Marine Academy	X	
Students in Officer Procurement Programs at The Citadel, North Georgia College and State University, Norwich University, Virginia Military Institute, Texas A&M University, and Virginia Polytechnic Institute and State University		X*
National Guardsmen and Reservists not on active duty	X	
Delayed Entry Program enlistees	X	
Reserve Officer Training Corps students (ROTC)	X	
Separatees from active military service, separated for any reason before age 26	X*	
Men rejected for enlistment for any reason before age 26	X	
Civil Air Patrol members	X	
<b>Aliens**</b> Lawful, eligible noncitizens on visas (e.g., diplomatic and consular personnel and families, foreign students, tourists with unexpired forms I-94, I-95A, or Border Crossing Documents I-185, I-186, I-586, or I-444)		X
Permanent resident aliens	X	
Special (seasonal) agricultural workers (I-688)	X	
Special agricultural workers (I-688A)		X
Refugee, parolee, and asylee noncitizens	X	
Undocumented (illegal) aliens	X	
Dual national U.S. citizens	X	
<b>Confined</b> Incarcerated, hospitalized, or institutionalized for medical reasons		X*
<b>Disabled physically or mentally</b> Able to function in public with or without assistance	X	
Continually confined to a residence, hospital, or institution		X

\*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.

\*\*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 United States 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 United States 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 United States or maintained their lawful non-immigrant status by continually remaining on a valid visa until after March 29, 1975, were never required to register