



DATE: July 8, 2016

DIRECTIVE NO: 41-16

RECISSION: La Cooperativa Directive No. 24-09

TO: All La Cooperativa Subrecipients

SUBJECT: Selective Service

REFERENCES:

- WIOA (Public Law 113-128)Section 189(h)
- Title 50 *United States Code* "Military Selective Service Act," Appendix 453
- Training and Employment Guidance Letter (TEGL) 11-11, Change 2, *Selective Service Registration Requirements for Employment and Training Administration Funded Programs* (May 16, 2012)
- TEGL 8-98, *Selective Service Registration* (November 4, 1998)

BACKGROUND:

Males who are subject to the registration requirements of the *Military Selective Service Act* must have complied with these requirements to be eligible for participation in WIOA funded programs and services. Under WIOA Section 189(h), the U.S. Secretary of Labor is required to ensure that each individual participating in a WIOA program, or receiving any assistance under WIOA Title I, has not violated Section 3 of the *Military Selective Service Act*. This section requires that every male citizen and every other male residing in the United States must register with Selective Service between their 18th and 26th birthday.

POLICY AND PROCEDURES:

All programs and services established or receiving assistance under WIOA Title I must comply with the Selective Service registration requirements. These requirements apply to both formula and discretionary grants awarded by the Department of Labor (DOL). They do not apply to programs funded or solely authorized by the *Wagner-Peyser Act*.

Selective Service Registration Requirements

Males born on or after January 1, 1960, are required to register with the Selective

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Service within 30 days of their 18th birthday and up to, but not including, their 26th birthday.

This includes the following males:

- U.S. citizens.
- Veterans discharged before their 26th birthday.
- Non-U.S. citizens, including undocumented immigrants, legal permanent residents, seasonal agricultural workers, and refugees, who take up residency in the U.S. prior to their 26th birthday.
- Dual nationals of the U.S. and another country, regardless of whether they live in the U.S.

Selective Service registration is not required for the following male U.S. citizens:

- Males who are serving in the military on full-time active duty.
- Males attending the service academies.
- Disabled males who were continually limited to a residence, hospital, or institution.
- 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.
- Male veterans discharged after their 26th birthday.

Selective Service registration is not required for the following male non-U.S. citizens:

- Non-U.S. males who entered the U.S. for the first time after their 26th birthday. acceptable forms of supporting documentation include the following:
 - Date of entry stamp in passport.
 - I-94 with date of entry stamp on it.
 - Letter from the U.S. citizenship and immigration services indicating the date the male entered the U.S. presented in conjunction with documentation establishing the male's age.
- Non-U.S. males who entered the U.S. illegally after their 26th birthday. They must provide proof that they were not living in the U.S. from age 18 through 25.
- Non-U.S. males on a valid non-immigrant visa.

*Note that the requirement for transsexual, transgendered, and intersex individuals to register with the Selective Service depends upon the gender recorded on their birth certificate. According to the Selective Service website, "individuals who are born female and have a gender change are not required to register. U.S. citizens or immigrants who are born male and have a gender change are still required to register."

The above list of Selective Service registration requirements is not exhaustive. Additional information regarding these requirements, including a quick reference chart showing who must register, can be found on the Selective Service website.

Acceptable Documentation

In order to be eligible to receive WIOA-funded services, all males born on or after January 1, 1960, must present documentation showing compliance with the Selective Service registration requirements.

Acceptable documentation to determine a person's eligibility for WIOA Title I programs include the following:

- Selective Service acknowledgement letter.
- Report of separation form (form dd-214). Should be used only if veteran was discharged after his 26th birthday.
- Screen printout of the Selective Service verification site. For males who 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).
- Stamped post office receipt of registration.

Registration Requirements For Males Under 26

Before being enrolled in WIOA-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. If a male turns 18 while participating in WIOA-funded services, registration with Selective Service must be completed no later than 30 days after he becomes 18 in order to continue to receive WIOA-funded services. If a male under the age of 26 refuses to register with Selective Service, WIOA-funded services must be suspended until he registers.

Non-Registration By Males 26 And Older

La Cooperativa subrecipients must establish a policy for those potential participants who are 26 or older that failed to register with the Selective Service. This policy may either request a status information letter from a potential participant before making a determination of knowing and willful failure to register or initiate the process to determine if the potential participant's failure was knowing and willful without first requesting 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).

Before enrolling in WIOA-funded services, all males 26 and older must provide one of the following:

- Documentation showing they were not required to register.
- If they were required to register, documentation establishing that their failure to register was not knowing or willful.

Individuals who did not register for the Selective Service or who cannot provide any of the documentation listed in the “acceptable documentation” section of this directive must obtain a status information letter from the Selective Service indicating whether they are required to register. The status information letter request form and instructions can be accessed through the Selective Service website. The individual will need to describe, in detail, the circumstances that prevented him from registering (e.g., hospitalization, incarceration, or military service) and provide documentation of those circumstances. The documentation should be specific as to the dates of the circumstances.

Status Information Letter

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 a WIOA-funded service. If the status information letter indicates that the individual was required to register and did not register, he is presumed to be disqualified from participation in WIOA-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.

An individual may obtain a status information letter from the Selective Service if one of the following applies:

- The individual believes he was not required to register.
- The individual did register but cannot provide the appropriate documentation.

How to Determine “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 acknowledgement, the individual may only receive services if he establishes by a preponderance of the evidence that the failure to register was not knowing and willful. The La Cooperativa subrecipient that enrolls individuals in WIOA-funded activities, and is thereby authorized to approve the use of WIOA grant funds, is the entity responsible for evaluating the evidence presented by the individual and determining whether the failure to register was knowing and willful.

Documentation

Evidence presented may include the individual’s written explanation and supporting documentation of his circumstances at the time of the required registration and the reason(s) 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:

- Service in the Armed Forces – evidence that a male has served honorably in the U.S. Armed Forces, such as a form DD-214 or his honorable discharge

certificate. These documents serve as evidence that his failure to register was not knowing and willful.

- Third party affidavits – affidavits concerning reasons for not registering from parents, teachers, employers, doctors and others may help subrecipients in making a determination regarding willful and knowing failure to register.

Model Questions

In order to establish consistency regarding the implementation of the requirement, local areas should use the following questions as a model for determining whether a failure to register is knowing and willful.

To determine whether the failure was “knowing”, subrecipients should ask the following:

- 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?

To determine whether the failure was “willful”, subrecipients should ask the following:

- Was the failure to register done deliberately and intentionally?
- Did the individual have the mental capacity to choose whether to register and decided not to register?
- What actions, if any, did the individual take when he learned of the requirement to register?

Finally, a participant's claim of ignorance (e.g., “I did not know...”) regarding Selective Service registration requirements should not suffice as enough evidence to make a determination if his failure was knowing and willful. Ask for more evidence to support this claim.

Results of Findings

If a subrecipient determines that an individual's failure to register with the Selective Service was not knowing and willful and the individual is otherwise eligible, services may be provided. However, if the subrecipient determines that evidence shows that the individual's failure to register was knowing and willful, WIOA services must be denied. Individuals who are denied services must be advised of available grievance procedures. Subrecipients must keep documentation related to evidence presented in determinations on Selective Service.

ACTION:

La Cooperativa and its subrecipients shall follow this policy. This policy shall remain in effect until such time that a revision is required.

INQUIRIES:

If you have any questions regarding this Directive, please contact Fernando Gonzalez at (916) 388-2225 or e-mail at fgonzalez@lacooperativa.org .



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