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**DIRECTIVE NO:** Supersedes: 30-07

**TO:** WIA Service Providers

**EFFECTIVE:** January 2011

**SUBJECT:** Selective Service

**REFERENCES:**

- Workforce Investment Act (WIA) Sections 189(h)
- WIA Directive WIAD01-4
- Title 20 Code of Federal Regulations (CFR) Sections 667.250
- DOL Training and Employment Guidance Letter No. 8-98
- Section 3 of the Military Selective Service Act

**POLICY:**

Eligibility for WIA services provided to customers must have documentation of Selective Service registration in order for the customer to participate.

**PROCEDURE:**

The procedure for determining if an individual was required to register or was exempt from selective service is as follows:

- a. Males between the Ages of 18 and 25. Individuals, who are required to register, but have not registered, and have not yet reached their 26th birth date, should be referred to SSS for registration prior to enrollment in WIA.
- b. Males Over the Age of 26 Who Did Not Register. Any male over 25 years old 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 25, is presumptively disqualified from participation in WIA-funded services and activities. The burden then falls on the applicant to provide evidence explaining why he failed to register with the SSS. This could include a written explanation from the applicant, stating his circumstances at the time of the required registration, and his reasons for not registering, together with supporting documentation.

**Nonregistrants**

In instances where the individual did not register within the prescribed timeframe, registration 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 is consistent with the above cited amendment to P.L. 99-661, §1366. If after review, the preponderance of the evidence shows that a man's failure to register was not a knowing and willful failure and he is otherwise eligible, services may be granted. If it is determined that the evidence shows the applicant's failure to register was knowing and willful, WIA services must be denied.

In those instances where documentation is questionable, the final determination as to whether services will be made on a case-by-case basis by the Office of Economic and Workforce Development (OEWD).

### **Examples of Documentation/Evidence Which Could be Provided by the Applicant**

A nonregistrant should be encouraged to offer as much evidence and in as much detail as possible to support his case. Following are examples of documentation/evidence that may be of assistance in making a determination in these cases:

- a. Service in Armed Forces. A man provides evidence that he served honorably in the U.S. Armed Forces by submitting a copy of his DD Form 214 attesting to his service, or a copy of his Honorable Discharge Certificate. Such documents may be considered prima facie evidence that his failure to register with the SSS was not willful or knowing.
- b. Aliens Entering U.S. On or After Age 26. Alien males who entered the U.S. on or after attaining their 26th birthday are exempt from the Selective Service registration requirements. Immigration and Naturalization Service (INS) Form I-94 (Arrival/Departure Record) and INS Form I-551 (Alien Registration Receipt Card commonly called the "green card") held by aliens will show the birth date of the alien. Also, INS has granted legal status and employment authorization to some lawful seasonal agricultural workers (SAWs) and some formerly illegal aliens under the 1986 Immigration Reform and Control Act (IRCA).
- c. Immigrant Aliens. Immigrant aliens, and refugees, parolees, asylees, SAWs, and IRCA-legalized aliens with work permits can be enrolled into WIA programs only after an SSS registration or exemption is established as outlined above. INS Form I-688 (Temporary Resident Card) will be helpful in establishing the alien's status.
- d. Former Illegal Aliens. Male aliens 26 years of age or older who entered the U.S. illegally and who were subsequently granted legal status by the INS (IRCA-legalized aliens) or who were born after December 31, 1959, but who are not registered with the SSS can be enrolled into WIA only after a "status information" letter (formerly called an "advisory opinion letter") has been obtained from SSS. If SSS issues a status information letter that it has no evidence that such



individuals knowingly and willfully failed to register, the individuals should provide the reasons why SSS has no evidence of their registration, and in so doing, provide evidence that they did not knowingly or willfully fail to register. The individuals can then be enrolled into WIA programs, if they are otherwise eligible.

If SSS is silent on this question, then staff must make the determination, as described above. [It is important to remember that §188(a)(5) of WIA prohibits participation of an alien without, legal status from INS, even if there is a determination that there is evidence to show the applicant did not knowingly and willfully fail to register with the SSS.

- e. Non-Immigrant Aliens. Lawful non-immigrants on visas (e.g., diplomatic and consular personnel and families; foreign students; and tourists with unexpired Forms I-94, I-95A or Border Crossing Documents I-185, I-186, I-586, or I-444) are not required to register with the Selective Service, but must be authorized to work in the United States under §167(a)(5) to be eligible for WIA.
- f. Third Party Affidavits. Third Party Affidavits from parents, teachers, employers, doctors, etc. concerning reasons for not registering, may also be helpful in making determinations in cases regarding willful and knowing failure to register with the SSS.

**ACTION:**

OEWD and its service providers shall follow this policy. This policy will remain in effect from the date of issue until such time that a revision is required.

**INQUIRIES:**

Inquiries should be addressed to the WIA Program Manager at 581-2314 or [marc.majors@sfgov.org](mailto:marc.majors@sfgov.org).

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