

COMMONWEALTH OF VIRGINIA
VIRGINIA COMMUNITY COLLEGE SYSTEM

WORKFORCE INVESTMENT ACT

VIRGINIA WORKFORCE LETTER (VWL) 12-02

TO: LOCAL WORKFORCE INVESTMENT BOARDS
FROM: WORKFORCE DEVELOPMENT SERVICES
SUBJECT: SELECTIVE SERVICE REGISTRATION REQUIREMENTS FOR EMPLOYMENT AND TRAINING ADMINISTRATION FUNDED PROGRAMS
DATE: SEPTEMBER 17, 2012

Reference:

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

Purpose

This Virginia Workforce Letter 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, sub grantees 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 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.** This clarification replaces and supersedes prior guidance issued.

Applicable Programs and Services

All programs and services established or receiving assistance under Title I of WIA must comply with Selective Service registration requirements. These requirements apply to both formula and discretionary grants awarded by the Employment and Training Administration under WIA. Any Local Workforce Investment Act or service provider with questions regarding the applicability of these requirements should contact Joe Holicky at (804) 819-1692 or email: jholicky@vccs.edu.

Ensuring Selective Service Compliance in the Public Workforce System

To participate in a program established by or receiving assistance under Title I of WIA, 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:
 - www.sss.gov/RegVer/wfVerification.aspx
 - 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 Under 26

Before being enrolled in WIA Title I-funded services, all males who are not registered with Selective Service and have not reached their 26th birthday must register through the Selective Service website www.sss.gov. If a male turns 18 while participating in any applicable services, registration with Selective Service must be completed no later than 30 days after he becomes 18 to continue to receive WIA Title I-funded services. If a man under the age of 26 refuses to register with Selective Service, WIA Title I-funded services must be suspended until he registers.

Registration Requirements for Males 26 Years and Over

Before enrolling in WIA Title I-funded services, all males 26 years of age and 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 service provider who enrolls persons in WIA Title I-funded activities may require that males 26 years and older 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. 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 www.sss.gov/PDFs/infoform.pdf and the instructions can be accessed at www.sss.gov/PDFs/instructions.pdf. The person will need to describe in detail the

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 the person was not required to register for the Selective Service, then he is eligible to enroll in services authorized or funded by Title I of WIA. **If the Status Information Letter indicates the person was required to but did not register, 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 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 WIA 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 authorized organization 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 authorized organization determines it was not a knowing and willful failure and the person is otherwise eligible, services may be provided. If the authorized organization determines that evidence shows the person's failure to register was knowing and willful, WIA services must be denied. Persons 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.