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To: WIOA Subrecipients and Contractors of the Orange County Development Area

From: Brian Rayburn 
Interim Director

Subject: **Selective Service Registration**
Information Notice No. 17-OCDB-03
Supersedes Information Notice No. 15-OCDB-03

PURPOSE

This policy provides guidance on the Selective Service registration requirements for participation in Workforce Innovation and Opportunity Act (WIOA) funded services. This policy applies to all subrecipients and contractors funded or authorized by WIOA Title I.

This policy is being reissued to transmit the clarification issued by the State in WSD16-18 dated April 10, 2017 regarding acceptable forms of documentation when determining whether an individual's failure to register with Selective Service was knowing and willful.

EFFECTIVE DATE

This policy is effective on the date of issuance and supersedes Information Notice No. 15-OCDB-03.

REFERENCES

- WIOA (Public Law 113-128) Section 189(h)
- Title 50 United States Code, "Military Selective Service Act", Appendix 453
- U.S. Department of Labor Training and Employment Guidance Letter (TEGL) 11-11, Change 2, Selective Service Registration Requirements for Employment and Training Administration Funded Programs (May 16, 2012)
- U.S. Department of Labor Training and Employment Guidance Letter (TEGL) 8-98, Selective Service Registration (November 4, 1998)
- EDD Workforce Services Directive WSD16-18 dated April 10, 2017

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



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is required to ensure that each individual participating in a WIOA program, or receiving any assistance under WIOA Title I, has not violated the Section 3 of the Military Selective Service Act. This section requires that every male residing in the United States (citizen or non-citizen) 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 Service within 30 days of their 18th birthday (30 days before their 18th birthday, their 18th birthday, and the following 29 days after 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, 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:
 - Date of entry stamp in his passport;
 - I-94 with date of entry stamp on it; or
 - 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: 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 1 programs includes the following:

- Selective Service Acknowledgement letter;
- "Report of Separation" form (Form DD-214);
[This should be used only if veteran was discharged after his 26th birthday.]
- Screen printout of the [Selective Service Verification](#) site;
[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); or,
- 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 Years and Older

For those potential participants who are 26 or older that failed to register with the Selective Service, subrecipients or contractors may either (1) request a Status Information letter from a potential participant before making a determination of knowing a willful failure to register;

or, (2) initiate the process to determine if the potential participant's failure was knowing and willful without first requesting a Status Information Letter.

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

Status Information Letter

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.

The Status Information Letter Request form and instructions can be accessed through the Selective Service website. If an individual decides to request a Status Information Letter, they 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.

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.

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 that the failure to register was not knowing and willful.

The subrecipient or contractor that enrolls individuals in WIOA-funded activities, and is thereby authorized to approve the use of WIOA grant funds, is the entity responsible for:

- (1) evaluating the evidence presented by the individual and determining whether the failure to register was knowing and willful; and,
- (2) for requesting a waiver for OCDB approval of compliance with the Selective Service registration requirements.

To Request OCDB Approval of Selective Service Determination Request (of individuals who have not complied with Selective Service registration requirements)

- Individuals must submit a completed Selective Service Determination Request to the subrecipient or contractor together with the evidence and supporting documentation explaining why he failed to register. The individual must show by a preponderance of evidence that his failure to register was not knowing and willful. Ignorance of the

law does not excuse the individual from the registration requirement and therefore should not be submitted to the OCDB Administration Office for review.

- Individuals provide Status Information Letter (if requested by the subrecipient or contractor from a potential participant before making a determination of knowing a willful failure to register);
- Career Consultant evaluates the evidence presented by the applicant; and,
- Career Consultant submits the Selective Service Determination Request to OCDB

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:

- *Services in 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 or willful.
- *Third Party Affidavits* - Affidavits concerning reasons for not registering from parents, teachers, employers, doctors, and others may help subrecipients or contractors in making a determination regarding willful and knowing failure to register.
- **Self-Attestation** - Signed statement that explains why the individual's failure to register was not knowing and willful.

****Please note, self-attestation may serve as sufficient evidence when other options of documentation or third party corroboration are not available. For a self-attestation statement template please see the attachment to this policy.***

Model Questions

In order to establish consistency regarding the implementation of the requirement, subrecipients or contractors should use the following questions as a model when determining whether a failure to register is knowing and willful.

To determine whether the failure was "knowing", subrecipients or contractors should ask the following questions:

- 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 was 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 or contractors should ask the following questions:

- 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?

Results of Findings

If the subrecipient or contractor 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 or contractor 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. The subrecipient or contractor must keep documentation related to evidence presented in determinations on Selective Service.

Grievance and Appeal Procedures

WIOA regulations provide a system for handling grievances, complaints, hearings & appeals. The OCDB follows specific procedures in accordance with the provisions of the Act and regulations.

Referrals

To comply with WIOA Sec. 129(c)(3)(A)(B) & 134 (c)(2), the OCDB requires subrecipients or contractors to refer applicants who are not eligible for WIOA Title I service to other services/programs who do not have to comply with Selective Service registration requirements.

ACTION

All subrecipients or contractors must:

1. Bring this Policy and Procedure to the attention of all affected staff.
2. Submit the Selective Service Determination Request (see Attachment I) to OCDB to request a determination review (of applicants who have not complied with the Selective Service registration requirements)

INQUIRIES

If you have any questions regarding this policy, contact your Contract Administrator at (714) 480-6500.

ATTACHMENTS

Attachment I - Self-Attestation Statement

Attachment II - Selective Service Determination Request

**Selective Service Failure to Register
Self-Attestation Statement**

I, _____, have been informed that the law required me to register for the United States Selective Service. I have been told that my statement must be made freely and voluntarily. I am willing to make such a statement.

I was born on _____ and I am now _____ years old.

I first became aware of my duty to register with the United States Selective Service System on the following date:

Month/Day/Year

I first became aware of my duty to register with the United States Selective Service System under the following circumstances:

While I was between the ages of 18 and 26 I lived in the following country:

I make the following statement:

____ Yes ____ No

I did not register for the Selective Service because I did not know I was supposed to register with the Selective Service System at any time while I was between the ages of 18 years old and 26 years old.

____ Yes ____ No

Had I known I was supposed to register with the Selective Service System while I was between the ages of 18 years old and 26 years old I would have registered.

____ Yes ____ No

I have been served with a notice from the Selective Service System that they intend to prosecute me for my failure to register.

Signature of Applicant

Date

Printed Name of Applicant



ORANGE COUNTY DEVELOPMENT AREA
 SELECTIVE SERVICE DETERMINATION REQUEST

This is a request for a Selective Service Determination for those men born on or after January 1, 1960 who failed to comply with the Selective Service registration requirement between the ages of 18 and 26 (Sec. 3 (a) of the MSSA).

Name: _____ Date of Birth: _____

Social Security Number: _____ Place of Birth: _____

One-Stop Center: _____

Reason for not registering for Selective Service: (Use additional sheet if needed)

I ATTEST THAT THE INFORMATION STATED ABOVE IS TRUE AND ACCURATE AND UNDERSTAND THAT, IF MISREPRESENTED OR INCOMPLETE, MAY BE GROUNDS FOR IMMEDIATE TERMINATION AND/OR PENALTIES AS SPECIFIED BY LAW.

PLEASE ATTACH ANY DOCUMENTATION/EVIDENCE TO SUPPORT YOUR CASE.

Applicant Printed Name & Signature: _____ Date: _____

Witness' Printed Name & Signature: _____ Date: _____

Witness' Relationship to Applicant: _____

FOR OCDB SUBRECIPIENT OR CONTRACTOR USE:

The following documents submitted by the applicant were reviewed: 1. _____ 2. _____ 3. _____	Submitted and Endorsed for OCDB Approval by: _____ Printed Name and Signature of Subrecipient/Contractor Staff Date: _____
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FOR OCDB USE:

Approved by: _____ Printed Name and Signature	_____ Date
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