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Date: December 5, 2008
To: Workforce Development Board Directors
From: Gary Denis, Director *Gary Denis*
Bureau of Workforce Training
Subject: **WIA Policy Update 08-06: Selective Service Registration**

Purpose

To inform Workforce Development Boards of the Selective Service registration requirements and to provide guidance on applying the Selective Service registration requirement.

Legislative/Regulatory References

- WIA 1998 Public Law 105-220, sections 188(a)(5) and 189(h)
- WIA 1998 Federal Rules and Regulations, section 667.250
- U. S. Department of Labor (DOL) Training and Employment Guidance Letter 8-98 (Selective Service Registration)

Background

Section 189(h) of the Workforce Investment Act (WIA) and 20 CFR Part 667.250 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) are eligible to participate in WIA-funded activities and services.

Every male citizen between 18 and 26 years of age, and every other male of like age legally residing in the United States, is required to register with the Selective Service System (SSS). The following link provides detailed information regarding who must register for Selective Service: <http://www.sss.gov/FSwho.htm>. Section 189(h) of WIA also requires the Secretary of Labor to ensure that individuals participating in WIA activities and services, or receiving assistance under WIA, have not violated these MSSA requirements. The Director of the SSS and the Secretary of Labor also are required to cooperate in carrying out these provisions.

In 1986, MSSA was amended by Public Law 99-661 to require an individual's registration status to be examined and confirmed as follows:

A person may not be denied a right, privilege, or benefit under federal law by reason of failure to present himself for and submit to registration under Section 3 [50 USC App.453] if:

- (1) the requirement for the person to so register has terminated or become inapplicable to the person; and*
- (2) the person shows by a preponderance of the evidence that the failure of the person to register was not a knowing and willful failure to register.*

The Conference Report to the amendment clarified "that a non-registrant is not to be denied any Federal benefit if he can demonstrate that his failure to register was not knowing or willful." This provision was added "in order not to penalize an individual with an obvious disqualifying handicap, such as total paralysis of the limbs, or an individual who has been honorably discharged from the armed services."

SSS has determined that the final decisions on disbursement of federally financed domestic benefits, services, rights, or training rest solely with the various provider agencies that disburse them.

Policy

In accordance with the 1986 amendments to the MSSA, Workforce Development Boards have the responsibility for determining compliance with the MSSA for the purpose of determining eligibility for WIA core, intensive and training services. Decisions are to be made on a case-by-case basis. As such, the following procedures apply:

1. Individuals who are enrolled in WIA prior to age 18: Male applicants who enter the WIA program at age 17 or younger and attain age 18 while participating in the program must be registered for Selective Service by the 30th day after their 18th birthday to remain eligible for WIA services. There is no need to re-determine eligibility when an applicant who enters the WIA program at age 17 or younger attains age 18. However, all males participating in the program must be registered for Selective Service by the 30th day after their 18th birthday to remain eligible for WIA services. The appropriate fields in ASSET must be updated and, if the individual fails to register, all WIA services must be closed by no later than the last day of this 30-day grace period, thus allowing the participant to exit in 90 days. (Note: if Selective Service registration documentation is obtained before the ASSET automated exit occurs – 90 days from last service, then services to the youth may resume). **Funds expended on male participants not registered for Selective Service by the 30th day after their 18th birthday may be considered disallowed costs.**
2. Individuals who are required to register (males between the ages of 18 and 26): Male applicants who have not registered, and have not yet reached their 26th birthdays, must complete their military Selective Service registration prior to receiving WIA services. Selective Service registration can be verified at <https://www.sss.gov/RegVer/wfVerification.aspx>.
3. Males over the age of 26 who did not register: Any male over 26 years of age 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 26, is presumptively disqualified from participation in WIA-funded activities and services. The burden then falls on the individual to provide evidence explaining why he failed to register with SSS. Attachment A provides examples of documentation/evidence.

Since the WDB is authorized to make MSSA compliance determinations for WIA core, intensive, and training service eligibility purposes, 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 was "not a knowing and willful failure to register." If, after reviewing the evidence, staff determines that the preponderance of the evidence shows that the individual met the criterion called for by the MSSA amendment, and he is otherwise eligible, WIA core, intensive, and training services may be delivered. If the determination is that the evidence shows the individual's failure to register was knowing and willful, WIA services must be denied. **Applicants denied services should be advised of the available grievance procedures.**

ASSET Reporting

To report Selective Service Registration:

Manage Programs, Title 1 Tab:

- Selective Service Indicator:
Report "No" if the male is not registered and you will not be assisting him with registration for Selective Service.
Report "Not Required" if applicant is a female, or a male born prior to January 1, 1960.
Report "Yes" if male is registered, or you are assisting him in registering for Selective Service.
- Click on link labeled "Link to SSS" to the right of the Selective Service Number field.
- Select the appropriate action on the SSS screens (Register On Line or Check a Registration).
- Complete and submit the registration form or participant information.
- Copy and paste the Selective Service Number into the ASSET Selective Service Number field.

Note: Since information that is entered on the Manage Programs screen cannot be changed after enrollment, the ASSET data correction request process must be used to update the Selective Service registration indicator field.

Action Required

This policy is effective immediately. It must be applied to all new participants as well as any active participant who was under age 18 at the time of first WIA service and has since turned age 18. Since staff may need to contact multiple youth (those registered in WIA prior to age 18) to be in compliance with this requirement, WDBs have until February 27, 2009 to update eligibility documentation for current youth participants. In addition, WDBs should develop a local policy and procedure for handling case-by-case situations for those males never registered with the Selective Service.

DET has reviewed Selective Service registration requirements during past monitoring of participant files. Future monitoring will include a review of Selective Service registration requirements, as well as a review of records for those males not age 18 at the time of registration who turned age 18 during program participation.

Presently, the Selective Service indicator information does not reside in the Job Center Data Warehouse, so there is no mechanism for case managers to monitor and follow up on registration for male program participants. DET is in the process of creating a report that can track male program participants whose initial response to the Selective Service indicator on the Manage Programs screen is either "No" or "Not Required."

Questions and/or Technical Assistance and Training

If you need additional information regarding this policy, please contact the Local Program Liaison assigned to your area.

Examples of documentation/evidence that could be provided by the applicant

Service in the Armed Forces:

A man provides evidence that he served honorably in the United States Armed Forces (including part-time National Guard or Reservist) by submitting a copy of his DD 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.

Aliens entering the United States on or after age 26:

Alien males who entered the country on or after 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, "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).

Immigrant Aliens:

Immigrant aliens, and refugees, parolees, persons granted asylum, SAWs, and IRCA-legalized aliens with work permits can be enrolled into WIA core, intensive, and training programs only after an SSS registration or exemption is established as outlined above.

Former Illegal Aliens:

Male aliens 26 years of age or older who entered the United States illegally and who were subsequently granted legal status by the INS 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 has been obtained from the SSS. If the 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 WIA service provider reasons why SSS has no evidence of their registration, and in so doing, provide evidence to convince the service provider that they did not willfully fail to register. The individuals can then be enrolled into WIA core, intensive, or training services, if they are otherwise eligible. If the SSS does not issue such a "status information" letter, then the service provider must make the "knowingly and willfully failed" determination. *Please note that WIA core, intensive and training service program participation by an alien requires INS legal status even if the appropriate MSSA determination is made.*

Non-Immigrant Aliens:

Lawful non-immigrants on visas are not required to register with the SSS, but must be authorized to work in the United States under WIA Law, Section 188(a)(5).

Third Party Affidavits:

Third party affidavits from parents, teachers, employers, doctors, etc. concerning reasons for not registering, may also be helpful to WIA program providers in making selective service determinations.

Self-Attestation:

The Status Information Letter from Selective Service and a written explanation from the applicant, stating his circumstances at the time of the required registration, and his reasons for not registering, together with any supporting documentation.