

Selective Service Policy

Reference:

Workforce Investment Act, Section 189; Military Selective Service Act; Eligibility for Adult Programs Policy; Eligibility for Dislocated Workers Policy; and Eligibility for Youth Programs Policy; TEGL 11-11, Change 2.

Background:

The Workforce Investment Act at Section 189(h) addresses the need to ensure each individual participating in any WIA program or activity, or receiving any assistance or benefit under WIA, has not violated section 3 of the Military Selective Service Act (50 U.S.C. App. 453) by not presenting and submitting to registration as required. The State's Eligibility for Adult Programs Policy, Eligibility for Dislocated Workers Policy, and Eligibility for Youth Programs Policy each include references to this Enforcement of Military Selective Service Act requirement. The website at www.sss.gov provides guidance and links for the following:

- to register online
- check a registration
- information for men age 26 and older

Action:

After the 10 day public review period, this policy is considered final. Questions and comments should be submitted in writing to Jan Fox, Policy Coordinator, jan.fox@nebraska.gov.

Policy:

Selective Service registration is an important consideration when determining WIA eligibility. With only a few exceptions, the registration requirement applies to all male U.S. citizens and male aliens residing in the United States who are 18 through 25 years of age. The exceptions are described in this policy and are identified on the chart at this website:

www.sss.gov/PDFs/WhoMustRegisterChart.pdf. Although women are now allowed in combat jobs, only men are currently required to register by law with Selective Service during ages 18 thru 25. Women still do not register [as of January 24, 2013 per www.sss.gov].

1. SELECTIVE SERVICE REGISTRATION REQUIREMENTS.

Men born on or after January 1, 1960 are required to register with Selective Service within 30 days of their 18th birthday (i.e. 30 days before or 30 days after their birthday). This includes males who are:

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

For U.S. citizens, Selective Service registration is **not** required if the man falls within one of the following categories:

- Men who are serving in the military on full-time active duty
- Men attending the service academies
- Disabled men who are continually confined to a residence, hospital or institution
- Men 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

For non-U.S. citizens, Selective Service registration is **not** required if the man falls within one of the following categories:

- Non-U.S. male who came into this country for the first time after his 26th birthday.
Acceptable forms of supporting documentation include:
 1. Date of entry stamp in his passport
 2. I-94 with date of entry stamp on it
 3. Letter from the U.S. Citizenship and Immigration Services (USCIS) indicating the date the man entered the United States presented in conjunction with documentation establishing the individual's age
- Non-U.S. male who entered the U.S. illegally after his 26th birthday; he must provide proof he was not living in the U.S. from age 18 through 25
- Non-U.S. male on a valid non-immigrant visa

This list is not intended to be exhaustive. More information about the registration requirements may be found on the Selective Service website at www.sss.gov. The Selective Service System also provides a quick reference chart showing who must register located at www.sss.gov/PDFs/WhoMustRegisterChart.pdf.

2. ENSURING SELECTIVE SERVICE COMPLIANCE IN THE PUBLIC WORKFORCE SYSTEM.

In order 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 include:

- Selective Service Acknowledgement letter
- Form DD-214 "Report of Separation"
- Screen printout of the Selective Service Verification site:
www.sss.gov/ReqVer/wfVerification.aspx. 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)
- 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 the Selective Service and have not reached their 26th birthday must register through the Selective Service website at 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 in order to continue to receive WIA Title I-funded services. If a man under the age of 26 refuses to register with the 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 or older, must provide:

1. documentation of compliance with the Selective Service registration requirement
2. documentation showing they were not required to register
3. if they were required to but did not register, documentation establishing their failure to register was not knowing and willful

The local area that enrolls individuals in WIA Title I-funded activities *may* require that males 26 years and over, who failed to comply with the Selective Service registration requirement, request a Status Information Letter before making a determination 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. individuals recently released from incarceration).

Requesting a Status Information Letter. An individual may obtain a *Status Information Letter* from Selective Service if he:

1. believes he was not required to register
2. did register but cannot provide any of the documentation listed in Section 1

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 individual 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 should be specific as to the dates of the circumstances.

If the *Status Information Letter* indicates an individual 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 individual was required to and did not register, he is presumed to be disqualified from participation in WIA Title I-funded activities and services until it can be determined his failure to register was not knowing and willful.** All costs associated with grant-funded services provided to non-eligible individuals may be disallowed.

Determining 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 acknowledgment, the individual may only receive services if he can establish by a preponderance of documented evidence that the failure to register was not knowing and willful. The local area is responsible for evaluating the evidence presented by the individual and determining whether the failure to register was a knowing and willful failure.

Evidence presented may include the individual's written explanation and supporting documentation of his circumstances at the time of the required registration and the reasons 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 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

- **Third Party Affidavits** – Affidavits from parents, teachers, employers, doctors, etc. concerning reasons for not registering, may also be helpful to local areas in making determinations in cases regarding willful and knowing failure to register

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

In determining whether the failure was “knowing,” the following should be considered:

- 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 they did not need to register)?
- On which date did the individual first learn 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?

In determining whether the failure was “willful,” the local area should consider the following:

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

If it is determined it was not a knowing and willful failure and the individual is otherwise eligible, services may be provided. If the local area determines that evidence shows the individual’s failure to register was knowing and willful, WIA services must be denied. Individuals denied services must be advised of available WIA grievance procedures. Local areas must keep documentation related to evidence presented in determinations related to Selective Service.