

ALABAMA WORKFORCE INVESTMENT SYSTEM

Alabama Department of Economic and Community Affairs
Workforce Development Division
401 Adams Avenue
Post Office Box 5690
Montgomery, Alabama 36103-5690

March 10, 2011

GOVERNOR'S WORKFORCE DEVELOPMENT DIRECTIVE NO. PY 2010-10

SUBJECT: Selective Service Verification Requirement for Federally-Funded Programs.

1. **Purpose.** To inform workforce system agencies of the requirement to determine Selective Service Registration Status prior to enrollment into federally-funded programs.
2. **Discussion.** It has come to the attention of the State that some of the Local Workforce Investment Areas are not collecting the proper Selective Service documentation when registering participants in federally funded programs. The federally-funded programs are only open to those men who register with Selective Service. Only men born after December 31, 1959, are required to show proof of registration. **Almost all male U.S. citizens, and male aliens living in the U.S., who are 18 through 25, are required to register with Selective Service.** A chart of who must register is attached.

Registration is the law; a man who fails to register may, if prosecuted and convicted, face a fine of up to \$250,000 and/or a prison term of up to five years. Even if not tried, a man who fails to register with Selective Service before turning age 26 may find that some doors are permanently closed including Student Financial Aid, Citizenship, Federal Jobs, and Federal Job Training.

3. **Action** It is imperative that every action is taken to determine the Selective Service status of every eligible male participant prior to program registration. Included in this directive are excerpts from Alabama's Forms Preparation and Data Validation Requirements Handbook including the Selective Service Registration overview, Selective Service Registration Requirements, and the WIA Verification of Selective Service Waiver form that should aid in the determination process. Also attached is the Verification of Selective Service Waiver form for programs not funded with Workforce Investment Act (WIA) funds.

If an applicant has passed their 26th birthday without registering for Selective Service the following recourse is available:

1. The applicant must explain to the official handling the case the reasons for the failure to register with Selective Service.
2. Collect as much evidence supporting the case, and as much detail as possible, and retain in the participant's file.

A non-registrant may not be denied any benefit if he can "show by a preponderance of evidence" that his failure to register was not knowingly and willful.

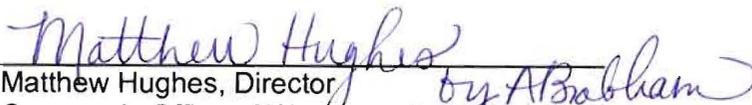
34 CFR 668.37(d) and 34 CFR 668.37(e)

- d. An institution may determine that a student, who was required to, but did not register with the Selective Service, is not ineligible to receive Title IV, HEA assistance for that reason, if the student can demonstrate by submitting clear and unambiguous evidence to the institution that -
1. He was unable to present himself for registration for reasons beyond his control such as hospitalization, incarceration, or institutionalization; or
 2. He is over 26 and when he was between 18 and 26 and required to register -
 - i. He did not knowingly and willfully fail to register with the Selective Service; or
 - ii. He served as a member of one of the U.S. Armed Forces on active duty and received a DD Form 214, "Certificate of Release or Discharge from Active Duty," showing military service with other than the reserve forces and National Guard.
- e. For purposes of paragraph (d)(2)(i) of this section, an institution may consider that a student did not knowingly and willfully fail to register with the Selective Service only if-
1. The student submits to the institution an advisory opinion from the Selective Service System that does not dispute the student's claim that he did not knowingly and willfully fail to register; and
 2. The institution does not have uncontroverted evidence that the student knowingly and willfully failed to register.

Note: Local Workforce Investment Areas cannot simply indicate "N/A" without implementing the requirements above which involve collecting evidence of why the individual was not registered and then making a determination as to the course of action based on the information presented.

4. Contact

Any questions regarding this Directive should be referred to Sara Calhoun, State Programs and Divisional Budget Management Section, at (334) 393-1632 or sara.calhoun@adeca.alabama.gov.


Matthew Hughes, Director
Governor's Office of Workforce Development

Attachments:

- Who Must Register Chart
- Excerpts from Alabama's Forms Preparation and Data Validation Requirements Handbook
 - o Selective Service Registration overview
 - o Selective Service Registration Requirements
 - o Form: WIA Verification of Selective Service Waiver
- Form: Verification of Selective Service Waiver (Non-WIA programs)

Who Must Register Chart

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.

Category	YES	NO
All male U.S. citizens born after December 31, 1959, who are 18 but not yet 26 years old, except as noted below:	X	
Military-Related		
Members of the Armed Forces on active duty (active duty for training does not constitute "active duty" for registration purposes)		X*
Cadets and Midshipmen at Service Academies or Coast Guard Academy		X*
Cadets at the Merchant Marine Academy	X	
Students in Officer Procurement Programs at the Citadel, North Georgia College and State University, Norwich University, Virginia Military Institute, Texas A&M University, Virginia Polytechnic Institute and State University		X*
National Guardsmen and Reservists not on active duty	X	
Delayed Entry Program enlistees	X	
ROTC Students	X	
Separatees from Active Military Service, separated for any reason before age 26	X*	
Men rejected for enlistment for any reason before age 26	X	
Civil Air Patrol members	X	
Aliens**		
Lawful non-immigrants on visas (e.g., diplomatic and consular personnel and families, foreign students, tourists with unexpired Form I-94, or Border Crossing Document DSP-150)		X
Permanent resident aliens (USCIS Form I-551)	X	
Special (seasonal) agricultural workers (I-9)	X	
Special agricultural workers (I-9)		X
Refugee, parolee, and asylee aliens	X	
Undocumented (illegal) aliens	X	
Dual national U.S. citizens	X	
Confined		
Incarcerated, or hospitalized or institutionalized for medical reasons		X*
Handicapped physically or mentally		
Able to function in public with or without assistance	X	
Continually confined to a residence, hospital, or institution		X

June 26, 2009: The Selective Service System, Office of Public and Intergovernmental Affairs

* Must register within 30 days of release unless already age 26, or already registered when released, or unless exempt during entire period age 18 through 25.

**Residents of Puerto Rico, Guam, Virgin Islands, and Northern Mariana Islands are U.S. Citizens. Citizens of American Samoa are nationals and must register when they are habitual residents in the United States. Habitual residence is presumed whenever a national or citizen of the Republic of the Marshall Islands or the Federated States of Micronesia resides in the United States for more than one year in any status, except as a student or employee of the government of his homeland.

NOTE: Immigrants who did not enter the United States or maintained their lawful non-immigrant status by continually remaining on a valid visa until after they were 26 years old were never required to register. Also, immigrants born before 1960 who did not enter the United States or maintained their lawful non-immigrant status by continually remaining on a valid visa until after March 29, 1975, were never required to register.

NON-CITIZENS

Some non-citizens are required to register. Others are not. Noncitizens who are not required to register with Selective Service include men who are in the U.S. on student or visitor visas, and men who are part of a diplomatic or trade mission and their families. Almost all other male noncitizens are required to register, including illegal aliens, legal permanent residents, and refugees. The general rule is that if a male noncitizen takes up residency in the U.S. before his 26th birthday, he must register with Selective Service. For a more detailed list of which non-citizens must register, see the Who Must Register Chart attached.

DUAL NATIONALS

Dual nationals of the U.S. and another country are required to register, regardless of where they live, because they are U.S. nationals. Most are also liable for induction into the U.S. Armed Forces if there is a draft. They would also be eligible for any deferments, postponements, and exemptions available to all other registrants.

However, some aliens and dual nationals would be exempt from induction into the military if there is a draft, depending on their country of origin and other factors. Some of these exemptions are shown below:

- An alien who has lived in the U.S. for less than one year is exempt from induction.
- A dual national whose other country of nationality has an agreement with the U.S. which specifically provides for an exemption is exempt from induction.
- [Some countries have agreements with the U.S. which exempt an alien national who is a citizen of both that country and the U.S. from military service in the U.S. Armed Forces.] An alien who requests and is exempt under an agreement or bilateral treaty can never become a U.S. citizen, and may have trouble reentering the U.S. if he leaves.
- An alien who served at least a year in the military of a country with which the U.S. is involved in mutual defense activities will be exempt from military service if he is a national of a country that grants reciprocal privileges to citizens of the U.S.

During a draft, any claims for exemptions based on any of the above categories would be granted or denied by a man's Selective Service Local Board. (A Selective Service Local Board is a group of five citizen volunteers whose mission, upon a draft, will be to decide who among the registrants in their community will receive deferments, postponements, or exemption from military service based on the individual registrant's circumstances and beliefs.)

Military examiners make the final decision about who will be accepted into the military.

HOSPITALIZED OR INCARCERATED MEN

Young men in hospitals, mental institutions or prisons do not have to register while they are committed. However, they must register within 30 days after being released if they have not yet reached their 26th birthday.

DISABLED MEN

Disabled men who live at home must register with Selective Service if they can reasonably leave their homes and move about independently. A friend or relative may help a disabled man fill out the registration form if he can't do it himself.

Men with disabilities that would disqualify them from military service still must register with Selective Service. Selective Service does not presently have authority to classify men, so even men with obvious handicaps must register now, and if needed, classifications would be determined later.

FULL-TIME MILITARY EXEMPTED FROM REQUIREMENT*

Young men serving in the military on full-time active duty do not have to register. Those attending the service academies do not have to register. However, if a young man leaves the military before turning 26, he must register.

NATIONAL GUARD AND RESERVES*

Members of the Reserve and National Guard not on full-time active duty must register.

CONSCIENTIOUS OBJECTORS

Men who would be classified as Conscientious Objectors if they were drafted must also register with Selective Service. If a draft begins and they are called, they would have the opportunity to file a claim for exemption from military service based upon their religious or moral objection to war.

***NOTE:** If a man failed to register with Selective Service, Section 12(g) of the Military Selective Service Act allows non-registrants to receive benefits under specific conditions. As a veteran, or part-time National Guard or Reservist, the man satisfies those conditions with his DD Form 214 showing the dates of his military service, or a current military ID card if still on active duty or a member of the National Guard and Reserves. These documents serve as evidence that the man's failure to register was not knowing and willful. Therefore, men who served on full-time active duty in the U.S. Armed Forces should not be denied student financial aid, loans, or grants; vocational training under WIA; government employment; and security clearances, on the basis of their failure to register with Selective Service. As long as the man has proof of his active duty military service, such as his DD 214, or current military ID card if still on active duty or a member of the National Guard or Reserves, his subsequent failure to register should not be a bar to any benefits or programs, contingent upon registration compliance, for which he is otherwise qualified.

Excerpts: Alabama's Forms Preparation and Data Validation Requirements Handbook

SELECTIVE SERVICE REGISTRATION

The WIA, Section 189(h) [20 CFR 667.250] requires that a determination of Selective Service Registration Status be made prior to enrollment into WIA-funded programs. Military Selective Service Amendments provide that services must be denied to a male applicant 26 years of age or older if it is determined that he knowingly and willfully failed to register. He may be considered for participation.

The LWIB has the option to serve those who did not knowingly and willfully fail to register. The LWIB will develop policy and procedures to conform with the new guidance on service to this population of applicants. This local policy would be carried out by the Career Center or entity that determines eligibility.

Only those males who are subject to, and have complied with, the registration requirements of the Military Selective Service Act (MSSA), as amended are eligible for participation in WIA-funded programs and services. Section 189(H) of WIA requires the Secretary of Labor to insure that each individual participating in any WIA program, or receiving any assistance under the WIA, has not violated the requirements of §3 of the MSSA (50 U.S.C. App. 453). This section requires that every male citizen, and every other male residing in the U. S., must register with the Selective Service System between their 18th and 26th birth dates. The Director of the SSS and the Secretary of Labor are required to cooperate in carrying out these provisions.

In 1986, the MSSA was amended by Public Law 99-661, §1366 to require the registration status to be examined and confirmed as follows:

- (g) 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 U.S.C. 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 nonregistrant 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."

Occasionally, males who were subject to SSS registration, but did not register and are now beyond their 26th birth date, apply for assistance from the WIA program. In the past, when grantees completed the "advisory form" for such applicants, the SSS responded with an "advisory opinion letter" which, in effect, ruled on an Applicant's compliance with the WIA requirement to register with the SSS. Since January 1995, the SSS has been issuing "status information letters" indicating an applicant's Selective Service status, in lieu of the previous system of "advisory opinion letters." This current practice is pursuant to SSS's determination that final decisions for disbursing federally financed domestic benefits, services, rights, or training, rests solely with the various provider agencies which disburse them. In the case of WIA, these provider agencies are the LWIBs.

The LWIB programs disbursing services or benefits have the responsibility for deciding the above cases and determining eligibility for services or benefits on a case-by-case basis.

Individuals who are required to register (Males between the Ages of 18 and 26), but have not registered,

and have not yet reached their 26th birth date, should be referred to SSS for registration or registered by the LWIB prior to enrollment in WIA.

Any male over 26 years old who did not register and 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 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.

Since the WIA grantee is now authorized to make these determinations for eligibility purposes, the LWIB 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 required to register is consistent with the above cited amendment to P.L. 99-661, §1366. If after reviewing the evidence, the LWIB determines that 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 the determination is that the evidence shows the Applicant's failure to register was knowing and willful, WIA services must be denied. Applicants denied services should be advised of the available grievance procedures under WIA. Decisions by the local program are appealable to the State (see item 6. below).

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 to LWIBs in making a determination in these cases:

1. 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.
2. 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).
3. 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.
4. 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 on or after January 1, 1960, 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 LWIB reasons why SSS has no evidence of their registration, and in so doing, provide evidence to convince the LWIB 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 the LWIB must make the determination, as described

above.

5. Third Party Affidavits from parents, teachers, employers, doctors, etc. concerning reasons for not registering, may also be helpful to LWIBs in making determinations in cases regarding willful and knowing failure to register with the SSS.
6. The WIA and its regulations provide a system for handling grievances, complaints, hearings, and appeal rights. The specific procedures to be followed are developed at the local and State levels in accordance with the provisions of WIA and the regulations at 20 CFR 667.600. Under WIA, the State is responsible for making sure that there is a process in place to handle WIA complaints/appeals at the local level. If a person does not receive a decision at the local level within 60 days of filing a complaint or grievance or is dissatisfied with the decision they receive, they have the right to request a review of their complaint by the State. Please note that under Federal rules, the State's decision is final.

Policy for Application of Selective Service System Registration Requirements in Section 189 (h) of WIA to Applicants 26 Year of Age or Older

WIA requires that a determination of Selective Service Registration status be made by WIA providers before services can be delivered. The Amendments provide that services may be denied to a male applicant 26 years of age or older if it is determined that the applicant knowingly and willfully failed to register.

The State encourages the Career Center or entity that determines eligibility to thoroughly review Applicant's non-registration status with SSS. Effective immediately, in determining the qualifications of males who failed to register with the Selective Service System to participate in WIA programs, the following steps should be followed:

The Career Center or entity that determines eligibility must determine whether the Applicant has complied with the SSS requirement:

1. The Career Center or entity that determines eligibility will determine if the male has served on active duty in the military and has been discharged. All discharges, other than dishonorable, allow the applicant to be eligible to participate in WIA programs. Appropriate documentation would include making a copy of the applicant's military discharge (Form DD-214) for the intake record. Reserve duty and National Guard service are not acceptable for eligibility.
2. If the Applicant did not serve in the military and is not registered, the entity that determines eligibility will decide if the Applicant has a visible or obvious handicap that would permanently disqualify him from military service. If the Applicant has such a handicap, no further action is necessary. If otherwise eligible, the Applicant may participate in the WIA program. The entity determining eligibility should appropriately document the type of handicap observed and note it in the Applicant's intake record. Other appropriate documentation includes a medical statement or Social Security disability income documentation.
3. If the Applicant does not have a visible or obvious handicap that would permanently disqualify him from military service, has no honorable discharge, and has not complied with Selective Service's Registration requirements, the following procedure will be followed:

The Career Center or entity that determines eligibility will decide whether an Applicant knowingly and willfully failed to register with the SSS.

An Applicant 26 years of age or older who was born on or after January 1, 1960, and does not meet any of the above criteria, must request a Status Information Letter from the SSS if the local LWIB cannot establish the registration status of the individual before further eligibility determination for participation in WIA programs may be considered.

The Career Center instructs the non-registered Applicant, 26 years of age or older, (or those without evidence of registration with the SSS) wishing to participate in WIA programs to send request for a Status Information Letter to:

The Office of General Counsel
Selective Service System
National Headquarters
1515 Wilson Blvd.
Arlington, VA. 22209

Applicant requests must include the following information:

1. The Applicant's name;
2. The Applicant's current address;
3. The Applicant's date of birth;
4. The Applicant's Social Security number (Applicants may voluntarily provide this to the SSS to aid in differentiating among applicants with identical names. The Selective Service does not, however, require this information.); and
5. A statement that the Applicant is requesting a Status Information Letter.

The SSS will respond with a Status Information Letter within 30 days of receipt of each request. The SSS does not render an opinion regarding the circumstances of the Applicant's noncompliance. The Status Information Letter either confirms that a male was required to register and did so or that he is not registered. The SSS does not provide a determination for the failure to register. When the Applicant receives a response from the SSS, the letter should be taken to the Career Center or entity determining eligibility.

The Career Centers are advised of their duty to determine, on a case-by-case basis, whether the Applicant has shown that the failure to register was not a deliberate disregard of the law.

If the Career Center determines that the Applicant's failure to register was reasonably not willful and knowing, then an otherwise eligible male may be enrolled into WIA programs.

Applicants who are determined to have knowingly and willfully failed to comply may not be enrolled into WIA programs.

The Career Centers are encouraged to give preferences to applicants who are honorably discharged veterans or who did comply with the SSS requirements.

**WORKFORCE INVESTMENT ACT
VERIFICATION OF SELECTIVE SERVICE WAIVER
FOR MALES BORN ON OR AFTER JANUARY 1, 1960, AND 26 OR OLDER
AND HAVE NOT REGISTERED**

Applicant's name: _____ Date of Application: ____/____/____

Date of Birth: ____/____/____ Social Security Number: ____/____/____

The above named Applicant meets all other requirements and is eligible for the Workforce Investment Act program. Eligibility is based on the following selective service eligibility.

____ Institutionalized for the entire period between the ages of 18 and 26.

____ Release Papers (Please attach a copy of the document used to verify the information).

____ Telephone Contact _____

____ Name of Institution _____

____ Date Entered _____

____ Date Released from Institution _____

____ Applicant's Status Verified By _____

____ Person Contacted _____

____ Job Title _____ Telephone No. _____

____ Received an honorable discharge from the military. (Please attach a copy of the document used to verify the information).

____ Visible or obvious disability that would permanently disqualify him from military service.

Please list disability observed _____

____ Appeal made to Selective Service and a Registered Status Information letter was received indicating that according to their records the applicant was not required to register.

____ Entered U.S. after 26th birthday (please attach a copy of immigration documentation showing U.S. entry date).

CERTIFICATION	
I certify that the information provided above is true and that all documentation is, to the best of my knowledge, authentic.	
Signature, Title _____	Date _____
Signature, Title _____	Date _____

VERIFICATION OF SELECTIVE SERVICE WAIVER
FOR MALES BORN ON OR AFTER JANUARY 1, 1960, AGE 26 OR OLDER
AND HAVE NOT REGISTERED

Applicant's Name: _____ Date of Application: _____

Date of Birth: ___ / ___ / ___

The above named Applicant meets all other requirements and is otherwise eligible. Eligibility is based on the following selective service registration waiver:

_____ Institutionalized for the entire period between the ages of 18 and 26
_____ Release Papers (Please attach a copy of the document used to verify the information.)
_____ Name of Institution: _____
_____ Date Entered: ___ / ___ / ___
_____ Date Released: ___ / ___ / ___
_____ Person Contacted: _____
_____ Job Title: _____ Telephone Number: _____

_____ Received an honorable discharge from the military (Please attach a copy of the document used to verify the information.)

_____ Visible or obvious disability that would permanently disqualify him from military service.
•Please note disability observed: _____

_____ Appeal made to Selective Service and a Registered Status Information letter was received indicating that according to their records the applicant was not required to register.

_____ Entered U.S. after 26th birthday (Please attach a copy of immigration documentation showing U.S. entry date.)

_____ Failure to register was not knowing and willful (Attach documentation.)

CERTIFICATION

I certify that the information provided above is true and that all documentation is, to the best of my knowledge, authentic.

Signature, Title: _____ Date: ___ / ___ / ___

Signature, Title: _____ Date: ___ / ___ / ___