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POLICY OF EMPLOYINDY

Policy Name	Selective Service Requirements
Policy Number	2015-017
Program Funding Stream	WIOA Title I
Executive Team Approval	(please date & initial below)
COO	<i>[Signature]</i> 3/23/17
CFO	<i>[Signature]</i> 3/18/17
President Approval	<i>[Signature]</i> 4/15/17

REV	Description of Change	Author	Effective Date	Sunset Date
	Reissued and replaces policy #2010-OP-001, Selective Service Requirements	W. Miller	Upon Approval	9/30/16
1	Added exceptions for "Not knowing and willful" under Policy Statement	J. Schlake	Upon Approval	6/30/18

1. Purpose

To establish a policy concerning the eligibility for services of male WIOA participants who have not registered with the Selective Service.

2. Scope

This policy provides guidance on acceptable services for individuals required to register with the Selective Service, as well as, acceptable documentation as it pertains to an individual's registration with the Selective Service.

3. Summary of the Law, Rules, and Governing Policies

The Workforce Innovation and Opportunity Act Section 189(h)¹ provides that "The Secretary shall ensure that each individual participating in any program or activity established under this title, or receiving any assistance or benefit under this title, has not violated section 3 of the Military

¹ 29 U.S.C. § 3249

Selective Service Act (50 U.S.C. App. 453)² by not presenting and submitting to registration as required pursuant to such section. The Director of the Selective Service System shall cooperate with the Secretary to enable the Secretary to carry out this subsection.”

The Military Selective Service Act (MSSA) states that all male US citizens born after 1959 (regardless of where they live) and male immigrants residing in the United States (permanent resident noncitizens) to register with the Selective Service System within 30 days of their 18th birthday.³ Male applicants who enter the WIOA 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 WIOA services.

In order to participate in a program receiving assistance under WIOA, all males required to register with the Selective Service must present documentation showing compliance.⁴

The following are not required to register:

- Women
- Military Related
 - Members of the Armed Forces on active duty
 - Cadets and Midshipmen at Service Academies or Coast Guard Academy
 - 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
- Immigrants
 - Lawful non-immigrants on visas. A complete list of acceptable documentation for exemption may be found [here](#).
 - Seasonal Agricultural Workers
- Confined
 - Incarcerated or hospitalized, or institutionalized for medical reason
- Handicapped
 - Continually confined to a residence, hospital or institution
- Transgender
 - Individuals who are born female and have changed their gender to male.⁵

50 U.S.C. § 3811(g) states that, “A person may not be denied a right, or privilege, or benefit under federal law by reason of failure to present himself for and submit to registration under Section 3802 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.

4. Responsibilities

² Note: This section has been transferred to 50 U.S.C. § 3802

³ United States Department of Labor, TEGL 11-11.

https://wdr.doleta.gov/directives/attach/TEGL/TEGL_11-11_change2-Acc.pdf

⁴ *Id.* at 2

⁵ <https://www.sss.gov/Registration/Who-Must-Register/Chart>

- EmployIndy Career Services and Quality Departments are responsible for the oversight of this policy.
- EmployIndy Service Providers are responsible for the implementation of this policy.

5. Policy Statement

Informational and basic services are available to all individuals. However, male participants who are 18 years of age or older must be registered with the Selective Service to be eligible for individualized career, training, or youth workforce services funded through federal grants. Acceptable documentation to demonstrate a persons' Selective Service Registration status include:

1. Selective Service Acknowledgement Letter
2. Form DD-214 "Report of Separation"
3. Screen printout of the Selective Service Verification site.
4. Selective Service Registration Card
5. Selective Service Verification Form
6. Stamped Post Office Receipt of Registration.⁶

Under 18 Years Old

A male participant who is not 18 years of age does not have to be registered with the Selective Service to enroll in WIOA services, but if he turns 18 while receiving services, he must register with Selective Services within 30 calendar days. WIOA services must be discontinued if the participant does not register within 30 calendar days from his 18th birthday.⁷

Between 18 and 26 Years Old

A male participant between the ages of 18 and 26 years of age who is not registered with the Selective Service must be registered prior to receiving services. If the participant refuses to register, he cannot receive services beyond basic career and informational services until he registers. If the failure to register is due to an exemption by the Selective Service as stated in his Selective Service Status Information Letter, the participant may receive any WIOA Title I Services.

Over 26 Years Old

Any male born after 1959 who is over the age of 26 and who has not registered with the Selective Service is no longer eligible to register and is not eligible for WIOA Title I services unless:

- (1) The reason for not registering is one of the exceptions outlined in the Summary of Law.
- (2) The failure to register is not knowing and willful.

(1) Individuals not required to Register

Such individuals must produce a Selective Service Status Information Letter indicating that they are exempted from registration in order to receive services with the exception of those indicating that they have been or are currently enlisted in the military.

⁶ United States Department of Labor, TEGL 11-11.

https://wdr.doleta.gov/directives/attach/TEGL/TEGL_11-11_change2-Acc.pdf

⁷ *Id.* at 3.

Acceptable documentation for individuals who are exempt from registration with the Selective Service based on military enlistment shall be either a Selective Service Status Information Letter or one of the following pieces of documentation:

- DD-214;
- Current fulltime active duty orders; or
- Military ID card

(2) Not Knowing and Willful

An individual over 26 years old may also receive services if the person shows by a preponderance of the evidence that the failure of the person to register was either:

1. Not a knowing failure; or
2. Not a willing failure.

In determining whether the failure was “knowing,” service provider staff should consider:

- 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 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?⁸

In determining whether the failure was “willful,” the authorized organization should consider:

- 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?⁹

Service provider staff make the initial recommendation regarding whether an individual has met the burden of demonstrating that failure to register was not knowing and willful. EmployIndy’s Executive Team makes the final determination regarding whether the failure to register was not knowing and willful and therefore the participant is eligible for service.

Process for Denials

Individuals must be informed in writing of their denial for services based on Selective Service registration. Such notice must be dated, include the facts of the case, and provide the specific reason(s) for the denial.

Individuals have the right to appeal their denial within 20 days of the date on their notice. The standard EmployIndy grievance process¹⁰ will be used for any decision that is appealed.

6. Exceptions

⁸ *Id.*

⁹ *Id.*

¹⁰ See the EmployIndy *Participant Grievance Policy*.

Exceptions to the requirement to register for Selective Service are outlined in the Policy Statement section above.

7. Definitions

Burden of Proof: The burden of proof is the obligation to shift the accepted conclusion away from an opposition's opinion to one's own position.

Credibility: Credibility is the quality, capability, or power to elicit belief or a capacity for belief. It may also refer to someone's reputation for truthfulness.

Preponderance of Evidence: This standard is met if the proposition is more likely to be true than not true. Effectively, the standard is satisfied if there is greater than 50 percent chance that the proposition is true.

Selective Service Status Information Letter: Documentation issued by the Selective Service indicating whether the individual was or was not required to register.

8. Related Policies and Documents

USDOL TEGL #11-11 issued November 23, 2011¹¹
EmployIndy Participant Grievance Policy
EmployIndy WIOA Participant Eligibility Policy

¹¹ United States Department of Labor, TEGL 11-11.
https://wdr.doleta.gov/directives/attach/TEGL/TEGL_11-11_change2-Acc.pdf