

**WIA Eligibility  
Guidelines  
Selective Service  
Registration  
*Desk Reference***

## SELECTIVE SERVICE REGISTRATION

Section 189(h) [20 CFR §667.250] of the Workforce Investment Act (WIA) requires that a determination of Selective Service System (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) (50 USC App. 453), as amended, 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 Selective Service. Section 189(h) of WIA 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 Selective Service director and the secretary of labor also are required to cooperate in carrying out these provisions.

MSSA, amended in 1986 by Public Law 99-661 §1366, requires an individual's 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 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.*

Selective Service has determined that final decisions on disbursement of federally financed domestic benefits, services, rights, or training rest solely with the various provider agencies that disburse them. In the case of WIA, Local Workforce Development Boards (Boards) are the provider agencies.

Boards and Workforce Solutions Offices are responsible for determining eligibility for services or benefits on a case-by-case basis.

1. All male U.S. citizens between the ages of 18 and 26 (regardless of where they live), and male immigrants residing in the United States (permanent resident noncitizens), are required to register within 30 days of their 18th birthday. Male applicants who enter the WIA program at age 17 or younger and attain age 18 while participating in the program must be registered with Selective Service by the 30th day after their 18th birthday to remain eligible for WIA services. Funds expended on male WIA participants not registered with Selective Service by the 30th day after their 18th birthday may be considered disallowed costs.
2. Any male 26 years of age or older who did not register with Selective Service is presumed to be disqualified from participation in WIA-funded activities and services. The job seeker must provide evidence explaining why he failed to register with Selective Service.

Evidence can include the job seeker's written explanation—along with supporting documentation—of his circumstances at the time of the required registration and the reasons for failure to register.

Boards must ensure that Workforce Solutions Office staff evaluates the evidence presented by the job seeker and determines whether failure to register with Selective Service is consistent with Public Law 99-661 §1366. If Workforce Solutions Office staff determines that failure to register was not a knowing and willful failure, and the job seeker is otherwise eligible, services can be provided. If the evidence shows that the job seeker's failure to register was knowing and willful, WIA services must not be provided.

### **Selective Service System Registration Requirements**

Males 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 United States;
- noncitizens, including illegal aliens, legal permanent residents, seasonal agricultural workers, and refugees, who take up residency in the United States before their 26th birthday; or
- dual nationals of the United States and another country regardless of whether or not they live in the United States.

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

- Males serving in the military on full-time active duty
- Males attending a service academy
- Males who are disabled and were continually confined to a residence, hospital, or institution
- Males who are hospitalized, institutionalized, or incarcerated (these individuals must register within 30 days after release if they have not yet reached their 26th birthday)

For noncitizens, Selective Service registration is not required if the individual falls within one of the following categories:

- Noncitizen male who came into this country for the first time after his 26th birthday. Acceptable forms of supporting documentation include the following:
  - Passport with date of entry stamp;
  - I-94 with date of entry stamp; or
  - Letter from the U.S. Citizenship and Immigration Services indicating date the individual entered the United States, presented in conjunction with documentation establishing the individual's age.
- Noncitizen male who entered the United States illegally after his 26th birthday. He must provide proof that he was not living in the United States from age 18 through 25.
- Noncitizen male on a valid nonimmigrant visa.

## **Ensuring Selective Service System Registration Compliance in the Texas Workforce System**

To be eligible to receive WIA-funded services, all males born on or after January 1, 1960, must present documentation showing compliance with the Selective Service registration requirement. Acceptable documentation to determine an individual's Selective Service registration status includes the following:

- Selective Service Acknowledgement letter
- Form DD-214 (Report of Separation)
- Form DD-215 (Correction to DD-214, Certificate of Release or Discharge from Active Duty)
- Screen printout of the Selective Service Online Verification site: [www.sss.gov/RegVer/wfVerification.aspx](http://www.sss.gov/RegVer/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

### **Determination of “Knowing and Willful”**

Boards and Workforce Solutions Offices can serve male applicants 26 years of age or older who did not knowingly and willfully fail to register. If the individual was required but failed to register with Selective Service, he can receive WIA-funded services only by establishing, through a preponderance of evidence, that the failure to register was not knowing and willful.

Boards must determine what constitutes a preponderance of evidence when a failure to register was not knowing and willful.

For consistency in implementation of the policies, it is recommended that Boards consider the following questions:

- Was the failure *knowing*?
  - Was the individual aware of the requirement to register?
  - If the individual knew about the requirement to register, was he misinformed about how the requirement applies to him?
  - On what date did the individual first learn that he was required to register?
  - Where did the individual live 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?
- Was the failure *willful*?
  - Was the failure to register deliberate and intentional?
  - 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?

Third-party affidavits from parents, teachers, employers, doctors, etc., also can help determine whether or not failure to register with Selective Service was knowing and willful.

If a Board determines it was not a knowing and willful failure and the individual is otherwise eligible, services can be provided. If the Board determines that the individual's failure to register was knowing and willful, WIA-funded services must be denied. Individuals denied services must be advised of available WIA grievance procedures. Boards must maintain evidential documentation presented in determinations related to Selective Service.

The Status Information Letter may provide proof that the individual was not required to register. If the Status Information Letter indicates that the individual was required to register, but no longer can because he is 26 years of age or older, he is presumed disqualified from receipt of WIA-funded services until it is determined that the failure to register was not knowing and willful.

The Request for Status Information Letter form and instructions are available at <http://www.sss.gov/PDFs/infoform.pdf> and <http://www.sss.gov/PDFs/instructions.pdf>, respectively. The form requires:

- a detailed description of the circumstances that prevented the individual from registering (e.g., hospitalization, institutionalization, incarceration, military service); and
- documentation of those circumstances (i.e., specific dates of the circumstances).

#### **Application of Workforce Investment Act Selective Service System Registration Requirements Pertaining to Male Applicants 26 Years of Age or Older**

WIA requires that WIA providers determine a job seeker's Selective Service registration status *before* delivering services. Services must be denied to a male applicant 26 years of age or older who knowingly and willfully failed to register.

The state requires Workforce Solutions Offices, and any entity that determines eligibility, to thoroughly review a job seeker's nonregistration status with Selective Service. Effective immediately, the Workforce Solutions Office or other entity determining eligibility must use the following guidelines to establish whether the job seeker has complied with the Selective Service requirement:

1. Determine whether the male applicant served on active duty in the military. Form DD-214, Report of Transfer or Discharge, or Form DD-215, Correction to DD-214, Certificate of Release or Discharge from Active Duty, are considered acceptable documentation to determine an individual's Selective Service registration.
2. Evidence that the job seeker was institutionalized or outside of the United States for the entire period from before his 18th birthday to after his 26th birthday may include discharge papers from the institution or travel documents showing the individual was out of the country. These may be considered evidence that failure to register with Selective Service was not willful or knowing.

3. Eligible noncitizen males who entered the United States on or after attaining their 26th birthdays are exempt from Selective Service registration requirements. Immigration and Naturalization Service (INS) Form I-94 (Arrival/Departure Record) and INS Form I-551 (Alien Registration Receipt Card, aka “green card”) shows the birth date of the eligible noncitizen.
4. INS grants legal status and employment authorization to some lawful seasonal agricultural workers (SAWs) and formerly illegal noncitizens under the 1986 Immigration Reform and Control Act (IRCA). Male noncitizens 26 years of age or older who entered the United States illegally and who were subsequently granted legal status by the INS (IRCA-legalized aliens), or were born on or after January 1, 1960, but are not registered with Selective Service, may be enrolled in WIA activities only if the job seeker provides evidence that he did not knowingly or willfully fail to register. The job seeker, if otherwise eligible, then may be enrolled in WIA activities. Boards must ensure the determination is made as described above.
5. WIA regulations provide a system for handling grievances, complaints, hearings, and appeal rights. Specific procedures are developed at the local and state levels in accordance with WIA provisions and regulations at 20 CFR §667.600. Under WIA, the state is responsible for ensuring that there is a process in place to handle WIA grievances and appeals filing at the local level. If an individual does not receive a decision at the local level within 60 days of filing a complaint or grievance, or is dissatisfied with the decision, he has the right to request a review of his case by the state. Please note that under federal rules, the state’s decision is final and shall conform to the Commission’s Chapter 823, Integrated Complaints, Hearings, and Appeals rules.

**WHO MUST REGISTER FOR SELECTIVE SERVICE?**

CATEGORY	YES	NO
All male U.S. citizens who have attained 18 years of age but are not yet 26 years old, except as noted below:	<b>X</b>	
<b>Military-related</b>		
Members of the armed forces on Active Duty (Active Duty for training does not constitute <i>Active Duty</i> for registration purposes.)		<b>X*</b>
Cadets and midshipmen at service academies or the Coast Guard Academy		<b>X*</b>
Cadets at the Merchant Marine Academy	<b>X</b>	
Students in Officer Procurement Programs at The Citadel, North Georgia College and State University, Norwich University, Virginia Military Institute, Texas A&M University, and Virginia Polytechnic Institute and State University		<b>X*</b>
National Guardsmen and Reservists not on active duty	<b>X</b>	
Delayed Entry Program enlistees	<b>X</b>	
Reserve Officer Training Corps students	<b>X</b>	
Separatees from active military service, separated for any reason before age 26		<b>X****</b>
Men rejected for enlistment for any reason before age 26	<b>X</b>	
Civil Air Patrol members	<b>X</b>	
<b>Aliens**</b>		
Lawful, eligible noncitizens on visas (e.g., diplomatic and consular personnel and families, foreign students, tourists with unexpired forms I-94, I-95A, or Border Crossing Documents I-185, I-186, I-586, or I-444)		<b>X</b>
Permanent resident aliens	<b>X</b>	
Special (seasonal) agricultural workers (I-688)	<b>X</b>	
Special agricultural workers (I-688A)		<b>X</b>
Refugee, parolee, and asylee noncitizens	<b>X</b>	
Undocumented (illegal) aliens	<b>X</b>	

Dual national U.S. citizens	X	
<b>Confined</b> Incarcerated, hospitalized, or institutionalized for medical reasons		X*
<b>Disabled physically or mentally</b> Able to function in public with or without assistance	X	
Continually confined to a residence, hospital, or institution		X

\* MUST register within 30 days of release unless already age 26, already registered when released, or 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 a citizen of the Republic of the Martial 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.

\*\*\* U.S. Department of Labor Training and Employment Guidance Letter No. 11-11, Change 1, states that Form DD-214, Report of Transfer or Discharge (Form DD-215, Correction to DD-214, Certificate of Release or Discharge from Active Duty, can be substituted for Form DD-214) is acceptable documentation to determine an individual's compliance with Selective Service registration.

**REFERENCE:**

Workforce Investment Act §189(h)

Military Selective Service Act, 50 USC App. 453, as amended (§3)

U.S. Department of Labor Training and Employment Administration's Training and Employment Guidance Letter No. 11-11, Change 1, issued January 20, 2012, and entitled "Selective Service Registration Requirements for Employment and Training Administration Funded Programs"

Texas Workforce Commission Integrated Complaints, Hearings, and Appeals Rules: 40 TAC, Chapter 823