



POLICY NO. 31 SELECTIVE SERVICE REGISTRATION

PURPOSE

To ensure that the Mendocino County Local Workforce Investment Area complies with federal requirements regarding Selective Service System (SSS) registration of individuals participating in programs funded under the Workforce Investment Act (WIA) and who are subject to the Military Selective Service Act (MSSA).

BACKGROUND

Of those males who are subject to the MSSA, only those who have complied with the MSSA registration requirements are eligible for participation in WIA-funded programs and services. Section 3 of the MSSA requires male U.S. citizens, nationals, some male immigrants, and other males living in the United States, who are between the ages of 18 and 26 to register with the SSS.

In 1986, the MSSA was amended by PL 99-661, Sec. 1366 to require that military registration status be examined and confirmed as follows:

“A person may not be denied the 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.”

WIA Section 189(h) [20 CFR 667.250] requires that a determination of selective service registration status be made prior to enrollment in WIA-funded programs. Military selective service amendments state that services must be denied to a male applicant 26 years of age or older who knowingly and willfully failed to register. If it can be determined that the applicant did not knowingly and willfully fail to register, he may be considered for participation. A male applicant who enters the WIA program at age 17 or younger and attains age 18 while participating in the program must be registered for selective service by the 30th day after his 18th birthday to remain eligible for WIA services. Funds expended on male participants who have not registered for selective service by the 30th day after their 18th birthdays will be disallowed costs. The following chart indicates who must register according to SSS:

Who Must Register	
Almost all male U.S. citizens, regardless of where they live, and male immigrant aliens residing in the U.S are required to be registered with Selective Service if they are at least 18 years old, but are not yet 26 years old. Men who are 26 years old and older cannot register. Exceptions to registration requirements are noted below.	
Category	Required to Register
All male U.S. citizens born from March 29, 1957 to December 31, 1959	No
All male U.S. citizens born after December 31, 1959, who are 18 but not yet 26 years old, except as noted below	Yes
Military-Related	
Active duty military	No*
Men who served honorably in the U.S. Armed Forces and received an honorable discharge.	No
Men attending service academies (e.g., U.S. Air Force Academy)	No*
Men attending the U.S. Coast Guard Academy	No*
Men attending the Merchant Marine Academy	Yes
Male students in military 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	No*
Members of the National Guard or Reserves not on active duty	Yes
Delayed Entry Program enlistees	Yes
ROTC Students	Yes
Men who separate from active duty military for any reason before they turn 26	Yes*
Men rejected for enlistment for any reason before turning 26	Yes
Aliens**	
Lawful non-immigrants on visas (e.g., diplomatic and consular personnel and families, foreign students, tourists with unexpired visas (Forms I-94, 1-95A), or those with Border Crossing Documents (Forms I-185, I-186, I-444))	No
Permanent resident aliens	Yes
Special (seasonal) agricultural workers (Form I-688)	No
Refugee, parolee, and asylee aliens	Yes
Undocumented (illegal) aliens	Yes

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.

Confined	
Incarcerated, hospitalized, or institutionalized for medical reasons	No*
Handicapped physically or mentally	
Able to function in public with or without assistance	Yes
Continually confined to a residence, hospital, or institution	No
*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 their permanent address is in the U.S. This also goes for a national or citizen of the Republic of the Marshall Islands or the Federal States of Micronesia if he lives in the U.S. for more than one year for any reason, except as a student or employee of the government of his homeland.	

Occasionally, males who were subject to SSS registration, but did not register and are now beyond their 26th birthdays, apply for assistance from the WIA program. In determining the eligibility of males over the age of 26 who failed to register with SSS, staff must consider whether the failure to register was knowing and willful when evaluating the documentation and statements provided by the applicant. Persons with less than honorable discharges from the armed forces and less than total paralysis may be determined eligible by demonstrating that they did not knowingly and willfully fail to register with the SSS.

The SSS has been issuing Status Information Letters since January 1995. These letters can be used for eligibility determination in the above cases. This 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 that disburse them. In the case of WIA, these provider agencies are the local workforce investment areas and their subrecipients.

REFERENCES

- WIA Section 189(h)
- Employment Development Department (EDD) WIA Directive WIAD01-4, Selective Service Registration, (August 28, 2001)
- EDD RWIAD04-18, WIA Eligibility Technical Assistance Guide, Program Year 2004-2005
- U.S. Department of Labor (DOL), Training and Employment Guidance Letter (TEGL) No. 8-98, Selective Service Registration, (November 4, 1998)
- Employment and Training Agency (ETA) Memo JRB#27-98

POLICY AND PROCEDURES

- A. Applicants Who Have Not Registered for Selective Services.

The Mendocino County Local Workforce Investment Area has the responsibility for deciding the above cases and determining eligibility for services or benefits on a case-by-case basis.

- 1) Males between the ages of 18 and 26. Individuals who are required to register, but have not registered, and have not yet reached their 26th birth date, should be referred to SSS for registration prior to enrollment in WIA.
- 2) Males over the age of 26 who did not register. Any male over 26 years old who possesses a Status Information Letter from the SSS indicating 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. Any male over 26 years old who did not register with the SSS and who does not possess a Status Information Letter from the SSS should be referred to the SSS. The Status Information Letter and instructions may be obtained from www.sss.gov.

B. Determination of “Knowing and Willful” Failure to Register with the Selective Service System

One-Stop Operator staff shall request from males over the age of 26 who did not register with the SSS, a Status Information Letter and a written explanation from the applicant stating his circumstances at the time of the required registration and his reasons for not registering. Supporting documentation concerning the reasons for not registering is also required. An applicant may be advised to offer as much evidence in as much detail as possible to support his case. Third party affidavits from parents, teachers, employers, doctors, etc., concerning reasons for not registering, may also be helpful in making determinations.

The Status Information Letter contains a code that will be helpful in eligibility determination. A copy of the letter should be kept in the eligibility file, along with all other supporting documentation.

Status Information Letter codes delineated in ETA Memo JRB#27-98 are:

- 1) Codes E1-E7: “General Exemptions” -- The applicant’s documentation indicates he was not required to register or was exempt for the entire time period (age 18 through 26).
- 2) Code RR: “Required to Register – Is Not” -- The applicant indicates he attempted to register but Selective Service has no record that he registered.
- 3) Code RL: “Required to Register – Compliance Letter Sent” -- The applicant’s documentation indicates he was required to register but Selective Service has no record that he registered. Also, Selective Service records indicate he was sent one or more compliance letter(s) requesting his compliance during the period he was required to register.
- 4) Code RD: “Required to Register – He stated he did not” -- The applicant did not register, nor did he provide valid reasons or documentation why he failed to register.

When the status information letter code is as follows, a possible local interpretation may be:

- 1) E1-E7: He has been determined exempt from registration and is not required to provide additional documentation or clarification with regard to his Selective Service registration status.

If he is otherwise eligible, he may be considered an acceptable candidate for WIA-funded services.

- 2) RR: He will be required to provide proof that his failure to comply with the MSSA was not “knowing and willful” failure to register for Selective Service.

In this instance, SSS has investigated and determined that the applicant claims to have attempted to register. The SSS has no proof that this applicant “knowingly and willfully” failed to register. Documentation will need to demonstrate the reason for his noncompliance with the MSSA.

- 3) RL: He will be required to provide proof that his failure to comply with the MSSA was not knowing and willful failure to register for Selective Service.

In this instance, SSS has investigated and determined that the applicant was required to register, did not comply with this requirement, and was sent one or more compliance letter(s) requesting his registration. Further investigation is warranted.

Documentation will need to demonstrate the reason for his noncompliance with the MSSA. This applicant’s clarification must address the fact that Selective Service records indicate compliance letters were sent. Without a reasonable explanation, this applicant will not likely be determined eligible for services.

- 4) RD: He will be required to provide proof that his failure to comply with the MSSA was not knowing and willful.

In this instance, SSS has investigated and determined that the applicant was required to register and did not comply with this requirement. However, there is no indication that his failure to register was knowing and willful. Further investigation is warranted.

Documentation will need to demonstrate the reason for his noncompliance with the MSSA. This applicant may or may not be deemed eligible for services.

C. Examples of Documentation/Evidence the Applicant Could Provide

A nonregistrant should be encouraged to offer as much evidence in as much detail as possible to support his case. Following are examples of documentation/evidence that may help in making a determination in these cases:

- 1) Service in Armed Forces: 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) Aliens Entering U.S. On or After Age 26: 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: 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) Former Illegal Aliens: 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 after December 31, 1959, 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 local workforce investment area reasons why SSS has no evidence of their registration, and in so doing, provide evidence to convince the local workforce investment area 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 local workforce investment area must make the determination, as described above. It is important to remember that participation of an alien without legal status from INS in WIA-funded activities and programs is prohibited, even if there is a determination that there is evidence to show the applicant did not knowingly and willfully fail to register with the SSS.

- 5) Non-Immigrant Aliens: Lawful non-immigrants on visas (i.e., diplomatic and consular personnel and families; foreign students; and tourists with unexpired Forms I-94, I-95A or Border Crossing Documents I-185, I-186, I-586, or I-444) are not required to register with the Selective Service, but must be authorized to work in the United States under Sec. 188 (a)(5) to be eligible for WIA.

The One-Stop Operator staff will review the evidence compiled to determine whether the preponderance of the evidence shows the applicant’s failure to register was not knowing and willful, in which case staff will document such determination and WIA services will be granted.

If staff reviews evidence and determines that the preponderance of the evidence shows the applicant’s failure to register was knowing and willful, WIA services will be denied. Decisions regarding selective service registration determinations are subject to WIA grievance and appeal procedures. Applicants denied services should be advised of the available grievance procedures under the WIA.

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