



Policy Number: WIOA I-B – 2.1 (3/23/21) Effective Date: March 23, 2021

Common Eligibility Requirements

PURPOSE:

The purpose of this policy is to describe and explain the eligibility requirements common to all WIOA Title I-B programs in accordance with the Workforce Innovation and Opportunity Act of 2014 (WIOA), the WIOA Final Rule, Training and Employment Guidance Letters (TEGLs) published by the Employment and Training Administration of the U.S. Department of Labor (ETA), and policies of the Arkansas Workforce Development Board (AWDB). The common eligibility requirements of this policy apply only to services requiring enrollment into a WIOA Title I-B program.

REFERENCES:

WIOA §§ 188(a) & 189(h);
20 CFR 655.5
20 CFR 675.300, 677.160, 677.175, 680.110, & 683.285
Comments in WIOA Final Rule concerning §§ 677.155, 677.175 & §683.105
TEGLs 11-11 Change 2, 37-14, & 19-16
5 U.S.C. 552a (Privacy Act of 1974)
8 U.S.C. 1324a (Immigration Reform and Control Act of 1987, Public Law 99-603)
20 U.S.C. 1681 et seq. (Title IX of the Education Amendments of 1972)
29 U.S.C. 794 (Rehabilitation Act of 1973)
42 U.S.C. 2000d et seq. (Title IV of the Civil Rights Act of 1964)
42 U.S.C. 6101 et seq. (Age Discrimination Act of 1965)
50 U.S.C 3801 et seq. (Formerly 50 U.S.C. App 451; Military Selective Service Act)
www.sss.gov

POLICY:

In order to be enrolled in WIOA Title I-B activities, an individual must or should (depending on the requirement) provide documentation of eligibility in four areas: age/birthday, Social Security number (SSN), compliance with the Military Selective Service Act, and eligibility to work in the United States. An overview of the requirements and documentation is given in this policy. Additional requirements for specific programs are given in the most recent policies for those programs (ADWS Policies No. WIOA I-B

– 2.3 Eligibility for Adult Program, 2.4 Eligibility for Dislocated Worker Program, 2.5 Eligibility for In-School Youth Program, and 2.6 Eligibility for Out-of-School Youth Program). Additional information concerning acceptable documentation is given in ADWS Policy No. WIOA – 2.7 (*Acceptable Documentation*). Documentation of age/birthday, Social Security number (SSN), compliance with the Military Selective Service Act, and eligibility to work in the United States is not required for individuals seeking only services that do not require participation status in WIOA Title I-B [20 CFR 680.110]. See TEGL 19-16, Appendix II, ADWS Policy No. WIOA I-B – 3.1 (*Services for Adults and Dislocated Workers*), or TEGL 10-16, Change 1, for a list of services that trigger participation.

Under WIOA, State laws and policies determine if residency requirements are allowed for local areas [Comments in WIOA Final Rule concerning §683.105]. Arkansas State policy is that residency may not be a local requirement or a local preference. Arkansas state policy is that local areas may not write policies or procedures using residency as an eligibility requirement or a preference for WIOA Title I-B program services.

Certain equal opportunity (EO) data (race/ethnicity, age, sex, and disability) must be collected on every individual who is interested in being considered for WIOA Title 1-B services [20 CFR 675.300 & 680.110(c)]. Individuals may not be discriminated against because of the EO information given or other demographic information given, except as required for particular programs [WIOA § 188(a)(2)]. Completed applications for WIOA Title I-B services must be maintained for monitoring purposes.

Age

Being a specific age is a requirement for eligibility for all WIOA Title I-B programs. In addition, WIOA regulations require that age be reported for every person who requests WIOA services [20 CFR 680.110 & 675.300] and that the age of participants be reported in state performance reports [20 CFR 677.160(a)(2)(ii)]. Therefore, proof of age must be provided in the registration process for all WIOA Title I-B programs.

Social Security Number (SSN)

Computation of program performance indicators is done through social security numbers (SSNs) [20 CFR 677.175]. Therefore, proof of social security number must be requested for participation in any WIOA Title I-B program, but the SSN cannot be required unless/until the individual goes to work for an employer that uses E-verify, receives occupational training in a postsecondary program that qualifies for a Federal Pell Grant, or is required to document the SSN by a non-WIOA entity [8 U.S.C. 1324a; <https://fafsa.gov>]. It is unlawful to deny services other than such employment or training services to an individual simply because the individual is unwilling or unable to disclose a SSN. Some services, such as work services [8 USC 1324a] and training services [<https://fafsa.gov>] may be limited, however, if a SSN is not provided Case managers must notify applicants that the SSN is used for program performance purposes or is required by the particular service(s) being provided [Privacy Act of 1974 (5 U.S.C. 552a) § 7(a)(1) & (2)]; 8 U.S.C. 1324a; TEGL 5-08; Comments in WIOA Final Rule concerning §§677.155 & 677.175].

Selective Service

Each individual who participates in a WIOA Title I-B program must be in compliance with the Military Selective Service Act [WIOA § 189(h)]. This means that, with certain exceptions, each male must have enrolled for the Selective Service System (SSS) within 30 days of his 18th birthday and before he reaches

the age of 26. In general, a man age 26 or older who did not register and was not exempt from SSS registration cannot receive WIOA I-B services [50 U.S.C. 3801 et seq.].

A man who has reached the age of 26 and who did not register for Selective Service when required may present evidence to document an exception described below, may contact the Selective Service System to request a Status Information Letter for possible exception, or may provide documentation establishing that his failure to register was not knowing and willful [50 U.S.C 3801 et seq.; TEGL 11-11 Change 2]. The evidence must describe in detail the circumstances that prevented him from registering and provide documentation of those circumstances. The documentation should be specific as to the dates of the circumstances [TEGL 11-11 Change 2]. The WIOA Title I-B program provider is responsible for evaluating the evidence presented by the individual and determining whether the failure to register was a knowing and willful failure. Both conditions of “knowing” and “willful” must be met to deny services [TEGL 11-11, Change 2]. All appropriate documentation must be maintained in the participant file.

If the Status Information Letter indicates that an individual was not required to register for Selective Service, then the individual is eligible to enroll in WIOA Title I-B services. If the Status Information Letter indicates that the individual was required to register and did not register, the individual is presumed to be disqualified from participation in WIOA Title I-B activities and services until it can be determined that his failure to register was not “knowing and willful”. Any costs associated with grant-funded services provided to non-eligible individuals may be disallowed [TEGL 11-11 Change 2].

In determining whether the failure to register was “knowing”, the program provider should consider the following questions [TEGL 11-11 Change 2]:

1. Was the individual aware of the requirement to register?
2. 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 birthdays are occasionally told that they did not need to register)?
3. On which date did the individual first learn that he was required to register?
4. Where did the individual live when he was between the ages of 18 and 26?
5. 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 program provider should consider the following questions [TEGL 11-11 Change 2]:

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

Common documentation to support a claim (self-attestation) that failure to register was not knowing and willful are [TEGL 11-11 Change 2]:

1. Evidence that a man has served honorably in the U.S. Armed Forces, such as a DD Form 214 or his Honorable Discharge Certificate. Such documentation may be considered sufficient evidence that his failure to register was not willful or knowing.
2. Affidavits from parents, teachers, employers, doctors, etc. concerning mental or physical reasons for not registering may be helpful in making the determination regarding willful and knowing failure to register.

If the program provider determines that the individual’s failure to register was not knowing and willful and the individual is otherwise eligible, appropriate documentation and notes should be placed in the

participant's file and WIOA Title I-B services may be provided. If the program provider determines that evidence shows that the individual's failure to register was both knowing and willful, WIOA Title I-B services must be denied. Individuals denied services must be advised of the service provider's and local board's grievance and complaint procedures. Whether services are allowed or denied, the program provider must keep documentation related to evidence presented in the determination of eligibility relative to Selective Service [TEGL 11-11 Change 2].

Males seeking WIOA Title I-B services who are not registered for Selective Service and who have not yet reached the age of 26 must register through the Selective Serve website at www.sss.gov before receiving services. A male who turns 18 while participating in WIOA Title I-B services must register no later than 30 days after his 18th birthday. If a male under age 26 refuses to register, WIOA Title I-B services must be suspended until he registers [TEGL 11-11 Change 2].

Men not required to register [50 U.S.C 3801 et seq.; TEGL 11-11 Change 2]:

1. Men born before 1960 are not required to be registered with Selective Service to be eligible for federal grant programs such as WIOA.
2. Members of the Armed Forces who were on active duty during the full time of age 18 to age 26 are not required to register. Any member who is discharged before the age of 26 must register within 30 days of discharge.
3. Cadets and Midshipmen at Service Academies or Coast Guard Academy during the full time of age 18 to age 26 are not required to register. Any student who leaves the academy and is discharged from service before the age of 26 must register within 30 days of separation.
4. 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 during the full time of age 18 to age 26 are not required to register. Any student who leaves the institution and is discharged from service before the age of 26 must register within 30 days of separation.
5. Lawful non-immigrants on visas (such as diplomatic and consular personnel and families, foreign students, tourists with unexpired Form I-94, or Border Crossing Document DSP-150) are not required to register.
6. Immigrants who maintained valid visas described above from age 18 (or the time they entered the U.S., whichever is later) until age 26, and remained in the United States after the age of 26 are not required to register.
7. Immigrants who did not enter the United States until after they were 26 years old are not required to register.
8. Seasonal agricultural workers on H-2A Visas are not required to register.
9. Individuals who were incarcerated, hospitalized, or institutionalized for medical reasons during the full time of age 18 to age 26 are not required to register. Any individual who leaves confinement before the age of 26 must register within 30 days of release.
10. Individuals who were born female and have changed their gender to male are not required to register.

Note that undocumented immigrants, dual national U.S. citizens, and refugee, parolee, and asylee immigrants who are/were ages 18 to 26 during this status are required to register. In addition, U.S.

citizens or immigrants (except those described above) who were born male and changed their gender to female are required to register [50 U.S.C 3801 et seq.].

At this time, individuals born female are not required to register for Selective Service.

Note that if an individual is not required to register for Selective Service, the individual is compliant with Selective Service requirements, even though he/she did not register.

Ability to Work in the United States

Participation in WIOA programs and activities, including receipt of funds, is available only to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General, the Secretary of Homeland Security or the Secretary's designee to work in the United States [WIOA § 188(a)(5); 20 CFR 655.5; 20 CFR 683.285(a)(5)].

Specific information required and acceptable documentation can be found on the USCIS I-9 Form (OMB No. 1615-0047) and in ADWS Policy No. WIOA I-B – 2.7 (*Acceptable Documentation*). Local boards and program providers may not make policies or procedures specifying which documents from the Lists of Acceptable Documents the potential participant must present to document ability to work in the United States [8 USC 1324a].

Equal Opportunity Data and Nondiscrimination

Equal opportunity (EO) data must be collected during registration for every individual who applies for WIOA Title I-B financially assisted aid, benefits, services, or training [20 CFR 680.110(c)]. These data are race and ethnicity, age, sex, and disability [20 CFR 675.300].

Individuals may not be discriminated against because of race, color, religion, sex, national origin, age, disability, or political affiliation or belief, except as required by federal law for particular programs [WIOA § 188(a)(1); 29 U.S.C. 794; 42 U.S.C. 6101 et seq.; 20 U.S.C. 1681 et seq.; 20 U.S.C. 2000d et seq.]. Some local laws also explicitly prohibit discrimination based on sexual orientation or gender identity [TEGL 37-14].