

Determination of “Knowing and Willful” Failure to Register Military Selective Service Act (MSSA)

The Northwest Georgia Workforce Development Area 1 programs disbursing services or benefits have the responsibility for deciding registration compliance for the Selective Service System (SSS) and determining eligibility for services or benefits under WIOA Title I-B, Adult, Dislocated Worker and Youth Programs on a case-by-case basis.

Military Selective Service Act

Each individual participating in any program or activity established under Title I-B of WIOA, or receiving any assistance or benefit under this Title, must comply with Section 3 of the *Military Selective Service Act*. [WIOA Section 189 (h)]

A. 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 WIOA.

Males between the ages of 18 and 26 may register on-line at www4.sss.gov/regver/Register1.asp. Other options for registration include by mail; at the post office; at their high school; and by the check box on the application form for Federal Student Financial Aid (FAFSA).

Verification of compliance with Selective Service Registration requirements can be documented through telephone verification at 1.847.688.6888 or through on-line verification at the Internet site www4.sss.gov/regver/verification1.asp.

For a complete listing of individuals required to register see the Selective Service Web site at www4.sss.gov/Fswho.htm.

B. Males “Age 26 and older”, that did not register:

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 WIOA program.

Since January 1995, the SSS has been issuing *status information letters* indicating an applicant's Selective Service Status. This current practice is pursuant to SSS's determination that final decisions for disbursing federally financed domestic benefits, service, rights or training, rests solely with the various provider agencies which disburse them. In the case of WIOA, these provider agencies are the local areas.

Any male age 26 or older, born after December 31, 1959, who possesses a *Status Information Letter* from the SSS stating 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 WIOA-funded services and activities.

The burden then falls on the applicant to provide evidence explaining why he failed to register with the SSS. This may 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. Third party affidavits from parents, teachers, employers, doctors, etc. concerning reasons for not registering may also be helpful to local areas in making determinations in cases regarding willful and knowing failure to register with the SSS.

In 1986, the MSSA was amended by Public Law 99-661, Section 1366, which states: A nonregistrant may not be denied any benefit if he can *show by a preponderance of evidence* that his failure to register was not knowing and willful.

If after reviewing the evidence, the local area determines that the preponderance of the evidence shows that the individual's failure to register was not knowing and willful and he is otherwise eligible, services may be granted. If the determination is that the evidence show the applicant's failure to register was knowing and willful, WIOA services must be denied.

The Selective Service Status Information Letter

Upon request from the applicant, the SSS will forward a Status Information Letter (SIL) directly to the applicant. The local areas should request a copy of the SIL for review. The letter will contain a code that will be helpful in eligibility determination– and a photocopy of the letter should be kept in the eligibility file.

Status Information Letter Codes

[Employment and Training Administration Memo JRB#27-98]

Codes E1– E7	“General Exemptions” The applicant's documentation indicates that he was not required to register or was exempt for the entire time period (age 18 through 26).
Code RR	“Required to Register– Is Not” <i>The applicant indicates he attempted to register but Selective Service has no record that he registered.</i>
Code RL	“Required to Register– Compliance Letter Sent” <i>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.</i>
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.

Determining “Knowing and Willful” Failure to Register

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

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 WIOA-funded services.
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. Documentation will need to demonstrate the reason for his noncompliance with the MSSA.

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.

RD

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 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.

Based upon the copy of the correspondence from the Selective Service System to the applicant provided to the career adviser, the career advisor will decide if the applicant has been determined exempt from registration and is not required to provide additional documentation or clarification. If this is the case (as indicated by Status Codes E1-E7) a determination by the career adviser can be made regarding whether or not to enroll him in WIOA.

For all other Status Codes indicated by the Selective Service System (RR, RL and RD), the Workforce Development Director will determine if the applicant can show by a preponderance of evidence that his failure to register was not *knowing and willful*. A copy of the affidavit to be provided by the applicant follows.

Applicants denied services shall be advised of the available grievance procedures under WIOA. Decisions by the local areas may be appealed to the State.

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 (I-551 Permanent Resident Card)	X	
Special agricultural workers	X	
Seasonal agricultural workers (H-2A Visa)		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

Information continued on next page

Chart Information Continued:

*Must register within 30 days of release unless already age 26, or already registered when released, or unless exempt because of Incarceration 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 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.

**The Selective Service System
Office of Public and Intergovernmental Affairs
National Headquarters
Arlington, Virginia 22209-2425**

June 29, 2012



Military Selective Service Non-Compliance Procedures

Our attorney will look at all selective complaints/problems and determine who can be served. The career adviser must submit to the contract representative the items listed below:

1. Status Information Letter from Selective Service (the code at the bottom of the letter is helpful in eligibility determination);
2. Notarized letter from customer;
3. Letter from the career adviser stating that they are interested in enrolling the customer into WIOA;
4. Sworn statement from customer; and
5. Copies of drivers license and Social Security Card

The contract representative will fax the five items listed above to the attorney for review. The attorney will contact you within 2-3 days.

Military Selective Service Non-Compliance Form

Date _____

To whom it may concern:

I _____, SS # _____ hereby swear, under penalty of perjury, that I did not “knowingly and willfully” fail to register for the Selective Service.

Signature

Date