

RESOLUTION NO. 01-04-08

of the

ST. LAWRENCE COUNTY WORKFORCE INVESTMENT BOARD

APPROVING SELECTIVE SERVICE REGULATION GUIDELINES

April 25, 2001

WHEREAS, 50 U.S.C., App. 453 of the Military Service Act states those males who are subject to the registration requirements of the Act must comply to be eligible for participation in programs and services funded under the Workforce Investment Act, and

WHEREAS, in 1986 the Military Service Act was amended by Public Law 99-661, Section 1366, to require registration status to be examined even though the male individual had not complied with the Law, and

WHEREAS, the Selective Service System has published guidelines whereby “a registrant is not denied any Federal benefit if he can demonstrate that his failure to register was not knowing or willful”,

NOW, THEREFORE, BE IT RESOLVED that the St. Lawrence County Workforce Investment Board does hereby adopt the attached policy to allow possible access to the WIA System for both registered and non-registered male applicants for WIA-funded programs and services.

MOVED: Mr. Beachard

SECOND: Dr. Kennedy

AYE: 14

NAY: 0

ABSTAIN: 0

ST. LAWRENCE COUNTY
WORKFORCE INVESTMENT BOARD

WORKFORCE INVESTMENT ACT
SELECTIVE SERVICE REGULATION
GUIDELINES

Approved by the St. Lawrence County Workforce Investment Board: April 25, 2001

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INTRODUCTION AND BACKGROUND

Only those males who are subject to, and have complied with, the registration requirements of the Military Selective Service Act (50 U.S.C. App. 453) are eligible for participation in WIA-funded programs and services. This provision of the MSSA law basically requires that all male citizens, and every other male residing in the United States must register with the Selective Service System (SSS) between their 18th and 26th birth dates. The Director of the SSS and the Secretary of Labor are required to cooperate in carrying out these provisions.

In 1986, the Military Selective Service Act (MSSA) was amended by Public Law 99-661, §1366 to require the 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 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.

The Conference Report to the amendment clarified “**that a non-registrant is not to be denied any Federal benefit if he can demonstrate that his failure to register was not knowing or willful.**” This provision was added “in order not to penalize an individual with an obvious disqualifying handicap, such as total paralysis of the limbs, or an individual who has been honorably discharged from the armed services.” (see TEGL 4-98)

Occasionally, males who were subject to selective service registration, but did not register and are now beyond their 26th birth date, apply for assistance from WIA System. In the past, when grantees completed the “advisory form” for such applicants, the SSS responded with an “advisory opinion letter” which, in effect, ruled on JTPA’s requirement to register with the SSS.

Since January 1995, the SSS has been issuing “status information letters” indicating an applicant’s Selective Service Status, in lieu of the previous system of “advisory opinion letters.” This current practice is pursuant to decisions for disbursing federally financed domestic benefits, services, rights, or training, and rests solely with the various provider agencies which disburse them. In the case of WIA, these provider agencies are within the Workforce Development Areas.

WIA SYSTEM AGENCIES' RESPONSIBILITIES

1. The WIA System agencies disbursing services or benefits have the responsibility for determining eligibility for services or benefits on a case-by-case basis.
 - 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 registered with the SSS prior to registration in WIA System. This can be accomplished by electronic transfer at www4.sss.gov/regver/verification1.asp.
 - b. Males Over the Age of 26 Who Did Not Register. Any male over 26 years old who possesses a "Status Information Letter"(Attachment A) from the SSS indicating 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 WIA-funded services and activities. The burden then falls on the applicant to provide evidence explaining why he failed to register with the SSS. This could 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.

Since the WIA grantee is now authorized to make these determinations for eligibility purposes, the eligibility staff should collect the evidence presented by the applicant. Third party affidavits from parents, teachers, employers, doctors, etc concerning reasons for not registering **may** also be helpful to local Workforce Investment Board staff in making the determinations in cases regarding willful and knowing failure to register with the SSS. The staff person will then submit the evidence to the supervisor of the eligibility process for a determination regarding whether or not the applicant's failure to register with the SSS when he was required to register is consistent with the above cited amendment to P.L.99-661, §1366. The supervisor may request the aid of other Senior Coordinators in making this determination. If after reviewing the evidence, it is determined that the preponderance of the evidence shows that a man's failure to register was not a knowing and willful failure and he is otherwise eligible, eligibility for services may be granted. If the determination is that the evidence shows the applicant's failure to register was knowing and willful, WIA services must be denied. Applicants denied services will be advised of the decision in writing, and if requested, provided with a Grievance Complaint Form. (Attachment B)

2. Documentation Procedures for Non-Registrants.

A non-registrant should be encouraged to offer as much evidence and in as much detail as possible to support his case. Following are examples of documentation/evidence that may be of assistance to WIA staff in making a determination in these cases. (from TEGL 4-98)

- a. 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.
- b. 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).
- c. 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 [if 18-26 years of age] or exemption is established as outlined above [if 26 years of age or older]. INS Form I-688 (Temporary Resident Card) will be helpful in establishing the alien’s status.
- d. 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 registered into WIA only after a “status information” letter is received. The individual should provide the WIA eligibility staff reasons why SSS has no evidence of their registration, and in so doing, provide evidence to convince the WIA eligibility staff that he did not knowingly or willfully fail to register. The process for the eligibility determination, as outlined above in 1b. paragraph 2 will be utilized. The individuals can then be registered into the WIA system, if they are deemed eligible.

It is important to remember that an alien is prohibited from participation without legal status from INS, 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.(TEGL 4-89, Item 5)

- e. Non-Immigrant Aliens. Lawful non-immigrants on visas (e.g., 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.

--SAMPLE--

SELECTIVE SERVICE SYSTEM
PO BOX 94638
PALANTINE, IL 60094-4638

SELECTIVE SERVICE SYSTEM

<http://www.sss.gov>

DATE OF DOCUMENT

Dear Mr. Xxxxxx,

We have received your inquiry concerning your eligibility for a right, benefit, or privilege which is subject to your registration with the Selective Service System. A search of our files, and an examination of the information you provided reveal that you were required to register with Selective Service, but have not registered. You cannot register after attaining age 26. No notices were sent to you by the Selective Service System regarding the requirement to register. Selective Service is not required to notify men of their obligation to register.

Section 12(g) of the Military Selective Service Act (50 App. U.S.C. 462 (g)) reads 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 (of the Military Selective Service Act) 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 to register was not a knowing and willful failure to register.”

The purpose of this provision is to clarify that a non-registrant is not to be denied any Federal benefit if he can demonstrate that his failure to register was not knowing or willful.

Any explanation to justify your failure to register must be made to the agency administering the right, benefit, or privilege you seek. You should submit this letter to them for consideration along with a copy of any documentation you believe may be helpful to your case. The final decision regarding your eligibility is with the authority of that agency.

Sincerely,

WILLIAM F. DELANEY
Director, Data Management Center

St. Lawrence County One-Stop System
Non-Criminal Complaints and Grievances Procedure
Approved by the St. Lawrence County Workforce Investment Board: April 25, 2001

INTRODUCTION

The Workforce Investment Act (WIA) and the Rules and Regulations (667.600) require the establishment of a complaint/grievance procedure by each Local Area, State and direct recipient of funds under Title I.

As a customer, service provider, or interested party, this document serves to inform you of the procedure whereby you may settle any difference or non-criminal complaint that may arise, free from coercion, restraint, interference, discrimination or reprisal.

PROCEDURE

This is a multi-stage procedure, whose goal shall be to settle complaints on as low an administrative level as possible.

Time extensions beyond those noted below may be arrived by mutual agreement of the parties concerned. Should either party not adhere to the following timetable, choose not to elevate a request to the next level, fail to respond to a written request by the Program Complaint Resolution Officer within ten calendar days, or agree to satisfaction with the outcome of a complaint, the complaint will be considered resolved.

You will have up to one (1) year from the date of the incident to file the complaint. Your identity and anyone who furnishes information or assists in the investigation of the complaint will be kept confidential to the maximum extent possible, consistent with applicable law and fairness in handling the complaint. Once a complaint has been filed, the timeframes outlined in this procedure are as follows.

STEP 1: When you file your written complaint, the Program Complaint Resolution Officer (PCRO) will help you to ensure that all documents are properly filed, will gather facts, and will attempt to resolve your complaint. If your complaint can be resolved in a way that is mutually acceptable to all parties involved, the PCRO will notify each party in writing of the agreed upon resolution

The PCRO's name, address, and telephone number are as follows: _____

STEP 2: If your complaint alleges a violation by the Local Area, then the Local Area Complaint Resolution Officer (LACRO) performs the actions as outlined for the Program Complaint Resolution Officer. The Local Area Complaint Resolution Officer's name, address, and telephone number are as follows: **Raymond H.**

Fountain, Deputy Director, St. Lawrence County Office of Economic Development, 48 Court Street, Canton NY 13617 Phone: (315) 386-3276,

STEP 3. If you are unable to resolve your complaint, you may request a formal hearing. This hearing must be scheduled on or before the thirtieth (30) day of your initial complaint.

a. You will receive by Certified Mail, notification of the date, time, and place of the hearing and will be advised that:

- The hearing may be rescheduled if you so request and the PCRO agrees.
- You have the right to be represented by an attorney, as may the PCRO.
- You may produce witnesses and/or documentary evidence, as may the PCRO.
- You and/or your attorney/representative, as may the PCRO, will be allowed to cross-examine opposing witnesses or parties in accordance with the procedurally equitable agenda explained before the hearing by the Hearing Officer.
- You may withdraw your complaint prior to the hearing. This would constitute an admission of no contest.
- You will receive a final written decision within sixty (60) days of the filing of your complaint. The decision will include a synopsis of facts, a statement of reason for the decision, a statement of remedies to be applied, a statement that all applicable procedures have been followed, and an explanation of the appeal procedure noted below.

STEP 4. If by the 60th day of the initial filing of your complaint, you have not received your written final decision, you may file a request for review by the Governor. The request must be filed within fifteen (15) days from the date on which you should have received the written decision. If you do not agree with your written final decision, you may file a request for review by the Governor. The request must be filed within ten (10) days from the date on which you receive the adverse decision. The Governor will have 30 days to issue a decision.

Your appeal should contain the same basic elements as your local complaint. These are: Your name, address and phone number; Respondent's name, address and phone number; Nature of the complaint; Your signature; Date signed; Information regarding the decision rendered at the formal hearing.

You should send the information to: NYS Workforce Investment Act Hearing Officer

Room 446

New York State Dept. of Labor
State Office Building Campus, Bldg. 12,

Albany, New York 12240

NOTE TO EMPLOYERS

If you are an employer, you may operate your own grievance system, or you may utilize the grievance system established by the St. Lawrence County One-Stop System. You must inform all participants early of the grievance procedures they are to follow, should they need them. If you opt to use your own grievance system, you must provide copies of the grievance procedure for review and comment by the

PCRO to ensure that WIA guidelines and requirements are not compromised. Your system must provide for, upon request by the complainant, a review of an employer's decision by the Local Area and the Governor, if necessary. The procedure must also have a process that allows an individual alleging a labor standard violation to submit the grievance to a binding arbitration process if a collective bargaining agreement covering the parties to the grievance provides for it.

CERTIFICATION

I certify that I have read and understand the Complaint Procedure as described above. I also certify that I am aware this document contains the name, address, and telephone number of the Program Complaint Resolution Officer.

Customer Name

Date



Selective Service Requirement for WIA Participation Form

Registered

Yes

No

Legal Non-Registrant

Yes

No ***

If yes, check all that apply:

Proper documentation submitted for:

Honorable Discharge

Alien entering U.S. after Age 26

Lawful Seasonal Agricultural Worker

Immigrant Alien

a. 18-26 years of age

b. 26 years of age and older

Former Illegal Alien

Non-Immigrant Alien

***** Copy of documentation must accompany this form.**

Selective Service Requirement for WIA Participation Satisfied

Yes

No

Counselor Signature

Date