



WIOA Eligibility

Department: Office of Economic & Workforce Development

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PURPOSE

This directive provides guidance to OEWD service providers to determine the required eligibility criteria and documentation for individuals to be served under the Workforce Innovation and Opportunity Act (WIOA).

REFERENCES

- [Public Law 113-128, Workforce Innovation and Opportunity Act \(WIOA\)](#), WIOA Section 3(2), WIOA Section 3(15), WIOA Section 129(a)(1)(B)(C)
- [20 CFR 680.100, 20 CFR 680.120, 8 CFR 274a.2](#)
- [Assembly Bill No. 2532 CHAPTER 759 AB2532](#)
- [TEGL 19-16, TEGL 7-20](#)
- [WSD 15-14, WSD 16-18, WSD 17-07, WSD 19-04, WSD 22-03](#)

BACKGROUND

The WIOA authorizes a workforce investment system to provide workforce preparation and employment to eligible adults, dislocated workers, and youth. WIOA provides authority to state and local governments to establish their own eligibility policies, procedures, and definitions, as long as they are consistent with the WIOA and its associated regulations.

POLICY

This policy provides guidance for establishing participant eligibility for the Workforce Innovation and Opportunity Act (WIOA) Adult, Dislocated Worker, and Youth Programs.

Eligibility Determination and Registration

In order for adults and dislocated workers to receive WIOA-funded services, other than Basic Career self-service or informational activities, they must be determined eligible and registered. All youth must be determined eligible and registered to receive WIOA services.

Eligibility for Services

The WIOA distinguishes between general program eligibility and eligibility for services. General program eligibility includes criteria such as authorization to work, compliance with Selective Service, and age. Eligibility for services is related to local determinations regarding the individual’s need for and ability to benefit from services. Such eligibility is determined at the time of intake, and even if the individual’s situation changes (such as subsequent involvement with a partner agency) the individual remains eligible.

Registration

Registration is an information collection process that documents a determination of eligibility. It is also the point at which performance accountability information begins to be collected.

For an individual to be registered into a WIOA program, the following must occur:

- The individual must complete the application/eligibility determination process
- The individual must provide the documentation required to substantiate his/her eligibility; and
- Staff must enter the data collected in the application form onto WFC Application Record for review and approval by OEWD Data Analyst

Application Process

There is no federal limit on how much time is allowed between the application date and registration date, or how much time staff has to document and verify eligibility. Many Local Workforce Development Areas (local areas) use 90 days as a general rule. ***Nevertheless, so much time should not elapse before registration that it becomes unreasonable to assume the information about the individual is still true;*** otherwise, there may be disallowed costs associated with the individual's eligibility.

In order to ensure income eligibility certification for WIOA Year-Round Youth or Employed Adults, the first enrollment date must occur within 90-days from the date of application. If enrollment does not occur within 90-days, the application is voided.

General Eligibility Criteria

The general eligibility criteria apply to the WIOA adult, dislocated worker, and youth programs.

Authorization to Work

California law requires that an individual have authorization to work in the United States to be eligible to receive WIOA-funded services. Specifically, the California Unemployment Insurance Code Section 9601.5 states:

“Each state or local government agency or community action agency, or any private organization contracting with a state or local government agency, that provides employment services, including, but not limited to, job training, retraining, or placement, shall verify an individual's legal status or authorization to work prior to providing services to that individual in accordance with procedures established under federal law.”

OEWD Service Providers must verify an individual's authorization to work in accordance with Title 8 Code of Federal Regulations Section 274a.2. This section specifies that the requirements published in the U.S. Citizenship and Immigration Services Form I-9, are to be used in verifying and documenting that an individual is authorized to work in the United States. As specified in the Form I-9, staff must accept as evidence of employment authorization, any of the documents listed on the last page of Form I-9. Individuals may present any List A document or a combination of a List B and a

List C document. For additional guidance regarding the Form I-9, see the U.S. Citizenship and Immigration Services website at www.uscis.gov.

Staff must verify an individual's authorization to work no later than time of application for a WIOA-funded program. Verification is not required for self-service or informational activities (i.e., services an individual can access in a Job Center with minimal or no staff assistance); however, Local Boards have the discretion to establish policies and procedures requesting authorization to work documents prior to the time of application (e.g., at time of intake, or any point in the customer flow up until the time of application). **OEWD Service Providers must keep either hard copies or scanned copies of the individual's Form I-9 documents and uploaded in Workforce Central for State monitoring purposes.**

Selective Service Registration

The WIOA Section 189(h) requires males to comply with Selective Service registration requirements prior to participation in WIOA funded programs. Local areas must ensure that each applicable male that participates in any local program or activity established under WIOA, or receives any assistance or benefit under WIOA, has not knowingly and willfully violated Section 3 of the Military Selective Service Act (MSSA).

Males born on or after January 1, 1960, and at least 18 years of age, who are not in the armed services on active duty, must be registered for the Selective Service. A youth who becomes 18 years of age while participating in a WIOA program must register within 30 days of his 18th birthday.

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 the WIOA program. The MSSA requires that services must be denied to a male applicant 26 years or older, if it is determined that he knowingly and willfully failed to register. However, when it can be determined that the applicant did not knowingly or willfully fail to register, he can be considered for participation. Local boards must develop policy and procedures for determining whether an individual knowingly and willfully failed to register.

For detailed guidance regarding Selective Service registration requirements, and model questions to help determine whether a potential WIOA participant's failure to register with Selective Service was knowing and willful, please see Workforce Services Directive WSD16-18 Selective Service Registration.

WIOA Youth Program

Under the WIOA there are distinct eligibility requirements for In-School and Out-of-School youth. In order to receive youth services, an individual must meet one of the definitions of eligible youth as provided below:

Out-of-School Youth is one who is:

- Not attending any school (as defined under State law), and
- 16 to 24 years old, and
- Meets one or more of the following:

- A school dropout
- Within the “age of compulsory school attendance”³ but has not attended school for at least the most recent complete school year calendar quarter
- Justice-Involved
- An individual who is homeless or runaway
- An individual in foster care or aged out of foster care system or who has attained 16 years of age and left foster care for kinship guardianship or adoption, a child eligible for assistance under Section 477 of the Social Security Act, or in an out-of-home placement.
- Pregnant or parenting (custodial and non-custodial parent including non-custodial fathers)
- An individual with a disability
- A low-income individual, a recipient of a school diploma or recognized equivalent AND is:
 - Basic skills deficient OR
 - An English language learner
- A low-income individual who requires additional assistance to enter or complete an education program or secure/hold employment

In-School Youth is one who is:

- Attending school and
- 14 to 21 years old and
- Low-income individual
- Meets one or more of the following:
 - Basic skills deficient
 - An English language learner
 - An offender
 - An individual who is homeless or runaway
 - An individual in foster care or aged out of foster care system or who has attained 16 years of age and left foster care for kinship guardianship or adoption, a child eligible for assistance under Section 477 of the Social Security Act, or in an out-of-home placement.
 - Pregnant or parenting (custodial and non-custodial parent including noncustodial fathers)
 - Individual with a disability
 - An individual who requires additional assistance to complete an educational program or secure/hold employ

Exception for youth who are not low-income individuals - Up to 5% of the youth participants may be individuals who do not meet the definition of low income. This includes all In-School Youth, and those Out-of-School Youth whose eligibility is through the two Low-Income categories. The 5% exception shall be calculated using current year enrollees. (EDD guidance) [WIOA Section 129 (a)(3)(A)(ii)]

Limitation for in-school youth - Up to 5% of In-School Youth assisted under this section may be eligible under the “an individual who requires additional assistance to complete an educational program or secure/hold employment”. The 5% limitation shall be calculated using current year enrollees. (EDD guidance) [WIOA Section 129 (a)(3)(B)]

Adult Program

Individuals seeking services under the WIOA Adult Program must be 18 years old or older (at time of registration/enrollment). Priority of service must be given to:

- Veterans
- Eligible spouses of veterans
- Recipients of public assistance
- Other low-income individuals (see low-income definition)
- Individuals who are basic skills deficient (see BSD definition item B.) [WIOA Section 134(c)(3)(E)]

Dislocated Worker Program

Individuals that are 18 years old or older who meet one of the Five (5) eligibility categories that applies to individuals seeking services under the WIOA Dislocated Worker Program:

- Terminated or Laid-Off – The individual must meet the following:
 - Has been terminated or laid off, or who has received a notice of termination or layoff, from employment; AND
 - Is eligible for or has exhausted entitlement to unemployment compensation, OR
 - has been employed for a duration sufficient to demonstrate attachment to the workforce, but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer that were not covered under the State unemployment compensation law; AND
 - Is unlikely to return to a previous industry or occupation.
- Closure or Substantial Layoff – The individual must meet any of the following:
 - Has been terminated or laid off, or has received a notice of termination or layoff, from employment as a result of any permanent closure or any substantial layoff of a plant, facility, or enterprise
 - Is employed at a facility at which the employer has made a general announcement that such facility will close within 180 days
 - Is employed at a facility at which the employer has made a general announcement (with no date) that the facility will close. In this case, the client may only receive Basic Career Services.
- Self-Employed – Was self-employed, (including employment as a farmer, a rancher, or a fisherman) but is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters.
- Displaced Homemaker – Is an individual who has been providing unpaid services to family members in the home, and:
 - Has been dependent on the income of another family member but is no longer supported by that income, OR
 - Is the dependent spouse of a member of the Armed Forces on active duty and who’s family income is significantly reduced because of a deployment, a call or order to

- active duty, a permanent change of station or the service-connected death or disability of the member; AND
- Is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.
- Spouse of a Member of Armed Forces – Is the spouse of a member of the Armed Forces on active duty, and who has experienced a loss of employment as a direct result of relocation to accommodate a permanent change in duty station of such member, OR is the spouse of a member of the Armed Forces on active duty and who is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

INQUIRIES

Inquiries should be addressed to the OEWD Director of Workforce Strategy at (415) 701-4848 or email workforce.connection@sfgov.org.

The OEWD and its service providers shall follow this policy. This policy will remain in effect from the date of issue until such time that a revision is required.