

PATHWAY TO SERVICES, REFERRAL AND ENROLLMENT GUIDANCE

GENERAL INSTRUCTIONS

The attached directive is being issued in draft to give the Workforce Development Community the opportunity to review and comment prior to final issuance.

Submit any comments by email or mail no later than 15 working days.

All comments received within the comment period will be considered before issuing the final directive. Commenters will not be responded to individually. Rather, a summary of comments will be released with the final directive.

Comments received after the specified due date will not be considered.

Email Anthony.crouch@edd.ca.gov
Include "Draft Directive Comments" in the e-mail subject line.

Mail Employment Development Department
Attn.: WSD/Policy Unit
P.O. Box 826880 / MIC 50
Sacramento, CA 94280-0001

D PATHWAY TO SERVICES, REFERRAL AND ENROLLMENT GUIDANCE

EXECUTIVE SUMMARY

This policy provides the guidance and establishes the procedures regarding verifying authorization to work and making services accessible to all populations. This policy applies to the Workforce Development Community, including Local Workforce Development Areas (Local Area), community based organizations, and Employment Development Department (EDD) staff. This policy is effective immediately.

In keeping with the California Unified Strategic Workforce Plan, this Directive seeks to support economic growth by preparing a workforce for California's employers, ensuring that the workforce system in California is inclusive of all populations, and promoting consistency in how services are delivered across the state. By providing clear and consistent guidance, the state seeks to assist Local Areas, community based organizations, and EDD staff in collecting evidence of authorization to work and in providing important and valued services to individuals engaged in English language acquisition and citizenship attainment.

This policy supersedes Workforce Services *Directive Authorization to Work Verification Requirements* (WSD13-1), dated July 2, 2013, and Workforce Services *Draft Directive Authorization to Work Verification Procedures* (WSDD-161), dated January 17, 2017. Retain this directive until further notice.

REFERENCES

- *Workforce Innovation and Opportunity Act (WIOA)* (Public Law 113-128)
- *Immigration Reform and Control Act* (Public Law 99-603)
- Title 8 *Code of Federal Regulation* (CFR) Part 274a.6: "State Employment Agencies"
- Title 20 CFR Parts 652 and 680: "WIOA; Department of Labor (DOL) Final Rule"
- Title 29 CFR Part 38: "Implementation of the Nondiscrimination and Equal Opportunity Provisions of the WIOA"
- Training and Employment Guidance Letter (TEGL) [02-14](#), *Eligibility of Deferred Action for Childhood Arrivals (DACA) Participants for Workforce Investment Act and Wagner-Peyser Act (W-P) Programs* (July 14, 2014)
- TEGL [10-16](#), *Performance Accountability Guidance for WIOA Title I, Title II, Title III and Title IV Core Programs*

- TEGL [19-16](#), *Guidance on Services Provided through the Adult and Dislocated Worker Program under the WIOA and W-P, as Amended by WIOA, and for Implementation of the WIOA Final Rules*
- Senate Bill (SB) 733 (Russell), Chapter 819, Statutes of 1993
- Assembly Bill (AB) 2532 (Chiu), Chapter 759, Statutes of 2016
- The United States Citizenship and Immigration Services (USCIS), Handbook for Employers, *Instructions for completing Form I-9*
- USCIS [Form I-9](#), *Employment Eligibility Verification*
- Workforce Services Information Notice [WSIN17-09](#), *CalJOBSSM Activity Codes* (October 29, 2017)

BACKGROUND

In 1993, the passage of SB 733 created a state-imposed eligibility requirement for employment services. The law required government agencies, community action agencies, and private organizations contracting with the government to verify an individual's legal status or authorization to work prior to providing employment services. Additionally, it required these entities to publicly post that only U.S. citizens and those authorized to work in the U.S. could receive services. In 2016, Governor Brown signed AB 2532, which repealed these requirements.

Therefore, California no longer has a state requirement to verify authorization to work. While there is no work authorization verification requirement in WIOA, the federal Immigration Reform and Control Act requires employers to verify a job seeker's authorization to work documents prior to employment. At the same time, federal immigration regulations authorize state employment agencies to verify authorization to work (Title 8 CFR Section 274a.6).

Generally, WIOA participants receive job referrals during their period of participation in a program. At other times, Local Areas are the employer of record or coordinating services concurrently with an employer. In these instances, an individual cannot participate unless they are authorized to work to the U.S.

For these reasons, and because of federal immigration requirements, this Directive provides guidance on verification of authorization to work documents – which services require verification, when to ask, and where to refer individuals for additional services. The State of California seeks to prohibit discrimination and make workforce services accessible to all populations. This Directive also provides a pathway to services for those individuals who do not possess authorization to work documents.

POLICY AND PROCEDURES

Verification Procedures for WIOA and W-P Services

Staff providing WIOA Title I and W-P employment services are required to verify an individual's authorization to work in accordance with the requirements of the USCIS Form [I-9, Employment](#)

[Eligibility Verification](#), during the period of participation. Local Areas have the flexibility to determine when authorization to work documentation is required during this period.

“Period of Participation” guidance

The period of participation refers to the period of time beginning when an individual becomes a participant and ending on the participant’s date of exit from the program. Exit generally occurs when a participant has not received services for a specified period of time and has no additional services scheduled. Local Areas must have procedures in place to verify an individual’s authorization to work documents no earlier than the start of participation and no later than a participant’s exit or job placement. When determining the point of asking an individual for authorization to work documentation, Local Areas may take into account the following:

- Nature of the benefits to be provided;
- Need for benefits to be provided on an expedited basis;
- Length of time during which benefits will be provided;
- Co-enrollment opportunities with WIOA Title II; and
- The cost of providing the services/training.

In order to prepare participants for employment and foster positive relationships with employers, staff should make participants aware of federal law requiring employers to verify employment authorization prior to employment and verify a participant’s authorization to work documents prior to providing a job referral.

For WIOA Title I and Title III: Participation starts when an individual receives a Staff-Assisted Basic Career service, Individualized Career service, or Training service. Authorization to work verification is not required for Basic Career services that are self-service or information-only activities. For customers who receive self-services or information-only activities, only demographic information is collected and reported. When verifying authorization to work, staff must retain either hard copies or scanned copies of the individual’s Form I-9 documents.

The Title I and III service category definitions are briefly described below. For a comprehensive list of definitions and CalJOBSSM activity codes, see WSIN17-09, *CalJOBSSM Activity Codes*.

- **Self-service Basic Career services:** An individual independently uses services at an America’s Job Center of CaliforniaSM (AJCC) with minimal or no staff assistance (e.g., self-service labor market research, job search, use of AJCC resource room, referral to a partner program, etc.). Self-service also includes staff establishing access to CalJOBSSM for an individual or looking up a password. Individuals using self-services only do not count toward performance measures.
- **Staff-Assisted Basic Career services:** An individual requires an assessment by a staff member of the individual’s skills, education, or career objectives (e.g. proficiency testing, resume preparation assistance, job referrals, etc.).

- **Individualized Career services:** An individual receives WIOA-funded services that are appropriate for them to obtain or retain employment (e.g., development of an individual employment plan, English as a second language services, work experience, etc.).
- **Training services:** An individual receives services that include WIOA-funded training and/or support and coaching.

The following chart is intended to aid Local Areas in establishing policy on when to ask for authorization to work documents.

Authorization to Work Service Flow Chart		
Service	Triggers participation	Authorization to Work
Basic Career - Self-services and information-only activities, including program referrals, outreach, intake, orientation, eligibility determination	No	No
Basic Career – Staff-Assisted, including initial assessment, job placement, career counseling	Yes	<u>May</u> verify for activities such as initial assessment and career counseling
		<u>Must</u> verify for job placement assistance
Individualized Career	Yes	<u>May</u> verify for activities such as occupational career counseling, aptitude testing, mentoring, and group counseling
		<u>Must</u> verify for employment activities such as work experiences, transitional jobs, internships, and pre-apprenticeship training
Training	Yes	<u>May</u> verify for classroom training
		<u>Must</u> verify for employment activities
Job placement/exit	Yes	<u>Must verify by job placement or exit</u>

Single Verification Process

AJCC partners are encouraged to coordinate verification between WIOA titles and programs to increase efficiency of the process and prevent participants from having to repeatedly present

Form I-9 documents. Once authorization to work is verified by one program, staff in a separate program does not need to re-verify. Further, Local Areas and W-P partners must coordinate on local policy so that WIOA Title I and Title III point of verification mirrors each other where possible. For example a W-P partner should not require authorization to work verification for individual counseling when the Local Area partner does not require authorization to work verification for this service.

Referrals to Partner Programs

Under WIOA Title II, participation starts when adults who are basic skills deficient, lack a high school diploma or its equivalent, function below the level of a high school graduate, or are unable to speak, read, or write the English language, enroll in and attend WIOA Title II adult education, English language instruction, and/or integrated education from eligible providers (school districts, community colleges, libraries, community based organizations, or other public or private non-profit entities). There is no requirement for a WIOA Title II provider to verify authorization to work or retain documentation. Local Areas are encouraged to refer immigrants who are not authorized to work in the U.S. to WIOA Title II and other programs that do not require authorization to work documentation.

At their discretion, Local Areas may work with Title II partners to co-enroll immigrants without authorization to work with the goal of helping the participant obtain citizenship, authorization to work, and find meaningful employment. Possible scenarios are included in the attachment Frequently Asked Questions.

Supportive Services

Vulnerable populations such as the homeless, ex-offenders, and out-of-school youth may lack authorization to work documents due to their circumstances. Local Areas may enroll such individuals and use supportive services to help the individual obtain citizenship and/or authorization to work documents. For participants receiving Basic Career, Individualized Career, or Training services, Local Areas may provide access to legal aid. For participants enrolled in Training services, supportive services may include needs related payments to help cover the cost of obtaining or renewing authorization to work documents. If a Local Area chooses to provide such support, the Local Area must include it in their local policy. (Title 20 CFR sections 680.900 and 680.910)

Public Notification

Because individuals may receive reemployment services and services from other partners in an AJCC without first providing their authorization to work documents, Local Areas should remove public notices that state employment services are available only to individuals who are U.S. citizens or legally authorized to work in the U.S. Posting such signs may discourage individuals who are legally entitled to services from entering an AJCC.

ACTION

Please bring this directive to the attention of all relevant parties.

INQUIRIES

If you have any questions, contact the Regional Advisor at 916-654-7799.

JAIME L. GUTIERREZ, Chief
Central Office Workforce Services Division

Attachment is available on the internet:

[Frequently Asked Questions](#)

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