

AB # 17-05

Effective: July 1, 2017

Supersedes AB # 33; (Issued & Effective 11/06/2003)

ACTION BULLETIN

TO: All WIOA Service Providers

DATE: 06/12/2017

SUBJ: **Update in Policy and Procedures for Verification of RIGHT TO WORK (RTW) Status for All Workforce Innovation and Opportunity Act (WIOA) Applicants**

Purpose of Bulletin:

The purpose of this bulletin is to advise service providers funded through WIOA that the Alameda County Workforce Development Board (ACWDB) is issuing an updated standard for documenting and reporting RTW Status for all individuals who are applying for employment and/or training services through any of WIOA's formula funding streams (Adult, Dislocated Worker and Youth).

Citations:

- Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996
- Title 20 Code of Federal Regulation (CFR) Parts 680 and 681: "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 (WP) Programs* (July 14, 2014)
- Workforce Innovation and Opportunity Act, (WIOA) (Public Law 113-128)
- Workforce Service Directive (WSD) 13-1 (will be renamed when issued)
- Workforce Services Draft Directive (WSDD) #161 (**DRAFT**)

Background:

All Adults, Dislocated Workers, and Youth who receive services funded under Title I of WIOA, other than self-service or universal activities, must be determined eligible for services and subsequently registered in the CalJOBS system. Standard Local Eligibility for WIOA-funded services includes verification and documentation of

an applicant's:

- valid social security number;
- residential address on the date of application;
- date of birth / age;
- RTW status; and
- selective service registration

These Standard Local Eligibility criteria apply to all programs operating under any of the three WIOA formula funding streams, (Adult, Dislocated Worker, and Youth). Additional eligibility criteria may be required under each of the individual funding streams. These additional elements are further defined in ACWDB's Action Bulletins, # 17-01; # 17-02; and # 17-03 (In the near future, there will be an additional bulletin referencing priority of service for WIOA Adults).

Historically, ACWDB has mandated that all applicants provide valid documentation that demonstrates their RTW status current to the date of application for WIOA-funded program services. Additionally, should the RTW documentation contain an expiration date, the program operator is required to gather additional documentation ensuring that the participant remain compliant with the RTW requirement throughout the entire duration of participation in any WIOA Title I-funded program.

New Federal and State Direction:

- TEGL 02-14
 - Establishes a standard requiring WIOA service providers to inquire and document RTW status for all Deferred Action for Childhood Arrivals (DACA) recipients.
- WIOA Section 188(a)(5)
 - Establishes prohibition on discrimination against certain non-citizens.
- California Assembly Bill 2532
 - Repeals Section 9601.5 of the Unemployment Insurance Code (UIC)
 - Section 9601.5 of the UIC mandates the collection retention of RTW documentation for all participants of publicly funded employment service programs
- WSDD-161 (**NOTE: Still in Draft; Not yet formally issued**)
 - Suggests that WIOA service providers collect and maintain RTW documentation solely from applicants who self-identify as recipients of DACA. All other populations, regardless of citizenship or immigration status would be allowed to self-attest to their RTW status.
- WIOA Section 188(a)(5) reads:
“Participation in programs and activities . . . shall be available 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 to work in the United States.”
- EDD/CalJOBS Education and Development Department has instructed ACWDB staff (through webinar) that the section of CalJOBS currently used to report RTW status for all WIOA applicants will soon be eliminated – and in the

meantime, intake and eligibility staff have been instructed to report **all** WIOA applicants as US Citizens.

ACWDB has made a determination that it remains in the best interest of program operators, service providers and participants to continue to inquire and collect appropriate documentation to verify each WIOA applicant's RTW status based upon the following criteria:

- Historic and continuing mandates to ensure that services are made available to the population as referenced in WIOA Section 188 referenced above;
- WIOA mandate prohibiting discrimination;
- WIOA's performance outcomes that are centered around ACWDB's ability to find employment opportunities for enrolled participants

Additionally, ACWDB staff will continue to expect that hard-copy documentation be present in all case-files for participants who have been determined eligible and enrolled into WIOA funded program services.

Policy/Procedure:

When determining an applicant's RTW status for enrollment into any WIOA Title I program, you must request to photocopy the original document(s) as outlined on the **Lists of Acceptable Documents**, as published in the U.S. Citizenship and Immigration Services (USCIS) Employment Eligibility Verification Form I-9 (Rev. 11/14/2016), page 3 of 3 (attached). The photocopy generated at intake must be maintained in the participant's case-file.

The Document Checklist item will be updated to include:

- New I-9 requirements; and
- Other changes as required under the WIOA

The Updated Document Checklist item will be forwarded to the attention of all WIOA Title I service providers upon completion.

Notable Changes to the I-9 Document:

- All documentation collected to ensure RTW status must be unexpired and presently valid as of the date of application for WIOA-funded services;
- Over the years, the Voter Registration Card has been added and omitted from the I-9, but is currently included in the "List B" category.
- Driver's licenses issued by a Canadian government authority are allowed under "List B".

Action

Effective July 1, 2017, All WIOA service providers must:

- Inquire as to the RTW status of all applicants for WIOA, Title I programs;
- Obtain and maintain RTW eligibility documentation in participant case-file in order to guard against serving ineligible applicants.

- Continue to request additional documentation from customers whose RTW status expires during participation in any WIOA, Title I funded program.
- Continue to follow intake procedures that require all WIOA applicants to report and record their accurate RTW status at the time of intake/WIOA application.
- As soon as CalJOBS has been modified to eliminate the “Authorization to Work” section, staff will not be required to enter any reference to an applicant’s RTW status. However, staff must continue to inquire and collect corroborative documentation with regard to the applicants RTW status.

Information & Inquiries

For further information and inquiries, please contact:

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Attachment

- USCIS Form I-9 (Rev 11/14/2016) Page 3 of 3

LISTS OF ACCEPTABLE DOCUMENTS

All documents must be UNEXPIRED

Employees may present one selection from List A
or a combination of one selection from List B and one selection from List C.

LIST A Documents that Establish Both Identity and Employment Authorization	OR	LIST B Documents that Establish Identity	AND	LIST C Documents that Establish Employment Authorization
1. U.S. Passport or U.S. Passport Card		1. Driver's license or ID card issued by a State or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address		1. A Social Security Account Number card, unless the card includes one of the following restrictions: (1) NOT VALID FOR EMPLOYMENT (2) VALID FOR WORK ONLY WITH INS AUTHORIZATION (3) VALID FOR WORK ONLY WITH DHS AUTHORIZATION
2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)		2. ID card issued by federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address		2. Certification of Birth issued by the Department of State (Form FS-545)
3. Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa		3. School ID card with a photograph		3. Certification of Report of Birth issued by the Department of State (Form DS-1350)
4. Employment Authorization Document that contains a photograph (Form I-766)		4. Voter's registration card		4. Original or certified copy of birth certificate issued by a State, county, municipal authority, or territory of the United States bearing an official seal
5. For a nonimmigrant alien authorized to work for a specific employer because of his or her status: a. Foreign passport; and b. Form I-94 or Form I-94A that has the following: (1) The same name as the passport; and (2) An endorsement of the alien's nonimmigrant status as long as that period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form.		5. U.S. Military card or draft record		5. Native American tribal document
		6. Military dependent's ID card		6. U.S. Citizen ID Card (Form I-197)
		7. U.S. Coast Guard Merchant Mariner Card		7. Identification Card for Use of Resident Citizen in the United States (Form I-178)
		8. Native American tribal document		8. Employment authorization document issued by the Department of Homeland Security
		9. Driver's license issued by a Canadian government authority		
		For persons under age 18 who are unable to present a document listed above:		
		10. School record or report card		
		11. Clinic, doctor, or hospital record		
		12. Day-care or nursery school record		

Examples of many of these documents appear in Part 8 of the Handbook for Employers (M-274).

Refer to the Instructions for more information about acceptable receipts.