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# Pathway to Services, Referral, and Enrollment

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## PURPOSE

The purpose of this policy is to provide guidance and establish the procedures regarding verifying authorization to work and making services accessible to all populations.

## 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 eliminated these state-imposed eligibility requirements.

Therefore, California no longer has a state requirement to verify authorization to work. Additionally, there is no work authorization verification requirement in WIOA. However, 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. Additionally, at 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, this policy provides guidance on verification of authorization to work documents, including which services require verification, when to ask, and where to refer individuals for additional services. This policy also provides a pathway to services for those individuals who do not possess authorization to work documents. California seeks to prohibit discrimination and make workforce services accessible to all populations.

## POLICY AND PROCEDURES

### A. Verification Procedures for WIOA Services

WIOA Title I staff may 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. WIOA staff have the flexibility to determine when authorization to work documentation is required during this period. However, staff must verify when services necessitate coordination with an employer such as on-the-job training and job referrals.

### B. "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. An individual's authorization to work documents shall not be verified earlier than the start of participation. When determining the point of asking an individual for authorization to work documentation, WIOA staff may take into account the following:

- Nature of the services to be provided
- Need for services to be provided on an expedited basis
- Length of time during which services will be provided
- Co-enrollment opportunities with WIOA Title II
- 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 must verify a participant's authorization to work documents prior to providing a job referral.

Participation begins 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-service 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 I-9 documents. However, staff are strongly encouraged to scan authorization to work documents into CalJOBS. Scanning documents into CalJOBS facilitates a one-time verification process should an individual visit a different America's Job Center of California (AJCC).

The WIOA Title I service category definitions are briefly described below. For a comprehensive list of definitions and CalJOBS activity codes, see CalJOBS Activity Codes, WSIN17-09, and any subsequent updates.

- **Self-Service Basic Career Services** - An individual independently uses services at an 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 CalJOBS 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.

Employer-connected services are services that staff must coordinate with an employer including, but not limited to, customized training, on-the-job training, job placement assistance, and work experience. For these services, AJCC staff must verify authorization to work documents in accordance with the requirements of the USCIS Form I-9. For services that do not require interaction with an employer like resume writing, proficiency testing, or group counseling staff may not require verification of authorization to work.

Self-attestation for authorization to work may be used. The intent of this policy is to ensure services are accessible to all individuals, particularly those with barriers to employment. One example of where self-attestation can improve service delivery is when serving the homeless, ex-offender, and transient youth populations. In these cases, individuals may self-attest to their work authorization during the initial assessment (staff-assisted services). Staff can then enroll the individual into WIOA Title I programs and use supportive services to assist with obtaining work authorization documents. Once individuals have their work authorization documents, they may participate in employer-connected services and ultimately find meaningful employment.

If an individual states that they are not authorized to work in the United States, at a minimum, staff must make self-service and information-only activities available, and may refer the customer to other programs such as WIOA Title II Adult Education and Family Literacy programs or California Department of Social Services (CDSS) immigrant services. In situations where an individual is in the process of adjusting their legal status, staff may co-enroll an individual without work authorization in the WIOA Title I and II programs.

The following chart is intended to aid staff when to ask for authorization to work documents. The flow chart takes into account which services trigger participation as well as which services impact the staff's relationship with employers. Where a service triggers participation and necessitates the staff to coordinate services with an employer, staff must verify the individual's work authorization documents. Staff are not required to verify work authorization documents for services that do not require coordination with an employer.

Authorization to Work Service Flow Chart		
Service	Triggers Participation	Authorization to Work
Basic Career - Self-service and information-only activities, including program referrals, outreach, intake, orientation, eligibility determination	No	Cannot verify
Basic Career - Staff Assisted, including initial assessment, job placement, career counseling	Yes	<p><u>May</u> verify for activities such as initial assessment and career counseling</p> <p><b>Must</b> verify for job placement assistance.</p>
Individualized Career	Yes	<p><u>May</u> verify for activities such as occupational career counseling, aptitude testing, mentoring, and group counseling</p> <p><b>Must</b> verify for employment activities such as work experiences, transitional jobs, internships, and pre-apprenticeship training.</p>
Training	Yes	<p><u>May</u> verify for classroom training</p> <p><b>Must</b> verify for employment activities</p>

#### C. Single Verification Process

AJCC partners with verification requirements are encouraged to coordinate verification 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 do not need to re-verify. For example, WIOA Title I should not require authorization to work verification for Unemployment Insurance claims assistance when Title III does not require authorization to work verification for this activity.

#### **D. 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. Staff are encouraged to refer individuals who are not authorized to work in the United States to WIOA Title II and other programs that do not require authorization to work documentation.

Staff are encouraged to work with Title II partners and other partners without authorization to work requirements to co-enroll individuals with the goal of helping the participant obtain citizenship, authorization to work, and meaningful employment. In the case of coenrollment between any of the WIOA core partners, both partners may count all performance outcomes achieved. For additional resources to align programs see Funding Career Pathways and Career Pathway Bridges: A Federal Policy Toolkit for States (<https://www.clasp.org/publications/report/brief/funding-career-pathways-andcareer-pathway-bridges-federal-policy-toolkit>). For a list of services the California Department of Social Services (CDSS) provides to immigrants, see the CDSS website (<http://www.cdss.ca.gov/Immigration-Services>) Immigration Services.

#### **E. Supportive Services**

Possessing authorization to work documents is critical for individuals to participate in workforce and training programs and to fully integrate into society and the local economy. Often vulnerable populations who are legally authorized to work in the United States lack physical copies of authorization to work documents due to their circumstances. Staff may enroll an individual and use supportive services to help the individual obtain authorization to work documents. Supportive services such as legal aid are available to participants enrolled in Basic Career, Individualized Career, or Training services. Please refer Pacific Gateway's Supportive Services Policy (P-WIOA-SS.1A) and any subsequent updates.

#### **F. CalJOBS Case Notes**

Staff shall ensure that a case note entry is created in CalJOBS if and when right-to-work documents are verified. Case note templates are available in CalJOBS to document the verification of right-to-work documentation.

#### **G. Public Notification**

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

### **REFERENCES**

- WIOA (Public Law 113 -128), Section 188(a)(5)
- Title 8 CFR Part 274a.6
- Title 20 CFR Sections 677.150, 680.900. and 680.910
- 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 Change 1, “Performance Accountability Guidance for WIOA Title I, Title II, Title III and Title IV Core Programs” (August 23, 2017)
- 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 (March 1, 2017)
- 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)
- WSIN 17-31, Subject: Eligibility of DACA Recipients for WIOA Services (April 13, 2018)
- Workforce Services Directive WSD18-03, “Pathway to Services, Referral, and Enrollment” (August 29, 2018)

## **INQUIRIES**

For questions or assistance related to this policy, please contact Pacific Gateway Workforce Innovation Network staff at (562) 570-3748.

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