

**DRAFT DIRECTIVE
COVER PAGE**

Pathways to Services, Referral, and Enrollment

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 no later than **Wednesday, July 10, 2019**

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: ehernandez3@tularewib.org
Include "Draft Directive Comment" in the email subject line.

Mail: Workforce Investment Board of Tulare County
Attn: Edith Hernandez
309 W. Main St., Ste. 120
Visalia, CA 93291

If you have any questions, contact Edith Hernandez at 559-713-5200

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| <p align="center">WORKFORCE INVESTMENT BOARD OF TULARE COUNTY</p> <p align="center">WORKFORCE INNOVATION AND OPPORTUNITY ACT TITLE I</p> | <p>DATE: June 10, 2019</p> |
| | <p>SUBJECT: Pathway To Services, Referral, and Enrollment</p> |

WIB DIRECTIVE

TUL 19-04

TO: WIB Subrecipients
 WIB Staff

SUBJECT: PATHWAY TO SERVICES, REFERRAL, AND ENROLLMENT

EXECUTIVE SUMMARY

This policy provides guidance and establishes the procedures regarding verifying authorization to work and making services accessible to all populations. This policy applies to all subrecipients of *Workforce Innovation and Opportunity Act* (WIOA) funds, and is effective on the date of issuance.

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 flexibility in how services are delivered across the state. The Workforce Investment Board of Tulare County (WIB) provides clear guidance in collecting evidence of authorization to work and in providing important and valued services to all individuals, including but not limited to, individuals with limited English proficiency, homeless individuals, ex-offenders, transient youth, and those engaged in citizenship attainment.

This policy contains WIB-imposed requirements. All WIB-imposed requirements are indicted by **bold, italic** type.

REFERENCES:

- *Workforce Innovation and Opportunity Act* (WIOA) (Public Law 113-128), Section 188(a)(5)
- Title 8 *Code of Federal Regulations* (CFR) Part 274a.6
- Title 20 CFR Sections 677.150, 680.900, and 680.910
- Training and Employment Guidance Letter (TEGL) [02-14](#), Subject: *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](#), Subject: *Performance Accountability Guidance for WIOA Title I, Title II, Title III and Title IV Core Programs* (August 23, 2017)
- TEGL [19-16](#), Subject: *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](#), Subject: *CalJOBS Activity Codes* (October 29,2017)
- [WSIN17-09](#), Subject: *Eligibility of DACA Recipients for WIOA Services* (April 13, 2018)
- [WSD18-03](#), Pathway to Services, Referral and Enrollment

WORKFORCE INVESTMENT BOARD (WIB) - IMPOSED

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. 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 Directive 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 Directive 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:

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-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 Form I-9 documents. However, for Title I services, the WIB requires staff to scan authorization to work documents into CalJOBS. Scanning documents into CalJOBS facilities a one-time verification process should an individual visit a different America’s Job Center of California (AJCC).

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

- **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.

Verification Procedures for WIOA and W-P Services

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

Local Policy

Assisting Vulnerable Populations

The WIB has set criteria to provide non-employer service to vulnerable populations who are legally authorized to work in the United States, but due to their circumstance lack physical copies of their documentation. For the purpose of this directive, vulnerable populations include:

1. *Homeless*
2. *Justice involved individuals*
3. *Transient youth*
4. *Individuals who lack the financial resources necessary to obtain physical copies*

It is not the intent to cause unnecessary hardship to individuals who may already be facing barriers, but aide them in overcoming barriers by providing them with tools to be successful in attaining their employment goals.

Work Authorization Verification Temporary 90-Day Exemption

Individuals who meet the vulnerable population criteria will be eligible for a “work authorization verification temporary 90-day exemption” which is valid for 90-days from the WIOA Application date. The exemption allows individuals to self-attest to their work authorization status while allowing the WIB subrecipients to enroll them in to the WIOA program. Participants may receive assistance with career services, job readiness activities and supportive services to obtain work authorization documentations as shown in Attachment 1-Activity Matrix.

Documentation for Self-Attestation

Individuals may self-attest to their work authorization status by using an Applicant Statement WIB 48 04/19-Attachment 3.

The Applicant Statement must:

- ***detail the circumstance that prevents the individual to provide work authorization documentation; AND***
- ***provide identifiable data that has not already been verified; such as, legal name, date of birth, social security number, alien number and citizenship status; AND***
- ***Subrecipient supervisor must sign and approve the Applicant Statement prior to completing WIOA eligibility.***

The Applicant Statement should be used as a last resort. Staff must attempt to obtain other items listed on Attachment 2-General Eligibility: Identity and Work Authorization to prove date of birth and U.S. work authorization prior to using self-attestation.

“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. The WIB has procedures in place to verify an individual’s authorization to work documents no earlier than the start of participation. The WIB has taken into account the following when determining the point of asking an individual for authorization to work documentation:

- 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, subrecipient staff should make participants aware of federal law requiring employers to verify employment authorization prior to employment. Subrecipients must verify a participant’s authorization to work documents prior to providing a job referral.

Procedures for Verification

Check points have been set up to ensure job referrals to businesses are in compliance with the federal Immigration Reform and Control Act, which requires employers to verify job seeker’s authorization to work prior to employment.

Subrecipients must:

- ***Record a case note titled “Temporary 90-Day Exemption – Expires mm/dd/yy”, with details described in Applicant Statement and a description of how subrecipients will support individual to obtain work authorization verification documents.***
- ***Document 30/60/90 day follow-up progress to obtain work authorization verification in participant file.***

- *Upon receipt of physical copies of work authorization verification document(s), upload copies in EmploymentConnect.org.*
- *If required document(s) are not verified after 90 days, subrecipient must determine whether the lack of verification is due to participant non-compliance or if participant requires a 90-day exemption extension. Status and plan will need to be documented in participant file. Extensions are acceptable on a case-by-case basis when the lack of verification is due to circumstances are beyond the participants control. A new case note with new 90-day exemption date must be entered.*
- *If participants fails to provide work authorization verification in allotted time and is not eligible for an extension, participant will only be eligible to participate in Basic Career Self-Service activities as listed in Attachment 1 – Activity Matrix.*
- *Ensure individuals receiving employer services (i.e. occupational skills training, on-the-job training, transitional jobs, work experience or referrals to employer interviews) have provided work authorization has been verified in EmploymentConnect.org.*

The WIB used the chart below as guidance to establish its policy on when to ask for authorization to work documents. The flow chart takes into account which services trigger participation as well as which services impact relationships with employers.

Subrecipients are not required to verify authorization to work documents of individual’s who seek Basic Career – Self Services and information only. Vulnerable populations who lack documents due to their circumstance and are seeking Staff-Assisted and Individualized Career Services may receive a temporary 90-day exemption. However, subrecipients must request verification of individual’s authorization to work documents where a service triggers participation and necessitates coordination of services with an employer. *For a detailed list of program services individuals can access based on the documentation that has been verified, refer to Attachment 1– Activity Matrix.*

| Authorization to Work Service Flow Chart | | |
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| 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 | <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 |

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. The WIB has established a point of verification between WIOA Title I and Title III within each program that mirrors each other where possible. For example, WIOA Title I does not require authorization to work verification for Unemployment Insurance claims assistance when Title III does not require authorization to work verification for this activity.

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).

Subrecipients will work with Title II partners and other partners without authorization to work requirements to refer participants with the goal of helping them to obtain citizenship, authorization to work, and meaningful employment. In the case of co-enrollment between any of the WIOA core partners, both partners may count all performance outcomes achieved. For a list of services the California Department of Social Services (CDSS) provides to immigrants, see the [CDSS website](#) Immigration Services.

Supportive Services

Possessing authorization to work documents is not only critical for individuals to participate in workforce and training programs, but to fully integrate into society and the local economy. Often vulnerable populations who are legally authorized to work in the United States such as the homeless, ex-offenders, and transient youth lack physical copies of authorization to work documents due to their circumstances. ***Supportive services can be used to help enrolled participants who require financial assistance to obtain authorization to work documents.*** Supportive services such as legal aid are available to participants enrolled in Basic Career, Individualized Career, or Training services. 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. ***For a list of allowable supportive services and procedures, refer to WIB Directive TUL 17-02 WIOA Title I Adult, Dislocated Worker, and Youth Supportive Service Policy*** (Title 20 CFR Sections 680.900 and 680.910)

The EmploymentConnect.org website, which is connected to the CalJOBS state website, is the mandated web-based participant case management system for all WIB WIOA programs. Work authorization document verification must be scanned and uploaded to the website. This will support the state's efforts to enable access to Title III partner and other AJCC's in California. The WIB will coordinate with Title III partner to the extent possible when it is in the best interest of the common customer.

Public Notification

Individuals may receive employment services and services from other partners in an AJCC without first providing their authorization to work documents, therefore public notices that state employment services are available only to individuals who are U.S. citizens or legally authorized to work in the United States will not be posted at any of the WIB's Employment Connection/AJCC locations. 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 WIB Subrecipients and WIB Staff.

INQUIRIES:

Please direct inquiries regarding this directive to the WIB at (559) 713-5200.

Adam Peck
Executive Director

Attachments:

1. [Activity Matrix](#)
2. [General Eligibility: Identity and Work Authorization](#)
3. [Applicant Statement](#)

Summary of Comments

AP:EH:llg