

AUTHORIZATION TO WORK POLICY

EXECUTIVE SUMMARY

This policy provides the guidance and establishes the procedures regarding verifying authorization to work documents, including which services require verification, when to ask, and where to refer individuals for additional services. The policy also provides a pathway to services for those individuals who do not possess authorization to work documents, thus making services available to all populations.

REFERENCES

Workforce Innovation and Opportunity Act (WIOA) Section 188(a)(5); 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); Title 8 CFR Section 274a.6; USCIS Form I-9, Employment Eligibility Verification; Employment Development Department Workforce Services Directive WSD18-03, Subject: Pathway to Services, Referral, and Enrollment (August 29, 2018); WSD18-03, Attachment 1, Frequently Asked Questions.

BACKGROUND

In 1993, SB 733 passed, creating a state-imposed eligibility requirement for employment services such that government agencies, community action agencies, and private organizations contracting with the government were required to verify an individual's authorization to work prior to providing employment services and to publicly post a notice that only U.S. citizens and those authorized to work in the United States could receive services.

In 2016, AB 2532 was passed, repealing the requirements of SB 733; therefore, California no longer has a state requirement to verify authorization to work. However, the federal Immigration Reform and Control Act requires employers to verify a job seeker's authorization to work documents prior to employment. It should also be noted that federal immigration regulations *authorize* state employment agencies to verify authorization to work (Title 8 CFR Section 274a.6).

GUIDANCE

WIOA Title I and Title III (Wagner-Peyser) 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. Local Areas 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. Local Areas must have procedures in place to verify an individual's authorization to work documents no earlier than the start of participation.

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 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.

Title I and III service category definitions are briefly described below.

- Self-Service Basic Career services: independent use of services at an AJCC with minimal or no staff assistance. Self-service also includes staff establishing access to CalJOBS for an individual or looking up a password. Individuals using self-service only do not count toward performance measures.
- Staff-Assisted Basic Career services: staff member assessment of an individual's skills, education, or career objectives (e.g., proficiency testing, resume preparation assistance, job referrals).
- Individualized Career services: WIOA-funded services provided as appropriate for an individual to obtain or retain employment (e.g., IEP development, ESL services, work experience).
- Training services: services that include WIOA-funded training and/or support and coaching.

Single Verification Process

AJCC partners with verification requirements are encouraged to coordinate verification to increase the efficiency of the process and to prevent participants from having to repeatedly produce Form I-9 documents. Once authorization to work is verified by one program, staff in a separate program do not need to re-verify.

Service	Triggers participation	Authorization to Work
Basic Career: Self-service and information including program referrals, outreach, intake, orientation, eligibility determination	NO	Cannot Verify
Basic Career: Staff-assisted, including initial assessment, job placement, career counseling	YES	May verify for activities such as initial assessment and career counseling; MUST verify for job placement assistance
Individualized Career	YES	May verify for activities such as occupational career counseling, aptitude testing, mentoring and group counseling; MUST verify for employment activities such as work experiences, transitional jobs, internships and pre-apprenticeship training
Training/Supportive Services	YES	MUST verify

Partner Program Referrals

Under WIOA Title II, participation begins with adults who are basic skills deficient, lack a high school diploma or equivalent, function below the level of a high school graduate, or are unable to speak, read, or write in English, enroll in and attend WIOA Title II adult education, English language instruction, and/or integrated education from eligible providers, including 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 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.

Local Areas are encouraged to work with Title II providers and other partners without authorization to work requirements to co-enroll individuals with the goal of helping the participant to obtain citizenship, authorization to work, and employment.

Supportive Services

Vulnerable populations who are legally authorized to work in the United States such as the homeless, ex-offenders and transient youth often lack physical copies of authorization to work documents due to their circumstances. Local Areas are strongly encouraged to enroll such individuals and use supportive services to assist the individuals to obtain or renew authorization to work documents; however, please note that supportive services for individuals lacking authorization to work documents must be approved on a case-by-case basis by the Executive Director.

In accordance with Title 20 CFR Section 680.910, Local Areas may provide supportive services to individuals who are participating in career or training services, and are unable to obtain supportive services through other programs providing such services. Supportive services may only be provided when they are necessary to enable the individual to participate in career services or training activities. Before using WIOA funds to assist with renewal fees for Legal Permanent Residents or other immigrants authorized to work in the United States, the Local Area must consider other funding sources.

Procedures for Storing and Accessing Authorization to Work Documents

Procedures for storing and accessing Authorization to Work documentation shall comply with all requirements listed under *Policy and Procedures* in the WDB's Local Policy Bulletin #2016-02, "Handling and Protection of Personally Identifiable Information (PII)," effective December 7, 2016.

Public Notification

Because individuals may receive employment 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 United States. Posting such signs may discourage individuals who are legally entitled to services from entering an AJCC.

INQUIRIES

If you have questions, please contact staff at (831) 759-6644. This policy is posted on the MCWDB website located at: www.montereycountywdb.org/policies/

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