

## PATHWAY TO SERVICES, REFERRAL, AND ENROLLMENT

### EXECUTIVE SUMMARY

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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 all Local Workforce Development Areas (Local Area), and 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 flexibility in how services are delivered across the state. By providing clear guidance, the state seeks to assist Local Areas 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 only state-imposed requirements.

This Directive finalizes Workforce Services Draft Directive *Pathway to Services, Referral, and Enrollment* (WSDD-179), issued for comment on April 13, 2018. The Workforce Development Community submitted 23 comments during the draft comment period. A summary of comments, including all changes, is provided as Attachment 2.

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

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- *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

*The EDD is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.*

- 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<sup>SM</sup> Activity Codes* (October 29, 2017)
- [WSIN17-31](#), Subject: *Eligibility of DACA Recipients for WIOA Services* (April 13, 2018)

## BACKGROUND

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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

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### 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. 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.

#### “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. When determining the point of asking an individual for authorization to work documentation, Local Areas 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.

**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, staff are strongly encouraged 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<sup>SM</sup> (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.

The following chart is intended to aid Local Areas in establishing 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 the Local Area’s relationship with employers. Where a service triggers participation and necessitates that the Local Area coordinates the services with an employer, Local Areas must verify the individual’s work authorization documents. Local Areas 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	<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. Further, WIOA Title I and Title III must coordinate a local policy that establishes a point of verification within each program that mirrors each other where possible. 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.

**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 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 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. Possible scenarios are included in Attachment 1, Frequently Asked Questions. In the case of co-enrollment 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](#). 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. Local Areas are strongly encouraged to enroll such individuals 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. 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)

### **Local Policy**

Local Areas must coordinate with the Title III partner to establish a local authorization to work policy that identifies the point(s) during the period of participation when AJCC staff must verify a participant's work authorization documentation. In addition, the policy must include procedures for storing/accessing authorization to work documents (i.e., scanned or hard copy). Local Areas must have the authorization to work policy in place by March 15, 2019.

### **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.

## **ACTION**

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

## INQUIRIES

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If you have any questions, contact your [Regional Advisor](#).

/S/ JAIME L. GUTIERREZ, Chief  
Central Office Workforce Services Division

Attachments are available on the internet:

1. [Frequently Asked Questions](#)
2. [Summary of Comments](#)
3. [Errata Chronology](#)