

Purpose

The purpose of policy is to provide guidance on determining when authorization to work documentation is required. In addition, the policy covers what and when services can be provided without the right to work documents.

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 In 2016, Governor Brown signed AB 2532, which repealed these requirements.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.

Generally, WIOA participants receive job referrals during their period of participation in a program. California seeks to prohibit discrimination and make workforce services accessible to all populations by providing a pathway to services for those individuals who do not possess authorization to work documents.

Policy

Verification Procedures for WIOA 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. Staff must verify when services necessitate coordination with an employer such as on-the-job training and job referrals.

When determining the point of asking an individual for authorization to work documentation, please consider 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.

Definitions of Services

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.

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.

Supportive Services – It is strongly encouraged that such individuals are enrolled and use supportive services to help them obtain authorization to work documents. Supportive services such as legal aid is 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. This is available dependent on supportive service funding availability.

The following chart is intended to assist on when to ask for authorization to work documents. The flow chart reflects which services trigger participation. Where a service triggers participation and necessitates coordinating services with an employer, individual’s work authorization documents must be verified. Verification of work authorization documents is not required to be verified for services that do not require coordination with an employer. In other words, documentation is required to enroll a client in OJT or refer them for applying for an open job position.

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	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	Yes	May verify for classroom training
		Must verify for employment activities

Note: Right to work must be verified for training programs where a participant is employed as part of the training program.

- Example: Apprenticeship programs such as Barbering School.

References:

WIOA (Public Law 113-128), Section 188(a)(5)
 Title 8 Code of Federal Regulations (CFR) Part 274a.6
 Title 20 CFR Sections 680.900 and 680.910
 WSD 18-03
 TEGL) 02-14
 TEGL 19-16
 Title 8 CFR Section 274a.6