COLORADO
Department of Labor and Employment

Workforce Development Programs
633 17th Street, Suite 700
Denver, CO 80202

Category/Subject:	Guidelines for Affidavit of Immigration Status
Colorado Policy Guidance Letter#: WIOA/WIA-2014-01 (prior #14-05-WIA)	
Revise/Replace:	PGL #14-05-WIA
Date:	October 14, 2014
Distribution:	Managers, Workforce Development Staff, Workforce Region Directors, Fiscal

I. REFERENCE(S):

Title I of the Workforce Investment Act (WIA) of 1998, Section 136 (d); WIA Final Rules – 20 CFR Parts 667.300, published at 65 Fed. Reg. 49429 (August 11, 2000); Trade Adjustment Assistance Act and related regulations; Colorado House Bill 06-S-1023 and Senate Bill 13-251; Colorado Department of Revenue website; PGL #01-11-WIA1: WIA Complaint Procedures; PGL #02-03-L: Nondiscrimination Equal Opportunity Assurances; PGL #02-04-L: Nondiscrimination & Equal Opportunity Sanctions; PGL #02-06-L: Processing Discrimination Complaints; and PGL #ADM-2002-05: Discrimination & Equal Opportunity.

II. PURPOSE:

To provide revised guidelines and procedures for the required determination of citizenship or legal immigration status for provision of WIA and TAA program services to individuals 18 years of age or older. This PGL also:

- removes the state's responsibilities for verification
- provides detailed procedures for appeal of denial of services by local Workforce Regions, and
- provides new English and Spanish versions of the Affidavit of Immigration Status, which add the option to use a United States passport as documentation for immigration status
- updates the identification requirements for the affidavit
- provides guidance on verifying lawful presence of aliens

Local Workforce Regions are encouraged to review the revised guidelines in detail to ensure they are in compliance with all the revisions.

III. BACKGROUND:

During July 2006, a Special Session of the Colorado Legislature passed HB 06-S-1023 for the purpose of restricting non-emergency public benefits to individuals who are lawfully present in the United States. This legislation applies to the WIA and TAA program services delivered by the workforce regions and their subcontractors, as well as the State Displaced Homemaker Program currently delivered by the Community College of Denver. This legislation does not apply to Wagner-Peyser or other programs that do not pay a benefit to individuals.

The provisions of HB 06-S-1023 apply to all individuals who are newly enrolled for program services after August 1, 2006, and who are 18 years of age or older at

the time of the enrollment. Requirements of this law are not retroactive to registered or enrolled participants prior to August 1, 2006. The following section details the procedures and processes for ensuring compliance with the law.

IV: POLICY/ACTION:

A. WIA Adult, Dislocated Worker, Youth, and Discretionary Program Participants

All WIA applicants after August 1, 2006 must complete and sign the "Affidavit of Immigration Status" form **(see Attachments 1** and **2)** during the intake process. The intake worker or case manager should:

- Instruct the applicant that the Affidavit must be completed and signed (**and one of the specified forms of documentation provided**) before WIA services can be provided.
- Inspect the documentation presented by the Applicant and verify that the identifying number (e.g. valid Colorado driver's license number) is correctly entered on the Affidavit.
- Upon acceptance of the signed Affidavit, scan the original into Connecting Colorado <u>or</u> retain the original in the Applicant's case file. Provide a copy to the Applicant. There is no requirement to retain a copy of the ID documentation with the Affidavit, although a copy may be required for WIA eligibility purposes.
- Proceed with entry of the WIA application and ES registration (if necessary) in Connecting Colorado, ensuring that the applicant name in Connecting Colorado matches the name on the documentation provided with the Affidavit of Immigration Status.
- For an Applicant who has executed an affidavit stating that he or she is an alien lawfully present in the United States, the local Workforce Region is responsible for verifying lawful presence using the U.S. Citizenship and Immigration Service (USCIS) Systematic Alien Verification for Entitlements (SAVE) system. See **Attachment 3** for the "Basic Guide on How to Use SAVE," prepared for use by the Legal Presence/Alien Verification team in the Unemployment Insurance Division at CDLE.
- Workforce regions in the Colorado Rural Workforce Consortium (CRWC) should forward alien verification requests to the CRWC Admin team for support.

B. TAA Participants

Beginning with the issuance of this PGL, all new TAA applicants must complete and sign the "Affidavit of Immigration Status" form (**see attachments 1** and **2**) at the first meeting with the TAA counselor. TAA counselors should:

- Instruct the applicant that the Affidavit must be completed and signed (**and one of the specified forms of documentation provided**) before TAA services can be provided.
- Inspect the documentation presented by the Applicant and verify that the identifying number (e.g. valid Colorado driver's license number) is correctly entered on the Affidavit.

- Upon acceptance of the signed Affidavit, scan and upload the original into the application/eligibility section using the IM code in Connecting Colorado. The original or a copy of the Affidavit should be provided to the Applicant.
- Proceed with entry of the TAA application and ES registration (if necessary) in Connecting Colorado. Ensure that the applicant name in Connecting Colorado matches the name on the ID documentation provided with the Affidavit of Immigration Status.
- Enter the identifying number from the applicant's identification (e.g. valid Colorado driver's license number) in the ID Type and ID Number fields in Connecting Colorado.
- For an Applicant who has executed an affidavit stating that he or she is an alien lawfully present in the United States, the local Workforce Region is responsible for verifying lawful presence using the U.S. Citizenship and Immigration Service (USCIS) Systematic Alien Verification for Entitlements (SAVE) system. See **Attachment 3** for the "Basic Guide on How to Use SAVE," prepared for use by the Legal Presence/Alien Verification team in the Unemployment Insurance Division at CDLE.
- Workforce regions in the Colorado Rural Workforce Consortium (CRWC) should forward alien verification requests to the CRWC Admin team for support.

C. Identification Requirements

Per guidelines set by the Colorado Department of Revenue, local Workforce Regions may accept one of the following forms of identification in conjunction with the Affidavit when applying for public benefits:

- Current Colorado Driver's License or Identification Card (except if the license or I.D. clearly states "not valid for federal identification, voting, or public benefit purposes")
- U.S. Military Card
- Military Dependent Identification Card
- U.S. Coast Guard Merchant Mariner Card
- Native American Tribal Document
- Current U.S. Passport
- Certified copy of a Birth Certificate filed with a State Office of Vital Statistics or equivalent agency in the applicant's state of birth
- A Consular Report of Birth Abroad (CRBA) issued by the U.S. Department of State (Form FS-240, DS-1350, or FS-545)
- A Certificate of Naturalization issued by DHS (Form N-550 or N-570)
- A Certificate of Citizenship issued by DHS (Form N-560 or N-561)

- Valid immigration documents demonstrating Lawful Presence and verified through the SAVE system.
- Other valid State's Driver's License/State I.D. Card, from a "lawful presence" state.

All states are considered to be "lawful presence" states including the District of Columbia with the exception of Hawaii, Illinois, Maryland, Nebraska, New Mexico, Utah, and Washington. If the face of the license or ID card states that it is an Enhanced driver's license or ID card, then it can be accepted as a lawful presence document.

D. Procedures for Appeal of Denial of Services

1. WIA

Clients should be informed of their rights to appeal a denial based on the Affidavit of Immigration Status during the intake process. If a client has been denied access to services based on the Affidavit and supporting documentation, s/he will be asked to provide documentation confirming they are the person named on the ID. For example, a client who still has her maiden name on the driver's license can provide documentation of the name change. If the documentation is rejected, the local Workforce Region's WIA complaint procedures should be used for any appeals. The Workforce Region's procedures must include the following:

- A process for dealing with grievances and complaints from participants and other interested parties affected by the local Workforce Investment System, including One-Stop partners and service providers;
- An opportunity for an informal resolution and a hearing to be completed within 60 days of the filing of the grievance or complaint; and
- An opportunity for a local level appeal to the State when:
    - No decision is reached within 60 days; or
    - Either party is dissatisfied with local hearing decision.
- A local level grievance being appealed to the State must be in writing and filed with the Colorado Department of Labor and Employment (CDLE) within ten (10) days after notification of the decision or, if a timely decision is not rendered, within fifteen (15) days from the date on which the complainant should have received a timely decision.

The following defines the State level appeal process:

- The appeal must be received by Colorado Department of Labor and Employment, ATTN: State Grievance Administrator, 633 17th Street, Rm 700 Denver, CO 80202.
- The appeal must contain a specific statement of the grounds upon which the appeal is sought. A copy of the written, formal complaint – submitted to the WFC, a transcript or recording of the hearing proceedings, and a copy of the written decision of the WFC being appealed must be included.
- A designee of the Executive Director will then conduct a state review.
- When the review process is completed, the designee of the Executive Director will make a written recommendation to the Executive Director.
- The Executive Director or her designee will make a final decision within sixty (60) days of receipt of the appeal.
- Notification of the Executive Director's final decision will be provided to the complainant.

Should the Executive Director not render a decision, an appeal may be made to the Secretary of Labor, U.S. Department of Labor, Washington, DC 20210, Attention: ASET. A copy of the appeal must be simultaneously provided to the ETA Regional Administrator, U.S. Department of Labor, 525 S. Griffin Street, Dallas, Texas 75202 and the opposing party. The Executive Director's decision is

final unless the Secretary of Labor exercises the authority for Federal-level review.

2. **TAA**
   TAA denials may be appealed through the state's Unemployment Appeals Section. All denials are issued by the state TAA office. Clients may appeal in writing to the Unemployment Appeals Section via Fax (303-318-9248, or mail to Unemployment Appeals Section, P.O. Box 8988, Denver, CO 80201-8988. Appeals must be received within 20 days of the date the denial was mailed.

V. IMPLEMENTATION DATE:

Upon issuance of this PGL for all WIA and TAA participants that are 18 years of age or older.

VI. INQUIRIES:

Please direct all inquiries to your Regional Liaison at Workforce Development Programs.

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Elise Lowe-Vaughn, Director
Workforce Programs, Policy, and Strategic Initiatives

Attachments:
1. Affidavit of Immigration, revised April 2014
2. Affidavit of Immigration, revised April 2014, Spanish version
3. Basic Guide on How to Use SAVE – Systematic Alien Verification for Entitlements