



Jeb Bush
Governor
Susan Pareigis
Director

SUBJECT: Confidentiality of Records and Public Records Requests and Subpoenas	POLICY NUMBER: 1.02
PURPOSE/SCOPE: To provide guidance to regional workforce boards, early learning coalitions, Agency employees and other Agency partners regarding what information is confidential by law and how to process records requests and subpoenas. This guidance modifies and replaces Policy Number 1.02 issued on January 7, 2003.	

I. AUTHORITY

Florida and federal privacy provisions cited in the policy.

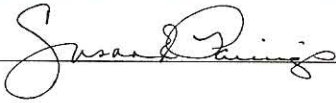
II. CROSS REFERENCE

AWI Policy Number 1.05, Procedures for Processing Pubic Records.
AWI Final Guidance, Confidentiality of Records and Public Records Requests and Subpoenas.

III. DEFINITIONS

Confidential: As used in this policy, the term confidential refers to entire record systems specific records or individually identifiable data that by law are not subject to public disclosure under Article I, Section 24 of the Florida Constitution and Section 119.07, Florida Statutes (2005). When applicable, confidentiality covers all documents, papers, computer files, letters and all other notations of records or data that are designed by law as confidential. See also AWI Policy Regarding Procedures for Processing Public Records. Further, the term confidential also covers the verbal conveyance of data or information that is confidential.

Integrated Systems and Confidentiality: Given the integration and merging of services within One-Stop settings, it may be necessary to determine what type of record has been requested, e.g., WIA record, TANF record. Whether the records can be released may depend upon that determination. Confidential information that is received by the Agency for Workforce Innovation (AWI) from another agency retains its confidentiality unless otherwise provided by law. The requirements of the program that provides the information shall apply.

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IV. POLICY AND GENERAL PROCEDURES

A. General Confidential Information: Social Security Numbers:

Social Security numbers are confidential pursuant to section 119.071(5)(a)3, F.S. (2005), and 5 USCA 552a. Social Security numbers are to be redacted (eliminated) from all documents prior to delivery, except as specifically provided by law, including documents to be filed with the courts and personnel records. The Privacy Act of 1974 (Public Law 93-579) requires that individuals required to disclose their social security number be informed whether disclosure is mandatory or voluntary and provided with a statement of the purpose for the collection. Additionally, Florida law allows commercial entities access to social security numbers if there is a legitimate business purpose and a request is submitted in writing. These requests are to be maintained for reporting purposes to the Florida Legislature. For commercial entity requests, please contact the AWI, Office of General Counsel.

B. Demographic Data in WIA Title I–Financially Assisted Programs:

Pursuant to 29 CFR 37.7(b)(2) and (c), demographic data (race/ethnicity, sex, age, and where known, disability status) for applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment must be stored in a manner that ensures confidentiality. The data must be used only for the purposes of record keeping and reporting; determining eligibility, where appropriate, for WIA Title I-financially assisted programs or activities; determining the extent to which the recipient is operating its WIA Title I-financially assisted program or activity in a nondiscriminatory manner; or other use authorized by law. The data will be used for statistical purposes only and will not be used in any manner which reveals the identity of the individual.

C. Medical Records & Disability–Related Information:

Medical records and disability-related information on applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment must be stored in a manner that ensures confidentiality, and must be used only for the purposes of record keeping and reporting; determining eligibility, where appropriate, for WIA Title I-financially assisted programs or activities; determining the extent to which the recipient is operating its WIA Title I-financially assisted program or activity in a nondiscriminatory manner; or other use authorized by law. See 29 CFR 37.7.

This information must be maintained on separate forms, stored separately from all other information about a particular individual, and treated as confidential medical records. Access to disability-related or medical information must be limited to the following:

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- (1) Supervisors and managers may be informed regarding restrictions on the work or duties of an employee or participant and regarding necessary accommodations;
- (2) First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment or evacuation; and
- (3) Government officials investigating compliance with Federal law must be provided information on request.

D. Unemployment Compensation Records:

Unemployment Compensation (UC) records are confidential by law. Sections 443.171, 443.1715 and 443.181, F.S. (2005). Any employee or individual receiving or releasing confidential information that violates any provision of this subsection commits a misdemeanor of the second degree punishable as provided in sections 775.082 and 775.083, F.S. (2005). UC records, however, are available to public employees in pursuit of their public duties upon agreement by AWI.

- (1) Subpoenas and all requests for UC records. Subpoenas for UC records should not be accepted in the One-Stop offices or at the regional workforce board offices. All subpoenas and requests for UC records should be forwarded to:

UC Records Custodian
107 E. Madison Street, MSC 230
Tallahassee, FL 32399-4132
Telephone (850) 921-3456 or 921-3406 or 921-3404
Facsimile (850) 921-9327 or 921-3912

- (2) Requests for microfilmed UC documents should be sent to the:

Benefits Records Unit
Attention: Records Custodian
PO Drawer 5750
Tallahassee, FL 32314-5750

- (3) Release of Claim-Specific Information *via* Telephone:

The RSVP system or voice response system is able to answer a large percentage of routine claimant telephone inquiries. Security is safeguarded by the use of the Personal Identification Number (PIN). If a claimant requests additional information about his

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claim that is not available from the RSVP system, the following should be verified before releasing information: the claimant's social security number, birth date, and address. If there is reasonable certainty that the individual calling is the claimant, no additional verification is required. No information should be provided to a spouse or relative of a claimant unless the individual is hearing impaired or interprets for the claimant or applicant. Questions or concerns should be routed to the Orlando Unemployment Compensation Call Center at (800) 204-2418.

E. Employment Services and Workforce Services Records:

Employment Services (ES) records are confidential by law. Section 443.171, 443.1715, 443.181, F.S. (2005). Any employee or individual receiving or releasing confidential information that violates any provision of this subsection commits a misdemeanor of the second degree punishable as provided in sections 775.082 and 775.083, F.S. (2005). **All subpoenas and requests for ES records should be served at the local One-Stop centers. The local One-Stop and/or the regional workforce board are responsible for handling these requests based upon the guidance provided herein.**

The following types of information or data received by the Agency or its partners in the Workforce One-Stop System are confidential by law and cannot be provided to the public without an explicit authorization from the person who is the subject of the information. Records can be released to any individual or entity with a properly executed authorization or release for the ES records.

(1) **Food Stamp (FSET) records** are confidential pursuant to 7 CFR 272.1(c). The entire record is confidential. Questions regarding this program should be directed to:

Food Stamp Coordinator
One-Stop and Program Support
107 E. Madison Street, MSC 229
Tallahassee, FL 32399-4128
Telephone (850) 921-3239
Facsimile (850) 921-3252

(2) **Job Corps records** are confidential pursuant to 20 CFR 670.965, 29 CFR Part 70 and 29 CFR Part 71. Job Corps is a federal program that operates in partnership with states to provide training to young people. All records which may personally identify any participant are confidential and subject to release only as provided in 29 CFR Part 71. Questions regarding this program should be directed to:

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State Coordinator for Job Corps
107 E. Madison Street, MSC 229
Tallahassee, FL 32399-4128
Telephone (850) 245-7490
Facsimile (850) 488-1674

(3) **Migrant and Seasonal Farm Workers records** (maintained as part of the Employment Services system) are confidential pursuant to 20 CFR 653.110(d). The term "Migrant and Seasonal Farm Worker" means any domestic farm laborer who works in any given local area on a seasonal basis and relocates his or her place of residence as farm work is obtained in other areas during the year. For present purposes, the relevant records are those documents generated during the course of rendering services *via* the employment services that are funded through the Wagner Peyser Act. Questions regarding this program should be directed to:

Senior Monitor Advocate
107 E. Madison Street, MSC 229
Tallahassee, FL 32399-4128
Telephone (850) 921-3207
Facsimile (850) 921-3252

(4) **North American Free Trade Agreement Transitional Adjustment records** are confidential pursuant to 20 CFR 617.57(b). These records are generated in the course of providing services to persons adversely affected by trade between the United States of America and Mexico or Canada. Questions regarding this program should be directed to:

NAFTA State Coordinator
107 E. Madison Street, MSC 229
Tallahassee, FL 32399-4128
Telephone (850) 921-3268
Facsimile (850) 921-3312

(5) **Trade Adjustment Assistance Under Trade Act of 1974 records** are confidential pursuant to 20 CFR 617.57(b). These records are generated in the course of providing retraining services to individuals that have been adversely affected as a result of increased imports. Questions regarding this program should be directed to:

TAA State Coordinator
107 E. Madison Street, MSC 229
Tallahassee, FL 32399-4128

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Telephone (850) 921-3268
Facsimile (850) 921-3312

(6) **Worker Adjustment And Retraining Notification Act (WARN) records** are generated in the course of providing retraining services to individuals who are adversely affected by plant closures and significant layoffs as described in 29 USCA section 2102-2109. WARN laws require each employer to give employees prior notice of the intended layoffs or plant closures. Under the general provisions of the Workforce Investment Act, WARN records are public. However, any information contained in the WARN notice that provides personal identification of employees is confidential. The WIA confidentiality provision also applies to trade secrets, or commercial or financial information that is obtained from the employer and that is part of the WIA records. See WIA 185(a)(4)(B), 29 USCA 2101, 29 USCA 2801 (WIA). In responding to public records requests for WARN notices, associates must redact information identifiable as to individual employees being laid off, e.g., names, addresses, social security numbers. Questions regarding this program should be directed to:

REACT Coordinator
107 E. Madison Street, MSC 229
Tallahassee, FL 32399-4128
Telephone (850) 921-3323
Facsimile (850) 921-3312

(7) **Welfare Transition/TANF records** are confidential pursuant to 45 CFR 205.50, 414.295, F.S. (2005). Questions regarding this program should be directed to:

Welfare Transition Coordinator
One-Stop and Program Support
107 E. Madison Street, MSC 229
Tallahassee, FL 32399-4128
Telephone (850) 245-7429
Facsimile (850) 921-3252

(8) **Workforce Investment Act (WIA) records** are public records pursuant to Section 185, WIA. However, public access is not allowed if:

- (a) disclosure of information would constitute a clearly unwarranted invasion of personal privacy; and
- (b) the information constitutes a trade secret, or commercial or financial information that is obtained from a person that is privileged or confidential.

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Questions regarding WIA should be directed to:

One-Stop and Program Support
107 E. Madison Street, MSC 229
Tallahassee, FL 32399-4128
Telephone (850) 245-7402
Facsimile (850) 921-3252

(9) **Displaced Homemaker** – Information about displaced homemakers received by the Agency or its designee in offering services pursuant to sections 446.50 and 446.51, F.S. (2005) is confidential and exempt from disclosure. Questions regarding this program should be directed to:

One-Stop Program Support
107 E. Madison Street, MSC 229
Tallahassee, FL 32399-4128
Telephone (850) 245-7413
Facsimile (850) 921-3252

F. Labor Market Information (LMI):

Labor Market Information is confidential pursuant to section 443.1715, F.S. (2005), and Commissioner's Order 3-93 (USDOL). Labor Market Information includes data such as labor force, employment, unemployment, unemployment rates, mass layoffs, employment and wages by industry and occupation, and employment projections. These data are collected and produced through cooperative agreements with the U.S. Department of Labor, Bureau of Labor Statistics and AWI, Labor Market Statistics. The information is collected under a pledge of confidentiality to employers and must be treated in a manner that will ensure individual identifiable data will be accessible to only authorized persons. No information or records that would reveal the identity of any individual employer obtained from AWI should be copied or disclosed to any party other than those authorized by Labor Market Statistics. Confidential employer information may be made available only to public employees (including regional workforce boards) in the performance of their public duties including statistical research, economic forecasting, job search and training, and implementation and administration of state law. Requests for the above information should be directed to:

Labor Market Statistics
107 E. Madison Street, MSC G-20
Tallahassee, FL 32399-4128

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Telephone (850) 488-1048
Facsimile (850) 488-2558

G. School Readiness Records:

Individual records of children enrolled in School Readiness programs, when held in the possession of the early learning coalitions or the Office of Early Learning are confidential and exempt from public disclosure. The child's parent or guardian and other entities as set forth in the exemption are authorized to have access to the records. Section 411.011, F.S. (2005).

Some other types of information which early learning coalitions may have access to, but are required to be confidential are as follows:

- (1) Section 402.308(3)(a), F.S. (2005) – Disclosure of social security numbers submitted by an applicant for a child care facility license issued by the Department of Children and Families shall be limited to child support enforcement purposes.
- (2) Section 409.175(15), F.S. (2005) – Specified personal information about foster care parents and their family that is contained in the licensing file of the Department of Children and Families is exempt from disclosure unless otherwise provided by court order.
- (3) Section 409.821, F.S. (2005) – Information in an application for the determination of eligibility for the Florida Kidcare program that identifies applicants, including medical information and family financial information, is confidential and exempt from disclosure. In addition, any information obtained through quality assurance activities and patient satisfaction surveys that identify program participants, obtained by the Florida Kidcare program under cited statutes, is also confidential and exempt from disclosure.

H. Voluntary Prekindergarten Records:

Voluntary Prekindergarten records are exempt from public records disclosure pursuant to Section 1002.72, F.S. (2005). Individual records of a child enrolled in the Voluntary Prekindergarten (VPK) Education Program are exempt from the public records law. Records made confidential and exempt include the assessment data, health data, records of teacher observations, and personal identifying information of an enrolled child and his or her parent. The exemption applies to records held by an early learning coalition, the Agency for Workforce Innovation, or a VPK Education Program provider before, on, or after the effective date of the exemption. A parent has the right to inspect, review and

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obtain a copy of the individual VPK Education Program record of his or her child.

Confidential and exempt records may be released for certain purposes to specified parties. The receiving party is required to protect the records in a manner that does not permit the identification of an enrolled child or his or her parent by persons not authorized to receive the records.

Questions regarding subpoenas or records requests for School Readiness or Voluntary Prekindergarten Records can be directed to the AWI, Office of the General Counsel:

Agency for Workforce Innovation
Office of the General Counsel
107 E. Madison Street, MSC 110
Tallahassee, FL 32399-4128
Telephone (850) 245-7150
Facsimile (850) 921-3230

I. Other Requests:

(1) Subpoenas and public records requests **not related to a request for UC records and not directed to a regional workforce board or service provider** should be served and forwarded to:

Agency for Workforce Innovation
Office of General Counsel
107 E. Madison Street, MSC 110
Tallahassee, FL 32399-4128
Telephone (850) 245-7150
Facsimile (850) 9213230

(2) Requests for verification of employment of AWI employees should be directed to:

Agency for Workforce Innovation
Human Resource Management
107 E. Madison Street, MSC 100
Tallahassee, FL 32399-4128
Telephone (850) 245-7168
Facsimile (850) 921-3221

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V. FORMS

None

VI. ATTACHMENTS

None