INDIANA DEPARTMENT OF WORKFORCE DEVELOPMENT

Eric J. Holcomb, *Governor*
Frederick D. Payne, *Commissioner*

To: Indiana's Workforce Investment System

From: Indiana Department of Workforce Development (DWD)

Date: June 7, 2021

Subject: DWD Memorandum 2020-15
Confidentiality Statement Required for All Non-DWD Individuals Accessing DWD Records

---

Purpose

To provide updates regarding the confidentiality provisions and Confidentiality Statement required for new contract and grant templates from DWD and for all individuals not employed by DWD (hereinafter "non-DWD individuals") accessing DWD records. This memo rescinds DWD Memo 2020-07.

Content

As part of this year's contract and grant template drafting process, DWD's Legal Division has again reviewed the confidentiality provisions and requirements for data being utilized by DWD's grantees and regional partners. Last year, these agreements were supplemented to clearly address various state and federal requirements relating to the use and security of confidential and protected data, including personally identifiable information. Additional language was included within the "Confidentiality of State Information" clause contained in many of the agreements, which relates to types of data being utilized with the contract or grant. These provisions serve to ensure appropriate handling and use of data containing confidential and protected information.

Last year, DWD also added a Confidentiality Statement as a requirement for individuals accessing DWD records, which was attached to the contract and grant templates as an exhibit. The Confidentiality Statement serves to inform any individual handling confidential and protected data related to a contract or grant (including, but not limited to, through Indiana Career Connect) of:

1. the requirements and confidentiality provisions associated with handling the data; and
2. responsibilities in handling the data.

DWD has revised the Confidentiality Statement to be a standalone document and is requiring any non-DWD individuals handling individual level records within DWD's systems to read and sign the Confidentiality Statement prior to accessing or utilizing data. All non-DWD individuals who will view or access individual level records must sign this document prior to being granted access to individual level records maintained within DWD's systems. Each non-DWD individual accessing individual level records must sign a new Confidentiality Statement each year prior to July 1st, and new hires must sign Confidentiality Statements prior to being granted access to any individual level records maintained within DWD's systems. Copies of the signed Confidentiality Statements shall be maintained on-site by contractors and grantees and be available upon request by DWD during monitoring or other reviews. Contractors and grantees are responsible for ensuring any and all subcontractors and subgrantees are aware of this requirement to obtain and maintain signed copies of the Confidentiality Statements.

10 N. Senate Avenue
Indianapolis, IN 46204
www.in.gov/dwd

Phone: 317.232.6702
Fax: 317.233.0232

Copies of the Confidentiality Statements should be maintained on site and should be reviewed as a part of the subcontractor and subgrantee oversight processes.

Removing the Confidentiality Statement from the grant and contract templates and instead utilizing it as a standalone document will help to bring about better awareness of the provisions relating to handling confidential and protected data, as well as reduce the administrative burden on parties by requiring only one signed Confidentiality Statement annually per non-DWD individual requiring access to DWD records.

In the event of a data security incident, as determined by DWD, all DWD partners and grantees shall undertake appropriate mitigating actions as prescribed by applicable federal and state laws and regulations, including providing notice, where required, to the victims, state authorities, and federal authorities.

A "data security incident" occurs when there is reason to believe that there either was or may have been unauthorized access to any confidential or protected data maintained within DWD's systems, damage cause to any of that data, or theft of any of that data. Prompt notice of any data security incident shall be reported to DWD in the manner described below:

(A) Data security incidents shall be reported to DWD as soon as the party becomes aware.

(i) A data security incident shall be reported to the DWD's Information Security Analyst Senior by both calling (317) 232-7596 within two (2) hours of becoming aware of the data security incident and in electronic form to PrivacyandSecurityOfficers@dwd.in.gov within twenty-four (24) hours of becoming aware of the data security incident.

(ii) If unable to reach the DWD's Information Security Analyst Senior at the above phone number, then it shall be reported to DWD's Chief Information Officer by calling (317) 234-8371 within two (2) hours of becoming aware of the data security incident.

(iii) In the event a data security incident is discovered outside of normal business hours, leaving a voice message at the above-listed telephone numbers shall be considered sufficient oral notification; however notification must be made by electronic form to PrivacyandSecurityOfficers@dwd.in.gov within twenty-four (24) hours of becoming aware of the data security incident.

(B) The following format should be used when reporting the data security incident electronically:

- **Name of Reporting Entity**

Incident # (number assigned by reporting entity)

- **Type of Incident**

Date and time of report (date and time incident was initially reported)
Date and time of data security incident (date and time incident occurred)
Time potential breach was identified

- **Name and Title of Person Reporting Incident**

Contact information (of person reporting incident)

- **Summary of Incident**

Include pertinent information regarding the potential security breach

- **Description of Personally Identifiable Information Involved**

Include number of participant records involved

- **Action Taken**

Name of person(s) conducting preliminary investigation
Contact information (of individual(s) responsible for issue analysis)
Date investigation started
Action(s) taken (include dates, times, and names of agencies notified of the incident)

- **Conclusion**

Measure taken to address issue and prevent any reoccurrences

Action

All DWD contractors and grantees, including sub-contractors and sub-grantees, must collect executed Confidentiality Statements and retain them for review by DWD upon request. A copy of the Confidentiality Statement to be signed by non-DWD individuals accessing DWD records is attached to this memo.

Additional Information

Questions regarding the content of this publication should be directed to DWD Policy: policy@dwd.in.gov.

CONFIDENTIALITY STATEMENT

The undersigned individual, who will be given access to DWD Data, which may contain various types of confidential information, including but not limited to confidential unemployment compensation information ("CUCI") as defined by 20 C.F.R. 603, personally identifying information, as defined by the Family Education Rights and Privacy Act ("FERPA"), 34 C.F.R. 99, and other data that is classified as confidential by state and federal laws, regulations, rules, and policies, understands and agrees with each of the following statements:

1. DWD Data contains personally identifiable information, and as such must be handled in a secure and confidential manner to mitigate the risk associated with use and dissemination of sensitive data.

2. I understand that CUCI, as set forth in Indiana Code 22-4-19-6 and 20 C.F.R. 603, is confidential. I understand that if I recklessly violate Indiana Code 22-4-19-6, I commit a Class B misdemeanor and may be imprisoned for up to 180 days and fined up to $1000 in accordance with Indiana Code 35-50-3-2.

3. I understand that DWD Data may contain personally identifiable information under FERPA and that the disclosure of such information may constitute an invasion of privacy of a student or former student, and I agree to ensure the confidentiality of such data and not impermissibly disclose such data to a third party.

4. With regard to DWD Data, I shall maintain and use DWD Data in compliance with the Employment and Training Administration of the U.S Department of Labor's Training and Employment Guidance Letter No. 39-11, "Guidance on Handling Protection of Personally Identifiable Information." See https://wdr.doleta.gov/directives/attach/TEGL/TEGL_39_11.pdf

5. I shall maintain and use DWD Data in compliance with DWD Policy 2013-03 – Requirement Pertaining to Confidential and Privileged Information (or any subsequently issued DWD policy outlining requirements pertaining to confidential and privileged information). See https://www.in.gov/dwd/files/DWD_Policy_2013-03.pdf

6. I shall maintain and use DWD Data in compliance with:

   Indiana Code 4-1-6 – Fair Information Practices; Privacy of Personal Information

   Indiana Code 4-1-8 – State Requests for Social Security Number

   Indiana Code 4-1-10 – Release of Social Security Number

   Indiana Code 4-1-11- Notice of Security Breach

   Indiana Code 5-14-3 – Access to Public Records

Indiana Code 22-4-19-6 – Records; inspection; reports; confidentiality; violations; processing fee

Indiana Code 24-4.9 – Disclosure of Security Breach

7. I agree to ensure the confidentiality of DWD Data and not allow impermissible disclosure of DWD Data to any third party.

8. I agree that DWD Data will only be used for the limited purposes authorized by law and in a manner consistent with the requirements of the DWD Data.

9. I agree to use care to protect DWD Data from unauthorized access, misuse, theft, damage, unauthorized destruction, unauthorized modification, and unauthorized disclosure.

10. I agree to immediately report any instance of unauthorized access, misuse, theft, damage, unauthorized destruction, unauthorized modification, and unauthorized disclosure with respect to DWD Data within my knowledge to my direct supervisor so that DWD can be notified as required.

_____
Signature

_____
Name (printed)

_____
Employer

_____
Date