STATE OF TENNESSEE
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF WORKFORCE SERVICES
220 French Landing Drive
Nashville, TN 37243-1002
(615) 741-1031

Workforce Services Guidance –Electronic Case Files - WIOA

Effective Date: November 30, 2017
Duration: Indefinite

Subject:
This document provides guidance for uniform, paperless documentation of participant files and includes instruction to protect customer information.

Purpose:
Standardized collection of participant information expedites participant eligibility determinations and allows One-Stop Centers more time to focus on providing services. This guidance provides instruction for the collection, dissemination, storage, and protection of information contained within digital files.

Scope:
Adult Education (AE), American Job Center (AJC), American Job Center Access Point (AJC Access Point), American Job Center Operator (AJC Operator), Chief Local Elected Official (CLEO), Division of Workforce Services (WFS), Local Workforce Development Areas (LWDAs), Local Workforce Development Boards (LWDBs), Office of the Governor, Office of Registered Apprenticeship (RA), Regional Council (RC), Rehabilitation Services (RS), State Workforce Development Board (SWDB), Tennessee Department of Economic and Community Development (TDECD), Tennessee Department of Education (TDOE), Tennessee Department of Human Services (TDHS), Tennessee Department of Labor and Workforce Development (TDLWD), Tennessee Eligible Training Providers (TETPs), Tennessee Secretary of State, Workforce Innovation and Opportunity Act (WIOA), Workforce System Subrecipients (Subrecipients), Workforce System Partners (Partners)

References:
29 CFR 38.43; 34 CFR 99.31; E-Government Act of 2002; Family Educational Rights and

Privacy Act (20 U.S.C 1232g; 34 CFR Part 990); Government Paperwork Elimination Act of 1998; HIPAA Act of 1996; Paperwork Reduction Act of 1995; Paperwork Reduction and Simplification Act of 1976; Public Law 105-277 Title XVII Section 1707; Public Law 107-347 Title V Section 512(b)(1); Tennessee Electronic Records Policy; WIOA Section 185(a)(1); WIOA Section 308(c)(2)(F)(ii)

Background:

This guidance originates from multiple regulations related to government agencies' transition from paper to digital files. Among these are: the ***E-Government Act of 2002, Government Paperwork Elimination Act of 1998, Paperwork Reduction Act of 1995, State of Tennessee's Paperwork Reduction and Simplification Act of 1976, and Tennessee Electronic Records Policy***. Section 185 of the Workforce Innovation and Opportunity Act (WIOA) requires recipients of Title I funds to keep records that are sufficient to prepare reports and permit the tracing of expenditures to adequately ensure that funds have not been spent unlawfully. This guidance applies to electronic file storage and documentation imaging standards in the administration of the following Federal programs: WIOA, Wagner-Peyser (WP), Trade Adjustment Assistance (TAA), and related assistance programs.

The Tennessee Department of Labor and Workforce Development (TDLWD) — along with numerous other state agencies — has transitioned to paperless record keeping by using an electronic document imaging and storage system. To capitalize on the increased efficiency of data storage and retrieval, TDLWD revised the documentation process for determining eligibility and the maintenance of pertinent records. TDLWD elects to first utilize electronic documents and requires electronic verification of eligibility requirements. Jobs4TN allows internal and external access to provide all servicing partners the means to efficiently administer services to their participants.

I. Electronic Records:

a. Jobs4TN: the Jobs4TN system eliminates the need for paper applications for registration and ensures that all Local Workforce Development Boards (LWDBs) are using identical criteria to determine participant eligibility. Customers will receive the same high-quality, efficient service regardless of the local area in which they reside. In order to case manage participants, LWDBs and the American Job Center (AJC) System must use Jobs4TN to:

- Create participant applications
- Record provided services
- Upload supporting documentation to verify eligibility
- Provide case notes regarding interactions with participants

LWDAs and AJCs shall establish procedures to ensure that the use of paperwork is reduced to a minimum (***WIOA Section 308[c][2][F][ii]***). All forms currently used during an individual's registration within an AJC,

specifically following the initial assessment to determine which services are applicable to the long-term success of a program participant, will be replaced by the use of Jobs4TN and its use must be adopted by all AJCs.

LWDBs should utilize the electronic registration whenever possible. The use of electronic records:

- Eliminates the need for storage areas and storage costs associated with paper files
- Saves supply costs and decreases paper waste
- Provides for an easily accessible, single-point of access for file review
- Reduces staff time accessing hard copy documentation
- Ensures more secure storage of sensitive information
- Eliminates lost or misfiled paper documents
- Increases the consistency of file documentation
- Ensures complete verification for program eligibility

The electronic information will be made available to any US Department of Labor or State auditor, or monitor who needs access in order to carry out their official duties. Information will be made available by granting full access to the VOS system or in paper format if requested.

II. Medical Records:

Records containing identifiable health information — also known as protected health information (PHI) under the HIPAA Act of 1996 — such as health status, provision of health care, or payment for health care should be maintained in a secure area and in paper format.

III. Data Validation:

The State is required to establish procedures, consistent with the guidelines issued by the Secretaries of Labor and Education, to ensure the information contained in the WIOA federal reports is valid and reliable. Data validation is the process intended to review participant files for accuracy and compliance. Eligibility and verification documentation are reviewed in this process. Additionally, the State requires that the Local Workforce Development Areas (LWDAs) use VOS to upload required participant documentation for data validation.

Data validation is an annual review of a sample of participants from the federal report. TDLWD staff will validate that the information recorded in the system on each participant is correct by verifying supporting documentation. This procedure eliminates the need for paper files to be provided by staff in the field, allowing TDLWD to virtually validate supporting documentation. As of the effective date of this guidance, all documents should be uploaded into

participant files as they are received by the case manager.

IV. Deleting Images:

Only under limited circumstances will staff be allowed to delete an image that has already been saved to an applicant's electronic file. The process of deleting an already saved image should be performed by Central Office staff. The Performance and Compliance Unit reviews requests for deletion of documents and if determined appropriate, would delete the records from the individual's account. Requests for deletion should be addressed by email to the Performance and Compliance Unit (ryan.allen@tn.gov), and workforce.board@tn.gov should be cc'd.

V. Record Maintenance:

Subrecipients of funds shall keep records that are sufficient to permit the preparation of reports and to permit the tracing of funds to a level of expenditure adequate to ensure that the funds have not been spent on non-allowable activities (***WIOA Section 185[a][1]***). This guideline applies to both paper and digital records. Although digital files are intended to replace paper documents, ***records must be maintained in a manner that enables staff to produce a tangible, paper copy immediately upon request***. Guidance on the required maintenance of records by recipients is provided in ***29 CFR 38.43***. According to ***29 CFR 38.43*** each grant recipient must maintain the records required under WIOA for a period of not less than three (3) years from the close of the applicable program year. Pursuant to Records Disposition Authorizations (RDAs) 1586 and 2207 from the State of Tennessee Comptroller of the Treasury, ***TDLWD requires the maintenance of records for a period of five (5) years***

VI. Confidentiality of Data or Information and Required Release Forms:

Data or information acquired by an agency under a confidentiality agreement, to be used exclusively for statistical purposes, shall not be disclosed by an agency in identifiable form for any use other than an exclusively statistical purpose. Use of this information is prohibited except with the informed consent of the respondent (***Public Law 107-347 Title V Section 512[b][1]***).

Required Release Forms

All LWDBs should have a release of information form signed and dated by the participant and the case manager. This form should state that the participant's information may be used for reporting purposes as a result of federal regulations associated with the benefit of federal funds, and that the participant's personal information will remain confidential. This may be used as a stand-alone form, or may be incorporated into other release forms used by the LWDAs. The release form will be uploaded into the participant file in VOS to

validate that the participant agrees to the release of information for reporting purposes.

VII. Family Educational Rights and Privacy:

Educational records are covered under the ***Family Educational Rights and Privacy Act***, enacted in 1974. This federal law protects the privacy of student education records. Under this law, students have the right to control disclosure of their education records. Student's education records may be disclosed only with the parent or student's prior written consent, unless (***34 CFR 99.31)***:

- The disclosure is to other school officials, including teachers, within the agency or institution whom the agency or institution has determined to have legitimate educational interests
- A contractor, consultant, volunteer, or other party to whom an agency or institution has outsourced institutional services or functions may be considered a school official under this paragraph provided that the outside party
    - Performs an institutional service or function for which the agency or institution would otherwise use employees;
    - Is under the direct control of the agency or institution with respect to the use and maintenance of education records; and
    - Is subject to the requirements of § 99.33(a) governing the use and redisclosure of personally identifiable information from education records.
- An educational agency or institution must use reasonable methods to ensure that school officials obtain access to only those education records in which they have legitimate educational interests. An educational agency or institution that does not use physical or technological access controls must ensure that its administrative policy for controlling access to education records is effective and that it remains in compliance with the legitimate educational interest requirement of this section.
- The disclosure is, subject to the requirements of § 99.34, to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer.

Participants who attend training through WIOA funded programs should sign and date a form authorizing the release of educational records in order to obtain information or copies of certifications or diplomas from educational institutions for data validation and reporting purposes.

VIII. Legal Status of Electronic Documents:

Electronic records submitted or maintained in accordance with procedures developed under this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures, shall not be denied legal effect, validity, or enforceability because such records are in electronic form (***Public Law 105-277 Title XVII Section 1707***).

Contact:

For any questions related to this guidance, please contact Nicholas Bishop - Director of Compliance and Policy for Workforce Services at Nicholas.Bishop@tn.gov

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Sterling van der Spuy, Administrator