

Eastern Area Workforce Development Board
Workforce Innovation and Opportunity Act (WIOA)

Policy 03-18 ELECTRONIC RECORDS

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REFERENCES:

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; TEGL 39-11; 34 CFR § 99.31; HIPM act of 1996; and WIOA § 185 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 been lawfully spent.

1. PURPOSE

This document provides guidance for uniform, paperless documentation of electronic records including participant files and other documents along with instructions on protecting participant information. This guidance provides instruction for the collection, dissemination, storage, and protection of information contained within digital files.

2. BACKGROUND

The Eastern Area Workforce Development Board (EAWDB) has transitioned to paperless record keeping by using an electronic document imaging and storage system. The EAWDB elects to first utilize electronic documents and requires electronic verification of eligibility requirements. The New Mexico Workforce Connection Online System (NMWCOS) allows internal and external access to provide all servicing partners the means to efficiently administer services to their participants. The One-Stop Operator shall ensure that the use of paperwork is reduced to a minimum (WIOA Section 308[c][2][FJ][ii]). The electronic information will be made available to US Department of Labor or State auditor or monitor who needs access to carry out their official duties. Information will be made available by granting full access to the NMWCOS system.

3. ACTION

A. Electronic Document Submission and Signatures

In order to provide services to customers in the most efficient and effective means possible the EAWDB will accept electronic document submission and signatures. In order to provide the necessary requirements for protection of information and the integrity of the program electronic document submission and signatures should follow the guidelines established below.

i. Electronic Document Submission

Eligibility documents can be directly uploaded by the customer to secure platforms in any format accepted by the submission platform e.g. JPEG, PDF, TIF etc. However, documents stored in the WCOS system should be converted to a lower file size format such as PDF either prior to or after initial upload whenever possible.

a. Low Risk Documents

Contracts and similar program documents requiring signature contain no more Personally Identifiable Information (PII) than the participant name are considered low risk documents. Low risk documents may be routed for appropriate signatures via email, fax or other appropriate means.

b. High Risk Documents

Documents that contain FERPA or HIPAA protected information or more PII than a name e.g. date of birth or SSN are classified as high risk documents. High risk documents should be submitted transmitted through only secure methods to protect the customer's information. High risk

documents may be directly uploaded to secure platforms directly by the customer. Alternative methods for secure transmission of high-risk documents include but are not limited to:

- Screen captures gathered in a secure virtual environment;
- Pictures of required eligibility documents submitted securely (see email restrictions below);
- Fax of documents scheduled between the customer and center staff where the appropriate staff is standing by the fax machine ready to receive the documents;
- Scanned copies of documents uploaded through a secure platform;
- New and emerging secure technologies; and
- Password protected files submitted via email where the password is provided to the receiving staff via telephone or other secure contact and not via email;

High risk documents should be transmitted via email only as a last resort and then only as a password protected file. The password for the file **must not** be provided in the email transmitting the document.

ii. Electronic Signatures

Documents requiring signature that will be signed electronically must include attestation by the signatories that verifies the signatories recognizes they are submitting an electronic signature in lieu of an original signature the electronic signature is as binding as an original signature.

iii. **Medical Records**

Currently, medical records containing information protected under the HIPM Act of 1996 - such as health status, provision of health care, or payment for health care will be referenced in case notes as appropriate and maintained in a paper format to be made available as needed for monitoring and auditing purposes. The NMWCOS vendor is in the process of developing an enhancement to the document imaging module that will allow for suppression of sensitive documents that would only be accessible persons granted access to the documents through their security profile. When this becomes available the documents will be uploaded under the appropriate protocols for the module.

iv. **Data Validation**

The EAWDB is required to establish procedures 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 EAWDB, in concert with the New Mexico Dept of Workforce Solutions, requires that the grant sub-recipients maintain appropriate participant documentation for data validation. The EAWDB requires these to be maintained in the document imaging module of the NMWCOS. This procedure eliminates the need for paper files to be provided by staff in the field, allowing the EAWDB monitoring staff, the NM DWS and US DOL to virtually validate supporting documentation. The EAWDB staff will work with provider staff to establish a process and guidance to ensure each provider has the tools necessary for compliance with the TEGL 39-11, Guidance on Handling and Protection of Personally Identifiable Information (PII) which specifically address the method for uploading and sharing of PII in information management systems.

v. **DOCUMENT DELETION**

Only under limited circumstances will documents be allowed to be deleted from an applicant's electronic file. The process for deleting a document will be performed by the EAWDB Program staff. Program staff should submit a request for the deletion along with the reason for the deletion. The EAWDB Program staff

reviews requests for deletion of documents and if determined appropriate, will perform the document deletion.

vi. RECORD MAINTENANCE

Subrecipients of WIOA funds shall keep records that are sufficient to permit the preparation of reports and to permit the tracking of funds to a level of expenditure adequate to ensure that the funds have not been spent on nonallowable activities. Although digital files are intended to replace paper documents, records must be maintained in a manner that enables staff to produce a tangible paper document in the event they are needed. Staff will maintain records in accordance with the EAWDB, USDOL, and NMDWS which requires the maintenance of records for a period of three (3) years after the last audit resolution. Typically, a period of five (5) years after exit will make all allowances necessary for this.

vii. CONFIDENTIALITY OF RECORDS

Data or information acquired by an agency under a confidentiality agreement, to be used exclusively for statistical and/or eligibility determination purposes, shall not be disclosed by an agency in identifiable form for any use other than that purpose 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]). Staff will 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 and service delivery design and that the participant's personal information will remain confidential, except as allowable under the release of information. The release form will be uploaded into the participant file the NMWCOS. This standardized form will be made available by the EAWDB staff and may be used as a stand-alone form or may be incorporated into other release forms used by the staff.

viii. FAMILY EDUCATIONAL RIGHTS AND PRIVACY

Educational records are covered under the Family Educational Rights and Privacy Act (FERPA), 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 interest. An educational agency or institution that does not oversee 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; or

- 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 education records in order to obtain information or copies of certifications or diplomas from educational institutions for data validation and reporting purposes.

ix. LEGAL STATUS OF ELECTRONIC DOCUMENTS

Electronic records submitted or maintained in accordance with procedures developed under this policy, 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.