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Governor

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STATE INSTRUCTION NUMBER 16-11

To: Local Workforce Development Board Chairs
Local Workforce Area Signatory Officials
Local Workforce Area Administrators

Subject: Confidentiality of Equal Opportunity Records

Issuance Date: May 23, 2017

Effective Date: Immediately

Purpose: To transmit state policy regarding confidentiality of Equal Opportunity (EO) records.

Background: In accordance with 29 CFR § 38.41, each recipient must collect and record the race/ethnicity, sex, age, and where known, disability status, of every applicant, registrant, participant, terminatee, applicant for employment, and employee. Beginning on January 3, 2019, each recipient/subrecipient must also record the limited English proficiency and preferred language of each applicant, registrant, participant, and terminatee.

Policy: EO information must be stored in a manner that ensures confidentiality, and is used only for the purposes of recordkeeping and reporting; determining eligibility, where appropriate, for WIOA Title I-financially assisted programs or activities; determining the extent to which the recipient is operating its WIOA Title I-financially assisted program or activity in a nondiscriminatory manner; or other use authorized by law.

Any medical or disability-related information obtained about a particular individual, including information that could lead to the disclosure of a disability, must be collected on separate forms. This information must be maintained in one or more separate files, whether in hard copy, electronic, or both, apart from any other information about the individual, and treated as confidential. Both electronic and hard copy files must be locked or otherwise secured (for example, through password protection).

Persons in the following categories may be informed about an individual's disability or medical condition and have access to the information in related files under the following listed circumstances:

- Program staff who are responsible for documenting eligibility, where disability is an eligibility criterion for a program or activity;
- First aid and safety personnel who need access to underlying documentation related to a participant's medical condition in an emergency; and,
- State and federal government officials engaged in enforcing WIOA and its nondiscrimination and EO regulations.

Supervisors, managers, and other necessary personnel may be informed regarding restrictions on the activities of individuals with disabilities and regarding reasonable accommodations for such individuals.

Action: Ensure that appropriate staff and service providers receive and understand this policy guidance.

Inquiries: Questions may be directed to Stephani Frese at 803-737-2381 or sfrese@dew.sc.gov.



Patricia Sherlock, Director
Policies and Procedures