

§ 603.6

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such individual expects to receive as a result of signing the release; or

(B) Carrying out administration or evaluation of a public program to which the release pertains.

NOTE TO PARAGRAPH (d): The Electronic Signatures in Global and National Commerce Act of 2000 (E-Sign), Pub. L. 106-229, may apply where a party wishes to effectuate electronically an informed consent release (§ 603.5(d)(2)) or a disclosure agreement (§ 603.10(a)) with an entity that uses informed consent releases. E-Sign, among other things, sets forth the circumstances under which electronic signatures, contracts, and other records relating to such transactions (in lieu of paper documents) are legally binding. Thus, an electronic communication may suffice under E-Sign to establish a legally binding contract. The States will need to consider E-Sign's application to these informed consent releases and disclosure agreements. In particular, a State must, to conform and substantially comply with this regulation, assure that these informed consent releases and disclosure agreements are legally enforceable. If an informed consent release or disclosure agreement is to be effectuated electronically, the State must determine whether E-Sign applies to that transaction, and, if so, make certain that the transaction satisfies the conditions imposed by E-Sign. The State must also make certain that the electronic transaction complies with every other condition necessary to make it legally enforceable.

(e) *Public official.* Disclosure of confidential UC information to a public official for use in the performance of his or her official duties is permissible.

(1) "Performance of official duties" means administration or enforcement of law or the execution of the official responsibilities of a Federal, State, or local elected official. Administration of law includes research related to the law administered by the public official. Execution of official responsibilities does not include solicitation of contributions or expenditures to or on behalf of a candidate for public or political office or a political party.

(2) For purposes of § 603.2(d)(2) through (5), "performance of official duties" includes, in addition to the activities set out in paragraph (e)(1) of this section, use of the confidential UC information for the following limited purposes:

(i) State and local performance accountability under WIOA sec. 116, including eligible training provider per-

formance accountability under WIOA secs. 116(d) and 122;

(ii) The requirements of discretionary Federal grants awarded under WIOA; or

(iii) As otherwise required for education or workforce training program performance accountability and reporting under Federal or State law.

(f) *Agent or contractor of public official.* Disclosure of confidential UC information to an agent or contractor of a public official to whom disclosure is permissible under paragraph (e) of this section.

(g) *Bureau of Labor Statistics.* The confidentiality requirement does not apply to information collected exclusively for statistical purposes under a cooperative agreement with the Bureau of Labor Statistics (BLS). Further, this part does not restrict or impose any condition on the transfer of any other information to the BLS under an agreement, or the BLS's disclosure or use of such information.

(h) *Court order; official with subpoena authority.* Disclosure of confidential UC information in response to a court order or to an official with subpoena authority is permissible as specified in § 603.7(b).

(i) *UC Program Oversight and Audits.* The confidentiality requirement does not apply to any disclosure to a Federal official for purposes of UC program oversight and audits, including disclosures under 20 CFR part 601 and 29 CFR parts 96 and 97.

[71 FR 56842, Sept. 27, 2006, as amended at 81 FR 56333, Aug. 19, 2016]

§ 603.6 What disclosures are required by this subpart?

(a) The confidentiality requirement of 303(a)(1), SSA, and § 603.4 are not applicable to this paragraph (a) and the Department of Labor interprets Section 303(a)(1), SSA, as requiring disclosure of all information necessary for the proper administration of the UC program. This includes disclosures to claimants, employers, the Internal Revenue Service (for purposes of UC tax administration), and the U.S. Citizenship and Immigration Services (for purposes of verifying a claimant's immigration status).

(b) In addition to Section 303(f), SSA (concerning an IEVS), which is addressed in subpart C, the following provisions of Federal UC law also specifically require disclosure of State UC information and State-held information pertaining to the Federal UC and benefit programs of Unemployment Compensation for Federal Employees (UCFE), Unemployment Compensation for Ex-Servicemembers (UCX), Trade Adjustment Assistance (TAA) (except for confidential business information collected by States), Disaster Unemployment Assistance (DUA), and any Federal UC benefit extension program:

(1) Section 303(a)(7), SSA, requires State law to provide for making available, upon request, to any agency of the United States charged with the administration of public works or assistance through public employment, disclosure of the following information with respect to each recipient of UC—

- (i) Name;
- (ii) Address;
- (iii) Ordinary occupation;
- (iv) Employment status; and
- (v) A statement of such recipient's rights to further compensation under the State law.

(2) Section 303(c)(1), SSA, requires each State to make its UC records available to the Railroad Retirement Board, and to furnish such copies of its UC records to the Railroad Retirement Board as the Board deems necessary for its purposes.

(3) Section 303(d)(1), SSA, requires each State UC agency, for purposes of determining an individual's eligibility benefits, or the amount of benefits, under a food stamp program established under the Food Stamp Act of 1977, to disclose, upon request, to officers and employees of the Department of Agriculture, and to officers or employees of any State food stamp agency, any of the following information contained in the records of the State UC agency—

- (i) Wage information,
- (ii) Whether an individual is receiving, has received, or has made application for, UC, and the amount of any such compensation being received, or to be received, by such individual,
- (iii) The current (or most recent) home address of such individual, and

(iv) Whether an individual has refused an offer of employment and, if so, a description of the employment so offered and the terms, conditions, and rate of pay therefore.

(4) Section 303(e)(1), SSA, requires each State UC agency to disclose, upon request, directly to officers or employees of any State or local child support enforcement agency, any wage information contained in the records of the State UC agency for purposes of establishing and collecting child support obligations (not to include custodial parent support obligations) from, and locating, individuals owing such obligations.

(5) Section 303(h), SSA, requires each State UC agency to disclose quarterly, to the Secretary of Health and Human Services (HHS), wage information and claim information as required under Section 453(i)(1) of the SSA (establishing the National Directory of New Hires), contained in the records of such agency, for purposes of Subsections (i)(1), (i)(3), and (j) of Section 453, SSA (establishing the National Directory of New Hires and its uses for purposes of child support enforcement, Temporary Assistance to Needy Families (TANF), TANF research, administration of the earned income tax credit, and use by the Social Security Administration).

(6) Section 303(i), SSA, requires each State UC agency to disclose, upon request, to officers or employees of the Department of Housing and Urban Development (HUD) and to representatives of a public housing agency, for purposes of determining an individual's eligibility for benefits, or the amount of benefits, under a housing assistance program of HUD, any of the following information contained in the records of such State agency about any individual applying for or participating in any housing assistance program administered by HUD who has signed a consent form approved by the Secretary of HUD—

- (i) Wage information, and
- (ii) Whether the individual is receiving, has received, or has made application for, UC, and the amount of any such compensation being received (or to be received) by such individual.

(7) Section 3304(a)(16), FUTA requires each State UC agency—

(i) To disclose, upon request, to any State or political subdivision thereof administering a Temporary Assistance to Needy Families Agency (TANF) program funded under part A of Title IV of the SSA, wage information contained in the records of the State UC agency which is necessary (as determined by the Secretary of HHS in regulations) for purposes of determining an individual's eligibility for TANF assistance or the amount of TANF assistance; and

(ii) To furnish to the Secretary of HHS, in accordance with that Secretary's regulations at 45 CFR 303.108, wage information (as defined at 45 CFR 303.108(a)(2)) and UC information (as defined at 45 CFR 303.108(a)(3)) contained in the records of such agency for the purposes of the National Directory of New Hires established under Section 453(i) of the SSA.

(8) To comply with WIOA sec. 116(e)(4), States must, to the extent practicable, cooperate in the conduct of evaluations (including related research projects) provided for by the Secretary of Labor or the Secretary of Education under the provisions of Federal law identified in WIOA sec. 116(e)(1); WIOA secs. 169 and 242(c)(2)(D); sec. 12(a)(5), 14, and 107 of the Rehabilitation Act of 1973 (29 U.S.C. 709(a)(5), 711, 727) (applied with respect to programs carried out under title I of that Act (29 U.S.C. 720 *et seq.*)); and the investigations provided for by the Secretary of Labor under sec. 10(b) of the Wagner-Peyser Act (29 U.S.C. 49i(b)). For purposes of this part, States must disclose confidential UC information to a Federal official (or an agent or contractor of a Federal official) requesting such information in the course of such evaluations. This disclosure must be done in accordance with appropriate privacy and confidentiality protections established in this part. This disclosure must be made to the "extent practicable", which means that the disclosure would not interfere with the efficient administration of the State UC law, as required by § 603.5.

(c) Each State law must contain provisions that are interpreted and applied consistently with the requirements listed in this section.

[71 FR 56842, Sept. 27, 2006, as amended at 81 FR 56333, Aug. 19, 2016]

§ 603.7 What requirements apply to subpoenas, other compulsory processes, and disclosure to officials with subpoena authority?

(a) *In general.* Except as provided in paragraph (b) of this section, when a subpoena or other compulsory process is served upon a State UC agency or the State, any official or employee thereof, or any recipient of confidential UC information, which requires the production of confidential UC information or appearance for testimony upon any matter concerning such information, the State or State UC agency or recipient must file and diligently pursue a motion to quash the subpoena or other compulsory process if other means of avoiding the disclosure of confidential UC information are not successful or if the court has not already ruled on the disclosure. Only if such motion is denied by the court or other forum may the requested confidential UC information be disclosed, and only upon such terms as the court or forum may order, such as that the recipient protect the disclosed information and pay the State's or State UC agency's costs of disclosure.

(b) *Exceptions.* The requirement of paragraph (a) of this section to move to quash subpoenas shall not be applicable, so that disclosure is permissible, where—

(1) *Court Decision*—a subpoena or other compulsory legal process has been served and a court has previously issued a binding precedential decision that requires disclosures of this type, or a well-established pattern of prior court decisions have required disclosures of this type, or

(2) *Official with subpoena authority*—Confidential UC information has been subpoenaed, by a local, State or Federal governmental official, other than a clerk of court on behalf of a litigant, with authority to obtain such information by subpoena under State or Federal law. The State or State UC agency may choose to disclose such confidential UC information to these officials without the actual issuance of a subpoena.