

CHAPTER 300-2-6 RECORDS

300-2-6-.01 Employer Records
300-2-6-.02 Supplying Information from the Records of the
Department

300-2-6-.03 Access to Records by Public Officials

300-2-6-.01 Employer Records. Amended.

Each employing unit shall maintain such records as is hereinafter required and shall preserve such records for a period of not less than four (4) years after the calendar year in which the remuneration with respect to such services was paid or if not paid, was due. For each individual engaged in employment the following information shall be maintained by the employing unit:

(a) Name;

(b) Social Security Number;

(c) State or states in which the services are performed; and if any of such services are performed outside this state and are not incidental to the service within the state, the employee's base of operations (or if there is no base of operations, then the place from which such services are directed or controlled) and the employee's residence (by state);

(d) Date on which the individual was hired, rehired or returned to work after temporary layoff, and date separated from work and reason therefor;

(e) Remuneration paid for services and date of payment, showing separately:

1. Cash remuneration, including special payments (such as bonuses, gifts, etc.);

2. Remuneration in any medium other than cash (determined in accordance with the rules or regulations prescribed by the Commissioner), including special payments (such as bonuses, gifts, etc.).

(f) Amounts paid the individual as allowance of reimbursement for traveling or other business expenses, dates of payment, amounts of payment, and amounts of such expenditures actually incurred and accounted for by the individual;

(g) With respect to any period for which the individual is paid:

1. At a fixed rate of pay per week or longer period;

2. On a fixed daily basis, the daily rate;

3. On a fixed hourly basis, the hourly rate;

4. On a piece-rate or other variable-pay basis, the method by which the remuneration is computed.

(h) With respect to pay periods in which the individual performs services in both covered and

exempt employment:

1. Hours spent in covered employment;
2. Hours spent in exempt employment.

(i) Beginning and ending dates of each pay period;

(j) Total amount of remuneration paid in each quarter for services;

(k) Records shall be maintained by each employing unit in such form as to make it possible to determine from an inspection thereof with respect to any worker:

1. Earnings by pay-period weeks, if paid on a weekly basis, or if not so paid, then by calendar weeks or by other seven (7) consecutive day periods;
2. Weeks of less than full-time work;
3. Time lost due to the individual's unavailability for work.

Authority O.C.G.A. Secs. 34-8-70, 34-8-78.

300-2-6-.02 Supplying Information from the Records of the Department. Amended.

(1) (a) Records of the department collected in the administration of the unemployment insurance program and other federally funded programs for which the department has responsibility are private and confidential, except as provided in the Georgia Employment Security Law or by these regulations in accordance with Code Section 34-8-120 et seq. Pursuant to Code Section 50-18-70(b), such records are not generally subject to inspection under Georgia's Open Records law.

(b) To the extent necessary for the proper presentation of a claim before an administrative hearing officer or the board of review or any court, or to dispute tax liability in any proceeding before the Georgia Office of State Administrative Hearings or any court, records of the department pertaining to a claim or tax determination shall be made available for inspection to the interested parties upon request. A copy will be provided upon payment in advance of the fees required under paragraph (2) below, except in the following limited circumstances:

1. An individual claiming benefits shall not be charged a fee of any kind with respect to their claim; and
2. Fees for copies of records may be waived for individuals who establish to the satisfaction of the Commissioner that payment of the fees would present a hardship.

(c) Information from the records of the department with respect to an individual, a claim filed by an individual and/or wages reported to the department with respect to an individual, may be disclosed to that individual or, on the basis of informed consent, to others in the following limited circumstances—

1. To an agent who acts for or in the place of an individual, by the authority of that individual, if the agent presents a written release (which may include an electronically submitted release if acceptable to the department) from the individual being represented which release the State determines is authentic and specifically identifies the information and type of information to be released;
2. To an elected official performing constituent services, if the official presents reasonable evidence (such as a letter from the individual requesting assistance) that the individual has authorized such disclosure;
3. To an attorney retained for purposes related to the unemployment insurance law, if the attorney asserts in writing that he or she is representing the individual.
4. To a third party that is not acting as an agent who will receive confidential information following an informed consent disclosure on an ongoing basis (even if such entity is an agent), but only if that entity obtains a written release from the individual to whom the information pertains.

- (i) The release must be signed and must include a statement—
 - (I) Specifically identifying the information that is to be disclosed;
 - (II) That state government files will be accessed to obtain that information;
 - (III) Of the specific purpose or purposes for which the information is sought and a statement that information obtained under the release will only be used for that purpose or purposes; and
 - (IV) Indicating all the parties who may receive the information disclosed by the requester;

- (ii) The purpose specified in the release must be limited to—
 - (I) Providing a service or benefit to the individual signing the release that such individual expects to receive as a result of signing the release; or
 - (II) Carrying out administration or evaluation of a public program to which the release pertains.

(iii) The department shall determine the cost and charges for providing disclosure under this subparagraph 4, and the recipient of such data shall execute an agreement to pay all such charges in advance of delivery of the data. In no event shall the information provided under subparagraph 4 be released, disclosed or redisclosed in any manner. Such data shall not be captured or stored in the recipient's databases except as necessary to fulfill the associated, authorizing consumer initiated transaction. Such data shall not be used for purposes of marketing, including, but not limited to, prescreened firm or conditional offers of credit.

- (d) Except as otherwise provided under paragraph (1) of this rule or other applicable law, including 20 CFR 603, when disclosure of departmental records is permitted under Code Sections 34-8-120 et seq., a fee and copy costs shall be charged and paid in advance for requested records, as follows:

1. A minimum fee of \$20.00 shall be charged for copies of records which can be accessed and produced by department staff from readily retrievable computer records and equipment;
2. A fee of \$20.00 plus \$25.00 per hour for the time required to identify, locate, redact, collate, and otherwise prepare such records for copying for disclosure, with a minimum charge of \$45.00 for the first hour, shall be charged for any records which cannot be

accessed and produced by department staff solely from readily retrievable computer records and equipment;

3. The amount of \$.25 per page shall be charged for each page copy supplied, regardless of the format (paper copy, electronic copy) in which such copies are provided; and

4. Fees in accordance with subparagraphs 1, 2, and 3 of this subparagraph shall be charged for each records request made and charges must be paid in advance.

(2) Records with respect to the federal Workforce Investment Act of 1998 (WIA) shall be subject to access and review as follows:

(a) Individual employee and employer files shall be subject to review as necessary for the proper administration of the WIA program in Georgia. Information released to a "One-Stop Operator" or "One-Stop Partner", as those terms are defined in WIA, or to any other authorized participant in the WIA program in Georgia shall be provided on an as-needed basis only and shall be used exclusively for WIA purposes and for activities that assist in the operation and management of the department in fulfillment of its duties; such departmental duties include, but are not limited to, participant follow-up surveys, provider performance assessments, and the collection and reporting of labor market information;

(b) Information with respect to WIA bid proposals and grants or contract data for any successful WIA grant or sub grant recipients shall be available for public access and review concerning all unsuccessful bidders; and

(c) Pursuant to Section 185(a)(4)(B) of the Workforce Investment Act, some records are excluded from disclosure. These exceptions include the disclosure of information that would constitute a clearly unwarranted invasion of personal privacy and privileged and confidential financial information. Specifically, disclosure of a participant's social security number is subject to this exception.

(3) Records with respect to the state's Employment Service Program, including such records as may be utilized under WIA by any "One-Stop Operator" or "One-Stop Partner", as those terms are defined in WIA, or by any other authorized participant in the WIA program in Georgia, shall not be disclosed or redisclosed, provided, however, the department may release data concerning individuals or employing units as necessary to perform follow-up surveys or similar administrative functions, provided, further, the department shall require by contract that any agency or entity performing such functions must protect the data and use it only for the purposes as described in the contract.

(4) Any request to disclose or redisclose confidential data which was entrusted to the Commissioner of Labor in the administration of the unemployment insurance program or other federally funded programs for which the department has responsibility shall provide the Commissioner with notice and an opportunity to respond; otherwise, such request shall not be honored. Any individual or entity in possession of such confidential data under the provisions of this rule is subject to this requirement.

(5) Disclosure of confidential unemployment insurance benefit or wage data or other claim information in response to a court order, subpoena, discovery, request for production of documents, notice to produce or similar court-enforceable inquiry, or in response to a non-court official with subpoena authority, is permissible when issued in compliance with O.C.G.A. 34-8-126 and 20 CFR 603.7(b) and in such a manner that the Commissioner was first provided a meaningful opportunity to respond to the order, subpoena, request for production of documents or similar compulsory process.

(6) In conjunction with the administration of OCGA Section 34-9-243 which allows for credit or reduction in worker's compensation benefits for the amount of unemployment insurance benefits

received by a claimant, the department shall divulge to an employer or its agent, evidence of unemployment insurance benefits paid. An employer will have a right to records that pertain to the amount of unemployment benefits paid, subject to the maintenance of confidentiality for the individual claimant. No subpoena, order, or similar compulsory process shall require disclosure of confidential data other than to identify the dates and amounts of payment as necessary to compute such credit.

Authority O.C.G.A. Secs. 34-8-70, 34-8-120 et seq., 20 CFR 603.

300-2-6-.03 Access to Records by Public Officials. Amended.

Governmental agencies may be provided access to confidential unemployment benefit or wage data only upon full compliance with the provisions of Code Section 34-8-125 and Rule 300-2-6-.02, including provisions regarding fees and copy costs. Any governmental agency requesting access to such confidential data on an ongoing basis must enter into a data sharing agreement with the department with at least the following terms and conditions of the disclosure of information.

- (a) A description of the specific information to be furnished and the purposes for which the information is sought;
- (b) A statement that those who request or receive information under the agreement will be limited to those with a need to access it for purposes listed in the agreement;
- (c) The methods and timing of requests for information and responses to those requests, including the format to be used;
- (d) Provision for paying the department for any costs of furnishing information;
- (e) Provision for safeguarding the information disclosed;
- (f) A requirement that the information requested and received under the agreement may not be disclosed or redisclosed to any other individual, agency, or entity;
- (g) A provision identifying contacts with full contact information for both the proposed use of the information and security of the information received;
- (h) A requirement to notify the department immediately upon receipt of any request to disclose or redisclose the information received from the department, including but not limited to any court order, subpoena, civil litigation discovery request, request for production of documents, notice to produce, or similar compulsory process, all of which requests shall be subject to Rule 300-2-6-.02(5); and
- (i) Provision for on-site inspections of the agency, entity, or contractor, to assure that the requirements of the State's law and the agreement or contract required by this rule are being met.
- (j) The requirements of subparagraphs (a) through (i) of this rule with respect to disclosures on an ongoing basis do not apply to disclosures of UC information to a Federal agency which the U. S. Department of Labor has determined, by notice published in the Federal Register, to

have in place safeguards adequate to satisfy the confidentiality requirement of Section 303(a)(1) of the Social Security Act and an appropriate method of paying or reimbursing the state unemployment insurance agency (which may include a reciprocal cost arrangement) for costs involved in such disclosures. Such determinations will be published in the Federal Register.

Authority O.C.G.A. Secs. 34-8-70, 34-8-120 et seq., 20 CFR 603.