

Department of Labor  
State of Idaho  
Boise, Idaho

**ADMINISTRATIVE ORDER NO. 651**

December 30, 2020

TO: Administrators and Cost Center Managers  
SUBJECT: Guidelines for Disclosure of Department of Labor Records

**Introduction:**

Disclosure of Department records is governed by the Idaho Public Records Act, the federal Employment Security Act and 20 CFR. 603.8, the Social Security Act, IDAPA 09.01.08. The intent of the Public Records Act is that all records maintained by public agencies are open to the public for inspection and copying at all reasonable times, unless the information is specifically exempted from disclosure by law.

The Department's records contain identifying information submitted by claimants and employers pursuant to the requirements of the Employment Security Law, Idaho Code section 72-1301 *et seq.* These records are defined in the Public Records Act as "employment security information" and are made exempt from disclosure under the Public Records Act pursuant to Idaho Code section 74-106(7). Disclosure of employment security information in a manner that violates Idaho Code sections 74-106(7), 72-1342, IDAPA 09.01.08 and 20 C.F.R. 603 subjects the person making the disclosure to both civil and criminal penalties.

**Definitions:**

Key terms are defined in these laws. Some of the most important terms are:

- 1. Public Records** – includes, but is not limited to, any writing containing information relating to the conduct, or administration of the public's business, prepared, owned, used or retained by a public agency. "Writing" means, information maintained in many forms, including, for example: electronic mail, pictures, maps, tapes, magnetic cards, and computer disks.
- 2. Inspect** – the right to listen, view, and make notes of public records, as long as the public record is not altered or damaged.

**3. Copy** – transcribing by handwriting, photocopying, duplicating machine, and reproducing by any other means, so long as the public record is not altered or damaged.

**4. Custodian** – any public official or employee having physical custody and control of the public records, including those who respond to requests for information on a routine basis. “Custodian” also includes the person, whether elected or appointed, who is legally responsible for administering the public agency, or that person’s designee.

**5. Designated Custodian** – an employee who is authorized to perform specific responsibilities that are described in this policy, including denying requests for information when appropriate to do so.

**6. Agent** – one who acts for or in the place of an individual or employer by authority of that individual or employer.

**7. Person** – any natural person, corporation, partnership, firm association, joint venture, state or local agency or any other recognized legal entity.

**8. Third Party** – one not representing the individual or employer whose information is sought.

**9. Public Official** – an official, agency, or public entity with the executive branch of federal, state, or local government, or an agent or contractor thereof who has responsibility for administering or enforcing the law, including research related to the law being administered, or an elected official in federal, state or local government.

**10. Employment Security Information** – any information descriptive of an identifiable person or persons received by, recorded by, prepared by, furnished to, or collected by the Department, or the Industrial Commission in the administration of the Employment Security Law.

**Designated Custodian:**

The Department’s Communications and Research Administrator is the Designated Records Custodian for this agency, with the UI Compliance Bureau Chief serving as the designated back-up.

**General Subject Matter of Department Records:**

Department records can be categorized into the following:

1. Program specific records such as: records pertaining to the Department’s administration of programs under the Employment Security Act, including

Unemployment Insurance, Employment Service, H-2A and Labor Market Information; records pertaining to the Department's administration of the Workforce Innovation and Opportunity Act and Idaho Job Corps program; records pertaining to the Disability Determinations Services; and records pertaining to the Wage & Hour program.

2. Personnel records: records pertaining to Department employees.

3. Miscellaneous administrative records: records pertaining to the general operation and administration of the Department as an agency of the State of Idaho, and any other miscellaneous records maintained by the Department.

### **Physical Location of Records:**

Most records are maintained at the Department's Main Street office in Boise, Idaho. Program specific records may be located at one of the Department's local offices if the office has had some recent involvement in the matter or at the Department's Disability Determinations Services office in Boise, Idaho. Local offices also have access to program specific data maintained by the Department on computer via computer displays located in each office. Official personnel files of Department employees are maintained at the Central Office. Miscellaneous administrative records are maintained at the Central Office and at each of the local offices.

### **Requests for Department Records:**

Any person may request a copy of any record maintained by the Department. Records requests sent via electronic mail will be accepted by the Department only through the Department's website at [records.request@labor.idaho.gov](mailto:records.request@labor.idaho.gov). Records requests sent to any other Department electronic mail address will not be accepted. It is the Department's policy to provide access to and copies of disclosable records immediately upon request whenever possible. Examination of records should be done during normal working hours, unless the director or the Designated Custodian authorizes otherwise. A certified copy, if feasible to produce or required by law, will be provided upon request. For security reasons, the Department will not provide confidential records via electronic mail.

The Department has the right to determine whether a written request will be required when an oral request for records is received. A written request will not be required if the information is routinely provided by the Department and is readily available. If there is any doubt about whether requested information may be disclosed or if the information is not readily available, the person requesting the records will be asked to put the request in writing and addressed to: Designated Custodian, Idaho Department of Labor, 317 West Main Street, Boise, Idaho 83735.

A person making a records request in writing or via electronic mail through the Department's website must include his or her name, mailing address and telephone number. The person

will be required to provide identification if the requested records are exempt from disclosure to the general public. A request for records will usually be granted or denied within three working days of the date of receipt of the request. If a longer time is needed to locate or retrieve the records, the person requesting the records will be notified in writing. The Department will then respond to the request within ten working days of receipt of the request. If no response is provided within ten working days, the request should be deemed to have been denied. It is the policy of this Department, however, to provide a response to every request for information.

**Requests for Employment Security Information:**

**1. Request by an individual or employer for their own records:**

After providing identification, an individual or employer may inspect or copy employment security information pertaining to them.

**2. Request by an attorney:**

a. An attorney representing an individual or employer requesting records concerning that individual or employer for Employment Security Law purposes need only submit a letter on letterhead to the Department confirming his representation of that individual or employer.

b. An attorney representing an individual or employer for a non-Employment Security Law purpose must provide an “informed consent release” from the individual or employer authorizing the disclosure that meets the requirements of IDAPA 09.01.08.013.01.

c. An attorney who does not represent the individual or employer whose records are sought must provide an “informed consent release” signed by the person whose records are sought that meets the requirements of IDAPA 09.01.08.013.01; and a “third party confidentiality agreement” signed by the attorney seeking the records that meets the requirements of IDAPA 09.01.08.013.02.

**3. Request by an agent:**

a. An agent representing an individual or employer requesting records concerning that individual or employer for Employment Security Law purposes must provide either an “informed consent release” from the individual or employer authorizing the disclosure that meets the requirements of IDAPA 09.01.08.013.01; or submit clear and convincing evidence to the Department that the agent represents the individual or employer, an example of such evidence may be in the form of a power of attorney.

b. An agent representing an individual or employer requesting records concerning that individual or employer for a non-Employment Security Law purpose must provide an “informed consent release” from the individual or employer authorizing the disclosure that meets the requirements of IDAPA 09.01.08.013.01.

**4. Request by a third party:**

An individual or business that does not represent the individual or employer whose records are sought must provide an “informed consent release” signed by the person whose records are sought that meets the requirements of IDAPA 09.01.08.013.01; and submit a “third party confidentiality agreement” signed by the person seeking the records that meets the requirements of IDAPA 09.01.08.013.02.

**5. Request by an elected official performing constituent services:**

An elected official performing constituent services who requests employment security information on behalf of a constituent that would be available to the constituent may receive the employment security information as provided in IDAPA 09.01.08.011.03.

**6. Request by public official, their agents or contractors:**

Information may be disclosed to public officials or their agents and contractors for use in the performance of their official duties if the release is:

- a. Required by federal law;
- b. Pursuant to a reciprocal agreement for the collection of contributions and payments in lieu contributions;
- c. Pursuant to a written agreement meeting the requirements of IDAPA 09.01.08.012.5;
- d. A disclosure that is of benefit to the Department; or
- e. A disclosure to public officials contacted for assistance when the safety of Department staff or property may be at risk.

**Costs to be Charged for Copies of Records:**

The Department is required to charge for the costs associated with the disclosure of all Department records and information released for non-Employment Security Law purposes.

Fees associated with the disclosure of Department records will be applied as outlined in Idaho Code, Section 74-102(10)(a-e) of the Idaho Public Records Act, IDAPA 09.01.08(20) Rules on

Disclosure of Employment Security Information and 20 CFR 603.8. For purposes of complying with the fee structure outlined in 74-102(10) (a-e), the Department has established a cost of 20¢ per page for copies that exceed the first one hundred (100) pages of paper records requested. When the cost of filling a request exceeds costs considered nominal and incidental, a cost letter is sent to the individual requesting the documents, notifying them of the costs to retrieve the records and how to remit payment.

As outlined in 20 CFR 603.8, the Department will waive any relevant fees if it is determined that the disclosure is required for the purposes of administering the Employment Security Law.

The costs assessed will include the cost of any computer resource utilization. Costs assessed may also include the cost of providing information in the form of computer tapes, USB drives, or other media and, if applicable, the agency's cost of conversion, or the cost of a conversion charged by a third party, if an existing electronic record is converted to another electronic format. If the information is also available in publication form, the agency may offer the published material to the individual in that form.

**Inspection or Correction of an Individual's Own Records:**

After providing identification, an individual may inspect, copy or request correction of public records pertaining to that person, except as provided below. If the individual requests a correction, the correction or a written refusal to make the correction will be made within ten calendar days. Idaho Code section 9-342(3) prohibits access to certain records pertaining to one's self if the information: relates to exempt investigatory records of ongoing investigations; is compiled in reasonable anticipation of litigation which is not otherwise discoverable; relates to adoption records; or is otherwise exempt from disclosure by statute.

This Administrative Order is effective December 30, 2020, and supersedes Administrative Order No. 624, dated April 26, 2016.

  
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Jani Revier, Director