

**Preliminary Policy on Family Educational Rights and Privacy Act (FERPA)**

**Reference:**

Workforce Innovation and Opportunity Act (WIOA); Family Education Rights and Privacy Act (FERPA); 20 U.S.C. § 1232; 34 C.F.R. Part 99; 01/30/03 Memorandum from Department of Education; 01/19/01 Memorandum from Department of Labor and Department of Education.

**Background:**

The successful implementation of the Workforce Innovation and Opportunity Act (WIOA) will require States and local areas to establish strong partnerships with core programs and other partners in the community, including local educational agencies and institutions, in order to successfully serve program participants, workers, and learners. WIOA increases career planning services and federal reporting requirements with educational institutions, and requires strict adherence to federal student privacy laws, including the Family Educational Rights and Privacy Act (FERPA). Section 122 of the WIOA requires program providers to provide certain performance outcome information relating to all of their participants in the program so that the program providers may be considered eligible to receive funds under section 133(b). FERPA protects the privacy of student education records, yet allows schools to disclose those records, without consent, to the specific parties under certain conditions.

In January 2001, the Departments of Education and Labor jointly provided guidance through a memorandum allowing a State Educational authority to “authorize the State Unemployment Insurance agency (or other agency that has access to State Unemployment Insurance wage records) to be its representative, for the purpose of evaluating whether local vocational and adult education programs have achieved the student employment goals...” On January 30, 2003, the Department of Education published a memorandum reevaluating that authority. In light of the full text of the statutory language of FERPA and congressional statements, the Department of Education concluded “that for the purposes of FERPA, an ‘authorized representative’ of a state educational authority must be under the direct control of that authority.”

**Action:**

This Policy will be effective immediately. Questions and comments should be submitted in writing to the WIOA Policy Mailbox: [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

Local areas need to establish a policy on FERPA addressing the provisions identified in this policy as well as ensure their local WIOA Plan addresses the requirements set forth in this policy.

**Policy:**

**Written Consent for Disclosure**

Since the latest memorandum allows a State educational authority to disclose student social security numbers to a State Unemployment Insurance Agency (or other agency that has access to State Unemployment Insurance wage records) for the purpose of determining employment status if the eligible participants in question have provided consent for the disclosure, the attached WIOA Title I Client Release of Information has been prepared to meet this purpose. Local Areas (by either incorporating the language from the attached form or by directly using the WIOA Title I Client Release of Information form attached to this Preliminary Policy as Attachment A) must gain

a signed client release of information from every participant enrolled in training at a postsecondary institution. Any signature may be transmitted electronically.

**Disclaimer:**

This Policy is based on the Nebraska Department of Labor's reading of the statute along with the memorandums released by the U.S. Department of Labor and the U.S. Department of Education. This Policy may be subject to change as additional federal regulations and TEGLs are released. This Policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

**Attachment A**  
**WIOA Title I Client Release of Information**

To: \_\_\_\_\_  
(Name of educational institution)

\_\_\_\_\_  
(Street address)

\_\_\_\_\_  
(City, state, and ZIP code)

From: \_\_\_\_\_  
(Name of WIOA Title I training recipient)

\_\_\_\_\_  
(Social security number)

\_\_\_\_\_  
(Street address)

\_\_\_\_\_  
(City, state, and ZIP code)

The above named educational institution is hereby authorized to pursuant to the Family Educational Rights and Privacy Act:

1. to release my social security number to a state Unemployment Insurance agency or other agency that has access to state Unemployment Insurance wage records for the purpose of determining my employment status for the purposes of monitoring performance standards under the Workforce Innovation and Opportunity Act of 2014 (WIOA); and
2. to release information concerning my level of education attainment at the above referenced education institution to a state entity monitoring performance standards under WIOA.

This release of information is voluntarily given in accordance with the Family Educational Rights and Privacy Act and information provided thereunder may only be used for the purposes described in paragraphs 1 and 2 above. This release shall continue in full force and effect until revoked by me in writing. A photocopy of this release shall be as effective as an original.

\_\_\_\_\_  
(Signature of WIOA Title I training recipient)

\_\_\_\_\_  
(Printed name)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Witness signature if recipient is under 18)

\_\_\_\_\_  
(Printed name)

\_\_\_\_\_  
(Date)