

### **341.190 Records and reports -- Confidential treatment -- Exceptions.**

- (1) Each employing unit shall keep true and accurate work records of all workers employed by it, of the wages paid by it to each worker, and such other information as the secretary of the Education and Workforce Development Cabinet considers necessary for the proper administration of this chapter. The records shall be open for inspection and subject to being copied by the secretary or his or her authorized representatives at any reasonable time and as often as necessary.
- (2) The secretary may require any employing unit to furnish to the cabinet at its central office from time to time information concerning the total amounts of wages paid, total number of persons employed, an individual record of each worker employed, an individual record of each worker whose employment has been terminated or who has been laid off, an individual wage and hour record of each worker employed part time entitled to benefits, and other related matters, including hours worked, which the secretary considers necessary to the effective administration of this chapter.
- (3) Information obtained from an employing unit or individual and other records made by the cabinet in the administration of this chapter are confidential and shall not be published or be open for public inspection, except as provided below:
  - (a) Information and records may be made available to public employees in the performance of their duties, but the agency receiving the information and records shall assure the confidentiality, as required in this section, of all information and records so released by entering into a written, enforceable, and terminable agreement with the cabinet and by satisfying the safeguards set forth in the federal confidentiality and disclosure requirements as prescribed by 42 U.S.C. sec. 503, 26 U.S.C. sec. 3304, and 20 C.F.R. sec. 603.9;
  - (b) A claimant or employing unit or his legal representative shall be provided, upon request, information and records maintained by the cabinet in the administration of his claim, his reserve account, his reimbursing employer account, or any proceeding under this chapter to which he is a party;
  - (c) A public official with authority under state or federal law to obtain the information and records by subpoena, other than a clerk of court on behalf of a litigant, shall be provided information and records upon service of a duly issued subpoena;
  - (d) A federal official, when required for the purposes of oversight and auditing of the unemployment insurance program, shall be provided information and records;
  - (e) Statistical information derived from information and records obtained or made by the cabinet may be published, if it in no way reveals the identity of any claimant or employing unit; and
  - (f) Nothing in this section shall preclude the secretary or any employee of the cabinet from testifying in any proceeding under this chapter or in any court, or from introducing as evidence information or records obtained or made by the cabinet in an action for violation of state or federal law to which the cabinet is a party or upon order of the court.

- (4) Disclosures shall be made under subsection (3) of this section only if:
- (a) The disclosure is necessary for the proper administration of the unemployment insurance program;
  - (b) No more than an incidental amount of staff time or a nominal processing cost is required to make the disclosure; or
  - (c) The cost of providing the information and records is paid by the recipient prior to the disclosure, consistent with federal laws and regulations, except this requirement shall not apply to disclosures made under subsection (3)(c) and (f) of this section if the cabinet attempts without success to recover the cost of disclosure. For disclosures made to public employees under subsection (3)(a) of this section, this requirement shall be met if the agency provides a reciprocal benefit to the cabinet in the administration of the unemployment insurance program, or if a reasonable reimbursement for the disclosure shall be determined under federal law.
- (5) Any disclosure or use of information and records that is inconsistent with the provisions of this section shall be subject to the penalty prescribed in KRS 341.990(11).
- (6) No information or records held confidential under subsection (3) of this section shall be the subject matter or basis for any suit for slander or libel in any court, but no employer or employee, or his representative, testifying before the commission, the secretary, or any duly authorized representative thereof, shall be exempt from punishment for perjury.

**Effective:** June 25, 2009

**History:** Amended 2009 Ky. Acts ch. 11, sec. 74, effective June 25, 2009. -- Amended 2008 Ky. Acts ch. 111, sec. 1, effective July 15, 2008. -- Amended 2006 Ky. Acts ch. 211, sec. 137, effective July 12, 2006. -- Amended 1996 Ky. Acts ch. 266, sec. 6, effective July 15, 1996; and ch. 271, sec. 17, effective July 15, 1996. -- Amended 1990 Ky. Acts ch. 6, sec. 3, effective July 13, 1990. -- Amended 1980 Ky. Acts ch. 188, sec. 267, effective July 15, 1980. --Amended 1974 Ky. Acts ch. 74, Art. VI, sec. 99. -- Amended 1950 Ky. Acts ch. 206, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4748g-4.