

**POLICY**

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<b>CATEGORY:</b>	<b>Administration</b>	<b>No: 1.0.114.02</b>
<b>TITLE:</b>	<b>Storage and Use of Disability-Related and Medical Information</b>	
<b>SUPERSEDES:</b>	<b>1.0.114.01 dtd October 31, 2014</b>	
<b>EFFECTIVE:</b>	<b>February 21, 2019</b>	
<b>BOARD APPROVAL:</b>	<b>February 21, 2019</b>	
<b>DATE OF LAST REVIEW:</b>	<b>Dec 17, 2018</b>	

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**I. PURPOSE**

To comply with all applicable federal and state laws, rules, guidelines, and regulations for the storage and use of disability-related and medical information.

**II. DEFINITIONS**

*Board* – Coastal Bend Workforce Development Board, d.b.a. Workforce Solutions of the Coastal Bend.

*Equal Employment Opportunity* – Employment practices which do not discriminate on the basis of race, color, religion, sex, or national origin. Such discrimination is outlawed by Title VII of the Civil Rights Act of 1964. 42 U.S.C. §2000e-2.

*Workforce Innovation and Opportunity Act, which are contained in section 188 of WIOA (29 U.S.C. 3248). Section 188 prohibits discrimination on the basis of race, color, religion, sex, national origin, age, disability, or political affiliation or belief, or, for beneficiaries, applicants, and participants only, on the basis of citizenship status or participation in a WIOA Title I-financially assisted program or activity.*

*Equal Opportunity (EO) Officer* –Administers Equal Employment Opportunity (EEO) policies and procedures in accordance with applicable laws.

*Contracted Service Provider (Contractor)* – Responsible for the delivery of workforce services in accordance with applicable laws, rules, Board policy and the terms and conditions of the contract.

**III. POLICY STATEMENT**

The Texas Workforce Commission’s WD Letter 17-07 Change 1 requires development and implementation of written procedures to address the storage and use of disability-related and medical information as required by the Workforce Investment Act (WIA) §188, 29 CFR 32.15(d), and 38.41(b)(1), and the State of Texas Nondiscrimination Plan.

In particular, 29 CFR 38.41(b)(2) states: *Such records must include, but are not limited to, records on applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment. Each recipient must record the race/ethnicity, sex, age, and where known, disability status, of every applicant, registrant, participant, terminee, applicant for employment, and employee.*

*Beginning on January 3, 2019, each recipient must also record the limited English proficiency and preferred language of each applicant, registrant, participant, and terminee. Such information must be stored in a manner that ensures confidentiality, and must be used only for the purposes of recordkeeping and reporting; determining eligibility, where appropriate, for WIOA Title I-financially assisted programs or activities; determining the extent to which the recipient is operating its WIOA Title I-financially assisted program or activity in a nondiscriminatory manner; or other use authorized by law.*

The most notable update regarding the maintenance of medical or disability-related information, found in 29 CFR §38.41(b)(3), states: *Any medical or disability-related information obtained about a particular individual, including information that could lead to the disclosure of a disability, must be collected on separate forms. All such information, whether in hard copy, electronic, or both, must be maintained in one or more separate files, apart from any other information about the individual, and treated as confidential. Whether these files are electronic or hard copy, they must be locked or otherwise secured (for example, through password protection).*

Section 504 of the Rehabilitation Act of 1973 requires that individuals with disabilities be afforded equal opportunity to participate in and benefit from WIOA §188 services and activities.

#### **IV. PROCEDURES**

1. Medical information or history is to be collected and maintained secured on separate forms that are kept confidential by filing in a separate file, except that:
  - a. Employing officials may obtain the information after making a conditional decision to make a job offer to the applicant or the applicant was placed conditionally in a job pool or placed conditionally on an eligibility list;
  - b. Supervisors and managers may be informed regarding restrictions on the work or duties of qualified individuals who have a disability and regarding necessary accommodations;
  - c. First aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment; and
  - d. Government officials investigating compliance with the WIOA shall be provided information upon request.
2. To guard against the unauthorized access of customer information, Workforce Solutions system staff must make every effort to maintain customer confidentiality and adhere to Board Policy.

#### **V. RELATED POLICY - N/A**

#### **VI. RESPONSIBILITIES**

President/CEO – Responsible for the Board’s adherence to all applicable laws and rules with respect to this policy.

EO Officer – Responsible for ensuring Board and contractors are trained to comply with this policy; coordinating the recipient’s obligations and compliance activities under the nondiscrimination and equal opportunity provisions of WIOA and for providing oversight and monitoring of adherence and compliance with this policy.

Contractors – Must ensure staff is apprised of and complies with the requirements of this policy.



**VII. FORMS & INSTRUCTIONS - N/A**

**VIII. DISTRIBUTION**

Board of Directors

Board Staff

Contracted Service Provider Staff

**IX. SIGNATURES:**

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Reviewed by EO Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
President/CEO

\_\_\_\_\_  
Date