§ 537. Disclosures prohibited. 1. a. Unemployment insurance information. (i) Unemployment insurance information is information contained in the records of the department pertaining to the administration of this article, including information obtained by the department from employers and employees pursuant to this article. The term includes wage reporting information obtained by the department from the state department of taxation and finance pursuant to subdivision four of section one hundred seventy-one-a and paragraph four of subsection (a) of section six hundred seventy-four of the tax law. It further includes information in the state directory of new hires that has been disclosed to the department for use in the unemployment insurance program. Such information does not include the personnel or general fiscal information of the department or information in the public domain.

(ii) For purposes of this paragraph, the term public domain means: (A) information about the department and the unemployment insurance appeal board; (B) information about applicable state and federal law, rules and regulations pertaining to unemployment insurance, including interpretations thereof and statements of general policy and interpretations of general applicability but excluding investigative manuals and procedures pertaining to unemployment insurance; and (C) any agreements relating to the administration of this article. Notwithstanding the foregoing, nothing in this subdivision shall be construed to limit, restrict, or abrogate the department's right to deny access to any records pursuant to the provisions of the public officers law.

b. Use of unemployment insurance information. Unemployment insurance information shall be for the exclusive use and information of the commissioner in the discharge of his or her duties under this chapter and shall not be open to the public nor be used in any court in any action or proceeding pending therein unless the commissioner is a party to such action or proceeding, or such action or proceeding involves information provided pursuant to paragraph g of subdivision three of this section, notwithstanding any other provisions of law. Such information insofar as it is material to the making and determination of a claim for benefits or to adjudicating a claim for benefits shall be

available to the parties affected and, in the commissioner's discretion, may be made available to the parties affected in connection with effecting placement.

c. Disclosure of unemployment insurance information to an individual or employer. (i) The department may disclose unemployment insurance information about an individual to such individual or unemployment insurance information about an employer to such employer. As a condition to making such disclosure, the department shall require a written authorization to disclose such information from the individual or employer in a form acceptable to the department together with such proof of identity or authorization to act on behalf of the individual or employer as the commissioner shall deem appropriate. Notwithstanding the foregoing, except as may otherwise be authorized under paragraph b of this subdivision, this paragraph shall not be construed to authorize the department to disclose information acquired from an employer under this article to an individual or information acquired from an employee under this article to an employer.

(ii) Nothing in this subdivision shall be construed to prohibit the disclosure of the wage reporting information obtained by the department from the department of taxation and finance pursuant to subdivision four of section one hundred seventy-one-a and paragraph four of subsection (a) of section six hundred seventy-four of the tax law pertaining to an individual to such individual or pertaining to an employer to such employer.

d. Disclosure upon informed consent. (i) The department may disclose unemployment insurance information about an individual or an employer to an agent of such individual or employer, or to a third party, on the basis of informed consent received from such individual or employer. An informed consent from an individual shall not be construed to authorize the department to disclose information acquired from an employer under this article to an agent or third party identified in an individual's informed consent nor to authorize the department to disclose information acquired from an individual under this article to the agent or third party identified in the employer's informed consent. Nothing in this subdivision shall be construed to prohibit the disclosure of the wage

reporting information obtained by the department from the department of taxation and finance pursuant to subdivision four of section one hundred seventy-one-a and paragraph four of subsection (a) of section six hundred seventy-four of the tax law pertaining to an individual to the agent or third party identified in the individual's informed consent or pertaining to an employer to the agent or third party identified in the employer's consent.

(ii) Informed consent shall consist of a written release from the individual or employer to whom the information pertains. Where a written release is impossible or impracticable to obtain, the department may accept an informed consent from a representative acceptable to the department, including but not limited to a conservator, guardian, or executor or administrator of a decedent's estate, together with such documentation as the department deems necessary, including but not limited to orders of appointment or letters of administration, to establish the right of the representative to act on the individual's behalf. An informed consent must include a statement:

(A) specifically identifying the information that is to be disclosed;

(B) acknowledging that department files will be accessed to obtain the information;

(C) identifying the specific purpose or purposes for which the information is sought, subject to the limitations on such purpose or purposes set forth in subparagraph (iii) of this paragraph, and indicating that information obtained under the release will only be used for that purpose or purposes; and

(D) identifying all the parties who may receive the information disclosed pursuant to the consent.

(iii) The purpose specified in the release must be limited to 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 for the purpose of carrying out administration or evaluation of a public program to which the release pertains.

e. Funding for disclosure of requested unemployment insurance information. Except as permitted under applicable federal law or regulation, or as otherwise authorized by agreement between the department and the United States Department of Labor, federal

unemployment insurance grant funds shall not be used to pay for any of the costs incurred by the department in processing and handling a request for disclosure of unemployment information made under this article.

2. Violations of the confidentiality provisions of this section. Any person, who, without authority of the commissioner or as otherwise required by law, shall disclose information in violation of the confidentiality provisions of this section, upon conviction, shall be guilty of a misdemeanor.

3. Exceptions. The commissioner may, however, disclose the information described in subdivisions one and four of this section under the following circumstances:

a. Federal law. The commissioner shall report fully and completely to the appropriate agency of the United States on the effect and administration of this article in the manner prescribed by such agency, and further he or she shall make information available, upon request, to any federal, state or local agency entitled to such information under the social security act or any other federal law in the manner prescribed by such federal law or its implementing regulations.

b. Chief administrator of the courts; commissioners of jurors; county clerks; chief judges of United States district courts; clerks of the court or jury administrators of the United States district courts.

(i) The commissioner shall provide lists of the names of persons receiving unemployment insurance benefits to the chief administrator of the courts, appointed pursuant to section two hundred ten of the judiciary law. The lists shall be provided for the sole purpose of integration into lists of prospective jurors as provided by section five hundred six of the judiciary law. The chief administrator of the courts shall upon request provide information from the lists to the commissioner of jurors in each county or, in a county within a city having a population of one million or more, the county clerk of said county, solely for the purpose of compiling lists of prospective jurors for the appropriate county. The lists of persons receiving unemployment

insurance benefits shall be provided only pursuant to a cooperative agreement between the chief administrator of the courts and the commissioner that is consistent with all federal regulations or requirements governing such disclosures and guarantees that all necessary steps shall be taken by the chief administrator of the courts, the commissioners of jurors and the county clerks to insure that the lists are kept confidential and that there is no unauthorized use or disclosure of such lists. Furthermore, the lists will be provided only if the chief administrator of the courts determines that the lists are needed for integration into lists of prospective jurors in one or more counties.

(ii) The commissioner shall provide lists of the names of persons receiving unemployment insurance benefits to the chief judge of any United States district court in New York State, appointed pursuant to title twenty-eight of the United States Code, section one hundred thirty-six. The lists shall be provided for the sole purpose of integration into lists of prospective jurors in such United States district court. The chief judge of such district court shall upon request provide information from the lists to the clerk of the court or jury administrator of such United States district court, solely for the purpose of compiling lists of prospective jurors for such district court. The lists of persons receiving unemployment insurance benefits shall be provided only pursuant to a cooperative agreement between the chief judge of such district court and the commissioner that is consistent with all federal regulations or requirements governing such disclosures and guarantees that all necessary steps shall be taken by the chief judge of the district court, the clerk of the court or jury administrator of such district court to insure that the lists are kept confidential and that there is no unauthorized use or disclosure of such lists. Furthermore, the lists will be provided only if the chief judge of such district court determines that the lists are needed for integration into lists of prospective jurors in such district.

c. Nothing herein shall be construed to prohibit the delivery of unemployment benefit information contained in the department's records to the secretary of health and human services of the United States or the state agency responsible for collecting such information, in

accordance with regulations promulgated by such secretary, as necessary for the purposes of the national directory of new hires as established under section four hundred fifty-three A of the social security act, as added by section three hundred thirteen of the personal responsibility and work opportunity reconciliation act of 1996, P.L. 104-193.

d. (i) Nothing herein shall be construed to prohibit the disclosure quarterly, to the secretary of health and human services of the United States or the state agency responsible for collecting such information, claim information contained in the department's records, as required by section four hundred fifty-three A of the social security act (establishing the national directory) as amended by section three hundred thirteen of the personal responsibility and work opportunity reconciliation act of 1996, P.L. 104-193. Such claim information is to be used only for the purposes of section four hundred fifty-three A of the social security act in carrying out child support enforcement programs. Costs of furnishing such claim information shall be reimbursed consistent with federal law and regulations.

(ii) For the purpose of this paragraph the term "claim information" means information regarding whether an individual is receiving, has received, or has made application for, unemployment insurance benefits, the amount of such benefits being received or to be received and the individual's most recent address contained in the department's records.

e. Nothing herein shall be construed to prohibit the disclosure of claim information as defined in subparagraph (ii) of paragraph d of this subdivision to the "state directory of new hires," as established under section one hundred seventy-one-h of the tax law as amended, and to the state office of temporary and disability assistance for disseminating to support collection units designated by social services districts or their duly authorized agents for all purposes designated by the personal responsibility and worker opportunity reconciliation act of 1996, public law 104-193. The cost of providing such claim information shall be reimbursed consistent with federal law and regulations.

f. United States census bureau. Upon request to the commissioner, such information may be disclosed to the United States census bureau for

statistical analyses related to population and employment measurements and trends. The confidentiality of such information shall be protected by subdivisions one and two of this section and title thirteen of the United States Code and subject to the terms of a written agreement between the United States census bureau and the commissioner.

g. Federal, state and local agencies. (i) Upon request to the commissioner, such information may be disclosed to certain federal, state and local agencies. The commissioner may require written agreements with requesting agencies in a form determined by the commissioner and consistent with 20 CFR 603 and other federal regulations. The information that may be disclosed pursuant to this paragraph shall be disclosed only after the requesting agency has demonstrated, to the commissioner's satisfaction, that the information shall be kept confidential, except for those purposes for which it was provided to the requesting agency, and that the requesting agency has security safeguards in place to prevent the unauthorized disclosure of such information.

(ii) The information disclosed pursuant to this paragraph may be disclosed to the following agencies to be used exclusively for the following legitimate governmental purposes:

(1) any federal, state or local agency in the investigation of fraud relating to public programs, or misuse of public funds;

(2) any state or United States territorial workforce agency, local workforce investment board and its agents, and one-stop operating partner receiving funds under the workforce investment act of 1998 for program performance purposes and other legitimate programmatic purposes authorized by the commissioner;

(3) the United States department of labor or its agents, as required by law, or in connection with the requirements imposed as a result of receiving federal administrative funding;

(4) state and local economic development agencies, or their agents, where such information is necessary to carry out the statutory functions of such agencies, shall receive a quarterly census of employment and wage information compiled by the department, provided that such disclosure shall not violate federal law. Any redisclosure of information obtained by such agencies under this clause shall be limited

to tabulation and publication of such information in an aggregated statistical form. No individual identifying information obtained pursuant to this clause shall be redisclosed in the course of the tabulation or publication. As used in this clause, the term "aggregated statistical form" shall mean, in the case of information regarding individuals, a data set that includes information about not fewer than ten individuals, and, in the case of employer information, a data set that includes information about no fewer than three employers, of which no one employer comprises more than eighty percent of the aggregated data set; and

(5) the workers' compensation board, the state insurance fund and the state department of financial services, for purposes of determining compliance with the coverage of workers' compensation and disability insurance and to the workers' compensation board for purposes of determining eligibility for workers' compensation benefits.

(6) any federal, state, or local law enforcement agency in accordance with a proper judicial order or grand jury subpoena served upon the department.

(7) the office of temporary and disability assistance, or local social services districts, for purposes of establishing or verifying the income and eligibility of applicants for, or recipients of, benefits under state public assistance programs for such benefits. Information obtained by the office of temporary and disability assistance under this clause shall not be disclosed, except to local social services districts for purposes of establishing or verifying the income and eligibility of applicants for, or recipients of, benefits under state public assistance programs.

(8) the office of vocational and educational services for individuals with disabilities of the education department for the evaluation of the effect on earnings of participants, or former participants, in employment and training programs for which the office of vocational and educational services for individuals with disabilities of the education department has reporting, monitoring or evaluating responsibilities.

(9) the commission for the blind for the evaluation of the effect on earnings of participants, or former participants, in employment and training programs for which the commission for the blind has reporting, monitoring or evaluating responsibilities.

(10) any other federal, state, or local governmental agency, including the state university of New York, the city university of New York, and any of their constituent units, or the agents or contractors of a governmental agency, where such information is to be used for (A) evaluation of program performance, including, but not limited to, longitudinal outcome analysis of programs (including programs funded by public or private moneys or a combination thereof) to the extent permitted by federal law; (B) financial or other analysis required by federal, state, or local law or regulation; (C) preparation of reports required by federal, state, or local law or regulation; (D) operation of public programs by such agencies, their agents, contractors and subcontractors, whenever the commissioner determines that such information sharing is for the purpose of improving the quality or delivery of program services or to create operational efficiencies; or (E) establishment of common case management systems between federal, state, or local agencies delivering or supporting workforce services for a shared customer base, wherever such common case management system is for the purpose of fostering workforce partnerships, program coordination, inter-agency collaboration, improving program services, or creating operational efficiencies. Any redisclosure of information obtained by such agencies, their agents, or their contractors under this clause shall be limited to tabulation and publication of such information in an aggregated statistical form, except when an agency, its agent, its contractor or other agency must exchange such information for an authorized purpose as provided for in the written agreement required by 20 CFR Part 603. No individual identifying information obtained pursuant to paragraph d of subdivision one of this section shall be redisclosed in the course of the tabulation or publication. As used in this clause, the term "aggregated statistical form" shall mean, in the case of information regarding individuals, a data set that includes information about no fewer than ten individuals, and, in the case of employer information, a data set that includes information about no fewer than three employers, of which no one employer comprises more than eighty percent of the aggregated data set. When the commissioner approves a requested disclosure of information for the purposes of a longitudinal study, the commissioner shall allow such information to be used for a specified period of time as provided for in the written

agreement required by 20 CFR Part 603. Such agreement may only provide for information to be used for a period of up to ten years but may be renewed for additional periods of time.

(11) (A) Pursuant to clause ten of this subparagraph, the commissioner shall electronically post in a place accessible by the general public (i) the minimum conditions for granting a request from governmental agencies for disclosure of information, (ii) a standard application for submitting requests for disclosure of unemployment insurance information in individually identifiable form in accordance with paragraph d of subdivision one of this section, in de-identified unit level form, or aggregated statistical form, (iii) the timeframe for information request determinations by the commissioner, such that within twenty business days of receiving a request, the commissioner shall either approve or deny the request or ask for additional information; within twenty business days of receiving a request for additional information, the requesting agency shall respond to the commissioner, and; within thirty calendar days of receiving the additional information, the commissioner shall provide a final approval or denial of the request, and (iv) contact information for assistance with requests for disclosure of information.

(B) Any approval or denial pursuant to clause ten of this subparagraph shall be in writing. Denials shall identify the reason or category of reason for the denial.

(C) The commissioner shall issue guidelines regarding the development of agreements with respect to disclosures approved pursuant to clause ten of this subparagraph, and such guidelines shall include, but not be limited to, the process and timeframe for developing such agreements and the terms therein consistent with 20 CFR Part 603 and other federal regulations.

h. Department contractors, subcontractors, or agents. The department may disclose unemployment insurance information to its contractors, subcontractors, or agents as the commissioner deems necessary to carry out the statutory functions of the department. Such disclosure shall be consistent with the authorized purposes described in subdivision four of this section and all applicable federal regulations, guidelines and policies.

i. Payment to the department for disclosure of requested unemployment insurance information. (1) Except as permitted under applicable federal law or regulation, or as otherwise authorized by agreement between the department and the United States department of labor, federal unemployment insurance grant funds shall not be used to pay for any of the costs incurred by the department in processing and handling a request for disclosure of unemployment information made under this article. Such costs shall be calculated, collected, and administered by the department consistent with applicable federal rules and guidelines and shall be paid in advance of disclosure to the department by the entity requesting the information or by another party acting on behalf of such entity. Where the recipient is a public official, the department may accept payment of costs by way of reimbursement.

(2) Costs paid under this paragraph shall be income of the state unemployment insurance program and shall only be used as permitted under the provisions of applicable federal regulations or guidelines governing the assessment and expenditure of such costs.

4. Wage reporting information obtained by the department from the state department of taxation and finance pursuant to subdivision four of section one hundred seventy-one-a of the tax law, as added by chapter five hundred forty-five of the laws of nineteen hundred seventy-eight, and information obtained or derived from quarterly combined withholding, wage reporting and unemployment insurance returns required to be filed by employers pursuant to paragraph four of subsection (a) of section six hundred seventy-four of the tax law shall be considered confidential and shall be used for the administration of the unemployment insurance program, employment services program, federal and state employment and training programs, employment statistics and labor market information programs, employer services program, worker protection programs, federal programs for which the department has administrative responsibility or for other purposes deemed appropriate by the commissioner under this chapter. Such information shall not be disclosed to persons or agencies other than those considered entitled to such information under the social security act or other federal law, or as provided in subdivision three of this section or when such disclosure is necessary for the

proper administration of the department's unemployment insurance program, employment services program, employment and training programs, worker protection programs, federal programs for which the department has administrative responsibility or for other purposes deemed appropriate by the commissioner under this chapter. Any reports concerning employment and training programs submitted to a state or federal agency shall also be submitted to the governor, the temporary president of the senate, the speaker of the assembly and the chairs of the labor committees in the senate and the assembly.

5. Withholding tax information obtained by the department from the state department of taxation and finance pursuant to subsection (1) of section six hundred ninety-seven of the tax law shall be confidential and shall not be disclosed or redisclosed by any person or agency except in accordance with the provisions of subsections (e) and (l) of section six hundred ninety-seven of such law. When used for the purpose of evaluating monitoring or reporting on the department's employment security and training programs, access to such information shall be limited to that which concerns individuals who applied to or participated in such programs.

7. The department shall notify all applicants to, and participants in, employment security and training programs for which the department has reporting, monitoring or evaluating responsibilities that information obtained from the department of taxation and finance may be used to evaluate program effectiveness of up to ten years after such application or participation, whichever is later.