



LOUISIANA WORKFORCE COMMISSION
ACT 567 OF 2022 REGULAR SESSION, LA. R.S. 17:3914 (N)
DATA SHARING AGREEMENT

WHEREAS, the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g and its implementing regulations codified at 34 C.F.R 99.1 et seq. and La. R.S. 17:3914 make personally identifiable student information in education records confidential and, subject to certain exceptions, prohibits the disclosure of such information to third parties,

WHEREAS, FERPA and its implementing regulations at 34 C.F.R. 99.31 and 34 C.F.R. 99.35 allow for the sharing of student-level data with authorized representatives of the State educational authorities in connection with the audit and evaluation of education programs provided that, except when collection of personally identifiable information is specifically authorized by Federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students and their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit or evaluation of education programs,

WHEREAS, the Louisiana Department of Education and the Louisiana Workforce Commission must have access to certain personally identifiable information to evaluate state and federal programs that prepare students for postsecondary education, workforce training, and employment as required by Act No. 567 of the 2022 Regular Session [La. R.S. 17:3914 (N)],

WHEREAS, Louisiana Workforce Commission in partnership with the Louisiana Department of Education and the Louisiana Board of Elementary and Secondary Education, desires to comply with Act No. 567 of the 2022 Regular Session [La. R.S. 17:3914 (N)],

WHEREFORE, the Louisiana Department of Education, (hereinafter sometimes referred to as "LDE") and the Louisiana Workforce Commission, (hereinafter sometimes referred to as "LWC"), do enter into this Agreement subject to the terms and conditions as specified herein.

1. Local Educational Agencies Stipulation

LWC acknowledges that under this Agreement local educational agencies (LEAs) in Louisiana will submit student data directly to the LWC via transmission by eScholar. LWC hereby agrees, to be bound, vis-à-vis any and all such Louisiana LEAs that unilaterally sign an addendum to this data sharing agreement, by all of the provisions of this Agreement with respect to any student data provided to LWC by such Louisiana LEAs, which will be transmitted by eScholar to LWC.

2. Purpose of the Data Disclosure

The purpose of this Agreement is to use the confidential information obtained by LWC through its administration of Louisiana's unemployment compensation system for the purposes of evaluating state and federal programs that prepare students for postsecondary education, workforce training, and employment as required by Act No. 567 of the 2022 Regular Session [La. R.S. 17:3914 (N)].

This data sharing agreement is authorized for such purposes by, is subject to, and shall be construed in a manner consistent with 20 USC 1232g and its implementing regulations at 34 CFR 99.1 et seq. and 20 Code of Federal Regulations (CFR) Part 603 and Louisiana Revised Statute 23:1660.



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LDE shall ensure that all data transmitted to LWC and received from LWC is in accordance with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g and its implementing regulations codified at 34 C.F.R 99.1 *et seq.*, 20 CFR Part 603, La. R.S. 23:1660, Act No. 567 of the 2022 Regular Session, and any other applicable state and federal laws, including but not limited to La. R.S. 17:3913 and La. R.S. 17:3914.

3. Custodians

In order to establish one primary point of contact between the LDE and LWC, both agencies will name custodians of the shared data. LDE's Custodian shall be:

Laura Boudreaux
Director of Research & Data Privacy
1201 N. 3rd Street
Baton Rouge, LA 70804
laura.boudreaux@la.gov
225-219-7368

LDE's "Custodian" of the shared data shall be personally responsible for assuring LDE's compliance with the terms and conditions of this data sharing agreement.

LWC's Custodian of the shared data shall be:

Lawrence Aiken
Workforce Development Specialist 9
P.O. Box 94094
Baton Rouge, LA 70804
laiken@lwc.la.gov
225-342-2468

The parties shall immediately notify each other of their designation of a new Custodian. Designation of a new Custodian shall be subject to the approval of the other party, which approval shall not be unreasonably withheld.

4. Authorized Users

Only the Custodian and authorized users of LDE and LWC shall have access to shared data. Both parties shall establish methods of using shared data that minimize the number of persons having remote or other access to shared LWC data (for example, allowing one person in a workgroup access rather than permitting access to the entire workgroup). LWC and LDE reserve the right to limit the number of authorized users to the number of authorized users that it determines is necessary to fulfill the data sharing objective. Authorized users shall not include party's agents, contractors or subcontractors, unless specifically mentioned in this Agreement without prior written approval pursuant to Section 10 of this Agreement.

Each agency agrees to furnish the other a list showing the names, official titles, telephone numbers



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and email addresses of their respective agency employees authorized to receive information to be exchanged. (See Attachment A for initial list). This list shall be updated by the Custodians as changes occur without the need for the Agreement to be amended, unless such changes reflect the intent to give access to nonemployees. LDE authorized users of LWC data may be required to complete security forms/acknowledgments prior to being given access.

The Louisiana Division of Administration, Office of Technology Services, as information technology services provider for the parties, shall be authorized to access the shared data only to the extent necessary to fulfill the purposes outlined within this data sharing agreement, and to the extent required to fulfill the duties to create and/or maintain the access, programming, an equipment related to the data.

Each party's Custodian shall notify the other within 15 days if an authorized user no longer requires access to shared data and when new persons become authorized users.

5. Data

LDE LEAs will provide the following student level data for those students for whom parental permission has been obtained by the LEA or permission of the student, if the student has reached the age of majority, via eScholar, to LWC:

- Social Security Number
- Louisiana Secure ID

LWC agrees to return the following data to LDE for matching students to the extent it is available (See Attachment B):

- Louisiana Secure ID
- Quarterly wages and North American Industry Classification System data through the third digit. Such information could reside in multiple rows if the individual worked in more than one industry in a given quarter. LWC will include information for the most recent twelve quarters that are on the wage file.

The LWC will remove the social security number from the file prior to sharing with the LDE.

All parties reserve the right to withhold any of the foregoing data if a party determines, in its sole discretion, that disclosure of such data would violate any provision of state or federal law.

6. Method of Sharing

Annually data shall be exchanged electronically by secure FTP and all individual and firm specific information shall be encrypted. While in possession of each agency, all files containing personally identifiable or firm-specific information shall be stored in a secure password-protected environment. The Secure ID and SSN will be transmitted to LWC by eScholar. LWC will transmit matched files without the SSN directly to LDE via secure FTP. At no time will eScholar have access to LWC data. Timing of the annual transfer from eScholar to LWC shall occur in November and the return of data from LWC to LDE shall occur within 30 days and shall be coordinated by the parties.



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The Louisiana Division of Administration, Office of Technology Services, as information technology services provider for the parties, shall be authorized to access the data only to the extent necessary to fulfill the purposes outlined within this data sharing agreement, and to the extent required to fulfill the duties to create and/or maintain the access, programming, and equipment related to the data.

7. Confidentiality

The shared data is confidential pursuant to 20 Code of Federal Regulations (CFR) Part 603, Louisiana Revised Statute 17:3914, Louisiana Revised Statute 23:1660, 20 USC 1232g and 34 CFR 99.31 *et seq.* and all confidentiality requirements thereby required are hereby incorporated into and made a requirement of this Agreement.

Both parties agree to establish appropriate administrative, technical and physical safeguards to safeguard the confidentiality of the data and to prevent unauthorized use of or access to it. Only the Custodian and authorized users shall be allowed access to the data, and their access shall only be for the purposes authorized by law and described in this agreement. DOA-OTS employees, in their role as information technology services provider for both parties, may access the data as necessary to fulfill any obligations under this agreement subject to all of the restrictions and confidentiality requirements provided for in this Agreement.

Both parties agree to store all data in a place that is physically secure from access by unauthorized persons. Both parties shall undertake precautions to ensure that only authorized personnel are given access to the data stored in computer systems. If the data is shared via access to a computer database, both parties agree to not store or allow its employees to store any confidential information on any portable storage media or peripheral device (e.g., laptops, thumb drives, hard drives, etc.) or to print out any shared data except to the extent that printed data is essential to the authorized use of shared data. Parties shall access the shared data only from computers owned by LDE and LWC. Parties agree not to store or allow its employees to access or store any confidential information received under this Agreement on personally owned computers or other personally owned electronic access devices, including, but not limited to, cell phones, laptops, etc. Furthermore, encryption shall be utilized for the transport and storage of confidential data in accordance with the Louisiana Office of Technology Services' Information Security Policy. Additionally, both agencies agree to store and to process shared data supplied in an electronic format, such as magnetic tapes or discs, in such a way that unauthorized persons cannot obtain the data by any means. Both agencies shall undertake precautions to ensure that only authorized personnel are given access to shared data stored in computer systems. No data shall be made public that would allow the identity of any individual or employing unit to be inferred by either direct or indirect means.

Under no circumstances shall the data be used for any type of solicitation.

Both parties shall dispose of the data, including all copies thereof, after the purpose for disclosure has been served. This provision shall not be construed to restrict retention of said information to the extent required by any applicable laws, regulations, rules, audit needs, or other requirements



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that directly or indirectly require the retention of shared data. "Dispose" means the destruction of the information in accordance with the data sanitization policy of the Division of Administration's Office of Technology Services.

Both parties agree to fully and promptly report any infraction or violation of the confidentiality or security requirements set forth in this data sharing agreement, and agree to take appropriate disciplinary action against anyone found to have violated the terms of this Agreement or applicable federal or state law.

All workstations with access to shared data shall reside behind a secure firewall.

DOA OTS will provide operational assistance and oversight on behalf of the parties. Additionally, DOA OTS's IST will review the proposed data exchange processes to ensure compliance with security policies and standards.

8. Restrictions on Use

Both parties, including all authorized users working for each party or on their behalf, shall not disclose any shared data with others, as expressly stated herein. LDE acknowledges that, under 20 CFR Part 603, shared data derived from the unemployment insurance program generally is exempt from subpoena and those data are exempt from public records requests under La. R.S. 44:4.1(12). Each party shall immediately notify the other of any subpoenas or similar demands served on or otherwise received by it, which seek to compel the production of shared data. Each party shall cooperate with the other party in the other party's efforts, at its expense, to intervene or otherwise seek to quash, limit or resist the production of data shared by the other party.

The parties agree that the LDE's subcontractor, eScholar, will provide services related to the matching of social security numbers with the Louisiana Secure ID provided by LDE. eScholar and the LDE have an existing agreement that holds eScholar and their employees to similar terms and conditions outlined in this Agreement as it relates to student data. eScholar will not have access to any LWC data at any time.

LDE shall not use the shared data in any manner not permitted by 20 Code of Federal Regulations (CFR) Part 603 or 34 CFR 99.1 *et seq.* and as described in this Agreement.

LDE shall not use the data disclosed to it for any purpose not expressly permitted in this Agreement without the prior written approval of LWC as indicated by an amendment to this Agreement. The LDE may not publish results, analysis or other information developed as a result of any reporting or evaluation based on the data provided under this Agreement except in summary or aggregate form with a cell size of no less than 10, so as to prevent the disclosure of any personally identifiable or employer specific information.

9. Warranty and Indemnification

LDE represents and warrants that, in receiving shared data from LWC, such data shall be used solely for purposes authorized by law and 20 CFR Part 603, and described in this Agreement.



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LDE acknowledges that the LWC has entered into the data sharing agreement in reliance upon this warranty.

LDE represents that it has the legal authority to share student social security numbers and Louisiana Secure ID numbers, and to receive matched data derived from LWC's administration of the unemployment program, as stated herein.

In providing the shared data to the LDE, LWC makes no representations or warranties of any kind regarding said data, including specifically but not by way of limitation, any warranty of fitness for the LDE's use for any purpose, or any warranty as to the quality or correctness of the shared data. LWC nevertheless warrants that it will perform its obligations under this Agreement with reasonable care and in a good and workmanlike manner.

Each party shall indemnify and hold harmless the other against any suits, claims, actions, complaints or liability of any kind, including legal costs, to the extent they are caused by the indemnifying party's breach of this Agreement, negligence, or intentional fault.

10. Sharing of Data with Others

Neither Party, including all persons working for or on their behalf, shall disclose any shared data with others, including but not limited to, by way of limitation unauthorized employees, contractors, and subcontractors, without the providing party's prior written approval.

LDE acknowledges that, under R.S. 23:1660(D), shared data from LWC generally is exempt from subpoena. A Party receiving a subpoena or similar demand shall immediately notify the other Party of such demand(s) served on or otherwise received by it, which seeks to compel the production of shared data. LDE shall cooperate with LWC in LWC's efforts, at LWC's expense, to intervene or otherwise seek to quash, limit, or resist the production of shared LWC data. Likewise, LWC shall immediately notify LDE of any subpoenas or similar demands served on or otherwise received by it that seek to compel the production of shared LDE data. LWC shall cooperate with LDE in LDE's efforts, at LDE's expense, to intervene or otherwise seek to quash, limit or resist the production of shared LDE data.

11. Criminal and Civil Penalties

The parties acknowledge that civil and criminal penalties may be imposed on them and their employees or agents for the wrongful use and disclosure of the shared data. La. R.S. 23:1660 imposes a fine of not less than five hundred (\$500) dollars or imprisonment for not less than ten (10) days nor more than ninety (90) days, or both; additionally, civil penalties may be awarded. Under La. R.S. 17:3914(G), disclosure of student data is punishable by imprisonment for not more than six (6) months, or by a fine of not more than ten thousand (\$10,000) dollars.

Other state law criminal penalties that may apply to employees and agents of both parties include La. R.S. 14:73.5, computer fraud, with a fine of not more than ten thousand dollars (\$10,000), or imprisonment with or without hard labor for not more than five (5) years, or both, and R.S. 14:73.7, computer tampering, with a fine of not more than five hundred dollars (\$500) or imprisonment for



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not more than six (6) months, or both.

The parties agree to inform all of their employees or agents having access to shared data of the potential penalties related to the shared data.

12. Security Audits

Both parties shall maintain a system of compliance with the confidentiality and other requirements of this Agreement sufficient to permit an audit of compliance, and shall permit and cooperate with such periodic compliance audits as the other party may require, subject to the other party's reasonable security procedures.

Both parties acknowledge that the law allows an audit of compliance with the confidentiality requirements and restrictions on the use of shared data contained therein, if deemed necessary. Both parties agree to permit any other designated agent of the other party to audit, monitor and/or investigate compliance with this data sharing agreement through on-site visitation or other reasonable means, if a breach or violation of this Agreement is suspected. Either party may periodically audit a sample of transactions of the shared data to ensure compliance with this Agreement. Both parties will make the records and/or data received from the other available for review by any other designated agent at the time of any on-site visitation. Both parties shall fully and promptly cooperate, assist and comply with such audit, monitoring, investigative and related activities, and failure to perform this duty shall be grounds for the immediate termination of access to the data.

No person or entity will access personally identifiable data except as authorized by law and this Agreement.

13. Security Breach

As used in this Agreement "Security Breach" means any act or omission that compromises either the security, confidentiality or integrity of the data shared under this Agreement or the physical, technical, administrative or organizational safeguards put in place by either party that relate to the protection of the security, confidentiality or integrity of personally-identifiable information, or receipt of a complaint in relation to the privacy practices of either party or a breach or alleged breach of this Agreement relating to such privacy practices.

Both parties shall take commercially reasonable steps and best efforts, in accordance with industry standards, to prevent security breaches. Both parties shall also take commercially reasonable steps, in accordance with industry standards, to immediately remedy any security breach and prevent any further security breach in accordance with standard industry practices and applicable law.

The Custodians shall serve as the primary security contacts and shall be available to assist in resolving issues and fulfilling obligations associated with a security breach and making notification to all parties in writing of a security breach after becoming aware of it.



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Immediately following any suspected, attempted, or successful breach of security, the affected party will notify the DOA/OTS Information Security Team (IST) per the State Information Security Policy by calling the Information Security Hotline at 1-844-692-8019 and by emailing the IST at infosecteam@la.gov. The Parties shall coordinate with each other to investigate the security breach. Both parties agree to fully cooperate in handling of the matter, including, without limitation: (i) assisting with any investigation; (ii) providing physical access to the facilities and operations affected; (iii) facilitating interviews with employees and others involved in the matter; and (iv) making available all relevant records, logs, files, data reporting and other materials required to comply with applicable law or industry standards and as otherwise required by any party and (v) providing any notices to persons or organizations affected by the security breach as required by law.

14. Costs

20 CFR Section 603.8 prohibits LWC's use of its federal grant funds to pay the costs of the data sharing, and other funds have not been appropriated to LWC for this purpose. Accordingly, LDE shall pay the costs of providing shared data pursuant to this agreement as follows:

- Establishment of agreement: \$1000
- Costs for providing data in response to specific data requests will be quoted on a case-by-case basis. Employees' time will be charged at hourly pay rate x 1.885 overhead rate factor.* LDE shall be required to reimburse LWC the actual charges incurred by LWC for work performed by employees of the Division of Administration's Office of Technology Services.
- Audit and inspection costs: Auditor's hourly pay rate x 1.885 overhead rate factor,¹ plus reimbursement of travel costs as allowed by Division of Administration travel regulations, PPM49.

Costs, other than audit costs, incurred by LWC shall be paid in advance by LDE. LWC may, in its discretion, waive the advance payment requirement. LWC shall not pay for any costs incurred by LDE.

Additionally, LDE acknowledges that 20 CFR §603.10(c)(2) requires LDE to pay and LDE hereby agrees to pay all costs incurred by the LWC in enforcing or pursuing any breach of this Agreement, which costs shall include all costs referenced in 20 CFR §603.10(c)(2).

15. Term of Agreement

This Agreement shall begin on the date of the last signature of the parties and shall have no termination date pursuant to La. R.S. 17:3914 (N).

16. Termination of Agreement

¹ Overhead based on 43% for employee related benefits, 30% for non-personal services (i.e., building, telephone, etc.), and 15.5% for administrative services and technology.



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Either party may terminate or suspend this Agreement by giving thirty (30) days written notice, with or without cause. Either party may terminate or suspend this Agreement by giving less than thirty (30) days' notice for good cause. Good cause includes, but not by way of limitation, emergency; insufficient appropriations; changes in governing state and/or federal laws or regulations, or in interpretations thereof, that render performance hereunder by either party illegal, impractical, or impossible; or a breach of this Agreement that impairs the confidentiality safeguards it provides. Examples of breaches that would cause immediate termination include, but are not limited to, use of an authorized user's access to shared data by another of LDE's employees or contractors, or by any other person; failure of a party to promptly cooperate, assist and comply with audit, monitoring, on-site inspecting, investigative and related activities; and failure to give notice that any person who has access to shared data no longer requires such access.

All provisions of this Agreement concerning confidentiality and restrictions on data use shall survive any termination of this Agreement.

17. Amendment of Agreement

All or part of this Agreement may be amended by written amendment signed by both parties. Where a written amendment is used for this purpose, such amendments shall not become effective until the written amendment has been fully executed by all parties. LEAs will be notified of any amendments and allowed to opt out of the agreement at any time.

18. Discrimination

Both agencies agree to abide by the requirements of the following nondiscrimination and equal opportunity provisions of the following laws, as applicable: Section 188 of the Workforce Innovation and Opportunity Act (WIOA), as amended, which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIOA Title I financially assisted program or activity, including Title VI and Title VII of the Civil Rights Act of 1964, as amended; the Equal Employment Opportunity Act of 1972, as amended; Federal Executive Order 11246, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; the Vietnam Era Veteran's Readjustment Assistance Act of 1974, as amended; Title IX of the Education Amendments of 1972, as amended; the Age Discrimination Act of 1975, as amended; the Americans with Disabilities Act of 1990, as amended; the Fair Housing Act of 1968, as amended, and all applicable requirements imposed by or pursuant to regulations implementing those laws, including but not limited to 29 CFR Part 37.

Both agencies agree not to discriminate in its employment practices and will render services under this contract without regard to race, color, religion, sex, national origin, veteran status, political affiliation, or disabilities.

Any act of discrimination committed by either agency, or failure to comply with these statutory



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obligations when applicable, shall be grounds for termination of this contract.

19. Entire Agreement

This Agreement is complete and contains the entire understanding between the parties relating to the sharing of data between the parties. This Agreement supersedes any and all other agreements between the parties regarding the release/receipt of data maintained by the parties for the purposes specified herein.

Both agencies agree to abide by all provisions set out in this Agreement for protection of shared data and acknowledge having received notice of potential criminal, administrative, and/or civil penalties for violation of the terms of this Agreement.

20. Assignment of Agreement

No party shall assign any interest in this Agreement by assignment, transfer, or novation, without prior written consent.

21. Jurisdiction, Venue and Governing Law

Exclusive jurisdiction and venue for any and all suits between LDE and Louisiana Workforce Commission arising out of, or related to, this Agreement shall be in the 19th Judicial District Court, Parish of East Baton Rouge, State of Louisiana. The laws of the State of Louisiana, without regard to Louisiana law on conflicts of law, shall govern this Agreement.

22. Survival

Louisiana Workforce Commission's and LDE's obligations under Clauses 1, 2, 4, 7, 8, 9, 10, 13, and 14 shall survive expiration and/or termination of this Agreement.

23. Acknowledgment

By signing this Agreement, both parties acknowledge that all personnel who will have access to the data shared under this Agreement have been instructed about the confidentiality requirements of this Agreement, that they will adhere to these confidentiality requirements and procedures, and hereby agree to report any infraction of these requirements fully and promptly.



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THUS DONE AND SIGNED at Baton Rouge, Louisiana, on the day, month and year first written below.

DocuSigned by:
Cade Brumley
622C3EFA2B274C1

6/27/2023

Dr. Cade Brumley
State Superintendent of Education DS
KB

Date

6/30/2023

Ava Cates
Secretary
Louisiana Workforce Commission

Date

DOA-OTS, as information technology services provider for the Louisiana Workforce Commission and the Louisiana Department of Education, hereby acknowledges the confidentiality and safeguarding requirements contained in this data sharing agreement between the LWC and LDE and agrees to be bound by same:

LOUISIANA DIVISION OF ADMINISTRATION
OFFICE OF TECHNOLOGY SERVICES

06/27/2023

Richard Howze
Chief Information Officer

Date



**ATTACHMENT A
AUTHORIZED USERS**

LWC

Lawrence Aiken
Workforce Development Specialist 9
laiken@lwc.la.gov
225-342-2468

Jane Boettcher (OTS)
Technical Support
jane.boettcher@la.gov
225-342-3219

LDE

Laura Boudreaux
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yaxin.lu@la.gov

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dawen.liu@la.gov



ATTACHMENT B
File Layout

From LDE to LWC (via eScholar)

| Name | Format | MinLength | MaxLength | Description |
|-------|--------|-----------|-----------|--------------------------|
| LASID | ##### | 1 | 10 | La. Secure ID of Student |
| Pipe | | 1 | 1 | Column splitter |
| SSN | ##### | 1 | 9 | SSN of Student |

LWC to LDE

| Name | Format | Min Length | Max Length | Description |
|-------------|--------|------------|------------|---|
| LASID | ##### | 10 | 10 | LASID from LDE |
| Pipe | | 1 | 1 | Column splitter |
| YrQtr | yyyyq | 5 | 5 | Year & Quarter of Wages with this Employer |
| Pipe | | 1 | 1 | Column splitter |
| NAICS3 | ### | 1 | 3 | Left 3 Digits of Employer(s) NAICS Code [Default is 999 if there is no NAICS code.] |
| Pipe | | 1 | 1 | Column splitter |
| Gross Wages | ##### | 1 | 10 | Total Gross Wages for Quarter within this 'NAICS3' for this/these employer(s) |

Notes:

- A) No record for a year/quarter will be sent to LDE if there are "No" wages for a SSN within that yr/quarter.
- B) For a record to be sent to LDE, wages for a yr/quarter must be > 0.
- C) For a yr/quarter, if there is more than one employer with the same NAICS3, wages will be added together and one record will be returned.
- D) For a yr/quarter, if there is more than one employer with different NAICS3, wages will be returned one record per NAICS3.