




Title:	Confidentiality
Policy #:	80-VR-14
Legal Reference:	ORC 3304.15, ORC 3304.21; OAC 3304-2-63;CFR 361-38
Date:	December 12, 2016
Approved:	Kevin L. Miller, Executive Director 
Origin:	Bureau of Vocational Rehabilitation and Bureau of Services for the Visually Impaired
Supersedes:	VRP-350
History:	VRP-350 Reviewed 12-31-06; Revised 6-6-07
Review date:	Annually on or before December 12 th

I. AUTHORITY

This policy is issued in compliance with Ohio Revised Code (ORC) §3304.15 which establishes the power and authority of the Opportunities for Ohioans with Disabilities (OOD) and its executive director to develop all necessary rules and policy in furtherance of its statutory duties.

II. PURPOSE

The purpose of this policy is to provide guidelines for confidentiality in accordance with appropriate federal (e.g. Code of Federal Regulations [CFR]) and state law (i.e. Ohio Revised Code, Ohio Administrative Code) governor directives and executive orders, other governing agency (e.g. DAS, OBM) policy or guidance, and/or executive director expectations.

III. APPLICABILITY

This policy applies to VR Staff and VR Contractors.

IV. DEFINITIONS

Refer to “Vocational Rehabilitation Definitions” (80-VR-99.A).

V. POLICY

A. General

1. OOD shall provide information to individuals and if applicable, their parent(s) or legal guardian(s) throughout the VR process as required by law (e.g. rights and duties, and the VR Overview). This information shall be provided, in writing, and when appropriate, in the individual’s native language or through an appropriate mode of communication.
2. AWARE shall be updated with all pertinent conversations, recommendations, justifications, approvals and/or other actions taken in relation to this procedure. If supervisory or management approval is required during the vocational rehabilitation (VR) process, the supervisor or manager shall document their approval in AWARE. If written approval is

received from a supervisor or manager it shall be added to AWARE.

3. OOD designated staff may access a case record to evaluate VR services during and/or following the closure of a case.

B. Confidential Personal Information (CPI)

1. An individual's CPI shall be safeguarded as outlined in "Accessing and Securing Confidential Personal Information (CPI)" (70-GL-02) and "Storing Vocational Rehabilitation Confidential Personal Information (CPI)" (70-GL-02-01).
2. All CPI in the possession of OOD shall only be used for purposes directly connected to the administration of the VR program. The below list includes, but is not limited to, data which OOD shall consider as confidential and therefore shall ensure it is protected.
 - a. Full Name
 - b. Addresses and/or Phone Number
 - c. Social Security Number
 - d. Photographs
 - e. Current and stored records containing personal information
3. VR Staff or VR Contractors shall provide individuals and if applicable, their parent(s) or legal guardian(s) with the following:
 - a. an explanation of the primary purposes for which OOD intends to use or release information;
 - b. an explanation of whether providing requested information to OOD is mandatory or voluntary and the effects of not providing requested information;
 - c. identification of those situations in which the OOD requires or does not require informed written consent of the individual before information may be released, (i.e. duty to warn); and
 - d. identification of other agencies to which information is routinely released, (i.e. community rehabilitation partners).
4. The use of an individual's CPI for non-vocational rehabilitation services is prohibited.

C. Misplaced Documents in AWARE Case Record

1. In the event that an individual's information is discovered in an incorrect AWARE case record the VR Staff or VR Contractor of that case record shall be:
 - a. notified immediately; and
 - b. responsible for the removal of the document and properly filing into the appropriate AWARE case record.

D. Obtainment and Release of Information

1. For release of information to employers, refer to Section F.
2. Information containing CPI shall not be obtained or released to advisory boards, associations, or other bodies that do not have official responsibility for administration of the VR program.
3. Records containing CPI may be obtained or released by using the OOD "Consent to Obtain and Release Information" form (80-VR-01-01.G).
 - a. The "Consent to Obtain and Release Information" form shall be considered valid when:
 - i. the individual's first and last name, Social Security Number (if available), and birthdate have been completed;
 - ii. the form clearly identifies if the consent is to obtain, release, or both obtain and release information from a specific entity;
 - iii. the legal name and, if available, the complete address and phone number of the specific entity is indicated on the form;
 - iv. the form clearly identifies the purpose of the release (i.e. medical information, psychological/psychiatric Records);
 - v. the expiration of the consent is clearly indicated; and
 - vi. the form has been signed and dated (month, day and year) by the individual and if applicable, their parent or legal guardian, as witnessed by VR staff or VR contractor.
 - a) When VR Staff or VR Contractors are notified that a representative has legal status granting rights over an individual, legal documentation of the assignment shall be obtained as required in Custody, Guardianship, and Power of Attorney (80-VR-19).
 - b. A copy of the valid "Consent to Obtain and Release Information" shall be provided to the individual and if applicable, his/her parent(s) or legal guardian(s) and added to the AWARE case record.
4. Consent forms from other entities may be used in lieu of the OOD Consent form **only** when the entity requires use of their form (e.g. health care entity).
5. OOD may obtain CPI from service providers and cooperating agencies under assurances that the information shall not be further divulged.
6. Provided below are requirements or situations for the release of information to an individual and/or if applicable, his/her parent(s) or legal guardian(s).
 - a. Unless disallowed by the service provider or cooperating agency, OOD may release information to the individual and/or if applicable, his/her parent or legal guardian if the request is in writing.

- b. Upon written request by the individual and/or if applicable, his/her parent(s) or legal guardian(s), and if release is allowed by the service provider or cooperating agency, VR Staff or VR Contractor shall release the requested information within fifteen (15) business days of receipt of the request to the person(s) or entity indicated on the request.
 - i. If the individual and if applicable, his/her parent(s) or legal guardian(s), wants a hard copy, one (1) copy of the information will be provided no cost.
 - ii. If the individual and if applicable, his/her parent or legal guardian only wishes to electronically review the information, a meeting shall be scheduled at a mutually convenient time for VR Staff or VR Contractor and the individual(s).
 - a) The VR Staff or VR Contractor shall navigate the review in AWARE.
 - iii. Whether by hard copy or electronic review, the individual and/or if applicable, his/her parent(s) or legal guardian(s) shall be informed of their right to disagree with the information and how to file their disagreement with OOD (refer to Section E.).
- c. An individual and if applicable, his/her parent(s) or legal guardian(s) shall not have access to the items listed below.
 - i. Information not purchased by OOD that is marked confidential or which otherwise indicates that it shall not be shown to the individual or if applicable, his/her parent(s) or legal guardian(s).
 - a) Individuals and if applicable, their parent(s) or legal guardian(s) may be referred to the original owner/source of the information to obtain access.
 - ii. Medical, psychological, or other information that OOD has determined to be harmful to the individual and if applicable, his/her parent(s) or legal guardian(s).
 - a) The information may be provided to the individual through a third party chosen by the individual and if applicable, his/her parent(s) or legal guardian(s), which may include, but is not limited to:
 - 1) an advocate;
 - 2) a family member; or
 - 3) a qualified medical or mental health professional, unless a representative has been appointed by a court to represent the individual, in which case the information must be released to the court-appointed representative.
- d. CPI obtained from another agency or organization, may be released only by, or under the conditions established by, the other agency or organization.

E. Objections to Information in Case File

- 1. An individual, and if applicable, his/her parent(s) or legal guardian(s) who believe that information in the case record is inaccurate or misleading may request that VR Staff or VR Contractor revise the information.

2. A Vocational Rehabilitation Supervisor (VRS) shall review the disputed information for accuracy, relevance, timeliness, and completeness.
 - a. Once the review has been completed, the VRS shall determine if further action is needed.
 - i. Information about eligibility or justification for services which has been provided or not provided shall not be destroyed even if it cannot be verified or is inaccurate.
 - a) The information shall be moved from its current location in the case record and attached to a case note labeled "For Audit/Internal Program Use only."
 - b) The information in the case record shall not be released to anyone.
 - ii. If information cannot be verified or is inaccurate and does not pertain to eligibility or VR services, it shall be destroyed or, when possible, the non-verified or inaccurate portions shall be redacted.
 - a) A case note listing the deleted documents shall be titled "for Audit/Internal Program Use Only," and shall not be released to anyone.
3. The individual and if applicable, his/her parent(s) or legal guardian(s) shall be notified of the review findings and subsequent action, if taken, within 90 calendar days of the objection.
 - a. If the individual and if applicable, his/her parent(s) or legal guardian(s) is not satisfied with the outcome of the review, VR Staff or VR Contractor shall:
 - i. inform the individual and if applicable, his/her parent(s) or legal guardian(s) that they may provide a written rebuttal which shall be included when OOD releases a copy of the information related to the rebuttal; or
 - ii. write a statement indicating that OOD believes the rebuttal is frivolous or irrelevant, and may include the reason.
 - a) VR Staff or VR Contractor shall notify the individual and if applicable, his/her parent(s) or legal guardian(s) that at their written request, a copy of the rebuttal will be provided to any person they designate.
4. The objection, review, and actions, if any, shall be documented in the AWARE case record.

F. Releasing Information to Prospective Employers

1. When an individual is placed in "Service-J" status VR Staff or VR Contractor shall request that the individual and if applicable, his/her parent(s) or legal guardian(s) sign a "Notice and Consent for Disclosure of Personal Information to Employers" (80-VR-11-14.B) and follow OOD's "Job Related Services Procedure" (80-VR-11-14).
 - a. The "Notice and Consent for Disclosure of Personal Information to Employers" (80-VR-11-14.B) form shall be considered valid when:
 - i. the appropriate box has been selected stating an individual's choice regarding releasing their information to an employer(s); and

- ii. the form has been signed and dated (month, day and year) by the individual and if applicable, his/her parent or legal guardian.
- b. A copy of the valid Notice and Consent for Disclosure of Personal Information to Employers” (80-VR-11-14.B) shall be provided to the individual and if applicable, his/her parent(s) or legal guardian(s) and added to the AWARE case record.

G. Violation

An employee who violates this policy may be subject to discipline up to and including removal.

FORMS AND ATTACHMENTS

- N/A

RESOURCES

- 70-GL-02 Accessing and Securing Confidential Personal Information (CPI)
- 70-GL-02-01 Storing Vocational Rehabilitation Confidential Personal Information (CPI)
- 70-RM-02 Records Management
- 80-VR-19 Custody, Guardianship, and Power of Attorney
- 80-VR-01-01.G Consent to Obtain and Release Information
- 80-VR-11-14 Job Related Services Procedure
- 80-VR-11-14.B Notice and Consent for Disclosure of Personal Information to Employers

REVIEW

It is the responsibility of the Deputy Director, or designee, to annually review this policy, on or before, the date listed in the header and if applicable, make any necessary revisions. The Deputy Director or designee shall document the annual review as required in OOD Policy 10-ADM-01 “Policy and Procedure Development, Review, Dissemination and Acknowledgement”.