




Title:	Confidentiality in the Vocational Rehabilitation Program
Policy #:	80-VR-14
Legal Reference:	ORC 3304.15, ORC 3304.21; OAC 3304-2-63; CFR 361-38
Date:	August 5, 2019
Approved:	Kevin L. Miller, Director 
Origin:	Bureau of Vocational Rehabilitation and Bureau of Services for the Visually Impaired
Supersedes:	80-VR-14 (04/15/19)
History:	80-VR-14 (12/12/16), VRP-350 (Reviewed 12/31/06; Revised 06/06/07)
Review/ Implementation	Begin Review – 08/03/20 Implement Revisions By – 02/01/21

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 the Vocational Rehabilitation (VR) program 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 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 or legal guardian, throughout the Vocational Rehabilitation (VR) process as required by law (e.g. rights and duties). 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 pertinent conversations, recommendations, justifications, approvals and/or other actions taken in relation to this policy.

- a. If supervisory or management approval is required during the VR process, VR Staff or VR Contractor shall, via a "Custom Activity Due" in AWARE, request approval which shall include a written justification.
 - b. The supervisor or manager shall consider the VR Staff or VR Contractors' justification and document his/her approval or denial within the "Activity Due" as detailed below.
 - i. If approval is based on the written justification, the supervisor/manager shall enter "Approved" in the "Comments" and change the activity status to "Completed."
 - ii. If approval is based on the written justification but additional conditions/requirements need to be addressed before VR Staff or VR Contractor can take action on the approval; the supervisor/manager shall enter "Approved with Conditions," and document the conditions/requirements in the "Comments" and change the activity status to "Completed".
 - iii. If denied, the supervisor/- manager does not agree with the justification, he/she shall enter the words "Request Denied," and document the reason(s) for denial in the "Comments" and change the activity status to "Completed."
3. If any VR Staff or VR Contractors are a Certified Rehabilitation Counselor (CRC-certified) and will be directly involved with an individual's case, he/she shall complete the "Professional Disclosure Statement" (80-VR-01.E).
- a. VR Staff or VR Contractors who are not a Certified Rehabilitation Counselor (CRC) are exempt from this requirement.
 - b. Once completed, the "Professional Disclosure Statement" shall be reviewed and signed by the individual and, if applicable, his/her parent or legal guardian, and the CRC-certified VR Staff or VR Contractor.
 - i. Once signed, the statement shall be scanned into the AWARE Participant Module, as a Case Note, with the category "Professional Disclosure Statement" and summary title "Signed."
4. Refer to "Accessing and Securing Confidential Personal Information (CPI)" (70-GL-02).
- a. Refer to "Help Desk Tickets" (60-ITG-04) for direction on the submission of IT Help Desk Tickets related to CPI.
5. OOD designated staff and VR Contractors may access an AWARE 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).
2. All CPI in the possession of OOD shall only be used by OOD Staff and VR Contractors for carrying out essential job functions related to the administration of the VR program.
3. 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
4. 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, (e.g. community rehabilitation partners).
5. The use of an individual's CPI for non-vocational rehabilitation services is prohibited.

C. 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, including written or verbal communication, 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 required by a third party), 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 (e.g. medical information, psychological/psychiatric records);
 - v. the expiration of the consent is clearly indicated; and

- vi. the form has been signed and dated (i.e. month, day and year) by the individual and if applicable, their parent or legal guardian, and, when possible, witnessed by VR Staff or VR Contractor.
- b. When VR Staff or VR Contractors are notified that a representative has legal status granting rights over an individual, legal documentation shall be obtained as required in “Custody, Guardianship, and Power of Attorney” (80-VR-19).
 - i. A “Consent to Obtain and Release Information” shall be completed as an interim measure, pending receipt of legal documentation of legal guardianship.
 - c. A “Consent to Obtain and Release Information” shall be completed for parents and other applicable parties, as soon as reasonably possible, once an individual reaches his/her eighteenth (18th) birthday.
 - d. Copies of any valid “Consent to Obtain and Release Information” forms 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 at 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.
 - i. When OOD pays for a service that generates a record with CPI, the information:
 - a) shall not be released to a third party if marked confidential, without documented consent from the provider; or
 - b) may be released, if not marked confidential, at the discretion of VR Staff or VR Contractor, without additional consent forms completed.
 - ii. When OOD does not pay for a service that generates a record with CPI, the information
 - a) shall not be released if marked confidential; or
 - b) may be released if the information is not marked confidential, with a signed consent form.

D. Misplaced Documents in an AWARE Case Record

- 1. In the event that an individual's information is discovered in an incorrect AWARE case record (i.e. not his/hers) the VR Staff or VR Contractor responsible for that case record shall be:
 - a. notified immediately; and
 - b. responsible for the removal of the document and properly filing into the appropriate individual's AWARE case record.

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 (e.g. verbiage, documents) in the case record is inaccurate or misleading may request that VR Staff or VR Contractor revise and/or remove 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 the provision of services, provided by OOD Staff or VR Contractor or by an outside source, shall not be destroyed even if it cannot be verified or is inaccurate.
 - a) If the VRS agrees that the disputed information should be removed from its current location in the case record, it shall be cut and pasted into or attached an AWARE Case Note labeled "For Audit/Internal Program Use only."
 - 1) Any information that is labeled "For Audit/Internal Program Use Only" 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) An AWARE 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 follow direction in "Job Related Services" (80-VR-11-14).

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-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
- 60-ITG-04 Help Desk Tickets

FUNDING

Programs provided by the Opportunities for Ohioans with Disabilities are funded, in whole or in part, with federal grants awarded by the U.S. Department of Education (DOE) or the U.S. Department of Health and Human Services (HHS).

For purposes of the Vocational Rehabilitation (VR) Program, including Pre-Employment Transition Services (Pre-ETS), OOD received 78.7% of its funding through the DOE VR grant. In Federal fiscal year (FFY) 2018, OOD received \$100,336,097 in federal funds. Funds appropriated by the State covered 21.3% of the total costs, or \$27,155,767. Of these federal funds, \$15,050,415 is set aside for Pre-ETS.

For purposes of the Supported Employment Program, the DOE VR grant funded 100% of the costs for the Supported Employment for Youth with a Disability Program. In FFY 2018, OOD received \$303,725. The grant also funded 95% of the Supported Employment Program (non-Youth). In FFY 2018, OOD received \$303,725 and the State appropriated funds paid the remaining 5% or \$33,747 of the total costs.

For purposes of the Independent Living Services for Older Individuals Who are Blind (OIB) Program, the federal grant received from DOE in FFY 2018 paid 90% of the total costs incurred under the program. In FFY 2018, OOD received \$1,174,400 in federal grant funds. Funds appropriated by the State paid 10% or \$130,489 of the total costs incurred under the OIB program.

For purposes of the Independent Living (IL) Program, the federal grant received from HHS paid 90% of the total costs incurred in FFY 2018. In FFY 2018, OOD received funding of \$632,411. Funds appropriated by the State paid 10% or \$70,268 of the total costs incurred under the IL Program.

REVIEW

It is the responsibility of the Deputy Director, or designee, to 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 review as required in "Policy and Procedure Development, Review, Dissemination and Acknowledgement" (10-ADM-01).