

## CHAPTER 7: LRS Policy Manual

<b>Part</b> 105	<b>Name</b> Confidentiality	<b>Effective Date</b> *September 20, 2015**
<b>Director</b> Mark S. Martin	<b>Signature</b> Signature on file	
<b>Appointing Authority</b> Bryan Moore	<b>Signature</b> Signature on file	

### A. General Statement

All client information is confidential. All personal information in the possession of the state agency shall be used only for purposes directly connected with the administration of the program.

### B. Notification to Clients

Individuals asked to supply the agency with information concerning themselves shall be informed of the agency's need to collect confidential information and the policies governing its use, release, and access including:

1. the Consent to Release Case Record Information form contained in case files which must document that individuals have been advised of the confidentiality of information pertinent to their case;
2. the principal purpose for which the agency intends to use or release the requested data;
3. whether the individuals may refuse, or are legally required to supply the requested data;
4. any known consequence arising from not providing the requested information;
5. the identity of other agencies to which information is routinely released.

### C. Release of Confidential Information

1. The case file must contain documentation concerning any information released with the individual's written consent. Informed written consent is \*required\*\* for the release of personal records to the following:

- a. public assistance agencies or programs from which the client has requested services or to which the client is being referred for services. \*\*\*
- b. the \*Louisiana Workforce Commission\*\* formally the Louisiana Department of Labor and military services of the United States government;

c. \*doctors, hospitals, clinics, rehabilitation centers, Community Rehabilitation Programs and vendors providing services to clients as authorized by Louisiana Rehabilitation Services;\*\*

d. schools or training centers, when LRS has authorized the service or is considering authorizing such services, and the information is required for the client's success in the program, for the safety of the client, or is otherwise in the client's best interest.

2. a. Confidential information will be released to an organization or an individual engaged in research, audit, or evaluation only for purposes directly connected with the administration of the state program (including research for the development of new knowledge or techniques which would be useful in the administration of the program).

b. Such information will be released only if the organization or individual furnishes satisfactory assurance that:

i. the information will be used only for the purpose for which it is provided;

ii. that it will not be released to persons not connected with the study under consideration; and

iii. that the final product of the research will not reveal any information that may serve to identify any person about whom information has been obtained through the state agency without written consent of such person and the state agency.

c. Information for research, audit, or evaluation will be issued only on the approval of the director.

d. The client must be advised of these conditions.

3. LRS may also release personal information to protect the individual or others when the individual poses a threat to his/her safety or to the safety of others.

#### **D. Client Access to Data**

When requested in writing by the involved individual or an authorized representative, clients or applicants have the right to see and obtain in a timely manner copies of any information that the agency maintains on them, including information in their case files, except:

1. medical and/or psychological information, when the service provider states in writing that disclosure to the individual would be detrimental to the individual's physical or mental health;

2. medical, psychological, or other information which the counselor determines harmful to the individual;

*Note:* Such information may not be released directly to the individual, but must be released, with the individual's informed consent, to the individual's representative, or a physician or a licensed or certified psychologist.

3. personal information that has been obtained from another agency or organization. Such information may be released only by or under the conditions established by the other agency or organization.

#### **E. Informed Consent**

Informed consent means that the individual has signed an authorization to release information and such authorization is as follows:

1. in a language that the individual understands;
2. dated;
3. specific as to the nature of the information which may be released;
4. specifically designates the parties to whom the information may be released;
5. specific as to the purpose(s) for which the released information may be used;
6. specific as to the expiration date of the informed consent which must not exceed one year.

#### **F. Confidentiality - HIV Diagnosis**

Each time confidential information is released on applicants or clients who have been diagnosed as HIV positive, a specific informed written consent form must be obtained.

#### **G. Court Orders, Warrants and Subpoenas**

Subpoenaed case records and depositions are to be handled in the following manner:

1. with the written informed consent of the client, after compliance with the waiver requirements (signed informed consent of client or guardian), the subpoena will be honored and/or the court will be given full cooperation;

2. without the written informed consent of the client, when an employee is subpoenaed for a deposition or receives any other request for information regarding a client, the employee will:

- a. inform the regional manager or designee of the request;
- b. contact the attorney, or other person making the request, and explain the confidentiality of the case record information; and request that such attorney or other person obtain a signed informed consent to release information from the client or guardian;
- c. inform the regional manager or designee if the above steps do not resolve the situation. In this case, the regional manager or designee will then turn the matter over to the \*Louisiana Workforce Commission's\*\* legal counsel.

3. when an employee is subpoenaed to testify in court or to present case record information in court concerning a client, the employee is to do the following:

- a. notify the regional manager or designee;
- b. honor the subpoena;
- c. take subpoenaed case record or case material to the place of the hearing at the time and date specified on the subpoena;
- d. if called upon to testify or to present the case record information, inform the court of the following:
  - i. that the case record information or testimony is confidential information under the provisions of the 1973 Rehabilitation Act and amendments;
  - ii. the subpoenaed case record information is in agency possession;
  - iii. agency personnel will testify and/or release the case record information only if ordered to do so by the court.

#### **AUTHORIZATION**

Federal Register, Volume 66, Department of Education, 34 CFR 361, Part VI, State Vocational Rehabilitation Services Program, §361.38

#### **CONTACT**

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