

CONFIDENTIALITY

I. LEGAL AUTHORITY:

Sections 12(c) and 101(a)(6) of the Rehabilitation Act; 34 CFR 361.38; RIGL 40-6-12; RIGL 42-12-22; RIGL 5-37.3

II. POLICY AND PURPOSE:

The Office of Rehabilitation Services will safeguard the confidentiality of all personal information given or made available to the State agency, its representatives, or its employees in the course of the administration of the Vocational Rehabilitation Program, including lists of names and addresses, photographs, and case records, as permitted by law.

The use of such information and records will be limited to purposes directly connected with the administration and evaluation of the Vocational Rehabilitation Program and may not be disclosed directly or indirectly, other than in the administration thereof, unless the written consent of the individual to such release has been obtained.

- A. Specific safeguards are in place to protect current and stored personal information.
- B. Applicants are advised of the need to, and reasons for, collecting and maintaining personal information.
- C. All applicants and eligible individuals, and, as appropriate, those individuals' representatives, service providers, cooperating agencies, and interested persons are informed through appropriate modes of communication of the confidentiality of personal information and the conditions for accessing and releasing this information.

III. GUIDELINES:

- A. Rehabilitation Counselors or designated staff will ensure that the customer or his/her legal guardian signs and dates the ORS Authorization for Disclosure/Use of Health Information (ORS-37) at the following points of service:
 - 1. Intake - to gather medical, educational and/or psychological information for determination of eligibility.

2. Referral to any agency or Community Rehabilitation Provider.
 3. Collateral consults with family, friends or interested parties about customer.
- B. Rehabilitation Counselors or designated staff will ensure that the customer understands the limits of confidentiality as explained on the ORS-37 and on the Orientation Checklist (ORS-155).
- C. Rehabilitation Counselors or designated staff will ensure that the ORS-37 is completed prior to the customer or guardian signing and dating the form. (A cover letter will accompany the Release of Information, and a copy of both documents is filed in the customer's file.) To be considered complete, the ORS-37 must:
1. specify the information being sought and the purpose for obtaining the information
 2. verify that the release expires after one-year duration
 3. be signed and dated by customer or legal guardian.
- D. Prior to sending information generated by the Agency to a third party, the Rehabilitation Counselors or designated staff must ensure that the received release is correctly completed.
1. A cover letter will accompany the ORS-37, and a copy of both documents is filed in the customer's file.
 2. An entry in the customer's file will document receipt and response to the Release of Information request and list what documents were forwarded.
 3. Only documents generated or funded by the Agency can be forwarded in response to a Release of Information.
- E. Rehabilitation Counselors, clerical support, administrative and supervisory personnel shall inform applicants or their representatives about the State agency's need to collect personal information and the policies governing its use, including:

1. Identification of the authority under which information is collected;
 2. Explanation of the principal purposes for which the State agency intends to use or release the information;
 3. Explanation of whether providing requested information to the State agency is mandatory or voluntary and the effects of not providing requested information;
 4. Identification of those situations in which the State agency requires or does not require informed written consent of the individual before information may be released;
 5. Identification of other agencies to which information is routinely released; and
 6. Explanation of the agency's specific safeguards to protect current and stored personal information, including but not limited to:
 - a) Staff training in Confidentiality;
 - b) Secure handling of reports and case record materials;
 - c) Secure location of case records;
 - d) Private interviewing spaces; and
 - e) Electronic security.
- F. An explanation of State policies and procedures affecting personal information will be provided to each individual in that individual's native language or through the appropriate mode of communication; and
- G. The State agency may establish reasonable fees to cover extraordinary costs of duplicating records or making extensive searches in compliance with the Rhode Island Access to Public Records Act.
- H. All personal information in the possession of the State agency must be used only for the purposes directly connected with the administration of the vocational rehabilitation program. Material containing identifiable personal information may not be shared with advisory or other bodies that do not have official responsibility for administration of the program. In the administration of the program, the State agency may obtain personal information from service

providers and cooperating agencies under assurances that the information may not be further divulged except as allowed below:

1. Release to applicants and eligible individuals.
 - a) An applicant or eligible individual must request information in writing. The State agency must make all requested information in that individual's record of services accessible to and must release the information to the individual or the individual's representative in a timely manner unless the following conditions exist:
 - (1) The State agency determines that medical, psychological, or other information may not be released directly to the individual, as the information is harmful.
 - (2) The State agency must provide the information through a third party chosen by the individual, which may include, among others, an advocate, a family member, or 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.
 - (3) Information that was obtained from another agency or organization.
2. An applicant or eligible individual who believes that information in the individual's record of services is inaccurate or misleading may request that the State agency amend the information. If the information is not amended, the request for an amendment must be documented and the rationale for not amending must be in the record of services.
3. Release for audit, evaluation, and research. Personal information may be released to an organization, agency, or individual engaged in audit, evaluation, or research only for purposes directly connected with the administration of the vocational rehabilitation program or for purposes that would significantly improve the quality of life for applicants and eligible individuals and only if the organization, agency, or individual assures that:
 - a) The information will be used only for the purposes for which it is being provided;

- b) The information will be released only to persons officially connected with the audit, evaluation, or research;
 - c) The information will not be released to the involved individual;
 - d) The information will be managed in a manner to safeguard confidentiality; and
 - e) The final product will not reveal any personal identifying information without the informed written consent of the involved individual or the individual's representative.
- I. Release to other programs or authorities.
- 1. Upon receiving the informed written consent of the individual or, if appropriate, the individual's representative, the State agency may release personal information to another agency or organization for its program purposes only to the extent that the information may be released to the involved individual or the individual's representative and only to the extent that the other agency or organization demonstrates that the information requested is necessary for its program. To be considered complete, the ORS-37 must:
 - a) specify the information being sought and the purpose for obtaining the information
 - b) verify that the release expires after one-year duration
 - c) be signed and dated by customer or legal guardian.
 - 2. Request for documentation related to psychiatric, psychological, alcohol/ substance abuse or HIV/AIDS information are to be accompanied by a signed release from the individual specifically requesting the information.
 - 3. Medical or psychological information that the State agency determines may be harmful to the individual may be released if the other agency or organization assures the State agency that the information will be used only for the purpose for which it is being provided and will not be further released to the individual. The State agency must release personal information if required by Federal law or regulations.
 - 4. The State agency must release personal information in response to investigations in connection with law enforcement, fraud, or abuse, unless expressly prohibited by Federal or State laws or regulations,

and in response to an order issued by a judge, magistrate, or other authorized judicial officer. **ORS cannot accept subpoenas. All subpoenas are to be referred to DHS legal using the Subpoena Request Form (ORS-159).**

5. The State agency also may release personal information in order to protect the individual or others if the individual poses a threat to his or her safety or to the safety of others.

J. Media Release

1. The Media Release Form (ORS-158) is utilized when a customer has agreed to allow the State agency to publish their name/photograph/story, etc for the purpose of marketing via brochures, web site, training, etc.

IV. APPLICABLE FORMS (LOCATED IN APPENDIX #1)

- A. Release of Information (ORS-37)
- B. Media Release Form (ORS-158)
- C. Subpoena Request (ORS-159)
- D. Orientation Checklist (ORS-155)