CONFIDENTIALITY

I. LEGAL AUTHORITY:

Sections 12(c) and 101(a)(6) of the Rehabilitation Act; 34 CFR 361.49; 46 FR 5526, January 19, 1981, as amended at 53 FR 16988, May 12, 1988; RIGL 40-6-12; RIGL 5-37-2.

II. POLICY AND PURPOSE:

The Agency will ensure that all information relating to personal facts 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, and records of agency evaluation, will be held to be confidential as permitted by law.

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

It is the individual's right and expectation that all information requested will be respected and safeguarded by the Agency and all its personnel including field work students and volunteers. The individual is made aware of his/her right to confidentiality in the application process and during other contacts with the agency including right to access his/her own files.

A. Definitions

1. Confidentiality -- the concept means that information about individuals is private by law and there are penalties for the unauthorized release of protected information.

B. Conditions and Criteria

The Agency will ensure confidentiality by:

1. Maintaining the policy and procedures in accordance with current laws and regulations;

2. Training all staff in Agency policy and procedures in addition to relevant laws and regulations; and

3. Monitoring the implementation of policy and

procedures.

III. **PROCEDURES**:

A. All applicants, clients, representatives of applicants or clients, and, as appropriate, service providers, cooperating agencies, and interested persons are informed of the confidentiality of personal information and the conditions for accessing and releasing this information.

B. All applicants or their representatives are informed about the 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 Agency intends to use or release the information;

3. Explanation of whether the individual's providing the information is mandatory or voluntary and the effects of not providing requested information to the Agency; and

4. Identification of other agencies to which information is routinely released.

C. Persons who are unable to communicate in English or who rely on special modes of communication must be provided an explanation about Agency policies and procedures affecting personal information through methods appropriate to their communication needs (braille, large print, tapes, language interpreters, etc.).

D. When requested in writing by the involved individual or his or her representative, the Agency will make all information in the case record accessible to the individual or release it to him or her or a representative in a timely manner. Medical, psychological or other information which the Agency believes may be harmful to the individual may not be released directly to the individual but must be provided through his or her representative, a physician, or a licensed or certified psychologist.

E. Extraordinary costs of duplicating records may be charged at the rate currently allowable by law.

F. When personal information or records which were

obtained from another source are requested with the written release of the individual, they may be released only by, or under the conditions established by, the other agency or organization.

G. All personal information in the possession of the Agency must be used only for purposes directly connected with the administration of the Vocational Rehabilitation Program. For example, Vocational Rehabilitation-produced or purchased records about individuals may be released without written consent to physicians and other professionals who are conducting evaluations for Vocational Rehabilitation; records produced or purchased by sub-units of Vocational Rehabilitation (e.g., Disability Determination, ILRS) may be exchanged without written consent; and certification as a client of Vocational Rehabilitation to facilitate the tax credit obtainable for an employer is allowable without written consent. Information containing identifiable personal information may not be shared with advisory or other bodies which do not have official responsibility for administration of the program. In the administration of the program, the Agency may obtain personal information from service providers and cooperating agencies under assurances that the information may not be further divulged, except as noted below.

H. If information is requested by another organization, agency, or individual engaged in audit, evaluation, or research, it may be released only for purposes directly connected with the administration of the vocational rehabilitation program, or for purposes which would significantly improve the quality of life for handicapped persons, and only if the organization, agency, or individual assures that:

1. The information will be used only for the purposes for which it is being provided;

2. The information will be released only to persons officially connected with the audit, evaluation, or research;

3. The information will not be released to the involved individual;

4. The information will be managed in a manner to safeguard confidentiality; and

5. The final product will not reveal any personal identifying information without the informed

written consent of the involved individual, or his or her representative.

I. If personal information is requested by another organization or agency which has the written release of the individual, information may be released to the extent that the other agency or organization demonstrates that the information requested is necessary for its program. Medical or psychological information which the Agency believes may be harmful to the individual may be released when the other agency or organization assures the Agency that the information will be used only for the purpose for which it is being provided and will not be released to the involved individual.

J. The Agency must release personal information if required by Federal law.

K. The Agency must release personal information in response to investigations in connection with law enforcement, fraud, or abuse (except where expressly prohibited by Federal or State laws or regulations), and in response to judicial order.

L. The Agency may also release personal information in order to protect the individual or others when the individual poses a threat to her- or himself or to the safety of others.

M. Subpoena of Records

In the event of the issuance of a subpoena for the case record or for any agency representative to testify concerning an applicant or recipient, the Agency representative accepts the subpoena. An Agency administrator should then be notified of the subpoena in order that the departmental legal counsel may be consulted for advice and/or representation. The agency representative notifies the client or applicant of the request promptly so that the individual may seek to have the process dismissed or withdrawn.

If the action is not dismissed or withdrawn, a determination is made of the nature of the court case, the name of the individual causing the subpoena, and the appropriate information required (if the subpoena does not specify the entire case record).