XI. RELEASE OF INFORMATION

Title ..... **Page**

Safeguarding an Individual's Record and Information..... XI-1

Releasing an Individual's Information XI-1

Release to an Individual or Representative..... XI-2

Harmful Information..... XI-2

Release to a Court or Administrative Body..... .... XI-3

Release for a Purpose Directly Connected with the Administration

of the Individual's VR Program..... XI-3

Release for Research or Evaluation..... XI-3

XI. RELEASE OF INFORMATION

SAFEGUARDING AN INDIVIDUAL'S RECORD AND INFORMATION

Employees are responsible for complying with the legal requirement to protect the confidential nature of information in individual case file including all individual's identifying information contained in reports, lists, and other paper or electronic documents, and for prohibiting unauthorized access.

All personnel are to maintain a professional respect for the confidential nature of the data on individuals and refrain from indiscreet and/or casual conversation that might reveal to unauthorized persons information concerning individuals receiving services from DCRSA.

In accordance with federal and state regulation, the state will safeguard the confidentiality of all personal information required in 34 C.F.R. § 361.38 (c - d) and 29 DCMR §118.

RELEASING AN INDIVIDUAL'S INFORMATION

An individual's information may be released under the following circumstances:

1) When authorized, in writing, by the individual,

2) In response to a valid subpoena, court order, or judicial or administrative proceeding concerning the individual,

3) For use during an audit, evaluation or research, if the following are met:

(a) it relates to the administration of vocational rehabilitation services; or significantly improves the quality of life for applicants or eligible individuals; and

(b) complies with 34 CFR §361.38 (d) (1 through 5)

4) In order to protect the individual or others if the individual poses a threat to his or her safety or the safety of others.

PROCEDURE - RELEASING AN INDIVIDUAL'S INFORMATION – GENERAL PROCEDURE

In general, all personnel are encouraged to seek legal advice and guidance before releasing information pursuant to this Section. Exceptions to this general procedure are as follows:

1. All personnel are required to immediately (i.e., no more than 24 hours) provide a copy of a subpoena, court order or other judicial or administrative document, to the

OAG attorney(s) who represent RSA, so he or she may determine which information may be released in accordance with this Section.

2. All personnel are required to immediately inform the OAG attorney(s) who represent RSA; as soon as it becomes known that the individual poses a threat his/her safety or the safety of others. No action should be taken with regard to releasing information under this circumstance, until a full and complete consultation or legal opinion is provided by the OAG attorney.

RELEASE TO THE INDIVIDUAL OR A REPRESENTATIVE

When information is released to the individual or the individual's representative, personal information in the file obtained from another Agency or organization can be released only by, or under the conditions established by the other (external) Agency or organization. DCRSA must refer the individual to the source to obtain the information.

The counselor must make appropriate Agency information in the individual's case file accessible to the individual or the individual's representative, and if requested, release it to the individual or the individual's representative, in a timely manner. The request must be submitted in writing by the individual or by the individual's representative, and the representative must have something in writing stating that the individual authorized that person to act on their behalf.

A relative or representative of the individual may not review or receive records without written authorization by the individual, unless:

The individual is a minor, or;

A representative or legal guardian has been appointed by the court.

In the case of a minor, the parent may be considered the authorized representative. Information must be released to the court-appointed representative or guardian.

HARMFUL INFORMATION

Medical, psychological, or other information the counselor believes may be harmful to the individual must not be released directly to the individual. Such information must be released through a representative designated in writing by the individual, who may include, among others, an advocate, a family member, or qualified medical or mental health professional. *See* 34 CFR §361.38 (c) (2) and 29 DCMR §118.10.

Medical, psychological, or other information, which the counselor believes may be harmful to the individual, may be released to an agency or organization, if RSA receives assurance that (a) it will only be used for the purpose in which it is being provided; and (b) it will not be released to the individual. *See* 34 CFR §361.38 (e) (2).

RELEASE TO A COURT OR ADMINISTRATIVE BODY

DCRSA may release the individual's information in response to an order, subpoena, or summons issued by a court or other judicial body under state or federal rules of civil or criminal procedure. The document may be signed by the judge, magistrate, administrative law judge or hearings officer, clerk of court, or by any official who is authorized by law to issue subpoenas. *See* 34 C.F.R §361.38.

PROCEDURE - RELEASE TO A COURT OR ADMINISTRATIVE BODY

All personnel are required to immediately (i.e., no more than 24 hours) provide a copy of a subpoena, court order or other judicial or administrative document, to the OAG attorney(s) who represent RSA, so he or she may determine which information may be released in accordance with this Section.

RELEASE FOR A PURPOSE DIRECTLY CONNECTED WITH THE ADMINISTRATION OF THE INDIVIDUAL'S VR PROGRAM

Provisions of the individual's IPE determine the scope of the individual's rehabilitation.

Provisions of the individual's IPE determine the scope of the individual's rehabilitation.

The regulations provide that an individual's information may be released for a purpose directly connected with his or her rehabilitation. Counselors are required to obtain written authorization from the individual to provide information to an organization or individual for this purpose.

RELEASE FOR RESEARCH OR EVALUATION

Written authorization must be obtained from the individual to release information to the organization or person engaged in audit, evaluation, or research for a purpose that could significantly improve the quality of life for persons with a disability. See 34 CFR §361.38(d).