

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT ON DISABILITY SERVICES**



POLICY	
Department on Disability Services	Subject: Protection, Use, and Release of Personal Information
Responsible Program or Office: Rehabilitation Services Administration	Policy Number: 2017-RSA-POL04
Date of Approval by the Director: March 23, 2017	Number of Pages: 5
Effective Date: March 24, 2017	Expiration Date, if Any: N/A
Supersedes Policy Dated: Section XI DCRSA Policy Manual (2010) – Policy on Release of Information	
Cross References, Related Policies and Procedures, and Related Documents: 29 DCMR § 118, DCRSA Case record policy	

1. PURPOSE

The purpose of this policy is to ensure that the Department on Disability Services, Rehabilitation Services Administration (“DCRSA” or “Agency”) shall protect the confidential nature of all personal information as required by 34 C.F.R. § 361.38 and 29 DCMR § 118

2. APPLICABILITY

This policy applies to Vocational Rehabilitation (VR) Specialists, supervisors, administrators, and people whom DCRSA serves.

3. AUTHORITY

The authority for this policy is established in DDS as set forth in D.C. Law 16-264, the “Department on Disability Services Establishment Act of 2006,” effective March 14, 2007 (D.C. Code §§ 7-761.01 *et seq.*), Establishment of the Rehabilitation Services Program (D.C. Code §§ 32-331 *et seq.*), Use and Confidentiality of Individual Information (29 DCMR § 118), Protection, Use, Release of Personal Information (34 C.F.R. § 361.38), and Reports, Evaluation Standards, and Performance Indicators (34 C.F.R. § 361.40).

4. POLICY

DCRSA employees are responsible for complying with the legal requirement to protect the confidential nature of information in individual case files including all personal identifying information contained in reports, lists, and other paper or electronic documents, and for prohibiting unauthorized access. All personnel shall 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 persons receiving services from DCRSA. In accordance with federal and state regulations, the District of Columbia will safeguard the confidentiality of all personal information as required in 34 C.F.R. § 361.38 (c)-(d) and 29 DCMR §118.

It is the policy of DCRSA to inform all applicants and eligible persons of the confidentiality of personal information and the conditions for accessing and releasing information through appropriate modes of communication consistent with informed choice (see Informed Choice Policy). The VR Specialist shall explain whether providing requested information to DCRSA is mandatory or voluntary and the effects of not providing the requested information.

A person's information may be released by DCRSA under the following circumstances:

- A. When authorized, in writing, by the person;
- B. In response to a valid subpoena signed by a judge, court order, or judicial or administrative proceeding concerning the person;
- C. When required by federal law or regulation in accordance with 34 C.F.R. § 361.38(e)(3). VR records shall be matched with State quarterly wage records in order to comply with the performance accountability requirements of Sec. 116 of the Workforce Innovation and Opportunity Act (WIOA);
- D. For use during an audit, evaluation or research, if the following are met:
 - 1) It relates to the administration of vocational rehabilitation services in accordance with 34 C.F.R. § 361.38(b); or significantly improves the quality of life for applicants or eligible persons;
 - 2) It complies with 34 C.F.R. § 361.38 (d)(1)-(5); or
- E. DCRSA may also release personal information in order to protect the person or others if the person poses a threat to his or her safety or the safety of others as stated in 34 C.F.R. § 361.38.

The VR Specialist shall obtain written authorization from the person prior to requesting documentation from outside sources for the purpose of establishing eligibility and/or coordinating VR case management activities.

5. RESPONSIBILITY

The responsibility for this policy is vested in the Deputy Director of the Rehabilitation Services Administration. Implementation of this policy is the responsibility of the Rehabilitation Services Administration.

6. STANDARDS

Written Authorization to obtain or release information

Written authorization to obtain or release information shall be documented using a signed DCRSA Informed Consent form. The VR Specialist shall explain to the person the purpose of the Informed consent, what information will be requested/released, who will be releasing/receiving the information, and how that information will be used. VR Specialists shall comply with the Health Insurance Portability and Accountability Act (HIPAA) in regards to obtaining and releasing information.

In the event that a person requests the presence of a support person during a meeting with DCRSA, the Agency may disclose personal information during the meeting without first obtaining written consent from the person or the person's representative. The VR Specialist shall explain to the person that by inviting a third-party to participate in a meeting with the Agency, the person is considered to have provided implied consent to release information in the presence of the third party during the meeting.

~~A. Release to an Individual or Representative~~

When information is released to the person, or the person'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 in accordance with 34 C.F.R. § 361.38(3). DCRSA shall refer the person to the source to obtain this information.

The VR Specialist shall make appropriate Agency information in the person's case file accessible to the person or the person's representative, and if requested, release it to the person or the person's representative, in a timely manner. The request must be submitted in writing by the person or by the person's representative, and the representative shall present documentation stating that the person authorized that representative to act on his/her behalf.

A relative or representative of the person may not review or receive records without written authorization by the person, unless the person 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 VR Specialist, in consultation with his/her supervisor, believes may be harmful to the person shall not be released directly to the person. Such information shall be released through a representative designated in writing by the person, who may include, among others, an advocate, a family member, or qualified medical or mental health professional. *See* 34 C.F.R. § 361.38 (c)(2); 29 DCMR § 118.10.

Medical, psychological, or other information, which the VR Specialist, in consultation with his/her supervisor, believes may be harmful to the person, may be released to an agency or organization, if DCRSA 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 person. *See* 34 C.F.R. § 361.38(e)(2).

B. Release to a Court or Administrative Body

DCRSA may release the individual's information in response to a court order, subpoena signed by a judge, 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.

All personnel are required to immediately (within 24 hours) provide a copy of a subpoena, court order or other judicial or administrative document to the Department on Disability Services (DDS) Office of General Counsel. The DDS Office of General Counsel will determine which information may be released in accordance with this Policy.

C. Release for a Purpose Directly Connected with the Administration of the Person's VR Program

Provisions of the person's Individual Plan for Employment (IPE) determine the scope of the person's rehabilitation.

The regulations provide that a person's information may be released for a purpose directly connected with his or her rehabilitation. VR Specialists are required to obtain written authorization and informed consent from the person prior to releasing information to an organization or individual.

The VR Specialist shall explain and confirm that the person understands the authorization to release information prior to signing. The VR Specialist shall explain what information will be released, who will receive the information, and how the information will be used.

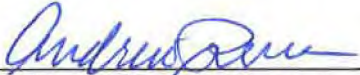
D. Release for Research or Evaluation

Written authorization must be obtained from the person 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 C.F.R. § 361.38(d).

E. Release to Protect the Individual or Others

The minimum necessary personal information may be disclosed on an emergency basis to one or more of the following if a VR Specialist or supervisor reasonably believes that the disclosure is necessary to access emergency psychiatric services or to otherwise protect the person or another person from a substantial risk of imminent and serious physical injury:

- 1) Mobile crisis or Comprehensive Psychiatric Emergency Program personnel;
- 2) A 911 Dispatcher;
- 3) Emergency Medical Personnel (e.g., EMTs and emergency room doctors);
or
- 4) An officer authorized to make arrests in the District of Columbia acting in his or her official capacity.


Andrew P. Reese, Director

3/23/17
Approval Date

