POLICY # 3.4 - CONFIDENTIALITY-ACCESS, DUPLICATION, DISSEMINATION AND DESTRUCTION

Purpose: To safeguard each individual's right to confidentiality in the receipt of services from the Huron County Board of Developmental Disabilities (HCBDD). In accordance with the Health Insurance Portability and Accountability Act, 42 W.S.C. 1320d, as in effect on the effective date of OAC 5123-4-01 and as applicable, the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, as in effect on the effective date of OAC 5123-4-01.

A. CONFIDENTIALITY

1. All information contained in an individual's records, including information contained in a database, shall be considered confidential. The content of these records is never the subject for discussion, except as an official member of an Individual Education Plan (IEP)/Individual Service Plan (OISP) or a hearing related to identification, evaluation or placement of the individual. The HCBDD complies with all applicable federal HIPAA laws and State of Ohio laws regarding the release of confidential information.

2. Responsible person for ensuring confidentiality of records:

    a. The Service and Support Administration (SSA) Department as well as the Department Managers are responsible to ensure the confidentiality of information of each individual receiving services.

    b. It is the responsibility of the Service and Support Administration Department as well as the Department Managers to see that each individual is adequately represented by their natural parent(s), parent(s) having legal custody, legal guardians(s), custodian(s) or surrogate parent(s).

    c. An individual of legal age (18) with no court-appointed legal guardian has the right to act on their own behalf in all matters related to confidentiality and records access, consent, maintenance, and destruction.

    d. The contents of this policy regarding confidentiality shall be made available, upon request, by individuals and/or the parent of a minor or guardian of an adult, as well as the residential provider.

    e. Consumers' privacy rights (access, accounting of disclosures, communications, right to be notified about data breaches) and HCBDD privacy practices are summarized in HCBDD Notice of Privacy Practices (NPP) (see section 3.10)

3. Access Rights

    a. The individual has the right to inspect, review and receive a copy of any agency record related to his or her enrollment in any division of the HCBDD; a court appointed guardian has the same right, with respect to the records of their appointee.
    b. Any program/department shall comply with the individual or guardian's request for

access to confidential material without unnecessary delay. Requests occurring before an IEP/OISP/IFSP meeting, or a hearing related to identification, evaluation or placement of the individual shall have immediate response. In the case of an individual placed by the LEA, confidentiality procedures shall be in accordance with the rules for education of handicapped children: 3301-51-02 of the Administrative Code.

c. Records will be released to requesting parties for the following purposes: evaluation placement, assessment, eligibility, and other legitimate reasons as determined by HCBDD in conjunction with the individual, parent of a minor child, or guardian.

d. HCBDD privacy forms shall be used to meet consumer's privacy rights and HIPAA compliance requirements. These forms provide guidance for timing and information needed to accomplish and document specific tasks.

e. Records shall be accessible to department personnel authorized by the director of the department.

f. HCBDD shall submit information and reports as directed by the department.

g. HCBDD shall ensure that information about individuals served, including the individual's living arrangements and address, guardianship status, and guardian's address and contact information, is updated in the department's information systems within fifteen calendar days of any change.

4. Safeguards

a. All HCBDD personnel collecting, destroying, maintaining, using or otherwise having access to personally identifiable information (PII) (student/individual data) and/or protected health information (PHI) shall be informed of the confidentiality policies and procedures of the agency and are responsible for implementing them.

b. The administrative personnel/designee shall be assigned the responsibility for ensuring the confidentiality of any PII or PHI.

c. Records shall be accessible to authorized personnel only, parent/guardian or individual.

d. The agency shall maintain a current listing of names & positions of employees who may have access to PII of children (individuals served who are under the age of 18).

5. Types and Locations of records maintained:

a. Early Childhood -- filing cabinets located at the HCBDD Support Services Building and the Gerken Center as well as electronically

b. Help Me Grow—storage closet located at HCBDD Support Services Building as well as electronically

c. Christie Lane School--filing cabinets located in the office of Christie Lane School and HCBDD Support Services Building as well as electronically

d. Service and Support Administration, which is the main HCBDD file--a locked cabinet/room at the HCBDD Support Services Building as well as electronically

e. Family Support Services--working file kept in the Director of Facilities and Individual Supports office at the HCBDD Support Services Building as well as electronically

B. STUDENT/INDIVIDUAL FILES

1. Files will be available to authorized program staff between 8:00 a.m. and 4:00 p.m. Monday through Friday, per the posted list of personnel.

2. Files are to be stored in a secure area/cabinet.

3. Only information directly related to the provision of services for the individual shall be maintained in the permanent record.

4. Files will be reviewed on an annual basis to evaluate their adequacy and to propose improvement in the record-keeping system and to preserve confidentiality.

5. To ensure confidentiality, files must remain on HCBDD grounds. Confidentiality of individual information shall be maintained at all times.

6. Under no circumstances is the entire file to be given to unauthorized person(s).

7. The HCBDD staff are responsible for the permanent record, including maintaining the safekeeping of records and securing them from loss.

8. Copies of all consent to release of information forms shall be kept in the file.

C. SERVICE AND SUPPORT ADMINISTRATION (SSA) FILES

1. Paper files are to be stored in locked filing cabinets/room in the designated HCBDD Support Services Building as well as electronically

2. Only information directly related to the provision of services for the individual shall be maintained in the permanent record.

3. To ensure confidentiality, files must remain in the office areas. Confidentiality of individual information shall be maintained at all times.

4. Under no circumstances is the entire file to be given to unauthorized person(s).

5. The Director of Services and Support Administration is responsible for the permanent record, including maintaining the safekeeping of records and securing them from loss.

6. Copies of all consent to release of information forms shall be kept in the file.

7. HCBDD privacy forms shall be used to meet consumer's privacy rights and HIPAA compliance requirements. These forms provide guidance for timing and information needed to accomplish and document specific tasks.

D. RECORD RELEASE OF INFORMATION PROCEDURE

1. HCBDD shall obtain written release of information before disclosing personally identifiable information from the records of a student/individual. The written consent required must be signed and dated by the parent/guardian/individual giving consent and shall include:

    a. A specification of the records to be disclosed.

    b. The purpose(s) of the release.

    c. The party or class of parties to whom the release may be made; and

    d. The time period for which the permission is valid.

    HCBDD privacy forms shall be used to meet consumer's privacy rights and HIPAA compliance requirements when PHI is disclosed. These forms provide guidance for timing and information needed to accomplish and document specific tasks.

2. When requested, HCBDD shall provide the parent/guardian/individual with a copy of the information that was released.

3. Prior Consent for Disclosure

    a. Personally identifiable information from the program records of an individual may be disclosed without the written consent of the individual, if the disclosure is:
        i. To other staff within the agency who have been determined by the Superintendent or designee to have a legitimate program interest or:
        ii. For school age children below the age of 22 years, to county board school--age program staff, to officials of another school, school district or other educational agency in which the student seeks or intends to enroll:

            aa. When the transfer of records is initiated by the individual at the sending school district or other educational agency.
            bb. When the school district or other educational agency includes a

notice in its policies and procedures that it forwards education records on request of a school district or other educational agency in which a student seeks or intends to enroll; or

cc. After a reasonable attempt to notify the individual's last known address that the transfer of records has been made.

iii. Records and reports related to the program shall be submitted as requested by DODD, and Federal and State Officials, in connection with the audit and evaluation of federally supported programs, or in connection with the enforcement of or compliance with the federal legal requirements which relate to these programs.

4. Transmission of approved information to requesting person or agency shall be through mail, fax, personal delivery or email.

E. DESTRUCTION OF DATA

1. Destruction means physical destruction of a record by means of a shredder. Removal of personal identifiers from information so that the information is no longer personally identifiable is called de-identification and allows the information to be used for analysis or research. Approved de-identification methodologies need to be used. Destruction of information in digital format means physical destruction of the media used to store the information (hard drive, flash drive, DVD) or making the data/information unreadable by e.g. overwriting. Deleting data and reformatting media on which it was stored is NOT a proper way of destructing data.

2. Records must be maintained according to the Records Retention Schedule (RC-2) approved by the local Records Commission, Ohio History Connection, and Auditor of State. Said records must be available for any partial or full audits. Records may only be destroyed when it is determined that the records no longer have administrative value or after death of an individual. Copies of records will be made available to the individual or guardian prior to destruction.

3. Prior to destruction of data, reasonable efforts shall be made by HCBDD to notify parents/guardians/individuals that they have the right to be provided with a copy of any data which have been obtained or used for the purpose of making individual programming decisions. Reasonable efforts shall be defined as verbal and/or written notice of this right. In the absence of knowing or being able to contact parents, guardians, or other relatives, notice will be placed in the newspaper of general circulation in the county, and failing a response within 30 days, the records will be destroyed.

4. Records may be scanned, and after assurance is made that the electronic image is legible, the paper records may be destroyed.

EFFECTIVE DATE: 7/21/86

REVISIONS: **3/21/89, 8/20/990, 4/15/91, 8/20/96, 5/20/97, 1/98, 4/98, 9/02, 10/02, 9/16/03, 4/19/05, 5/16/06, 1/19/10, 2/15/11, 11/19/13, 9/15/15, 11/15/16, 5/21/19, 10/15/19, 7/23/24, 9/16/25**