

## **Confidentiality (Protection, use, and release of personal information)**

Rehabilitation Services (RS) will safeguard the confidentiality of all personal information, including photographs and lists of names. 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.

All applicants or their representatives are informed about the RS 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 RS intends to use or release the information.
3. Explanation of whether providing requested information to RS is mandatory or voluntary and the effects of not providing requested information.
4. Identification of those situations in which RS requires or does not require informed written consent of the individual before information may be released.
5. Identification of other entities to which information is routinely released.

An explanation of 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.

*The requirements listed above are met using the RS Handbook of Services.*

### **Release to other programs in the Kansas Department of Social and Rehabilitation Services (SRS)**

RS staff may release client information without a signed release from the client to other programs within SRS *on a need-to-know basis*. A signed release is not necessary within SRS since all programs are part of the same state agency.

RS staff may release information without a signed release from the client to SRS contractors and service providers on a *need-to-know basis*. Contracts include assurances that the contractors, who are acting on behalf of RS and SRS, will use the information appropriately and maintain confidentiality standards.

If RS has obtained personal information about a client from another agency, provider or organization, such information may be released within SRS *on a need-to-know basis*. Restrictions on further release do not apply within SRS since all programs are part of the same state agency.

In analyzing “need-to-know,” counselors shall consider whether entire reports or summary documents should be released, and whether the information is necessary for the purposes of the requesting program.

### **Release to programs outside of SRS**

When programs outside of SRS which are not contractors of SRS request personal information, informed written consent of the client is required. Upon receiving the informed written consent of the individual or, if appropriate, the individual's representative, RS 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.

### **Release to the Client Assistance Program**

Informed written consent is required.

### **Requirements for release forms**

See Section 8 /Parts 7, 8, 9, 10 for copies of release of information forms approved by RS. RS staff may also accept release of information forms from other organizations. Whether using RS forms or forms provided by other organizations, the following informed written consent requirements must be met:

- The client's name and identifying information (such as the date of birth or Social Security Number) must be clearly stated.
- The information being requested or released must be specifically identified.
- The person or organization to receive the released information must be specifically identified.
- The purpose for the request or release must be specifically identified.
- The form must be signed, witnessed and dated.
- Specifications of the date, event or condition upon which the release expires must be clearly stated.

## **Release to applicants and eligible individuals**

If requested in writing by an applicant or eligible individual, RS shall release all requested information in that individual's record of services to the individual or the individual's representative in a timely manner. Release may occur by making the record of services available to the individual to view, or by providing copies of information in the record of services, according to the individual's informed choice. There are two exceptions:

### **1. Release of information that may be harmful to the individual**

- Medical, psychological, or other information that RS determines may be harmful to the individual may not be released directly to the individual. However, this information must be provided to the individual through a third party chosen by the individual. The third party 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.
- In such circumstances, counselors will inform the client and/or the client's representative that specific records contain information which requires professional explanation and interpretation, and in the counselor's judgment, review by or release directly to the client would not be in the client's best interests.
- Counselors should discuss the option of having the client authorize release of the information to a physician or psychologist to facilitate interpretation of the information. If the client agrees with this approach, the counselor may assist the client in arranging such a meeting with the health care professional and in paying for it. If the client does not agree with this option, the counselor shall proceed in a timely manner to release the information to the client's representative.
- **Note regarding release of such information to other programs:** Medical or psychological information that RS determines may be harmful to the individual may be released to another program if the client has provided an informed written consent and if the other program assures RS 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.

### **2. Further release of information that has been obtained from another agency or organization**

- If RS has purchased a medical/psychological assessment, exam or service on behalf of the client, then RS is considered to be the "owner" of the related records. In such circumstances, RS may further release the records to other appropriate individuals or organizations on a need-to-know basis without other restrictions or conditions.

- If RS has obtained copies of personal information, such as medical/psychological assessments, exams or services, then such information may be released only by, or under the conditions established by, the other agency or organization.

### **Fees for copies provided by RS**

RS may establish reasonable fees to cover extraordinary costs of duplicating records or making extensive searches. Questions on current fees should be directed to the Central Office Fiscal Officer.

### **Amending the record of services**

An applicant or eligible individual who believes that information in the individual's record of services is inaccurate or misleading may request that RS amend the information. If the information is not amended, the request for an amendment must be documented in the record of services.

### **Release to authorities**

Informed written consent (a signed release of information form) is not required in the following circumstances:

- RS shall release personal information if required by Federal law or regulations. Questions about this standard should be addressed to the Social and Rehabilitation Services (SRS) Attorney in the local office at the time a request for release is received.
- RS shall 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.
- RS 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.

### **State program use**

All personal information in the possession of RS must be used only for the purposes directly connected with the administration of the vocational rehabilitation program. Information containing identifiable personal information may not be shared with advisory or other bodies that do not have official responsibility for administration of the program.

### **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:

- The information will be used only for the purposes for which it is being provided.
- The information will be released only to persons officially connected with the audit, evaluation, or research.
- The information will not be released to the involved individual.
- The information will be managed in a manner to safeguard confidentiality.
- The final product will not reveal any personal identifying information without the informed written consent of the involved individual or the individual's representative.

*Information in this Part is based on §361.38 and SRS guidance.*