



Policy No. 802	Subject: Confidentiality and Release of Information
Section: Forms and Case Filing	Revised: 09/2016
Signature: Brandy McOmber, Resource Manager	Version: FINAL

1. BACKGROUND

The following written policy is designed to safeguard the confidentiality of all personal information, including photographs and lists of names. These specific safeguards are in place to protect current and stored personal information. The individual may provide permission for IVRS to share their story with legislators. IVRS is also equipped to comply with Family Educational Rights and Privacy Act (FERPA), Public Law 93-282, Confidentiality of Alcohol and Drug Abuse Patient Records, Iowa Code Section 228.2 on release of mental health information, Iowa Code Section 141A.9 on release of HIV/AIDS information, and the Health Information Portability and Accountability Act (HIPAA). The following provisions are expected to be followed as they pertain to the confidentiality of any recipients of IVRS services, including, where applicable, those who are potentially eligible regardless of if they have a case record.

2. OBTAINING RECIPIENT/JOB CANDIDATE INFORMATION

- a. All recipients and their representatives will be informed about IVRS’ need to collect personal information and that this authority is granted under CFR 361.38 of the Workforce Innovation Opportunity Act. They will also be informed that all personal Information given or made available to IVRS in the course of administration of the Vocational Rehabilitation program will be held confidential.
- b. All recipients and their representatives will be informed of the principal purpose(s) for which IVRS intends to use or release the information.
- c. Information will be obtained from service providers and cooperating agencies using a Release of Information form (R-407) signed by the recipient and when appropriate, the recipient’s guardian. A copy of all R-407 forms sent are retained in the case file. Information providers will be assured that information received in this way will not



- be further released without the job candidate's approval or except in response to an order, subpoena, or summons issued by the court or other judicial body.
- d. All recipients and their representatives are to be informed that providing the information is voluntary, however, failure to provide it could result in case closure or a negative case decision when the information is necessary and vital to the rehabilitation success of the plan.
 - e. All recipients and their representatives are informed of the situations in which IVRS does not require informed consent of the individual before releasing information (i.e. safe data exchange with the workforce development partners; progress update on student programming with educators, etc.).
 - f. All recipients and their representatives are informed of the other agencies to which information is routinely released.
 - g. All recipients and their representatives are informed that the IVRS confidentiality policy provides no fewer protections than the State laws and regulations.
 - h. All job candidates and their representatives are informed that they may request copies of their records to be provided to their lawyer or themselves at a cost outlined in the Copies of Case File Information section of this manual to cover the costs of duplicating the records.
 - i. All recipients and their representatives are informed that they may review the record at any time, but any information considered harmful to the job candidate or other individual may be redacted for safety reasons unless the record is released to a psychiatric professional (therapist or doctor) who will review the record with the individual.
 - j. All job candidates and their representatives are informed that IVRS has the authority to only release records directly to the job candidate, unless there is something deemed harmful in which case the information is then provided to a third party or



chosen by the individual unless the court has appointed a representative, in which case it must be released to the court appointed representative for the fees outlined in the Copies of Case File Information section of this manual.

- k. All recipients and their representatives are informed that all personal information must be used only for the purposes directly related and connected to the administration of the program and personally identifiable information will not be shared with advisory or other bodies that do not have the official responsibility for the administration of the program. Information gathered from other agencies and entities for the administration of the program will not be shared or divulged except when the job candidate provides written consent for re-release.
- l. Tracking of information shared with other organizations will be kept in the case record according to HIPAA Rules.

3. RE-DISCLOSURE OF HIPAA PROTECTED INFORMATION

a. Third Party Requests for Information:

IVRS will re-disclose personal health and vocational information with written consent of the job candidate, and parent/guardian if the job candidate is less than 18 years of age or has a legal guardian if over the age of 18. The written consent must clearly specify to whom the information will be disclosed, the information that the job candidate wants IVRS to disclose (i.e. social security number, date and place of birth, medical records, psychiatric records, vocational reports, etc.), and, where applicable, the timeframe of the information to be disclosed (i.e. school year, calendar year, specific month, etc.).

IVRS will not honor a blanket consent for all information in a case record. Only the information specified by the consent of the job candidate will be disclosed. When necessary, IVRS will validate the job candidate's request and, where applicable, the identity to whom the record is being disclosed (i.e. when the consent to disclosure is to be a specific individual).



When re-releasing information to the individual or a parent/guardian IVRS will consult with the originating medical provider to obtain permission. If permission is not received, the individual or parent/guardian will be directed to the originating medical source to obtain the information.

If the source of the request for information is from a third party (not the individual nor a court of law), re-disclosure of external records and reports along with IVRS generated documents may be re-disclosed with the written consent of the job candidate as long as the release details the information as described above. For protected information (substance abuse, mental health, and HIV/AIDS) the release must specifically state this information may be re-released.

b. Release for Subpoena or Court Order:

If the source of the request is a subpoena or court order, the terms of the subpoena or order dictate what information must be disclosed. External records and reports in the organization's possession must be disclosed if they are within the scope of the subpoena or court order. However, IVRS staff cannot attest to how those records were originally created, but only how those records are used in daily IVRS operations. Ultimately, the admissibility of the requested information in court is not the concern of IVRS when it is in response to a court order or subpoena. IVRS staff should immediately contact their supervisor and the IVRS staff attorney if served any type of court document.

If the job candidate is unable to come to the office, IVRS staff should send a release form (R-407) to them with the appropriate instructions identifying places for signatures marked with an asterisk and include information regarding the cost.

4. RELEASE FOR AUDIT, EVALUATION AND RESEARCH

Personal information concerning a job candidate of IVRS may be released to an organization, agency, or individual engaged in audit, evaluation, or research only for purposes directly related and connected with the provision and administration of the vocational rehabilitation program; or for purposes that would significantly improve the



quality of life for recipients and eligible individuals only if the organization, agency, or individual assures that:

- a. The information will be used only for the purposes for which it is being provided;
- b. The information will be released only to persons officially connected with the audit, evaluation, research, or program;
- c. The information will not be released to the individual involved;
- d. The information will be managed in a manner to safeguard confidentiality;
- e. The final product will not reveal any personal identifying information without the informed written consent of the job candidate or the job candidate's representative;
- f. The information will not be released to other programs or authorities without the job candidate's or, if appropriate, the job candidate's representative's consent as long as the information being released is necessary for the program receiving it;
- g. Medical or psychological information may be released to other organizations if IVRS determines that it is being released only for the purpose for which it was requested and not directly to the job candidate;
- h. The state IVRS agency must release personal information if required by federal law or regulations;
- i. IVRS must 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; and
- j. IVRS may also release information that is personal to protect the individual or others if the job candidate poses a threat to his or her safety or to the safety of others.



All requests for job candidate information from such organizations, agencies, or individuals are to be forwarded to the State Office, Attention: RSB Bureau Chief. Each request will be evaluated as to its potential contribution to the field of rehabilitation and to the state agency, the staff time that would be required to respond, the complexity of the request, and the relative ease of retrieving the requested information. The team's recommendations will be forwarded to the Administrator for final disposition.

IVRS may release personally identifiable information in emergency situations to protect the individual or others when the individual poses a threat to the safety of self or others. A written request is not required, but all facts and circumstances must be recorded in the job candidate's case record.

Failure to observe these requirements is a violation of Public Law 93-282, Iowa Code Section 228.2, and Iowa Code Section 141A.9.

5. AUTHORITY FOR RELEASE OF INFORMATION

- a. IVRS Form R-407, when properly completed and signed, fulfills the requirements for release of alcohol and drug abuse, mental health, and HIV/AIDS information. Information about a person's diagnosis and disabling condition tends to permeate the case file. Care must be taken not to release information that inadvertently reveals restricted information, unless the special release authorization is signed.
- b. To be valid under Iowa law, a release directed to IVRS for job candidate records must:
 - i. Be in writing and directed to the agency. (A person can be presumed to have given informed consent if the release is directed "To Whom It May Concern", "To Any and All", or other non-specific designators);
 - ii. Give the name or title of the organization or individual to whom disclosure is to be made;
 - iii. Include the name and signature of the job candidate;



- iv. Specify the extent or nature of the information to be disclosed; Drug and alcohol abuse, mental health, and HIV/AIDS information must be specifically cited to be included;
 - v. Include a statement that consent is subject to revocation at any time and specify the event or condition upon which it will expire without revocation; and
 - vi. Show the date on which the consent was signed.
- c. When properly completed, a general patient's waiver is an acceptable release of information form for all but the specially restricted types of information.

6. INACCURATE OR MISLEADING INFORMATION

Any recipients and their representatives are informed that any information they determine as inaccurate or misleading may request that IVRS amend the information. If the information is not amended, the request for an amendment must be documented in the record of services or placed atop the information showing the request of the individual and the information that is not accurate in the individual's opinion.

7. HIPAA REQUIREMENTS

For purposes of the HIPAA, the area office supervisor is the designated Privacy Officer. Staff must document in the file any covered information that is released.

8. HIPAA PRIVACY OFFICER

If case files are taken out of the office during work hours, they must be in the IVRS staff's possession at all times, or in a locked briefcase, file or trunk.

9. SSA/VA MEDICAL INFORMATION REQUIREMENTS

The following is the process when handling, storing and destroying CDs containing confidential job candidate records:

- a. Job candidate information from the SSA and VA may be received on a CD by the IVRS office;
- b. The CD will not be duplicated at the local or state level, which maintains compliance with the Memorandum of Agreement with the SSA;



- c. The CD will be kept in the case record in an appropriately sized envelope that is securely affixed to the back cover of the case record;
- d. The CD is treated the same as all confidential case record information and is not copied or distributed to any person or entity outside of IVRS. This includes any staff person who is not authorized to receive the information without the written consent of the job candidate;
- e. The CD is sent inside the case record to the closed case files section of IVRS when the case is closed;
- f. The CD and the case record will be retained for four years following the closure of the case;
- g. The CD will be sent to IVRS IT Help Desk for destruction when the IVRS case is being destroyed;
- h. Failure to follow any of these steps poses a security risk and jeopardizes the ability of IVRS to obtain records from SSA and could result in discipline.

10. EXCEPTIONS

- a. Taking case records out of the office overnight requires supervisory approval.
- b. Not paying for, or paying less than, the established fees for case file information.

11. APPLICABLE FORMS

- a. [Authority for Release of Information \(R-407\)](#)
- b. [Consent for Release of Safe Data](#)
- c. [Request for Exception to Policy](#)
- d. [SSA-3328 Release Form](#)
- e. [Statement of Understanding](#)
- f. [University of Iowa Release](#)