

Erie County Board of Mental Retardation and Developmental Disabilities

Records

April 2005

Records Control and Confidentiality Policy

I. Policy

- A. It is the policy of the Erie County Board of MR/DD (ECBMRDD) to collect, use, store, disclose, and destroy information about individuals with disabilities in accordance with Sections 5123: 2-1-02, 3301-51-02, 5123:2-1-04, 5123:2-1-06, and 5123:2-9-04 of the Administrative Code.
- B. Any revisions to this policy will be made known to individuals, parents, guardians, and residential providers via regular Board mailings by each department
- C. The ECBMRDD will review this policy and its implementation by conducting quarterly records reviews
- D. Records and reports related to the program will be submitted as requested by the Ohio Department of Mental Retardation and Developmental Disabilities (ODMRDD)

II. Purpose

The Board acknowledges that all information maintained in an individual's official file shall be for valid programmatic purposes only and the confidentiality of such information shall be safeguarded through the implementation of the following procedure.

III. Procedure

- A. Records collection, use, and storage
 1. Each individual's central record will contain at a minimum the following information:
 - a. Name and address of the individual
 - b. Verification of age/birth
 - c. Parent/guardian name, address, and phone number when applicable
 - d. Verification of eligibility
 - e. Documents used to determine eligibility
 - f. Application for enrollment
 - g. Initial Individual Plan (IP)
 - h. Evaluations/assessments
 - i. Subsequent IP's and reviews
 - j. Current emergency contact information
 - k. Documentation of services provided by the ECBMRDD
 - l. Unusual Incident (UI) reports
 - m. Accident reports
 - n. Major Unusual Incident (MUI) summary of investigative findings
 2. Individual (except Early Intervention and Preschool) and Medicaid waiver records will be maintained in the Service and Support Administration offices of

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- the ECBMRDD. Other records will be maintained in the offices where the programs are administered.
3. Any information filed electronically will be treated in the same manner as this policy requires.
 4. The Records Control Clerk will be responsible for assuring the safekeeping and confidentiality of individual records maintained at the ECBMRDD.
 5. Only the following persons shall be permitted to inspect and review records:
 - a. The parent of an individual who is under the age of eighteen;
 - b. The guardian of an individual with disabilities (when within the scope of guardianship authority);
 - c. The individual with a disability;
 - d. The Erie County Board of MR/DD and the superintendent of the Board.
A current list of names and positions of staff and administration that have access to the personally identifiable data maintained in individual records will be submitted by each department head for approval by the superintendent and maintained in the applicable records area. This list will be updated as required by the Records Control Clerk;
 - e. Representatives of public or private service agencies who present a valid release of information form signed by the parent, guardian, or individual with disabilities as appropriate;
 - f. Authorized representatives of the Ohio Department of MR/DD, Ohio Department of Health, Ohio Department of Job and Family Services, and the Ohio Department of Education;
 - g. Authorized representatives of the local school district who have been determined by the school district of placement to have a legitimate educational interest;
 - h. Federal and state officials in connection with the audit and evaluation of state and federally supported programs or in connection with the enforcement of or compliance with the state or federal legal requirements which relate to these programs;
 - i. A duly authorized court official or law office in compliance with court ordered subpoena
 6. The Records Control Clerk or designee will keep a record of the parties requesting and/or gaining access to an individual's specific information. The records will be maintained in the individual's file and will include the following:
 - a. The name of the party gaining access;
 - b. The date access was granted;
 - c. The purpose for which the party was authorized to use the data.
 7. Records may be removed from the applicable administrative office only by persons with written authorization from the Superintendent or designee. The "permission to remove records" form will be used to document that authorization.
 8. Records will be available for review within the guidelines of this policy between the hours of **8:00 am to 4:00 pm** Monday through Friday excluding designated holidays, lunch, and break times of the Records Control Clerk.

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9. No information that could identify another individual will be maintained in an individuals' record.
10. Only teachers, Early Intervention (EI) Specialists, Help Me Grow (HMG) Service Coordinators, Service and Support Administrators (SSA's), nurses, professional therapists, job coaches, and work floor specialists may keep a separate working file. No originals will be kept in this file. This file is a working file and it may consist of a copy of the most current plan and any reviews, a copy of the most current behavior support plan, progress notes, emergency medical information, and the current month's documentation. Such working files are considered confidential and only released in accordance with this policy.
11. The ECBMRDD transportation supervisor and the drivers shall be entitled to information that is essential to insure the health and safety of individuals they are directly responsible providing transportation services. This includes but is not limited to pertinent medical information, information need to implement behavior intervention plans, and emergency contact information.
12. Records will be maintained according to the following schedule:
 - a. Medicaid records necessary to fully disclose the extent of services provided and significant business transactions will be maintained for a period of six years from the date of receipt of payment based upon those records or until any audit initiated within the six year period is completed. Medicaid records would include IP's and service documentation for Home and Community Based Waiver Services (HCBS), Community Alternative Funding Systems (CAFS) Services, Title XX Services, and PASRR Specialized Services.
 - b. A permanent record will be kept indefinitely for each individual who has received services from the ECBMRDD. This record will include at a minimum items listed in section (III) (A) (1) (a-i).
 - c. Nursing services will maintain physician medication orders and other medical information indefinitely.
 - d. All other records will be maintained for a minimum period of three years. The process for data destruction outlined in section 3.3 of this policy will be followed when records are determined to be no longer necessary to program services or documentation.
13. Amendments to records:
 - a. A parent, guardian, or individual with disabilities, as appropriate who believes the data maintained, collected, or used for educational or training decisions regarding said individual are inaccurate or misleading, or violates the privacy or individual's rights, may request the ECBMR/DD to amend the data. This request may be submitted to any Board employee, who shall immediately forward it to the Records Control Clerk.
 - b. After the board receives a request, the Records Control Clerk will inform the applicable director of the request. The director will via the Records Control Clerk inform the parents, guardian, or individual with disabilities, as appropriate, in writing of the decision within a reasonable period of time and in no case longer than forty-five (45) days after receipt of the request.

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- c. If the director decides to refuse to amend the data, the parent, guardian, or individual shall be advised of his/her right to a records hearing to challenge information contained in such records. The purpose of the hearing is to ensure that the disputed information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the individual.
14. The procedures for a records hearing is as follows:
- a. The records hearing will be held within forty-five (45) days after the Board has received the request for a hearing. The parent, guardian, or individual with disabilities shall be notified in writing of the date, place, and time of the hearing at least seven (7) days in advance of the hearing.
 - b. The hearing will be conducted by the Superintendent of the ECBMR/DD.
 - c. The parent, guardian, or individual will be afforded a full and fair opportunity to present evidence relevant to the issues and may be assisted or represented at his/her own expense, including an attorney,.
 - d. The ECBMR/DD will make its decision in writing within fourteen (14) calendar days after the conclusion of the hearing.
 - e. The decision reached will be based solely on the evidence presented at the hearing. A written summary of the evidence and the reason for the decision will be included with the decision.
- IV. Records disclosure
- A. Persons with a legitimate right to access an individual's central record as defined in (III) (A) (5) of this policy will, upon request, be given a list of the types and locations of all such records kept or used in the program.
 - B. A parent or guardian of a child wishing to inspect and review any educational records relating to his/her child shall be granted such a request without unnecessary delay and before any meeting regarding an Individual Education Program (IEP) or hearing relating to the identification, evaluation, or placement of the child and in no case more that 45 days after the request has been made. The Board will not assess any fee for copies of records made for the parent/guardian under this stipulation.
 - C. Parents/guardians of children shall be notified of the right to obtain a copy of any data which has been obtained or used for the purpose of making educational decisions regarding their child through the inclusion of this policy in the parent handbook and orally, in their native language, during the intake interview, the ISP conferences, and upon request.
 - D. Staff or other authorized persons desiring copies of information from an individual's master file may request copies by completing a records copy request.
 1. Requests for copies must be made to the applicable administrative office.
 2. The copy request must list the requested information and the purpose for the request.
 3. It must be completed and signed by the individual/board staff/parent/guardian who is requesting the records.

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4. Copies will be made available to the requesting party within a five day turnaround time.
 5. The Records Control Clerk will copy the necessary documents and send the copies to the approved party via departmental mail, U.S. mail, or fax.
 6. The approved copy request will become part of the file.
- E. Information maintained in an individual's central record and on an electronic data base or file maintained by the Board will not be transmitted to any other person or agency without the written consent of the individual with disabilities, the parent of a minor child, or a legal guardian of an individual with disabilities.
- F. A written consent from the parent/guardian or individual with disabilities will be obtained before disclosure of personally identifiable information. The written consent must be dated and signed by the consenter and include:
1. A specification of the records to be disclosed;
 2. The purpose(s) of the disclosure; and
 3. The party or class of parties to whom the disclosures may be made;
 4. The period of time for which the disclosure is effective
 5. Written consent forms will become part of the file.
- G. The Records Control Clerk or designee will copy the necessary documents and send the copies to the approved party via departmental mail, U.S. mail, or fax.
- H. The following individual information can be released without written consent of the parent if disclosure is made:
1. to other school officials, including teachers, within the school district or other educational agency who have been determined by the school district, or other educational agency to have legitimate educational interests;
 2. to officials of another school, school district, or other educational agency where the student seeks or intends to enroll
 - (a) When the transfer of records is initiated by the parent at the sending school district or other educational agency
 - (b) when the school district or other educational agency annually notifies parents, or student(s) who have reached the age of majority that it forwards educational records on request to a school district or other educational agency in which a student seeks or intends to enroll, or
 - (c) After a reasonable attempt to notify the parent, at the parent's last know address, that the transfer of records has been made;
 3. When disclosure is made pursuant to this section, the school district or other educational agency will, upon request, provide a copy of the record that is disclosed to the parent and to the student, if so requested by the student's parent.
 4. To others specified in the Family Educational Rights and Privacy Act.
- I. Records disclosure and use will be limited to legitimate programmatic purposes to include the following: education, habilitation, or vocation programming, planning, evaluation, placement, and medical, psychological, behavior support/monitoring.

V. Records destruction

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Review Type: Annual

Revised: 6/15/06, 8/16/07

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- A. Information maintained in an individual's record that is no longer needed for educational, training, or case documentation may be scheduled for destruction after approval of the parent, guardian, or individual with disabilities, as appropriate, has been obtained.
- B. At the time records are determined no longer necessary as stated above the individual, parent, or guardian will be presented with the options to physically take those records for their own safekeeping or to request that the Erie County Board of MR/DD destroy those records. Either decision will be documented in writing and placed in the permanent record of the individual.
- C. A request for approval to destroy data will indicate to the parent/guardian/individual which records the Board intends to destroy.
- D. Any request to destroy records will be approved by the Erie Superintendent or designee.