



DIVISION OF DEVELOPMENTAL DISABILITIES
Olympia, Washington

TITLE: DRW ACCESS TO CLIENT RECORDS POLICY 13.04
MAINTAINED BY DDD

Authority: 42 U.S.C. Chapter 144 sec. 15003, et seq. (as amended)
Developmental Disabilities Assistance and Bill of Rights Act of 1975
45 CFR 1385-1386
RCW 71A.10.080
2000 Access Agreement between DRW and DDD/DSHS

PURPOSE

This policy establishes guidelines for complying with the 2002 Access Agreement negotiated by the Division of Developmental Disabilities (DDD) and Disability Rights of Washington (DRW). The agreement provides DRW access to the records of division clients for the purpose of monitoring, advocacy, and investigation of alleged violations of rights, abandonment, abuse, exploitation, or neglect.

SCOPE

This policy applies to Field Services and State Operated Living Alternative (SOLA) employees and to records maintained by DDD which are associated with individuals with developmental disabilities living outside of the Residential Habilitation Centers (RHCs).

DEFINITIONS

Individual with a developmental disability is a person who is currently eligible for services from DDD or whose application for DDD eligibility is currently under consideration. This includes persons who died while they were clients of DDD or current DDD clients whose whereabouts are unknown.

Marr Class Member means any DDD enrolled individual who is currently residing at Eastern State Hospital (ESH).

Probable cause means reasonable grounds for belief that a DDD client has been or may be subject to abuse or neglect. The individual making such determination may base the decision on

reasonable inferences drawn from his/her experience or training regarding similar incidents, conditions or problems that are usually associated with abuse and neglect.

Records include client information in the possession of DDD. This includes reports prepared by any state employee or reports prepared by an agency charged with investigating reports of incidents of abuse, neglect, injury, or death, which describe incidents of abuse, neglect, injury, or death occurring at a facility, investigative documents and discharge planning records.

POLICY

DDD staff will assist and support DRW access to the DDD records of individuals with developmental disabilities living outside of RHCs and provide DRW with requested records and information in accordance with governing law [42 U.S.C. Chapter 144, sec. 15003] and the 2000 Access Agreement between DRW and DDD/DSHS. This policy also governs access to records for *Marr* class members currently residing at ESH.

PROCEDURES

- A. DRW shall be given access to DDD records of individuals with disabilities under any of the following circumstances:
1. DRW staff provide a valid, written consent from the DDD client or his/her legal representative;
 2. The individual is a *Marr* class members currently residing at ESH;
 3. For individuals who do not have guardians/legal representatives and who lack capacity to consent, DRW shall have access to the individual's records upon showing that it has received a complaint regarding the individual or has determined there is probable cause to believe the individual has been abused or neglected;
 4. For individuals who have guardians/legal representatives, whenever DRW informs DDD it has received a complaint regarding the individual or has probable cause to believe the individual has been abused or neglected, DDD shall provide DRW contact information pursuant to this policy so that DRW can contact the guardian/legal representatives to offer assistance. If the guardian/legal representative declines DRW's offer of assistance, DRW will obtain court approval prior to accessing that individual's records.
- B. DRW has agreed to the following procedures when requesting access to records:
1. To identify themselves by showing a DRW photo identification badge;

2. To inform DDD staff of the purpose and role of DRW;
 3. To allow DDD staff to be present when original records are reviewed to ensure DRW staff does not remove original records;
 4. To limit copying requests to records which DRW considers necessary for the investigation; and
 5. To pay fifteen cents per page for copies of any records.
- C. DDD has agreed to the following when DRW is authorized access to client records pursuant to this policy:
1. Upon request by DRW, provide the name, address and telephone number of guardians/legal representatives by 5:00 p.m. of the business day following a request;
 2. Schedule an appointment with DRW to review the specified records within two working days of the request;
 3. Set the appointment for reviewing these records within five working days of the original request;
 4. Charge no more than fifteen cents per page for copies of any records and to provide these copies at the time of the visit. If this is not feasible, copies will be provided no later than ten working days following the request.
 5. Not to charge for any services other than copying costs for records DDD is required to provide.
- D. DDD staff must use [DSHS 15-252, DRW Access Request Checklist](#), to document DRW Access requests.

EXCEPTIONS

Any exceptions to this policy must have the prior written approval of the Division Director.

SUPERSESSION

DDD Policy 13.04
Issued June 1, 2007

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Approved: /s/ Linda Rolfe
Director, Division of Developmental Disabilities

Date: January 15, 2010