

**CRAWFORD COUNTY BOARD OF DD**  
**POLICY AND PROCEDURE MANUAL**

**CONFIDENTIALITY**

**SECTION 4.9**

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**A. PURPOSE**

To safeguard each individual's right to confidentiality in the receipt of services from the CCBDD.

**B. APPLICATION**

The provisions of this directive shall apply to all CCBDD members, employees, volunteers/interns, contract services employees of all departments of the CCBDD.

**C. DEFINITIONS**

1. Destruction means physical destruction of a record by means of a shredder or removal of personal identifiers from information so that the information is no longer personally identifiable.
2. Directory Information includes the following information relating to an individual: the individual's name, address and telephone number. Directory information is kept in the school office, Waycraft office and Community Service Division office and is accessible to secretaries and management staff. Directory information is never published or given to individuals and is considered confidential with access only to individuals as indicated in this policy.
3. Disclosure means permitting access or the release, transfer, or other communication of records of the individual or the personally identifiable information contained therein, orally or in writing, or by electronic means, or by any other means to any party.
4. Program records mean those records that are directly related to an individual and are maintained by the CCBDD or by a party acting for the agency. The term does not include those records that are excluded under Federal Regulations.
5. Guardian means either parent or legal guardian. If the parents are separated or divorced, "parent" means the parent with legal custody of the handicapped child. "Parent" also includes a child's guardian, custodian or parent surrogate. At age eighteen, the individual must act in his or her own behalf, unless he/she has a court-appointed guardian. This term does not include the state, if a child is a ward of the state.
6. Personally Identifiable Data includes:
  - a. The name of the individual and the individual's guardian.
  - b. The address of the individual and guardian.
  - c. A personal identifier, such as the individual's date of birth, Social Security number, or Medicaid/Medicare number.

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- d. A list of personal characteristics or other information which would make it possible to identify the individual with reasonable certainty.
- 7. Record means any information or data recorded in any medium including, but not limited to: photographs, handwriting, print, tapes, film, microfilm, microfiche and automated data bank.

**D. PHILOSOPHY**

Confidentiality is the basis for all personal relationships, as well as for the respect due personal privacy. It involves intimacy, trust, confidence, and is the key to any and all therapeutic relationships. A breach in confidentiality occurs when individual information is passed along to a second individual without the individual's or guardian's knowledge, when information can be used against the individual's welfare or services or when information draws undue attention to the disability, rather than normalization capabilities. The goal of all individual discussions or information seeking must be to serve the individual.

Crawford County Board of DD strives to protect the privacy of enrollees and staff to the fullest extent of the law. No confidential information on enrollees will be revealed to the authorities without the presentation of a subpoena or search warrant. Crawford County Board of DD will release only as much information as required to service providers.

**E. SUBJECT CONTENT**

**1. Confidentiality**

- a. All information contained in an individual's records, including information contained in an automated data bank, shall be considered confidential. The content of these records is never the subject for discussion, except as an official member of an education/habilitation team or a hearing related to identification of evaluation or placement of the individual.

**2. Responsible person for ensuring confidentiality of records:**

- a. The Service and Support Administrator/ team leader is responsible to ensure the confidentiality of information of each individual receiving services.
- b. It is the responsibility of the Service Support Administrator/team leader to see that each individual is adequately represented by his/her natural parent(s), parent(s) having legal custody, legal guardians(s) or custodian(s), surrogate parent(s).

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

**3. Access Rights**

- a. The individual has the right to inspect and review any agency record related to his or her enrollment in any division of the CCBDD, a court-appointed guardian has the same right, with respect to the records of his/her appointee.
- b. Any program department shall comply with the individual or guardian's request for access to confidential material without unnecessary delay. (within one working day). Requests occurring before an IEP/ISP 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 Local Educational Agency (LEA), the response time shall be no more than forty-five days after the request has been made.
- c. The CCBDD will not charge a fee for copies of records that are made.

**4. Records Access**

- a. An individual's record is removed from the CCBDD jurisdiction and safekeeping only in accordance with a court order, subpoena, search warrant, investigation or other legal action or statute. Individual records shall not be removed from the CCBDD for any other reason.
  - i. Procedures for Staff:

Staff will follow these procedures if someone asks for confidential enrollee information (such as names, addresses, and services received) or presents a subpoena or search warrant.

    - 1. Members of the staff who are approached by anyone alleging to be a law enforcement officer should immediately contact their supervisor. Do not disclose any information. Refer the person to the supervisor.
    - 2. If the person is not a law enforcement officer, or the officer does not have a subpoena or search warrant, the agency will not furnish any confidential information.
    - 3. The supervisor shall: Ask for the officer's identification and the subpoena or search warrant. Photocopy the ID and contact the law enforcement agency to verify the identity of the officer.
    - 4. If presented with a search warrant, staff will not interfere with the search and seizure. If this happens at night or on a weekend, contact the Superintendent.
    - 5. Always cooperate with law enforcement agents who have shown appropriate identification and authorization for the search. If the agent requests a password to databases, give it. The password is not the staff member's personal property. Failure to cooperate by,

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for example, refusing to give a password to an agent, may qualify as acting outside the scope of one's employment and subject the staff member to disciplinary action. Interfering with or impeding a lawful search may constitute as a criminal offense under State and Federal law.

- b. Each Service Support Administrator/team leader shall develop a list of the types and locations of records collected, maintained, or used by them, and shall provide this list to the individual or guardian on request.
  - c. The department clerical specialists shall implement procedures to keep a record of parties obtaining or given access to records collected, maintained, or used. Record of access/disclosure shall be kept on parties reviewing the files and of parties to whom information is sent, including:
    1. Name of the party;
    2. Date access was given; and
    3. Purpose for which the party is authorized to use the data
- 5. Amendment of Record at Individual's Request**
- a. An individual who believes that information in his/her records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights, may make a written request to the department, which maintains the information to amend the information.
  - b. The administrative personnel shall direct the request to the CCBDD Management Team, which shall decide whether or not to amend the information within 30 days after the administrative personnel/designee, has received the request.
  - c. If a decision is made not to amend the information in accordance with the request, the administrative personnel/designee shall inform the individual or guardian of the refusal and advise the individual of the right to a records hearing to challenge information in the program records, to ensure that it is not inaccurate misleading; or violation of the privacy of other rights of the individual.
  - d. A records hearing shall be set up at an individual's or guardian's request and will adhere to the following:
    1. The records hearing shall be held within 30 day after the administrative personnel/designee has received the request, and the individual or guardian shall be given notice of the date, place, and time, at least 10 days in advance of the hearing.
    2. The records hearing may be conducted by any party, as designated by the Superintendent, including an official of the agency, or another agency who does not have a direct interest in the outcome of the hearing.
    3. The individual or guardian shall be afforded a full and fair opportunity to present evidence relevant to the issues and may be assisted or represented by individuals of his or her choice, at his/ her own

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expense, including an attorney. The hearing representative shall make his/her decision in writing to the Superintendent within 10 days after the conclusion of the hearing. The decision shall be based solely upon the evidence presented at the hearing and shall include a summary of the evidence and the reasons for the decision.

**6. Results of records hearing**

- a. If, as a result of the records hearing, it is decided that this information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the individual, the administrative personnel/designee, shall amend the information accordingly, and so inform the individual or guardian, in writing.
- b. If, as a result of the records hearing, it is decided that the information is not accurate, misleading, or otherwise in violation of the privacy or other rights of the individual, the administrative personnel/designee shall inform the individual or guardian of the right to place in the records the agency maintains on the individual a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.
- c. Any explanation placed in the records of the individual under this paragraph shall be maintained by the CCBDD as part of the records of the individual, as long as the record or contested portion is maintained. If the records of the individual, or the contested portion are disclosed to any party, the explanation must also be disclosed to the party.

**7. Safeguards**

- a. All CCBDD personnel collecting, maintaining, using or otherwise having access to personally identifiable data 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 assuring the confidentiality of any personally identifiable data.
- c. Each department shall maintain, in the administrative office, for public inspection, a current listing of the staff names and positions of those employees, within the division, who may have access to the personally identifiable data.
- d. The Clearwater COG Quality Assurance Staff will have access to the individual's files in order to complete the Service Excellence/Summary (SES) as scheduled. During this review the COG staff may need to copy documents such as assessments, ISPS, etc. Upon completion of the report the COG staff shall shred the copied documentation at the COG office (either Oak Harbor or Marion).

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**8. Prior Consent for Disclosure**

- a. Personally identifiable information from the program records of a individual may be disclosed without the written consent of the individual, if the disclosure is:
  1. To other staff within the agency who have been determined by the Superintendent or designee to have a legitimate program interest.
  2. 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:
    - i. When the transfer of records is initiated by the individual at the sending school district or other educational agency;
    - ii. 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
    - iii. After a reasonable attempt to notify the individual's last known address that the transfer of records has been made.
    - iv. To 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.
- b. Written consent of the individual or guardian will be obtained before disclosing personally identifiable information from the records of the individual. The written consent required by this paragraph must be signed and dated by the individual or guardian giving the consent and shall include:
  1. A specification of the records to be disclosed;
  2. The purpose or purposes of the disclosure; and
  3. The party or class of parties to whom the disclosure may be made and time period the permission is granted.
- c. When a disclosure is made a department shall, upon request, provide a copy of the record that is disclosed to the individual or guardian.
- d. Disclosure of information also includes verbal sharing (meetings, telephone conversations, etc.), which requires written individual or guardian consent, as outlined above. Record of such disclosure shall be recorded on the access record.
- e. A release utilized by a department shall not exceed one (1) year.
- f. Transmission of approved information to requesting person or agency shall be through mail, email, fax or personal delivery.

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**9. Destruction of Information**

- a. The administrative personnel/designee shall inform the individual or guardian when personally identifiable information collected, maintained or used is no longer needed to provide program services to the individual.
- b. The personally identifiable information on an individual may be retained permanently, unless the individual or guardian requests that it be destroyed. The agency should remind the individual or guardian that the records may be needed by the individual or guardian for Social Security benefits or other purposes.
- c. Written permission will be obtained prior to the destruction; however, a permanent record of an individual's name, address, phone number, attendance record, program attended, level completed, and year completed may be maintained without limitation.
- d. In all cases, records must be maintained for seven (7) years after the service has been provided or for six (6) years after a Medicaid audit. Copies of records will be made available to the individual or guardian prior to destruction.

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The following records are kept in the Community Services Division and are subject to the CCBDD Confidentiality Policy.

- Intake and Eligibility Records for all persons applying for County Board Services.
- Community Service Division case files for all eligible individuals receiving services.
- Family Support case records.
- Supported Living records including Service Excellence Summaries.
- Case management records including reports.
- Residential Support records including waiver services.
- Residential Waiting List records
- Incident reports

**Persons Having Access to Records**

- A. Administrative Staff of the CCBDD which includes: Superintendent; Director of Community Services; Adult Services Manager; Director of Waycraft Industries, Inc.; Education Supervisor; Community Employment Manager; Business Manager; Executive Administrative Assistant.
- B. Community Service Division which includes: SSAs; Community Services' Secretary.
- C. Support and Related Personnel which includes: Facility Nurse(s); O/T & PT Personnel; Psychologist; Clearwater C.O.G. I.A, and Clearwater C.O.G.
- E. Other persons related to DODD for purpose of Quality Assurance and reviews.

The following records are kept in the Fairway School Office and are subject to the CCBDD Confidentiality Policy.

- **Early Intervention**
  - Intake
  - Assessments
  - Medical
  - Attendance
  - IFSP
  - Incident Report Forms
- **Preschool**
  - Intake
  - Multi-factor Evaluation (MFE)
  - Individual Education Plan (IEP)
  - Attendance
  - Incident Report Forms
- **School Age**
  - Intake
  - Multi-factor Evaluation (MFE)
  - Individual Education Plan (IEP)
  - Attendance
  - Incident Report Forms

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**Persons Having Access to Records**

- A. Administrative Staff of the CCBDD which includes: Superintendent; Director of Community Services; Education Supervisor; Business Manager; Executive Administrative Assistant.
- B. Fairway Staff, Facility Nurse(s), and representatives from contracted entities.
- C. Clearwater COG – Investigative Agent
- D. Other persons related to DODD for purpose of Quality Assurance and reviews

The following records are kept in the Waycraft Business Office and are subject to the CCBDD Confidentiality Policy.

**- Adult Services Program Files**

- Intake Records
- Evaluation Data
- Individual Support Plans
- Behavior Support Plans
- Incident Records

**Persons Having Access to Records**

- A. Administrative Staff of the CCBDD** which includes: Superintendent; Director of Community Services; Adult Services Manager; Director of Waycraft Industries, Inc.; Community Employment Manager; Business Manager; Executive Administrative Assistant.
- B. Adult Services/Waycraft Industries** which includes: Waycraft Secretary; Adult Services Secretary; Community Employment Secretary; Service/Support Specialists; Special Olympics Coordinator; Job Developers; Life Coach; and Production Supervisors.
- C. Community Services Division** which includes: Community Services' Secretary and SSAs.
- D. Support Related Personnel** which includes: Facility Nurse(s); O/T & P/T Personnel; Investigative Agent; Clearwater C.O.G. SES Personnel.
- E. Other persons related to DODD for purpose of Quality Assurance and reviews**

The following records are kept in the Waycraft Business Office and are subject to the CCBDD Confidentiality Policy.

**-Waycraft Files**

- Payroll Records
- Attendance Records
- Production Records
- Incident Reports

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**Persons Having Access to Records**

- A. Administrative Staff of the CCBDD** which includes: Superintendent; Director of Community Services; Adult Services Manager; Director of Waycraft Industries, Inc.; Education Supervisor; Community Employment Manager; Business Manager.
- B. Adult Services/Waycraft Industries** which includes: Waycraft Secretary; Adult Services Secretary; Community Employment Secretary, Production Supervisors.
- C. Community Service Division** which includes: Community Services' Secretary; SSAs.
- D. Clearwater C.O.G. SES Personnel**
- E. Other persons related to DODD for purpose of Quality Assurance and reviews**

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