



Confidentiality Member Records

Policies regarding confidentiality of member information will be stressed and strictly adhered to. Confidentiality is a necessary condition for building trust between staff and members. It also is an expression of a member's right to privacy. Information about members, when released improperly and without a member's release, could also be damaging to the member. All staff will be made aware of the need for member confidentiality from orientation to repeated emphasis at staff meetings. All staff, volunteers and interns will receive training on confidentiality requirements. Any staff violating member confidentiality will be severely disciplined.

All member records will be stored in a safe and secure location. File cabinets will be locked. Only authorized personnel will have access to member records. All members or their legal representatives shall have access to the member's records in accordance with state and federal regulations. Members or guardians have the right to access their own records by asking staff at any time.

No member information will be released or disclosed without the written consent of the member, guardian, or legally designated other. In most instances, the member or guardian has the right to refuse the release of information. Accordingly, most services to members will not be contingent upon their decisions regarding release of information. In certain instances, release of information will be mandatory. Information shall be required if it is determined by Reach For Your Potential staff to be necessary for the member's diagnosis and/or treatment while in residence. Information can be required if it is necessary to determine a member's eligibility for admission to Reach For Your Potential's programs.

A release of information form will be used. It will specify what information is being released, to whom it is released, the reason for releasing this information, how it will be used, and the time period the release of information regarding mental health or substance abuse. Members or guardians will be informed that they have the right to revoke consent for release of information at that time. Members or guardians will receive a copy of each release of information form they sign.

In instances of disclosures required by law, bona fide medical and psychological emergencies and provider approval, certification or license, exceptions can be made to these confidential policies. When information is released without a signed consent, there shall be documentation of what information was released, to whom the information was released and circumstances prompting the release.

There are times when an agency is requested through a formal process to provide member information, which may include medical information. This information may be requested through a subpoena or search warrant. It is important for an agency to know how the request process works and how to respond to this request.



Subpoena is a document issued by a court at the request of one of the parties to a court case. It has the effect of a court order. Parties to civil or criminal proceedings can obtain subpoenas. There are three types of subpoenas:

- The first type requires a named person to attend court to give evidence.
- The second type requires a person to produce documents named in the subpoena. *Document* is widely defined to include photographs, discs, tapes and film as well as written documents.
- The third type of subpoena is a combination of the first two. It requires a named person to attend court to give evidence and produce documents.

A subpoena issued by a lower court, such as Magistrates Court may be called a “Summons” rather than a subpoena. A subpoena has the effect of an order of the court. If the person named in the subpoena does not comply with the request in the subpoena, the court may issue a warrant to apprehend that person.

Search Warrant is a legal document issued by the court giving legal authorization for a search and seizure of records, documents, evidence by a law enforcement officer or official.

Procedure for responding to a subpoena or summons

1. Notify the Executive Director or in their absence a Program Director.
2. The Executive Director or in their absence a Program Director will accept the receipt of the subpoena.
3. Note the time and date the subpoena is received.
4. Determine the date the subpoena must be complied with and obtain legal advice as soon as possible.
5. If the subpoena is a request for member confidential information, then the Privacy Officer will obtain a written authorization to provide the requested information from the member concerned or his/her guardian. If the member or his/her guardian refuses, then seek legal advice.
6. If the subpoena is a request for an agency employee to appear in court the HR Director will notify the employee that he/she will need to appear at the date, time and location indicated on the subpoena.
7. If the subpoena is a request for an agency employee to appear in court and provide a member’s confidential information then the HR Director will notify the employee that he/she will need to appear at the date, time and location indicated on the subpoena **and** Privacy Officer will obtain a written authorization to provide the requested information.
8. Prepare a letter to accompany documents sent to the court. If any of the documents are not found, the court should be advised of this in the letter sent in response to the subpoena.
9. Retain the original subpoena or summons.
10. Deliver the documents to the court and not to the party to the legal proceedings who requested the subpoena.
11. Notify and update the Board President concerning the subpoena.

Procedure for responding to a search warrant

1. Notify the Executive Director or in their absence a Program Director
2. The Executive Director or in their absence a Program Director will accept the receipt of the search warrant.
3. Assure the police officer that the agency will cooperate with any valid or legal investigation.
4. Ensure the search warrant has been issued by the court.
5. Monitor that only material named in the search warrant is taken during the search.
6. Object politely if police attempts to remove material that the agency believes is outside the scope of the warrant.
7. Keep a list of all materials taken in the search and if possible, make copies of the documents.



8. Do not have office employee's complete routine shredding of documents while the search is occurring as this sends the message that the agency is trying to destroy requested documents.
9. Keep notes of all requests made of the police during the search and their responses.
10. Obtain legal advice concerning the search and seizure of material as soon as possible.
11. Retain the original search warrant.
12. Notify and update the Board President concerning the search warrant.

Procedure for responding to other investigations

There are rare times when a person representing the state will show up unannounced to complete some type of investigation. The investigation may be concerning lawsuit, government initiative focusing on specific issues, follow-up on an audit irregularity, or some type of complaint. Regardless of the reason for the investigation agency employees have a responsibility to cooperate with investigators and do the following.

1. Notify the Executive Director or in their absence a Program Director
2. The Executive Director or in their absence a Program Director will meet with the investigators.
3. Assure the investigators that the agency will cooperate with any valid or legal investigation.
4. Provide the requested information to the investigators after obtaining legal advice if necessary.
5. Notify and update the Board President concerning the investigation.

I acknowledge that I have read this document and am familiar with its contents.

Printed name

Staff Signature

Date