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CONFIDENTIALITY

Purpose

The purpose of this policy is to delineate Variety Child Learning Center's (VCLC's) commitment to adhere to the Federal Family Education Rights and Privacy Act (FERPA), the Health Insurance Portability and Accountability Act (HIPPA), NYS Education Law Section 2-d, Early Intervention's Section 69-4.17, and VCLC's Standards of Conduct.

Confidentiality is a concept that ensures privacy and protection against disclosure of personal information. The way privacy and confidentiality are respected is an important factor in establishing trust between our staff and our families and between VCLC and its staff.

To work and plan together effectively, colleagues sometimes share sensitive information with staff with "a need to know". This material needs to be handled respectfully in a way that is relevant to planning and problem solving.

Scope

This policy applies to all Affected Individuals as defined in the Compliance Program Manual Section A and the clients who receive services from or attend programs at VCLC.


Definitions

Affected Individual means all persons who are affected by VCLC's "risk areas," including our employees, the chief executive officer and other senior administrators, managers, subcontractors, independent contractors, volunteers, and governing body (Board of Trustees). Affected Individuals are sometimes referred to in this Compliance Program Manual as "you."

Disclosure means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record

Educational Records means those records that are: (1) Directly related to a student including medical records; and (2) Maintained by an educational agency or institution or by a party acting for the agency or institution.

Personally Identifiable Information (PII) are (1) The name of the child, the child's parent, or other family member; (2) The address of the child; (3) A personal identifier, such as the child's social security number or student number; or (4) A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty. (5) Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name; (6) Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or (7) Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

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Policy

Clients

A. It is VCLC's policy that the confidentiality of client records and parental access to such records is permitted only as directed in FERPA, HIPPA, and NYCRR 200.2(b)(6) as currently amended. Federal and state laws protect the confidentiality of personally identifiable information (PII), and safeguards associated with industry standards and best practices, including but not limited to, encryption, firewalls, and password protection, must be in place when data is stored or transferred (See VCLC's Data Security Plan 7/2022). Affected Individuals, as defined in the Compliance Program Manual, must sign the acknowledgment page in the Confidentiality policy.

B. A student's PII cannot be sold or released for any commercial purposes.

C. Affected Individuals may have access to PII. Access to confidential verbal or written material or records is restricted, according to FERPA, to professional staff specifically involved in that child's care and education. Whenever an Affected Individual uses a child's file, they must sign the Access to Records form in the front of the child's folder and the Access to Records form in the Master Log.

D. Parents have the right to access, inspect and review the complete contents of their child's education record.

E. In the Early Intervention Program, parents have the right to receive an explanation and interpretation of all material included in the child's record from the rendering provider.

F. Identifiable data, other information or records pertaining to individual students may not be disclosed by any employee of the school to any person other than the parent of the student except as directed in FERPA.


G. Staff must be aware of being overheard and not discuss confidential information in hallways and around the building or outside of school premises. Discussing a child's situation, outside of school, even without disclosing the name is a very serious violation of school policy.

H. Sensitivity and restraint must be used when responding to parents who speak or ask questions about other children or families.

I. Affected Individuals, including independent contractors, who are specifically involved in the client's care and education shall take confidential information from the central student files except when it is needed to provide services to the student. All confidential records must be kept in locked files. Staff log notes, and any identifying information that must be transported for IFSP/IEP meetings need to be transported in a closed envelope.

J. Records/any papers that have personally identifiable information must be disposed of by using a shredding machine.

K. Staff members may not take photos of the children for their personal use. Employees are not permitted to post information about a family or photos online, in blogs, websites or social networking sites, including but not limited to, Facebook, Instagram, Snapchat or chat rooms whether the information is positive or negative. This information is part of respect for confidentiality and a mandated responsibility as an employee of VCLC.

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L. When information about a child/family is in records that include information about multiple children, only information pertaining to that child/family can be released. Personally identifiable information about others must be protected. Only information appropriate to a request should be released. Extraneous or sensitive information about the child and family should be protected, through deletion of identifiable information about others.

M. Article 27-F of the New York State Public Health Law

Article 27-F strictly protects the confidentiality of information about the people who have HIV-Infection, or who have considered or undergone HIV testing. As such, the identity of any child with HIV infection cannot be disclosed to anyone without specific consent to the release of such protected information by the parent or legal guardian. This information may not be disclosed verbally or contained in any written records (e.g., evaluation, progress reports, etc.)

At VCLC, HIV-related information can only be disclosed if the parent signs the New York State Department of Health, Authorization for Release of Health Information (Including Alcohol/Drug Treatment and Mental Health Information) and Confidential HIV/AIDS Information, (DOH Form 5032). This written disclosure prohibits the re-disclosure of confidential HIV information.


The consent for the disclosure of this confidential information can only be made by completion of the Authorization for Release of Confidential HIV Related Information form. This form must be fully completed by the parent or legal guardian and must include the following information:

- to whom disclosure can be authorized
- the reason consent for disclosure is given
- the period during which such consent will remain in effect
- the signature of the parent or legal guardian of the child
- the date signed.

When consent for disclosure is given, information regarding the child will be forwarded to the specific individual identified on the consent form. In addition, a copy of the **Re-disclosure of Confidential Information** notifying the individuals that confidential information has been disclosed to them, must also be provided. Any unauthorized further disclosure (verbal or written) is in violation of New York State law and may result in a fine, jail sentence or both. It is important to note that general authorization for release of medical or other child-specific information is not sufficient authorization for the release of confidential HIV information.

Employees

A. Information concerning our budget, income, or expenditures, except as it may appear in the audit, or any material made public by VCLC.

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B. Minutes or content of all meetings arranged by the CEO and/or CFO in which Affected Individuals participate in discussing the work and policies of VCLC.

C. Any information given to staff in writing or verbally which is designated as confidential.


D. Salaries or other personal data pertaining to individual staff members to which an employee has access by nature of the work. This includes: all types of personnel material such as salary, evaluations, attendance records, data reported on application forms, references, written or received by VCLC or other material relevant to employment.

E. VCLC adheres to the protections afforded to Affected Individuals from the HIPPA and Article 27-F of the New York State Public Health Law.

Reporting Responsibility

Employees who have questions about this policy should immediately contact the coordinator/supervisor and/or compliance officer. All Affected Individuals are highly encouraged to report violations to this policy. Reports of concerns, and investigations pertaining thereto, shall be kept confidential to the extent possible (see Non-Retaliation and Non-Intimidation Policy, alias Whistleblower Policy), consistent with the need to conduct an adequate investigation (see Investigations and Implementing Corrective Action, including Discipline Policy).

Violations are extremely serious. They jeopardize the very structure of the educational and therapeutic efforts of VCLC and will be viewed as a major infraction. Disclosure of reports of concerns to individuals not involved in the investigation will be viewed as a serious disciplinary offense and may result in discipline, up to and including termination of employment. Such conduct may also give rise to other actions, including civil lawsuits (see Investigations and Implementing Corrective Action, including Discipline Policy).

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Acknowledgement of Confidentiality Policy

I have read, understood and will comply with Variety Child Learning Center's Confidentiality Policy.

Name: _____ Date: _____

Signature: _____

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Candidate Confidentiality and Non-Disclosure Agreement

I, _____ (name) understand and accept the following conditions regarding confidentiality and non-disclosure of confidential information while completing my clinical experience at Variety Child Learning Center.

In the performance of my clinical experience, I will be given access to data and information the school has determined to be confidential. This includes student records and may also include records of faculty or staff, business information, correspondence and other material.

Confidential information may come in various forms and formats including, but not limited to hardcopy, photocopy, microform, automated and/or electronic form, visual and verbal.

I am familiar with and understand the Family Educational Rights Privacy Act (“FERPA”) and its application to student education records. I am also aware that in New York State, Education Law Section 2-d exceeds FERPA by requiring additional protections of student data as well as teacher and principal annual professional performance (“APPR”) data.

I will not access confidential information, particularly student data, unless I am authorized by my school supervisor to do so, and I agree to maintain the confidentiality and privacy of confidential information, particularly student data, during and after my clinical experience. I shall not communicate verbally, in writing, by email or any other manner any confidential information to any third party including, my college supervisor as well as other colleagues, fellow students, friends and family members.

I am, or agree to become, familiar with the school’s data privacy and security policies, the parents’ bill of rights and FERPA policies.

I agree to attend any training on data privacy and security that the school may require.

(Candidate)

(date)

Variety Child Learning Center

(date)