

STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

- SUBJECT:** Access to Records and Facilities; Retention of Contract Records; Confidentiality
- EFFECTIVE:** This policy circular shall become effective July 1, 1988, and shall be implemented immediately.
- PROMULGATED:** July 1, 1988
- SUPERSEDES:** Policy Circular P8.01, promulgated March 24, 1986.

The purpose of this circular is to advise Department personnel and Provider Agencies of requirements for access to Provider Agency records and facilities, retention of Contract records, and confidentiality of client records.

I. SCOPE

This policy circular applies to all Contracts, as well as to all approved assignments and subcontracts.

II. POLICY

A. Public Access

The policy delineated below reflects many of the provisions of N.J.S.A. 47:1A-1 et seq., popularly called the "Right to Know Law", as well as Department of Human Services Administrative Order 2:01, "Confidential Nature of Records and the Right to Know".

1. Certain Contract documents are considered public records and therefore open to public inspection. For example:
 - Standard language documents ("boilerplates");
 - Appendices, and supporting materials;
 - Programmatic and financial reports;
 - Monitoring and evaluation reports;
 - Audit reports.
2. Every citizen shall have the right to inspect the above-designated public records during regular business hours after prior arrangements are made with the State or Provider Agency. Citizens shall also have the right, under the supervision of an appropriate State or Provider Agency official, to copy such records by hand

and also to have such records machine copied by the State or Provider Agency upon payment of a reasonable fee. Original records may not be removed from the State or Provider Agency premises.

3. Client records of any kind, including, but not limited to, case records, social histories, and eligibility, medical, and psychological records, are not considered to be public records and are not open to public inspection. Any client name and other direct or indirect identifying client information must be deleted before Contract records are made public. (Refer to D.2 below regarding confidentiality.)

B. Government Access to Provider Agency Records and Facilities

1. The Provider Agency's services, books, records, and facilities must be available to the Department or an agent of the State or federal government for the purposes of visitation, inspection, evaluation, or audit. Such visitations, inspections, evaluations, and audits, may be at any time and may be announced or unannounced.
2. The Provider Agency must, during regular business hours, make available to all such governmental agencies, or any persons or organizations engaged thereby, its financial, statistical, and program information, client records, and other data relating to the Contract, in order to permit audit examination, inspection, excerpts and transcripts.

If the Provider Agency is located outside the State of New Jersey, the Provider Agency shall make the records available in New Jersey upon receiving a written request for such records from the Department or its representative.

3. The right of access to Provider Agency records is not limited to the required four-year retention period (refer to C below) but lasts as long as the records are retained.

C. Retention of Records

1. The Provider Agency and its subcontractors must keep adequate books and records, supporting documents, statistical records, client records, and all other records pertinent to the Contract, and with the following qualifications, shall retain all such books and records for four years after submission of the final report.

- a. If any litigation, claim, negotiation, audit or other action involving the records has not been resolved, the records must be retained until after such resolution.
 - b. Records for Equipment acquired with federal/State funds must be retained for three years after final disposition, replacement, or transfer of the Equipment.
 - c. If Contract records are transferred to or maintained by the Department, the Provider Agency has no further obligation with respect to those records. If records are transferred to the Department, the Department shall verify in writing to the Provider Agency a listing of the records which were received.
 - d. Public Provider Agencies are required to abide by the Destruction of Public Records Law (N.J.S.A. 47:3-15 et seq.), and the General Records Retention Schedule for County and Municipal Agencies which is developed in accordance with the law. A copy of the law and the schedule may be obtained through the Department of State, Division of Archives and Records Management.
2. Copies made by microfilming may be substituted for the original records.

D. Confidentiality

1. All visitations, inspections, evaluations, and audits shall be conducted in accordance with generally accepted standards of privilege and confidentiality.
2. The Provider Agency must treat all personal records of applicants for and recipients of Contract services in accordance with all applicable federal and State legislation and regulations, including Executive Orders, governing access to and confidentiality of records. With exceptions specified below, the Provider Agency may not release or disclose records except to authorized personnel of the Provider Agency, the Department, or another appropriate unit, agency, or agent of State or federal government which is approved by the Department for receipt of the information. Exceptions are as follows (see N.J.S.A. 30:4-24.3):
 - a. when release or disclosure is court-ordered;
 - b. when the applicant or recipient (or, if appropriate, his or her parent or guardian) gives

prior written approval as to the information to be released or disclosed and the person(s) and/or agency(ies) to receive the information; and

- c. when the Provider Agency is located outside the State of New Jersey, release or disclosure may be to authorized personnel of such other state's local or state government.

Any release or disclosure of information shall explicitly prohibit any unauthorized rerelease or redisclosure of the information.

Issued by:



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