

**C. Privacy and Confidentiality**

1. Personal Information and Records

**Policy Statements:**

1. PLEA is committed to protecting the privacy of the personal information of its program participants and residents, personnel, contractors and partners in delivering services. The organization values the trust of those we work with, and recognize that maintaining that trust requires that all information in our control or custody be carefully protected.
2. PLEA ensures that all individuals the organization serves are informed of why and how the organization collects, uses, and discloses their personal information. All program participants and residents must provide their informed consent before any personal information is collected from them.
3. PLEA expects all personnel to comply with the requirements of the *Youth Criminal Justice Act* and the *Child, Family and Community Service Act* relating to the protections of privacy and confidentiality.
4. PLEA observes the principles and procedures set out in the *Freedom of Information and Protection of Privacy Act* and the *Personal Information Protection Act* unless other applicable laws or specific contractual agreements require higher standards.
5. PLEA expects all personnel to make reasonable efforts to ensure that personal information that is created, received or maintained is accurate and complete.
6. PLEA respects the rights of program participants and residents to read the records and reports about themselves that the organization has created, request corrections and submit their own statements into their case records. PLEA will refuse to disclose information that might reasonably be expected to lead to harm to individual or public safety, including the individual it is about.
7. PLEA discloses information to other parties only as required by law or contractual obligations. Where permitted by law, personal information will be disclosed, only if informed consent to disclosure has been given in writing by the person concerned or, if incapable of providing informed consent, his/her legal representative.

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8. In the event that there are questions about the propriety of releasing any personal information, there will be no disclosure unless a manager has approved it. PLEA expects all managers to consult as necessary with a Program Director when these issues arise. The Executive Director or designate will seek legal counsel or other professional advice as required.
9. PLEA evaluates its Privacy and Confidentiality Policies on a regular basis, and implements changes as required ensuring that they are consistent with all applicable laws, legislation and best practices.
10. PLEA routinely assesses sensitivity to the issue(s) of information and privacy when interviewing prospective personnel and in developing contracts for services.
11. PLEA requires all personnel, contractors and students to be informed of and agree in writing to observe these policies and procedures.

### References:

- Legal requirements under applicable federal and/or provincial laws governing the protection of privacy and access to information, including requirements to allow people access to records about themselves and to permit them to request corrections of inaccurate information;
- The provisions of Section 110 of the Federal *Youth Criminal Justice Act* that “no person shall publish the name of a young person, or any other information related to a young person, if it would identify the young person as a young person dealt with under this Act”;
- The provisions of Part 5 — Confidentiality and Disclosure of Information of the Provincial *Child, Family and Community Service Act*;
- Requirements set out as conditions of contracts to provide services; and
- Professional ethical responsibilities.

### Reason for Policy:

The *Freedom of Information and Protection of Privacy Act* (FOIPP Act) regulates most public bodies including provincial government ministries, local governments, universities, colleges, public school boards, regional health authorities, hospitals and Crown Corporations. It contains provisions dealing with access to personal and general information, opportunity to correct information,

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protection of privacy including that of third parties with an interest in the information, time limits for response, and fees. The provisions of this Act cover all personal information in the custody or control of a ministry.

The *Personal Information Protection Act* (PIPA) governs how all organizations in British Columbia's private sector (including not-for-profit societies) must collect, use, disclose and manage personal information. It recognizes the right of individuals to protect their personal information and regulates what organizations must do to ensure that this occurs.

All contracts that PLEA holds define what information the ministry or funder retains control and custody of (subject to FOIPP Act) and what constitutes client records, which PLEA is entirely responsible for (subject to PIPA). Although it can be difficult sometimes to determine which legislation applies to the personal information in question, the same principles apply. Program participants and residents have the right to privacy and must provide informed consent before their personal information is collected, used or disclosed.

Personal information means information that can identify an individual (for example, name, home address, home phone numbers) and information about an identifiable individual (for example, physical description, health status, education).

The British Columbia *Freedom of Information and Protection of Privacy Act* defines records as including "books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is recorded or stored by graphic, electronic, mechanical or other means, but does not include a computer program or any other mechanism that produces records".

The same law sets out guidance on what constitutes "personal information" by establishing that a disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if the personal information:

- a. relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation;
- b. was compiled and is identifiable as part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation;
- c. relates to eligibility for income assistance or social service benefits or to the determination of benefit levels;
- d. relates to employment, occupational or educational history;

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- e. was obtained on a tax return or gathered for the purpose of collecting a tax;
- f. describes the third party's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness;
- g. consists of personal recommendations or evaluations, character references or personnel evaluations about the third party;
- h. is disclosed, it could reasonably be expected to reveal that the third party supplied, in confidence, a personal recommendation or evaluation, character reference or personnel evaluation;
- i. indicates the third party's racial or ethnic origin, sexual orientation or religious or political beliefs or associations; or
- j. consists of the third party's name, address, or telephone number and is to be used for mailing lists or solicitations by telephone or other means.

### **Definitions:**

Control includes an organization's authority or ability to decide how to use, disclose and store personal information, how long to keep it and how to dispose of it. (*A Guide for Businesses and Organizations to the Personal Information Protection Act*; Office of the Information and Privacy Commissioner; 2005)

Custody includes the keeping of personal information by an organization in its offices, facilities, file cabinets or computers. (*A Guide for Businesses and Organizations to the Personal Information Protection Act*; Office of the Information and Privacy Commissioner; 2005)

Disclosure includes the showing, sending or giving of personal information to some other organization, government or person. (*A Guide for Businesses and Organizations to the Personal Information Protection Act*; Office of the Information and Privacy Commissioner; 2005)

Document includes a thing on or by which information is stored, and a document in electronic or similar form. (*A Guide for Businesses and Organizations to the Personal Information Protection Act*; Office of the Information and Privacy Commissioner; 2005)

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