

Manitoulin-Sudbury District Services Board POLICY & PROCEDURES MANUAL	
Section: H. Ontario Works	Effective Date: July 1, 2009
Topic: 1. Introduction to Ontario Works	Replaces: November 2004
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POLICY

CONFIDENTIALITY OVERVIEW

Authority **OW Act: Sec. 40, 41, 49(4) and 59(2), 71, 72 and 73**
OW Directives: Dir.11.5

Confidentiality, within the Manitoulin-Sudbury Services Board, is governed by five criteria:

- i. the Municipal Freedom of Information and Protection of Individual Privacy Act
- ii. the Provincial Freedom of Information and Protection of Individual Privacy Act
- iii. Part VIII, Child and Family Services Act, 1984
- iv. professional ethics
- v. Ontario Works Act, Regulations and Directives through the Ministry of Community and Social Services

M.F.I.P.P.A. legislation overrides all other criteria. Any staff enquiries relating to confidentiality and M.F.I.P.P.A. should be directed to the Director of Social Services or his/her designate.

DISCLOSURE

No information about a participant may be disclosed to anyone other than the individual, except in accordance with the Legislation and these policies and procedures, (M.F.I.P.P.A. 42).

No elected person or elected council has any right to confidential information. If the individual has himself/herself applied to the elected representative, and if that representative is, in effect, acting as the agent of the individual, then information about that individual can be given to the representative provided a consent form has been completed by the participant.

Other government agencies, municipal, provincial, and federal, have no right to confidential information. Such information can be exchanged only when the participant gives his or her written consent through the formal completion of a consent form in regards to provision of case specific information.

A non-governmental social service agency also has no right to confidential information. Insofar as this agency is quasi public, that is, insofar as the agency operates under specific legislation and government funds, like the C.A.S., the agency should be treated as a governmental agency.

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No provincial legislation or professional ethics will justify keeping confidential information regarding **criminal activities**. Therefore, if the participant advises you of criminal activity by himself/herself or others, you may **report it to the police** and not be subject to the rules of confidentiality. In addition, if you observe criminal behaviour by a participant with whom you have a confidential relationship, you would still be obligated under the criminal code to report it to avoid being an accessory. The only exception to the above rule, which is recognized by the courts, would be the solicitor/client privilege.

ACCESS TO OWN RECORD

1. Manitoulin-Sudbury DSB must allow a person access to his or her own record under specific conditions. (M.F.I.P.P.A. 10 (1))
 - 1.1 Access will not be permitted where:
 - a. the records involve a law enforcement matter likely leading to a court case, or solicitor/client privilege, **or**
 - b. where disclosure could reasonably be expected to seriously threaten the safety or health of an individual, **or**
 - c. information supplied by a third party, (supplied with participants' consent) for example, medicals supplied by a doctor are not accessible by participants except with the doctor's approval
 - 1.2 Information that is not accessible by the participant must be severed from the file so that the participant may see the remainder of the file, i.e., they can see the file without the medicals, etc. (M.F.I.P.P.A. 10 (2))
 - 1.3 While third party information must be withheld, the name of the individual who provided the reports must be given. This includes medical, emotional, developmental, psychological, educational or social assessments.
2. Where a person requests access to a record, Manitoulin-Sudbury DSB shall, within 30 days of receiving the request:
 - a. give the person access to the record;

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- b. notify the person that Manitoulin-Sudbury DSB refuses to give him or her access to part of the record, stating the reasons for the refusal and give the person access to the rest of the record;
- c. notify the person that Manitoulin-Sudbury DSB refuses to give him or her access to the record, stating the reasons for the refusal, or notify the person that the legislation does not apply to the record or that the record does not exist, if that is the case. (M.F.I.P.P.A.)
- d. **notify the person if there will be any charges associated with retrieving, photocopying, collating and mailing the requested information. The Manitoulin-Sudbury DSB will charge reasonable and customary fees for these services.**

2.1 Formal access must be requested on an appropriate Request Form under (M.F.I.P.P.A.). This must be reviewed by the E.R.O. of Manitoulin-Sudbury DSB.

COLLECTION

1. Manitoulin-Sudbury DSB must collect only the information about a person that it needs to know in order to provide appropriate service.
 - 1.1 All information, collected must be:
 - a. expressly authorized by statute, **or**
 - b. necessary to the proper administration of a lawfully authorized activity, or
 - c. used for the purpose of law enforcement (M.F.I.P.P.A. 38 (2))
 - 1.2 If government statutory forms are used, the legislation provides the authority and purposes for the collection of that data.
 - 1.3 If Manitoulin-Sudbury DSB develops or uses information gathering forms, the forms should state the purposes for which the information is required.
2. Personal information shall only be collected by Manitoulin-Sudbury DSB,

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directly from the individual to whom the information relates, unless:

- a. the individual authorizes another manner of collection, **or**
- b. the principal purpose or purposes for which the personal information is intended to be used, **and**
- c. the title, business address and business telephone number of a public official who can answer the individual's questions about the collection, unless the information is collected for purposes of law enforcement. (M.F.I.P.P.A. 39 (2)4).

Information may only be used by Manitoulin-Sudbury DSB in a manner which a client might reasonable have expected or, for a different purpose, with a participant's consent.

3. Manitoulin-Sudbury DSB shall inform the individual to whom the information relates of:
 - a. the legal authority for the collection,
 - b. the principal purpose or purposes for which the personal information is indented to be used, **and**
 - c. the title, business address and business telephone number of a public official who can answer the individual's questions about the collection.

Unless the information is collected for purposes of law enforcement.
(M.F.I.P.P.A.) 39(2).

4. Information may only be used by Manitoulin-Sudbury DSB in a manner which a participant might reasonably have expected, or, for a different purpose, with a participant's consent.
5. Information collected by Manitoulin-Sudbury DSB may be shared with other individuals working in or for Manitoulin-Sudbury DSB on a "**need to know**" basis. i.e., (M.F.I.P.P.A.) 42(d) states:
 - d. **where disclosure is made to an officer or employee of the institution, who needs the record in the**

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performance of his or her duties and where disclosure is necessary and proper in the discharge of the institution's functions... (M.F.I.P.P.A. 42 (d)).

6. When creating a record, distinguish between facts and observations and speculation or opinion. For example, it is not appropriate to describe a participant as **“angry.”** Instead, the particular actions of the individual, such as **“speaking loudly, unable to sit in one place,”** should be used to describe the individual's behaviour.
 - 6.1 When preparing a record, identify the date of the event, specify the period of time covered by it, and the actual facts of the event.
 - 6.2 All records must be signed by the staff person and where required, approved by your supervisor.

CONSENT

1. To be valid, consent must be given or revoked by the person who has capacity, if informed about what he or she is signing, signs voluntarily, and has had the opportunity to obtain advices. (M.F.I.P.P.A. 41 & 42).
2. A consent to the disclosure of a person's records shall specify:
 - a. what information is to be disclosed,
 - b. the purpose of the disclosure,
 - c. to whom the record is to be disclosed,
 - d. whether the consent authorizes further disclosure of the record by the person referred to in clause (c), and if so, to whom and for what purpose,
 - e. the period of time during which the consent remains effective unless revoked.
3. Where a record contains information about a person who is not the person requesting access, and is not the subject of the record being disclosed,

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information about that third party cannot be released without the third party's consent, i.e., the consent of the other family members is required in these instances.

4. Unauthorized disclosure without consent is subject to a fine of up to \$5,000 under (M.F.I.P.P.A. 61 (2)).

FORMAL DISCLOSURE OF A PARTICIPANT FILE

Formal disclosure of a participant's file is requested through the Municipal Freedom of Information and Protection of Privacy Act, through the Director of Social Services or his/her designate.

File documentation will include standard Ministry of Community and Social Services forms, the Manitoulin-Sudbury District Services Board forms and Case Manager's notes.

INFORMATION SHARING

Agreements have been applied between the Ministry through the Information Sharing and Fraud Control Database and all Ontario Works delivery sites thereby promoting a consistent approach to the use, collection and disclosure of personal information.

Where no information sharing agreement exists, the collection, use and disclosure of information is limited to provisions set out in the Freedom of Information and Protection of Privacy Act and the Municipal Freedom of Information and Freedom of Information and Protection of Privacy Act.

INFORMAL DISCLOSURE OF PARTICIPANT FILE

When a participant or their representative requests a disclosure of a file, active or inactive, an informal review is made through the Case Manager. The CM will prepare the file/documents for the Director of Social Services or his/her designate.

The file documentation will include the following forms only:

- Application for Financial Assistance - Part 1
- Participation Agreement - Part 2

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- Application for Assistance - Short Form (formerly the Form 1A)
- Charge Card
- Application Update Report
- Consent to Disclose and Verify Information (Form 3)
- Assignments

Case Manager's notes and other documentation must be requested through the Municipal Freedom of Information and Protection of Privacy Act through the Director of Social Services or his/her designate.

Inter-Departmental Consent

The Manitoulin-Sudbury DSB has developed an Inter-Departmental consent form that is used in the administration of the Ontario Works, Children's Services and Social Housing programs.

The DSB has an integrated delivery model and customers whether they be Ontario Works participants, parents receiving child care subsidies or tenants living in rent geared to income housing, are served by the same staff when they approach the DSB for services.

At the point of application for Ontario Works, Child Care Fee Subsidy and Rent Geared to Income Housing they will be asked to sign an inter-departmental consent form. The consent has been put in place to allow staff across all three program areas to share information in order to determine initial or continued eligibility for any of the three program areas.

This also allows the programs to share information when individual circumstances change and the customer need only report their change once and all three programs will be informed of the change in circumstances. This is done to ensure good customer service and to avoid individuals from having to report their changes to three separate programs.

PROCEDURE

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1. All requests are forwarded to the Ontario Works Case Manager in writing with exemption for special circumstances.
2. A signed Consent to Release Information Form must be on file prior to information being shown to the person identified on the consent.
3. The Case Manager will prepare the documents of the file to be shared.
4. The Director of Social Services or his/her designate will review the documents to be released and approve release.
5. Case Manager will meet with client or representative to disclose file review.

WORKPLACE RELATED CONFIDENTIALITY

All information relating to the operation of the Manitoulin-Sudbury District Services Board, as well as information concerning the participants and their family members is confidential. This information may be in written or verbal form or may be learned another way, for example, through observation.

Confidentiality extends to everything Manitoulin-Sudbury DSB's employees/students learn in the course of their duties.

It extends to both important and routine information; that is, everything participants disclose with the view of having their needs better understood and everything shared by other professionals. This information may include financial information and information relating to personal relationships.

Confidential information may be disclosed only in the following circumstances:

- a. to other employees who need the information to perform their employment duties; consultation with co-workers or supervisor for guidance and instruction
- b. upon a court order;
- c. pursuant to the Municipal Freedom of Information and Protection of Privacy Act or other applicable legislation.

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Any misuse of confidential information is considered to be a breach of confidentiality and must be reported to the Manitoulin-Sudbury DSB - Director of Social Services or his/her designate and the CAO.

Any misuse of confidential information is considered to be a breach of confidentiality. The Manitoulin-Sudbury DSB -Director of Social Services or his/her designate and/or the CAO will take appropriate disciplinary action when a breach of confidentiality occurs. The disciplinary action might be a letter or warning, time off without pay or termination of employment/placement and will be determined in accordance with the severity of the breach of confidentiality.

Each employee/student is expected to maintain confidentiality and respect each participant's right to privacy.

CROSS REFERENCE: Section 1.5. – Children in need of Protection