

CONFIDENTIALITY AND DISCLOSURE OF PERSONAL INFORMATION

Effective Date: September 1, 2019

Responsibility: VP Student Services

Amends Policy dated: September 1, 2007

Policy Number:

Scope: All Students, Faculty and Staff

Introduction

The Sakala Success Centre (SSC) at Burman University (Burman) provides services in the areas of counseling, career planning, academic support and testing. The nature of the work at the SSC brings counselors and support staff into contact with individuals/clients who are seeking help with a variety of concerns. These include personal, family, community, academic, career, employment and relationship.

In these contacts with clients, the SSC accepts the fundamental principle of respect for the dignity of persons; that is, belief that each person should be treated primarily as a person, not as an object or a means to an end. The SSC recognizes that their responsibility to the client is almost always greater than to those indirectly involved (e.g. employers, administrators and the general public).

Thus, the SSC believes that confidentiality is the foundation of the client-counselor relationship and that the interests and rights of the client are of key importance when considering the disclosure of personal information.

Principles of Action

1. Confidentiality is the foundation of the client-counselor relationship. It must be protected to the greatest extent possible.
2. The client has the fundamental right to decide the extent to which his/her personal information may be provided to others.
3. Client consent is required prior to the sharing of client information with other helping agencies or individuals, including employees of the College who need to know to perform their assigned duties.
4. Clients will be informed prior to service of the existing limits or exceptions to maintaining full confidentiality of personal information. These are:
 - a. Child abuse
 - b. AIDS and other communicable diseases (where the SSC has initiated the testing)
 - c. Information relating to a fatality inquiry
 - d. Client's intent to cause imminent harm to self or others.
 - e. Judicial orders.
5. In circumstances in which specific, compelling circumstances affecting anyone's health or safety develop, limited disclosure of a client's otherwise confidential information may be necessary. Notice of such disclosure will be mailed to the last known address of the client.

6. Counseling staff will adhere to the Code of Ethics for their profession. (E.g. Canadian Code of Ethics for Psychologists or Guidelines for Ethical Behavior of the Canadian Guidance and Counseling Association for Counselors). Note: Guidelines for Ethical Behavior of the CGCA have been included in Appendix A.

Working Policy

Role of Student Success Centre Staff

1. All staff members of the Counseling & Testing Department of the SSC must familiarize themselves with this policy and the disclosure provisions therein. Any questions about these provisions that are not addressed in the following guidelines are to be discussed with the Director of Student Success and Mental Health.
2. Where it is necessary to send client information by fax, it is essential the fax number be confirmed prior to transmission, the intended recipient be informed of the pending transmission and that the receipt of the information is acknowledged by the intended recipient.
3. The staff must determine specifically what information is needed before releasing anything. Even with a valid consent form, only information that is required for the particular purpose or situation at hand can be released.
4. Information regarding a client or services provided to a client cannot be released to an unidentified or unknown third party or to any individual who does not clearly need to know, even if a valid consent form exists. When responding to a telephone request, staff must take steps to confirm the identity of the caller in the existence of a valid consent before releasing the information.
5. Staff members require the approval of the Director of Student Success and Mental Health in all circumstances regarding any disclosure not covered by these guidelines. When the Director of Student Success and Mental Health is not available for consultation and the Director has concerns regarding disclosure, then the VP for Student Services must be contacted and consulted before acting.
6. All staff members of the SSC who come in contact with clients or client information will be required to sign an Oath of Confidentiality form. See Appendix B.

Role of the VP for Student Services

The VP for Student Services must ensure that all staff members in the SSC are knowledgeable about the disclosure provisions in this policy and that all staff members follow the procedures in these guidelines when handling requests for client information.

Unusual or questionable situations not directly addressed in these guidelines will undoubtedly arise. In the absence of clear direction, the Director of Counseling and Career Development and/or the VP for Student Services should discuss the situation with a more senior level of administration prior to taking action and documenting any decisions made or action taken.

Exceptions for the disclosure of confidential client information

Release of information with client consent.

1. Information concerning the client can be disclosed with the written consent of the client or in some cases the consent of the client's legal guardian. It should be noted that when dealing with a minor or any client who has a legal guardian, the legal guardian does not have the authority to sign a release of personal information form on behalf of the individual in their care, when that individual has intellectual capacity to understand the consequences of consenting to the release of their personal information. Because the matter of competence is one of interpretation by the courts on a case-by-case basis, no clear definition as to what constitutes sufficient intellectual capacity to consent to treatment and to disclosure of personal information can be offered here.
2. The decision to agree to the release of client information rests with the client, or in cases where informed consent by the client is not present, the legal guardian. Consent can only be obtained by having the client or legal guardian complete and sign a SSC Counseling & Testing Release of Personal Information form. A copy of the form and the instructions for completion are contained in Appendix C.
3. Signed release forms produced by other government or non-government bodies are acceptable when the forms include note of:
 - a. The specific information required.
 - b. The individual to whom information may be disclosed.
 - c. How the information will be used.
 - d. Period of time during which the consent is valid.

Otherwise the release form must be directly between the client and the Counseling & Testing Department of the SSC.

Release of Information without client consent

In certain circumstances the staff of the SSC may be compelled to release confidential client information even if a valid consent form does not exist. These circumstances are outlined below.

1. Child Welfare Act.

If a staff member of the Counseling & Testing Department has reasonable grounds to believe that a child is in need of protective services under the terms of the Child Welfare Act the staff member is required to notify Child Welfare authorities. This could involve disclosing confidential information even if the client consent is not available. A description of what are considered situations where a child is in need of protective services can be found in Appendix D. If confronting such a situation a staff member must first inform his/her supervisor. The supervisor must then notify the closest Child Welfare Services office of Alberta Family and Social Services of the concern.

2. Public Health Act

Under the provisions of the Public Health Act there is a requirement to disclose—if it is known that a person is infected with one of the communicable diseases. This is in the

regulations of the Alberta Public Health Act. These diseases include: Acquired Immunodeficiency Syndrome (AIDS), hepatitis A, B, non-A, non-B, tuberculosis and sexually transmitted communicable diseases. For a complete list of notifiable communicable diseases as outlined in the Public Health Act Communicable Disease Regulation is contained in Appendix E. Disclosing information relating to notifiable communicable diseases may necessitate divulging confidential information even in the absence of client consent. The Medical Officer of Health of the local regional health authority must be informed of any diseases of this nature. The section of the Public Health Act which outlines this requirement is contained in Appendix F. In all cases the staff member or his/her supervisor must notify the VP for Student Services of the actions taken.

3. Fatality Inquiries Act

Upon the request of the Medical Examiner the disclosure of information pertaining to a deceased client must be made at a fatality inquiry. While technically this information may be provided voluntarily by the staff member, it's advisable the he/she only provide such testimony when compelled to do so by means of a subpoena.

Judicial requests

In certain matters before the court a staff member may be requested to provide confidential information about a client. Staff should not voluntarily agree to testify in court actions if requested to do so by a client or his/her lawyer. It is preferable that the court files the standard procedure of issuing a subpoena in a criminal matter or Notice to Attend in the case of a civil proceeding. In either case the staff member must notify his/her immediate supervisor of the court action. If the client has signed a valid consent form then the staff member during his/her testimony can provide whatever information the client has consented to disclose. If no consent form exists or the consent form does not cover the information requested then legal advice should be sought.

Records

Records of the counseling relationship including interview notes, test data, correspondence, tape recordings, and other documents are considered professional information for use in counseling and they are not part of the official records of Burman. Revelation to others of counseling material should only occur upon the express consent of the counselee as outlined above.