

Macaulay Child Development Centre

Policy and Procedure Manual

Subject:	Privacy and Confidentiality
Program:	All Programs; Board Directors
Date Policy Approved:	October 18, 2010; December 11, 2013; May 11, 2016; October 5, 2016; February 13, 2019; February 8, 2023
Date Procedure Approved:	February 8, 2023; June 20, 2024

Policy

Macaulay is committed to safeguarding the personal information and personal health information entrusted to us by staff, providers, students, volunteers - including board members, and service users and treats information in a confidential manner. This applies to the collection, use, storage, transfer and disclosure of personal information and personal health information.

The amount and type of information that Macaulay collects is limited only to that which is necessary to fulfill the purposes identified. Macaulay will ask for the information it requires directly from the individual (or their parent/guardian). Personal information and personal health information will be collected using procedures that are fair, transparent and lawful. All personal information and personal health information is protected by:

- Child Care Early Years Act, Section 70 – 73 (CCEYA)
- Freedom of Information and Protection of Privacy Act (FIPPA)
- Personal Health Information Protection Act (PHIPA)
- Personal Information Protection and Electronic Documents Act (PIPEDA)

Macaulay takes steps to protect personal information and personal health information from theft; loss; and unauthorized access, copying, modification, use, disclosure and disposal.

Macaulay is committed to maintaining the confidentiality of personal information and personal health information that is transmitted. Macaulay has established, and adheres to, confidentiality practices for all communications. These practices include staff training, privacy and confidentiality policies and procedures, and password protected email accounts. Senders are individually responsible and accountable for protecting the confidentiality of information they transmit.

Macaulay staff, providers, students, and volunteers discuss client personal information and personal health information only as needed to ensure continuity of care and comprehensive service provision.

Macaulay does not share personal information or personal health information with persons or organizations outside the centre without the approval of the person or their parent/guardian. However, client and

parents/guardians are advised that the right to confidentiality is superseded by considerations of:

- safety; where there is a significant risk of serious harm to a person or group; and
- suspected child abuse or neglect; where there are reasonable grounds to suspect that a child is, or may need protection.

Macaulay takes steps to inform all staff, providers students, and volunteers, including board members, of their responsibilities under this policy. All staff, students, and volunteers, including board members, are required to sign a Pledge of Confidentiality upon commencement of their duties at Macaulay.

All staff, providers, students and volunteers are required to report a privacy breach immediately upon becoming aware to the Privacy Officer. Macaulay responds quickly to contain any breach.

Any breach of Macaulay's policy on Privacy and Confidentiality is treated seriously and may be subject to disciplinary action, up to and including dismissal.

Macaulay is committed to resolving all concerns or complaints, including complaints relating to this policy in a timely manner.

Definitions

Personal Information: The Freedom of Information and Protection of Privacy Act (FIPPA) defines personal information as "recorded information about an identifiable individual". Information can be recorded in any format, such as paper records, electronic records, digital photographs, videos or maps. Information is about an identifiable individual if:

- it is about the individual in a personal capacity; that is, it reveals something of a personal nature about the individual, and
- it is reasonable to expect that an individual can be identified from the information (either alone or by combining it with other information).

Personal Health Information: The Personal Health Information Protection Act (PHIPA) defines personal health information as "identifying information" about an individual, whether oral or recorded, if the information:

- relates to the individual's physical or mental condition, including family medical history,
- relates to the provision of health care to the individual,
- is a plan of service for the individual,
- relates to payments, or eligibility for health care or for coverage for health care,
- relates to the donation of any body part or bodily substance or is derived from the testing or examination of any such body part or bodily substance,
- is the individual's health number or
- identifies a health care provider or a substitute decision-maker for the individual.

Identifying information includes information that identifies an individual or for which it is reasonably foreseeable that it could be used, either alone or with other information, to identify an individual.

Informed Consent is about more than signing a form. Informed consent is a thorough process of communication

about consent between client (or their parent/guardian) and Macaulay staff.

Procedure

Collection of Personal Information and Personal Health Information

Macaulay only collects personal information and personal health information that is reasonably needed to conduct the work of the organization, provide quality service, fulfill the purposes identified or to meet legal requirements. The required information shall be obtained directly from the client, parent or guardian.

Use of Information

Macaulay will only use personal information and/or personal health information:

- To provide direct service;
- To meet the requirements of funders;
- To meet legal requirements;
- For program evaluation and quality improvement; and/or
- To send information related to the agency.

Keeping Information Secure

Personal information and personal health information is stored securely and protected from theft, loss, and unauthorized use. Records are retained, transferred and disposed of in a secure manner.

Transfer and Disclosure of Personal Information and Personal Health Information

The transfer or disclosure of personal information and personal health information is only done with the documented approval of the person involved or, in the case of a child, by the parent or guardian.

For Preschool Speech and Language services, see additional requirements in the Collection, Use and Disclosure of Personal Health Information Policy.

Information Access and Correction

Clients and parents/guardians have the right to access information contained in their/their child's record under the *Personal Health Information Act' (2004)* and the *Freedom of Information and Protection of Privacy Act (1990)*. Macaulay will not disclose information obtained in confidence from an individual without proper consent, or unless required by law. The request for access to personal information and personal health information must be made in writing to the Privacy Officer. Clients must provide sufficient information in the request to allow Macaulay to identify the information they are seeking. When requested, Macaulay will provide clients access to their personal file within 30 days of a request made in writing. Such a request would be granted unless:

- It is raw data that would require interpretation by a professional;
- The record or information in the record is subject to legal privilege that restricts disclosure of the record, or the information to the individual;
- If by granting access, there would be risk of serious harm to the treatment or recovery of the client, or of serious bodily harm to the client or another person;
- It would lead to the identification of a person who provided the information in the record to the service explicitly or implicitly in confidence; or
- It is believed on reasonable grounds that a request for access to a record is frivolous or vexatious, or

made in bad faith.

Obtaining Consent

Macaulay obtains informed consent before personal information and personal health information is collected, used, and/or disclosed. Written consent is obtained as soon as possible. To be valid, a client's consent must be:

- Informed;
- Voluntary; and
- Specific, i.e. based on specific relevant information, not vague generalities, and not involve misrepresentation or fraud.

Capacity to Consent

If a staff person is concerned that an individual does not have the capacity to consent to the collection, use or disclosure of personal information and/or personal health information, the staff person shall seek direction from their supervisor or manager. The client or parent/guardian must understand the purpose of the collection, use, and disclosure and know that they can give or withhold consent.

Limited Consent

An individual may choose to consent to the disclosure of some, but not all information. If so, Macaulay informs the person(s) to whom the information is being disclosed that information is missing.

Withdrawal of Consent

When an individual withdraws their consent for collection, use or disclosure of their personal information and/or personal health information, in whole or in part, the withdrawal must be in writing and recorded in the client file and should include the reason for the change. Withdrawal is not retroactive.

Refusal to Consent

Macaulay respects the right of an individual to refuse to consent to the release of information to the agency, but reserves the right to deny service where such information, in the opinion of the agency, is essential to provide safe, effective, quality service. Clients and parents/guardians can choose not to disclose any personal information or personal health information Macaulay may ask them to provide. However, a decision to withhold personal information and personal health information may result in our inability to provide service.

Where Consent Does Not Apply

Macaulay may need to disclose personal information or personal health information in a timely fashion, without the consent of the individual, in situations where there is a legal duty or a safety concern such as:

- communicable and reportable diseases as required under the Health Protection and Promotion Act, 1990;
- abuse or suspected abuse or neglect as required by the Child, Youth and Family Services Act, 2017;
- when we are presented with a subpoena, warrant or summons; or
- in an emergency or other situations, such as where there are reasonable grounds to believe it is necessary in order to eliminate or reduce a significant risk of serious harm to a person or group.

Valid Consent Form

Macaulay requires that written consent is obtained, using the current consent forms which include the following:

- First and last name of the person whose information is to be collected.

- Birth date of person whose information is to be collected.
- Name and address of the agency/professional to whom the information will be given or from whom it will be requested, if applicable.
- Description of information to be given/requested and how it will be used.
- Signature of the individual (for adults) or parent or guardian (for children) who is giving consent.
- Date the form is signed.
- Date the consent expires (ie: when the service is complete or one year from date of signing, whichever occurs first).
- Signature of a witness who is present when the form is signed who can identify the person who is giving consent, unless an authorized e-signature is provided.

Verbal Consent

Although written consent is required, verbal consent – as a first step - is obtained in this way:

- Obtain the verbal consent directly from the client or parent/guardian.
- Ensure the person understands the consent they are giving by discussing what information will be used and for what purpose.
- Tell the person giving verbal consent that you will follow up by getting the consent in writing.
- Make a note in the participant's file of the date and circumstances of the verbal consent.

Written Consent

Written consent is obtained in this way:

- The current Macaulay general consent form and the program specific consent form must be used.
- Discuss the consent form with the person who will sign it to ensure they understand the permission they are giving.
- When receiving a signed consent from another source, keep this form/document on file, and use the current Macaulay consent form.
- Give or request information that is specific to the purpose stated on the consent form.
- File a copy of the completed consent form in the individual's file.

Consent for Photographing, Videotaping or Recording

Explicit consent shall be obtained from clients and parents/guardians to permit the photographing, videotaping and/or recording of a client. The consent form documents the purpose of this means of collection, the specific use of the material, and who will view/listen to the material. The consent form clearly states that service users may withhold or withdraw consent at any time and that they will not benefit or suffer because of their decision. When used for training purposes, service user names or other means of identification are not used. Videotaping and other recordings are kept only as long as they are required for the purpose and are then securely destroyed as per Macaulay policies on secure destruction. Only Macaulay issued recording devices can be used to photograph, videotape and/or record a client.

Storage, Retention and Destruction of Personal Information and Personal Health Information

All personal information and personal health information is stored in locked cabinets, in locked offices or storage rooms, or is protected by electronic passwords and secure electronic systems. Every effort is made to ensure the security of information and to protect it from misuse. Confidential information is shredded using shredders that meet privacy standards, when the file is destroyed. It is the responsibility of every supervisor to ensure these

systems are in place and that staff are in full compliance. It is the responsibility of every staff, provider, student, and volunteer to follow this procedure.

Transmission of Personal Information and Personal Health Information by Fax

Fax machines at Macaulay are placed in a secure location, available to authorized persons.

All fax transmissions are sent with a cover sheet that includes the name of the person sending the fax, their telephone number, date and number of pages sent, the person who is the intended recipient and the following privacy statement:

CONFIDENTIAL NOTICE: This fax transmission is intended for the addressee named above. It may contain information that is privileged, confidential, or otherwise protected from disclosure. Any review, dissemination or use of this transmission or its contents by persons other than the addressee is strictly prohibited. If you have received this transmission in error, please notify the sender/other identified person immediately by telephone (collect if necessary) so that we may arrange for its return at our expense. Thank you for your assistance and cooperation.

Senders shall confirm that the fax will be received securely (ie a secure or monitored location) before transmitting, and telephone to confirm the fax was received in its entirety.

Transmission of Personal Information and Personal Health Information by E-Mail

Email is not a preferred method for the transmission of personal or confidential information to recipients with an external email address. If email is used to transmit personal or confidential information outside the agency, documented consent shall be obtained before transmission. Before electronic communication is initiated, staff will discuss the risks and benefits of this form of communication, explain the agency's guidelines on the use of electronic communications in relation to their service, identify the need for informed consent and review the components of the consent form with the client or parent/guardian.

In Preschool Speech and Language Services, email systems are not used for the purposes of collecting, using or disclosing personal health information except where requested by the parent/guardian.

For any e-mail containing personal information, personal health information or confidential information sent to an external email (ie: to an address other than @macaulaycentre.org):

- The email and all attachments must be encrypted.
- Confidential, personal information and/or personal health information must not be placed in the subject line.
- All recipient e-mail address(es) must be checked for accuracy before sending.
- All emails shall be sent only from a Macaulay email address or phone number.
- Copies of emails sent and received will form part of the client's/participant's official record and will be filed in the client file.
- All e-mail shall be sent with the following privacy statement:

CONFIDENTIAL NOTICE: This e-mail is intended for the addressee(s) named. It may contain information that is privileged, confidential, or otherwise protected from disclosure. Any review, dissemination or use of this transmission or its contents by persons other than the addressee is strictly prohibited. If you have received this

transmission in error, please notify the sender immediately by return e-mail. Thank you for your assistance and cooperation.

Privacy Breach

A privacy breach happens when personal information or personal health information is collected, used, disclosed or disposed of in a way that does not comply with privacy legislation or with Macaulay's privacy policies and procedures.

The most common privacy breaches are:

- Unauthorized collection of personal information or personal health information (without consent or legal authority).
- Unauthorized disclosure of personal information or personal health information through:
 - Loss (eg: a file is misplaced);
 - Theft (eg: a laptop is stolen);
 - Mistake (eg: a document intended for one person is sent to the wrong person);
 - Unauthorized or unsecured disposal of personal information and personal health information (eg: document placed in the regular garbage without being shredded); and
 - Posting on social media such as Facebook or Instagram.

Reporting a Privacy Breach

If a Macaulay staff, student or volunteer becomes aware of a privacy breach, s/he shall report the breach to the Privacy Officer who will then inform the Executive Director. A Home Child Care provider shall immediately report the breach to their HCC consultant or program supervisor, who will then inform the Privacy Officer. The staff person shall take action to mitigate the privacy breach and then documents the privacy breach as instructed by the Privacy Officer.

The Privacy Officer takes action as described in the Roles and Responsibilities of the Privacy Officer Policy and Procedure.

Privacy Complaints

All privacy-related complaints are directed to Macaulay's Privacy Officer. The Privacy Officer takes action as described in the Roles and Responsibilities of the Privacy Officer Policy and Procedure.

Legal Requirements

If an officer or government representative arrives at a Macaulay site with a subpoena, warrant or other form of court order, every effort is made to comply strictly with its terms. Staff are required to inform their supervisor and the Privacy Officer of any such request. Any request by an officer or government representative without supporting legal documentation will result in the denial of information; personal information and personal health information will not be provided, including identifying any specific individual (staff, student, volunteer or service user). Should such a request be made, staff members shall notify the Privacy Officer or another member of management immediately so that legal advice can be obtained, if appropriate.

Ensuring Confidentiality Compliance

Board of Directors	The CEO ensures that all board members sign the required Pledge of Confidentiality upon assuming their seat on the Board of Directors. If a member should refuse to sign, the issue is referred to the Board president to resolve. Refusal to sign may disqualify a member from sitting on the Board of Directors.
CEO	The Chair, Board of Directors, ensures that the CEO signs the required Pledge of Confidentiality as part of their orientation. Refusal to sign may be considered grounds for discipline up to and including dismissal.
Directors	The CEO ensures that all directors sign the required Pledge of Confidentiality as part of their orientation. Refusal to sign may be considered grounds for discipline up to and including dismissal.
Supervisors / Managers	Each Director ensures that all supervisors/managers sign the Pledge of Confidentiality as part of their orientation. If an individual refuses to sign, the issue is referred to the CEO or his designate to resolve. Refusal to sign may be considered grounds for discipline up to and including dismissal.
Staff / Students / Volunteers	Each Supervisor/Manager ensures that all staff, students and volunteers have signed the Pledge of Confidentiality as part of their orientation. If an individual refuses to sign, the issue is referred to the Director or her designate to resolve. Refusal to sign may be considered grounds for discipline up to and including dismissal.
Home Child Care	HCC Consultants give providers information about the importance of maintaining confidentiality and encourage them to share this information with the members of their household. A provider's failure to maintain confidentiality may be considered grounds for discipline.

CROSS REFERENCE

Collection, Use and Disclosure of Personal Health Information Policy
 Preschool Speech and Language Services
 Investigation Protocol
 Reporting Child Abuse and Neglect
 Retention, Storage and Destruction of Information Procedure
 Roles and Responsibilities of the Privacy Officer Policy and Procedure