Policy Number: HC-11	Page: 1	Of: 3
Title: Individual's Right to Request Amendment of Records		
Regulatory Authority: HIPAA Regulations, FERPA Regulations, ORC, OAC		
Effective Date: 01/19/2021		
Reviewer/Job Title: Director of Operations		

(A)Individual's Right to Request Amendment of Records
Subject to the rules set forth in applicable requirements and HCBDD procedures, an individual has the right to have the HCBDD amend PHI or a record about the individual in a designated record set for as long as the PHI is maintained in the designated record set.

Audience

Privacy Officer, Supervisors

Authority

45 CFR 164.526(f) Individual's right to request amendment

OAC § 3301-51-04 Confidentiality, for Education of Students with Special Needs

ORC § 1347.09 Disputing of Records

34 CFR 99.20 FERPA – Requesting amendment of records

34 CFR 99.21 FERPA – Rights to a Record Hearing

34 CFR 99.22 FERPA – Requirements for a Records Hearing

LEGAL NOTES These policies are designed to simultaneously comply with Federal HIPAA and FERPA regulations as well as Ohio regulations. All these regulations are similar; where they differ, policies are written to follow the regulations that provide the greatest degree of privilege and right of appeal to the individual.

(B)REQUESTS FOR AMENDMENTS

1) **Amending Statements Believed to be Inaccurate, Misleading or in Violation of Individual's Rights.** An individual, parent, guardian, or other person acting as a HIPAA personal representative may request amendment of PHI about the individual (and exercise rights for hearing and statements of disagreement), which they believe is inaccurate, misleading, or violates the rights of the individual, and is held by the HCBDD or any Business Associate. Such request shall be in writing and shall be subject to the requirements set forth in these procedures.
2) **Responsibility of Privacy Officer**. The Privacy Officer of the HCBDD is responsible for receiving requests for amendment, processing the requests, arranging for any hearings,

and completing required documentation.

3) **Time to Act on a Request for Amendment.** The HCBDD will act on a request for amendment without unnecessary delay and no later than 60 days after the date of the request.
4) **Accepted Request for Amendments.** If the HCBDD accepts the requested amendment, in whole or in part,
   a) the HCBDD must make the appropriate amendment, and inform the individual and other persons or entities who have had access to the information.
5) **Denied Request for Amendments.** Otherwise, if the HCBDD believes the existing record is correct as is, it may deny the amendment:
   a) **Written Notice.** If an amendment is denied, the HCBDD will give written notice in plain language which includes the following:
      i) The basis for the denial;
      ii) The individual's right to submit a written statement disagreeing with the denial and how the individual may file such a statement;
      iii) A statement that, if the individual does not submit a statement of disagreement, the individual may request that the HCBDD provide the individual's request for amendment and the denial with any future disclosures of the protected health information that is the subject of the amendment; and
      iv) The individual's right for a hearing to challenge the information.
   b) **Statement of Disagreement.** If the individual submits a statement of disagreement, the Privacy Officer will insert this statement into the appropriate portion of the record. Otherwise, the Privacy officer will insert into the record that the individual requested an amendment and the HCBDD's denial.
   c) **Written Rebuttal.** The HCBDD may prepare a written rebuttal to the individual's statement of disagreement. Whenever such a rebuttal is prepared, the HCBDD must provide a copy to the individual who submitted the statement of disagreement.
   d) **Permanent Record.** The inserted statement of disagreement and any rebuttal become a part of the permanent record and must be included with all future disclosures of the covered records.
   e) **Individual's Request for Copy of Changed Record.** At the individual's request, HCBDD will send a copy of the changed record to any party requested by the individual (per ORC 1347.09).
   f) **Separate Transmission of Information in EDI Format.** If the disclosure which was the subject of amendment was transmitted using a standard EDI format and the format does not permit including the amendment or notice of denial, the HCBDD may separately transmit the information to the recipient of the transaction in a standard EDI format.

(C) RECORDS HEARINGS

HCBDD must offer a Records Hearing to any individual who is denied a requested amendment of their records.

1) **Hearing Procedures**

a) The HIPAA Privacy Officer will arrange the Records Hearing.
b) The Privacy Officer must schedule the hearing within a reasonable time upon receiving a request.
c) HCBDD shall give the individual notice of date, time and place reasonably in advance of the hearing.
d) To conduct the hearing, the Privacy Officer may appoint any individual, including an official of HCBDD, who does not have a direct interest in its outcome.
e) During the hearing, the parent shall have a full and fair opportunity to present evidence relevant to their objection. The individual or parent may obtain assistance of any individual(s), including an attorney hired at their own expense, to assist them.
f) The decision shall be based solely on the evidence presented.
g) The decision shall be documented in writing, within a reasonable time of the hearing, and shall include a summary of the evidence presented and the reasons for the decision.

2) **Results of Hearing**
a) If, as a result of the hearing, HCBDD decides that the information in its records is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the individual, it must amend the information accordingly and inform the individual in writing.
b) If, as a result of the hearing, HCBDD decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the individual, it must inform the individual of their right to place in the record a statement commenting on the information or setting forth any reasons for disagreeing with the decision of HCBDD.
c) Any information placed in the record as a result of this hearing, HCBDD must maintain this statement as part of its permanent record, and include it with any subsequent disclosure.