

State of Vermont Agency of Human Services (AHS)

Policy Title: 3.02 Recording Meetings	Revision Date:
Attachments/Related Documents: DVHA Recording Meetings SOP	Revision Number:
Name/Title of Authorizing Signature: Jenney Samuelson, Interim AHS Secretary	Effective Date: 2/15/22
<input checked="" type="checkbox"/> Trauma Informed Review <input checked="" type="checkbox"/> Equity Review	

Authorizing Signature:	
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POLICY STATEMENT:

This policy addresses the recording of any business meetings that are conducted by the Agency of Human Services (“AHS” or the “Agency”). Because of AHS’ obligation to protect certain information under state and federal law, business meetings shall not be recorded unless the party wishing to record the meeting seeks, and is granted, approval to record. This policy directs each AHS department to develop its own procedure for reviewing, granting, or denying requests to record meetings. Each AHS department shall also develop a procedure for conducting recorded meetings, wherever recording is appropriate or mandated by state law, and for the retention of meeting recordings in a manner consistent with state and federal law.

BACKGROUND:

The recording of business meetings implicates several existing state and federal regulations, guidelines, and policies, as amended, including *but not limited to*:

- The Federal Standards for the Privacy and Security of Individually Identifiable Health Information, at 45 CFR Parts 160 and 164, promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”);

- 45 C.F.R. § 155.260;
- 42 CFR Part 431 Subpart F;
- 42 CFR Part 2;
- Vermont Public Information (Open Meetings) Law: 1 V.S.A §§ 310-315; and
- Vermont Public Records Act: 1 V.S.A. §§ 315 - 320.

The Agency overall, including all six AHS Departments, is a single HIPAA Covered Entity. This means that all of AHS must comply with HIPAA requirements for safeguarding individually identifiable and/or health information acquired and used by the Agency.

Additional state and federal laws impose other strict limits on AHS disclosure of information, such as mental health information, financial information, and substance use treatment information.

However, AHS is also subject to a network of laws and regulations involving the disclosure of public records. These include the Vermont Public Information Law, as well as the Vermont Public Records Act. The latter affirms the public's right to see public records in an open and timely manner and includes requirements, exemptions, and processes involved in responding to a public records request. Under this latter act, "public record" or "public document" means *any* written or recorded information produced or acquired in the course of Agency business and can therefore include State-recorded meetings.

Because of AHS' numerous obligations to both (1) protect entire categories of information, and (2) enable transparent disclosure where appropriate, the Agency has developed this general policy in order to address the practice of recording meetings.

DEFINITIONS:

For the purposes of this policy:

Business Meeting or Meeting means any gathering of persons that includes an AHS staff member; is initiated by the Agency, hosted by the Agency, or stored as a public record by the Agency; and which in any way concerns, produces, acquires, or discusses information relating to the business of the Agency. This definition includes gatherings conducted in-person, telephonically, or via video-sharing software, such as Microsoft Teams; as well as meetings which must be recorded pursuant to the Vermont Public Information (Open Meetings) Law, 1 V.S.A §§ 310-315. This definition also includes synchronous training (e.g., lecture, workshops), but not asynchronous training.

External Meetings means any gathering of persons that includes an AHS staff member, and which is neither initiated, nor hosted, nor stored as a public record by the Agency – for example, a municipal board meeting or a meeting to give legislative testimony.

Public Record means, as enumerated above, any written or recorded information, regardless of physical form or characteristics, which is produced or acquired in the course of public agency business, as defined by 1 V.S.A. § 317.

Recording means telephonic recordings, video recordings, other electronic recordings and written word-by-word transcription of meetings but does not include brief notes taken in the normal course of business.

Asynchronous Training refers to formal educational or knowledge-transmission, skill-building, events (e.g., lectures, workshops) that are packaged and delivered in a way that is not time- or place-specific. In other words, end users (e.g., students, participants) can engage the training at their convenience, for example, through their computers, as available. This type of training does not include a real-time, live, facilitator.

Synchronous Training refers to formal educational or knowledge-transmission, skill-building, events (e.g., lectures, workshops) that are live, and to which end users only have access during scheduled times electronically, or in person. Synchronous trainings are a type of business meeting which specifically intend to transmit knowledge or build skill with a real-time, live facilitator. Synchronous trainings typically have far more communication exchange opportunities than do asynchronous trainings, which are often limited to brief quizzes with superficial feedback from the training system.

SCOPE:

This document governs all meetings and external meetings attended by AHS staff, and applies to all Agency departments, divisions, and offices.

GUIDELINES:

General Principles:

1. Each AHS department must develop a standard operating procedure for reviewing meeting recording requests, conducting recorded meetings, attending meetings recorded externally, and retaining meetings recorded by the department (the "Recorded Meetings SOP").
2. Business meetings shall not be recorded unless approval for such a recording is sought and granted in accordance with Departmental Procedure.
3. Where a business meeting includes more than one AHS Department and the Departments disagree as to whether such a meeting should be recorded, each AHS Department must report the disagreement to the Secretary or his designee, which shall have final authority to decide if a meeting shall be recorded.
4. AHS staff can attend external meetings that are recorded. However, staff who attend such external meetings must adhere to all privacy and confidentiality requirements mandated by law and policy, and should familiarize themselves with, at a *minimum*, AHS' HIPAA obligations and the AHS Consumer Information and Privacy Rule. Staff who attend such meetings should also consult their departmental Recorded Meetings SOP to ensure they are aware of their obligations in these respects.

Guidelines for the Recorded Meetings SOP:

1. Each Department must provide staff with a point of contact for recording requests, as well as workable timelines for seeking and obtaining approval.
2. Each Department must designate specific staff to perform, at a minimum, the following tasks:
 - Review requests to record meetings;
 - Ensure that any meetings which must be recorded pursuant to 1 V.S.A §§ 310-315 are recorded in a manner consistent with that law;
 - Ensure that recording requests are handled in a manner which upholds AHS' legal mandate to provide reasonable accommodations, for example by providing procedures for recording meetings in order to ensure access for consumers with disabilities;
 - Ensure that recorded meetings are conducted in a manner that complies with AHS' broader confidentiality obligations;
 - Ensure that staff who attend external recorded meetings are aware of all privacy and confidentiality requirements mandated by law and policy;
 - Notify all participants that meetings will be recorded and provide all participants with standards of conduct to ensure that AHS' is fulfilling its role to safeguard protected information;
 - Store and maintain recordings in a manner consistent with state and federal law, and the record schedules issued by the Vermont State Archives and Records Administration and approved by the State Archivist.
3. Each Department must finalize its Recorded Meetings SOP six months from the approval of this policy, or by August 1st, 2022, whichever date comes later.

AUTHORITIES:

1 V.S.A. Chapter 5, Subchapter 3: Access to Public Records, §§ 315-320

REFERENCES:

AHS Public Records Policy

AHS Consumer Information and Privacy Rule