



## **CONFIDENTIALITY AND PRIVACY POLICY**

### **Policy**

Hale Kipa believes in maintaining the confidentiality and privacy of our participants' Protected Health Information (PHI) by maintaining Confidentiality and Privacy. The Confidentiality and Privacy of PHI forms the basis of trust in the working relationship between our youth (and families) who receive services by employees of Hale Kipa, contractors, and volunteers, and gives the youth control over their treatment. It is Hale Kipa's policy to ensure that the Privacy of our youth and families is respected and that information about them remains confidential. Youth accepted into Hale Kipa programs, its employees, contractors, and volunteers providing services within Hale Kipa are protected by State and Federal laws relating to the confidentiality of information. Hale Kipa is a covered entity as a health care provider under Public Law 104-191 – August 21, 1996, and therefore must comply with all federal guidelines, standards, rules, and timelines to achieve compliance with the Health Insurance Portability and Accountability Act (HIPAA) of 1996. Hale Kipa also maintains the Confidentiality and Privacy of its staff, contractors, and volunteers.

### **Procedure**

1. All information is private and confidential. All employees, contractors and volunteers must sign statements promising to protect Confidentiality as a condition of employment.
2. All employees, contractors and volunteers receive training in the laws governing the Confidentiality and Privacy of information and the procedures for handling this information.
3. Violation of this policy regarding Confidentiality and Privacy is grounds for disciplinary action, including dismissal and criminal and civil action(s).
4. Information regarding client PHI is not discussed in public areas within Hale Kipa and/or outside of Hale Kipa.
5. Telecommunication, telehealth, and virtual conferencing are necessary activities that support ongoing programs and services of Hale Kipa. Hale Kipa has a BAA with Zoom which is the agency's approved source for video conferencing. Hale Kipa makes reasonable efforts to secure Hale Kipa owned property including desktops, cell phones and other mobile devices and maintains HIPAA compliance. Hale Kipa cannot ensure the security of non-Hale Kipa owned technological equipment nor client owned technological equipment yet makes every effort to train staff to follow confidentiality procedures set forth in this document. The use of personal Zoom (without a BAA) may be temporarily allowed during certain times when approved by Hale Kipa to maintain uninterrupted delivery of services for youth and families in need. Hale Kipa advises that all staff use a good faith approach by requiring passwords be used when holding Zoom meetings. The Office of Civil Rights (OCR) will

exercise its enforcement discretion and will not impose penalties for noncompliance with the regulatory requirements under the HIPAA Rules against covered health care providers in connection with the good faith provision of telehealth during the COVID-19 nationwide public health emergency.

6. Information is not discussed in conversation unrelated to a business purpose.
7. Information is requested and accessed by authorized employees, contractors, and volunteers strictly on a need-to-know basis.
8. Information is not released without the required legal consent, pursuant to a subpoena or court order, or as otherwise authorized or required by law.
9. Information is not to be released, whether verbally, in writing, or electronically regarding a youth or their family without the Consent to Release/Obtain Confidential Information Form signed by the youth and, if under eighteen, the youth's parent(s) or legal guardian(s). This applies to both open and closed cases.
10. Information will not be released without notification, and when appropriate, written consent regarding staff, volunteers, or contractors.
11. Respective program and service staff, contractors and volunteers are responsible for ensuring that the Confidentiality and Privacy of youth and families, (written, electronic or verbal) is maintained and that such information is shared only with those directly involved in servicing the youth and families, and/or supervision of staff. Written records, Electronic Protected Health Information (ePHI) or PHI are protected against loss, unauthorized use, or distribution.
12. Hale Kipa takes a protective role with youth who may not have permanent, safe, or secure family ties, youth who have endured trauma, youth who are particularly vulnerable due to mental and/or developmental disabilities. Special precautions are taken to ensure that these youth are protected from making uninformed or compromising decisions that would release information about themselves which may result in being harmful or when staff deem the purpose questionable.
13. Hale Kipa takes a protective role with youth and families to protect them from media inquiries. Media inquiries, whether internal or external, requesting specific youth information will not be released without the informed written consent from the youth and their parent(s) or legal/guardian(s). The consent also releases Hale Kipa from liability if the person discloses information on themselves. Inquires may include photographs, videotaped interviews, artwork, or creative writings for public relations, news events, social media or fundraising purposes. All requests to participate in media events are voluntary. Legal counsel may be consulted if there are required disclosure concerns. (Also refer to Hale Kipa's Crisis Communication Plan.)
14. Hale Kipa's Consent to Release/Obtain Confidential Information includes the following:
  - Time limited.
  - Specific addressee
  - Specific information required.
  - Purpose of such information

- Signed and dated by youth.
- Signed and dated by parent(s)/legal guardian(s)
- Signed by a witness.
- Provides organizational contact information.

All youth and/or their parent(s) or legal guardian(s) receiving services from Hale Kipa, Inc. have the right to review any information that needs to be released. A youth and/or parent(s) or legal guardian(s) may verbally or in writing revoke written consent at any time.

15. Copies of the signed consent forms will be provided to the youth and their parent(s) or legal guardian(s) and placed in the youth's record.
16. Confidentiality and Privacy of youth information will be maintained after services have been terminated.
17. Hale Kipa may be legally or ethically required to release Confidential or Private information without consent. Under such circumstances, Hale Kipa will inform the youth (and family if appropriate) before disclosing confidential or private information. These circumstances include the following:
  - Under law, if there is any indication of child abuse, neglect, exploitation or trafficking, Hale Kipa must report such information to Child Protective Services or to the police.
  - If a court orders case records, via subpoena, it is Hale Kipa's responsibility to disclose requested information to the court.
  - During management reviews or audits of the agency, some files may be reviewed. Persons involved in the review or audits are under the same rules of Confidentiality as employees, contractors, and staff.
  - In a medical emergency, pertinent parts of the record may be released to medical personnel.
  - Between and among Hale Kipa staff, contractors and volunteers, case materials may be disclosed on a need-to-know basis.
  - If a minor, in the judgment of the Program Coordinator/Qualified Mental Health Professional, lacks the capacity to make rational decisions on whether to consent to the notification of a parent/guardian and, if such notification would reduce a substantial threat to the life and/or physical well-being of the youth or other individuals, the Program Coordinator/Qualified Mental Health Professional, after consultation with the assigned Director and/or Chief Program Officer, may have a duty to warn thereby communicating relevant facts to parent/guardian, police, DOH (Department of Health), DHS (Department of Human Services) or person substantially threatened with bodily harm.
18. Under all circumstances of unauthorized disclosure of youth (and family) information, the Program Coordinator/Qualified Mental Health Professional will discuss the case with the assigned Director and/or Chief Program Officer who will decide whether to disclose the information. The details of the decision will be documented in the Electronic Health Record (EHR). During any administrative review of cases, the assigned Director and the Chief Program Officer will remain alert to instances of potential disclosure, both authorized and unauthorized.

19. The Chief Program Officer will inform the Chief Quality Improvement Officer and Chief Executive Officer of all cases of unauthorized release of information. Legal review is available if the case so warrants.
20. Under all circumstances of unauthorized disclosure of employee, contractor or volunteer information, the disclosure will be discussed with the Chief Administrative Officer, who will decide whether to disclose the information. The details of the decision will be documented in the personnel file. During administrative review of files, the Chief Administrative Officer will remain alert to instances of potential disclosure, both authorized and unauthorized.
21. The Chief Administrative Officer will inform the Chief Executive Officer of all cases of unauthorized release of employee, contractor, or volunteer information. Legal review is available if the case so warrants.
22. Should Hale Kipa receive a subpoena, a request from an attorney or court officer, or information that might suggest youth (family) court involvement, the Program Coordinator/Qualified Mental Health Professional/ Director, must immediately inform the Chief Operating Officer who, in turn, will discuss the matter with the Chief Executive Officer. Hale Kipa's Chief Executive Officer will determine if the agency's attorneys should be involved in the proceedings. Agency attorneys have consulted with Hale Kipa regarding laws on confidentiality, privacy, and subpoenas.
23. Leaving information unattended or in sight of others is strictly prohibited. When information is not actively in use, staff/contractor/volunteer must log out of the EHR and/or paper files must be kept double locked.
24. Hard copy information is safeguarded in secured workspaces and disposed of by shredding or other acceptable means of document destruction.
25. All employees, contractors and volunteers are responsible for reporting any violation of this policy to their supervisor.
26. Hale Kipa will also alert its funding sources, as applicable, when there is a serious breach related to confidentiality, e.g., data exposure, potential impact on Hale Kipa's financial health, accreditation standing or contracts. In particular, the Criminal Prevention and Justice Assistance Office must be notified within 12 hours of any breach detected in Personal Identifying Information.



---

Chief Executive Officer

March 15, 2023

Effective Date