

950 CMR 130.00: ADMINISTRATION OF ADDRESS CONFIDENTIALITY PROGRAM

Section

- 130.01: Scope and Purpose
- 130.02: Definitions
- 130.03: Application Assistant Certification
- 130.04: Program Participant Application and Certification Process
- 130.05: Cancellation of Program Certification
- 130.06: Appeal of Denial or Cancellation of Program Certification
- 130.07: Exercise of Program Participant's Privileges
- 130.08: Program Participation Renewal
- 130.09: Agency Exemption Request
- 130.10: Service of Process
- 130.11: Correspondence from Courts

130.01: Scope and Purpose

950 CMR 130.00 shall provide for the administration of the Address Confidentiality Program.

130.02: Definitions

Authorization Card. Card issued by the Secretary of the Commonwealth to program participant upon certification, which includes program participant's name, authorization code, substitute mailing address, certification expiration date, and signature.

Authorization Code. A number assigned to a program participant upon acceptance into the Program.

Application. Standard application form provided by the Secretary of the Commonwealth which must be completed by an applicant with an Application Assistant as defined by M.G. L. c. 9A, § 1.

Application Assistant. An employee of a state or local agency, or of a nonprofit program that provides counseling, referral, shelter or other specialized service to victims of domestic abuse, rape, sexual assault, or stalking and who has been designated the respective agency, and trained, accepted and registered by the Secretary of the Commonwealth to assist individuals in the completion of program participation applications.

Certification. The process by which an applicant is determined eligible to participate in the Program.

Program. The Address Confidentiality Program established by M.G.L. c. 9A.

Program Participant. A person certified by the Secretary of the Commonwealth to participate in the Address Confidentiality Program.

Program Manager. Employee of the Office of the Secretary of the Commonwealth designated by the Secretary to administer the Address Confidentiality Program pursuant to M.G.L. c. 9A, § 2.

Residential Address. Means the street name, street number, city or town, and zip code of the program participant.

130.03: Application Assistant Certification

(1) All application assistants must be certified by the Secretary of the Commonwealth's office to participate in this program.

(2) Application Assistant Certification will only be awarded when the prospective application assistant:

130.03: continued

- (a) Is a service provider or works with an agency and can demonstrate to the Secretary relevant qualifications to work with victims of domestic violence, sexual assault or stalking;
  - (b) Successfully completes program orientation and training sessions sponsored by the Office of the Secretary of the Commonwealth;
  - (c) Completes an application for an application assistant which includes the applicant's name, address, service provider or agency, supervisor's name, relevant qualifications;
  - (d) Agrees to adhere to the policies, procedures and directions provided by Address Confidentiality Program Manager for rendering assistance to program applicants; and,
  - (e) Agrees to adhere to the instructions and terms provided in the Application Assistant Agreement.
- (3) Application Assistant Certification shall be valid for two years, unless terminated sooner as provided herein.
- (4) The Application Assistant agrees not to discriminate against any client, or potential program participant, because of race, creed, color, national origin, gender, sexual orientation, age, or mental, physical or sensory disability.
- (5) The Application Assistant performing under this contract is not deemed to be an employee of the Office of the Secretary of the Commonwealth nor an agent of the Secretary of the Commonwealth in any manner whatsoever. The Application Assistant will not hold herself/himself out as, nor claim to be an officer or employee of the Office of the Secretary of the Commonwealth or of the Commonwealth of Massachusetts simply because she/he is a program application assistant and will not make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the Office of the Secretary of the Commonwealth or of the Commonwealth of Massachusetts.
- (6) An application assistant's certification may be terminated by the Office of the Secretary of the Commonwealth for failing to abide by any requirement in 950 CMR 130.03 or for failing to act in accordance with requirements of the address confidentiality program.

130.04: Program Participant Application and Certification Process

- (1) To be certified as a program participant, an applicant must be a Massachusetts resident who is a victim of domestic violence, sexual assault or stalking. Further, the applicant must attest that disclosure of his or her address will threaten the safety of the applicant or the applicant's children or the minor or the incapacitated person on whose behalf the application is made.
- (2) A program applicant shall complete, date, sign, and provide all the information required under M.G.L. c. 9A, § 2, and as requested on the standard application form and the authorization card form provided by the Secretary of the Commonwealth. The application shall include an attestation by the applicant that disclosure of the applicant's address threatens the safety of the applicant or the applicant's children or the minor or incapacitated person on whose behalf the application is made. An applicant shall specify a Massachusetts state residential address, work or school addresses in Massachusetts for which confidentiality is requested. The standard application form shall include, but not be limited to, the application preparation date, and the signature and certification number of the application assistant who assisted the applicant in applying to become a program participant, as provided in M.G.L. c. 9A, § 2.
- (3) Prior to certification of the application, the Secretary of the Commonwealth may request additional documentation from the program applicant, including, but not limited to, any relevant judicial proceeding, criminal complaint, or proceeding brought under M.G.L. c. 209A.
- (4) A properly completed application shall be effective on the day that it is certified by the Program Manager.
- (5) An individual who is certified as a program participant shall be issued a program participant's authorization card which includes her or his name, authorization code, substitute mailing address, certification expiration date, and applicant's signature.

130.04: continued

(6) The term of a program participant's certification shall be four years following the effective date of her or his application unless the certification is withdrawn or invalidated before that date pursuant to M.G.L. c. 9A, § 3 or 950 CMR 130.06.

(7) If there is a change in the program participant's residential address from the one listed on the application, the program participant shall notify the Program Manager in writing of such change within 30 days of the change in residence.

130.05: Cancellation of Program Certification

(1) Program certification shall be canceled if any of the following occur:

(a) The program participant fails to notify the Program Manager in writing of a change in the program participant's residential address within 30 days.

(b) The program participant discloses his or her residential address to the batterer, stalker, or perpetrator of sexual assault.

(c) Any one of the cancellation conditions provided for by M.G.L. c. 9A.

(2) Upon cancellation of program certification, the program participant will return the authorization card to the Secretary of the Commonwealth.

(3) If certification for the program is canceled because one of the conditions set out in M.G.L. c. 9A, § 3 or in 950 CMR 130.05 applies, the program manager will notify the program participant by mail addressed to the participant's last known residential address that program participant certification has been canceled.

(4) Except where certification has been canceled pursuant to M.G.L. c. 9A, § 2(5), the Secretary of the Commonwealth shall not make a former participant's address available for inspection or copying except as provided for by M.G.L. c. 9A, § 5.

(5) Upon program certification cancellation, the former program participant shall complete change of address forms with the United States Post Office. Any former program participant's mail received by the Program will be returned to the sender.

130.06: Appeal of Denial or Cancellation of Program Certification

(1) The Secretary of the Commonwealth shall designate a committee of five members to review appeals of denial, cancellation or non-renewal of program certification. The Program Committee may include one representative from the Massachusetts Office for Victims Assistance, one representative from Jane Doe, Inc., and three other members chosen by the Secretary of the Commonwealth.

(2) Within 30 days of the date of the denial, cancellation or non-renewal, the program applicant may request, in writing, that the committee reconsider the Program Manager's decision to deny or cancel program certification. The Committee shall reconsider any application for which a request for reconsideration is received. After reconsideration of the application, the Committee shall affirm the denial or certify the application. Certification will remain in place during the pendency of the appeal process.

(3) The committee shall notify the applicant by certified mail, return receipt required, of the decision upon reconsideration within 30 days of receiving the request for reconsideration.

130.07: Exercise of Program Participant's Privileges

(1) A program participant shall request, at the time of creation of a new record, that an agency use the substitute address designated by the Secretary of the Commonwealth as her or his residential or mailing address.

130.07: continued

- (2) A program participant shall show her or his authorization card to the agency official creating a new record and request address confidentiality through use of the substitute address in lieu of her or his actual location. The substitute address shall appear on the program participant's authorization card.
- (3) Authorized personnel may make a file photocopy of the authorization card and shall immediately return the authorization card to the program participant.
- (4) An agency shall accept the substitute address unless the agency has received a written record exemption determination from the Office of the Secretary of the Commonwealth.
- (5) An agency shall not question the program participant about the details or circumstances of her or his inclusion in the program. Rather, the agency shall accept the determination made by the Secretary of the Commonwealth that she or he is a qualified program participant.

130.08: Program Participation Renewal

- (1) A program participant may renew her or his program participation by filing a properly completed renewal form with the address confidentiality program manager. The renewal form shall be sent to the participant at least 30 days before the expiration of the current authorization. Upon receipt of the new authorization card, the participant shall destroy her or his expired card and return it to the Secretary of the Commonwealth.
- (2) The program manager shall certify a program participant, who has filed a properly completed certification renewal form, to participate in the program for an additional four year term unless the certification is withdrawn or invalidated before that date.
- (3) Upon renewal, the program manager shall issue to the program participant a new authorization card which includes the program participants name, authorization code, substitute mailing address, certification expiration date, and signature.

130.09: Agency Exemption Request

- (1) An agency requesting an exemption under 950 CMR 130.09, must provide in writing to the Secretary of the Commonwealth:
  - (a) Identification of the statute or administrative rule which demonstrates the agency's *bona fide* requirement and authority for the use of the actual address of an individual;
  - (b) identification and description of the specific record or record series for which the exemption is requested;
  - (c) identification of the individuals who will have access to the record;
  - (d) an explanation of why the agency cannot meet its statutory or administrative obligations by a change in its internal procedures.
- (2) The Secretary of the Commonwealth shall file and review an agency's request for an exemption.
- (3) During the review, evaluation and appeal of an agency's exemption request, the agency shall accept the use of a program participant's substitute address.
- (4) The Secretary of the Commonwealth's determination to grant or withhold a requested exemption shall be based on, but not limited to, an evaluation of the information provided under 950 CMR 13.09(1) in conformance with the statutory standard of a *bona fide* statutory or administrative requirement for the use of a program participant's actual address.
- (5) If the Secretary of the Commonwealth determines that an agency has a *bona fide* statutory or administrative requirement for the use of a program participant's actual address information and that the actual address information will be used only for those statutory and administrative purposes, the Secretary may issue a written exemption for the agency. When granting an exemption, the Secretary may include:

130.09: continued

- (a) an agency's obligation to maintain the confidentiality of a program participant's address information;
- (b) limitations on use and access to that address information;
- (c) term during which the exemption is authorized for the agency;
- (d) designation of the record format on which the address information may be maintained;
- (e) designation of an address information disposition date after which the agency may no longer maintain a record of the address information; and,
- (f) any other provisions and qualifications determined appropriate by the Secretary of the Commonwealth.

(6) When a program participant requests use of the substitute address in a record, and the agency has received an exemption for that record, the agency shall immediately provide a copy of the written exemption to the requesting program participant. The agency shall notify the address confidentiality program manager of the occurrence and denial of the program participant's request.

(7) The Secretary of the Commonwealth's denial of an agency exemption request shall be made in writing and include a statement of the specific reasons therefor.

(8) An agency may appeal the denial of its request by resubmitting its written request within 60 days of the issuance of a denial. The request shall be accompanied by additional data, information and an explanation of corrective action taken to alleviate concerns and considerations included in the Secretary of the Commonwealth's denial determination.

130.10: Service of Process

(1) The Secretary of the Commonwealth shall be an agent of the program participant upon whom any summons, writ, notice, demand, or process may be served.

(2) Service on the Secretary of the Commonwealth of any such summons, writ, demand, notice, or process shall be made by mailing to the substitute address or by delivering to the address of Secretary of the Commonwealth at his/her office at One Ashburton Place, Public Records Division, Boston, Massachusetts 02108 two copies of the summons, writ, notice, demand, or process.

(3) If a summons, writ, notice, demand, or process is served on the Secretary of the Commonwealth, the secretary of the Commonwealth shall forward a copy within 24 hours to the program participant at the participant's current mailing address shown on the records of the program.

(4) The Secretary of the Commonwealth shall maintain in the program participant's file, a record of all summonses, writs, notices, demands, and processes served upon the Secretary of the Commonwealth for that participant under which shall include the date of such service and the Secretary of the Commonwealth's action.

130.11: Correspondence from Courts

All correspondence with a return address of a court shall be forwarded within 24 hours to the program participant's current mailing address shown on the records of the program.

REGULATORY AUTHORITY

950 CMR 130.00: M.G.L. c. 9A.

NON-TEXT PAGE