POLICY I-F: CONFIDENTIALITY

03/2018

The Division of Children and Family Services is committed to best practice in relation to respecting client confidentiality. Information is confidential if it is not intended to be disclosed to persons other than those to whom disclosure is allowed under the statute. All employees of the Division shall maintain the confidentiality of children and families served by DCFS. Confidentiality applies to verbal, written and/or electronic transmittal of information including information in CHRIS.

No DCFS employee may accept employment or engage in any activity while serving as a DCFS employee, which might reasonably be expected to require or induce the employee to disclose confidential information. In addition, no DCFS employee may disclose confidential information or use confidential information for the gain or benefit of the employee or person in a close, personal relationship to the employee.

Reports, correspondence, memoranda, case histories, or other materials related to protective services and foster care records, shall be confidential and shall not be released or otherwise made available, except to the extent permitted by federal and state law and only as listed below. This includes protected health information compiled or received by a licensee or a state agency engaged in placing a child.

- **A. To the director as required by regulation;**
- **B. For adoptive placements, as provided by the Revised Uniform Adoption Act, § 9-9-201 et seq.;**
- **C. To multidisciplinary teams;**
- **D. To the child's custodial/non-custodial parent(s), guardian, or custodian. However, the licensee or state agency may redact information from the record such as the name or address of foster parents or providers when it is in the best interest of the child. The licensee or state agency shall redact counseling records, psychological or psychiatric evaluations, examinations or records, drug screens or drug evaluations, or similar information concerning a parent if the other parent is requesting a copy of a record;**
- **E. To the child;**
- **F. To health care providers to assist in the care and treatment of the child at the discretion of the licensee or state agency and if deemed to be in the best interest of the child. Health care providers include doctors, nurses, emergency medical technicians, counselors, therapists, mental health professionals, and dentists;**
- **G. To school personnel and child care centers caring for the child at the discretion of the licensee or state agency and if deemed to be in the best interest of the child;**
- **H. To foster parents, the foster care record for children in foster care currently placed in their home. However, information contained in records released by the Department to the foster parent about the parents or guardians and any siblings not in the foster home will not be re-disclosed by the foster parent and will only be used to assist the foster parent in the care of the child placed in the foster parent's home. (See Policy VII-H: Providing Information to Foster Parents);**
- **I. To the Child Welfare Agency Review Board. However, at any board meeting no information which identifies by name or address any protective services recipient or foster care child shall be orally disclosed or released in written form to the general public;**
- **J. To the Division of Children and Family Services, including child welfare agency licensing specialists;**
- **K. For any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental agency which is authorized by law to conduct such audit or activity;**
- **L. Upon presentation of an order of appointment, to a court-appointed special advocate;**
- **M. To the attorney ad litem for the child;**
- **N. For law enforcement or the prosecuting attorney upon request;**
- **O. To circuit courts, as provided for in the Arkansas Juvenile Code of 1989, § 9-27-301 et seq.;**
- **P. In a criminal or civil proceeding conducted in connection with the administration of any such plan or program;**
- **Q. For purposes directly connected with the administration of any of the state plans as outlined;**

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R. For the administration of any other federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need; or
S. To individual federal and state representatives and senators in their official capacity, and their staff members, with no re-disclosure of information. No disclosure shall be made to any committee or legislative body of any information which identifies by name or address any recipient of services; or
T. To a grand jury or court, upon a finding that information in the record is necessary for the determination of an issue before the court or grand jury.
U. To a person, provider, or government entity identified by the licensee or the state agency as having services needed by the child or his/her family; or
V. To volunteers authorized by the licensee or the state agency to provided support or services to the child or his/her family at the discretion of the licensee or the state agency and only to the extent information is needed to provide the support or services.
W. To a person, agency, or organization engaged in a bona fide research or evaluation project that is determined by the Division to have value for the evaluation or development of policies and programs within DCFS. Any confidential information provided for a research or evaluation project shall not be re-disclosed or published.
X. To a child fatality review panel as authorized by the Department of Human Services.

Any data, records, or documents described above that are released to a law enforcement agency, the prosecuting attorney, or a court by the Department of Human Services are confidential and shall be sealed and not re-disclosed without a protective order to ensure that items of evidence for which there is a reasonable expectation of privacy are not distributed to persons or institutions without a legitimate interest in the evidence.

FOSTER CARE RECORDS

Foster home and adoptive home records are confidential and shall not be released except:

A. To the foster parents or adoptive parents
B. For purposes of review or audit, by the appropriate federal or state agency
C. Upon allegations of child maltreatment in the foster home or adoptive home, to the investigating agency
D. To the Child Welfare Agency Review Board
E. To the Division of Children and Family Services, including child welfare agency licensing specialists
F. To law enforcement or the prosecuting attorney, upon request
G. To a grand jury or court, upon a finding that information in the record is necessary for the determination of an issue before the court or grand jury
H. To individual federal and state representatives and senators in their official capacity, and their staff members with no re-disclosure of information
I. No disclosure shall be made to any committee or legislative body of any information that identifies by name or address any recipient of services
J. To the attorney ad litem and court appointed special advocate, the home study on adoptive family selected by the Department to adopt the juvenile

Any person or agency to whom disclosure is made shall not disclose to any other person reports or other information obtained. Any person disclosing information in violation of A.C.A. §12-18-104 shall be guilty of a Class A misdemeanor. Nothing in this section shall be construed to prevent subsequent disclosure by the child or his/her parent or guardian.

The Family Service Worker may by law sign for releases of information for children in DHS custody.

The Family Service Worker must present a copy of the custody order to receive medical and school records.

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The CFS-4000 or DHS 81: Consent for Release of Information must be signed by the parent to receive copies of parent's records; however, the parent's signature is not necessary for obtaining records for the child.

An attorney ad litem shall be provided access to all records relevant to the child's case, including, but not limited to, school records, medical records, juvenile court records and Department of Human Services records to the extent permitted by federal law.

CHILD IN FOSTER CARE

When a release of information regarding a child is requested, the FSW shall take the necessary steps to guard the confidentiality of personal information. The steps include:

A. Assuring that no identifying or potentially harmful information on a child is released; and,
B. The consent shall be reviewed and approved by OCC.

Court orders that direct the release of specific information to specified offices, agencies or people shall be construed as proper consent for release of information. No other consent is necessary. However, OCC should be informed whenever such a release of information is being made.

Requests for media releases includes requesting permission to release photographs, voice reproductions, slides, video tapes, movie films, promotional pamphlets, news releases, etc. The FSW shall review the contents of such release along with OCC and make any necessary modifications. Consideration should be given to the protection of the child's identity and assurances that the contents of the material released will present the child in a light that would not be distasteful or negative to the child. The Director of the Division of Children and Family Services or designee shall be consulted in matters that may reflect on the Division. In cases of consents for coverage by news media, consultation should also be sought from the DHS Director of Communications. This consent must be signed by the Assistant Director of Community Services. The foster parents shall be informed of these policies.

The Adoption Specialist must obtain documented consent from a child 12 years of age or older, to show photographs for recruitment of an adoptive family.

ADOPTION RECORDS

Non-identifying information from finalized records can only be released by the Arkansas Mutual Consent Voluntary Adoption Registry. Identifying information from a finalized record can only be released by court order.

INVESTIGATIVE REPORTS

Child maltreatment investigative data, records, reports, and documents are confidential and may only be disclosed as provided for in the Child Maltreatment Act codified at A.C.A. § 12-18-101 et seq.

If a DCFS employee wrongfully discloses confidential information, he or she is guilty of a Class A misdemeanor and can lose his or her job. For a Class A misdemeanor, the sentence shall not exceed one year in the county jail and a $1,000 fine. See A.C.A. §12-18-205.

FREEDOM OF INFORMATION ACT

Personnel records can be disclosed to the public, unless to do so would clearly be an unwarranted invasion of privacy. Therefore, the Department can not release the Social Security Number, school transcripts, or PPES information of any staff unless that person has been suspended or terminated as a result of his/her PPES score. Grievance information becomes public record after the grievance process is completed if a grievance is appealed to the State Grievance Review Committee. If the grievance is not appealed to the state level, the discipline does not become public record. See A.C.A §25-19-105.

Any data, records, reports, or documents that are created, collected, or compiled by or on behalf of DHS, the Department of Arkansas State Police, or other entity authorized under A.C.A §12-18-101 et seq. to perform

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investigations or provide services to children, individuals, or families shall not be subject to disclosure under the Freedom of Information Act of 1967, A.C.A §25-19-101 et seq.

See these policy sections and their subsequent procedures for more information on confidentiality: Policy II-K: Information Disclosure on Pending Investigations & True Findings Pending Due Process; Policy VII-H: Providing Information to Foster Parents; Policy XIII-A: Child Maltreatment Central Registry; Policy XIV-A: Notices Regarding Child Maltreatment.

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