

# BUREAU OF LEGISLATIVE RESEARCH

DEPARTMENT OF HUMAN SERVICES  
Division of Children and Family Services  
AMENDING ADMINISTRATIVE REGULATIONS

TITLE: **Revised Rule**

- **POLICY I-F: Confidentiality**
- **POLICY VII-H: Providing Information to Foster Parents**

PROPOSED EFFECTIVE DATE: April 1, 2018

STATUTORY AUTHORITY: A.C.A. 9-28-103

NECESSITY AND FUNCTION:

**Revised Rule**

- **POLICY I-F: Confidentiality**
  - To clarify, per Act 329 of the 91<sup>st</sup> General Assembly, Regular Session that foster parents may receive (but not re-disclose) reports, case histories, and other written documents related to a foster care case of a child placed in the foster home even if such information contains information regarding the child's parents and/or siblings not placed in that foster home. This is in an effort to ensure the foster parents have the information needed to care for the child placed in their home and explain case progress to the child in an age appropriate manner.
  - To update the form number for Department Release of Information Form.
- **POLICY VII-H: Providing Information to Foster Parents**
  - To ensure foster parents are included in case planning and hearings as appropriate and in the best interest of the children involved and provided an entire copy of the case plan for children in their home, per Act 329 of the 91<sup>st</sup> General Assembly, Regular Session.
  - To clarify that foster parents are not to be made parties to a foster care case while reunification remains the court ordered goal of the case, per Act 701 of the 91<sup>st</sup> General Assembly, Regular Session.

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Signature

Name: Mischa Martin Title: Director

Section: Division of Children and Family Services

Department of Human Services

PROMULGATION DATES: November 13, 2017-December 13, 2017

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# DCFS SUMMARY OF CHANGES FOR NOVEMBER 2017 PROMULGATION

## SUMMARY OF DCFS REGULAR PROMULGATION

The purpose of this regular promulgation is to revise Division policy regarding:

- Foster parent access to records, specifically:
  - To clarify that information about a child in care may be provided to the foster parent whose home serves as placement for the child -- even though it may also contain information about the child's biological parents and/or siblings not placed in the foster home.
  - To ensure the foster parent uses such information to help the child better understand the progression of his or her family's case and does not re-disclose information found in such records.

This revised rule will ensure the State complies with Act 329 of the 91<sup>st</sup> General Assembly, Regular Session.

- Foster parents becoming a party to a foster care case while reunification remains the goal of the case. This revised rule will ensure the State complies with Act 701 of the 91<sup>st</sup> General Assembly, Regular Session.

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## FINAL FILING SUMMARY OF CHANGES

- **POLICY I-F: Confidentiality**
  - Clarified that foster parents may receive (but not re-disclose) reports, case histories, and other written documents related to a foster care case of a child placed in the foster home even if such information contains information regarding the child's parents and/or siblings not placed in that foster home.
  - Updated the form number for Department Release of Information Form.
- **POLICY VII-H: Providing Information to Foster Parents**
  - Clarified that foster parents are included in case planning and hearings as appropriate and in the best interest of the children involved and provided an entire copy of the case plan for children in their home.
  - Clarified that foster parents are not to be made parties to a foster care case while reunification remains the court ordered goal of the case.

This rule will be posted to the following website:

<http://humanservices.arkansas.gov/dcf/dcfDocs/Master%20DCFS%20Policy.pdf>

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## POLICY I-F: CONFIDENTIALITY

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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;

- 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 provide 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.

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

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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**POLICY I-F: CONFIDENTIALITY**

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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 wish not be released-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 provide 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.

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- 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

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## POLICY VII-H: PROVIDING INFORMATION TO FOSTER PARENTS

03/2018

Foster parents will be considered as team members working with other child welfare professionals for the family. Complete information, such as a child's health and education records, reasons for entering care, siblings, and probable length of placement, will be provided to foster parents at the time of placement. Additional information, including, but not limited to, a complete copy of the Child and Adolescent Needs and Strengths (CANS) assessment and complete copy of the case plan for each child placed in the home, will be shared promptly with the foster parents. Foster parents are also allowed to receive a copy of substantiated child maltreatment report for the child in their care.

The child's Social Security number may be given to the foster parents, only if the foster parent must have the number to obtain services, care, or treatment for the child (e.g., to enroll the child in school or to obtain medical treatment when treatment is needed for a child who is not Medicaid eligible). The foster parent must keep the child's Social Security number confidential and use the Social Security number only for allowable purposes.

Foster parents, pre-adoptive parents, and relative caregivers have the right to be heard in any proceeding held with respect to a child in their care. Foster parents will not be made a party to such proceeding while reunification remains the court ordered goal or solely on the basis that such persons are entitled to notice and the opportunity to be heard.

### PROCEDURE VII-H1: Providing Information to Foster Parents

03/2018

The Family Service Worker will:

- A. Provide foster parents with copies of the CFS-6010: Case Plan, CFS-368: Health Services Plan and CFS-6007: Placement Plan-Placement Plan Provider Information Report within five calendar days of completion or revision.
- B. Provide the foster parent with the child's Social Security number, when it is required, to obtain services, care, or treatment for the child.
- C. Review and update the child's health and education records and provide copies to the out-of-home care provider at the time of placement.
- D. Provide any additional information, as it becomes available, such as a complete copy of the most recent CANS assessment and the child's case plan.
- E. Submit the CFS-343: Notification of Court Appearance to foster parents within 10 calendar days of any review hearing to be held with respect to a child in their care. Send the CFS-343 through certified mail for all Permanency Planning Hearings.
- F. Provide the foster parent with a copy of a substantiated child maltreatment report on the child in their care, if requested.

The foster parents will:

- A. Maintain the information shared as confidential.
- B. Use information contained in the case plan and other provided information to assist the child placed in the foster home in understanding the progress of the child's foster care case.

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POLICY VII-H: PROVIDING INFORMATION TO FOSTER PARENTS

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Foster parents ~~wish~~ shall be considered as team members working with other child welfare professionals for the family. Complete information, such as a child's health ~~and~~, education records, reasons for entering care, siblings, and probable length of placement, ~~wish~~ shall be provided to foster parents at the time of placement. Additional information, including, but not limited to, a complete copy of the Child and Adolescent Needs and Strengths (CANS) assessment and complete copy of the case plan for each child placed in the home, will be shared promptly with the foster parents. Foster parents are also allowed to receive a copy of substantiated child maltreatment report for the child in their care.

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The child's Social Security number may be given to the foster parents, only if the foster parent must have the number to obtain services, care, or treatment for the child ~~[e.g., -Some examples would be to enroll the child in school or to obtain medical treatment when treatment is needed for a child who is not Medicaid eligible, -when treatment is needed]~~. The foster parent must keep the child's Social Security number confidential and use the Social Security number only for an allowable purposes.

Additional information, including, but not limited to, a complete copy of the CANS/FAST and complete copy of the case plan for each child placed in the home, shall be shared promptly with the foster parents.

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Foster parents, pre-adoptive parents, and relative caregivers have the right to be heard in any proceeding held with respect to a child in their care. ~~Foster parents wish~~ shall not be made a party to such proceeding while reunification remains the court ordered goal or solely on the basis that such persons are entitled to notice and the opportunity to be heard. ~~Foster parents are allowed to receive a copy of substantiated child maltreatment report for the child in their care.~~

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- A. Provide the foster parent with the child's Social Security number, when it is required, to obtain services, care, or treatment for the child.
- B. Provide the foster parent with the child's Social Security number, when it is required, to obtain services, care, or treatment for the child.
- C. Review and update the child's health and education records, and provide copies to the out-of-home care provider at the time of placement.
- D. Provide any additional information, as it becomes available, such as a complete copy of the most recent CANS assessment and the child's case plan.
- E. Submit the CFS-343: Notification of Court Appearance to foster parents within 10 calendar days of any review hearing to be held with respect to a child in their care. Send the CFS-343 through certified mail for all Permanency Planning Hearings.
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The Foster Parents will:

- A. Maintain the information shared as confidential.
- A.B. Use information contained in the case plan and other provided information to assist the child placed in the foster home in understanding the progress of the child's foster care case.

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