	GEORGIA DIVISION OF FAMILY AND CHILDREN SERVICES CHILD WELFARE POLICY MANUAL			
	Chapter:	(2) Information Management	**Effective Date:**	October 2015
	Policy Title:	Confidentiality/Safeguarding Information		
	Policy Number:	2.6	**Previous Policy #:**	2109.2 1013.21-25

CODES/REFERENCES

O.C.G.A. § 49-5-41 and § 49-5-281
Title IV-E of the Social Security Act Sections 471(a)(8), 471(a)(8)(A), 471(a)(8)(B), 471(a)(8)(C), 471(a)(8)(D), 471(a)(9), 471(a)(9)(A), 471(a)(8)(E), 471(a)(20)(B)(iii), 471(a)(34)(A), 471(a)(35)(B) and 471(c)
J.J. v. Ledbetter Consent Decree

REQUIREMENTS

The Division of Family and Children Services (DFCS) shall:

1. Safeguard and protect the confidentiality of child maltreatment records and the sharing of information from such records.
   NOTE: This requirement is relevant for all DFCS staff, including interns and volunteers.
2. Comply with confidentiality laws at all times. Therefore, with any information request, inquiry or potential disclosure, DFCS staff must consider each of the following to ensure that confidential information is not unlawfully disclosed:
   a. HIPAA;
   b. Confidentiality; and
   c. J.J. v. Ledbetter.
3. *Ensure safeguards are in place for restricting use of or disclosure of information concerning individuals assisted under the title IV-E plan to purposes directly connected with:*
   a. The administration of the title IV-E plan or any of the plans or programs under Parts A, B or D of title IV or under titles I, V, X, XIV, XVI (as in effect in Puerto Rico, Guam and the Virgin Islands), XIX, or XX, or the Supplemental Security Income program under title XVI; and
   b. Any investigation, prosecution or criminal or civil proceeding conducted in connection with the administration of any such plan or program; and
   c. 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; and
   d. Any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental agency authorized by law to conduct such audit or activity; and
   e. The disclosure of information pursuant to 471(a)(9)(A) to appropriate authorities with respect to known or suspected child abuse or neglect.

4. *Ensure the safeguards provided will prohibit disclosure to:*
    a. *Any individuals or entities not included above; and*
    b. *Any committee or legislative body (other than an agency referred to in section 471(a)(8)(D) of the Social Security Act with respect to an activity referred to in that section) of any information which identifies by name or address any applicant for or recipient of assistance under Title IV-E of the Act.*
5. *Have in place safeguards to prevent the unauthorized disclosure of information in any child abuse and neglect registry maintained by the State, and to prevent any such information obtained from being used for a purpose other than conducting background checks in foster and adoptive cases.*

   NOTE: Georgia currently does not maintain a statewide child abuse and neglect registry.

   NOTE: *In the use of child welfare records in court proceedings, section 471(a)(8) of the Act shall not be construed to limit the flexibility of a State/Tribe in determining policies relating to public access to court proceedings to determine child abuse and neglect or other court hearings held pursuant to title IV-B or title IV-E of the Act, except that such policies shall, at a minimum, ensure the safety and well-being of the child, parents and family* (see policy 3.6 Legal: Public Access to Dependency Proceedings).
6. *Ensure the appropriate disclosure of information to:*
    a. *authorities pursuant to 471(a)(34)(A) with respect to children or youth identified in 471(a)(9)(C)(i)(I) of the Act who have been identified as being a sex trafficking victim; and*
    b. *the disclosure of information pursuant to 471(a)(35)(B) to appropriate authorities with respect to children identified in 471(a)(9)(C)(i)(I) of the Act who are missing or abducted.*
7. In compliance with state law, provide reasonable access to child abuse records to the following persons or agencies:
    a. Any federal, state, or local governmental entity, or any agency of any such entity, that has a need for information contained in such reports in order to carry out its legal responsibilities to protect children from abuse and neglect;
    b. A court, by subpoena;
    c. A grand jury, by subpoena;
    d. A district attorney or any assistant district attorney of any judicial circuit of this state, in connection with official duty;
    e. Any adult who makes a report of suspected child abuse. However, access shall include only notification regarding the child for whom the report was made, and disclosure should only include whether the investigation is ongoing or complete; and, if complete, whether child abuse was substantiated or unsubstantiated. Such information can only be disclosed if requested by the person making the report;
        i. Within 24 hours of a school employee making a report of suspected child abuse pursuant to Code Section 19-7-5, the entity that received such report shall acknowledge, in writing, the receipt of such report to the reporting individual.
        ii. Within five days of completing the investigation of the suspected child abuse, such entity shall disclose, in writing, to the school counselor for the school such child was attending at the time of the reported child abuse, advising as to whether the suspected child abuse was confirmed or unconfirmed. If a school does not have a school

counselor, such disclosure shall be made to the principal;

f. Any adult requesting information regarding investigations by the department or a governmental child protective agency regarding the findings or information about the case of child abuse or neglect that results in a child fatality or near fatality, unless such disclosure of information would jeopardize a criminal investigation or proceeding (see policy 2.11 Information Management: Public Access to Child Abuse Records in Child Fatality and Near Fatality Cases); provided, however, that the following may be redacted from such records:
    i. Any record of law enforcement or prosecution agencies in any pending investigation or prosecution of criminal activity contained within the child abuse, neglect, or dependency records;
    ii. Medical and mental health records made confidential by other provisions of law;
    iii. Privileged communications of an attorney;
    iv. The identifying information of a person who reported suspected child abuse;
    v. Information that may cause mental or physical harm to the sibling or other child living in the household of the child being investigated;
    vi. The name of a child who is the subject of reported child abuse or neglect;
    vii. The name of any parent or other person legally responsible for the child who is the subject of reported child abuse or neglect, provided that such person is not under investigation for the reported child abuse or neglect; and
    viii. The name of any member of the household of the child who is the subject of reported child abuse or neglect, provided that such person is not under investigation for the reported child abuse or neglect.

g. The State Personnel Board, by administrative subpoena;

h. A child advocacy center, certified by the Child Abuse Protocol Committee of the county where the office is located;

i. The police or any other law enforcement agency of this state or any other state or any medical examiner or coroner investigating a report of known or suspected abuse or any child fatality review panel or any child abuse protocol committee or subcommittee;

j. The Governor, the Attorney General, the Lieutenant Governor or the Speaker of the House of Representatives upon written request to the DHS Commissioner specifying the name of the child and why access to the record is needed so long as access is necessary to determine whether the laws of this state are being complied with to protect children from abuse and neglect and whether such laws need to be changed to enhance such protection; and

k. Public individuals or entities engaged in legitimate research for educational, scientific, or public purposes with a court order to inspect obtained from the Juvenile Court.

8. Consult with the DFCS Office of General Counsel when clarification is needed for requests for confidential information.

DFCS may permit access to records concerning reports of child abuse and may release information from records to the persons or agencies below when it is deemed appropriate:

1. A physician who reasonably suspects a child may be abused;

2. A licensed child-placing agency, a licensed child-caring institution of this state which is assisting the Department of Family and Children Services by locating or providing foster or adoptive homes for children in the custody of the department, or an investigator appointed by a court of competent jurisdiction of this state to investigate a pending petition for adoption;
3. A person legally authorized to place a child in protective custody, when such person has before him a child he reasonably suspects may be abused and such person requires the information in the record or report in order to determine whether to place the child in protective custody;
4. An agency or person having the legal custody, responsibility or authorization to care for, treat or supervise the child who is the subject of a report or record;
5. An agency, facility or person having responsibility or authorization to assist in making a judicial determination for the child who is the subject of the report or record of abuse, including but not limited to members of officially recognized citizen review panels, court appointed guardians ad litem, certified Court Appointed Special Advocate (CASA) volunteers appointed by a judge of a juvenile court to act as advocates for the best interest of a child in a juvenile proceeding, and members of a county child abuse and protocol committee or task force;
6. A legally mandated public child protective agency or law enforcement agency of another state bound by similar confidentiality provisions and requirements when, during or following the department's investigation of a report of child abuse, the alleged abuser has left this state;
7. A child welfare agency or school where the department has investigated allegations of child abuse made against any employee of the agency or school and any child remains at risk from exposure to that employee.
    a. Access to or release of this information must protect the identity of (a) any person reporting the child abuse and (b) any other person whose life or safety has been determined by the department likely to be endangered if the identity were not protected;
8. An employee of a school or employee of a child welfare agency, against whom allegations of child abuse have been made, when the department has been unable to determine the extent of the employee's involvement in alleged child abuse against any child in the care of that school or agency.
    a. In those instances, upon receiving a request and signed release from the employee, the department may report its findings to the employer, except that such access or release shall protect the identity of any person reporting the child abuse; and any other person whose life or safety has been determined by the department or agency likely to be endangered if the identity were not so protected;
9. A mandated reporter who has an ongoing relationship with the child named in the report;
10. Any school principal or any school guidance counselor, school social worker, or school psychologist who is certified and who is counseling a student as a part of their employment duties;
11. Any school official of a school that a child who was the subject of a report of suspected child abuse made pursuant to Code Section 19-7-5 attends in which there is an ongoing investigation of the reported abuse. Any such ongoing investigation shall include contact with such school to obtain any relevant information from school personnel regarding the report of suspected child abuse;
12. The Department of Early Care and Learning or the Department of Education;

13. An individual, who at such time is leaving foster care by reason of having attained the age of majority; however, such access shall be limited to providing such individual with a free copy of his or her health and education records, including the most recent information available, and any other record(s) that may be required under Georgia law;
14. Any child-caring agency, child-placing institution, or identified foster parent shall have reasonable access to non-identifying information from the placement or child protective services record compiled by any state department or agency having custody of a child with respect to any child who has been placed in the care or custody of such agency or foster parent or for whom foster care is being sought, excluding all documents obtained from outside sources which cannot be re-disclosed under state or federal law:
    a. DFCS shall respond to a request for access to a child's record within 14 days of receipt of such written request. Any child-caring agency, child-placing agency, or identified foster parent who is granted access to a child's record shall be subject to the penalties imposed by Code Section 49-5-44 for unauthorized access to or use of such records.
    b. Such record shall include reports of abuse of such child and the social history of the child and the child's family, the medical history of such child, including psychological or psychiatric evaluations, or educational records as allowed by state or federal law and any plan of care or placement plan developed by the department, provided that no identifying information is disclosed regarding such child. Notwithstanding the provisions of this subsection, a foster parent, as an agent of the department, shall have access to a child's medical and educational records in the same manner and to the same extent as the department itself and to the fullest extent allowable by law to ensure the proper care and education of a child entrusted to the foster parent's care.
15. A prospective foster parent may request to review a child's record before making a final decision about accepting the child for placement. The Case Manager shall make the record available, ensuring that identifying information (for example, the reporter's name, the names and locations of extended family members, the names of schools, hospitals or doctors, etc.) are removed.

NOTE: DFCS shall release only the information that is required by law, or necessary to arrange for services, or to fulfill administrative requirements.

PROCEDURES

Upon initial contact with a client, DFCS shall:

1. Discuss/explain the following:
    a. Confidentiality and safeguarding of information, including HIPAA privacy laws;
    b. Information that is not confidential, including persons or entities to which confidentiality laws are not applicable.
2. Document discussion in the Narrative of the Contact Detail in the GA Statewide Automated Child Welfare System (Georgia SHINES) within 72 hours.
3. Consider all applicable laws to ensure that confidential information is not unlawfully disclosed upon any information request, inquiry or potential disclosure.
4. Consult with the DFCS Office of the General Counsel when clarification is needed for requests for confidential information.

5. Assist any DFCS foster parent with preparing a written request, if needed. (Foster parents from other agencies should be assisted by staff from those agencies, if needed.)
6. Respond to the written request within a 14 calendar day time frame as specified in the law. Make available the case record within 5 working days of the request in order to expedite the placement of the child. (The scheduling of the actual review of the record may go beyond 14 calendar days if it is to accommodate the other agency/foster parent.)
7. Make arrangements for the review of the case record in the county department whenever possible. (The County Director in the legal county must give written authorization if the record or copies of the record are to be reviewed at a location other than the legal or boarding county.) Consider travel time in deciding where the record will be made available for review. If the record is to be mailed, send a copy of the releasable portions by certified mail to the nearest county DFCS office. Arrange for agency staff to be present when the record is reviewed. Securely destruct the copy made of the record after it is reviewed.
8. Arrange for a DFCS staff person to be present when other agency staff or foster parents access the information. Arrange for a staff person to be present to personally discuss DFCS policies and procedures and/or answer other questions about the case record contents or be able to locate another DFCS staff person able to do this.
9. Always remove the name and location of the reporter or of others corroborating the report of abuse or neglect.
10. Remove or obliterate any identifying information that will not be released prior to the information being reviewed by administrative or clinical agency staff.

PRACTICE GUIDANCE

Each county office shall have written procedures for the handling and storage of records. The procedures shall assure the privacy of information and the accessibility of case material for staff that need to know and use the information. Care shall be taken to avoid public identification of the child as a client of the Department unless it is necessary in order to secure essential services.

Tips for protecting confidential client information:

1. Only access the minimum amount of information needed to do your job. When verbal or written disclosure is made, case management staff shall release only the information that is required by law, or needed to arrange for the services or to fulfill administrative requirements;
2. If mailed, the confidential material should be sent "certified" and "registered";
3. When copies of client information are used for ad hoc consultation (e.g. Staffing, case reviews, case conferencing, education planning) and are not needed for the permanent file of the consultant, case management staff are expected to retrieve the copies and destroy them.
4. The decision to release information to the public about a child in the Department's legal custody must be made by a staff person having authority to make decisions as a legal guardian and must comply with the limitations set out in this policy.
5. Properly dispose of confidential information through shredding, etc.
6. Make sure confidential information on your computer is secured; for example, lock the computer before you step away, block the computer screen from the view of passers-by, protect your passwords, etc.

7. Keep paper files in locked file cabinets with the key in a separate secure location.
8. Discussions that include confidential client information should be held in locations such as an office or conference room to prevent passers-by from hearing confidential information.

FORMS AND TOOLS

N/A