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DIVISION OF CHILD AND FAMILY SERVICES
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Manual Transmission Letter (MTL)
Family Programs Office: Statewide Child Welfare Policy Manual

MTL # 0601 – 09032019
09/03/2019

TO: Betsey Crumrine, Social Services Manager V – DCFS – District Offices
Laurie Jackson, Social Services Manager V – DCFS -District Offices
FROM: Kathryn Roose, Deputy Administrator, Division of Child and Family Services

POLICY DISTRIBUTION

Enclosed find the following policy for distribution to all applicable staff within your organization:

- 0601 Confidentiality and Release of Records

This policy is/was effective: 09/03/2019

- This policy is new. Please review the policy in its entirety
- This policy replaces the following policy(s): MTL # _____ - _____ Policy Name: _____
- This policy has been revised. Please see below for the type of revision:
- This is a significant policy revision. Please review this policy in its entirety.
 - This is a minor policy revision: (List page number & summary of change):
 - A policy form has been revised: (List form, page number an summary of change):

NOTE:

- Please read the policy in its entirety and note any areas that are additionally required by your agency to be in compliance with the policy enclosed.
- This is an **ALL STAFF MEMO** and it is the responsibility of the person listed above to disseminate the policy enclosed to appropriate staff within his/her organization and to ensure compliance.
- The most current version of this policy is posted on the DCFS Website at the following address:
<http://dcfs.nv.gov/Policies> Please check the table of contents on this page for the link to the chapter you are interested in.

0601 Confidentiality and Release of Records

Policy Approval Clearance Record

<input type="checkbox"/> Statewide Policy <input type="checkbox"/> Administrative Policy <input checked="" type="checkbox"/> DCFS Rural Region Policy	<input checked="" type="checkbox"/> New Policy <input type="checkbox"/> Modified Policy <input type="checkbox"/> This policy supersedes:
Date Policy Effective:	8/26/2019
Attorney General Representative Review:	03/07/2019
DCFS Deputy Administrator Approval	08/26/2019
DMG Original Approval	08/26/2019
DMG Approved Revisions	N/A

STATEMENT OF PURPOSE

Policy Statement: This policy supports the Division of Child and Family Services (DCFS) efforts to ensure confidentiality of all information that identifies an individual client and ensure that the maintenance of records regarding child welfare services in accordance with NAC 432.140 and NAC 432.320.

The purpose of the policy is to ensure DCFS does not release or disclose client information, except as specifically authorized by the client in writing, federal law or state statute, administrative rule, or as ordered by a Court. Additionally, this policy is to ensure all staff, including volunteers, contractors, and individuals who have access to the case files or the Unified Nevada Information Technology for Youth (UNITY) system adhere to regulation per NRS, NAC, and the Child Abuse Prevention and Treatment Act.

AUTHORITY

Federal: [Child Abuse Prevention and Treatment Act \(CAPTA\)](#)

NAC: [NAC 432.140](#); [NAC 432.320](#)

NRS: [NRS 432B.069](#); [NRS 432B.280](#); [NRS 432B.290](#)

DEFINITIONS

Case Record: A record containing accumulated information regarding the client, used to assist the caseworker in working with the client, to enable subsequent caseworkers to handle the case with continuity, to compile information for use by the Agency, and as a supervisory tool to assure the caseworker's obligations to both the client and the Agency are being met. Records must contain a current and continuous account of services provided to the child and family. This is critical for establishing past and current "reasonable efforts" made by the Agency, preventing the removal of a child from the home, or reunifying a child, as required. All documents obtained by the caseworker or Agency must be appropriately filed in the case record within five (5) days of receipt.

Child: An individual who has not attained 18 years of age, or if in school, until graduation from high school.

In Camera Inspection: When information maintained by an Agency is provided to a Court to review in private. After review, the Court may determine if the disclosure of information is necessary and may either provide information to others or order DCFS to do so.

Information Maintained by an Agency Which Provides Child Welfare Services: Pursuant to NRS 432B.069 data or information concerning reports and investigations including, without limitation, the

name, address, date of birth, social security number and image or likeness of any child, family member of any child and reporting party or source, whether primary or collateral.

National Crime Information Center (NCIC): An electronic clearinghouse of crime data that can be tapped into by virtually every criminal justice agency nationwide, 24 hours a day, 365 days a year. It helps criminal justice professionals apprehend fugitives, locate missing persons, recover stolen property, and identify terrorists. It also assists law enforcement officers in performing their duties more safely and provides information necessary to protect the public.
NCJIS: Nevada Criminal Justice Information System, name based criminal background check.

Redacted Information: The censoring or obscuring of part of a text for legal or security purposes.

Reporting Party: Any person(s) who makes a referral of alleged abuse or neglect of a child.

State: An alternate word for the Division of Child and Family Services (DCFS) or Family Programs Office (FPO).

Third-Party Records: Records obtained by DCFS that are generated by an outside source or entity for informational purposes, examples include but are not limited to: medical records, education records, and law enforcement records.

STANDARDS/PROCEDURES

1. The Nevada Revised Statutes (NRS) contain certain provisions stating that information maintained by the State, including without limitation, reports and investigations pursuant to [NRS 432B](#) are confidential but may be provided pursuant to [NRS 432B.280](#) and [432B.290](#) in limited specific situations.
2. Before releasing any information maintained by DCFS, DCFS shall take whatever precautions it determines are reasonably necessary to protect the identity and safety of any person who reports child abuse or neglect (Reporting Party) and to protect any other person if DCFS reasonably believes that disclosure of the information would cause a specific and material harm to an investigation of the alleged abuse or neglect of a child or the life or safety of any person. DCFS should consult legal counsel prior to releasing records should there be a concern about safety.
3. The following sections describe the ways information can be released. The first section discusses written authorizations to release information. The second section outlines how information can be released through a Court order. The third section discusses how information may be released by DCFS pursuant to [NRS 432B.290](#). The fourth section outlines maintaining and securing client records. The fifth section discusses securing confidential information sent via email.

Section 1: Written Authorization to Release Information

1. A client may provide written authorization for release of information by completing the Authorization to Release Confidential Information Form (attachment 0601A). This form may also be used by anyone who is the subject of a report or the subject of information to authorize DCFS to provide information about them to other people or agencies as specified in the Authorization to Release Confidential Information Form (attachment 0601A):
 - a. This form should be completed in person with the client, whenever possible, to facilitate discussion, case planning, and assure the client understands the form before signing. Any questions the client may have about the form and their rights should be answered and clarified.
 - b. Use one form per individual client.
 - c. The form must include the signature of the individual.
 - d. List the specific purpose for which information will be disclosed. Do not disclose information beyond the scope detailed. If necessary, a court order can be obtained to request the information beyond client's authorization.

- e. If the client requests a restriction, consult the Supervisor or Manager for guidance and directives on how to proceed.
2. Should the client refuse to sign the authorization form, the worker should discuss with the client the specific objections to the release of information and why. The worker should explain, if necessary, how the release of information can benefit the client and the reason it is helpful for DCFS to be able to receive and share certain information about the client.
 - a. If, following that conversation, the client still does not want to authorize a release of information, the worker should explain it is the client's right; however, DCFS may consult legal counsel or request a court hearing for assistance in obtaining the requested information.
3. A client may revoke their authorization to release information at any time, and the revocation should be treated similar to a client who refuses to sign an authorization.
 - a. On the authorization form, add the date of cancellation and the method by which the client cancelled (i.e. by email, letter, phone, text), and include the current date if different from the cancellation date. Upon completion of documentation, store the authorization form in the client file.

Section 2: A Court Orders the Release of Records

1. Should the Court order the full or partial release of records, those specific records may be released in full to parties mentioned in the Court order. Note, the Court can order anything to be released including third party records, information about other people, Reporting Party, the complete record or a redacted version of the record. For example, the order may read:
 - a. "The State may release any and all information contained in the Nevada Initial Assessment (NIA), the Safety Plan Determination, the Safety Plan, the Conditions for Return and any report filed in this matter to the Court, the District Attorney, the Court Appointed Special Advocate (CASA), the attorney for the above-named minor children, and the parents of the above-named minor children and their attorneys."
 - b. "DCFS may release to the Court, the District Attorney, the CASA, the parents of the above-named minor children and their attorneys and children's attorneys protected health information of any party resulting from therapeutic services provided by Intensive Family Services of the Division including assessments, evaluations and reports. The Division may also release confidential health information, law enforcement records and education records obtained by the Division regarding any party, if the release is necessary to promote the safety, permanency and well-being of the child."
2. In Camera Inspection requested by a Court:
 - a. When a request from a Court is received for an In-Camera Inspection, provide the case record in its entirety, to include:
 - I. UNITY documentation,
 - II. The Reporting Party information,
 - III. All third-party documents such as, medical records, substance abuse records, Domestic Violence records, etc.
 - IV. Do not include the NCJIS/NCIC records.
 - b. Compose a Release of Records Cover Letter (attachment 0601C) to be provided along with the records addressed to the Court.
 - c. Managers should review and approve the prepared materials before sending to the Court.
 - d. File the documents as "Confidential" with the Court.

Section 3: Protocol for Redacting and Releasing Client Records Pursuant to [NRS 432B.290](#)

1. Protocol for redacting records:
 - a. Review client records for redaction pursuant to [NRS 432B.290](#) prior to access or disclosure and redact as necessary.
 - b. All Nevada Criminal Justice Information System (NCJIS) and National Crime Information Center (NCIC) law enforcement records will be removed from the file prior to dissemination. This information is confidential and not to be shared with anyone outside of DCFS.

- c. Whenever possible, use an electronic program to redact confidential information. If the only version of the document to be released is a physical paper copy, copy the original record, black out with a permanent marker the information to be withheld and then make another copy of the redacted record for release.
 - d. Unless the information is being submitted for an in camera review, redact the following information:
 - I. Names, social security numbers, dates of birth, addresses and phone numbers of all third parties.
 - II. All medical, mental health, substance abuse, and vocational rehabilitation records pertaining to someone other than the individual.
 - III. DCFS may not release any third-party generated documents that are confidential by law without a court order or release or permission from that third party. The requesting party would need to contact the generating party, such as the doctor's office or law enforcement agency, to request a copy of the report. Any privileged work product generated by a third party cannot be disseminated.
 - IV. For any records relating to domestic violence, consult the Supervisor or Manager if there are questions.
 - V. For any records related to child disclosures that pose a risk of safety to the child, consult the Supervisor or Manager prior to disclosure.
 - e. Prepare a cover letter, Release of Records Cover Letter (attachment 0601C), indicating the total number of pages and that the records have been redacted pursuant to [NRS 432B.290](#) to be provided along with the records to the requester of records. Have a Supervisor or Manager review the records and sign the cover letter. Retain a copy of this letter and the redacted records for the case file if there is one and document the substance of the letter in a UNITY Case Note.
2. Client Record Request: Parents/Caregiver/Subject of Information:
- a. A client must request their records in writing to the Agency or Local Child Welfare Office where the record is located using the Request for Records Form (attachment 0601B). They must provide photo identification with their written request for records, which is to be copied and attached to their written request for records.
 - b. Review client records for redaction pursuant to [NRS 432B.290](#) prior to access or disclosure and redact as necessary.
 - c. Redact the following:
 - I. The Reporting Party and information that would provide who the Reporting Party is.
 - II. Names, social security numbers, dates of birth, addresses and phone numbers of all third parties.
 - III. All medical, mental health, substance abuse, and vocational rehabilitation records.
 - IV. All third-party records.
 - V. All records related to domestic violence.
 - VI. All records related to child disclosures unless it is reasonably necessary to promote the safety, permanency and well-being of the child.
 - d. Prepare a cover letter, Release of Records Cover Letter (attachment FPO 0601C), indicating the total number of pages and that the records have been redacted, pursuant to [NRS 432B.290](#), and provide the records to the requester. Retain a copy of this letter and the redacted records for the case file and/or document the substance of this letter in UNITY if there is no hard-case file.
 - e. A client may authorize DCFS to release their Home Study to another state or outside Adoption Agency by completing the Written Authorization to Release Confidential Information Form (attachment FPO 0601A). DCFS may not release a home study to an adoptive parent.
 - f. Upon request of an appeal hearing for a substantiation through an Administrative Fair Hearing as outlined in [1202 Rural Appeal Policy](#), a client will be provided a redacted version of their Nevada Initial Assessment (NIA). The Rural Region Manager must review and approve the redacted NIA prior to DCFS releasing it to the client.
3. Attorneys, Guardian ad Litem or Court Appointed Special Advocate (CASA):
- a. No authorization is required for attorneys of record in any juvenile court proceeding for the child, child's parent, or child's guardian to receive information about the attorney's client. A

- court order or release from the other parent will need to be obtained to release the complete file without redacting.
- b. The Court Appointed Special Advocate (CASA) will have and must present a court order allowing access to the record. A copy of the order should be maintained in the case file.
4. Client Record Request: Adult Child who was a Former Victim
 - a. Per [NRS 432B.290\(2\)\(r\)](#), clients who are age 18 or older or legally emancipated have a right to access the case record, limited to information regarding themselves only. The client may produce a court order which would outline what information can be disclosed. They may also provide a written request for their records and should specify what information they are requesting.
 - b. Upon the client's request for records, DCFS may require reasonable time to prepare the record for the client to review at the local office or may send the disclosure by mail.
 - c. Clients do not have access to reporting party information, information that would result in harm to themselves or others, and third party generated documents. They do not have access to any personal identifying information about other participants in their case files, including but not limited to, siblings, parents, other foster children, foster parents or other caregivers without a release from those individuals or a Court order.
 5. Situations in Which a Written Authorization or Court Order is Not Required
 - a. The following list is for common situations that do not require a Court order or written authorization from the client to release case records. See [NRS 432B.290\(2\)](#) for a complete list and allowable information:
 - I. State and Federal Agencies: When the information is necessary for the prevention, investigation, and treatment of child abuse, client information may be disclosed without a written authorization to state and federal agencies such as the Department of Justice, or Secretary of State Audits Divisions, that provide administrative support or oversight to the Department of Homeland Security (DHS) program whose information is being disclosed.
 - II. Service Providers:
 1. No authorization is required to provide sufficient information to accomplish a referral on behalf of a client.
 2. No authorization is required to provide information necessary for activities related to payment, including billing and collection.
 3. DCFS must have a court order or Obtain an Authorization to Release Confidential Information attachment FPO 0601A to share substance abuse and HIV information for purposes of treatment. An authorization is not required to share other information for treatment purposes.
 - III. School Officials:
 1. An authorization is required to disclose information protected by confidentiality laws such as health, treatment, and domestic violence.
 2. No authorization is required to disclose child welfare information to the extent that such disclosure is necessary to provide services to the child or family.
 - IV. Meetings with the Client with Others Present Such as Child and Family Team Meetings: Inform the client as soon as possible about the identity of all people in the room and their purpose in being there and discuss confidentiality.
 - V. Law Enforcement and the District Attorney's Office: No authorization is required to make records available from mandatory child abuse reports and resulting investigations (except HIV status and substance abuse treatment information) to any law enforcement agency, District Attorney's Office, or child abuse registry in any state for the purposes of subsequent investigation of child abuse or neglect.
 - VI. Research: Research requests should be referred to the Manager who will address or refer the request as appropriate.
 - VII. Subpoena Duces Tecum: A subpoena is not a court order. A subpoena duces tecum is a summons for production of evidence or case records which may require testimony about the records.
 1. Redact records pursuant to [NRS 432B.290](#).
 2. No third-party records shall be released for a subpoena. Interested parties need to subpoena the third-party to obtain their own copy of such records,

- except for the District Attorney’s Office, Attorney General’s Office, or Law Enforcement.
3. Should a subpoena request information violating [NRS 432B.290](#), an objection may be necessary, consult the Supervisor or Manager.
 4. For questions about subpoenas or subpoenas duces tecum, consult the Supervisor or Manager.

Section 4: Maintaining Client Records:

1. Keep client records and information appropriately secure.
2. Stamp copies of information from client records “Confidential” prior to releasing.
3. If mailed via United States Postal Service, send confidential material “certified” and “registered”. If mailed via third party such as FedEx, retain a copy of the tracking information.
4. Retrieve and destroy copies of client information used for ad hoc consultations by shredding.

Section 5: Maintaining Secure Email Communication:

1. The Department of Health and Human Services (DHHS) divisions, including DCFS, use an email encryption tool to ensure Nevada Law and HIPPA requirements to encrypt Personal Information (PI), Protected Health Information (PHI) and other information deemed sensitive when in transit are secure.
2. To ensure encryption, outbound email containing sensitive information requires the use of the phrase **Secure Email** in the subject line of your email messages.
3. Instructions on how to send and view secure email are located on the DCFS Intranet.

Timeline:

Timeline:

Requirement	Deadline	Starting Date	Responsible Party	Actions to be Taken
Client signs release of information form	Prior to requesting information from 3rd parties	As needed throughout duration of case	Caseworker	Worker should request the client to sign the release of information at the earliest opportunity to ensure no delays in receiving information from 3rd parties
Records Request from DCFS	DCFS may complete request within a reasonable amount of time	Upon Request	Office Manager designee	Caseworker must prepare the file for review, to include redacting information regarding other parties, and removing all confidential information from the file.

Documentation:

Case File Documentation (paper)

File Location	Data Required
<ul style="list-style-type: none"> • Primary file 	<ul style="list-style-type: none"> • A copy of any Authorization to Release Confidential Information Forms (FPO 0601A) • A copy of the Request for Records (FPO 0601B) and photo identification • A copy of the Release of Records Cover Letter (FPO 0601C)

UNITY Documentation (electronic)

Applicable UNITY Screen	Data Required
• Case Notes	• Substance of Release of Records Cover Letter

JURISDICTIONAL ACTION

Supervisory Responsibility: DCFS staff should discuss any questions about individual confidentiality case situations not covered by policy with their Supervisor. If further questions exist, the Supervisor or Manager may contact the DCFS Deputy Attorney General.

STATE RESPONSIBILITIES

The State will provide technical assistance regarding program development and implementation to the DCFS Rural Region.

POLICY CROSS REFERENCE

Policies: [1202 Notification of and Appeal of Substantiated Abuse and/or Neglect Findings for DCFS Rural Region](#)

History: This is a new policy.

ATTACHMENTS

- FPO 0601A – Release of Confidential Information Form
- FPO 0601B – Request for Records
- FPO 0601C – Release of Records Cover Letter