

**CONFIDENTIALITY OF PERSONAL INFORMATION OF PERSONS SERVED BY
THE DEPARTMENT OF CHILDREN AND FAMILY SERVICES
August 30, 2002 – PT 2002.23**

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Section 431.10 Purpose

These procedures provide guidelines for the application of relevant laws (i.e., Children and Family Services Act, Abused and Neglected Child Reporting Act (ANCRA), Mental Health and Developmental Disabilities Confidentiality Act, AIDS Confidentiality Act, Juvenile Court Act, Adoption Act, and Alcoholism/Drug Abuse Dependency Act) governing the maintenance, use and sharing of client information for child protection, treatment and other services provided by the Department.

Section 431.20 Definitions of Commonly Used Terms and Phrases

“Alcohol or other drug abuse facility or program” for purposes of these procedures means any organization that provides alcohol or drug abuse diagnosis, treatment, or referral for treatment that has an identified unit which provides alcohol or drug abuse diagnosis, treatment or referral for treatment or medical personnel or other staff whose primary function is the provision of alcohol or drug abuse diagnosis, treatment or referral for treatment and who are identified as such providers.

"Case record or record," means the record maintained for a family service case, a child service case, or a payment/monitoring-only case; which may include the child abuse/neglect (CA/N) investigative file. The term "case record" applies to records maintained by the Department or a purchase of service agency responsible for case management regardless of whether the services were provided directly by Department staff or purchased from a private provider. The confidentiality of case record information and access to such information may differ, depending on the type of information sought.

“Case transfer” means fiscal and planning responsibility for a case which is opened on the Child and Youth Centered Information System (CYCIS) that is changed via a **CFS 1425, Change of Status Form**, from one region, site or field office to another or from a purchase of service agency to the Department or to another purchase of service agency. A different worker is assigned when a case is transferred, and those activities necessary to transfer case management responsibility for service delivery to a family and or child from worker to worker or Department office to Department office or Department office to purchase of service agency or purchase of service agency to purchase of service agency are completed. Transfer includes physical delivery of the case record as necessary for service provision.

"Child abuse and neglect records" means records kept at the State Central Register, the local index and CA/N investigative records.

"CA/N investigative file" means the record of investigation of a child abuse and neglect report. The CA/N investigative file shall contain a copy of all Child Abuse and Neglect Tracking System (CANTS)/Statewide Automated Child Welfare Information System (SACWIS) forms; all correspondence related to the investigation; any photographs taken of the child or environment; police, coroner or medical reports related to the investigation; and

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any other report or evidence related to the investigation. Although the CA/N investigative file becomes part of the service case record when the child abuse or neglect report is indicated and services provided, the confidentiality provisions of the Abused and Neglected Child Reporting Act continue to apply to the investigation file.

"Child care facility" means any person, group of persons, agency, association or organization, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody in any facility as defined in the Child Care Act of 1969, established and maintained for the care of children. Child care facility includes a relative who is licensed as a foster family home pursuant to Section 4 of the Child Care Act of 1969. [225 ILCS 10/2.05]

"Clinical psychologist" means a psychologist registered with the Illinois Department of Professional Regulation who meets the following qualifications: (a) has a doctoral degree from a regionally accredited university, college, or professional school, and has two years of supervised experience in health services of which at least one year is postdoctoral and one year is in an organized health service program; or (b) has a graduate degree in psychology from a regionally accredited university or college, and has not less than six years of experience as a psychologist with at least two years of supervised experience in health services. [Mental Health and Developmental Disabilities Code 405 ILCS 5/1-103]

"Clinical social worker" means a person who (1) has a master's or doctoral degree in social work from an accredited graduate school of social work and (2) has at least 3 years of supervised post master's clinical social work practice which shall include the provision of mental health services for the evaluation, treatment and prevention of mental and emotional disorders. [Mental Health and Developmental Disabilities Code, 405 ILCS 5/1-122.1]

"Complete application for child care facility license" means a completed written application form; written authorization by the applicant and all adult members of the applicant's household or employees to conduct a criminal background investigation; medical evidence in the form of a medical report, on forms prescribed by the Department that the applicant and all members of the applicant's household are free from communicable diseases or physical or mental conditions that affect their ability to provide care to children; the names and addresses of at least 3 persons not related to the applicant who can attest to the applicant's moral character; and fingerprints submitted by the applicant and all adult members of the applicant's household.

"Confidential communication" or "communication" (to a mental health professional) means any communication made by a recipient or other person to a therapist or to or in the presence of the other persons during or in connection with providing mental health or developmental disability services to a recipient. Communication includes information which indicates that a person is a recipient. [Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/2]

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“Developmental disability” means a disability which is attributable to: (a) mental retardation, cerebral palsy, epilepsy or autism; or to (b) any other condition which results in impairment similar to that caused by mental retardation and which requires services similar to those required by mentally retarded persons. Such disability must originate before the age of 18 years, be expected to continue indefinitely, and constitute a substantial handicap. [Mental Health and Developmental Disabilities Code, 405 ILCS5/1-106]

“Developmental disability facility” means a facility or section thereof which is licensed or operated by or under contract with the State or a political subdivision thereof and which admits persons with a developmental disability for residential and habilitation services. [Mental Health and Developmental Disabilities Code, 405 ILCS 5/1-107]

"Identifying information," means any information that could reasonably be used to determine the identity of a person. Identifying information includes name, age, race, sex, residence, occupation, relationship to the inquiring party, and any other data that directly or indirectly allow recognition of a specific person.

“LEADS” means the Law Enforcement Agencies Data System that contains summaries of criminal history record information related to arrests, convictions, order of protections, detentions, indictments and other formal criminal charges or proceedings and disposition information, including sentencing and release information.

"License" means a document issued by the Department of Children and Family Services, which authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act.

“Licensed private hospital,” means any privately owned home, hospital, or institution, or any section thereof which is licensed by the Department of Public Health and which provides treatment for persons with mental illness. [Mental Health and Developmental Disabilities Code, 405 ILCS 5/1-113]

"Licensee" means those individuals, agencies, or organizations that hold a license or permit issued by the Department of Children and Family Services.

"Licensing complaint" means:

- any oral or written report made to or by the Department or private agency licensing unit alleging a violation of licensing standards, Department rules or the Child Care Act of 1969;
- an unusual incident report involving a child or children in the temporary custody or guardianship of the Department, or a child or children for whom the Department maintains an open service case, when the incident involves an owner or employee, or the operation, of a licensed child care facility; or

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- a licensing referral from the Department’s State Central Register or a report of alleged child abuse or neglect that triggers a concurrent licensing complaint investigation.

"Licensing complaint investigation," means an information gathering and assessment process conducted by a licensing representative to determine whether a licensed or unlicensed child care facility is operating in compliance with the Child Care Act of 1969 and licensing standards. A licensing complaint investigation may occur concurrently with a child protection investigation when the State Central Register has taken a report involving a licensed facility (i.e., a concurrent investigation) or may be a "stand-alone" investigation (i.e., **not** a concurrent investigation).

"Licensing record" for purposes of these procedures means initial and renewal licensing information and monitoring records maintained on persons and agencies supervised by the Department and purchase of service agencies.

"Local index" means the record of pending, indicated and unfounded child abuse and neglect reports maintained by the investigative unit and of unfounded false reports retained as evidence of harassment. The local index shall contain a copy of all Child Abuse and Neglect Tracking System (CANTS)/Statewide Automated Child Welfare Information System (SACWIS) forms and all correspondence related to the investigation.

"Mental health or developmental disabilities services" or "services" includes but is not limited to examination, diagnosis, evaluation, treatment, training, pharmaceuticals, aftercare, habilitation or rehabilitation. [Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/2]

"Mental health facility" means any licensed private hospital, institution, or facility or section thereof, and any facility, or section thereof, operated by the State or a political subdivision thereof for the treatment of persons with mental illness and includes all hospitals, institutions, clinics, evaluation facilities, and mental health centers which provide treatment for such persons. [Mental Health and Developmental Disabilities Code, 405 ILCS 5/1-114]

"Mental health information" includes records or reports received from a mental health hospital or center, a psychiatrist, or a psychiatric hospital or psychiatric ward, a psychologist, a therapist (as opposed to a counselor), a developmental disabilities specialist or a Licensed Clinical Social Worker acting as a therapist.

"Mental health record" means any record or information kept by a therapist or by an agency in the course of providing mental health or developmental disabilities service to a recipient concerning the recipient and the services provided. [Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/2]

Note: Any record created by a therapist or a facility in reference to services provided to an individual can be considered a mental health record. The Act also

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includes any records maintained by the court in connection to a petition filed under Chapters I-IV of the Mental Health and Developmental Disabilities Code.

“Need to know” means the knowledge of any information necessary to assure or assess the safety of the child, family members, caregiver or service provider, or the effectiveness and appropriateness of the services provided.

“Perpetrator” means any person who, as a result of investigation, has been determined by the Department to have caused child abuse or neglect. [Abused and Neglected Child Reporting Act, 325 ILCS 5/3]

“Persons authorized to receive LEADS information” means the child protection supervisor and investigator investigating a report of child abuse/neglect, the placing worker evaluating the appropriateness of a placement with an unlicensed relative, the child welfare supervisor and child welfare worker assigned to a child welfare case, the licensing worker and the managers in their chains of command. Other persons who provide services to any member of the family may be notified of criminal history information derived from admissions or public information, such as arrest, prison or police reports when there is a “need to know”. LEADS information is different from criminal history information, which is furnished based on consent and fingerprint or other identifying physical submission.

“Physician” means any person licensed by the State of Illinois to practice medicine in all its branches and includes any person holding a temporary license, as provided in the Medical Practice Act of 1987. Physician includes a psychiatrist as defined in Section 1-121. [Mental Health and Developmental Disabilities Code, 405 ILCS 5/1-120]

“Psychiatrist” means a physician as defined in the first sentence of Section 1-120 who has successfully completed a residency program in psychiatry accredited by either the Accreditation Council for Graduate Medical Education or the American Osteopathic Association. [Mental Health and Developmental Disabilities Code 405 ILCS 5/1-120]

“Putative father” means a man who may be a child’s father, but who (1) is not married to the child’s mother on or before the date that the child was or is to be born and (2) has not established paternity of the child in a court proceeding before the filing of a petition for the adoption of the child. The term includes a male who is less than 18 years of age. “Putative father” does not mean a man who is the child’s father as a result of criminal sexual abuse or assault as defined under Article 12 of the Criminal Code of 1961. [Adoption Act, 750 ILCS 50/1]

“Qualified examiner” means a person who is: (a) a clinical social worker as defined in this Act; (b) a registered nurse with a master’s degree in psychiatric nursing who has 3 years of clinical training and experience in the evaluation and treatment of mental illness which has been acquired subsequent to any training and experience which constituted a part of the degree program; or (c) a licensed clinical professional counselor with a master’s or doctoral degree in counseling or psychology or a similar master’s or doctorate program from a regionally accredited institution who has at least 3 years of supervised postmaster’s

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clinical professional counseling experience that includes the provision of mental health services for the evaluation, treatment, and prevention of mental and emotional disorders. A social worker who is a qualified examiner shall be a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act. [Mental Health and Developmental Disabilities Code, 405 ILCS 5/1-122]

“State-operated mental health facility” means a mental health facility operated by the Department of Human Services. [Mental Health and Developmental Disabilities Code, 405 ILCS 5/1-114.1]

“Subject of a report” means any child reported to the child abuse/neglect State Central Register, and his or her parent, personal guardian or other person responsible for the child’s welfare who is named in the report.

“Therapist” means a psychiatrist, physician, psychologist, social worker, or nurse providing mental health or developmental disabilities services or any other person not prohibited by law from providing such services or from holding himself out as a therapist if the recipient reasonably believes that such person is permitted to do so. Therapist includes any successor of the therapist. [Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/2]

Section 431.30 Child Abuse and Neglect Information

Child abuse and neglect records are maintained by the State Central Register (SCR), as well as in local index records, child abuse and neglect investigative files, and related family or child service records in accordance with Abused and Neglect Child Reporting Act (ANCRA).

Note: The child abuse and neglect investigative file retention schedule is located in [Section 431.140](#).

**a) Release of Information to Subject of Record
(Rules 431, Sections 431.50 and 431.60)**

1) Adults (Age 18 or Over)

Adults who request access to their own records or persons having right of access to a minor’s personal information may see and have a copy of such information unless access is prohibited specifically by Rules and Procedures 431. Persons have the right to access only that information which pertains to them or the minors they represent. They do not have the right to access other information in the record. Such information shall be redacted prior to disclosure.

Persons served by the Department may convey the right of access to their records to an attorney, advocate, relative, or any other person they wish to

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authorize as their representative. In order for the client's representative to have access to the client's records, the client shall provide the Department with a signed and notarized written statement that clearly identifies the representative. A **CFS 600-3, Consent for Release of Information**, may be used for this purpose. Department staff may assist a client in the preparation of the **CFS 600-3**.

Note: When a **CFS 600-3** is used, it is not required to be notarized.

2) Minors

A minor has access to the information in the investigative file in which the minor is the victim or the perpetrator or the legal guardian or parent of the victim or perpetrator unless the case is pending or the information is deemed harmful to the minor. Further, a minor shall not receive any information that would identify or locate the reporter, collateral witnesses or any police reports, Law Enforcement Agencies Data System (LEADS) information, parents' mental health reports or Human Immunodeficiency Virus (HIV), Acquired Immunodeficiency Syndrome (AIDS), and AIDS Related Complex information.

3) Release of Information to Representatives of Minors

A) Minor's Parents/Legal Guardian

The minor's parents have access to the information in the investigative file that pertains to them and/or the minor unless the case is pending, or the information is deemed harmful to the subject. However, the parents shall not have access to the name or other information that would identify or locate the reporter, collateral witnesses, police reports, LEADS information, information that would reveal the minor's placement, the minor's consent for their own medical care or medical care for their minor children and information accepted under the promise of confidentiality. Putative fathers shall not have access to the minor's information unless they and the natural mothers have signed an acknowledgment of paternity in accordance with the rules adopted by the Illinois Department of Public Aid under the Illinois Public Aid Code and the Illinois Parentage Act of 1984.

B) Guardian of Minor's Estate

The guardian of the minor's estate shall have access to that information that is necessary to carry out their duties as guardian of the estate.

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C) Minor's Counsel, Guardian of the Person, Guardian ad Litem (GAL)

The minor's counsel has access to the information in the investigative file regarding the minor unless the case is pending. A minor's counsel shall not have access to the name of the reporter or other information that would identify or locate the reporter, collateral witnesses, police reports, LEADS information, parents' mental health or physical health information or information regarding the other subjects of the report.

b) **Information that May Not Be Released to Subjects of Records or Their Authorized Representatives In Specific Circumstances**

1) Pending Investigations

In accordance with ANCRA, information regarding a pending investigation shall not be released outside the Department except under the following circumstances:

- Pending investigative information may be released to a subject of a report with the approval of the Regional Child Protective Manager when the information is necessary to ensure the child's safety and well being.
- Pending investigative information may be released to law enforcement when the initiation of the investigation is delegated to a law enforcement agency.
- Pending investigative information may be released to the State's Attorney and law enforcement when the Department receives reports of death, physical abuse and sexual abuse harms.
- Pending investigative information may be released to law enforcement and the alleged perpetrator's employer if the report has been determined to be a good faith report, and the alleged perpetrator of the abuse or neglect is employed or otherwise engaged in activity resulting in contact with children, and it has been determined that notification given to the supervisor or administrator of that employment would not be detrimental to the Department's investigation.

2) Police Reports

When subjects of indicated reports of child abuse or neglect appeal investigation findings, the Administrative Hearings Unit shall redact the file, removing police reports. The **Police Report Redaction Notice, CANTS/SACWIS 13**, shall be used to document this activity and be placed in the redacted file copy given to the appellant. Child Protection Units shall

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follow the same procedure when the subject of an indicated child abuse or neglect report requests a copy of his or her file from the local field office.

3) Identity of Reporter

Information that would identify or locate persons reporting or cooperating in child abuse or neglect investigations is confidential and shall not be released to anyone. The only exception to the release of information that would identify or locate the reporter or collateral witness is when a subject appeals an indicated finding and the Administrative Law Judge determines that the lack of such information would prejudice the appellant's case or violate due process of law principles or when a court orders the release of such information after an in-camera inspection and there has been an issuance of a protective order that such information not be released to anyone outside the litigation. The circumstances under which the Administrative Law Judge will be allowed to order the disclosure to the appellant of the names of reporters or other persons cooperating in the investigation include, but are not limited to, the following:

- The appellant must have offered testimony that the reporter or collateral witness demonstrated bias, motive or reason to fabricate, or that the reporter or collateral witness has other information relevant to the testimony of the reporter or collateral witness.
- The appellant must provide the Administrative Law Judge in private with the names of the persons believed to be the reporter or collateral witnesses.
- The individual presenting the Department's case at the hearing shall then disclose the identity of the persons to the Administrative Law Judge in an in-camera setting.
- If the reporter or collateral witnesses are the same as the persons named by the appellant, then the identity will be disclosed to the appellant. Otherwise, no disclosure will be made. If the identity of the reporter is disclosed, a written notice shall be sent to the reporter advising of the disclosure of the individual's identity.

4) Information Deemed Harmful

The Department shall withhold the release of any information it deems harmful to the subject of the report and consult Regional Counsel regarding filing a petition seeking a court order prohibiting the release of the information to the subjects of the report. Information may be withheld for a period of ten days or until the court renders a decision. The Department

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must permit access to the information at the end of the ten-day period if no petition is filed.

5) **Unfounded or False Reports**

A subject of an unfounded report of suspected abuse or neglect shall be allowed access to a redacted copy of the investigative record, provided the subject requests the report within 60 days after receipt of notification that the report was unfounded or retained as evidence of false reporting.

A subject of an unfounded report shall not have access to the name of the reporter or other information that would identify or locate the reporter, collateral witnesses, police reports, LEADS information, or information regarding the other subjects of the report.

**Section 431.40 Release of Client Record Information to Persons or Entities with
Appropriate Written or Oral Request
(Rules 431, Sections 431.80 and 431.90)**

Record information about child abuse and neglect investigations, treatment and other services provided by the Department may be released to the following categories of individuals without the consent of the subjects of the report when the Department receives an appropriate written or oral request for record information as specified below.

Note: Specific or general court orders may be in effect in some court jurisdictions that supersede confidentiality requirements. Some juvenile courts may have a standing order as to information that must be included in court reports. Workers should check with their supervisors or Regional Counsel to decide the proper format.

Note: For release of mental health information contained in case files, see [Section 431.80](#).

a) Child Advocacy Centers

Child Advocacy Centers shall have access to records when assisting children and families in which abuse or neglect is alleged to have occurred or when providing services to these children and families.

b) Child Death Review Teams

Child death review teams shall have access to child abuse or neglect records in accordance with Rules 300, Reports of Child Abuse and Neglect, Section 300.70.

c) DCFS and Purchase of Service Agency (POS) Staff

Department and POS staff shall have access to child abuse and neglect and other case record information in the furtherance of their responsibilities under the ANCRA,

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the Child Care Act, the Children and Family Services Act, the Juvenile Court Act and any other act that governs child welfare. Any sharing of information between divisions of the Department or between the Department and purchase of service providers, or between purchase of service providers as necessary for case management is a **transfer and not a disclosure** of information.

Purposes for which Department and POS staff may obtain child abuse and neglect and/or other case record information include:

- 1) The completion of background investigations in order to verify:
 - A) whether a child care facility subject to licensure pursuant to the Child Care Act is owned or operated by known perpetrators of child abuse or neglect; or
 - B) whether members of the household of a family home in which a licensed child care facility operates are known perpetrators of child abuse or neglect; or
 - C) whether employees, contractors or volunteers of the Department, a licensed child welfare agency or child care facility that have access to children have been found to be the perpetrators of child abuse or neglect.
- 2) Investigations conducted by the Office of the Inspector General under Section 35.5 of the Children and Family Services Act or Rules 412, Licensure of Direct Child Welfare Services Employees and Supervisors.
- 3) Monitoring or assessing children and families in which abuse or neglect has occurred or when providing monitoring services to these children and families.

Note: Unfounded reports may be made available to the child protective service unit when an investigator in the unit is investigating a subsequent report of suspected abuse or neglect involving a child or perpetrator named in the unfounded report, or to the Inspector General when access to the information is necessary to perform the duties of that office.

**d) General Public or Media
(Rules 431, Section 431.85)**

Any requests for information regarding the abuse or neglect of, or services to a specific child or children shall be referred to the Director's office.

Note: The Freedom of Information Act [5 ILCS 140/7] exempts client files and personal information from inspection and copying by the general public.

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e) Illinois Department of Professional Regulation

The Illinois Department of Professional Regulation (DPR) shall have access to case records in the performance of their statutory duties when determining whether a mandated reporter licensed through that entity who failed to report child abuse or neglect should be subject to license suspension or revocation. The DPR may also refuse to issue, suspend or revoke the license of the following classes of persons due to professional malpractice or when the person is named as a perpetrator in an indicated report of child abuse or neglect:

- Physicians
- Physician Assistants
- Dentists
- Registered and Practical Nurses
- Optometrists
- Physical Therapists
- Podiatrists
- Psychologists
- Social Workers
- Athletic Trainers
- Acupuncturists
- Dietitians and Nutrition Counselors
- Hearing Care Professionals
- Marriage and Family Therapists
- Naprapaths (therapists of ligaments and connective tissue)
- Respiratory Therapists
- Professional Counselors and Clinical Professional Counselors
- Speech – Language Pathologists and Audiologists

f) Courts, Parties and Attorneys

DCFS shall provide records to a court, other than juvenile court, party to a lawsuit or a party's attorney only after the Regional Counsel has reviewed the subpoena, request or order from the court and confidential information has been redacted. Mental health, drug treatment and HIV and other records strictly protected by statute will only be produced if they are being sought by one of the parties to the litigation and only after the court conducts an in-camera inspection of the documents and makes a specific finding that access to such records is necessary for the determination of an issue pending before the court or the court makes a specific finding that public disclosure of the information contained in the records is necessary for the resolution of an issue pending before the court. In all other cases, the Department shall request that a protective order be entered if the court orders the release of information contained in Department investigation or case files.

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Persons served by the Department may convey their right to access records to an attorney, advocate, relative or any other person they wish to authorize in writing as their representative. The representative's right to access is limited to records accessible by the person being served by the Department.

Note: ANCRA and the Children and Family Services Act do not prevent the sharing or disclosure of records pertaining to minors under the care of or receiving services from the Department and under the jurisdiction of the juvenile court with the juvenile court, the State's Attorney and the minor's attorney.

g) Extended Family

Upon request, an extended family member interviewed for relevant information in the course of an investigation by the Child Protective Service Unit may receive appropriate information about the finding and actions taken by the Child Protective Service Unit to ensure the safety of the child or children who were the subjects of the investigation. [Abused and Neglected Child Reporting Act, 325 ILCS 5/11.2a]

h) Law Enforcement, Coroners and Medical Examiners

Law enforcement officers shall have access to records when investigating a report of:

- suspected child abuse or neglect; or
- known or suspected involvement with child pornography; or
- known or suspected criminal sexual assault; or
- known or suspected criminal sexual abuse or any other sexual offense when children are alleged to be involved; or
- child abduction.

Note: For mental health information contained in case files, consult [Section 431.80](#) regarding disclosure.

i) Law Enforcement Officers, Coroners or Medical Examiners, Physicians, Courts, and Child Welfare Agencies in Other States

Federal, state, or local law enforcement officers, coroners or medical examiners, physicians, courts, school superintendents and child welfare agencies in other states that are responsible for child abuse or neglect investigations or background investigations shall have access to records. Such information shall be requested only for the purpose of aiding the investigation, assessment or service provision or background investigation in the requesting state.

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j) Licensed Child Care Facilities

Operators of Department licensed facilities may have access to CANTS/SACWIS information pertaining to a current or prospective employee of that facility who has been named as a perpetrator in an indicated child abuse or neglect report and information concerning the status of any child welfare employee license.

Operators of facilities licensed by the Department of Human Services in which children reside may have access to indicated child abuse and neglect investigation records pertaining to a current or prospective employee of that facility who has been named as a perpetrator in an indicated child abuse or neglect report.

k) Mandated Reporters

Mandated reporters do not have access to child abuse and neglect investigative records. A mandated reporter who has reported an alleged incident of abuse or neglect to the Department is entitled to receive notification of the investigative findings, actions taken and services provided to ensure the child's safety.

l) Minor's Legal Counsel, Guardian of the Person, Guardian ad Litem (GAL)

The minor's attorney, guardian or GAL has access to the information in the investigative file and other records contained in the case file regarding the minor. Information from pending investigations and unfounded investigations are not generally released, although a GAL may have access to unfounded reports. The information from investigative files and other records shall be redacted prior to disclosure.

m) Missing Child Recovery Act

The Illinois State Police shall have access to records when administering the provisions of the Intergovernmental Missing Child Recovery Act of 1984 that requires the State Police to search for and track missing children who are under the custody or guardianship of the Department.

n) Multidisciplinary Review Committees

Multidisciplinary Review Committees shall have complete access to records in the Department's possession concerning unfounded investigations being reviewed by the committees [See Procedures 300, Section 300.60(n)].

o) Parties to Juvenile Court Proceedings and Their Attorneys

Parties to Juvenile Court proceedings (persons served by the Department) may convey the right of access to their records to an attorney, advocate, relative or any other person they wish to authorize as their representative [431.30(a)(1)].

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p) Persons Authorized by the Director

Persons who have been authorized by the Director, in writing, to review the records for audit or research purposes or to review such records in the regular course of the Department's business shall have access to records. Such access shall be time limited or limited to specific staff functions.

Persons seeking access to child abuse or neglect records shall prepare a letter or memo to the Director including the name of the person seeking access, the reasons for access, and the time period for which access is requested. Department staff shall also include their title and function.

q) Persons Authorized to Take Temporary Protective Custody

Persons authorized by ANCRA to take temporary protective custody shall have access to records when the information is needed to determine whether to take the child into temporary protective custody.

r) Physicians

Physicians shall have access to necessary investigative and case records when examining a child where abuse or neglect is suspected.

s) Schools

If a child abuse or neglect report is indicated, a copy of the SACWIS Investigative Summary shall be sent to the public school attended by the child who is the indicated victim of the report. The school shall be responsible for ensuring the confidentiality of the document in accordance with the Illinois School Student Records Act [105 ILCS 10/2]. Specific information concerning school notification is located in subsection 300.110(d) of Procedures 300.

t) School Superintendents and Illinois State Board of Education

School superintendents and the State Board of Education shall have access to records when determining whether a teacher's certificate shall be suspended because the teacher has been named as a perpetrator in an indicated report of child abuse or neglect. For further information see Section 300.70 and Appendix D of Procedures 300. The name of the school employee being investigated is entered in the Authorization for Access section of the **CFS 600-3A**.

u) School Superintendents in Other States

School superintendents in other states that are responsible for child abuse or neglect background investigations shall have access to records of persons employed

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or seeking employment in that school district. Such information shall be requested only for the purpose of aiding the background investigation in the requesting state.

v) State's Attorneys

State's Attorneys shall have access to child abuse or neglect and/or case record information when necessary for the discharge of their official duties during the investigation and prosecution of the abuse or neglect of a child or termination of parental rights pursuant to the Criminal Code [720 ILCS 5] or another penal statute, the Juvenile Court Act [705 ILCS 405], the Child Care Act [225 ILCS 5] or ANCRA [325 ILCS 5].

w) State Regulated Care Facilities

Any other agency or investigative body, including the Department of Public Health and local board of health, authorized by State law to conduct an investigation into the quality of care provided to children in hospitals and other State regulated care facilities may have access to indicated child abuse and neglect investigative records involving that facility. The access to and release of information from such records shall be subject to the approval of the Director of the Department or his designee.

x) Subject's Authorized Representative (Neighbor, Family Friend, Relative, or Attorney)

The subject of record shall provide the Department with a signed, notarized statement that clearly identifies the subject's representative before the subject's record may be released to his or her authorized representative. A **CFS 600-3, Consent for Release of Information**, may be used for this purpose. The authorized representative is entitled to receive the same information that the Department is authorized to provide to the subject of the record.

Section 431.50 Redaction

Whenever a request for release of case record information is received, the request and the disposition of the request must be documented on a **CFS 600-3A, Record of Release of Information**. File a copy of the **CFS 600-3A** in the Legal Document Section of the service case record.

The Department shall provide access to records within ten working days after receipt of the request when the requested materials can be easily identified and assembled. In all other instances the Department will provide the records within a reasonable time. Records shall be prepared for viewing by Department or purchase of service agency staff by masking out or otherwise making unreadable or inaccessible specific case record information identified in these Procedures that may not be released. Records shall be viewed in the Department field office, purchase of service provider office or another location that will not place an undue hardship on the individual. The Department shall

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Distribution: X and Z

POLICY GUIDE 2008.03

INVESTIGATIVE FILES INVOLVING DEPARTMENT WARDS PROVIDED TO THE COOK COUNTY PUBLIC GUARDIAN

DATE: August 15, 2008

TO: Rules and Procedures Bookholders and Child Protection Staff

FROM: Erwin McEwen, Director 

EFFECTIVE: Immediately

I. PURPOSE

The purpose of this policy guide is to issue new procedures concerning the handling and redacting of investigative files involving Department wards that are provided to the Cook County Public Guardian.

II. PRIMARY USERS

The primary users of these procedures are child protective service workers, child welfare workers, and Department legal staff assigned to the Cook County Juvenile Court.

III. BACKGROUND

In Cook County, the Cook County Public Guardian (Public Guardian) is the appointed attorney and guardian ad litem (GAL) for the majority of minors for whom the Department is awarded legal custody. In accordance with the Abused and Neglected Child Reporting Act (ANCRA) (325 ILCS 5), Juvenile Court Act of 1987 (705 ILCS 405), and Department Rules 300, Reports of Abuse and Neglect; the Department is required to transmit a copy of the report and investigative file to the GAL appointed under the Juvenile Court Act when the a report has been indicated, unfounded, or undetermined and the minor who is the subject of the report is also the minor for whom the GAL has been appointed.

The Public Guardian brought a lawsuit that resulted in a *court order* requiring the Department to implement new procedures for providing investigative files to the Public Guardian. *These procedures only apply to investigations involving children represented by the Cook County Public Guardian.*



The main requirement of the court order is that the Department must provide the Public Guardian with information regarding the identity of the reporter and source of information and all other information regarding the minor contained in the investigative file. The Department and the Public Guardian agreed to settle the remaining issues in the litigation under the terms specified in this policy guide.

IV. FINAL FINDINGS OF ABUSE OR NEGLECT REPORTS INVOLVING DEPARTMENT WARDS

After the report is classified, the person making the classification shall determine whether the child named in the report is the subject of an action under Article II of the Juvenile Court Act of 1987. If the child is the subject of an action under Article II of the Juvenile Court Act, the Department shall transmit a copy of the report to the guardian ad litem appointed for the child under Section 2-17 of the Juvenile Court Act [ANCRA, 325 ILCS 5/714].

Whenever the Department determines that a reported incident of child abuse or neglect from a mandated reporter or any other reporter is "unfounded", the minor's guardian ad litem appointed under the Juvenile Court Act of 1987 may request a review of the investigation within 10 days of the notification of the final finding if the subject of the report is also the minor for whom the guardian ad litem has been appointed [ANCRA, 325 ILCS 5/7.21].

V. INVESTIGATIVE FILES PROVIDED TO THE COOK COUNTY PUBLIC GUARDIAN

When the Department investigative staff have determined that a child abuse and neglect investigation involves a minor represented by the Public Guardian and the Department's Cook County Juvenile Court staff (court staff) have been notified of the report, the court staff will do the following.

- A) Determine what calendar the case is pending in and obtain the complete investigative file.
- B) Redact the investigative files in accordance with the following procedures prior to providing the Public Guardian with a copy of the file. Information redacted from investigative files must be listed on the **CFS 600-3C, Redaction Checklist**, and attached to the file. The legal basis for each redaction must be included in the checklist. The Public Guardian may file a motion before the court hearing the minor's juvenile court case seeking disclosure of the redacted information based upon applicable laws.
 - 1) **Identifying Information Regarding the Reporter, Source and Other Persons with Information**

The identity of the reporter, source and other persons with information shall *not* be redacted from the investigative file and shall be provided to the Public Guardian.

2) LEADS Information

Information indicating that a LEADS check has been conducted by Department staff during the course of an abuse or neglect investigation shall be provided to the Public Guardian, but the actual LEADS report shall be redacted from the investigative file. Investigation case notes or other documentation of arrests and convictions, other than the LEADS report, shall not be redacted. Arrest and conviction information is public information.

3) Information Regarding Minors Represented by the Cook County Public Guardian

Information regarding a minor represented by the Public Guardian shall not be redacted and shall be provided to the Public Guardian. This includes information regarding the minor's foster parents; information regarding prior reports of abuse and neglect; mental health information; substance abuse treatment information; and health/HIV/AIDS information.

4) Information Regarding Persons Other Than Minors Represented by the Cook County Public Guardian

a) Mental Health Information

Mental health information shall be disclosed regarding the parent, guardians of the minors represented by the Public Guardian, or legal custodians of the minors represented by the Public Guardian when the parent, guardian or legal custodian is named as a respondent in the case pending in juvenile court.

Mental health information regarding persons other than the respondent parent/legal guardians and minors represented by the Public Guardian shall only be redacted pursuant to the provisions of the Mental Health and Developmental Disabilities Confidentiality Act. A confidential communication under the Mental Health and Developmental Disabilities Act is any communication made by a recipient of mental health services or another person to a therapist or to or in the presence of other person during or in the connection with the provision of mental health or developmental disability services.

For example, information contained in an investigative note documenting an investigator's interview with a person during which the person disclosed their mental health diagnosis would not be a mental health communication as defined by the Mental Health and Developmental Disabilities Confidentiality Act, and should not be redacted from an investigative file provided to the Public Guardian. However, information regarding a person's diagnosis

received from a provider of mental health services would be considered mental health information and should be redacted from the investigative file unless consent for release is in effect.

b) Substance Abuse Treatment Information

Only substance abuse treatment information as defined by the Code of Federal Regulations [42 C.F.R. 2.12 (a) (ii)] shall be redacted from an investigative file provided to the Public Guardian. Substance abuse treatment information is defined as alcohol or drug information obtained by a federally assisted drug or alcohol program for the purpose of treating alcohol or drug abuse, making a diagnosis for treatment, or making a referral for treatment.

For example, an investigative note documenting an investigator's conversation with a foster parent in which the foster parent discussed their substance use and treatment would not be protected under the Code of Federal Regulation, and should not be redacted from an investigative file provide to the Public Guardian. However, information regarding a person's substance abuse treatment received directly from a qualified provider of substance abuse treatment would be consider protected information as defined by the Code of Federal Regulation, and should be redacted from an investigative file provide to the Public Guardian.

c) Health Information

Health information should only be redacted from investigation files as required by the Healthcare Insurance Portability and Accountability Act (HIPPA) and applicable regulations, and the AIDS Confidentiality Act [410 ILCS 305/1 *et.seq.*].

d) Identifying Information Regarding Minors Not Represented by the Cook County Public Guardian

An investigative file may contain information about minors other than those represented by the Public Guardian. Any identifying information regarding these minors should be redacted from the investigative file, but any information regarding the relationship between the minor and the minor represent the Public Guardian should not be redacted. The content of the minor's conversation with the investigator shall not be redacted. Each such minor referenced in the report shall be identified by initials or first name so that the content of report remains comprehensible.

e) Other

If the investigative file contains information that should be redacted for reasons not listed in this policy guide, then the appropriate juvenile court personnel shall file a motion before the juvenile court seeking to prevent the disclosure of the information in accordance with the provisions of ANCRA and/or other applicable laws.

VI. ATTACHMENT

CFS 600-3C, Redaction Checklist

This form can be ordered through Central Stores and is also available on the Department's T: Drive.

VII. QUESTIONS

Questions concerning this policy guide can be directed to the Office of Legal Services, 160 North LaSalle Street, Sixth Floor, Chicago, Illinois 60601, 312/814-2481 or 312/814-2401.

VIII. FILING INSTRUCTIONS

Place this policy guide immediately after page 16 of Procedures 431, Confidentiality of Personal Information of Persons Served by the Department of Children and Family Services.

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require that a representative of the Department or POS agency be present to interpret the contents of the records when the records are viewed.

Information contained in the investigative file that is relevant or supportive to screening a case into juvenile court must be given to the State's Attorney or Assistant State's Attorney.

The following information must be redacted from investigation files given to the defense attorney in juvenile, criminal or civil cases. The information must also be redacted when provided in response to subpoena or court order.

Note: A written consent will only affect the release of mental health and substance abuse treatment information, *but will not affect the release of reporter or other confidential information.*

a) Mental Health Information

Information that the subject is receiving therapy, therapist communications, diagnoses or medication information, psychiatric hospitalizations and documents or reports related to mental health information and treatment must be redacted.

Note: Mental health referral information does not have to be redacted.

b) Reporter Information

The reporter's name, address, telephone number or other information that would identify the reporter of the hotline report must be redacted.

c) Source Information

The source's name or information that would identify the source for the hotline report must be redacted.

d) Other Persons With Information (OPWI)

The OPWI name or information that would identify the OPWI with information for the hotline report must be redacted.

e) Substance Abuse Treatment Information

Information that the subject is receiving substance abuse treatment, counselor communications, diagnoses or medication information, and documents or reports related to substance abuse information and treatment must be redacted.

Note: Referral information does not have to be redacted.

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f) Worker Identification Number

All Department and private agency worker identification numbers must be redacted.

g) Law Enforcement Agency Data System (LEADS) Information

Any criminal history obtained from the LEADS must be removed. Information that is obtained from the subject or other person interviewed in the course of the investigation or criminal information contained in public documents, such as police, arrest or prison reports does not have to be redacted.

h) Statewide Automated Child Welfare Information System (SACWIS)

Any abuse or neglect history obtained from the SACWIS or prior investigative reports must be redacted.

Note: The minor's counsel, Guardian of the Person or GAL shall have access to the information in the investigative file regarding the minor unless the case is pending. They may not have access to the name of the reporter, collateral witnesses, police reports, LEADS information or information regarding the other subjects of the report.

Note: Information received from the subject or other person interviewed in the course of the investigation does not have to be redacted.

i) Prior Department Involvement With the Family

Information concerning the Department's prior involvement with the family must be redacted.

j) Information Identifying Non-Involved Wards

The names, addresses and any other identifying information of non-involved wards must be redacted unless they are siblings and removed as a result of the investigation.

k) Foster Parent Information

The names and any identifying information of foster parents must be redacted unless they are the subjects of the report and their records are being requested for criminal proceedings.

l) HIV/AIDS Information

Information that the subject has been tested for HIV/AIDS, has AIDS, or is receiving treatment for AIDS must be redacted.

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m) Public Aid and Temporary Assistance to Needy Families (TANF) Information

Information that indicates that the person has applied for or is receiving Public Aid or TANF services must be redacted.

n) Social Security Numbers

Social security numbers must be redacted.

o) Medical Information

Information concerning birth control services, pregnancy or treatment of sexually transmitted diseases must be redacted.

**Section 431.60 Adoption Records, Placement Information and Information Accepted
Under the Promise of Confidentiality
(Rules 431, Section 431.70)**

a) Adoption Records

1) The Department may deny a person personal information in situations involving adoption when the information would allow that individual to determine the identity of his or her parents, siblings, or other relatives; or would allow the individual the opportunity to determine the whereabouts of a child who was voluntarily surrendered or whose parent's parental rights were terminated in juvenile court. The Director may release this information if, in the Director's opinion, releasing the information is in the best interests of the child and all persons involved in the adoption proceeding.

2) Parents whose parental rights have been surrendered or legally terminated may indicate in writing whether they would allow their child to have access to their name(s) and information about them at some time in the future. This written statement shall be provided when the child is relinquished for adoption. When the parents have requested that their name(s) and information about them not be released to the child at a later date, their request shall be respected insofar as permissible by state or federal law or regulation. Under the Indian Child Welfare Act the parent shall be entitled to absolute anonymity in the case of voluntary relinquishment upon request.

3) All requests to access adoption records shall be included in both the parents' and the child or children's records.

b) Placement Information

An individual may be denied access to information that would allow that individual to determine the physical location of a child who was removed from the individual's

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custody in accordance with the Juvenile Court Act of 1987. This information shall be denied only if:

- 1) there is reasonable cause to believe that the child, foster parents or others caring for the child will be in danger if the child's whereabouts are known; or
- 2) the individual is likely to remove the child from the jurisdiction of the court; or
- 3) there is reasonable cause to believe that the parent would remove and conceal the child.

Note: In accordance with Section 301.450 of Rules 301 (Placement and Visitation Services), Subpart D, the Department or POS agency must provide written notification to the foster parent or relative caregiver when the decision has been made to disclose his or her name, address or telephone number to specific individuals. The foster parent or relative caregiver then has ten days to request a review of the decision and may seek an order of protection if he or she disagrees with the review decision.

c) Information Accepted Under the Promise of Confidentiality

The Department shall not release information provided by the minor or any other person after a guarantee from the Department or a caseworker or other Department or POS representative that the information will remain confidential. All information guaranteed to be kept confidential entered in the minor's record shall be clearly marked CONFIDENTIALITY GUARANTEED.

Note: A worker shall not grant anyone a guarantee of confidentiality for information that is essential for case planning and service delivery.

Section 431.70 Law Enforcement Agencies Data System (LEADS) Information

LEADS access through the State Central Register (SCR) will only provide Illinois criminal history record information for adults or juveniles who were tried as adults. LEADS provides such information as name, sex, race, date of birth, Social Security Number, State Identification Number, Federal Bureau of Investigation (FBI) Number, and other information used to identify the subject of the Criminal History Transcript, and includes notations of arrests, detentions, indictments, information, or other formal criminal charges or proceedings, and disposition arising there from, sentencing, correctional supervision and release that are data-entered by local law enforcement officials.

Note: See Administrative Procedures #6 for detailed information concerning the use of LEADS information.

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a) Disclosure of LEADS Information

LEADS information is confidential and provides only summary information on any criminal behavior. To clarify LEADS information and gain a fuller understanding of the facts, workers shall obtain the underlying documents referenced in the LEADS information. *Conviction and closed arrest records are public information that may be shared whenever necessary to accomplish a legitimate child protective or treatment goal. Arrest records and information that forms the basis for an arrest but never resulted in a conviction or finding shall not be shared unless it may affect the health or safety of a child, a family member, or a person providing services to the family.*

All disclosures of LEADS information to persons outside of DCFS or the private agency shall be in writing, and shall be accompanied by a **CFS 854, Disclosure of LEADS Information**. The worker shall document on the **CFS 854** to whom LEADS information will be shared and the reason for sharing LEADS information. The supervisor shall review the completed **CFS 854** for compliance with Administrative Procedure #6. If the supervisor agrees that information should be disclosed to the person designated on the **CFS 854**, the worker and supervisor shall sign the **CFS 854** and attach it as a cover letter to the document containing the LEADS information to be disclosed. A copy of the signed **CFS 854** shall be placed in the case record.

1) Subject of the LEADS Information

LEADS information and the underlying documents may be shared with the involved person to obtain his or her perspective on the incidents described.

A worker may need to share information from interviews or the underlying documents (i.e., police, arrest or prison reports) with court personnel or other professionals servicing the case or family members or other caretakers of the children when knowledge of criminal history information is required to protect or serve the child. The amount of criminal history information shared with family members and caretakers should be strictly limited to information necessary to accomplish the child protection or treatment purpose.

2) Family Members, Caretakers and Others

LEADS information and the underlying documents, such as police reports, court reports, and admissions from a subject, may be shared within the Department or private agency involved, with court personnel, and with members of the treatment team, but only to the extent that such information is relevant to child protection, service, or treatment decisions to be made on behalf of the children or family.

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3) Response to a Subpoena

LEADS information **shall not be released** in response to a subpoena or request for information **without a court order signed by the judge**, except as permitted by Administrative Procedure #6. Workers shall release LEADS information pursuant to an impoundment of records by the Office of Inspector General.

b) LEADS Information in the Child Protection Records

LEADS information included in the child protection investigation file may be forwarded to the child welfare worker as part of the investigative file. Child protection investigators and child welfare workers shall share underlying public documents on a “need to know” basis with other persons providing services when it is relevant to child protection or service decisions to be made on behalf of the child or family.

**Section 431.80 Mental Health Information
(Rules 431, Section 431.100)**

The Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110) governs access to clinical, psychological, psychiatric or other information of a mental nature to ensure that persons do not forego needed mental health or developmental disability services because of fear of stigma.

a) Records that Are Not Mental Health Records

The following documents are not considered mental health records. However, the information contained in these records may be subject to other confidentiality provisions and workers should always consult with Regional Counsel when there is a question about whether a document or information contained within a document is considered a mental health record.

1) Criminal Records

- Criminal History Information
- Probation Reports
- Sex Offender Registry
- Police Reports

2) Court Records

- Juvenile Court Records (Child Protection and Juvenile Justice)
- Domestic Relation Court Records
- Adoption Court Records (Other confidentiality applies)

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- Probate Court Records (Petitions, Certifications, Court Orders, Transcripts of Hearings)
 - Mental Health Court
- 3) Hospital Records
- Social work reports that do not contain information provided by a therapist or psychological or psychiatric information.
 - Hospital records for treatment of non-mental health issues.
- 4) School Records
- Regular school records
 - Individual Education Plans (IEP) when the IEP is developed for reasons other than mental health or developmental disabilities.
 - School social work reports that do not contain psychological or psychiatric information or information obtained from a therapist.
- 5) Service Generated Records
- Bonding assessments
 - Visitation records
 - Parenting assessments when the assessment does not include psychological or psychiatric information
 - Placement stabilization
 - Case manager observations
 - Case notes that do not contain psychological or psychiatric information or information provided by a therapist
 - Homemaker reports that do not address medication monitoring
 - Protective plans
 - Case plans (exclusive of therapist, psychological and psychiatric reports)
 - Client expectations or contracts from group homes or independent living programs
 - Unusual incident reports that are not generated due to therapy or psychiatric hospitalizations.
 - Alcohol or other drug assessments or evaluations (Confidentiality of alcohol and drug abuse patient records applies.)
 - Child endangerment risk assessments

b) Records that Are Mental Health Records

- 1) Hospital Records
- Psychiatric hospitalization records

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- Records that are generated by therapists, including psychological and psychiatric reports
- Information that discloses that a person is a recipient of mental health services

2) School Records

- Psychological reports
- Social work reports that include therapy information
- Case studies
- Therapy reports and notes
- Records of treatment or diagnoses of mental health or developmental disability issues
- Individual Education Plans that specifically address mental health or developmental disability issues
- Multidisciplinary staffing records

3) Service Generated Records

- Psychological assessments and records
- Psychiatric assessments and records
- Therapy reports and notes
- Psychotropic drug information
- Screening Assessment and Support Service (SASS) records or reports
- Sexually Abusive Children and Youth (SACY) assessments and therapy
- Case notes that contain information regarding psychological or psychiatric evaluations or information provided by therapist
- Psychiatric facility placement information
- Information that reveals that a person is a recipient of mental health services

c) **Disclosure of Mental Health Records and Communications With Consent**

Workers shall ask Department clients referred for mental health services to sign a **Consent for Release of Information form, CFS 600-3**, so that the Department may access the client's treatment information and appropriately share the information with purchase of service agencies or contractors. The worker shall discuss with the client the consequences that will be imposed by the Department if the client refuses to consent and shall list those consequences on the **CFS 600-3**. Workers shall not suggest or imply adverse consequences to clients beyond those that the Department can actually impose.

Anyone receiving a mental health record or information from a mental health record does not have the legal authority to redisclose the information unless the re-release of information is specifically consented to by the client or otherwise permitted by

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these procedures. Sharing of information between divisions of the Department or between the Department and purchase of service providers or between purchase of service providers as required for case management is a transfer and not a disclosure of information.

Note: Persons are entitled to review their own mental health records. Any competent adult recipient may consent to release of mental health records on the prescribed written form. Parents or guardians may consent to release information for minors under 12. For minors 12 and over, the consent of the guardian or parent and the consent of the minor are required, unless the minor's therapist has determined the release of the records is in the minor's best interests, and the minor has been notified.

Instructions for completing the **CFS 600-3** are located in [Appendix C](#) of these procedures.

d) Disclosure of Mental Health Records and Communications Without Consent

1) DCFS and Purchase of Service Providers

Mental health information can be shared between divisions of the Department and between the Department and purchase of service providers when necessary and relevant to the Department's discharge of its duties under the Children and Family Services Act or ANCRA.

If a Department or purchase of service employee is unsure of whether to share mental health information, the employee should consult the Department's Regional Counsel.

2) Caregivers

A) Adoptive Parents

The Illinois Adoption Act requires that the Department provide detailed medical and mental health histories of the child, the biological parents, and their immediate relatives to the adoptive parents and foster parents who are in the process of adopting a child. However, the Department shall not disclose the name or last known address of the biological parents, grandparents or any other relative of the child. [Adoption Act 750 ILCS 50/18.4(a)(i-viii) and Rules 309.105]

Any adoptee over the age of 18 may access his/her detailed medical and mental health histories and those of his/her immediate relatives, if contained in Department records. [Adoption Act 750 ILCS 50/18.4(b)]

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B) Foster Parents (Relative and Licensed)

The child's worker shall inform a caretaker of any known social or behavioral information (including, but not limited to, criminal background, fire setting, perpetration of sexual abuse, destructive behavior, and substance abuse) necessary to care for and safeguard the child. This includes information about mental health, SACY and SASS issues, but does not include release of the written reports themselves. [Children and Family Services Act 20 ILCS 505/5(u)]

C) Potential Caregivers

Potential caregivers are not entitled to access the child's written mental health records. However, caseworkers can talk about the behavior information contained in the records. The Office of the Guardian may consent to disclosure of mental health records for Department wards that are under 12 years of age.

D) Paramours, Family Members and Neighbors

There is no provision under state law that allows disclosure of mental health information to paramours, family and neighbors without the written consent of the recipient. However, caseworkers can talk about behavior information in the record and can inform caretakers or potential caretakers that there is a safety risk to the minor without disclosing the specific mental health information.

3) Courts

A) Juvenile Court

Mental health records and communications of a parent, guardian, legal custodian or minor who is the subject of a juvenile court case shall be disclosed. A party can object and ask for an in-camera inspection of the records. All parties, Assistant State's Attorney (ASA), DCFS, GAL and probation officers may access mental health records in Department files. [Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/10(a)(11)]

B) Mental Health Court

Mental health records and communications of the recipient in a Probate Hearing that addresses the need for guardianship may be disclosed. [Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/10(a)(11)]

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A therapist may disclose mental health information if he/she determines that disclosure is necessary to initiate or continue civil commitment proceedings. [Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/11]

C) Other Courts

The mental health records and communications of a recipient in any civil, criminal or administrative hearing may be disclosed if the recipient uses his mental condition as a claim or defense (e.g., civil suit against a therapist, criminal insanity defense). Records and communications that are the result of a court ordered exam or for transfer of adult guardianship may be disclosed. [Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/10(a)(1)(4)]

Note: Subpoena requests for records that include mental health information, Human Immunodeficiency Virus (HIV), AIDS Related-Complex (ARC) or Acquired Immunodeficiency Syndrome (AIDS) information should be referred to the Department's Office of Legal Services.

D) Law Enforcement/Screening with Assistant State's Attorney

i) Child Abuse and Neglect Investigation Records

DCFS may disclose to the State's Attorney, without consent, personal information, which includes mental health records, when the information is relevant to a pending law enforcement investigation of known or suspected child abuse or neglect, known or suspected child pornography, known or suspected criminal sexual assault, known or suspected criminal sexual abuse or any other sexual offense when a child is alleged to be involved.

Note: DCFS may disclose to the Illinois of State Police, without consent, personal information, which includes mental health records, when administering the provisions of the Intergovernmental Missing Child Recovery Act.

ii) Service Provision Records

Mental health information contained in case records may be shared with juvenile authorities, specified as court personnel, probation officers or prison review boards.

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iii) Disclosure by a Therapist

Disclosure of mental health information may be made without consent by any therapist providing mental health or developmental disabilities services pursuant to the provision of the Sexually Violent Persons Commitment Act. [Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/9.3]

A therapist may disclose mental health information to protect the recipient or other person against a clear, imminent risk of serious physical or mental injury or disease or death being inflicted upon the recipient or by the recipient on himself or another. A therapist may also disclose, when in his or her discretion disclosure is necessary to warn or protect a specific individual against whom a recipient has made a specific threat of violence. [Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/11(ii)(viii)]

E) Jails

Jails may disclose a recipient's mental health record without consent but only for the purpose of admission, treatment, planning or discharge of the identified recipient to another setting. [Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/9.2]

4) Reports of Abuse or Neglect Made by Therapists

Confidentiality provisions do not protect mental health records when needed to disclose suspected abuse and/or neglect reported by the therapist. [Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/11(i) and Abused and Neglected Child Reporting Act, 325 ILCS 5/4]

5) DCFS Office of Inspector General

A therapist can disclose mental health information without consent to the DCFS Office of Inspector General (OIG) if the records are relevant to a pending OIG investigation. [Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/9]

6) Other

A) Mandated Reporters

Mandated reporters have no right of access to mental health information.

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B) Disclosure to Receive Benefits

Mental health information from a client's record that is needed to apply for benefits may be disclosed with written consent of the client. If the client refuses or is unable to consent, disclosure can be made without consent. The recipient shall be informed of any disclosure made without consent. [Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/6]

C) Interagency Disclosures

There can be interagency disclosure of the name, social security number and information concerning services rendered, currently being rendered, or proposed to be rendered regarding a recipient of services. This disclosure may be made only between agencies or departments of the State including, but not limited to (i) the Department of Human Services, (ii) the Department of Public Aid, (iii) the Department of Public Health, (iv) the State Board of Education, and (v) the Department of Children and Family Services for the purpose of a diligent search for a missing parent if the Department of Children and Family Services has reason to believe the parent is residing in a mental health facility. DCFS can only redisclose information for purpose of service provision. [Mental Health and Developmental Disabilities Confidentiality Act 740 ILCS 110/7.1]

Other state agencies can give mental health information to DCFS that would assist in a diligent search for a parent. [Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/7.1]

7) Other Mental Health Professionals

A) Consultants

In situations where knowledge of the record or communications is essential to the purpose for which disclosure is made and the therapist has informed the recipient of the services of the disclosure, a therapist may disclose mental health information without consent to the therapist's supervisor, a consulting therapist, members of a staff team participating in the provision of services, a record custodian and others.

Where the sharing of mental health information is necessary for the provision of services to the family and is relevant to the health and safety of the child, DCFS can disclose mental health records on DCFS wards under the age of 12 to consulting therapists. Staff should

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obtain a release prior to disclosing information on anyone over the age of 12.

B) Other Social Workers

See consultants and other therapists [431.80(d)(7)(A) and (C)]

C) Other Therapists

The therapist may disclose mental health information without consent to his/her supervisor or members of a staff team assisting in providing services; may disclose without consent for purposes of peer review; and may consult with an attorney hired to determine legal rights or duties in relation to the recipient and the services being provided. [Mental Health and Developmental Disabilities Confidentiality Act 740 ILCS 110/9]

D) Other Agencies

The therapist may disclose mental health information without consent to any department, agency, institution or facility that has custody of the recipient pursuant to State statute or any court order of commitment when such disclosure is necessary. The recipient must be informed. [Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/9]

E) Review for Licensure or Research

When a therapist or agency that provides mental health services is being reviewed for purposes of licensure, statistical compilation, research, accreditation, evaluation, or other similar purpose, the person conducting the review may use a recipient's mental health record to the extent that it is necessary to accomplish the review. [Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/7(a)]

F) Medical Personnel

A therapist may disclose mental health information without consent when it is necessary to the provision of emergency medical care to a recipient who is unable to assert or waive his rights. [Mental Health and Developmental Disabilities Confidentiality Act 740 ILCS 110/11(iii)]

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8) Protection and Advocacy for Mentally Ill Persons

The agency designated by the Governor for administering the protection and advocacy system for mentally ill persons shall have access to all records of mentally ill persons who are receiving care or treatment from a facility when a person is unable to authorize the agency access due to his or her mental or physical condition; when the person does not have a legal guardian or the State or a designee of the State is the legal guardian; and when the agency has received a complaint of abuse or neglect or there is probable cause to believe that the person has been subjected to abuse or neglect (Protection and Advocacy for Mentally Ill Persons Act [405 ILCS 45]).

9) School and Day Care Personnel

There is no provision under state law that allows disclosure of mental health information without consent to school or day care personnel. The DCFS Guardianship Administrator may consent to release of information concerning a ward under the age of 12. Consents must be obtained from the ward and the ward's therapist, in addition to the Guardianship Administrator, if the ward is over the age of 12.

Note: Caseworkers may share information about wards exhibiting sexually problematic or aggressive behavior with those persons specified in the protective plan who need to know the information in order to protect other children and provide adequate supervision (see Procedures 302.240, Reports Involving Sexually Aggressive Wards).

e) **Substance Abuse Treatment Records**

Records of the identity, diagnosis, prognosis or treatment of any patient maintained in connection with the performance or any program or activity related to alcohol or other drug abuse or dependency education, early intervention, intervention, training, treatment or rehabilitation which is regulated, authorized, or directly or indirectly assisted by any state department or agency shall be confidential and only disclosed with consent. The following are exempt from federal confidentiality provisions and can be disclosed without consent (Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301/30-5]):

- Information obtained by the Armed Forces
- Information given to qualified service organizations
- Communications within a program or between a program and an entity having direct administrative control over the program
- Information given to law enforcement personnel investigating a patient's commission of a crime on the program premises or against program personnel
- Reports of suspected incidents of child abuse and neglect (Confidentiality restrictions continue to apply to the records and any follow-up information for

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disclosure and use in civil or criminal proceedings arising from the report of suspected abuse or neglect.)

Note: Substance abuse treatment records may be released to juvenile courts with consent of the parents or a court order.

Note: The fact that a person is addicted to drugs is not a treatment record.

f) Persons Entitled to Inspect and Copy Recipient's Mental Health Record

The following persons shall be entitled, upon request, to inspect or copy a recipient's mental health record or any part thereof: (Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/4)

- 1) the parent or guardian of a child less than 12 years old;

Note: The Department may deny biological parents access to their child's mental health records when the Department has legal guardianship of the child when the child is less than 12 years old and two Department professional social workers with a Masters in Social Work degree certify in writing that denial of such access is in the best interests of the child and/or parents.

- 2) the recipient, if he or she is 12 years of age or older;
- 3) the parent or guardian of a recipient who is 12 years of age but under 18 years of age, if the recipient is informed and does not object or if the therapist does not find that there are compelling reasons for denying the access;
- 4) the legal guardian of a person that is 18 years of age or older;
- 5) an attorney or GAL who represents a child 12 years of age or older in any judicial or administrative proceeding, provided that the court or administrative hearing officer has entered an order granting the attorney this right; or
- 6) a person who has power of attorney that authorizes the access.

Section 431.90 Physical Health Information

The Medical Patient Rights Act establishes the right of each patient to privacy and confidentiality in health care. Physical health information may be disclosed when relevant to a child protection investigation. The Child and Family Services Act permits any individual dealing with or providing services to a minor ward to share information with another individual dealing with or providing services to the minor for the purpose of

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coordination efforts on behalf of the minor. **However, the Department shall not release information concerning any medical care to which the minor has the right of consent.** See Procedures 327, Section 327.5 (Medical Consents) for detailed explanation of when a minor has the right to consent to his or her own medical care.

**a) Disclosure of Information Regarding Acquired Immunodeficiency Syndrome (AIDS)
(Rules 431, Section 431.110)**

When a caretaker or other person in the home or family has Human Immunodeficiency Virus (HIV), AIDS Related-Complex (ARC) or Acquired Immunodeficiency Syndrome (AIDS), the worker must recognize it as a serious medical condition that may be relevant to service assessment or long term planning. However, the worker must confine any references regarding the presence of the condition to documents maintained in a limited and restricted section of the case record marked CONFIDENTIAL MEDICAL INFORMATION. The worker shall limit examination of such documents to those persons directly involved in the service assessment or planning issue.

1) Department Notification

The Department shall be informed of the results of HIV tests performed on and of all diagnoses of ARC or AIDS for children for whom the Department is legally responsible [410 ILCS 305/9, Aids Confidentiality Act].

2) Release of Information

The Department shall release information about children for whom it is legally responsible regarding HIV test results, diagnosis of ARC or AIDS to the child's legal parents and to the following categories of persons who have the need to know. Such persons shall be advised that the information is confidential and shall not be re-disclosed.

A) Persons Who Supervise or Provide Direct Care

- foster parents
- relative caretakers
- directors or operators of child care facilities, such as group homes, child care institutions, child welfare agencies, state operated facilities, day care homes, day care centers and the personnel of such facilities who come into contact with bodily fluids through feeding, diapering, etc.
- physicians, nurses, dentists, other medical providers and consultants who are or will be providing direct care to the child

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- other persons who provide direct care when the information is necessary in order to provide Department approved services for the child

B) Prospective Adoptive Parents

Prospective adoptive parents may receive the information if they have been licensed under 89 Ill. Adm. Code 402, are willing to adopt a child with a terminal illness, and have demonstrated an interest in a specific child who has tested positive for HIV infection or who has been diagnosed with ARC or AIDS. The Department will also arrange for HIV testing of children for prospective adoptive parents who want to know whether a child they are considering for adoption is HIV infected. The Department shall release the results of the testing to the prospective adoptive parents.

Information about a child's medical diagnosis of AIDS, ARC or HIV shall be provided to foster parents or other out-of-home caretakers immediately prior to placement or as soon as the information regarding the test result or diagnosis is available.

Department staff that are aware of a child's HIV status shall limit disclosure of this information to Department staff that have a need to know such information. When placement or other services for an infected child must be obtained, the information is to be placed in an envelope marked CONFIDENTIAL and directed to the supervisor of the placement/resource unit. The supervisor is responsible for ensuring that the fewest possible number of Department personnel learn of the child's status, while ensuring that the foster parents/prospective caretakers are properly informed.

C) Juvenile Court

Such information may be shared privately in the judge's chambers with juvenile court judges or other court officials such as the State's Attorney, Guardian ad Litem and the attorney for the parents. This information may also be conveyed to the judge in a separate confidential correspondence sent directly to the judge. Written reports to the court shall not include HIV test results or diagnosis of ARC or AIDS.

3) Maintaining Written Information Regarding HIV/AIDS

Information concerning a child's HIV status shall not be entered in documents that are routinely seen by people who do not have the need to

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know such information. Any information about the child's diagnosis shall be maintained in a limited and restricted section of the case record marked CONFIDENTIAL MEDICAL INFORMATION.

4) The Child's School

When a child with a diagnosis of HIV, ARC or AIDS is registered in school, the child's worker shall call the local Department of Public Health office, advise them of the situation and request the assistance of that office in notifying the school principal of the child's condition.

5) Deleting AIDS Information From Records

When the Department releases case record information to a third party who is entitled to review non-AIDS material in the record, all AIDS-related material in the record must be deleted prior to its release. This includes HIV and AIDS information contained in child abuse and neglect report records and case assessment recordings.

6) Intact Family Services

When the Department does not have legal custody of a child who has tested positive for HIV infection or has been diagnosed as having ARC or AIDS, the case manager and supervisor must determine when disclosure of this information is necessary for planning and delivery of required services and seek written consent for necessary disclosures from the child's parents. If necessary services cannot be provided to the child due to the parents' refusal to consent to disclosure, and the child is at risk of harm without those services, the case manager must seek to screen the case into court.

7) Caretakers With AIDS, HIV or ARC

A person's AIDS, HIV or ARC status should not be viewed as a barrier to parenting or foster parenting. However, licensing and case managers should be aware of the person's medical status to ensure that appropriate services are offered and that long-term planning and health issues are addressed.

8) Protection of Non-Client Partners

Case managers should counsel clients with HIV status known to be engaging in unprotected sex and may discuss their concerns with the client's physician. The physician may have greater discretion, under the law, to disclose such information.

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9) **Redisclosure of Information**

Any person to whom the Department has released information regarding HIV test results or diagnoses of ARC or AIDS shall keep this information confidential in accordance with provisions of the AIDS Confidentiality Act (410 ILCS 305). Such information shall not be disclosed to other persons except as authorized by the Department in accordance with these procedures. A statement prohibiting redisclosure of the HIV information shall be prominently displayed on each page of the material. Such authorization shall be in writing and signed by the Department's Guardianship Administrator or designee, and shall contain the names and positions of those individuals to whom the information may be disclosed. Form **CFS 600-3, Consent for Release of Information**, shall be used for this purpose. The Guardianship Administrator or designee may revoke their consent in writing at any time.

Section 431.100 Licensing Information

Department staff shall have access to licensing records in the furtherance of their responsibilities under ANCRA and the Child Care Act.

a) **Types of Licensing Information**

Licensing information maintained on persons and agencies supervised by the Department and purchase of service agencies include:

1) **Licensing File Documentation**

Licensing file documentation includes background, medical and mental health information for all individuals residing in the licensed home or facility. The following forms are used to document this information:

A) **CFS 717 and CFS 718E, Authorization for Background Check**

Background checks include a criminal history check via fingerprints of persons age 18 and over that are submitted to the Illinois State Police and the Federal Bureau of Investigation (FBI) for comparison to their criminal history records, as appropriate, and a check of the Child Abuse and Neglect Tracking System (CANTS)/Statewide Automated Child Welfare Information System and other state child protection systems, as appropriate, to determine whether an individual is currently alleged or has been indicated as a perpetrator of child abuse or neglect; and a check of the Statewide Child Sex Offender Registry.

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B) CFS 506, CFS 597 and 597A, Application for License

Applicants or licensees use these forms to apply for an initial license or to renew a license for a specific type of facility (e.g., day care home, foster home, etc.). The applicant or licensee is required to provide their name, address telephone number, references and other information specific to the type of license for which they are applying.

C) CFS 602 & CFS 604, Medical Report

All foster parents, employees and volunteers in Department licensed child care facilities; operators of day care/group day care homes and other adult members of their households are required to have physical examinations. The **CFS 602** (child care facility personnel) or **CFS 604** (foster parents) is used by the examining physician to document the results of the licensee or applicant's tuberculin test, findings of medical or emotional problems or conditions and recommendations.

D) CFS 515, CFS 516, CFS 518, CFS 519 and CFS 590, Compliance Monitoring Record

The purpose of these forms is to record the initial license study, license renewal study or supervision/monitoring visit.

2) Licensing Complaint Files

Only "substantiated" licensing complaint information may be maintained as part of a licensee's permanent record. Substantiated licensing complaint file documentation may include, but is not limited to:

- **CANTS 1, Child Abuse or Neglect Initial Report/SACWIS Intake Summary**
- **CANTS/SACWIS 21B, Notification of Initial Protective Plan**
- **CANTS/SACWIS 21A, Results of Child Abuse or Neglect Investigation**
- **CFS 596 Series, Licensing Complaint Documents**
- **CFS 597C, Monitoring Record**

Note: "Substantiated" licensing complaint information is maintained in a file separate from the licensee's licensing record.

b) Licensing Information that May be Released to the General Public

Licensing Enforcement Action Involving Day Care Homes, Group Day Care Homes, Day Care Agencies and Day Care Centers [Child Care Act of 1969, 225 ILCS 10/9.2]

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The following information may be provided to the general public upon inquiry for day care facilities closed prior to January 1, 1999:

- date the facility was initially licensed,
- expiration date of the last license,
- revocations, and
- surrenders.

The following information may be provided to the general public upon inquiry for day care facilities whose license is in effect at the time of inquiry:

- date the facility was initially licensed,
- effective date of the current license,
- expiration date of the current license,
- license capacity,
- age range served,
- revocations and pending revocations,
- surrenders,
- administrative orders of closure,
- licensing status (i.e., pending, conditional, etc.),
- whether the facility is under a protective plan pending the outcome of a licensing investigation, and
- a list of substantiated complaints and Department staff findings of licensing violations since January 1, 1999. Information on substantiated complaints and licensing violations that occurred prior to January 1, 1999 shall not be released through the day care information line. Such information is available through a Freedom of Information Act request.

The following information is confidential and shall not be released to the general public:

- specific details on the substantiated complaints, licensing violations, revocations, protective plans, administrative orders of closure, or surrenders,
- child abuse and neglect reports,
- children's names,
- parents' names,
- employees' names and/or position,
- information on any pending licensing investigation except for the presence of a protective plan, and
- financial information.

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Section 431.110 Requests from Foreign Governments for Information About Its Nationals

Inquiries from representatives of governments concerning children of foreign nationals in the custody of the Department shall be handled in the following manner:

- Telephone requests should be forwarded to the regional Field Services Manager or purchase of service agency (POS) program director with supervisory responsibilities for the unit with casework responsibility for the concerned child or children. If the Field Services Manager or POS program director is not available, the caller shall be forwarded to the caseworker's supervisor. **Call takers shall not disclose client information, which includes the child's or children's legal status with the Department.** A "call back" should be taken only if the appropriate Field Services Manager, POS program director or DCFS/POS supervisor cannot be immediately identified.
- The Field Services Manager, POS program director or DCFS/POS supervisor shall take the name and telephone number of the consulate or embassy representative, identifying information of the concerned child or children, and nature of the request. The caller shall be informed of the Department's time frame and procedure for handling such requests, which follows.
- The Field Services Manager, POS program director or DCFS/POS supervisor shall forward the request electronically within **24 hours** of receipt of the information to the Chicago Office of Legal Services (312/814-8752, FAX: 312/814-6859).
- The Chicago Office of Legal Services shall process the request within **48 hours** and inform the Field Services Manager, POS program director or DCFS/POS supervisor of any information or follow-up required by the Department's regional office or purchase of service agency. The Chicago Office of Legal Services telephone number may be given to the caller upon request.
- Written requests shall be forwarded immediately upon receipt to the regional Field Services Manager or POS program director and the Chicago Office of Legal Services.

Section 431.120 Freedom of Information Act (FOIA)

The Freedom of Information Act generally allows the public to have access to information regarding the affairs of government and the official acts and policies of public officials and public employees. The Act is intended to enable people to make informed political judgments and monitor government to ensure that it is being conducted in the public interest. Violation of individual privacy is not the intent of FOIA. Information that may not be accessed by the general public includes, but is not limited to the following:

- Information that is specifically prohibited from disclosure by federal or state law or rules (e.g., child abuse and neglect, case and licensing records).

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- Information that, if disclosed, would constitute a clearly unwarranted invasion of personal privacy (e.g., names, addresses and telephone numbers of Department clients and foster parents), unless the individual subjects of the information consent to the disclosure in writing.
- Information compiled by any public body for law enforcement (e.g., police reports) purposes to the extent that disclosure would interfere with pending law enforcement proceedings.
- Files and personal information maintained with respect to clients, patients, residents, students or other individuals receiving social, medical, educational, vocational, financial supervisory or custodial care or services directly or indirectly from federal agencies or public bodies.
- Files and personal information maintained with respect to any applicant, registrant or licensee by any public body cooperating with or engaged in professional or occupational registration, licensure or discipline.
- Records compiled by any public body for administrative enforcement proceedings, but only to the extent that disclosure would interfere with pending administrative enforcement proceedings conducted by any public body or would disclose the identity of a confidential source or confidential information furnished only by the confidential source.

Section 431.130 Methods By Which Information May Be Requested (Rules 431, Subsection 431.90.b)

a) Written Requests

Written requests for access to personal information without the subject's consent must be notarized, specifically state the names of the individuals about whom the information is requested, and clearly establish the requestor's right to such information without consent of the subject. **CFS 600-3A** shall be used to record the disposition of the request for information.

b) Telephone Requests

The Department shall not provide information to unknown requestors at the time of the initial inquiry without first verifying the requestor's identity and authority to receive such information. Verification can usually be obtained by checking an official telephone listing or checking with a third party at the business office at the requestor's reported place of employment. When in doubt of the requestor's identity or authority to receive such information, staff are to deny the telephone request and instruct the requestor to send a notarized written request.

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If a child may be endangered if the request is denied, Department staff shall take the necessary actions to assure the child's safety but shall not release the requested information until the requestor is positively identified.

1) **Child Abuse and Neglect Information**

The Department shall accept telephone requests for child abuse and neglect information only when the request comes from:

- Department staff investigating a report of child abuse or neglect;
- law enforcement officials investigating a report of child abuse or neglect or determining whether a child should be taken into temporary protective custody;
- physicians examining a child and the information is needed to determine whether a child is abused or neglected or to determine whether a child should be taken into temporary protective custody; and
- out-of-state agencies involved in a child abuse or neglect report.

See [Section 431.80](#), Disclosure of Records of Child Abuse and Neglect Investigations. The **CFS 600-3A** shall be used to document the release of information or the denial of the request.

2) **Other Information**

The Department shall accept telephone requests for other personal information without the consent of the concerned individuals only if the requesting person or agency is authorized by these procedures to receive the information they are requesting. The **CFS 600-3A** shall be used to document the release of information or the denial of the request.

c) **In-Person Requests**

The Department shall accept in-person requests for the disclosure of personal information or records only when the requestor produces positive identification and proof of his or her legal authority to receive the requested information. Guardians, custodians, court-appointed special advocates or guardians ad litem must produce a court order appointing them to their positions. Attorneys or personal representatives must provide a signed, written, notarized consent for release of information from the subject/client.

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d) E-Mail Requests

Personal information of persons served by the Department shall not be transmitted using the Internet. No confidential information shall be contained in an Internet E-mail message, listed in conversation in a “chat room,” or otherwise referenced in any Internet communication.

**Section 431.140 Maintenance of Department Records
(Rules 431, Section 431.30)**

The Department classifies records as three types for purposes of record maintenance.

a) Adoption

Adoption records are retained indefinitely. They include specific non-identifying information about the biological family, the adoptive family’s case record (including the adoptive home study), and the child’s case record.

b) Case

Case records are maintained in accordance with Part 436 (Records Management).

c) Child Abuse and Neglect Records

The retention schedule for indicated, unfounded, undetermined and pending child abuse and neglect records is as follows:

1) 50 Years

All reports where allegations regarding the death of the child subject (Allegation #1/51) or sexual penetration (Allegation #19) were indicated shall be retained for fifty years after the report was indicated.

2) 20 Years

A) The following indicated reports involving the serious physical injury, sexual molestation or sexual exploitation of the child subject shall be retained for twenty years.

#2/52	Head Injuries
#4/54	Internal Injuries
#5/55	Burns/Scalding (third degree burns only)
#7/57	Wounds
#9/59	Bone Fractures (Multiple or Spiral Fractures Only)
#16	Torture
#18	Diseases Transmitted Sexually

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#20	Sexual Exploitation
#21	Sexual Molestation
#81	Failure to Thrive
#83	Malnutrition
#85	Medical Neglect of Disabled Infants

B) The following allegations may be retained for twenty years depending on the seriousness of the injury.

#6/56	Poison/Noxious Substances
#9/59	Bone Fractures (Other than Multiple or Spiral Fractures)
#11/61	Cuts, Bruises, Welts, Abrasions and Oral Injuries
#12/62	Human Bites
#13/63	Sprains, Dislocations
#14	Tying/Close Confinement
#15/65	Substance Misuse
#75	Abandonment/Desertion
#79	Medical Neglect

The following factors shall be used to determine whether to retain any of the above allegations for twenty years:

- Extent of the injuries. Are the injuries limited to one spot on the child's body or are there multiple injuries on many parts of the child's body?
- Long-term effects of the injuries. Will the child be left with scars, deformities or permanent disabilities?
- Medical treatment required. Does the child require hospitalization, surgery, emergency medical treatment or other major medical treatment as a result of the injuries?
- Pattern or chronicity of injuries. Is there an ongoing history or pattern of harsh punishment or neglect that resulted in injury? Are there severe injuries at different stages of healing?

If none of the above factors are present, the allegations shall be retained for five years.

3) 5 Years

The following indicated allegations shall be retained for five years.

#17/67	Mental Injury
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#10/60	Substantial Risk of Physical Injury
#22	Substantial Risk of Sexual Injury
#74	Inadequate Supervision
#76	Inadequate Food
#77	Inadequate Shelter
#78	Inadequate Clothing
#82	Environmental Neglect
#84	Lock-Out

4) Subsequent Indicated Reports

All subsequent indicated reports involving any of the same subjects or the sibling or offspring shall be maintained after the last report was indicated in accordance with retention periods specified in this Section.

5) Unfounded Allegations

All identifying information concerning records of unfounded reports involving the death (allegation 1/51), sexual abuse (allegations 18, 19, 20, 21) or serious physical injury (e.g. allegations 2/52, 4/54, 5/55, 7/57, 9/59) of a child shall be maintained in the State Central Register for three years from the date the final finding report is entered. All identifying information about unfounded reports made by mandated reporters involving allegations 6/56, 11/61, 12/62,13/63, 14, 15/56, 75, and 79 shall be retained by the SCR for 12 months from the date the final finding report is entered. Additionally, those unfounded reports of physical injury made by mandated reporters not retained by the State Central Register for three years shall be retained for 12 months from the date the final finding report is entered.

All identifying information concerning unfounded reports involving allegations 17/67, 10/60, 22, 74, 76, 77, 78, 82, and 84 made by a mandated reporter shall be maintained by the SCR for 60 days after the final finding report is entered. All identifying information concerning unfounded reports not retained for three years made by non-mandated reporters shall be retained by the SCR for 30 days after the final finding report is entered. All identifying information concerning any unfounded report involving Department wards shall be retained for 60 days regardless of reporting source.

If the alleged perpetrator or caretaker requests in writing within ten days of the date on the SCR-generated notice, that a record of the unfounded report be retained as evidence of false reporting, the SCR computer and hard copy files and the local index shall be maintained. Written requests postmarked more than ten days after the date on the SCR notice and oral requests, which are not confirmed in writing, shall not be honored. The child abuse and neglect investigative file shall also be maintained. SCR will notify the

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local investigative unit when to destroy records of these unfounded false reports.

6) Pending and Undetermined Reports

Child abuse and neglect reports that are pending or undetermined shall remain in the SCR computer and hard copy files, the local index, and the child abuse and neglect investigative file until a decision is reached.

Section 431.150 Applicability

These Procedures shall apply to personal information contained in all closed, active and future records of the Department, regardless of whether they are maintained in written, microfilm, or electronic storage.

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Appendix A Employee Handling of Summons and Subpoena

I. Introduction

There are two kinds of legal documents which may be served upon DCFS personnel during the course of the performance of their duties. The first document, called a summons, is a writ notifying the named person that a complaint has been filed against him in court, and that he/she, as defendant, must appear on the day specified and answer the complaint. The second document, called a subpoena, is a writ ordering the named person either to appear before the court to give testimony, or to produce specified documents or records in the person's control or possession. More precisely, an order requiring a person to appear as a witness is called a "subpoena ad testificandum," while an order to produce relevant documents is called a "subpoena duces tecum." For our purposes, the term subpoena will embrace both kinds of subpoenas.

A subpoena also may be used to compel a person to be deposed, e.g., to give testimony prior to trial. A deposition is simply a discovery (of information) device in which the sworn, oral testimony of a witness in response to questions is reduced to writing. The purpose of a deposition is to "discover" important facts and to record witness' testimony for later use at trial.

II. Sanctions

Just as there are differences between a subpoena and a summons, there are corresponding differences in the sanctions which a court may impose for failure to respond.

Summons - A served defendant's failure to appear in response to a summons results in the court's entry of a default judgment. This means that the defendant automatically loses the case and forfeits his rights to a hearing on the merits unless he/she moves quickly to vacate the default judgment. Because of the consequences of a delayed summons, every summons naming the Department, a DCFS officer, or an employee as defendant must be forwarded immediately to DCFS Legal Staff. Failure to timely notify Legal Staff may irreparably impair the employee's legal defense and jeopardize his or her right to statutory indemnification.

Subpoena - A person who fails to respond to a subpoena may be cited for contempt of court, incur a civil fine and, in extremely serious situations, be imprisoned.

III. Service of Process

"Service of process" is the method by which a summons or subpoena is given or delivered to a person. In most cases the named person is served personally or through a representative authorized to accept service. However, where personal service is not feasible, service by mail or by publication in a local newspaper, may be permitted.

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// Summons and petitions related to the adoption proceedings of any child under the guardianship of the Guardianship Administrator, regardless of whether the Guardianship Administrator has the power to consent to the adoption of the child, shall be served on the Adoption Coordinator of the Region serving the child. When the Regional Adoption Coordinator cannot be served, the summons shall be served on the Regional Administrator or designee.

Receipt of service of process should not cause DCFS personnel undue concern or worry. The greatest potential for harm and damage lies in delaying acknowledgment of receipt.

Although a person must obey a subpoena or risk being held in contempt, he may question the subpoena's propriety, necessity or relevance by filing with the court a Motion to Quash or modify prior to testifying or producing records.

IV. DCFS Quashing of Subpoenas

Quashing a subpoena means that a court, upon good cause shown by the subpoenaed party, may refuse to enforce a subpoena. More precisely, for good cause shown, the court on motion may quash or modify any subpoena or in the case of a "subpoena duces tecum," (i.e., an order to produce documents or records) may condition the enforcement of the subpoena upon reimbursement of reasonable expenses incurred in the production of the specified items, Ill. Rev. Stats., Ch. 110, Sect. 62, (1985).

Grounds for Quashing

The grounds which support a motion to quash and/or modify may be divided into three main categories:

- A. Confidentiality: in order to preserve the best interests of the child, family or involved third parties;
- B. Relevance: of subpoenaed information in relation to the pending action; and
- C. Impaired Ability to Serve:

The Department's interest in being protected from unnecessary, repetitious, and unduly burdensome subpoenas which may impair the ability of DCFS to serve its clients.

Because of the sheer volume of subpoenas received, Regional Offices shall pre-screen all subpoenas received by regional DCFS personnel and cooperate with Legal Staff in determining which subpoenas warrant full compliance and which justify the filing of a motion to quash or modify.

V. Guidelines for Quashing

Whenever a subpoena is received requesting information which is explicitly deemed confidential by statute or DCFS Rules, and reasonable effort

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does not result in obtaining the consent of the subject of the information, the Department will move to quash.

When the person requesting or subpoenaing information is permitted access in accordance with Part 431 rules and procedures, the Department shall disclose the information without incident. There are however occasions when DCFS should not disclose confidential casework information on grounds other than confidentiality

If a subpoena requests information totally irrelevant to the issue at hand, the Department should move to quash. In cases where relevancy is at issue, the court may demand an in camera (its own private) inspection of the information to determine whether it is relevant.

There are strong reasons why certain subpoenas should be resisted. It becomes extremely difficult for the Department to function efficiently if staff time is excessively consumed in testifying at various and sundry legal proceedings. Thus, if a DCFS employee is subpoenaed to testify, the Department should carefully weigh the benefits of the testimony against the working time lost by the employee and the subpoenaing party's ability to secure the information or testimony more easily elsewhere. If after careful review of the facts the Department concludes that full compliance would be unduly burdensome to Departmental operations in view of the utility of the information in a judicial proceeding, the Department should file a motion to quash or limit the subpoena.

The Department has a duty to maintain promised confidentiality to persons who aid in implementation of Department programs. Thus, the identity of child abuse reporters, those who report unlicensed child care facilities, or persons who voluntarily supply any information to the Department and wish to remain anonymous should be protected insofar as possible. In situations where the release of information would disclose the identity of these persons, DCFS should move to quash or to expunge the identifying information.

VI. Confidentiality

In general, one may safely assume that all information concerning children in DCFS supervised facilities, wards of DCFS, children and adults receiving Department services, and all reports, concerning abused and neglected children are confidential. The protections of confidentiality are not, however, absolute. Under those narrowly defined circumstances in rule and procedure 431, otherwise confidential information may be disclosed.

DCFS Rule 431, Section 431.6(a)(2) is especially relevant since it directly addresses the issue of release of confidential information pursuant to a subpoena. This Subsection provides that if a subpoena has been issued directly by a court, the Department shall disclose the information. However, the Department will simultaneously undertake a good faith effort to notify the person whose records are being subpoenaed and inform him of the nature of the proceeding. Additionally, DCFS

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is obligated to inform the court or the person subpoenaing the information of the confidential nature of same and of the Department's policy regarding confidentiality. The Department, of course, always reserves the right to attempt to quash the subpoena for appropriate reasons.

On the other hand, if a subpoena is issued by the Clerk of Court without judicial involvement, DCFS should notify the person subpoenaing the information of Department policy re confidentiality and also promptly notify the person whose information is being sought by subpoena. In any event, DCFS will not release the information for 14 days following receipt of the subpoena unless the person consents to the release of records or an earlier return date is specified in the subpoena.

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431.APPENDIX B - REFERENCE GUIDE TO SHARING CONFIDENTIAL INFORMATION

I. CHILD ABUSE AND NEGLECT INFORMATION

The designation “granted” means that there are no restrictions on the sharing of SACWIS/CANTS information with requesting persons or entities. “Limited” means that only specific information may be shared with requesting persons or entities or that specific requirements must be met before the information is released. “Denied” means that no information may be shared with requesting persons or entities.

Note: The abridged information contained in this appendix is to be used in conjunction with the detailed information contained in the referenced sections of Procedures 431 when determining whether confidential client information may be released to a specific entity. Always consult the Office of Legal Services when in doubt about the appropriateness of the information request.

	<i>Status of Investigative File</i>			<i>SACWIS/CANTS History</i>	<i>Reference</i>
	<i>Pending</i>	<i>Indicated</i>	<i>Unfounded</i>		
<i>Adult Subject of Record</i>	Denied	Limited	Limited	Granted	431.30(a)(1)
<i>Minor Subject of Record</i>	Denied	Limited	Limited	Granted	431.30(a)(2)
<i>Minor’s Parent’s, Legal Guardian</i>	Denied	Limited	Limited	Granted	431.30(a)(3)(A)
<i>Guardian of Minor’s Estate</i>	Denied	Limited	Limited	Granted	431.30(a)(3)(B)
<i>Authorized Representative</i>	Denied	Limited	Limited	Granted	431.30(a)(1) and 431.40(y)
<i>Child Advocacy Centers</i>	Granted	Granted	Granted	Granted	431.40(a)
<i>Child Death Review Teams</i>	Granted	Granted	Granted	Granted	431.40(b)
<i>Courts, Parties and Attorneys</i>	Limited	Limited	Limited	Granted	431.40(g)

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	<i>Status of Investigative File</i>			<i>SACWIS/CANTS History</i>	<i>Reference</i>
	<i>Pending</i>	<i>Indicated</i>	<i>Unfounded</i>		
<i>Day Cares</i>	Denied	Limited	Denied	Limited	431.40(c)
<i>DCFS and POS Staff</i>	Granted	Granted	Granted	Granted	431.40(d)
<i>Extended Family</i>	Denied	Limited	Limited	Denied	431.40(h)
<i>General Public and Media</i>	Denied	Denied	Denied	Denied	431.40(e)
<i>Illinois Department of Law Enforcement</i>	Denied	Limited	Denied	Granted	431.40(f)
<i>Coroners and Medical Examiners</i>	Granted	Granted	Granted	Granted	431.40(i)(j)
<i>Child Welfare Agencies in Other States</i>	Denied	Limited	Denied	Granted	431.40(j)
<i>Licensed Facilities</i>	Denied	Limited	Denied	Limited	431.40(k)
<i>Mandated Reporters</i>	Denied	Limited	Denied	Denied	431.40(l)
<i>Minor's Counsel, Guardian of the Person, Guardian ad Litem</i>	Denied	Limited	Limited	Granted	431.40(m)
<i>Multidisciplinary Teams</i>	Granted	Granted	Granted	Granted	431.40(o)
<i>Parties to Juvenile Court Proceedings and Their Attorneys</i>	Denied	Limited	Denied	Granted	431.40(p)
<i>Persons Authorized by the Director</i>	Granted	Granted	Granted	Granted	431.40(q)
<i>Persons Authorized to Take Protective Custody of Education</i>	Granted	Granted	Granted	Granted	431.40(r)

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	<i>Status of Investigative File</i>			<i>CANTS History</i>	<i>Reference</i>
	<i>Pending</i>	<i>Indicated</i>	<i>Unfounded</i>		
<i>Physicians</i>	Denied	Limited	Denied	Granted	431.40(s)
<i>School Superintendents, Illinois State Board</i>	Denied	Limited	Denied	Granted	431.40(t)(u)(v)
<i>State's Attorneys</i>	Limited	Limited	Limited	Limited	431.30(w)
<i>State Regulated Care Facilities</i>	Denied	Limited	Denied	Limited	431.40(x)

II. LAW ENFORCEMENT AGENCY DATA SYSTEM (LEADS) INFORMATION

The designation “granted” means that there are no restrictions on the release of LEADS or underlying document information with requesting persons or entities. “Limited” means that only specific information may be shared with requesting persons or entities or that specific requirements must be met before the information is released. “Denied” means that no information may be shared with requesting persons or entities.

Note: The abridged information contained in this appendix is to be used in conjunction with the detailed information contained in the referenced sections of Procedures 431 when determining whether confidential client information may be released to a specific entity. Always consult the Office of Legal Services when in doubt about the appropriateness of the information request.

	<i>LEADS</i>	<i>Underlying Documents</i>	<i>Comments</i>	<i>Reference</i>
<i>Subject of Record</i>	Granted	Granted	May be shared with the subject for the purpose of obtaining the subject's perspective of the incident.	431.70(a)(1)
<i>Family Member, Caretakers</i>	Limited	Limited	Information is strictly limited to that which is necessary to accomplish child protection or treatment purposes.	431.70(a)(2) AP #6, 6.9(b)

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	<i>LEADS</i>	<i>Underlying Documents</i>	<i>Comments</i>	<i>Reference</i>
<i>DCFS and POS Staff, Court Personnel, Members of Treatment Team</i>	Limited	Limited	Information is strictly limited to that which is necessary to accomplish child protection or treatment purposes.	431.70(a)(b)

III. Mental Health Information

Note: The abridged information contained in this appendix is to be used in conjunction with the detailed information contained in the referenced sections of Procedures 431 when determining whether confidential client information may be released to a specific entity. Always consult the Office of Legal Services when in doubt about the appropriateness of the information request.

Persons Entitled to Inspect and Copy Recipient’s Mental Health Record

	<i>Age of Recipient of Mental Health Services</i>	<i>Comments</i>	<i>Reference</i>
<i>Parent or Guardian</i>	Less than 12	If the Department has guardianship of the child, the Department must have determined that releasing the information is in the best interest of the child and parents.	431.80(f)(1)
<i>Parent or Guardian</i>	12 but less than 18	Information may only be released if the recipient and therapist have been informed and do not object because of compelling reasons.	431.80(f)(3)

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	<i>Age of Recipient of Mental Health Services</i>	<i>Comments</i>	<i>Reference</i>
<i>Guardian</i>	18 or older	None	431.80(f)(4)
<i>Attorney, Guardian</i>	12 or older	The court or administrative hearing officer ad Litem (GAL) must have entered an order granting the attorney or GAL access to this information.	431.80(f)(5)
<i>Other Persons</i>	Age Not Defined	A power of attorney authorizing access is required.	431.80(f)(6)

Disclosure of Mental Health Records and Communications Without Consent

	<i>Comments</i>	<i>Reference</i>
<i>Adoptive Parents</i>	The Department may provide detailed medical and mental health histories of the child, biological parents and immediate relatives.	431.80(d)(2)(A)
<i>Disclosure to Receive Benefits</i>	A recipient's mental health records may be disclosed without consent for purposes of applying for benefits	431.80(d)(6)(B)
<i>Interagency Disclosures</i>	See referenced Procedures 431 subsection.	431.80(d)(6)(C)
<i>Jails</i>	Information may only be shared for purposes of admission, treatment, planning or discharge	431.80(d)(3)(E)
<i>Juvenile Court</i>	See referenced Procedures 431 subsection.	431.80(d)(3)
<i>Law Enforcement/Screening with ASA</i>	See procedures subsections 431.80(d)(3)(D)(i), (ii) and (iii).	

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	Comments	<i>Reference</i>
<i>Other Courts</i>	Information may be disclosed when the recipient uses his or her mental health condition as a claim or defense.	431.80(d)(3)(C)
<i>Reports of Abuse or Neglect Made by Therapists</i>	Therapists are mandated reporters and must disclose when they believe a child is being abuse or neglected.	431.80(d)(4)
<i>Other Mental Health Professionals (i.e., Consultants, Social Workers, Therapists, etc.)</i>	See Procedures 431 subsections 431.80(d)(7)(A) - (F)	
<i>Potential Caregivers</i>	Potential caregivers have no entitlement to the actual record, but the caseworker can talk about behavior information.	431.60(d)(2)(C)
<i>Relative and Licensed Foster Parents</i>	Only that information which is necessary for the care of the child.	431.80(d)(2)(B)

Persons and Entities Not Entitled to Access Mental Health Information

	Comments	<i>Reference</i>
<i>Paramours, Friends and Neighbors</i>	See referenced Procedures 431 subsection.	431.80(d)(2)(D)
<i>School and Day Care Personnel</i>	See referenced Procedures 431 subsection.	431.80(d)(9)
<i>Mandated Reporters</i>	See referenced Procedures 431 subsection.	431.80(d)(6)(A)

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IV. Licensing Information

The designation “granted” means that there are no restrictions on the release of file documentation to persons or entities requesting information. “Limited” means that only specific information may be released or that specific requirements must be met before the information is released. “Denied” means that no information may be shared with requesting persons or entities.

Note: The abridged information contained in this appendix is to be used in conjunction with the detailed information contained in the referenced sections of Procedures 431 when determining whether confidential client information may be released to a specific entity. Always consult the Office of Legal Services when in doubt about the appropriateness of the information request.

Licensing File Documentation

	<i>CFS 717 CFS 718E</i>	<i>CFS 506 CFS 597 CFS 597A</i>	<i>CFS 602</i>	<i>Character References</i>	<i>CFS 516 CFS 519 CFS 590</i>	<i>Subsection Reference</i>
<i>DCFS Staff</i>						
<i>Licensing</i>	Granted	Granted	Granted	Granted	Granted	431.100(a)(1)
<i>Investigative</i>	Granted	Granted	Granted	Granted	Granted	431.100(a)(1)
<i>Follow-up</i>	Granted	Granted	Granted	Granted	Granted	431.100(a)(1)
<i>Supervising Agency</i>	Granted	Granted	Granted	Granted	Granted	431.100(a)(1)
<i>Law Enforcement</i>	Granted	Granted	Granted	Denied	Granted	431.100(a)(1)
<i>State’s Attorney</i>	Granted	Granted	Granted	Denied	Granted	431.100(a)(1)
<i>Courts</i>	Granted	Granted	Granted	Denied	Granted	431.100(a)(1)
<i>Grand Juries</i>	Granted	Granted	Granted	Denied	Granted	431.100(a)(1)

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	<i>CFS 717 CFS 718E</i>	<i>CFS 506 CFS 597 CFS 597A</i>	<i>CFS 602</i>	<i>Character References</i>	<i>CFS 516 CFS 519 CFS 590</i>	<i>Subsection Reference</i>
<i>Coroners</i>	Granted	Granted	Granted	Denied	Granted	431.100(a)(1)
<i>Physicians</i>	Denied	Denied	Denied	Denied	Denied	431.100(a)(1)
<i>Schools</i>	Denied	Denied	Denied	Denied	Denied	431.100(a)(1)
<i>Other States</i>	Denied	Denied	Denied	Denied	Denied	431.100(a)(1)
<i>Multidisciplinary Review Committees</i>	Granted	Granted	Granted	Granted	Granted	431.100(a)(1)
<i>Child Death Review Teams</i>	Granted	Granted	Granted	Granted	Granted	431.100(a)(1)
<i>Person Authorized by the Director</i>	Granted	Granted	Granted	Granted	Granted	431.100(a)(1)
<i>DCFS Inspector General</i>	Granted	Granted	Granted	Granted	Granted	431.100(a)(1)
<i>General Public</i>	Limited	Denied	Denied	Denied	Denied	431.100(a)(1)
<i>Licensee</i>	Granted	Granted	Granted	Denied	Granted	431.100(a)(1)
<i>Licensee's Attorney</i>	Granted	Granted	Granted	Granted	Granted	431.100(a)(1)

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Substantiated Licensing Complaint Investigation File Documentation

	<i>CANTS 1</i>	<i>CANTS 2B</i>	<i>CANTS 21 CANTS 21A</i>	<i>CANTS 596</i>	<i>CFS597C</i>	<i>Reference</i>
<i>DCFS Staff</i>						
<i>Licensing</i>	Granted	Granted	Granted	Granted	Granted	431.100(a)(2)
<i>Investigative</i>	Granted	Granted	Granted	Granted	Granted	431.100(a)(2)
<i>Follow-up</i>	Granted	Granted	Granted	Granted	Granted	
<i>Supervising Agency</i>	Granted	Granted	Granted	Granted	Granted	431.100(a)(2)
<i>Law Enforcement</i>	Granted	Granted	Granted	Granted	Granted	431.100(a)(2)
<i>State's Attorney</i>	Granted	Granted	Granted	Granted	Granted	431.100(a)(2)
<i>Courts</i>	Granted	Granted	Granted	Granted	Granted	431.100(a)(2)
<i>Grand Juries</i>	Granted	Granted	Granted	Granted	Granted	431.100(a)(2)
<i>Coroners</i>	Denied	Denied	Denied	Denied	Denied	431.100(a)(2)
<i>Physicians</i>	Denied	Denied	Denied	Denied	Denied	431.100(a)(2)
<i>Schools</i>	Denied	Denied	Denied	Denied	Denied	431.100(a)(2)
<i>Other States</i>	Denied	Denied	Denied	Denied	Denied	431.100(a)(2)
<i>Multidisciplinary Review Committees</i>	Granted	Granted	Granted	Granted	Granted	431.100(a)(2)

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	<i>CANTS 1</i>	<i>CANTS 2B</i>	<i>CANTS 21 CANTS 21A</i>	<i>CANTS 596</i>	<i>CFS597C</i>	<i>Reference</i>
<i>Child Death Review Teams</i>	Granted	Granted	Granted	Granted	Granted	431.100(a)(2)
<i>Persons Authorized by the Director</i>	Granted	Granted	Granted	Granted	Granted	431.100(a)(2)
<i>DCFS Inspector General</i>	Granted	Granted	Granted	Granted	Granted	431.100(a)(2)
<i>General Public</i>	Denied	Denied	Denied	Denied	Denied	431.100(a)(2)
<i>Licensee</i>	Granted	Granted	Granted	Granted	Granted	431.100(a)(2)
<i>Licensee's Attorney</i>	Granted	Granted	Granted	Granted	Granted	431.100(a)(2)

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Appendix C: CFS 600-3, Consent for Release of Information

The **CFS 600-3** is an all-purpose consent for release of information form that can be used to obtain medical, psychiatric/psychological, educational, financial and other information concerning individuals served by the Department when completed in accordance with the following instructions and signed by the person with the authority to give consent and witnessed by a person who can attest to the identity of the person so entitled. **The CFS 600-3 conforms to the Mental Health and Developmental Disabilities Confidentiality Act and the Health Insurance Portability and Accountability Act (HIPAA), and can be used for the release of mental health and developmental disabilities and personal health information and records.**

Instructions for completing the **CFS 600-3** are on the back (Page 2) of the form.

When using this form to request information for an adult's records, no information for a child should be requested on the same form.

In order for the Consent to be valid, lines 1 through 17 must be completed as indicated in the instructions.

a) No Blanket Consents

The law prohibits blanket consents. Lines 5 through 10 must list the specific type of "Medical", "Mental Health", "Education", "Social History/Assessment", "Financial", or "Other" information to be released. The consent should cover all documents relevant to the purpose for which the information is requested.

b) Reason for Requesting Information

Enter the reason for requesting the information on line 11. Frequently used reasons include:

- casework planning;
- provision of social services;
- evaluation for purposes of service planning/placement/licensing decisions;
- assessment of parenting capabilities;
- to assess progress in treatment;
- to assist in determining whether abuse or neglect occurred;
- to assess safety risks or identify risk factors that could impair the child's safety;
- to determine prognosis for change; and
- to determine appropriate visitation.

There should be a correlation between the type of information requested in lines 5–10 and the reason(s) for the request entered on line 11. For example, if the purpose for the request is to assess parenting capabilities, the information requested must relate to the individual's ability to function or to parent, which may include therapist's notes, reports or other mental health information.

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c) Consequences for Refusal to Consent

On line 12, the requesting worker must enter the consequences that will be imposed by the Department, private agency or contractor if the person refuses to consent. Such consequences may include:

- worker will attempt to screen case into court;
- worker will seek a court order for disclosure;
- worker will recommend to the court that the child be removed;
- worker will be unable to recommend expanded visitation to the court;
- visitation may be denied or delayed;
- reunification may be denied or delayed;
- the Department will be unable to assess for provision of services;
- the Department may weigh failure to consent in determining whether the parent is compliant with services or has completed tasks satisfactorily;
- the Department may make adverse decisions concerning foster children in your care; or
- any other valid consequence.

Workers may not suggest or imply adverse consequences to clients beyond those that the Department can actually impose. In addition, no adverse consequence would flow from failure to consent unless the information sought is reasonably needed by the Department in fulfillment of legitimate departmental functions (e.g., investigating abuse or neglect allegations, providing follow-up services, determining appropriate placement or permanency goal, supporting termination of parental rights or licensure).

d) Expiration Must Be Time Limited

The **CFS 600-3** states “the consent will expire one year from the date provided on line 16 or 17 below unless an earlier date is specified.” **Consents should be time-limited based on the purpose of the request and the information sought, and last no more than reasonably necessary.**

In many cases, there is no need for the consent to extend 12 months in order for the worker to obtain information from provider. For example, Child Protection Investigators and Intact Family Workers have contact with families for a limited time. These workers should tailor consent expiration dates to the timeframe the worker anticipates serving the family. For example:

- An expiration date 60 to 90 days from the date signed will usually be sufficient for a Child Protection Specialist to obtain information needed for the investigation.
- Intact Family Services are time limited and rarely exceed 5 to 7 months. Intact Family Workers should limit the consent to the timeframe established in the Family Service Plan that the worker anticipates serving the family.

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- Permanency Workers must often obtain service reports for placement cases. Services referrals always contain a time limit, even if the services are anticipated to be extended and continue for several months. The **CFS 600-3** should at least cover the time limit in the referral.
- If a service is for a time limited, such as a parenting class that meets for 6 or 8 weeks, the **CFS 600-3** should cover the entire time of that service.
- When a service requires a provider to meet with a parent only one or two times (e.g., psychological assessment), the expiration date for the **CFS 600-3** should cover those meetings.

e) Required Signatures

Instructions for lines 14-16 specify who must sign the consent form.

- If the records are for an adult, the adult should sign on Line 17.
- If the records are for a minor that is a ward, the DCFS Guardian or a DCFS Authorized Agent must sign and date the form, and enter the address.
- Children ages 12 through 18 years of age are required to sign and date the consent in addition to their parent or legal guardian when their mental health information and information regarding birth control services, pregnancy, treatment for sexually transmissible diseases or drug or alcohol abuse is requested.
- If a Department ward is age 18 or over and has not been declared incompetent by a court of law, only the ward may consent to release of his/her personal information.

When mental health information is requested, a witness who is familiar with the person giving consent must sign and date the consent form on line 17. The witness should be someone other than the worker.

f) Consent for Redisdisclosure of Information

If it will be necessary to share the information beyond DCFS, the private agency or contractor named on line 4 the **CFS 600-3**, the Redisdisclosure Consent section on the **CFS 600-3** must be completed, signed and dated. Without consent for redisdisclosure it may be necessary to ask the parent or child to sign additional consent forms to authorize redisdisclosure of the information.

For redisdisclosure of mental health information and information regarding birth control services, pregnancy, treatment for sexually transmissible diseases or drug or alcohol abuse treatment, the same required signatures must be obtained as noted in subsection (e) above.

The redisdisclosure consent will expire one year from the date signed unless an earlier date is specified. As explained above, **consents should be time-limited based on the purpose of the request and the information sought, and last no more than reasonably necessary.**

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g) Revocation of Consent

Any revocation of consent shall be in writing, signed by the person who gave the consent. The signature shall be witnessed by a person who is familiar with the person signing the revocation of consent. No written revocation of consent shall be effective to prevent disclosure of records and communications until the person authorized to disclose records and communications receives it.

h) When to Require Proof of a Requestor's Identity and/or Authority to Access Records

Procedures 431.130, Methods by which Information May Be Requested contains instructions for staff when there is a need to verify the identity of a person requesting DCFS records. When there is a question about identity, staff shall review **Procedures 431.130** and follow additional instructions below.

As a general rule, the **CFS 600-3** does not need to be notarized. A subject of a DCFS record shall complete and sign a **CFS 600-3** when the subject requests his/her own records, or that his/her records be copied and sent to another person or entity. DCFS/POS staff shall help the subject complete the **CFS 600-3** upon request.

When staff do not know or recognize the subject of a DCFS record, staff may ask the subject to produce positive photo identification (e.g., driver's license). Staff shall photocopy the identification produced and attach it to the copy of the **CFS 600-3**, which should be placed together in the record.

When DCFS/POS staff have questions regarding a requestor's identity, the requestor shall be required to provide a signed, notarized statement verifying his/her identity and legal authority to access the client's records. This statement shall be placed in the record.