



Guidelines for the Release of Children's Foster Care Records

Department of Children and Families
Office of Child Welfare
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Overview

The purpose of these guidelines are to provide guidance on the release of child records which was enacted into law July 1, 2009. Section 39.00145, F.S. prescribes the process for releasing case records of children. Key components of the legislation include:

- maintenance of complete and accurate records
- minimum standards for record content
- individuals authorized to request and receive the record
- provision of record at no cost to certain individuals
- exemptions for releasing specific information

The law is specifically intended to be responsive to children currently in, or formerly in the Department's care and their need to explore and maintain connections with their past. It is anticipated that these guidelines will assist the Department, Community-Based Care Lead Agencies, and provider staff in achieving that outcome.

Definitions

Authorized party are those individuals listed in s. 39.00145, F.S., entitled to request access to a child's case record and are limited to the child, the child's caregiver, the child's guardian ad litem, and the child's attorney. This policy does not preclude those individuals listed in s. 39.202(2), F.S., from requesting access to confidential or exempt records for authorized purposes.

Caregiver is defined as those individuals specifically identified in 39.00145, F.S., which includes:

- parents,
- legal custodians,
- permanent guardians,
- foster parents,
- employees of a residential home, institution, facility, or agency at which the child resides, and
- other individuals legally responsible for a child's welfare in a residential setting.

Child welfare system is any program or entity having involvement with children known to have been the subject of a child protective investigation, and/or dependency proceeding resulting in in-home case management services or out-of-home (relative and licensed) placements, or adoption.

Custodian of the record is the party (entity) that has physical custody of the record and is responsible for the initial retrieval, review, and redaction of the record and ensuring the file is a complete and accurate representation of the child's case record. Community-Based Care Lead Agencies are the custodians of the records they generate as part of their contract with the state of Florida and are bound by the requirements of Florida's public records law and must provide records directly to the requestor.

Public records request is any request for information under Chapter 119, F. S. which may be identified as confidential or exempt under Chapter 39, F.S.

Redaction is the removal of protected, confidential, exempt or privileged information prior to the release of a record.

Single Point of Contact (SPOC) is the designated individual responsible for coordinating and ensuring the complete case record is retrieved for the purposes of fulfilling a request for records.

Confidentiality

An authorized party is entitled to a complete and accurate copy of a case record. Confidential or exempt information regarding other individuals (adult or child) contained in a case record must be redacted if the information is specifically made confidential or exempt by state or federal law. This information includes, but is not limited to:

- Social Security Numbers;
- Medical/HIPAA related information;
- Reporter information (child protective investigations);
- Adoption, school and termination of parental rights records;
- Juvenile offender records, Florida Department of Law Enforcement, National Crime Information Center, and Florida Crime Information Center records; and
- Records and client information of domestic violence centers.

Retention of Records

Section 39.202(7), F.S., require case records be maintained until the youngest alleged victim among the subjects of the record has reached 30 years of age. **One distinct exception to this requirement involves adoption records which are to be permanently maintained.**

Processing of Requests

Timeframes

Section 39.202(7), F.S., requires timely notification of youth (within 90 days after leaving the Department's custody) and their caregiver on how to obtain a case record.

Existing public records law (s.119.07, F.S.) states that all record requests from authorized parties

must be responded to promptly and in good faith. The only delay permitted is the reasonable time allowed to retrieve the record, review the record and to redact those portions that are confidential and exempt, and copy the record.

Processing Record Requests

When an employee of the Department, Sheriff's office, or Community-Based Care Lead Agency or subcontractor receives a written or verbal record request or request for confidential or exempt information, notification of such request should promptly be transferred in writing to the agency's single point of contact (SPOC) with all information necessary for proper identification of the requestor.

Requests for records are not required to be made in writing and any individual of the agency, initially contacted by an authorized party, should promptly initiate the record release process by contacting the SPOC.

To assist in the tracking and documenting processing of the record request, each agency SPOC should keep a list of all requests detailing the name of the requestor, the date of the request, the date the redacted records are forwarded to Regional Counsel or the entity's designated reviewer, and the date the record was released to the authorized party.

The initial retrieval, review and redaction of a record should be completed by the party or entity most familiar with the child. For the purposes of this policy, this person will be referred to as the custodian of the record. Community-Based Care Lead Agencies are the custodians of the records they generate as part of their contract with the state and are bound by the requirements of Florida's public records law and must provide records directly to the requestor.

The custodian of the record will keep a log or copy of all redacted information. The copy or log must include the page where the redaction is located and a brief description of what was redacted, as well as the statutory reason for confidentiality or exemption. A copy of the redacted records or log should also be provided to the SPOC with the original copy of the un-redacted records.

Based on public records law, upon release of the redacted record, the custodian of the record must provide a written explanation for the decision not to include the confidential or exempted material (e.g., HIPAA protected, Social Security Number deleted, etc.). This effort helps the requestor understand why a portion of the document is blacked out and alleviates the requestor's concerns about inappropriately being restricted from access to important information.

In the case of requests received by the Department upon receipt of requested redacted records from the custodian of the record, the SPOC should forward the redacted and un-redacted records to the agency's Regional Counsel or designated reviewer for final review. Redacted records of child protective investigations conducted by Department staff will be forwarded to the Regional Counsel for final release approval. Records of child protective investigations conducted by sheriffs' offices or case management records compiled by Community-Based Care Lead Agencies or their subcontracted providers will be forwarded to each respective entity's legal counsel or designated reviewer for final release approval.

If at any point it is determined there will be a delay in the ability to respond to the request for the case record in a timely manner, the SPOC will notify the requestor orally or in writing.

An additional source for information on the release of public records is located on the Attorney General's Website located at: <http://www.myflsunshine.com/sun.nsf/pages/Citizens>.

Sharing Records with Youth and Young Adults

Due diligence should be exercised regarding the release of sensitive information. A child's age, maturity level, and the nature of the information being released should determine the manner and setting in which the child or youth obtains the information. The preferred practice is the release of the information in a therapeutic setting.

For requestors who have not obtained the age of majority or have not had a judicial ruling of emancipation, the SPOC will encourage the child or youth to review the records in their caregiver or case manager's presence. Failure of the minor to follow this advice will not preclude their access to the record.

Children who leave the care of the Department by adoption may only request their records after they reach the age of majority and may only obtain their foster care records not their adoptive records.

To recognize and address a child's ongoing need for information while in licensed out-of-home care, verbal and written explanations must be provided, especially all known information in the case record about the following:

- family and medical history;
- reasons why they were removed and cannot safely return home; and
- names of foster and group home placements as well as the reasons for each placement/re-placement.

Appropriate information for release includes the full name and street address of all shelters, foster and group homes, treatment facilities or locations where the child has been placed. It also includes case plans, pre-disposition reports, judicial review reports, court orders, guardian ad litem reports, evaluations and comprehensive assessments, medical health histories, school records and report cards, mental health reports, hospitalization and residential setting records, any letters, photographs and all other information contained in the case record as directed under the law.

Sharing Records with Potential Caregivers

As per 39.202(2)(s), F.S., access to records, excluding the name of the reporter shall be granted to persons with whom the Department is seeking to place the child or to whom placement has been granted, including foster parents for whom an approved home study has been conducted, the designee of a licensed residential group home as described in s. 39.523, F.S. an approved relative or nonrelative with whom a child is placed pursuant to s.39.402, F.S. pre-adoptive parents for whom a favorable preliminary adoptive home study has been conducted, adoptive parents, or an adoption entity acting on behalf of pre-adoptive or adoptive parents.

Additionally, pursuant to s. 39.202(7) (a) F.S., within 90 days after the child leaves the Department's custody, the Department shall provide notice to the person having legal custody of the child, or to the young adult who was in the Department's custody, which specifies how the records may be obtained.

Existing public records law (s. 119.07, F.S.) states that all record requests from authorized parties must be responded to promptly and in good faith. The only delay permitted is the reasonable time allowed to retrieve the record, to review the record and redact those portions that are confidential or exempt, and copy the record.

If you have any questions, please contact Monique McCaskill, Office of Child Welfare, at monique.mccaskill@myflfamilies.com or 850-717-4710.