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CHILD PROTECTION SERVICES  
STANDARDS FOR EFFECTIVE PRACTICE

**STANDARDS FOR ADMINISTRATION**

**10.4 CONFIDENTIALITY**

**Council on Accreditation Standards**

The Council on Accreditation Standards G1.7 (Research Protections) and G1.5 (Confidentiality and Privacy Protections) link to and support Standard 10.4 *Confidentiality*.

**Administrative Code**

The Ohio Administrative Code Rules 5101:2-34-381 (Access/Confidentiality of Information Contained in Child Abuse and Neglect Central Registry) and 5101:2-7-04 (Records and Confidentiality) address Standard 10.4 *Confidentiality*.

**I. Philosophy**

A CFSA's first and foremost obligation is to seek and assure the best interests of the child and family. To the extent that sharing information will lead to improved quality of life outcomes for the children and families served, the CFSA should be willing to, and share information with appropriate stakeholders.

The sharing of information should always be done within the parameters of maintaining the family member's right to privacy. To plan and provide appropriate services, confidentiality and the permissible sharing of information should be done to support child safety, permanency and family stability. Sharing confidential information should be done within the framework of federal and state laws.

The CFSA has an obligation to inform the public of services and activities carried out under their jurisdiction and to respond to questions and concerns while maintaining the confidentiality of clients served.

**II. Outcomes**

Information is shared with providers and the public while maintaining the privacy rights of the children and families served.

The agency effectively responds to the stakeholder regarding the CFSA's performance.

**III. Evaluation**

FACSIS events, CPOE and the Federal Health and Human Services outcomes may be considered when evaluating this standard. In addition, the CFSA may consider the following:

- number and rate of complaints, and or lawsuits regarding the breaking of confidentiality.

#### IV. Standards for Implementation

##### A. Confidentiality and Agency Conduct

CFSA's have a responsibility to the public to respect and uphold the privacy of children and families and to hold in confidence all information obtained in the course of professional service. Professional conduct in maintaining the confidentiality of family members is paramount to the credibility and effectiveness of the CFSA in carrying out its mission.

- 1) All individuals providing services on behalf of the CFSA should conduct themselves in a manner consistent with the CFSA's confidentiality policy and procedures.
- 2) The CFSA should have a policy and procedure on confidentiality that includes language that covers, but is not limited to, the following:
  - a. provision of the confidentiality policy and verification that it was received by all individuals, including contractors and researchers performing services for the CFSA;
  - b. holding investigative information confidential pursuant to Section 2151.421 of the Ohio Revised Code and Section 5101:2-34-38 of the Ohio Administrative Code;
  - c. use of discretion with CFSA staff conducting themselves professionally and with respect for the client when discussing child and family information;
  - d. adherence to current law regarding the sharing of pertinent case information with the referring mandated reporter and service providers;
  - e. use of protocols for responding to requests from individuals external to the agency;
  - f. staff orientation and training regarding confidentiality and the sharing of information; and
  - g. specificity regarding how to, who, and under what circumstances the CFSA shares information with the media.
- 3) In high profile and crisis situations, the agency should have protocols for addressing the situation and how to manage confidentiality (see Standard 10.5 *High Profile And Crisis Situations*).

##### B. Confidentiality and Release of Client Information

As the CFSA works with the family and identifies information necessary for effective service delivery, the CFSA should request the family sign Release of Information forms.

- 1) At the initial meeting with the family, staff should discuss the CFSA's need to share confidential information with service providers.
- 2) When necessary, staff should request the family sign a release to allow the CFSA to seek information from other service providers and professionals in the community.

- 3) CFSA staff know and follow Federal and State laws regarding client confidentiality (e.g., HIPAA).
- 4) The CFSA should let the family know that there are times when the CFSA is required to release information to the police, prosecutors, and courts.

**C. Confidentiality and Client Records**

Clients receiving services have a right to view personal information maintained by the agency.

- 1) The CFSA should have a policy concerning client access to personal information. The policy should include, but not be limited to:
  - i. how to request a record review;
  - ii. what information is exempt from review;
  - iii. how often the client can access the information (e.g., monthly, quarterly); and
  - iv. CFSA representation during the review to assist the client in interpreting the information.

**D. Confidentiality and Agency Records**

Developing, managing, and storing written documentation provides a historical account of services and activities rendered in support of children and families. CFSAs are responsible for the creation, handling, and storage (including maintaining confidentiality and storage safety) of all records. Records are the sole property and belong exclusively to the county CFSA.

- 1) At no time should the CFSA permit original record documents to be removed from any CFSA premises.
- 2) When subpoenaed, the CFSA should provide a copy of the record documents. At no time should the original document(s) be submitted in response to a subpoena. The CFSA should include a Statement of Authenticity with the copied documents.
- 3) The CFSA should identify those individuals responsible for generating, documenting and filing case information.
- 4) The CFSA should have a standardized format and content outline for organizing the records and for conducting record quality assurance reviews.
- 5) The agency should have designated staff authorized to add, delete or purge information in the official case record and other CFSA records consistent with local, state, and federal regulations.
- 6) The CFSA should have a policy regarding confidentiality and the fireproof maintenance, security, and storage of electronic and non-electronic records.

### **E. Confidentiality and the Media**

CFSAs have an obligation to respond to public inquiries regarding agency performance, services, and activities. This is most effectively accomplished when the strategy is proactive communication on an ongoing basis with all identified stakeholders (e.g., families, legislators, foster parents, adoptive parents, etc.). While CFSAs understand and support the public's right to know, access to family information should not supersede the best interests of the children and families served, nor the right of privacy of individuals served.

- 1) The CFSA should have an established plan for maintaining contact with, and periodically educating and informing the local media of agency's services and activities.
- 2) When requested to provide information regarding a specific case, the executive director and/or designated agency spokesperson can use his/her discretion, within the boundaries of the law, to identify what type of information is shared based on the best interest of the child. The executive director or spokesperson may decide that the following types of information are appropriate for sharing with the media:
  - a) confirmation that a report was made;
  - b) confirmation that an investigation has/is taking place;
  - c) information regarding when the report was received and when the investigation was initiated;
  - d) confirmation that law enforcement was/was not involved.
- 3) When family members and/or other stakeholders have gone to the media and the media seeks confirmation by the CFSA regarding family information, the executive director, within the boundaries of the law, may decide that the following or other types of information are appropriate for sharing with the media:
  - a) confirmation that a report was made;
  - b) case status determination: open, closed;
  - c) confirmation of receipt of prior reports/client involvement;
  - d) current agency action;
  - e) description of statutory regulations on referral/response process and response time.
- 4) The CFSA should request that individuals wanting to review agency personnel, volunteer, or foster caregiver records submit the request to the CFSA in writing. Upon receipt of the request, the CFSA should notify the person of the forthcoming review. The CFSA should remove all information which is sanctioned by the federal and state governments as confidential. While not required by law, a CFSA representative should be present during the review of the record. This standard should apply to both requests made by the media and the public.

### **F. Confidentiality and External Health and Human Services Providers**

All case information, documentation, and investigations are considered confidential. Dissemination of confidential information to identified agencies, organizations, and individuals may be necessary when determined in the "best interests" of the child.

- 1) Prior to disclosing confidential case information, the CFSA should verify that the agencies and organizations requesting the information have rules and policies governing the dissemination and receipt of confidential information. When the confidentiality policy of the CFSA and the external agency conflicts, the

CFSA should determine, on a case-by-case basis, whether to release the requested information.

- 2) Prior to disclosing sensitive and confidential information, the CFSA should verify that the requester is authorized to receive the information. The CFSA should document when information is released.
- 3) When the CFSA holds custody of the child, the CFSA can release information about the child as appropriate in keeping with the child's best interest.
- 4) The CFSA should share information with providers as authorized by the family. The CFSA should only share investigative information with law enforcement.

#### **G. Confidentiality and Research Projects**

Research conducted in the field of child protection is valued and supported by the CFSA. Research promotes greater understanding and insight into child protection and can improve system effectiveness in the delivery of services. When the CFSA participates in a research project, assurances should be made guaranteeing the privacy rights of the children and families involved in the project.

- 1) The CFSA designated staff should review all research requests and make a determination, based on the CFSA's confidentiality policy, as to the type of information that the CFSA will release to the researcher.
- 2) The CFSA should enter a written agreement with the researcher. The agreement should address the components identified in the CFSA confidentiality policy as related to research projects.

#### **V. Financial Implications**

As part of daily operations, the CFSA maintains policies and procedures regarding the sharing of confidential information. No additional costs have been identified for Standard 10.4, *Confidentiality* (see Standard 10.2, *Policies and Procedures* for the cost associated with the initial development of a policy and procedures manual).