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9000 Purpose and Statutory Authority

These rules have been established to provide guidance regarding appropriate maintenance and access to records of the Department that are created under the authority of 33 V.S.A. Chapter 49, subchapter 2. Nothing in these rules is intended to permit or require sharing information which is restricted or protected from such sharing by federal or state statute or regulation, or to prevent disclosure when otherwise authorized by law.

The rules cover the following:

1. The maintenance of investigation, assessment and administrative review conference records.
2. The use and release of information in investigation records, assessment records and administrative review conference records.

The statutory authority for these regulations can be found at 33 V.S.A. §4921. More detailed guidance to staff is also provided in division policy.

9001 Definitions

1. "Administrative Review Conference" means a meeting between the grievant, an administrative reviewer and whenever possible a Department employee for the purpose of reviewing the contents of the redacted investigation file, the positions of the grievant and the Department in order to determine whether substantiation standards have been met under law and policy. An administrative review conference may also be held to assess whether the grievant has satisfied statutory expungement standards.
2. "Assessment" means a response to a report of child abuse or neglect that focuses on the identification of the strengths and support needs of the child and the family, and any services they may require to improve or restore their well-being and to reduce risk of future harm. The child and family assessment does not result in a formal determination as to whether the reported abuse or neglect occurred
3. "Assessment Record" means a summary of information gathered during the assessment phase which includes an evaluation of safety of the subject child and other children living in the same environment; identification of family strengths; resources; service needs; the recommended plan of services.
4. "Investigation" means a response to a report of child abuse or neglect that begins with a systematic gathering of information to determine whether the abuse or neglect has occurred and, if so, the appropriate response. An investigation shall result in a formal determination as to whether the reported abuse or neglect has occurred.
5. "Investigation Record" means a summary of information gathered during the investigation phase which includes the nature, extent and cause of any abuse or neglect; the identity of the person alleged to be responsible for such abuse or neglect; consideration of the physical and emotional condition of other children living in the same environment and a formal determination as to whether the reported abuse or neglect has occurred.
6. "Redacted Investigation File" means the intake report, the investigation activities summary, and case determination report or equivalent documents that are amended in accordance with confidentiality requirements set forth in subsection 4913 of 33 V.S.A.
7. "Valid Allegation" means a report of child abuse or neglect that has been accepted for either an investigation or an assessment.

9002 Maintenance of Records

DCF shall maintain records and responses concerning all investigations, assessments and administrative review conferences, in accordance to a records retention schedule approved by the Vermont State Archives and Records Administration.

9003 Use and Disclosure of Information

DCF may use and disclose information from the investigation, assessment or administrative review conference records in the usual course of its business, including but not limited to assessing future risk to children, or providing appropriate services to a child, members of the child's family or to a person who was the subject of a report of child abuse or neglect, or for other legal purposes.

9003.01 Disclosure of Information during the Investigation or Assessment

Unless the parent or guardian is the subject of the report, DCF shall promptly inform the parents, if known, or the guardian of the child, that a report has been accepted as a valid allegation, the Department 's response to the report and the parent or guardian's rights to request records.

9004 Mandatory Disclosure of Information

9004.01 Redacted Investigation File

Upon request, the Department shall disclose the redacted investigation file to:

1. the child's parents, foster parents, or guardian, absent good cause shown by the Department, provided that the person(s) requesting the information are not the subject of the investigation. "Good cause" may include concerns regarding safety, domestic violence, or coercive behavior. "Good cause" may also exist when records are sought in connection with a legal proceeding. In this latter case, the legal discovery process should be utilized for disclosure.
2. a grievant alleged to have abused or neglected the child for purposes of an administrative review conference to review a substantiation decision or a petition for expungement, as provided for in 4916a(d) and 4916c of 33 V.S.A.

3. the attorney representing the child in a child custody proceeding in the Family Division of the Superior Court.

The safety of the children, reporters, and other individuals mentioned in these documents must be considered when redacting investigation files. The following information shall be redacted:

- Identifying information, including names, of children, reporters, individuals who were interviewed or provided information, etc.;
- Social Security numbers;
- Dates of birth;
- Addresses;
- Phone numbers;
- Information about a child who is not the subject of the report;
- Any information protected by law, including protected health information
- Information from open law enforcement investigations;
- Risk assessment forms;
- Any other information not specifically related to the findings of abuse or neglect.

9004.02 Investigation, Assessment or Administrative Review Conference Records

Upon request, investigation, assessment or administrative review conference records shall be disclosed to:

1. The court, parties to the juvenile proceeding and the child's guardian ad litem if there is a pending juvenile proceeding or if the child is in DCF custody;
2. The commissioner or person designated by the commissioner to receive such records;
3. Persons assigned by the commissioner to conduct investigations;
4. Law enforcement officers who are engaged in a joint investigation with the Department;
5. Assistant attorneys general or a state's attorney; and
6. Other state agencies conducting related inquiries or proceedings.

9004.03 Disclosure of Relevant Records or Information

Upon request, relevant Department records or information created under this subchapter shall be disclosed to:

1. a person, agency, or organization, including a multidisciplinary team empaneled under section 4917 of this title, authorized to diagnose, care for, treat, or supervise a child or family who is the subject of a report or record created under this subchapter, or who is responsible for the child's health or welfare;
2. health and mental health care providers working directly with the child or family who is the subject of the report or record;

3. educators working directly with the child or family who is the subject of the report or record;
4. licensed or approved foster caregivers for the child;
5. mandated reporters who made a report on the child and who are engaged in an ongoing working relationship with the child or family who is the subject of the report;
6. a Family Division of the Superior Court involved in any proceeding in which custody of a child or parent-child contact is at issue;
7. a Probate Division of the Superior Court involved in guardianship proceedings;
8. other governmental entities for purposes of child protection.

The determination of relevancy shall be made by DCF.

The Department may withhold:

1. information that could compromise the safety of the reporter or the child or family who is the subject of the report; or
2. specific details that could cause the child to experience significant mental or emotional stress.

Information may be provided verbally or in writing.

The Department may also provide other records related to its child protection activities for the child.

Any persons or agencies authorized to receive confidential information may share such information with other persons or agencies authorized to receive confidential information under 33 VSA Chapter 49 for the purposes of providing services and benefits to the children and families those persons or agencies mutually serve.

9004.04 Disclosure of Information to Parents of a Child

Upon request, relevant Department information may be disclosed to a parent with a reasonable concern that an individual who is residing at least part time with the parent requestor's child presents a risk of abuse or neglect to the requestor's child. The Department shall determine the reasonableness of the concern.

For this purpose, "relevant Department information" means information regarding the individual that the Department determines could avert the risk of harm presented by the individual to the requestor's child.

9005 Effective Date of Rule

This rule is effective March 1, 2019.