

The Confidentiality Policies in Child Protective Services

Child Welfare Policy Forum

What Information can be Shared about Foster Children?

Scenario:

A child has been in multiple placements, identified as a "trouble maker" in school, still in contact with only his mother, and has two siblings. Within the last month, the child has exhibited aggressive and defiant behaviors in school and at home. For these reasons, his previous foster parents could no longer care for him. A prospective foster home is hesitant in having this child in their home.

What information about this child is the DHS social worker obligated to disclose? Are there conflicts between policy and implementation by workers?

1. What are the current federal and state policies regarding confidentiality for children in foster care?

A. Federal policies

- Federal regulations, through the Child Abuse and Prevention Treatment Act, indicate that all information about foster children shall be released to state, government agencies if the information is needed for the agency to protect the child from abuse or neglect.
- What kind of information would be needed ?

B. State policies

- What are the state laws pertaining to confidentiality for children in foster care?

C. DHS Policies

2. Are foster parents given the information they need to provide adequate care to their foster child?

- A. Who is responsible for informing foster parents of pertinent information regarding their foster child?
- B. What policies exist regarding information to foster parents, upon placement of a child?

3. What barriers prevent information from being shared with foster parents, schools, and/or other agencies?

- What is the purpose of withholding information? Are there negative consequences to releasing information regarding foster children? What are they
- Since DHS procedures state that all information regarding a foster child shall be given to these agencies, does this policy consider cultural aspects of families?
- What are your recommendations for improving the procedures of sharing information about foster children?

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Policy Issue

What information about this child is the DHS social worker obligated to disclose? Are there conflicts between policy and implementation by workers?

I. Overview of policies

A. Federal Policy

- *Child Abuse Prevention and Treatment Act*
Sec. 106. Grants to States for child abuse and neglect prevention and treatment programs.
Link: <http://www.acf.hhs.gov/programs/cb/laws/capta/capta1.htm#106>
- *Confidentiality.*
In General. - The members and staff of a panel established under paragraph (1)--shall not disclose to any person or government official any identifying information about any specific child protection case with respect to which the panel is provided information; and shall not make public other information unless authorized by State statute.
Civil Sanctions. - Each State that establishes a panel pursuant to paragraph (1) shall establish civil sanctions for a violation of clause (i).

B. State Policy

The Hawaii Administrative Rules, Chapter 17-920.1-8 (HAR 17-920.1-8) govern the release of confidential information and contains the specific allowable disclosures and restrictions for information that are gathered and maintained by the

department. According to HAR 17-920.1-8 (c) *information is released at the discretion of the department or pursuant to a court order to (8) "A person including, but not limited to, a guardian ad litem or foster parent, who is responsible for the welfare of the child named, with protection for the identity of reporters and other appropriate persons."* The information is provided to entities that have a reason and a need for the information to protect and provide services and treatment for the child.

II. DHS Policy

According to the Department of Human Services, foster parents shall be informed of the reason for placement, special concerns and considerations in caring for the child in out-of-home care (DHS Procedures Manual Part 1, Section 2 at 2.3.3 öC,2b). The sharing of information includes and is not limited to: Family Service Plan, Safe Home Family Reports, Service Plan and Agreements, and the child's psychological/psychiatric evaluations. For example, information pertaining to child's educational progress, services provided, progress in treatment, mental health diagnosis and treatment, physical health diagnosis and treatment and safety concerns are allowed by HAR 17-920.1-8 at the discretion of the department or pursuant to a court order.

Are foster parents given the information they need to provide adequate care to their foster child?

Foster parents and social workers, educators and administration agree that foster parents are not provided adequate information for the care of the foster child. This includes, but is not limited to, medical reports, school (educational) reports, family information, involvement with family court, psychological evaluations, service plans and Safe Family Home report.

The general consensus is foster parents should be given all the information concerning the care of their foster child. There is a component in HRS 350-Child Abuse addressing the issue of confidentiality. Some identifier information in the report may be edited out to protect the confidentiality of the birth parents or other adults that may be mentioned. The social worker has the discretion over what is shared and with whom. DHS workers share with foster families what they feel is in the child's best interest.

When a child is in the foster care system they tend to be shuffled through many workers at DHS. Who is responsible for informing foster parents of pertinent information regarding their foster child?

Answered above

What policies exist regarding information to foster parents, upon placement of a child? Who is given the right to have discretion over what is shared?

See above regarding HRS 350. There is a DHS procedure manual as well as periodic updates of policy; once again it is the social worker that has responsibility for what is shared. However, there are supervisors who are "old school" who are not willing to allow the social worker to release information.

What barriers prevent information from being shared with foster parents, schools and/or other agencies?

Again, the social worker has sole discretion to release information based on their perception of the foster parents, for example: if the social worker feels that the foster parents are not capable of handling the information, the information will not be released.

Foster parents are not treated as a part of the foster care team, which means a lot of times they are not included in team meetings, Ohana conferencing and court hearings.

Many times social workers look to their immediate supervisors in regards to distributing information and are told not to release the information. Fear of being reprimanded and having to pay a possible fine for violating confidentiality also causes social workers not to share information.

What is the purpose of "withholding information"? Are there negative consequences to releasing information regarding foster children? What are they?

To protect the rights of the adults in the report as well as to prevent stigmatization and labeling of the child. A lot of times a child is just placed in a home because the family is willing to take them. There is a fear that if all of the information is released foster families will be less willing to take in the child.

Withholding information has a negative impact on retention and recruitment of foster parents. This negative impact is created because foster parents feel they are not being supported.

What are your recommendations for improving the procedures of sharing information about foster children?

There should be ongoing training, and support training for new employees. All new employees receive orientation training but it is not enough. The social workers should also have conferences and meetings with their supervisor, because the supervisor is the best educator.

Making sure that policy is put into practice. Everyone knows what the policy is, but it is a matter of coordinating everyone's efforts to ensure proper implementation.

Training for foster families and better support systems for them. Respite care needs to be provided to give foster families time with their immediate family. During the respite time the foster child is with a trained worker who does one on one activities with the foster child

Updating the foster parent of Hawaii handbook, particularly the confidentiality portion of the handbook and the rights of foster parents.

Building the relationship between social workers (DHS) and the foster families by establishing a sense of mutual respect through open communication.