

Adoption and Guardianship

Policy on Full Disclosure to Prospective Adoptive Parents of Children under Guardianship of the Commissioner

Overview:

This policy outlines county social services agency (county) requirements for providing full disclosure of children's social and medical histories to prospective adoptive parents seeking to adopt children under guardianship of the commissioner in county foster care. Agency staff are required to protect the confidentiality of birth relatives, and allow private child-placing agencies to access certain data.

This policy does not address types of data and information that can be disclosed. County agency staff should consult with their county attorney on the types of data and information that can be disclosed.

Reason for Policy

The reason for this policy is to ensure compliance with state laws and promote best practice regarding full disclosure and data privacy when making adoptive placements of children under guardianship of the commissioner. Best practice is observed when children are placed with adoptive families who are willing and able to meet children's individual needs. This is accomplished when prospective adoptive parents are able to make fully informed decisions regarding adopting a specific child, based on their understanding of a child's individual needs and strengths, and what they will need to do to meet a child's unique needs.

Applicability

This policy is applicable to county agencies and private child-placing agencies providing adoption services for children under guardianship of the commissioner.

This policy does not apply to tribal social services agencies with legal responsibility for children. Tribal social services agencies follow their own tribal codes, laws, and requirements regarding full disclosure.

Failure to Comply

Failure to comply with this policy and its procedures may result in:

- Delays in permanency
- Adoptive placement disruptions and dissolutions due to matching children with families unable to meet children's needs
- Inaccurate information provided to children and families about children's history
- County and/or private child-placing agencies being held liable for lack of full disclosure when making or supporting adoptive placements of children under guardianship of the commissioner.

Policy

I. County social services agencies must document children's social and medical histories and provide copies to certain individuals and entities under specific circumstances. The following apply:

- County agencies are required to complete social and medical histories for children who continue in foster care. Efforts must begin by the earlier of two dates: 1) Six months after a child's placement in foster care, or 2) Child's permanency progress review hearing, for example:

- A child enters foster care on January 1. July 1 is their sixth month in foster care placement. July 15 is when a permanency progress review hearing is held. Agencies must begin efforts to complete the social and medical history by July 1.

[Minn. Stat., section 260C.609 (b)]

- County agency staff must use the commissioner's designated form for completing a child's social and medical history when a child is under the commissioner's guardianship. The commissioner's designated form is DHS-6754A.

[Minn. Stat., section 260C.609 (a); and section 259.43]

- County agency staff must make reasonable efforts to obtain information to thoroughly complete children's social and medical histories, as required by law.

[Minn. Stat., section 260C.609 (c)]

- Information in a child's social and medical history must include the following:

- Child's current health condition, behavior, and demeanor; placement history; education history; sibling information; and birth, medical, dental and immunization information. Redacted copies of pertinent records, assessments, and evaluations must be attached to a child's social and medical history. Examples of types of documents to attach are in DHS-6754.

- Information about a child's birth parents and other birth relatives, including general background information, education and employment history, physical and mental health history, and reasons for child's placement.

- If a child is adopted, and their adoptive parents' rights are terminated, information about child's former adoptive family must be included, along with information about their birth family.

[Minn. Stat., section 260C.609 (a); and section 259.43]

- County agencies must ensure that identifying information about birth relatives or other individuals is not included, or is redacted, in both the verbal review and written form of a child's social and medical history, and any attachments. Identifying information includes last names, full dates of birth, and Social Security numbers. Noncompliance may be a violation of the Minnesota Government Data Practices Act.

[Minn. Stat., sections 260C.609 (d); 259.43; 13.08; and 13.465]

- County agencies must keep children's social and medical histories, including any attachments, up to date. This may vary depending on the type of information. For example, a child's placement history should include the current placement; however, medical assessments may be considered current if completed within the past year.

[Minn. Stat., section 260C.609 (a)]

- Counties must provide copies of children's social and medical histories to the following individuals and entities under specific circumstances:

- Prospective adoptive parents as outlined in Section II under Policy, as part of the matching process, prior to making pre-adoptive placements and signing adoption placement agreements (including relevant evaluations, assessments and records).

- The Minnesota Department of Human Services (department), at the time of submitting adoption placement agreements (only form DHS-6754A, not including relevant evaluations, assessments and records).

- The department, if needed to establish eligibility for Northstar Adoption Assistance for children under tribal court jurisdiction or children not under guardianship of the commissioner (may or may not be required to include relevant evaluations, assessments and records).

- Juvenile court with jurisdiction in an adoption matter, at the time of filing an adoption petition, for the court to be able to finalize an adoption (only form DHS-6754A, not including relevant evaluations, assessments and records).

- Youth exiting foster care at the age of majority (18 or, if in extended foster care, up to 21), at exiting foster care, regardless of whether they are under guardianship of the commissioner or not (including relevant evaluations, assessments and records).

[Minn. Stat., section 260C.219 (e); section 260C.609 (c); section 260C.623, subd. 4 (2); section 260C.629, subd. 2 (5); and section 259.43]

II. County social services agencies are required to provide full disclosure to prospective adoptive parents prior to making adoptive placements of children under guardianship of the commissioner, as follows:

- County social services agencies are required to make reasonable efforts to finalize adoptions. This includes providing full disclosure, as part of the matching process, in a timely manner, to best serve all parties involved in the adoption plan.

[Minn. Stat., sections 260C.605; and section 260C.607, subd. 1]

- County agency staff are required to provide full disclosure of a child's social and medical history to prospective adoptive parents identified as the adoptive resource for a child under guardianship of the commissioner, as part of the matching process, prior to making a pre-adoptive placement and executing an adoption placement agreement.

[Minn. Stat., section 260C.609 (c)]

- Full disclosure may include private data of a child to identify an adoptive parent willing and able to meet their needs.

[Minn. Stat., section 13.02, subd. 12; and section 260C.613, subd. 2]

- Full disclosure requires a two-pronged approach. It requires a county agency to provide a complete and thorough verbal review of a child's social and medical history, including their unique needs, with prospective adoptive parents. At the same time, it requires a county agency to give prospective adoptive parents a redacted copy of a child's written social and medical history, including redacted copies of relevant evaluations, assessments and records, which must be attached to the social and medical history.

[Minn. Stat., section 260C.609 (c) and (d); and section 259.43]

III. County social services agencies working with private licensed child-placing agencies must follow data-sharing requirements when coordinating adoption services, as follows:

- Private licensed child-placing agencies under contract with the department as part of the Public Private Adoption Initiative (PPAI) program, are considered agents of the department and part of the child welfare system and may share data for purposes of coordinating services.

[Minn. Stat., section 13.46, subd. 1 (c) and subd. 2 (a); and section 257.01]

- County agencies must cooperate with contract requirements when using adoption services from private licensed child-placing agencies under contract with the department.

[Minn. Stat., section 393.07, subd. 2]

- Private licensed child-placing agencies that do not have a contract with the department are not considered agents of the department. However, these agencies are considered personnel of the child welfare system and will need information to provide services to an individual or family across programs. County agencies should consult with their county attorney for clarification on what may or may not be shared.

[Minn. Stat., section 13.46, subd. 1 (c) and subd. 2 (a); and section 257.01]

IV. When tribal social services agencies have legal responsibility for children, they follow their tribal codes, laws, and requirements regarding full disclosure, as follows:

- Full disclosure for children under tribal court jurisdiction is governed by a child's Indian tribe's code, which may have different or similar requirements. County and private agency staff should consult with children's tribal agency staff to determine requirements.

Procedures

I. When documenting children's social and medical histories, adhere to the following guidelines:

- County agencies should begin documenting children's social and medical histories as soon as possible when children continue in foster care. Legal requirements for when an agency must begin efforts are in Section I under Policy.

- When writing children's social and medical histories, county agencies should reference the instructions for completing this information in DHS-6754.

- If county agencies choose to provide a blank copy of children's social and medical histories to relatives and kin to complete, agency staff must verify accuracy of the information to the best of their ability, and compile verified information into a separate social and medical history form. County agencies must not use a form filled out by relatives or kin as a child's official social and medical history document. However, handwritten forms may be included as part of a child's formal record for youth to access later (see Section I under Policy).

- Agency staff should document efforts to obtain information for children's social and medical histories. For example, if a child's maternal grandmother was a source of information regarding birth mom's medical history, county staff should indicate this on the form. If a child's maternal grandmother was contacted and no information was provided, staff should indicate this on the form as well.

II. When providing full disclosure to prospective adoptive parents, the following procedures apply:

- Once a county agency has determined a prospective adoptive parent to be the adoptive resource for a child under guardianship of the commissioner, staff must provide full disclosure to the prospective adoptive parent, as described in Section II under Policy, prior to making a pre-adoptive placement.

- County agencies must not make pre-adoptive placements until prospective adoptive parents:

- Receive full disclosure of a child's social and medical history and needs.

- Along with county staff, discussed any new or previously unknown issues that came up as part of the full disclosure process.

- Have reviewed all verbal and written information received.

- Are willing and able to adopt the child, based on information they received, reviewed, and discussed with agency staff.

- Once full disclosure has been provided and a pre-adoptive placement is made, county staff and prospective adoptive parents must sign an adoption placement agreement and forward to department staff for review.

- If an adoptive placement disrupts, or prospective adoptive parents decide not to adopt a child prior to a fully executed adoption placement agreement, county agencies must retrieve any documentation containing private information prospective adoptive parents received as part of the full disclosure requirement.

III. When providing full disclosure for children under tribal court jurisdiction, the following procedure applies:

- As stated in the Policy section, full disclosure for children under tribal court jurisdiction is governed by their tribal code, which may have different or similar requirements. County and private agency staff should consult with children's tribal agency staff to determine requirements.

IV. When contracting with PPAI agencies, the following procedures apply:

- County agencies remain legally obligated to document children's social and medical histories and obtain required information. PPAI agency contracts do not include documenting social and medical histories.

- It remains the county agency's legal obligation to provide full disclosure to prospective adoptive parents, whether working with a PPAI agency or not. While PPAI agencies are required by contract to ensure full disclosure of a child's history and needs is provided to prospective adoptive parents, it is not the PPAI agency's responsibility to provide full disclosure. If there is disagreement among county and PPAI agency staff regarding full disclosure (such as timeliness and quality), the permanency team should work to resolve the disagreement.

- When county agencies are working with PPAI agencies to find adoptive homes for children, PPAI agencies can access information in the following ways:

- When PPAI agencies are representing prospective adoptive parents who were identified by a county agency as being a permanency option for a specific child, they can receive a copy of that specific child's social and medical history, including relevant attachments, to assist prospective adoptive parents in making an informed decision regarding adopting that child.

- When PPAI agencies are representing children in need of adoptive homes, they may review a child's file at the county agency to effectively recruit an adoptive family.

V. When contracting with other private child-placing agencies not part of the PPAI contract, county agencies:

- Remain legally obligated to document children's social and medical histories and obtain required information.

- Are responsible for providing full disclosure to prospective adoptive parents. It is not the responsibility of private child-placing agencies to provide full disclosure.

- Should refer to foster care rule for placement services [Minn. Admin. Rules, part 9545.0825, subp. 3], which specifies what information from a child's record must be provided to a private child-placing agency supervising a placement.

VI. When questions and issues regarding data privacy and full disclosure are raised, the following applies:

- If there are circumstances not covered in this policy, county, tribal, and private agencies should consult with their county, tribal, or private agency attorneys for clarification.

Form(s) that apply:

Child Social and Medical History ([DHS-6754A](#))

Child Social and Medical History Instructions ([DHS-6754](#))

Child-specific Service Agreement

Related Policies and References:

None

Training:

None

Legal Authority:

Minn. Stat., section 13.02, subd. 12
Minn. Stat., section 13.08
Minn. Stat., section 13.46, subd. 1 (c)
Minn. Stat., section 13.46, subd. 2 (a)
Minn. Stat., section 13.465
Minn. Stat., section 257.01
Minn. Stat., section 259.43
Minn. Stat., section 260C.219 (e)
Minn. Stat., section 260C.605
Minn. Stat., section 260C.607, subd. 1
Minn. Stat., section 260C.609
Minn. Stat., section 260C.613, subd. 2
Minn. Stat., section 260C.623, subd. 4 (2)
Minn. Stat., section 260C.629, subd. 2 (5)
Minn. Admin. Rule, part 9545.0825, subp. 3

Standards:

None

Definitions:

Adopting parent: An individual who has signed an adoption placement agreement. An adopting parent is also known as a pre-adoptive parent.

Adoption Placement Agreement: Legally binding document that signifies the intent of a legally responsible agency, the commissioner of human services, and the prospective adoptive parent(s) that the prospective adoptive parent(s) establish a legal parent and child relationship by adoption of a child under guardianship of the commissioner. A fully executed adoption placement agreement means that an adoptive placement has been made.

Adoptive placement: A placement made by a county agency upon a fully executed adoption placement agreement, including the signatures of the adopting parent, county agency staff, and the commissioner of human services, according to Minn. Stat., section 260C.613, subd. 1.

Child social and medical history: Document containing background and health history specific to a child and their relatives, including but not limited to health information, placement history, education experiences, behavior and personality. Attachments to the document are required but not considered part of the commissioner's designated form.

Reasonable efforts: Efforts that would be made by a reasonable person to obtain information for full disclosure and the social and medical history, given the individual circumstances of a case. Reasonable efforts does not mean efforts to the point of undue hardship.

Disruption: When a pre-adoptive or adoptive placement ends for any reason.

Pre-adoptive placement: A placement made by a county agency when both agency staff and the prospective adoptive parents have committed to making an adoptive placement of a child in the family's home, but before an adoption placement agreement has been signed by any party.

Private data: For purposes of this policy, private data are: (a) not public, and (b) accessible to the individual subject of the data.

Prospective adoptive parent: An individual who may become an adopting parent, but who has not signed an adoption placement agreement.

Public Private Adoption Initiative (PPAI): A contract between the department and private licensed child-placing agencies to provide adoption and relative concurrent permanency planning services. Contracting agencies have primarily provided the following services: Preadoption education, adoption home studies, child-specific recruitment, adoption home study updates, concurrent permanency planning, and placement services.

Redacted data: Private data and identifying information that has been removed from documents prior to release. Redaction is frequently accomplished through blacking- or whiting-out words and numbers so they are no longer legible.

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This policy and its procedures remain in effect until rescinded or updated.