



CDSS

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STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES

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EDMUND G. BROWN JR.
GOVERNOR

April 8, 2011

ALL COUNTY LETTER NO. 11-23

TO: ALL COUNTY ADOPTION AGENCIES
ALL PRIVATE ADOPTION AGENCIES
ALL CHILD WELFARE OFFICES
ALL CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)
DISTRICT OFFICES

SUBJECT: ADOPTION CASE RECORDS RETENTION

REFERENCE: WELFARE AND INSTITUTIONS CODE (W&IC) SECTION 10851(f);
GOVERNMENT CODE 14741, 12168.7; MANUAL OF POLICIES AND
PROCEDURES (MPP) SECTION 35045 - 35047 AND 35351;
TITLE 22, CALIFORNIA CODE OF REGULATIONS (CCR)
SECTION 89179 AND 89182; ALL COUNTY LETTER (ACL) NO. 92-91
AND 07-40

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

PURPOSE AND SCOPE

The purpose of this ACL is to provide information to all adoption agencies performing (domestic and intercountry) agency and independent adoptions regarding what constitutes an adoption case record and the length of time adoption case records, and related records, are required to be stored by the agency as well as acceptable methods of storage. Related records are considered to consist of expired personnel records, disrupted adoptive placement case files, Adoption Assistance Program (AAP) files and Private Adoption Agency Reimbursement Program (PAARP) records.

DEFINITION

The definition of a record is any material, regardless of the physical form or characteristics, on which information is recorded or preserved by any means, including written or spoken words, printed materials, microfiche or other electronic medium that does not permit additions, deletions or changes to the original document (SIC 10851(f) and Government Code 14741). Types of electronic information mediums include but are not limited to photographs, Digital Video Disc (DVD), Video Home System (VHS)

and Compact Storage Disc (CD-ROM). A records retention program is to safeguard confidential and vital adoption case record information, minimize litigation risks, preserve historical documents and control the growth of records by minimizing office storage space.

ADOPTION CASE RECORDS

In all cases, adoption case records are confidential and shall be retained by the agency indefinitely. An adoption case record becomes subject to record retention regulations when: (1) a parent has signed a relinquishment, giving care and control of the child to the licensed adoption agency, (2) when parental rights have been terminated by a court and the court issues an order for the child to be placed for adoption, (3) the adoption case record for the prospective adoptive parents begins when the completed application for adoption is accepted by the adoption agency, or (4) in an independent adoption when the CDSS district office, or the delegated county adoption agency, receives an adoption petition or a signed adoption placement agreement from an Adoption Service Provider (ACL 92-91).

Adoption case records shall include, but are not limited to, documents related to the birth parents, the child and the adoptive parents, an application, a home study file, medical and other health reports, correspondence, applicable legal documents, verifications, evaluations of findings and decisions reached, actions taken, court reports, documents on freeing the child for adoption, translation and/or reading and/or corrections of forms including the recording of any reading of consent and copies of birth certificates, etc. (MPP sections 35045 - 35047; Title 22 CCR section 89179)

In the event of an adoption agency terminating its adoption services, full case records on completed adoptions, placements for adoption and children relinquished for adoption shall be forwarded to:

California Department of Social Services
Adoptions Support Unit
744 P Street, Mail Station 8-12-31
Sacramento, California 95814
(916) 651-8089

RECORDS RETENTION

Adoption case records are confidential (Title 22 CCR section 89131[b]), and shall be kept by the licensed adoption agency indefinitely (Title 22 CCR section 89179 [b]). All adoption case records shall be kept by the licensed adoption agency/CDSS district office indefinitely, regardless of whether or not the county is the primary holder of the child's case.

Adoption Assistance Program

The AAP records shall be kept the same length of time as the adoption case records. The AAP records must be kept separate from the adoption case records (Title 22 CCR section 35351 and MPP section 45-807). The AAP case file is still part of the adoption record and may be accessed by CDSS or by request of a court order.

Private Adoption Agency Reimbursement Program

Accounting (claiming) records of private agency expenditures, such as employee hours worked and amount paid etc., should be maintained in accordance with generally accepted accounting principles. The CDSS recommends that all accounting (claiming) records be retained for a minimum period of four years from the date of the final claim for that annual period or until all audit issues have been resolved. Examples of records to be retained include journals, ledgers and supporting documentation, invoices, receipts, checks, vouchers, etc.

MANDATORY STATE REPORTING FORMS

Pursuant to Division 26-090 Manual of Policy and Procedures for Statistical Reports, quarterly data reports such as the Agency Adoption Program Quarterly Statistical Report (AD 56A) and the Intercountry Adoption Program Quarterly Statistical Report (AD 202B) should be kept by the agency for at least three complete years following the date of submission.

WHEN AN ADOPTION DISRUPTS

A "Disruption in Placement" means the termination of an adoptive placement prior to the issuance of a final decree of adoption (MPP 35000[A][4]). When an adoption placement disrupts and the child is no longer a candidate for adoption due to unforeseen circumstances or a court order, the case file should be kept indefinitely. Likewise, any case record where parental rights have been terminated should be kept indefinitely.

PERSONNEL RECORDS

When deciding how long to keep personnel file records of employees that separate from an adoption agency, the decision must be with the agency. As a guideline, the records retention criterion for separated state employees is three years.

ACCEPTABLE METHODS OF RECORDS STORAGE

- An adoption agency may store original paper copies of or electronic versions of adoption record documents. Records that originally existed in hard copy may be retained in electronic form if electronic documents are accurate copies of the originals and security procedures are adopted to prevent changes. See W&IC section 10851.
- There are numerous information technology industry standard practices in existence on the creation, storage and transmission of electronic documents which adoption agencies may choose from to meet best practices in records retention. The American National Standards Institute or the Association for Information and Image Management defines industry standards for electronic information, creation and storage.
- The W&IC section 10851(f) permits using electronic or other alternative storage technologies as long as it is a “trusted system.” A “trusted system” is a combination of techniques, policies and procedures for which there is no plausible scenario in that a document retrieved from or reproduced by the system could differ substantially from the document that is originally stored. Paper files do not need to be stored once they are electronically stored, provided the “trusted system” is used.
- If an adoption agency chooses to utilize one of the methods from a trusted system of storage, best practice dictates that some case file items such as original birth certificates, photographs, or correspondence from natural parents, be physically retained indefinitely as well.

ARCHIVAL STORAGE CONDITIONS

Conditions suitable for preserving permanent records must be maintained. The standard to be met to achieve adoption record archival quality is necessary and is the responsibility of the adoption agency. The primary objective of a records program is the protection of information and vital records against damage, accident or destruction. It is recommended that adoption agencies have a protection system in place for all of their case file records. Each agency must analyze its own operations and records to

determine the best method for storing and recording permanent and non-permanent documents.

DESTRUCTION OF ADOPTION CASE RECORDS

Should an agency make a determination that hard copies of adoption case records should be destroyed because of transferring to electronic version, caution must be taken in their destruction to maintain confidentiality and to prevent unauthorized disclosure. If the child has an active case with a county child welfare department, then the information can be sent to the child's assigned social worker. Be sure to contact the receiving county office to confirm the correct social worker assignment prior to the mailing.

If you have any questions regarding this ACL, please contact the Permanency Policy Bureau, at (916) 657-1858.

Sincerely,

Original Document Signed By:

GREGORY E. ROSE
Deputy Director
Children and Family Services Division