

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



May 7, 2003

Regulation Package #0701-14

CDSS MANUAL LETTER NO. CFC-03-01

TO: HOLDERS OF THE CONFIDENTIALITY, FRAUD, CIVIL RIGHTS AND STATE HEARINGS
MANUAL, DIVISION 19

Regulation Package #0701-14**Effective 5/9/03****Sections 19-001, 19-004, 19-005, 19-007 and 20-300**

This manual letter has been posted on the Office of Regulations Development website at http://www.dss.cahwnet.gov/ord/Confidenti_615.htm.

These regulations delete all references to AFDC and adopt a reference to CalWORKs throughout. These regulations incorporate technical corrections and clarification relating to fraud in the CalWORKs Program in accordance with the provisions of AB 1542 and consolidate all exceptions to the release of confidential information to law enforcement officials to new MPP Section 19-004.4 et seq. These regulations relocate regulatory text from MPP Section 19-004.9 to MPP Section 19-004.4 and renumber the relocated sections beginning with new MPP Section 19-004.42. Relocating and renumbering these sections consolidates all exceptions to the general rule regarding the release of confidential information to law enforcement officials in MPP Section 19-004.4. These regulations correct the date in MPP Division 20, Sections 20-300.32 and 20-300.33 from the incorrect date of "1984" to the correct date of "1983" - the year the provisions of CFR, Title 7, Section 273.16(b)(6) were implemented. This date correction clarifies that more than one IPV committed prior to April 1, 1983 shall be considered as one disqualification in determining the appropriate penalty to impose.

These regulations were adopted on effective April 9, 2003 and were considered at the Department's public hearing held on May 23, 2002.

FILING INSTRUCTIONS

Revisions to all manuals are indicated by a vertical line in the left margin. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Confidentiality, Fraud, Civil Rights, and State Hearings Manual changes was CFC-02-01.

Page(s)

3 and 4
9 through 14
43.1 through 46

Replace(s)

Pages 3 and 4
Pages 9 through 14
Pages 43.1 through 46

Attachments

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DIVISION 19 CONFIDENTIALITY OF INFORMATION

CHAPTER 19-000 CONFIDENTIALITY OF RECORDS

19-001 CONFIDENTIALITY OF RECORDS - OBJECTIVE AND SCOPE 19-001

In accordance with Welfare and Institutions Code Section 10850 and 45 CFR Section 205.50(a), these regulations were created to protect the applicants and recipients against identification, exploitation or embarrassment that could result from the release of information identifying them as having applied for or having received public assistance. They also outline under what circumstances and to whom such information may be released. These regulations pertain to all records, papers, files and communications pertaining to the following public social service programs, both aid and services, administered or supervised by the California Department of Social Services (CDSS), CalWORKs (including WIN, and Child Welfare Services), APSB, SSP (all segments), and Title XX, unless otherwise indicated. These regulations bind public and private agencies with whom the county contracts to perform any part of the covered public social service programs. The CDSS programs not covered by these regulations have their own rules regarding records and confidentiality which are to be referred to when dealing with such records, e.g., food stamps in Section 63-201.3 and Adoptions in Title 22 of the California Administrative Code. The term public social services programs is defined as both assistance and social service programs administered or supervised by CDSS or the California Department of Health Services.

NOTE: Authority cited: Sections 10063(b), 10553, and 10554, Welfare and Institutions Code. Reference: Section 10063(a), Welfare and Institutions Code.

19-002 INFORMATION THAT IS CONFIDENTIAL 19-002

.1 General

Names, addresses and all other information concerning the circumstances of any individual for whom or about whom information is obtained is confidential and shall be safeguarded. This is true of all information whether written or oral.

No disclosure of any information, obtained by a representative, agent or employee *of CDSS or of the county welfare department*, in the course of discharging his or her duties, shall be made, directly or indirectly other than in the administration of public social service programs, *or as noted below, or as prescribed by statute*. (This includes acknowledgement by a welfare department receptionist or telephone operator that a person is receiving assistance.)

19-002 INFORMATION THAT IS CONFIDENTIAL (Continued)**19-002**

Disclosure of information which identifies by name or address any applicant or recipient of public social services to federal, state or local legislative bodies and their committees without such applicant or recipient's consent is prohibited. Such bodies include the United States Congress, the California State Senate and Assembly, city councils and county boards of supervisors. Exceptions to this rule are found in Section 19-004.3 of this division regarding audits and MPP Section 25-480, concerning discharge of accounts.

Both the release and possession of confidential information in violation of the rules of this division are misdemeanors.

2. Federal Tax Information**.21 Definition**

For the purposes of this section, the term "tax information" means any information supplied by the Internal Revenue Service (IRS), concerning a taxpayer's identity, the nature, source, or amount of his/her earned income, unearned income (including interest or dividends), payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments.

.22 Confidentiality and Disclosure

No employee or former employee of the county who has or had access to tax information in any manner connected with his/her service shall disclose any tax information obtained by him/her except for the purposes provided in Section 20-006.

.23 Safeguards

Counties shall establish the following safeguards in order to protect the confidentiality of, and to prevent the unauthorized disclosure of, tax information received from IRS:

- .231 Establish and maintain a secure area or place in which IRS tax information shall be stored;
- .232 Restrict access to the tax information only to persons whose duties or responsibilities require access to this information;

HANDBOOK BEGINS HERE

- (a) Welfare and Institutions Code Section 10850.7 provides:

Notwithstanding the provisions of Section 10850, an authorized employee of a county welfare department may disclose confidential information concerning a public social services applicant or recipient to any law enforcement agency where the applicant or recipient is deceased. Information that may be released pursuant to this section shall be limited to the name, address, telephone number, birthdate, social security number, and physical description of the applicant for, or recipient of, public social services. A county welfare department may release the information specified by this section to any law enforcement agency only upon a written request from the head of the agency specifying that the applicant or recipient is deceased and that the agency is otherwise unable to adequately identify the deceased. The information specified may alternately be released by telephone, whereupon the head of the law enforcement agency shall submit the request in writing within five days of the release.

This section shall not be construed to authorize the release of a general list identifying individuals applying for or receiving public social services.

The provisions of this section shall be operative only to the extent permitted by federal law. The section shall not apply to, but shall exclude the Medi-Cal program established pursuant to Chapter 7 (commencing with Section 14000) and following.

HANDBOOK ENDS HERE

- .412 A felony arrest warrant has been issued for the applicant/recipient, Welfare and Institutions Code Section 10850.3. See Section 19-004.42 for exceptions to the Food Stamp and CalWORKs programs.)

HANDBOOK BEGINS HERE

Welfare and Institutions Code Section 10850.3(b) provides in part:

A county welfare department may release the information specified by this section to any law enforcement agency only upon a written request from the agency specifying that a warrant of arrest for the commission of a felony has been issued as to the applicant or recipient. This request may be made only by the head of the law enforcement agency, or by an employee of the agency so authorized and identified by name and title by the head of the agency in writing to the county welfare department.

HANDBOOK ENDS HERE

- (a) Information releasable pursuant to a felony arrest warrant shall be further limited to data contained within disbursement records for CalWORKs, Special Circumstances, and social service cases other than Child Welfare Service records. Release shall be limited to name, address, telephone number, birthdate, and social security account number (where such items are present) from the record of disbursement.
 - (1) No data shall be released from the case record.
 - (2) No data shall be released from SSI/SSP records except for Special Circumstances.
 - (3) This section shall not be construed to limit releases pursuant to Penal Code Section 11166.
- (b) Food Stamp and Adoption records, including AAP, are not within the scope of this Division.

.42 Release of Food Stamp and CalWORKs Case Information to Law Enforcement Officials

- .421 In the Food Stamp and CalWORKs programs, the address, social security number, and, if available, photograph (with the exception of photo images obtained from the Statewide Fingerprint Imaging System [MPP Sections 40-105.3 and 63.601.12] of any Food Stamp household member and/or CalWORKs applicant/recipient, shall be made available on request to any Federal, State, or local law enforcement officer if the officer furnishes the county welfare department with the name of the member/applicant/recipient and notifies the county welfare department that:

19-004	RELEASE OF CONFIDENTIAL INFORMATION (Continued)	19-004
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- (a) The member/applicant/recipient is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime that, under the law of the place the member/applicant/recipient is fleeing, is a felony (or in the case of New Jersey, a high misdemeanor); or
- (b) The member/applicant/recipient is violating a condition of probation or parole imposed under Federal or State law; or
- (c) The member/applicant/recipient has information that is necessary for the officer to conduct an official duty related to Sections 19-004.421(a) and .421(b); and
- (d) Locating or apprehending the member/applicant/recipient is an official duty of the law enforcement officer; and
- (e) The request is being made in the proper exercise of an official duty.

.5 Release of Confidential Information in Conjunction With a Lawsuit

If an applicant/recipient or caretaker relative becomes a party or plaintiff in any suit against the State of California, any political subdivision of the state, or any agency administering the laws governing the administration of public social services and such suit challenges the validity of the laws governing the administration of public social services or the manner in which the laws have been applied, the attorney representing the state, political subdivision, or agency shall be given access to all files and records relating to the plaintiff. Such files and records may be disclosed to the court having jurisdiction of the lawsuit insofar as they are relevant to the determination of any factual or legal issue in the case. In such cases, it should be brought to the court's attention, when presented with the requested information, of the state law and policy against further disclosure of the information.

On notice of court action ordering records to be produced, where the action is not connected with the administration of public social services, (see 19-002), the county shall notify the appropriate legal officer (county counsel). Such legal officer shall be requested to take immediate action to safeguard the confidential nature of the records.

.6 Release to Schools

.61 Confidential case information may be released to county superintendents of school and superintendents of school districts, and their representatives, as necessary for the administration of federally-assisted programs which provide assistance in cash, in-kind, or services directly to individuals on the basis of need. If such confidential information is released, the superintendent shall be informed of the criminal prohibition against the use or disclosure of such information for any purpose other than that for which it was obtained.

- .62 Information concerning the number of CalWORKs families living within a particular school district requested to support entitlement to funds under the Elementary and Secondary Education Act (ESEA) may be released to authorized representatives of the school district. A signed agreement with the school district stating that the confidential information obtained will only be used for purposes of fund claiming under the ESEA and that the district understands that there is a criminal penalty for release or use by the school district for any other purpose shall be obtained. This prohibition includes the use of the confidential records to identify applicants or recipients to school teachers and administrators.

- .7 Disclosure to Parents Who Wish to be Reunited With Their Family
 - .71 Where a person claims to be an absent parent, her/his identification should be verified.
 - .72 No acknowledgement to the requesting parent that the child(ren) or other parent are receiving aid may be made.
 - .73 If the family is aided, the aided caretaker shall be contacted for permission to release information. If permission is granted, the information shall be released.
 - .74 If the absent parent alleges that the aided parent has kidnapped, abused or neglected the child(ren), the case should be referred to the child protective services for appropriate action. The name and address of the applicant or recipient may be released to law enforcement officials for the purpose of locating abducting parents and the abducted child(ren).

- .8 Release to Research Organizations

Information requested by research organizations may be released without authorization of the applicant/recipient. Research organizations requesting information must guarantee in writing that they will meet the conditions and protections of this division and Welfare and Institutions Code Section 10850.

NOTE: Authority cited: Sections 10063(b), 10553, 10554, 10850, and 10850.31, Welfare and Institutions Code. Reference: Sections 10063(a), 10850, 10850.31 and 11495, Welfare and Institutions Code and Public Law (P.L.) 104-193, Sections 408(a)(9) and 837 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996).

19-005 RELEASE TO APPLICANT/RECIPIENT OR AUTHORIZED REPRESENTATIVE 19-005

.1 Information Supplied By the Applicant/Recipient

Information relating to eligibility that was provided solely by the applicant/recipient contained in applications and other records made or kept by the county welfare department in connection with the administration of the public assistance program shall be open to inspection by the applicant/recipient or his/her authorized representative.

.2 Authorizations

For purposes of this section, an authorized representative is a person or group who has authorization from the applicant/recipient to act for him/her.

.21 Written Authorizations

Except, as otherwise provided, all authorizations are to be written.

Written authorizations shall be dated and shall expire one year from the date on which they are given unless they are expressly limited to a shorter period or revoked. In cases involving pending appeals or state hearings, the time period, unless the authorization is expressly limited or revoked, shall extend to the final disposition of the issue involved in the fair hearing or, where applicable, by the courts.

When the authorized representative and the applicant/recipient, or responsible relative caring for the CalWORKs child are both present, no written authorization is required for that particular occasion.

.22 Telephone Authorizations

Telephone authorizations may be accepted in lieu of a written authorization where the circumstances insure that the applicant or recipient has adequately identified himself or herself to the county. A telephone authorization is temporary and should be followed up by a written authorization.

Acceptable items of identification are to be determined by the county but may include such items as case numbers, driver's license numbers, social security account numbers or the mother's maiden name. The procedure for telephone authorizations will usually involve the applicant or recipient first calling their eligibility worker and notifying the worker of whom will be calling on their behalf. This call will authorize the release of confidential information. Examples of typical circumstances for releasing confidential information by telephone authorization include inquiries from medical offices, welfare rights organizations or legislators calling on behalf of the recipient.

NOTE: Authority cited: Sections 10063(b), 10053 and 10554, Welfare and Institutions Code.
Reference: Section 10063(a), Welfare and Institutions Code.

19-005	RELEASE TO APPLICANT/RECIPIENT OR AUTHORIZED REPRESENTATIVE (Continued)	19-005
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.3 Applicant/Recipient Written Requests for Assistance to Legislators

Written inquiries to members of legislative bodies signed by applicants or recipients of public social services concerning the receipt of public social services may serve as authorization for release of information sufficient to answer such an inquiry.

.4 Release of Information in Conjunction With a State Hearing

The applicant/recipient or his/her attorney or authorized representative may inspect the case records including the entire case narrative relating to the applicant or recipient which are held by DSS, DHS, or any agency supervised by DSS with the following exceptions listed below in Section 19-006.

19-006	INFORMATION WHICH MAY NOT BE RELEASED TO THE APPLICANT/RECIPIENT	19-006
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Privileged Communications

Portions of the applicant/recipient's record which would qualify as privileged communications as defined by the Evidence Code. This would include Sections 954 (lawyer-client), and 1041 (identity of informer).

NOTE: The physician-patient privilege in Evidence Code Section 990, et seq., belongs to the patient and may be waived by him/her. The right of the patient to inspect his/her records is confined to record maintained by the CWD and does not extend to the records kept by the physician.

19-007	ELIGIBILITY DETERMINATIONS	19-007
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.1 Collateral Contacts in CalWORKs and APSB

Pursuant to EAS Sections 40-157.22 and 40-181.31 individual consent forms, signed by the applicant or recipient are required for each contact made during the evidence gathering process. An exception to this rule is found in MPP Section 20-007.36 which exempts SIUs from the requirement of permission to contact collateral sources.

NOTE: Authority cited: Sections 10063(b), 10553 and 10554, Welfare and Institutions Code.
Reference: Section 10063(a), Welfare and Institutions Code

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20-300 INTENTIONAL PROGRAM VIOLATIONS IN THE FOOD STAMP PROGRAM (Continued) 20-300

- .411 Five days from the date the notice is mailed shall be considered sufficient time for the written notice to have been received by the household, provided it has not been returned as undeliverable by the post office.

- .42 By Court Order

If disqualification is ordered by a court of appropriate jurisdiction, but the date for initiating the disqualification period is not specified, the CWD shall initiate the disqualification within 45 days of the date the disqualification was ordered.

- .43 By Disqualification Consent Agreement

If the household member signed the Disqualification Consent Agreement, then the period of disqualification shall begin within 45 days of the date that the consent agreement was signed, unless contrary to a court order.

- .5 Reporting Requirements
 - .51 The CWD shall report to FCS information concerning individuals disqualified for an IPV, within 30 days of the date the disqualification took effect. This information shall be reported on the Disqualified Recipient Report (DPS 524).

 - .52 The CWD shall establish and maintain a food stamp disqualification file containing all information received from CDSS concerning individuals who have been disqualified in that county or in another political jurisdiction. The CWD shall use this information for the following purposes:
 - .521 To determine eligibility of individual Food Stamp Program applicants prior to food stamp certification in cases where a welfare agency has reason to believe a household member is subject to disqualification in another jurisdiction.

 - .522 To ascertain the appropriate penalty to impose based on past disqualification in a case under consideration.

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