

SUBJECT: Records Management Policy for Provider Agencies

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PAGE: 1 of 3 (1 Attachment)

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**IMPLEMENTATION RESPONSIBILITY:
Provider Agencies Preventive and Foster
Care Staff**

PURPOSE: Foster care and preventive services agencies must maintain their client and program records in an accurate and orderly manner which protects confidentiality and ensures access to files as appropriate, for both open and closed cases. This policy articulates standards and requirements for the maintenance and retention of such records that are in the possession of provider agencies.¹

SCOPE: These guidelines apply to all parties in provider agencies responsible for the maintenance of open and closed case records for children and families receiving preventive, foster care, and adoption services and must be utilized when handling such case records and files. Additionally this policy provides instructions to preventive and foster care agencies for the handling of case records during special circumstances such as (1) the death of a child in foster care, (2) the request by a child previously in foster care for access to his or her records, and (3) closure of the provider agency or program. This document contains guidance for securing records and making them available to ACS, and as such, replaces the memo *Securing Case Records when there is a child fatality (3/3/06)*.

This policy is effective immediately.

POLICY: GENERAL POLICY

The following standards should be followed in the general maintenance and retention of active and closed records associated with preventive and foster care services.

I. Maintenance of Physical Case Records

Preventive and foster care agencies are required to maintain their physical (paper) case records in a manner that is consistent with the confidential nature of such records.² All records must be indexed and stored through a system that allows for accessibility and inspection of such records at all reasonable times by Children's Services and Office of Children and Family Services (OCFS) representatives.³

The physical case records at a preventive or foster care agency must include all relevant non-CONNECTIONS (CNNX) documents. This should include but is not limited to material related to medical social, and mental health services; social history of the child and the

¹ See, 18 NYCRR 428.10.

² See, SSL §§ 136, 372(4), and 422(4) and 18 NYCRR Part 357 and 423.7.

³ Response time to request should not exceed 10 days. ACS reserves the right to request that records be produced earlier based on urgency.

child's family; certification of birth; medical and surgical consent from parent or guardian; foster parent records; home studies; educational records; reports from other agencies; all pertinent correspondence, and period non-CNNX progress reports which consist of social information, or mental health reports, if applicable; dental, medical and substance abuse reports from staff; and reports on services provided after the child leaves care.

II. Retention

Provider agencies are required to retain their records according to the following schedule:

1. *Preventive Services Case Records*⁴

All preventive services case records and files, where there has been no provision of child protective or foster care services from the point of the case opening until the point that the case closes, must be retained for six years after the 18th birthday of the youngest child in the family (based on family composition during the preventive case).

All closed preventive services case records and files as described above must be expunged six years after the youngest child in the family reaches his/her 18th birthday. Therefore, when a preventive case closes, the expungement process is expected to occur when the 24th birthday occurs for the youngest child that was included in the preventive case.

Where preventive services are provided in conjunction with or in addition to foster care, adoption or child protective services, the applicable standards for record retention in relation to foster care, adoption or child protective services apply.

Note:

Please refer to Attachment 1 for additional information on retention, sealing and expungement guidelines from OCFS. Both electronic and paper copy case records are to be expunged when the retention time is reached, however the responsibility to expunge CNNX records lie solely with the OCFS. Provider agencies are responsible for implementing the retention, sealing and expungement standards for their paper documents.⁵

2. *Foster Care Case Records*⁶

All non-adoption foster care case records and all records containing other services provided from the point of the case opening until the point that the case closes, must be retained for a minimum of 30 years following the last child's discharge date (based on family composition when the case closes).⁷

3. *Adoption Services Case Records*⁸

All records and files pertaining to adoption of children in foster care must be permanently sealed and retained by the provider agency.⁹

⁴ 18 NYCRR 428.10(a)(5)(ii).

⁵ 05-OCFS-ADM-02.

⁶ 18 NYCRR 428.10(a)(5)(i).

⁷ All medical records used in the provision of services to a child in foster care becomes a foster care record and must be retained accordingly.

⁸ 18 NYCRR 428.10(a)(5)(iv).

⁹ Sealing requires putting systems in place to ensure that the information in the case record remains permanently unavailable for use except as legally prescribed. Sealed records should be stored in a manner that prevents the information from being misused.

4. Other Records (Non-Child Welfare/Administrative)

All provider agencies or programs must retain their non-child welfare or administrative records, and other documents, for seven (7) years after the final payment or termination of their contract, whichever is later. The City, State and Federal auditors and any other persons duly authorized by the Children's Services must be permitted complete access to such records and allowed to examine the records during this period.¹⁰

SPECIAL CIRCUMSTANCES

All preventive and foster care agencies are expected to comply with the guidelines outlined below.

I. Fatality Case Records

In the event that a child receiving preventive or foster care services dies, it is required that once a child fatality becomes known to Children's Services, the provider agency cooperates with Children's Services efforts to obtain the case record.

The provider agency shall, upon learning of the death of a child who is currently or was previously a recipient of the agency's services, immediately secure the case record in the office of the Executive Director or his/her designee and make the record available upon Children's Services' request.

II. Record Requests from Individuals Previously in Foster Care

An individual who is 18 years and older, who was discharged from foster care and was not adopted, may receive access to his or her foster care records.¹¹ S/he must submit a written request detailing the specific information sought and include a copy of a document verifying his or her identity.

Foster care record to be shared includes:¹²

- i. health and medical records, including medical and mental health histories of the child and his or her birth parents, to the extent available;
- ii. educational records;
- iii. social history, assessment and service plan documents and plan amendments in the form and manner required at the time such documents were completed, or which predate uniform case recording requirements;
- iv. progress notes;
- v. face sheet or equivalent, and any other documents which identify and describe family members, including but not limited to parents, guardians, siblings and half siblings, and grandparents; and placement information.

Upon request, an individual who was in foster care may only receive confidential HIV-related information concerning him or herself.

¹⁰ Please refer to Preventive and Foster Care services contract for additional information.

¹¹ As term is defined in paragraph (2) of subdivision (b) of NYCRR 428.8

¹² 18 NYCRR 428.8(b)(2).

Access to a foster care record must be granted in one of the following methods as chosen by the foster care agency:

1. A summary statement containing the requested information;
2. A copy of the entire foster care record;
3. A copy of the sections of the record containing the requested information;
4. A personal review of the applicable records by the individual within the foster care agency's facility, when mutually convenient for him/her and the foster care agency; or
5. Any combination of the above.

III. Closing Of Agency or Program

Prior to an agency or one of its programs ceasing operation, all case records pertaining to children currently in its care must be transferred to an agency that is assuming service responsibility for such children. The agency must provide OCFS with a plan for maintenance of case records regarding children who had previously received services or had been in the care of the agency.¹³

Case Records (Child Welfare)

As described earlier, New York State OCFS regulations require that preventive and foster care records be retained according to prescribed retention schedule (see "Retention" on page 2). In the event that the entire agency is closing and the agency is unable to retain these records in storage, the agency must contact:

- its ACS Agency Program Assistant Unit Representative to discuss close down protocols; and
- the ACS Contract Management Unit to provide instructions for pickup and archiving of the records.

For additional information on this policy please contact Glen Anthony Henry, Procedures Writer of the Policy and Procedures Unit at (212) 341-3192.

¹³ See, 18 NYCRR 441.7.

RETENTION, SEALING AND EXPUNGEMENT OF CHILD WELFARE RECORDS

Program Area	Application	Retention	Sealing	Expungement
Preventive ¹⁴ Services	Applies solely to preventive cases where there has been no child protective services or foster care services provided between the case opening and case closing	For six years after the 18 th birthday of the youngest child in the family	None	All records of a child and family receiving preventive services must be expunged six years after the 18 th birthday of the youngest child in the family
Child Protective Services	Applies to the child protective services intake and investigation and also applies to the child protective services case where there has been no foster care or preventive services provided between case opening and case closing	<i>Unfounded / sealed</i> CPS reports for ten years after the date of the intake report	All Unfounded reports	All information in <i>Unfounded</i> CPS reports must be expunged ten years from the date of the report to the SCR
		<i>Indicated</i> CPS reports for ten years after the 18 th birthday of the youngest child named in the report		All information in <i>Indicated</i> CPS reports must be expunged ten years after the 18 th birthday of the youngest child named in the report
Foster Care	Applies to foster care cases and all other services provided in these cases between the case opening and case closing when the child has not been adopted	<i>Retention Minimum</i> -Records of a child in foster care must be retained for a minimum of 30 years following the discharge of the child from foster care	None	None
Adoption	Applies to the foster care and adoption records of children who have been adopted	Retain records permanently	All information in the record must be sealed permanently at the time of finalization	None

The expungement of individual identifiable information from the CONNECTIONS system includes the elimination of electronic data and any information from the electronic system or the elimination of the electronic data required to access such information. Implementation of the retention, sealing and expungement standards for paper documents and all other external documentation maintained by a social services district or agency is its responsibility.

¹⁴ **Note:** ACS informs that according to state regulations 18 NYCRR§ 428.10 (a)(ii) where preventive services are provided in conjunction with or in addition to foster care, adoption or child protective services, the applicable standards for record retention in relation to foster care, adoption or child protective services apply.