

ALABAMA DEPARTMENT OF HUMAN RESOURCES GENERAL ADMINISTRATION  
DIVISION  
ADMINISTRATIVE CODE

CHAPTER 660-1-6  
CONFIDENTIAL MATERIALS

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660-1-6-.01      Definitions.

(1) "Access." As used in this chapter, "access" refers to disclosure and release of Department records.

(2) "Disclosure or Disclosed." As used in this chapter, "disclosure" or "disclosed" refers to oral or written acknowledgment or revelation of certain information contained in Departmental records, but not actual release of documents contained in those records.

(3) "Confidential Materials." Information and records made confidential by law, court decision, rule of court or Departmental rule, and including, but not limited to:

(a) materials received by a public officer in confidence;

(b) sensitive personnel materials;

(c) materials on pending criminal investigations;

(d) material whose release would be detrimental to the public interest;

(e) intra-governmental executive privilege materials reflecting advisory opinions, recommendations and deliberations by government officials and employees in the course of decision making and policy formulation;

(f) other recognized privileged materials such as those covered by the attorney-client, attorney work-product, and confidential informer privilege;

(g) materials not constituting information or records of the business and activities of the Department.

(4) "Information." As used in this chapter, "information" refers to oral or written statements.

(5) "Records." As used in this chapter, "records" refers to reports, documents, papers, books, and other tangible things.

(6) "Release." As used in this chapter, "release" refers to freeing, publishing, delivering or allowing access or inspection of Department records, including photostatic reproduction of such records.

(7) "Media." As used in this chapter, "media" refers to various channels of communication including but not limited to, print or broadcast of communications.

**Author:** James E. Long.

**Statutory Authority:** Code of Ala. 1975, §§26-14-8, 38-2-6, 38-7-13, 41-22-4.

**History:** Effective March 22, 1985. Amended effective November 25, 1992.

#### **660-1-6-.02      Cases Referred By The Department.**

Where a case has been referred to the Attorney General or a District Attorney or an approved Department attorney by the Department, disclosure and release of records and all other confidential information relating to the particular incident(s) referred shall be allowed without a subpoena to the person to whom referred.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§26-14-8, 38-2-6, 38-7-13, 41-22-4.

**History:** Effective March 22, 1985. Amendment effective June 10, 1985.

**660-1-6-.03      Cases Not Referred By The Department.**

(1) Where a case has not been referred to the Attorney General or a District Attorney or an approved Department attorney by the Department, disclosure and release of records and other confidential information shall be allowed only upon receipt of an Alabama subpoena or subpoena duces tecum (a subpoena to produce documents) issued by either the Attorney General, District Attorney, a grand jury, or a court of law. The subpoena or subpoena duces tecum shall name the person whose records are sought and only those records named in the subpoena shall be released. Subpoenas are sufficient Authority to release records and other confidential information in fraud cases involving programs administered by the Department being investigated by the Attorney General, a District Attorney, a grand Jury, or other law enforcement officials. Subpoenas issued in cases not referred by the Department or not involving program-related fraud investigations shall be resisted by apprising the Court of the relevant law and asking for a judicial determination or by filing a motion for a protective order. Subpoenas issued by law courts outside Alabama, ecclesiastical courts or by agencies or other administrative bodies shall also be resisted by refusal to disclose or release the requested information without a competent Alabama or federal court order.

(2) Notwithstanding 660-1-6-.03(1) above, disclosure and release of Departmental records or other confidential information in cases not referred by the Department may be allowed:

(a) Upon an order of a court of competent jurisdiction.

(b) As part of on-going court litigation.

(c) In anticipation of or to prevent court litigation.

(d) Where disclosure or release is allowed or required by law or otherwise determined to promote the functions of the Department.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§26-14-8, 38-2-6, 38-7-13, 41-22-4.

**History:** Effective March 22, 1985.

**660-1-6-.04      Records To Be Removed From The Office.**

(1) In cases not referred by the Department, a subpoena to produce documents (called a subpoena duces tecum) shall be received before any original case record, or copies thereof, can be removed from

the office to be produced and released elsewhere. A subpoena duces tecum shall also be received in situations requiring removal of the case record or parts of the case record from the office, regardless of whether the documents will leave the physical custody of the Department.

(2) In cases referred by the Department, the Attorney General, District Attorney, or approved Department attorney should issue, or have issued, a written request or a subpoena in situations requiring the removal of the original case record from the office for trial, handwriting analysis, or any other reason. However, in cases referred by the Department, and in situations falling under Rule 660-1-6-.05, copies of material contained in the case record may be made and released to the Attorney General, District Attorney, or approved attorney without a written request or a subpoena or subpoena duces tecum.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§26-14-8, 38-2-6, 38-7-13, 41-22-4.

**History:** Effective March 22, 1985.

**660-1-6-.05      Child Abuse And Neglect Records.**

Child Abuse and Neglect (CA/N) records and other confidential information shall not be used or disclosed for any purposes other than:

(a) persons in a position to help or assist in the prevention or discovery of abuse or neglect of children through the information contained therein;

(1) Upon approved request, to an employer or potential employer of an employee where the employment involves care or supervision of children. An employer is one who engages persons for either paid or voluntary positions. This would include a public or private child care agency, center or institution in clearing persons who are applying for employment or to be foster or adoptive parents. This would include organizations such as Boy Scouts, Girl Scouts, summer camp programs, YMCA, etc. All requests must be submitted on an approved Department form. Clearance through the Child Abuse/Neglect Registry will be limited to persons listed as perpetrators or alleged perpetrators. Information will be released only upon a determination by the State Department that the information in the Central Registry will help discover or prevent abuse or neglect of children.

(b) police or other law enforcement agencies conducting a child abuse and neglect investigation;

(c) a grand jury where it determines that the information is necessary to the conduct of its original business;

(d) a court of law where it finds that such information is necessary for the determination of an issue before the court;

(e) a person involved in bona fide research approved by the Commissioner;

(f) a court appointed representative of an abused or neglected child who is the subject of the report;

(g) a physician who has before him a child he reasonably suspects may be abused or neglected; and

(h) to an attorney or guardian ad litem representing or defending a child or his or her parents or guardians in a court proceeding related to abuse or neglect of said child; provided however, requests made for circumstances not involving the custody determination of a child shall be made via a subpoena.

(i) to child support agencies, on indicated reports of suspected physical, sexual, or emotional abuse, for the purposes of establishing indicators of domestic violence or abuse. "Domestic violence or abuse" is defined as: "Physical acts that resulted in, or threatened to result in, physical injury; sexual abuse; sexual activity involving a dependent child; being forced as the caretaker relative of a dependent child to engage in non-consensual sexual acts or activities; threats of, or attempts at, physical or sexual abuse; mental abuse; neglect or deprivation of medical care; battery; or extreme cruelty."

**Author:** Joshua Lane

**Statutory Authority:** Code of Ala. 1975, §§26-14-8, 38-2-6, 38-7-13, 41-22-4.

**History:** Effective March 22, 1985. Emergency amendment effective November 22, 1989. Succeedent permanent amendment effective March 9, 1990. **Amended:** Filed February 18, 1999; effective March 25, 1999. **Amended:** Published March 31, 2022; effective May 15, 2022.

#### 660-1-6-.06

#### Client Access To Records.

(1) As a general rule, applicants, clients, and recipients or their representatives are not entitled to access to their case records or other confidential information.

(2) Where the Department has taken adverse action and a Department administrative hearing has been requested, the affected applicant, client, or recipient, or their Authorized representative, shall, upon request, have access to that portion of the case record

relating to the adverse action expected to be placed in evidence at the hearing. Confidential information, such as Child Abuse and Neglect reports and records, shall remain confidential and not subject to release or disclosure unless it will be placed in evidence at the hearing.

(3) Applicants, clients, recipients, or their Authorized representatives are entitled to access to Child Abuse and Neglect reports and records where disclosure or release is Authorized by law as outlined in Rule 660-1-6-.05.

(4) Applicants, clients, recipients or their authorized representatives are entitled to access where a court of law of competent jurisdiction has ordered access to the case records.

(5) Applicants, clients, recipients or their Authorized representatives are entitled to access where federal or state laws or regulations or other Administrative Rules of this Department require or allow access to the case records.

(6) Upon reaching age 19, any person placed by the Department or a licensed child-placing agency shall be entitled to receive from the Department information concerning his placement, except, the name and address of a natural parent or relative shall be disclosed by the Department only with the consent of the natural parent or relative. If the natural parent(s) are dead, information may be disclosed or released concerning their names and addresses, even though their consent had not been secured prior to the time information is sought.

(7) The Department shall disclose information on the amount of assistance or period of eligibility of a client at the request of the client or with the client's consent.

(8) The provisions of this rule also apply to persons holding licenses, permits, or approvals issued by the Department.

(9) Child support payment records contain confidential information and may not be disclosed outside the administration of the IV-D program. Payment records may be released to the custodial or noncustodial party to whom they pertain. They may be provided to the courts and other entities or individuals if it is for the purpose of the IV-D program (i.e. enforcing and collecting child support). Payment records may only be released to individuals or entities outside the administration of the IV-D program with signed authorization from the custodial or noncustodial parent. Payment information is available to the custodial or noncustodial party in a variety of formats, including information available in person, by telephone, via the Internet, in paper or electronic form. The terms of the court order may also be released with the payment history.

**Author:** James E. Long

**Statutory Authority:** Code of Ala. 1975, §§26-14-8, 38-2-6, 38-7-13, 41-22-4.

**History:** Effective March 22, 1985. Amendment effective May 10, 1985. **Amended:** Filed January 5, 2004; effective February 9, 2004.

**Amended:** Filed August 6, 2009; effective September 9, 2009.

**660-1-6-.07      Access To Licensure Or Approval Information.**

(1) Upon the request of any competent adult, information on whether any particular named person, group of persons, agency, association, or organization does or does not have a license, permit, approval, church or religious nonprofit exemption issued by the Department to operate a child care facility shall be disclosed or released. At the discretion of the Department, statewide information may be disclosed or released.

(2) Upon the request of any competent adult, the names and addresses of Department licensed child care facilities located in a particular geographic area or county shall be disclosed or released. At the discretion of the Department, statewide information may be disclosed or released.

(3) Upon the request of any competent adult, the names and addresses of any church or religious nonprofit child care facility holding an exemption issued by the Department located in a particular geographic area or county shall be disclosed or released. At the discretion of the Department, statewide information may be disclosed or released.

(4) Upon the request of any competent adult, the most current annual notice and affidavits submitted by any church or religious nonprofit child care facility holding an exemption issued by the Department shall be disclosed or released.

(5) The provisions of Rule 660-1-6-.07 do not apply to foster family homes. Foster family homes approval information shall remain confidential but may be disclosed or released under circumstances outlined in Rule 660-1-6-.03(2), and names and addresses of foster family homes and other non-confidential information, such as financial information, may be disclosed or released by the Department or child-placing agency with the consent of the foster parents.

(6) The provisions of Rule 660-1-6-.07 apply only to non-confidential information on Day Care and Nighttime Homes. Day Care and Nighttime Homes license information may also be disclosed or released under circumstances outlined in Rule 660-1-6-.03(2). Names and addresses of Day Care and Nighttime Homes may be released or disclosed upon request. Other non-confidential information, such as financial information, may be released or disclosed with the consent of the licensee.

(7) Upon the request of any adult, non-confidential information, including license inspection forms and founded/indicated complaints of violations of the Code of Ala. 1975, Title 38, Chapter 7, Minimum Standards, or Administrative Rules of this Department by individual unlicensed or non-exempt child care facilities or those facilities located in a particular geographic area or county may be disclosed or released. Except for official determinations relating to character and suitability to be involved in child care, information relating to the character and good name of any particular unlicensed or non-exempt person, group of persons, agency, association, or organization shall not be disclosed or released. Child abuse or neglect complaints and records shall not be disclosed or released except as provided for in Rule 660-1-6-.05. Names and facts learned about children and their families shall remain confidential. Information gathered in a pending investigation may be withheld upon a determination that disclosure of the information will complicate, compromise, or interfere with the investigation. Founded/indicated child care license complaint information includes only:

- (a) Child Care Minimum Standards violating actually observed by the licensing consultant or other DHR personnel;
- (b) Child Care Minimum Standards violations admitted to by facility personnel;
- (c) Child Care Minimum Standards violations determined by an administrative or court decision.

(8) Upon the request of any adult, non-confidential information, including license inspection forms and founded complaints of violations of the Code of Ala. 1975, Title 38, Chapter 7, Minimum Standards, or Administrative Rules of this Department by individual licensed or exempt child care facilities or those facilities located in a particular geographic area or county may be disclosed or released. Except for official determinations relating to character and suitability to be involved in child care, information relating to the character and good name of any particular licensed or exempt person, group of persons, agency, association, or organization shall not be disclosed or released. Child abuse or neglect complaints and records shall not be disclosed or released except as provided for in Rule 660-1-6-.05. Names and facts learned about children and their families shall remain confidential. Information gathered in a pending investigation may be withheld upon a determination that disclosure of the information will complicate, compromise, or interfere with the investigation. Founded/indicated child care license complaint information includes only:

- (a) Child Care Minimum Standards violating actually observed by the licensing consultant or other DHR personnel;



(b) Child Care Minimum Standards violations admitted to by facility personnel;

(c) Child Care Minimum Standards violations determined by an administrative or court decision.

(9) alleged or suspected violations of federal, state or local government statutory or regulatory requirements such as labor, health, fire and safety violations may be forwarded to the appropriate government agency for investigation.

(10) Adult foster care providers, foster parents and other residential licensed and exempt child care providers may release requested information to U.S. Census officials for census and survey purposes as required by law. 13 U.S.C. §221 et. seq.

**Author:** James E. Long

**Statutory Authority:** Code of Ala. 1975, §§26-14-8, 38-2-6, 38-7-13, 41-22-4; P.L. 101-408, §5082; 45 C.F.R. §98.32.

**History:** Effective March 22, 1985. Emergency amendment effective January 8, 1992. Succeedent permanent amendment effective April 10, 1992. Amended effective November 25, 1992. **Amended:** Filed November 5, 1997; effective December 10, 1997. **Amended:** Filed May 6, 2010; effective June 10, 2010.

#### **660-1-6-.08      Access Within The Department.**

(1) As a general rule, access to case records and other confidential information among Department Bureaus, Divisions, and Departments shall not be allowed.

(2) Child Abuse and Neglect records and other confidential information may only be disclosed or released under those circumstances as outlined in Rule 660-1-6-.05, or to the Division of Legal Services, Division of County Operations, or those administrators or Department personnel with a need to know.

(3) Child foster care and adoption assistance case records or other confidential information may be disclosed or released in connection with programs operated under Titles I, IV-A, IV-B, IV-C, IV-D, V, X, XIV, XVI, XVI (SSI), XIX, or XX of the Social Security Act and the TANF/JOBS program. Such records or information may also be disclosed or released in connection with other federal or federally assisted programs providing assistance, in cash, or in kind, or services, directly to individuals on the basis of need.

(4) Temporary Assistance to Needy Families (TANF) and Job Opportunities and Basic Skills Training (JOBS) case records and other confidential information may be disclosed or released in connection with programs operated under Titles I, IV-A, IV-B, IV-C, IV-D, X, XIV, XVI (AABD), XVI (SSI), XIX, or XX of the Social

Security Act and the TANF/JOBS program. Such records or information may also be disclosed or released to other federal or federally assisted programs providing assistance, in cash, or in kind, or services, directly to individuals on the basis of need.

(5) Food stamp case records and other confidential information may be disclosed or released in connection with other federal or federally aided, means tested programs, such as Titles IV-A (AFDC), XIX (Medicaid), or XVI (SSI) or with general assistance programs subject to the joint processing requirements of 7 C.F.R. §273.2(j)(2) and the TANF/JOBS program.

(6) Child support case records and other confidential information may be disclosed or released in connection with programs operated under Titles II, IV-A, IV-B, IV-C, IV-D, X, XIV, XVI, XVI (SSI), XIX, or XX of the Social Security Act and the TANF/JOBS program. Such records or information may also be disclosed or released to any other federal or federally assisted programs providing assistance, in cash, or in kind, or services, directly to individuals on the basis of need.

(a) Upon request of the agency, the Department shall release or disclose to a consumer reporting agency information regarding the amount of overdue support owed by noncustodial parents who meet the following criteria:

(1) The custodial parent or caretaker of the child or children for whom the noncustodial parent owes support is a recipient of Title IV-D services.

(2) The overdue support is \$1,000.00 or more.

(3) There has been no good cause determination or court order otherwise prohibiting enforcement of a child support obligation.

(b) The Department shall provide advance notice to the absent parent who owes the support of the proposed release of information to specific consumer credit reporting agency or agencies. The Department shall also inform the noncustodial parent of the methods available to contest the accuracy of the information.

(1) The term "request" means a written statement asking for child support payment information on an individual, group, or all noncustodial parents. This request must also state that the requesting party is a consumer reporting agency under 15 U.S.C. §1681a.

(2) The term "consumer reporting agency" means any person which, for monetary fees, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit

information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

(7) Adult Protective Service Records and other confidential information may be disclosed or released only under those circumstances as outlined in Rule 660-1-6-.11, or to the Division of Legal Services, Division of County Operations, or those administrators or Department personnel with a need to know.

(8) Adult services records or other confidential information may be disclosed or released in connection with programs operated under Titles I, IV-A, IV-B, IV-C, IV-D, V, X, XIV, XVI, XVI (SSI), XIX, or XX of the Social Security Act and the TANF/JOBS program. Such records or information may also be disclosed or released in connection with other federal or federally assisted programs providing assistance, in cash, or in kind, or services, directly to individuals on the basis of need.

**Author:** Department of Human Resources

**Statutory Authority:** 7 U.S.C. §2020; 42 U.S.C. §§602, 671(a)(8), 1392a; 7 C.F.R. 272.1(c); 42 C.F.R. §431.306; 45 C.F.R. §§205.50(a)(1)(i), 303.105; Code of Ala. 1975, §§26-14-8, 38-2-6, 38-7-13, 38-9-6, 41-22-4.

**History:** Effective March 22, 1985; amendment effective June 10, 1985. Succedent amendment effective September 9, 1985. Succedent emergency amendment effective February 5, 1986. Succedent permanent amendment effective May 28, 1986. Succedent permanent amendment effective December 10, 1991. **Amended:** Filed March 7, 2007; effective April 11, 2007. **Amended:** Filed August 6, 2009; effective September 9, 2009.

#### **660-1-6-.09      Public Access To Records.**

(1) Where federal or state law or regulations require or allow access, the Department shall disclose and release Department records, or copies thereof, to state or federal agencies and other governmental entities to receive them.

(2) The Department may allow access to Department records, or copies thereof, and other confidential information to agencies and other governmental entities within or outside Alabama to which the Department has transferred cases,

(3) If allowed or required by law or determined to promote the functions of the Department, the Department may allow access to Department records, or copies thereof, and other confidential information to intrastate or interstate registries.

(4) Upon request, current address information on Family Assistance Program recipients shall be released to any federal, state or local law enforcement officer if the individual is fleeing to avoid prosecution, custody or confinement for a felony, the individual is violating a condition of parole or probation, or has information necessary for the officer to conduct an official duty related to a felony or parole/probation violation. The officer must furnish the recipient's name and notify the agency that locating or apprehending the individual is an official duty and the request is being made in the proper exercise of an official duty. The information may be disclosed or released only upon a oral or written request that contains (1) the name of the requester, (2) the requester's position and authority, (3) crime being investigated, (4) the name of the person on whom information is requested, and (5) the information being requested.

(5) Child Abuse and Neglect records and other confidential information may only be disclosed or released under those circumstances as outlined in Rule 660-1-6-.05, or to the Division of Legal Services, Division of County Operations, or those administrators or Department personnel with a need to know.

(6) Child foster care and adoption assistance case records or other confidential information may be disclosed or released in connection with programs operated under Titles I, IV-A, IV-B, IV-C, IV-D, V, X, XIV, XVI, XVI (SSI), XIX, or XX of the Social Security Act and the TANF/JOBS program. Such records or information may also be disclosed or released in connection with other federal or federally assisted programs providing assistance, in cash, or in kind, or services, directly to individuals on the basis of need.

(7) Family Assistance (FA) case records and other confidential information may be disclosed or released in connection with programs operated under Titles I, IV-A, IV-B, IV-C, IV-D, X, XIV, XVI (AABD), XVI (SSI), XIX, or XX of the Social Security Act. Such records or information may also be disclosed or released to other federal or federally assisted programs providing assistance, in cash, or in kind, or services, directly to individuals on the basis of need.

(8) Food stamp case records and other confidential information may be released in connection with other federal or federally aided, means tested programs, such as Titles IV-A (AFDC), XIX (Medicaid) or XVI (SSI) or with general assistance programs subject to the joint processing requirements also be disclosed or released to the Comptroller of the United States for audit purposes, as allowed by law, and to Federal, State or local law enforcement officials investigating violations of the Food Stamp Act or regulations.

(9) Child support case records and other confidential information may be disclosed or released in connection with programs operated under Titles II, IV-A, IV-B, IV-C, IV-D, X, XIV, XVI, XVI (SSI),

XIX, or XX of the Social Security Act and the TANF/JOB program. Such records or information may also be disclosed or released to any other federal or federally assisted programs providing assistance, in cash, or in kind, or services, directly to individuals on the basis of need.

(a) Upon request of the agency, the Department shall release or disclose to a consumer reporting agency information regarding the amount of overdue support owed by noncustodial parents who meet the following criteria:

1. The custodial parent or caretaker of the child or children for whom the noncustodial parent owes support is a recipient of Title IV-D services.
2. The overdue support is \$1,000.00 or more.
3. There has been no good cause determination or court order otherwise prohibiting enforcement of a child support obligation.

b) The Department shall provide advance notice to the noncustodial parent who owes the support of the proposed release of information to specific consumer credit reporting agency or agencies. The Department shall also inform the noncustodial parent of the methods available to contest the accuracy of the information.

1. The term "request" means a written statement asking for child support payment information on an individual, group, or all absent parents. This request must also state that the requesting party is a consumer reporting agency under 15 U.S.C. §1681a.
2. The term "consumer reporting agency" means any person which, for monetary fees, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

(c) Child support payment records contain confidential information and may not be disclosed outside the administration of the IV-D program. Payment records may be released to the custodial or noncustodial party to whom they pertain. They may be provided to the courts and other entities or individuals if it is for the purpose of the IV-D program (i.e. enforcing and collecting child support). Payment records may only be released to individuals or entities outside the administration of the IV-D program with signed

authorization from the custodial or noncustodial party. Child support payment information is available to the custodial or noncustodial parent in a variety of formats, including information available in person, by telephone, via the Internet, in paper or electronic form. The terms of the court may also be released with the payment history.

(10) The Department may disclose child foster care or adoption information to various media organizations and other persons in order to provide the permanent planning for and the placement of children or where it is determined that such disclosure will promote the functions of the Department.

(11) Department records and other confidential information shall be disclosed and released to the Attorney General, District Attorney, or approved Department attorneys for the purpose of program fraud investigation, assistance and prosecution as outlined by rules contained in this chapter.

(12) Adult Protective Service Records and other confidential information may be disclosed or released only under those circumstances as outlined in Rule 660-1-6-.11, or to the Division of Legal Services, Division of County Operations, or those administrators or Department personnel with a need to know.

(13) Adult services records or other confidential information may be disclosed or released in connection with programs operated under Titles I, IV-A, IV-B, IV-C, IV-D, V, X, XIV, XVI, XVI (SSI), XIX, or XX of the Social Security Act and the TANF/JOBS program. Such records or information may also be disclosed or released in connection with other federal or federally assisted programs providing assistance, in cash, or in kind, or services, directly to individuals on the basis of need.

(14) Provided no state or federal law specifically prevents it, record custodians of the Department as defined in Rule 660-1-6-.10 may disclose or release to any person statistical information on the number, race, sex or age of persons statewide or in a certain geographical area applying for, denied, receiving or terminated from programs operated by the Department. The Department may also disclose or release to any person statistical information on the number and type of adult or child abuse, neglect or exploitation complaints statewide or in a certain geographic area, including statistical information on the disposition of the complaints.

(15) In the food stamp program, the Department may release or disclose information to federal, state or local law enforcement personnel investigating violations of the federal or state law relating to the unlawful use, transfer, acquisition, alteration, possession, presentation or receipt of food stamp payments, benefits, coupons or Authorization cards. The information may be disclosed or released only upon a written request that contains (1) the name of the requester, (2) the requester's position and

Authority, (3) crime being investigated, (4) the name of the person on whom information is requested, and (5) the information being requested. However, information received through the Income Eligibility Verification System (IEVS) must be protected and may not be released or disclosed, except as permitted by the agreement with the IEVS provider.

(16) The Department shall disclose and release Department statistical information, records, or copies thereof, to any persons or entity involved in bona fide research approved by the Commissioner.

(17) In the Food Stamp Program, the department shall upon request provide to any Federal, State or local law enforcement officer the address, social security number, and (if available) photograph of a food stamp recipient if the officer furnishes the recipient's name and notifies the agency (a) that the individual is fleeing to avoid prosecution, custody or confinement for a felony, is violating a condition of probation or parole under State or Federal law or has information that is necessary for the officer to conduct an official duty related to a felony/parole violation and (b) that locating or apprehending the individual is an official duty and the request is being made in the proper exercise of an official duty. The information may be disclosed or released only upon a oral or written request that contains (1) the name of the requester, (2) the requester's position and Authority, (3) crime being investigated, (4) the name of the person on whom information is requested, and (5) the information being requested.

(a) Information obtained from the Child Abuse and Neglect Central Registry on indicated reports of suspected physical, sexual, or emotional abuse, and information obtained by clients regarding domestic violence or abuse, and domestic violence or abuse information obtained from other sources, such as the protecting order registry maintained by the Administrative Office of Courts, may be released to federal and state agencies for the purposes of protection from domestic violence or abuse. "Domestic violence or abuse" is defined as, "Physical acts that resulted in, or threatened to result in, physical injury; sexual abuse; sexual activity involving a dependent child; being forced as the caretaker relative of a dependent child to engage in non-consensual sexual acts or activities; threats of, or attempts at, physical or sexual abuse; mental abuse; neglect or deprivation of medical care; battery; or extreme cruelty."

**Author:** Melody Armstrong

**Statutory Authority:** 7 U.S.C. §2020; 42 U.S.C. §§602, 671(a)(8), 1392a; 7 C.F.R. 272.1(c); 42 C.F.R. §431.306; 45 C.F.R. §205.50(a)(1)(i), §303.105; Code of Ala. 1975, §§13A-9-91, 26-14-8, 38-2-6, 38-7-13, 38-9-6, 41-22-4.

**History:** Effective March 22, 1985; amendment effective June 10, 1985. Succeedent amendment effective September 9, 1985. Succeedent emergency amendment effective February 5, 1986. Succeedent

permanent amendment effective May 28, 1986. Succedent permanent amendment effective January 12, 1987. Succedent permanent amendment effective April 11, 1988. Succedent permanent amendment effective December 10, 1991. Succedent permanent amendment effective March 11, 1996. Succedent emergency amendment effective September 19, 1996. **Amended:** Filed February 5, 1996; effective March 11, 1996. Succedent permanent amendment effective January 9, 1997. **Amended:** Filed January 3, 1997; effective February 7, 1997. **Amended:** Filed February 18, 1999; effective March 25, 1999. **Amended:** Filed January 5, 2004; effective February 9, 2004. **Amended:** Filed March 7, 2007; effective April 11, 2007. **Amended:** Filed August 6, 2009; effective September 9, 2009. **Amended:** Published December 31, 2020; effective February 14, 2021.

#### **660-1-6-.10      Custodians Of Case Records.**

The Commissioner of the State Department of Human Resources is the official custodian of all Department case records and confidential information. The Commissioner may designate persons, from time to time, and delegate Authority over access or approve access of Department case records. Authority is delegated to all County Department Directors and State Department Administrators, Bureau Directors, and Supervisors to accept requests for access or approve access of Department case records under their control, in accordance with the rules in this chapter and state and federal law. Persons delegated Authority may designate other persons under their supervision and give them Authority to make decisions on access to Department case records.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§26-14-8, 38-2-6, 38-7-13, 41-22-4.

**History:** Effective March 22, 1985.

#### **660-1-6-.11      Adult Protective Service Records.**

(1) Adult Protective Service Records and other confidential information shall be disclosed and released without a subpoena to:

- (a) persons in a position to help or assist in the prevention or discovery of abuse or neglect of adults through the information contained therein;
- (b) police or other law enforcement agencies conducting an adult abuse and neglect investigation;
- (c) a grand jury where it determines that the information is necessary to the conduct of its official business;



(d) a court of law where it finds that such information is necessary for the determination of an issue before the court;

(e) a person involved in bona fide research approved by the Commissioner;

(f) a physician who has before him an adult he reasonably suspects may be abused or neglected;

(g) a guardian or guardian ad litem representing or defending an adult in a court proceeding related to abuse or neglect of said adult; and

(h) a fatality review panel or team.

(2) Notwithstanding Rule 660-1-6-.11(1), upon receipt of a request from any source outside the Department, confidential information may only be disclosed or released with the permission of the client or client's family. In emergency situations, records and other confidential information may be released immediately and the client or client's family notified thereafter.

**Author:**

**Statutory Authority:** 42 U.S.C. §1392a; 42 C.F.R. §431.306; Code of Ala. 1975, §§26-14-8, 38-2-6, 38-7-13, 38-9-6, 41-22-4.

**History:** Effective June 10, 1985. **Amended:** Filed August 3, 2007; effective September 7, 2007.

**660-1-6-.12**

**Access To Records By Regulatory Groups.**

(1) Child and adult care license and approval information and records (except abuse and neglect information and records) may be released to any government or professional regulatory agency or group with a legitimate regulatory interest in the activities of the holders or prospective holders of licenses and approvals.

(2) Child and adult abuse and neglect information and records may be disclosed and released to any government or professional regulatory agency or group with a legitimate regulatory interest in the activity of the holders of licenses and approval. Decisions regarding disclosure of such information and records shall be made on a case-by-case basis based upon a determination that the release or disclosure will help prevent or discover abuse or neglect.

(3) Child and adult abuse and neglect and service information and records may be disclosed and released to any government or professional regulatory agency or group with a legitimate regulatory interest in the activities of perpetrators or alleged perpetrators of abuse or neglect. Decisions regarding release and disclosure of such information and records shall be made on a

case-by-case basis based upon a determination that the release or disclosure would help prevent or discover abuse or neglect.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§26-14-8, 38-2-6, 38-7-13, 38-9-6.

**History:** Emergency Rule effective September 19, 1990. Succedent permanent rule effective December 7, 1990.

**660-1-6-.13      Access Verification.**

(1) Where state or federal law or regulations require or allow access to DHR materials, records, and information, the Revised 5\15\22 1-6-20 Department may require identity verification and/or a written request or statement from the requestor containing (1) the name of the requestor, (2) the requestor's position and Authority, (3) the reason or purpose for which access is being sought, (4) the name of the person on whom materials are requested, and (5) the materials, records, or information being sought.

**Author:** James E. Long

**Statutory Authority:** Code of Ala. 1975, §§26-14-12, 38-2-6(8), 38-7-13, and 38-9-6(e).

**History:** Effective April Reports and information received by Department personnel of 12, 1993.

**660-1-6-.14      HIPAA Privacy Policy.**

(1) General: "HIPAA" stands for the Health Insurance Portability and Accountability Act (Public Law 104-191), a federal law passed in 1996 to reform health insurance in the United States. The HIPAA Privacy Rule—finalized as federal regulations (45 C.F.R. Parts 160 and 164) on August 14, 2002 – ensures that personal medical information shared with doctors, hospitals, and others who provide and pay for healthcare is protected. It is the first ever comprehensive federal protection guideline for the privacy of health information. Basically, the HIPAA Privacy Rule does the following:

(a) Imposes new restrictions on the use and disclosure of personal health information,

(b) Gives clients greater access to their medical records, and

(c) Gives clients greater protection of the medical records. This Notice of Privacy Practices describes how the Department of Human Resources uses and discloses an individual's "protected health information" (PHI) to arrange treatment, payment, or health care operations; for other purposes that are permitted or required by law; and the individual's rights

to access and control his or her "protected health information".

(2) Business Associate Agreements:

(a) The HIPAA Privacy Rule requires the Department to enter into business associate agreements governing the use and disclosure of PHI in situations where the Department shares PHI with the business associate. A "business associate" is one who:

(i) Works on behalf of the department to perform or assist in performing or participates in performing a function or activity that involves the use or disclosure of individually identifiable PHI, including:

- (a) Claims processing or administration;
- (b) Data analysis, processing, or administration;
- (c) Utilization review;
- (d) Quality assurance;
- (e) Billing;
- (f) Benefit management;
- (h) Practice management;
- (i) Re-pricing; or
- (j) Any other function or activity regulated by the HIPAA Privacy Rule;

or

(ii) Performs a service, such as legal, accounting, or financial services, for a covered entity "where the provision of the service involves the disclosure of individually identifiable health information," including:

- (a) Legal services;
- (b) Actuarial services;
- (c) Accounting services;
- (d) Consulting services;
- (e) Data aggregation services;
- (f) Administrative services;

(g) Accreditation services; or Revised 5\15\22 1-6-22

(h) Financial services.

(3) How the agency may use and disclose health information about individuals:

(a) The Department of Human Resources may use and disclose health information about an individual to arrange treatment (such as sending health information about the individual to home health agencies, physicians, or other specialists as part of a referral); to obtain payment for treatment (such as sending billing information to Medicaid). The agency may also use or disclose, as needed, an individual's protected health information in order to support the business activities of the agency. These activities include, but are not limited to, quality assessment activities, training of agency staff, licensing, and conducting or arranging for other business activities.

(b) Subject to certain requirements and as required by law, the agency may use and disclose health information about an individual without prior authorization for any of the following purposes: public health; law enforcement; legal proceedings; abuse, neglect, exploitation reporting; health oversight audits or inspections; research studies; coroner or medical examiner; funeral arrangements and organ donation; criminal; emergencies; in response to valid judicial or administrative orders or subpoenas; and where necessary to prevent or lessen criminal activity which poses a risk or imminent threat to the health or safety of a person or the public.

(c) The agency may use and disclose health information to government agencies, such as the Social Security Administration and the Veterans Administration, for government benefit eligibility purposes.

(d) The agency may also contact an individual for an appointment reminder by phone or mail. The agency may also tell the individual about or recommend possible treatment alternatives, health-related benefits, or services that might be of interest to that individual.

(e) The agency may also use or disclose health information if an individual is an inmate of a youth services, detention, or correctional facility and that individual's "protected health information" is needed in the course of providing care to the individual.

(f) The agency may use or disclose health information about an individual to a parent, other family member, friend, caregiver, or other individuals who are involved in that

individual's health care. If the individual is unable to agree or object to such disclosure, the agency may use or disclose such information as necessary if it determines that it will protect the individual's interest based on the professional judgment of agency staff.

(g) The agency may use or disclose an individual's "protected health information" in an emergency treatment situation if, in the professional judgment of agency staff, the use or disclosure is in the individual's best interest. If so, the agency will disclose only the "protected health information" that is directly relevant to the person's involvement with the individual's health care.

(h) In any other situation not covered by the above, the agency will ask for an individual's written authorization before using or disclosing health information about that individual. If the individual chooses to authorize the use or disclosure, he or she can later revoke that authorization by notifying the agency in writing of his or her decision.

(4) Individuals' rights regarding their health information:

(a) Right to inspect and copy health information: The client has the right to inspect and copy his/her PHI. This means the client may inspect and obtain a copy of PHI contained in the record, including medical and billing records. Under federal law, however, the client may not inspect or copy the following records: psychotherapy notes; information compiled in reasonable anticipation of, or use in, a civil, criminal, or administrative action or proceeding; such as a child or adult abuse investigation, and PHI subject to law that prohibits access to PHI. DHR may deny a client access to PHI without providing an opportunity for review if the PHI relates to any of the above or if the PHI was obtained from someone other than a health care provider under a promise of confidentiality and the access requested would be reasonably expected to reveal the source of the information. Depending on the circumstances, a decision to deny access may be reviewable on the request of the client. There are state laws that make DHR records confidential Revised 5\15\22 1-6-24 and not subject to public disclosure. Code of Ala. 1975, §§28-2-6(8) (all benefit and service records), 26-14-8(c) (child abuse/neglect records) 38-9-6(e) (adult protective service records), and 38-7-13 (child care licensing/approval records). In most cases, therefore, PHI in DHR records is not available for inspection. Food Stamp client records which contain PHI are open to inspection by the client.

(b) Right to request restrictions: Clients have the right to request a restriction of their PHI. This means the client may ask DHR staff not to use or disclose any PHI for the purposes of treatment, payment, or healthcare operations. The client

may also request that any part of his/her PHI not be disclosed to family members or friends who may be involved in his/her care or for notification purposes as described in the Notice of Privacy Practices. DHR staff are not required to agree to a restriction that the client may request. If DHR staff believe it is in the client's best interest to permit use and disclosure of the client's PHI, the PHI shall not be restricted. If DHR staff do agree to the requested restriction, PHI may not be used or disclosed in violation of that restriction unless it is needed to provide emergency treatment.

(c) Right to receive confidential communications: The client has the right to request that confidential communications from the agency be sent by alternative means or to an alternative location. DHR staff shall accommodate reasonable requests. DHR staff may also condition this accommodation by asking the client for information as to how payment will be handled or specification of an alternative address or other method of contact. DHR staff will not request an explanation from the client as to the basis for the request. Such requests must be made in writing to the Civil Rights and Equal Employment Partnership.

(d) Right to amend health care information: The client has the right to request that DHR amend PHI. The client may request an amendment of PHI in the DHR case record. In certain cases, DHR staff may deny a client's request for an amendment. If DHR staff deny the request for amendment, the client has the right to file a statement of disagreement with the agency. The agency may then prepare a rebuttal to the client's statement and provide the client with a copy of any such rebuttal.

(e) Right to an accounting: The client has the right to receive an accounting of certain disclosures, if any, DHR staff has made of the client's PHI. This right applies to disclosures for purposes other than treatment, payment, or healthcare operations as described in DHR's Notice of Privacy Practices. The right to receive an accounting excludes disclosures DHR staff may have made to the client, for a client directory or list, to family members or friends involved in the client's care, or for notification purposes. The client has the right to receive specific information regarding any such disclosures that occur after April 14, 2003. The client may request a shorter timeframe. The right to receive this information is subject to the exceptions, restrictions, and limitations allowed by law. DHR staff may not release such information if it would violate the law, interfere with an agency investigation, or be detrimental to case planning or program objectives.

(f) Right to a copy of privacy policy. The client has the right to obtain paper copies of the DHR Privacy Notice,

privacy policy, and Administrative Letter No. 7020 upon request. The Privacy Notice, privacy policy, and Administrative Letter No. 7020 will be available on DHR's web site, [www.dhr.state.al.us](http://www.dhr.state.al.us).

(g) The agency must act on a request to inspect and copy PHI within thirty (30) days after receipt of a request (60 days if not on site, 90 days if written reasons for delay are given). The agency must act upon a request for restriction, to receive confidential communications, to amend health information or for an accounting of disclosures within sixty (60) days after receipt of the request (90 days if written reasons for delay are given) by granting or denying the request, in whole or in part, in writing. DHR may charge the client for the cost of copying, postage, and preparation of any explanation or summary of PHI released at the rate of 25 cents per page plus the salary rate of the staff labor spent on the production. A denial shall contain (1) the basis for the denial; (2) statements that the person may request a review and may file a complaint with DHR's Civil Rights and Equal Employment Partnership or the federal DHHS/OCR.

(h) In any other situation not covered by this notice, the agency will ask for an individual's written authorization before using or disclosing health information about that individual. If the individual chooses to authorize the use or disclosure, he or she can later revoke that authorization by notifying the agency in writing of his or her decision.  
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(5) Complaints:

(a) If an individual is concerned that his or her privacy rights may have been violated or disagrees with a decision the agency has made about access to that individual's information, the individual may contact the agency at this address: Civil Rights and Equal Employment Partnership, State of Alabama Department of Human Resources, P.O. Box 304000, Montgomery, Alabama 36130-4000, or telephone at (334) 242-1550.

(b) Finally, an individual may send a written complaint to the U.S. Department of Health & Human Services, Office of Civil Rights, 61 Forsyth Street, Suite 31370, Atlanta, GA 30301.

(c) Under no circumstances will an individual be penalized or retaliated against for filing a complaint.

**Author:** James E. Long

**Statutory Authority:** Public Law 104-191; 45 C.F.R. Parts 160 and 164.

**History:** **Emergency rule** effective April 11, 2003. **New Rule:** Filed July 7, 2003; effective August 11, 2003.

**660-1-6-.15      Electronic Records Policy.**

(1) **Legal Basis:** The Alabama Uniform Electronic Transaction Act, Code of Ala. 1975, §§8-1A-1 et seq., enacted in 2002 is intended to facilitate the use of electronic documents in business, commercial and governmental transactions. The Act promotes but not require the use of electronic signatures and creation of electronic documents. Code of Ala. 1975, §8-1A-18(a), the Alabama Uniform Electronic Transaction Act, passed in 2002 provides that "each government agency of this state with rule-making authority...may determine by rule whether, and the extent to which, it will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.." Section 8-1A-12(a) provides that an electronic record meets other state law requirements for record retention if the electronic record both accurately reflects the original document and is accessible for later reference. Section 8-1A-13 provides that an electronic record may not be excluded from evidence in court solely because it is in electronic form. Section 8-1A-12(g) provide that the State Records Commission is not precluded by the Act from placing additional requirements for record retention on agencies. The Department of Human Resources has decided to convert certain paper documents into electronic documents and has established this policy to comply with the Act.

(2) **Definitions:** Including the definitions provided in the Alabama Uniform Electronic Transactions Act, the following words where used in this chapter shall have the following meanings:

(a) **Act.** Alabama Uniform Electronic Transaction Act, Code of Ala. 1975, §§8-1A-1 et seq.

(b) **Department.** Alabama Department of Human Resources.

(c) **Electronic.** Relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, telephonic, or similar capabilities.

(d) **Electronic Record.** A record created, generated, sent, communicated, received, or stored by electronic means.

(e) **Electronic Signature.** An electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(f) **Information.** Data, text, images, sounds, codes, computer programs, software, databases, or the like.



(g) **Information Processing System.** An electronic system for creating, generating, sending, receiving, storing, displaying, or processing information.

(h) **Record.** Information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(i) **Transaction.** An action or set of actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs.

(3) **Use of Electronic Documents:** The Department may create a retrievable electronic record or copy, by optical scan Revised 5\15\22 1-6-28 or otherwise, of paper original documents or make other images or paper copies which accurately reproduce the originals, and may destroy original paper documents so copied as specified in the appropriate approved State Records Commission record retention schedule. Electronic copies of original documents, when certified by an authorized Department record custodian, are admissible in Department hearings or other administrative and judicial proceedings as authorized by the Act as through they were the original document. The electronic document retains the confidential or public document characteristics of the original document.

(4) **Electronic Signature Process:** The procedures in this subsection with respect to electronic signatures apply to any online application for services provided by any Division within the Department. When an applicant completes an online application for services using a DHR provided and maintained computer system, the applicant must complete the following steps which, considered together, will constitute a binding electronic signature:

(a) Provide full name of the applicant (First Name, Middle Name, Last Name, Suffix);

(b) Read a disclosure statement advising the applicant that the electronic signature he/she is about to create is legally binding;

(c) Enter a check in a checkbox indicating that the applicant has read the disclosure statement and understands that by checking the checkbox, he/she is electronically signing the application;

(d) Click a button or other link causing the completed application for services to be electronically transmitted to the Department for eligibility determination by Department personnel.

The information contained in this subsection constitutes the minimum that is required for a valid electronic signature. Any

Division within the Department may require additional reasonable information from an applicant.

**Author:** Jeff Barnes

**Statutory Authority:** Code of Ala. 1975, §§8-1A-7, 8-1A-12, 8-1A-13, 8-1A-18.

**History: New Rule:** Filed September 6, 2006; effective October 11, 2006. **Amended:** Filed February 9, 2011; effective March 16, 2011. Revised 5\15\22 1-6-30