

Lutheran Social Services (Upbring)

Family Services Policies and Procedures

August 2016

No. 1010

Confidentiality

- 1) Purpose: To establish confidentiality policy and responsibility of Upbring to safeguard information and/or records.
- 2) Scope: This policy outlines the safeguards that are in place to protect the information of clients or former clients of the Agency, sharing it only as a part of the administration of the service or with the consent of the client. This includes information regarding HIV, AIDS and other communicable diseases.
- 3) Policy:
 - a. Confidentiality/Right to Privacy: Safeguards that have been implemented to protect client information include:
 - i. Access to a client's record is limited to
 1. Personnel administering the client service delivery:
 - a. Family Services staff;
 - b. Subcontractor;
 - c. Secretarial staff, as needed;
 2. Regulatory or accrediting bodies, only when ensuring compliance with standards associated with the Agency's child placing permit, government contracts, service levels and accreditation activities.
 - ii. All persons with access to clients, client information and/or client records, and/or PQI materials are advised of the importance of confidentiality, including all agency personnel, contract staff and volunteers;
 - iii. No information is given to a caller inquiring about a client including whether the person is a client without the permission of that client;
 - iv. Interviews, conference, case consultations or phone communications are conducted in private when possible and ensure confidentiality of the information being shared;
 - v. All paper client records are secured in cabinets or file rooms and locked when unattended. For electronic records, computer systems, including confidentiality, passwords and employee procedures ensure security of the system;

- vi. Any person with possession of a client record becomes the guardian of that record until the record is returned to the file cabinet or file room;
 - vii. Client records or information pertaining to a particular client are cleared from view when others are present;
 - viii. Client records and client information are kept confidential in accordance with adoptive placement model (non-disclosed, semi-disclosed, and fully disclosed);
 - ix. Non-identifying information concerning any client is not shared with another client except in the facilitation of an adoption plan;
 - x. When completing a diligent search for a probable birth father, identifying information shared only with the written consent of the client;
 - xi. Identifying information is not shared within the adoption triad without the written consent of the triad member(s);
 - xii. No information is provided to any organization or person outside of the agency without written consent by the person about whom the information is being requested;
 - xiii. If it becomes evident that a client is a danger to him/herself or to others, the Family Services staff consults with their Area Director, Regional Director or Senior Vice President of Program Operations, unless danger is immediate, in which case the police are called immediately;
 - xiv. Health Insurance Portability and Accountability Act (HIPAA) related standards are followed; and
 - xv. If a record is subpoenaed, staff notifies the Upbring corporate office.
- b. Use of Photography: Upbring may release or otherwise use a photo or image of a child under the following circumstances:
- i. It is in the best interest of the child, poses no threat to the child's health or safety and to use the photo is not for any commercial use, publicity, pecuniary benefit or similar gain for Upbring or any other party;
 - ii. No reference is made to the fact the child is in the conservatorship of the Department of Family and Protective Services (DFPS) and the use does not stigmatize the child in any way; and
 - iii. The child (if old enough and developmentally able to read and write) approves of the release.
- c. Prior Written Permission to use Photography: Upbring is not required to receive prior written permission from the caseworker or chain of command in the following situations:
- i. The photo or image is released or otherwise used by the child or caregiver to the child's friend or to the caregiver's friends or family, including but not limited to school pictures traded with peers, or a family photo sent in a holiday card;

- ii. The photo or image is released by the child or caregiver to the biological family;
 - iii. The photo or image is used as a normal part of a school extracurricular activity, including but not limited to photos published in the school yearbook or a church newsletter, photos of honor roll students published in the local newspaper, or a group photo of a scout troop distributed to all the troop members and posted on a community youth center bulletin board, photos of the sports team posted in a social showcase, or other similar publication; and
 - iv. Any other release or use of photo or images of a child must be approved in writing by the case worker or chain of command.
- d. Right to Know: In the case of adoption, both law and wisdom dictate that the right to know certain information supersedes the right of privacy, such as:
 - i. A birth parent has the right to non-identifying information concerning the environment in which the child will be raised;
 - ii. Adoptive parents have the right to full disclosure of non-identifying information on their child's health, social history, educational and genetic background; and
 - iii. The adoptive child, as an adult, has the right to access all non-identifying information available on his/her background.
- e. Disclosure of Information: Information concerning a client is disclosed as follows:
 - i. All client records are available upon request for monitoring by the Licensing Division of DFPS;
 - ii. DFPS contract staff have the right of access to client records or other related client information for those clients served under contract with DFPS;
 - iii. Family Services staff advises birth and adoptive parents that information made available to Upbring concerning the development of a genetic condition, terminal illness, or death of an adopted child or a birth parent will be shared in writing with the respective birth or adoptive parents, if the parent(s) can be located; and
 - iv. Upon request, Upbring provides the adoptive child (if less than eighteen (18) with written consent from the adoptive parents or managing conservator) a copy of the de-identified adoption record or a summary thereof. The record includes the country and court of jurisdiction where the adoption took place.

Information provided by one triad member for another is share in accordance with the placement model. If the information is not wanted or deemed inappropriate:

1. The correspondent is asked to rewrite the communication;
or
2. The communication is placed in the record and the recipient advised of its availability.

Texas Law requires the release of the de-identified adoption record to the adult adoptee upon request. The adoption record is defined as all information received that bears the child's name or pertains to the child, including any information about the birth and adoptive parents.

Foster parents are required to maintain the confidentiality of the information they have concerning a foster child and that child's family. Foster parents sign a Confidentiality Policy (Form No.108.19) prior to or at the time of verification of their home. Foster parents abide by HIPAA rules regarding confidentiality of information.

- f. Client Communication with Media: If an adult client (defined in Policy No. 1009) chooses to speak with the media and the client makes Upbring staff aware of their decision, the client is reminded of Upbring's Confidentiality Policy and the importance of keeping the confidentiality of other clients is re-emphasized. Staff then has the client sign a statement that the client understands Upbring's Confidentiality Policy and releases Upbring from liability in the event confidential information is shared.
- 4) Responsibility: Revisions to this policy are made at the direction/discretion of the Senior Vice President of Program Operations. Policy is executable through August 2018, unless applicable standards or contractual changes require revision prior to that date. Upbring's Board of Director's reviews this policy annually.
 - 5) Guidelines: As set forth in this policy.
 - 6) References:
 - a. Texas Department of Family and Protective Services, Minimum Standards for Child Placing Agencies, §749.105(6); §749.531(c)(1); §749.579(2); §749.1003(b)(21); §749.3465(a-b).
 - b. Committee on Accreditation of Rehabilitation Facilities, Child and Youth Services Standards, 1.A.3(j); 1.E.1(c); 2.H.4(b).
 - c. Residential Child-Care Contract, No. 200322-901.

7) Revisions: Replaces Policy No 101.10 dated October 22, 2014.