

# **ACCESS AND CONFIDENTIALITY POLICY OF THE WISCONSIN DEPARTMENT OF CHILDREN AND FAMILIES FOR CHILD WELFARE DATA SYSTEMS**

## **I. Introduction**

Access to information contained in child welfare records is controlled by statutes, administrative code, state and federal policies, and governmental and professional standards. Through a combination of security controls and monitoring capabilities, the Wisconsin Department of Child and Families (DCF) has a strong track record of providing child welfare professionals access to the sensitive information they need to perform their duties while safeguarding confidential records and information from others. Laws, policies, certification standards, and professional ethics require that records and information be kept confidential except as provided by law or regulation.

DCF maintains systems, including but not limited to the Electronic Wisconsin Statewide Automated Child Welfare Information System (eWiSACWIS) and Supporting Youth and Children (SYNC). Collectively, the child welfare systems that DCF maintains and makes available to county and tribal departments, child welfare agencies, and providers, are referred to throughout this policy as Child Welfare Data Systems.

DCF and county departments have shared legal responsibility for information maintained in Child Welfare Data Systems. DCF is responsible for the planning, design, development, installation, and operation of eWiSACWIS and other systems, as well as policies and manuals relating to system access and use. County departments and other local child welfare agencies (including the DCF Division of Milwaukee Child Protective Services (DMCPS)) are responsible for the accuracy and completeness of information entered into Child Welfare Data Systems on cases being managed within their agencies. County departments and other local child welfare agencies with access to Child Welfare Data Systems each have the responsibility for proper disclosure of information maintained in the systems depending on which agency releases such information.

## **II. Statement of Philosophy**

This policy is based on the position that agencies and individuals providing for the safety, care, and treatment of children and families must have certain information in order to assure that their efforts are effective and efficient. The policy is also based on the position that children and families have a right to privacy and confidentiality that should not be compromised except as outlined in DCF policies and standards and allowed by law in order to promote effective and efficient program administration and service provision.

## **III. Statutory Requirements**

Under Wisconsin law, public records are presumed to be open records, except where there are confidentiality prohibitions on disclosure or when the public interest favoring nondisclosure is deemed to be more important than the public's "right to know." Implementation of this law

requires careful balancing of these two perspectives. The state statutes applicable to information contained in eWiSACWIS and other Child Welfare Data Systems include:

- Ch. 19, regarding records in general
- s. 46.215 regarding county departments
- s. 46.22 regarding county departments
- s. 46.23 regarding county departments
- s. 48.195(2) regarding relinquishment of newborns
- s. 48.35 regarding the effect of judgment and disposition
- s. 48.371 regarding information for physical custodians
- s. 48.38 regarding information in permanency plans
- s. 48.396(2) regarding confidentiality of child welfare records of the court
- s. 48.432 regarding access to medical information
- s. 48.433 regarding access to identifying information about parents
- s. 48.93 regarding closed adoption records
- s. 48.78 regarding confidentiality of agency child welfare records
- s. 48.981(7) regarding confidentiality of child protective services investigation records
- s. 51.30 regarding treatment records
- s. 165.68 regarding address confidentiality program
- s. 938.35 regarding effect of judgment and disposition
- s. 938.371 regarding information for physical custodians
- s. 938.38 regarding information in permanency plans
- s. 938.396(2) regarding confidentiality of juvenile justice records of the court
- s. 938.51 regarding notification of escape of juveniles from correctional custody
- s. 938.78 regarding confidentiality of agency juvenile justice records

In addition, the confidentiality of records maintained in Child Welfare Data Systems may be controlled by a number of federal laws and/or other state laws (e.g., HIPAA, Titles IV-B and IV-E, 42 CFR Part 2, Ch. 118) which affect how information can be released or re-released from records maintained within Child Welfare Data Systems.

#### **IV. eWiSACWIS and SYNC**

DCF maintains a web portal called SYNC (Supporting Youth and Children), which integrates with eWiSACWIS to allow DCF-licensed child welfare facilities (collectively, "Providers") to access and/or exchange information with child welfare agencies using eWiSACWIS.

As a secure alternative to paper or email, child welfare agencies may share records and other information stored in eWiSACWIS with Providers using SYNC. Agency staff using eWiSACWIS are responsible for proper disclosure of records to Providers through eWiSACWIS and SYNC, as with any such disclosure, ensuring that there is a legal basis under DCF 37 and applicable state and federal confidentiality laws for transmitting such records to Providers.

All Providers shall enter into an External Agency Agreement on Access to SYNC with DCF in order to access SYNC. All users of SYNC will also be required to sign a SYNC User Agreement before accessing SYNC.

County agencies and Providers are both responsible for notifying DCF if they learn that a Provider or individual SYNC user has misused or inappropriately accessed SYNC. As set forth in the External Agency Agreement on Access to SYNC, DCF reserves the right to revoke any user's or Provider's access to SYNC for good cause, in DCF's sole discretion.

DCF reserves the right to establish additional policies related to SYNC which, upon their publication, immediately apply to Providers using SYNC and to county agencies using eWiSACWIS to disclose information to Providers via SYNC.

## **V. Scope of Agreements**

Any agreement or policy related to disclosing information maintained within Child Welfare Data Systems, or related to providing access to Child Welfare Data Systems, must specifically identify the following:

- The statutory authorization for such disclosure;
- The allowable purpose(s) of such disclosure;
- The manner in which the factors identified in Section VI below (if access to the system is to be granted) are met;
- Any limitations on redisclosure; and
- Penalties for violating any established confidentiality provisions related to disclosed information.

### **A. External Agency Agreement on Access to eWiSACWIS (agencies that have direct access to eWiSACWIS) (DCF-F-2904)**

Any agency or governmental entity other than DCF or a county child welfare department that has employees who are authorized to obtain information from eWiSACWIS or enter data into eWiSACWIS must enter into an External Agency Agreement on Access to eWiSACWIS with either DCF or a county department.

Any such External Agency Agreement on Access to eWiSACWIS shall use the format of the agreement attached to this policy as Appendix A, or the most recent revision of Form DCF-F-2904 published by DCF. The signed agreement shall be submitted to DCF and shall be entered into only after DCF's approval is granted as described in Section VI of this policy. The External Agency Agreement on Access to eWiSACWIS submitted to DCF shall have attached to it a copy of any contract, memorandum of understanding, or memorandum of agreement between the parties or, if such contract or memorandum does not yet exist, a letter from DCF or the county department outlining the purpose of the agreement and the intended use of any information obtained from eWiSACWIS.

### **B. Tribal Agreement on Access to eWiSACWIS (DCF-F-2276B)**

Any tribal child welfare agency that has employees who are authorized to obtain information from eWiSACWIS or enter data into eWiSACWIS must enter into a Tribal Agreement on Access to eWiSACWIS with DCF.

Any such Tribal Agreement on Access to eWiSACWIS shall use the format of the agreement attached to this policy as Appendix B, or the most recent revision of Form CFS-2276B published by DCF. The signed agreement shall be submitted to DCF and shall be entered into only after DCF's approval is granted as described in Section VI of this policy.

C. eWiSACWIS User Agreement (Employees of agencies who have direct access to eWiSACWIS) (DCF-F-CFS2275)

Any person who has or will have direct access to eWiSACWIS shall sign the eWiSACWIS User Agreement, attached to this policy as Appendix C, either in hard copy or electronically in eWiSACWIS. The signed User Agreement shall be maintained by the employing agency of that person in that person's personnel file, including User Agreements that are signed electronically and must be printed for the file. In addition, any agency that enters into an Agency Agreement with DCF or a county department shall submit a copy of the signed User Agreement for each of its employees to DCF or the county department, whichever entity with which the agency has entered into the Agency Agreement.

D. External Agency Agreement on Access to SYNC (Providers that have direct access to SYNC) (DCF-F-5618)

Any agency or Provider authorized to access SYNC must enter into an External Agency Agreement on Access to SYNC with DCF.

Any such External Agency Agreement on Access to SYNC shall use the format of the agreement attached to this policy as Appendix D, or the most recent revision of Form DCF-F-5618 published by DCF.

E. Supporting Youth and Children (SYNC) User Agreement (employees of Providers who have direct access to SYNC) (DCF-F-5614)

Any person who has or will have direct access to SYNC shall electronically sign the SYNC User Agreement when accessing SYNC for the first time. The SYNC User Agreement is attached to this policy as Appendix E for reference. Electronically signed SYNC User Agreements are retained by DCF in SYNC and can be made available upon request.

F. Child Welfare Data Sharing Agreement (Agencies that obtain information from eWiSACWIS but do not have direct access to eWiSACWIS)

Any individual or agency that receives data from eWiSACWIS but does not have direct access to eWiSACWIS shall enter into a Data Sharing Agreement with either the Department or a county department. The Data Sharing Agreement, attached to this policy as Appendix F, shall specifically state the nature of the data to be shared, the intended uses of the data, and a statement that the person obtaining the data is aware of and will subscribe to all applicable state and federal confidentiality policies, regulations, and laws.

## **VI. Provision and Timely Termination of Access to Child Welfare Data Systems**

The Wisconsin Department of Children and Families shall have the authority to grant, deny, and revoke approval to agencies or individuals seeking access to any Child Welfare Data System, either in part or in whole. Within the parameters established by statutes, administrative rules, and DCF policies, a county or tribal security delegate or authorized administrator may grant

employees and contractors under their control access to a Child Welfare Data System when needed, appropriate, and in accordance with those parameters.

Subject to the oversight responsibility of DCF, the level of access of any employee or contractor of a county or tribal agency shall be determined through consultation by the county or tribal security delegate and the employee's supervisor or a contract administrator.

No person will be granted access to a Child Welfare Data System if that individual does not, at a minimum, meet all of the following:

1. The person is an employee of or under contract with DCF or a county or tribal department responsible for child welfare services in Wisconsin, or the person is an employee of an agency that has an External Agency Agreement on Access to eWisACWIS or SYNC with DCF or a county department.
2. The person is providing services to or on behalf of DCF or a county or tribal department responsible for child welfare services in Wisconsin.
3. The person, in order to fulfill their employment or contractual responsibilities, has a legitimate business need to view and/or enter information in the Child Welfare Data System.

DCF reserves the right to deny access for good cause as determined by DCF in its sole discretion, even if the criteria above are met. In addition, DCF reserves the right to further limit access to certain cases only to individuals specifically approved by DCF.

In the event that a Child Welfare Data System user's employment status, job responsibilities, or business need to access child welfare data changes, it is the responsibility of that user's supervisor and/or agency director to request, within 24 hours of the change, that the user's security be revoked by their security delegate or administrator. Such a request may also be emailed to the DCF Security Mailbox ([DCFeWiSACWISRequests@wisconsin.gov](mailto:DCFeWiSACWISRequests@wisconsin.gov)) if the agency's security delegate or administrator is unavailable.

## **VII. Exceptions**

Exceptions to the limitations on access to Child Welfare Data Systems as described in Section VI may be granted only by DCF at its discretion and as allowed by law. A county or tribal agency requesting an exception shall submit to DCF a written request signed by the county or tribal agency director or their designee which shall include a detailed justification for the request, a description of the role of the person or agency on whose behalf the exception is being requested, an explanation of the use of any information obtained from or entered into Child Welfare Data Systems, an indication that the person or agency has signed the appropriate agreement(s) under Section V, and a detailed description of the level of access for the person or agency to which Child Welfare Data System.

## **VIII. Access Through Designated Authentication Systems**

DCF uses authentication and security systems to allow appropriate access to Child Welfare Data Systems by authorized persons. Individuals who request access to eWiSACWIS or another Child Welfare Data System may be required to create and use accounts in one or more such systems, including but not limited to the Web Access Management System (WAMS) and My Wisconsin ID.

## **IX. Audit Tracking Capability**

The Department of Children and Families and county agencies have the capability to audit a user's access to and use of eWiSACWIS and other Child Welfare Data Systems. Audit tracking is an essential part of ensuring, under applicable state and/or federal statutes, as well as professional norms, that a user only accesses information for which they have a valid and appropriate business need.

This means that DCF can determine if an individual has accessed information in any Child Welfare Data System without proper authorization, or without a need for such access. DCF will conduct random and/or scheduled audits to determine if there has been any such unauthorized access and may conduct targeted audits of specific cases that are or may be controversial, high-profile, or otherwise of interest to individuals who have no legitimate reason to access them.

If it is determined that an individual accessed information in any Child Welfare Data System without an apparently legitimate business reason, DCF will notify the director of the agency employing that person. Any violation of this confidentiality policy, or any of the applicable agreements from Section V, may subject the person and/or agency to criminal or civil penalties, and may result in that person or agency being denied access to eWiSACWIS and other Child Welfare Data Systems, as well as other penalties.

## **X. Appendix**

- A – [External Agency Agreement on Access to eWiSACWIS \(DCF-F-2904-E\)](#)
- B – [Tribal Agreement on Access to eWiSACWIS \(DCF-F-2276B\)](#)
- C – [eWiSACWIS User Agreement \(DCF-F-CFS2275\)](#)
- D – [External Agency Agreement on Access to SYNC \(DCF-F-5618-E\)](#)
- E – SYNC User Agreement (DCF-F-5614-E) – (Embedded electronically in SYNC)
- F – [Data Sharing Agreement Template](#)