

CF OPERATING PROCEDURE
NO. 30-2

STATE OF FLORIDA
DEPARTMENT OF
CHILDREN AND FAMILIES
TALLAHASSEE, May 15, 1999

Legal

RESPONSE TO SUBPOENAS FOR CHILDREN AND FAMILIES RECORDS

1. Purpose. This operating procedure establishes procedures for responding to subpoenas for Children and Families records.
2. Scope. This operating procedure applies to all department staff who are charged with the duty of responding to subpoenas for department records.
3. Definition. A "subpoena" that requests documents is a command by the issuing authority that directs the department to produce those documents.
5. Procedure for Custodian of Documents Requested. Upon receipt of a subpoena, the custodian of the requested records should review those records to determine if any of the documents that are sought are confidential or otherwise prohibited from disclosure. With the exception of those records for which the general counsel's office has previously given advice for handling on a routine basis, this determination should be made upon advice of the district legal counsel or, for central offices, upon advice of the program attorney or the office of the general counsel where no program attorney is assigned.
6. Procedure for Children and Families Attorneys. Any Children and Families attorney faced with the situation of a subpoena requesting confidential information should utilize the following steps in determining a course of action:
 - a. Contact the requesting party and specify that certain information or records covered under the subpoena is/are confidential, citing the appropriate authority dealing with the confidentiality.
 - b. Ask the requesting party if the confidential material may be excluded from production and still be in compliance with the subpoena.
 - c. If the requesting party insists that the production of the confidential material is necessary for compliance with the subpoena, the department must seek a protective order from the court pursuant to Florida Rule of Civil Procedure 1.280(c), or other appropriate authority. If the subpoena is not issued by a court (i.e., the subpoena is issued by a hearings officer from the Division of Administrative Hearings), the department must file for a protective order in accordance with the rule of the appropriate forum.
 - d. There may be instances where the confidentiality of certain information or records is not easily determined. In those situations, the Children and Families attorney can follow the same procedures set out above.

This operating procedure supersedes HRSR 30-2 dated October 1, 1992.

OPR: OSLS
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BY DIRECTION OF THE SECRETARY:

(Signed original copy on file)

ROBERT S. COHEN
Deputy Secretary

SUMMARY OF REVISED, DELETED, OR ADDED MATERIAL

This operating procedure has been updated to reflect the department's current organizational structure.