

1053 FOIAS, SUBPOENAS, REQUESTS FOR INFORMATION, AND LEGAL OPINIONS

I. Scope

This policy applies to all employees of the Department of Human Services (DHS) and insures that this entire agency adheres to the Arkansas Freedom of Information Act (FOIA) and all other applicable state and federal laws.

II. Policy

(A) All subpoenas for employees to appear in court proceedings, subpoenas for records, Disability Rights requests for records, court orders, and other requests for disclosures of information including, but not limited to: medical records or history, case files, maltreatment investigation reports, and other documents not releasable under the FOIA, must be in writing and sent or forwarded to the Privacy Office at DHS.Subpoena@dhs.arkansas.gov for processing.

(B) A FOIA request does not have to be in writing. A FOIA request may be made in person, by phone, by email, by fax, by posted mail, or by any electronic means provided by the custodian of record(s) (A.C.A § 25-19-105 (a)(2)(B)). All FOIA requests must immediately be forwarded to the Office of Communications and Community Engagement (OCCE) for processing due to the three-day statutory time limit at DHS.FOIA@dhs.arkansas.gov.

(C) Divisions and Offices must designate a person or unit to receive and gather documents responsive to FOIA requests or requests for disclosure. OCCE may approve a system of handling requests with Divisions or Offices that receive FOIA requests on a regular basis.

(D) The FOIA office should immediately forward request(s) to the custodial division, then acknowledge receipt to the requestor and track until completion.

(E) Confidential information contained in a FOIA request must be removed or redacted from all documents by the custodial division before returning to the FOIA office. The FOIA office will then review the documents before releasing them to the requestor. Failure to correctly redact must be reported as a Privacy/Security Incident on DHS Share.

(F) No employee shall be disciplined for exercising his or her right or privilege to file a FOIA request with this or any state agency (Ark. Code Ann. § 25-19-101).

III. FOIA Request for Personnel Records

Any personnel or evaluation record exempt from disclosure under FOIA shall nonetheless be made available to the person about whom the records are maintained or to that person's

designated representative. The representative must be designated in writing by the employee.

IV. Failure to Comply

Failure to comply with this policy may result in disciplinary action. In addition, failing to protect confidential information and unauthorized release of confidential information are violations outlined in DHS Policy 4002, "Privacy and Security Sanctions." Multiple sanctions can be applied to one incident and result in termination of employment as well as criminal charges.