

1. Is eligibility for your agency's services in any way defined by law? If so, what specific codes or statutes and legal rules and regulations are used to determine who is and is not eligible? Yes DCS services are defined by law. The Department of Children's Services (DCS) was created in July 1996 to provide services to children committed to state custody or at risk of commitment to state custody. The new department consolidated all custodial services to children, including child welfare and juvenile justice programs. It was also given responsibility for providing protection to abused children, prevention services for unruly youth and their families, as well as probation and aftercare services for juvenile offenders. The statutory charge (T.C.A. § 37-5-102) to the Department of Children's Services was as follows: The focus of the services shall be to preserve the relationship between the child and the family by providing, whenever possible, services in the community where the child lives and by providing services in a setting which is the least restrictive and, yet, the most beneficial. For the child it serves, the Department of Children's Services shall strive:

- to protect children from abuse, mistreatment or neglect;
- to provide prevention, early intervention, rehabilitative and educational services;
- to pursue appropriate and effective behavioral and mental health treatment; and
- to ensure that health care needs, both preventive and practical, are met.

The department will work to preserve the safety and protect the standards in Tennessee communities through efforts to combat delinquency and other social ills concerning young people. The Department of Children's Services shall work to continually improve the management and coordination of services for the children and families of Tennessee identified in this section of the law by ensuring thorough evaluations and assessments, appropriate and effective service delivery, timely permanency planning, and supportive supervision and monitoring of the progress of children discharged from state custody

2. Are certain individuals legally required or mandated to involve themselves with your agency and obtain services from your agency (e.g., those on probation or court-ordered treatment)? If so, what specific statutes apply to these individuals and situations? Yes, within certain area of DCS, certain individuals are required to involve themselves with DCS. To be more specific within the area of foster care, most families are required to involve themselves, some with court orders and some without. Once CPS referrals are made and investigated, if deemed necessary children will be removed from parental custody and placed into state custody. Policy TCA 37-1-166; 37-1-401 et seq; 37-1-601 et seq; 37-1-607; 37-5-105; 37-5-106; 37-5-107 states that the Department of Children's Services shall exhaust all home-based services and options in the effort to alleviate immediate safety issues and address the underlying needs before removing children from their homes. Removal must be the last option available to ensure the children's safety. CPS case workers will ensure that children will be separated from their families and removed from their homes in a manner that communicates respect for the children and their family members. Policy TCA 37-5-105; 37-5-106; 37-5-107 also applies to these individuals and situations. This policy states that CPS Investigators shall either provide services or transition a CPS case for on-going services with community providers in situations where emergency removal measures are not necessary, or formally close the case within sixty days or receipt of the report.

3. Do those individuals who are pressured to make use of your agency have a right to refuse to participate? If so, do they face any consequences for that action? Yes, individuals do have a right to refuse services from DCS. However, in the case of foster care, if a parent or guardian refuses services offered by DCS then the children whom were removed from their custody will permanently be placed in the state of Tennessee's custody and parental rights will be terminated.

4. Is your agency program licensed by the state (e.g., a licensed child placing agency, licensed nursing home, and licensed foster care provider)? If yes, identify the specific license(s) and legal citation of the laws and regulations that apply to this licensure. Yes, DCS is licensed as a child abuse prevention agency. The legal basis for licensing is contained in T.C.A. §71-3-501 et seq. Child Abuse Prevention Agency. A Child Abuse Prevention Agency- (defined as "child abuse agency" in the law) shall mean and include any person, corporation, or agency which undertakes to or does provide any services of any nature whatsoever, including but not limited to emergency shelter care, homemaker services, or parent training services designed to prevent or treat child abuse or neglect or to protect children from child abuse or neglect. This shall not apply, however, to a person licensed by the State of Tennessee to practice medicine or psychology while in the course of such practice nor shall it apply to any school, hospital, mental health center, or similar institution operated or approved by an agency or Department of the State of Tennessee. Nor shall it apply to any church or church-related organization.

License- A yearly permit issued to a child abuse prevention agency. Licensing is based on achievement in meeting minimum standards developed and published by the Department.

5. What outside agencies or organizations (e.g., governmental agencies, accrediting bodies, and citizens review boards) are authorized to interview staff about their practices and review the records kept by your agency (e.g., client records, client services, and financial records)? There are several agencies authorized to review cases and interview DCS staff about their practices. These include law enforcement and court appointed individuals (judges, lawyers, D.A) as well as physicians, psychiatrist, psychologist and therapist. In addition to these authorized individuals, accrediting bodies have been implemented to review policies and procedures of case workers. Case Reviews. An initial design team was gathered to plan the case review process. A system of random sampling and a set of standardized interviews of all relevant people involved in each case were developed. Quality Service Reviews. In 2000, the U.S. Department of Health and Human Services (HHS) established Child and Family Service Reviews using a quality service review methodology as a new way of evaluating states' uses of federal funds for child welfare services. The system evaluates outcomes related to child safety, permanency and child and family well-being and assesses seven systemic factors. CPORT Process. The CPORT reviewers conduct interviews of all professionals involved in a case, parents and caregivers and children (if old enough) using standardized formats developed initially by a multidisciplinary design team and updated annually to accommodate changes and new requirements. TCCY's CPORT staff of 12 full-time reviewers is augmented by contract or external reviewers and other TCCY staff members.

6. What are the possible legal consequences for a social worker who takes action that conflicts with or violates the agency's written policy? Possible consequences may include

termination from agency, loss of professional license, and arrest and indictment by the law. The following offenses may be grounds for severe disciplinary action up to and including termination:

- a) Violation of the oath of office
- b) Improper student/employee relationship
- c) Falsification of any official document
- d) Improper use of student labor
- e) Transporting contraband, weapons, or ammunition onto the property of any DCS facility
- f) Brutality/ill treatment, including verbal or physical abuse in the performance of duties
- g) Arrest or indictment or conviction for alleged criminal acts
- h) Failure to properly notify supervisor of arrest
- i) Absence without leave (AWOL)
- j) Personal or romantic relationships which arise to the level of a conflict of interest with DCS functions

7. What percentage of the social workers in your agency hold a state social work license? Within the foster care unit of DCS, all of the social workers hold a professional license.

8. Does your agency have liability insurance that provides employees with legal defense against allegations of wrongdoing and/or pay the assessed damages if found guilty? If so, what limitations and restrictions apply (e.g., must the employee be following agency policy and behave in an ethical manner before he or she can use the insurance policy)? After contacting the Human Services Department of DCS, I found out that DCS does not have liability Insurance for its social workers. They do offer a connection to an insurance association that offers liability to social workers but it is not mandated.

9. Does the agency's liability insurance cover the actions of social work practicum students? Not available to DCS workers. The actions of volunteers? N/A If yes, what limitations and restrictions apply?

10. Do the social workers in your agency carry and pay for individual malpractice insurance in addition to that provided by the agency? It is an individual choice. Some of the social workers within my agency carry personal malpractice insurance and some do not. If yes, why? The person I spoke to about malpractice insurance states that she carries it just to protect herself from personal law suits.

11. Within the past ten years, has the agency or any staff member been sued for negligence or malpractice? If yes, what were the nature of the allegation(s) and the outcome of the lawsuit? Yes, I was informed that a male was fired several years ago because of a malpractice suit that was filed against him. He was driving a state car on a suspended drivers license, speeding and with a foster care child in the car.

12. Within the context of your agency, what types of clients and what types of situations are associated with high level risk (i.e., cases most likely to result in a lawsuit alleging agency wrongdoing or professional malpractice)?

13. What attorneys or law firms represent your agency or its staff when someone alleges wrongdoing or professional negligence? DCS has its own set of lawyers within the agency that can assist workers with malpractice suits in addition to this, this department has a list of attorney's that they can refer the workers to if needed. These are all individual attorneys not any specific firm. Some of these lawyers include Atchley Fielding, Alan Beard, Michelle Coffman, and Lisa Espy.

14. What agency policies or procedures apply when you or others encounter the following situations that raise legal questions?

- a. The client who appears to be a real threat to self (e.g., possible suicide)-Policy 19.1, Suicide-Self Harm Intervention
- b. The client who appears to be a real threat to others-Policy 25.1, Definitions of Disciplinary Offenses
- c. The client who may not be mentally competent to care for him or herself or to make legal, Medical, or financial decisions-Policy 20.41, Student Health Care
- d. The client who is a minor
- e. The client who is injured while in your agency or while participating in an agency Program-Policy 20.26, Accident-Injury Reporting
- f. The client who insists on withdrawing from a treatment program or another agency service when doing so will place the client at risk of harm-Policy 25.4, Disciplinary Punishment Guidelines
- g. The client who threatens to harm a social worker or other agency staff member-Policy 25.1, Definitions of Disciplinary Offenses
- h. The client who is suspected of or known to have committed a serious crime-Policy 25.4, Disciplinary Punishment Guidelines, 25.1, Definitions of Disciplinary Offenses
- i. The client who appears to need legal counsel or representation-Policy 24.13, Access to Legal Counsel for Youth in DCS Group Homes
- j. The client who has been ordered by the court to receive certain services from your agency (e.g., assessment, treatment, and intervention)-Policy 11.1, Assessment Process, 11.2, Role of the Court Liaison Specialist in Non Custodial & Custodial Assessment
- k. The client who has clearly lied, withheld information, or falsified an application in order to become eligible for the benefits or services provided by your agency-Policy 11.1, Assessment Process
- l. The client who states he or she intends to bring a lawsuit against a social worker or

the Agency-Policy 1.32, Service of Legal Process, Subpoenas and Legal Representation
for DCS Employees

15. What policies or procedures apply when you or others encounter the following situations and legal questions?

- a. How to proceed when a client requests the opportunity to read or copy his or her records (case file) Policy 32.2, Client Privacy Rights
- b. How to obtain a client's permission to release his or her records to another agency or Professional-Policy 9.5, Access and Release of Confidential Child-Specific Information
- c. How to report suspected child or elder abuse and neglect-Policy 14.1, Central Intake
- d. How to obtain a client's informed consent to participate in certain programs and services-Policy 32.2, Client Privacy Rights
- e. How to handle and record the receipt of gifts from a client or donations to the agency-Policy 4.10, Conflicts of Interest
- f. How to respond when one receives a subpoena for client records or other confidential information- Policy 4.10, Conflicts of Interest
- g. How to respond when one receives a subpoena to be a witness in a trial or court action-Policy 1.32, Service of Legal Process, Subpoenas and Legal Representation
for DCS Employees