



New Mexico Human Services Department

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ISSUED ELECTRONICALLY

INTRA DEPARTMENTAL MEMORANDUM

ISD-GI 12 -49

DATE: September 14, 2012

TO: All ISD Employees

FROM:  Ted Roth, Director
Income Support Division

RE: Requests for Case Record Information by Attorneys and Law Enforcement Agencies

This memorandum provides guidance to HSD employees on how to respond to requests for confidential case record information from attorneys and law enforcement agencies.

The Social Security Act and the Food Stamp Act require state agencies to ensure the confidentiality of all participants' case record information, recorded or not, obtained for the purposes of application, eligibility, recertification and benefit allotment of program benefits.

For internal proceedings pertaining to HSD program-related court cases, requests from either the attorney(s) responsible for the case or requests from a legal representative preparing the case for trial should receive HSD employees' full cooperation.

For external court cases (e.g. civil, military or criminal court proceedings) where HSD employees are contacted to appear as a witness and to testify to matters that include confidential case record information, an HSD employee should respond in the following ways (per 8.100.100.14(D)(3) NMAC):

- 1) **A request**, without a subpoena: in this instance, an HSD employee should contact his or her supervisor and/or Bureau Chief. The supervisor or Bureau Chief may contact OGC for further guidance.
- 2) An employee may be **subpoenaed** or may receive a "**ad testificandum**" or "**duces tecum**":
 - If **subpoenaed**, contact your supervisor and/or Bureau Chief and contact the OGC (preferably in writing) and explain the particulars of the case and obtain guidance on how to proceed.
 - If you receive a **subpoena duces tecum**, contact OGC and OGC will provide you

with specific guidance and a letter to take with you to court.

If it is not clear whether the request for confidential information is to be used for internal or external proceedings, the field office may contact the Office of General Counsel at (505) 827-1331 or the ISD Director's Office at (505) 827-7250 for assistance.

Requests from law enforcement for confidential information can be released in accordance with the following standards (8.100.100.14 NMAC):

- 1) The requesting agency or individual is involved in the administration of a federal or federally assisted program which provides assistance in case, in kind or in services directly to individuals on the basis of need, and;
- 2) Information is to be used for the purpose of establishing eligibility, determining the amount of assistance or for providing services for applicants or recipients, and;
- 3) The requesting agency or individual is subject to standards of confidentiality comparable to those of ISD, and;
- 4) The requesting agency or individual has actual or implied consent of the applicant or recipient to release the information. In an emergency, information may be released without permission, but the client must be informed of its release immediately thereafter. Consent may be considered as implied if a recipient or member of the assistance group has made application to the inquiring agency for a benefit or service.

For SNAP cases, HSD employees should provide a participant's address, social security number and photograph (if available) in response to a written request from a federal, state or local law enforcement officer who is requesting the information in the proper exercise of an official duty. The written request to an HSD staff member must contain the individual's name and notification that (per 8.139.120.17 NMAC) the individual is fleeing to avoid prosecution or because they have violated their probation or parole.

If additional information is needed, please contact Vida Tapia-Sanchez at 505-827- 7219 or via e-mail at vida.tapia-sanchez@state.nm.us