


Standard Operating Procedure

Title: Recording Meetings	Revision Date: 8/15/2022
Name/Title of Authorizing Signature: Sean Brown Commissioner of the Department for Children and Families	Effective Date: 8/15/2022

Authorizing Signature: 

PURPOSE

This Standard Operating Procedure (SOP) addresses the recording of meetings conducted by the Department for Children and Families (DCF).

This SOP does *not* address the recording of meetings with suspects, victims, or witnesses that are conducted for investigatory or law-enforcement purposes, e.g., forensic interviews.

RELATED POLICIES

Agency of Human Services (AHS) [Policy 3.02](#): Recording Meetings

AHS [Policy 6.01](#): Public Records Policy

INTRODUCTION

There are significant state and federal statutes, regulations, guidelines, and policies that must be considered when a meeting is recorded. The “References” section at the end of this SOP includes links to relevant laws and rules. These include, but are not limited to:

- 1) DCF’s obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 C.F.R. § 155.260, 42 C.F.R. Part 431, Subpart F, and 42 C.F.R. Part 2, to protect individually identifiable and health information acquired and used by DCF;
- 2) DCF’s obligations under the Vermont Public Records Act (1 V.S.A. §§ 315-320) to preserve records produced or acquired in the course of DCF business; and
- 3) The privacy rights of individuals who participate in meetings, including those who may participate remotely from other states or jurisdictions that have laws that differ from Vermont’s laws.

Because of the complex relationship between DCF's obligations both to protect entire categories of information from disclosure, and enable transparent disclosure of DCF records where appropriate, meetings shall not be recorded by DCF unless the party that seeks to record the meeting requests, and is granted, prior approval to record the meeting.

POLICY

Except for certain pre-approved meetings, DCF meetings shall not be recorded by DCF staff unless the employee who wants to record the meeting requests, and is granted, approval to do so. All DCF employees who attend or participate in recorded meetings must conduct themselves professionally and ensure that they do not disclose confidential or protected information.

DEFINITIONS

For purposes of this policy:

"Asynchronous Training" refers to formal educational or skill-building events (e.g., lectures, workshops) that are packaged and delivered in a way that is not time or place specific. In other words, end users (e.g., students, participants) can engage the training at their convenience, for example, through their computers, as available. This type of training does not include a real-time, live facilitator. Asynchronous trainings are not meetings, as defined below, though they are public records.

"External Meeting" means any gathering of persons that includes a DCF staff member that is not initiated, nor hosted, nor stored as a public record by DCF, for example, a municipal board meeting or a meeting to give legislative testimony.

"Meeting" means any gathering of persons that includes a DCF staff member; is initiated by DCF, hosted by DCF, or stored as a public record by DCF; and which in any way concerns, produces, acquires, or discusses information relating to the business of the State. This broad definition includes gatherings conducted in person, telephonically, or via video-sharing software, such as Microsoft Teams, as well as meetings which must be recorded pursuant to the Vermont Open Meeting Law (1 V.S.A. §§ 310-314). This definition also includes synchronous training (e.g., lecture, workshops), but not asynchronous training.

"Public Record" means any written or recorded information, regardless of physical form or characteristics, that is produced or acquired in the course of DCF business. This broad definition includes emails, spreadsheets, and information entered into databases. Documents and

recordings that contain confidential or protected information are still public records, even if they cannot be disclosed to the public under 1 V.S.A. § 317.

“Recording” means telephonic recordings, video recordings, other electronic recordings and written word-by-word transcription of meetings, but recording does not include brief notes taken in the normal course of business.

“Synchronous Training” refers to formal educational or skill-building events (e.g., lectures, workshops) that are live, and to which end users only have access during scheduled times electronically, or in person. Synchronous trainings are a type of meeting specifically intended to transmit knowledge or build skill with a real-time, live facilitator. If a synchronous training is recorded, the recording is an asynchronous training after the meeting ends.

ROLES & RESPONSIBILITIES

The DCF employee who wants to record a meeting (the “Requester”) is responsible for:

- 1) Requesting that the meeting be recorded;
- 2) Delivering notice to the expected meeting participants;
- 3) Ensuring the proper storage of the recorded meeting;
- 4) Notifying the Public Records Officer of the existence and location of the recording; and
- 5) Consulting the Public Records Officer if there are questions about the retention of recordings.

Deputy Commissioners, Directors, or their designees in each DCF Division or Office are responsible for:

- 1) Implementing a policy or procedure to record meetings in accordance with this SOP;
- 2) Informing staff in their respective Divisions or Offices of the policy or procedure for recording meetings;
- 3) Consulting the Public Records Officer to establish a protocol for labeling and storing recordings; and
- 4) Informing the following officials in the Commissioner's Office of the policy or procedure:
 - Director of Policy and Planning;
 - Director of Operations; and
 - Public Records Officer.

PROCEDURE

AHS requires each of its departments, including DCF, to develop a policy or procedure for recording meetings. DCF is the largest AHS department, with six different Divisions or Offices of varying sizes. DCF recognizes that each Division or Office has different needs when it comes to recording meetings, and a uniform procedure for recording all types of DCF meetings is impractical and burdensome

Accordingly, each Division or Office must develop its own guidance, procedure, or policy to govern the recording of meetings, in accordance with this SOP and AHS Policy 3.02. Each policy or procedure may be as general or as specific as needed to implement this SOP and effectively administer DCF business. At a minimum, each Division or Office's process must address all the topics below:

Requesting to Record a Meeting

Except for meetings that are pre-approved for recording, a DCF meeting may not be recorded unless approval is given in accordance with the procedure established by each Division or Office. In its policy or procedure, each Division or Office must establish:

- Who may request to record a meeting (e.g., any employee, only supervisors, etc.)
- What information must be provided in a request (e.g., subject of meeting, meeting size, etc.)
- When someone must request to record a meeting (e.g., one week before the meeting)
- How someone must ask to record a meeting (e.g., in an email, using a form, etc.)

If a request is not approved, the meeting must not be recorded by DCF employees. Even if a request is approved, staff may not record a meeting with a client or potential client without that person's consent, unless the person is threatening to harm someone.

Approving a Request to Record

When an employee makes a request to record a meeting, the request must be approved or denied in accordance with the procedure established by each Division or Office. In its policy or procedure, each Division or Office must establish:

- Who must approve or deny a request to record, including who must approve or deny a request when a designated person is unavailable
- What are the criteria for approving or denying a request
- When must the designated person make a decision (e.g., within one day of the request)
- How a Requester is notified if a request is approved, denied, or needs clarification

A Deputy Commissioner, Director, or their designees may consult the Legal Division on any request, e.g., where recording provides a reasonable accommodation to access the meeting for a person with a disability.

If a designated person does not respond to a request, the meeting must not be recorded by DCF employees, unless the meeting is exempt from the request process.

Meetings Exempt from the Request Process

Some types of meetings are regularly recorded, and repeated requests to record these meetings would present an undue and unnecessary burden on staff and leadership.

Divisions or Offices must determine if there are categories of nonconfidential meetings that do not require permission to record. If a Division or Office designates specific types of meetings that are pre-approved for recording, those meeting categories must be listed on the policy or procedure. For example, a Division or Office may designate certain synchronous trainings intended for a wide audience on an ongoing basis.

In addition to any pre-approved meetings designated by the Division or Office, each policy or procedure must list any type of meeting that meets any of these criteria.

- Meetings that are required to be recorded under the Vermont Open Meeting Law.
- Meetings of public bodies or legislatively created groups that are required to record their meetings.
- Meetings where the Commissioner or the AHS Secretary has mandated recording.

Staff do not need to request permission to record meetings that a Division or Office has identified as meeting one of the criteria above.

Regardless of whether a recording request is needed, the facilitator or organizer of the meeting must still ensure that the notice requirements below are followed and that the recording is properly stored and retained according to the Record Schedule.

Notice Requirements for Recording Meetings

The Requester or facilitator of any meeting recorded by DCF must ensure that attendees are notified that their participation will be recorded.

Each Division or Office must establish a procedure or policy that requires:

- 1) A written notice to be given to all known attendees before a meeting (e.g., as part of a meeting information), informing them:
 - The meeting will be recorded.
 - The recording and associated documents (e.g., PowerPoints) are public records.
 - No one may share confidential or protected information.

- 2) A notice to be given to all attendees at the start of a meeting, informing them:
 - When the recording will begin.
 - The recording and associated documents are public records.
 - No one may share confidential or protected information.

- 3) Appropriate reminders to be given, if necessary during the meeting, to ensure confidential information is not disclosed.

Conduct During a Recorded Meeting

All DCF employees must conduct themselves professionally when they attend or participate in any recorded meeting, including external meetings. All staff must also follow the privacy and confidentiality requirements mandated by law and State policy when participating in any recorded meeting.

Each Division or Office may establish a procedure or policy that addresses:

- Acceptable or unacceptable conduct during recorded meetings; and
- Tips or practices to ensure nothing confidential or private is included in the recording.

DCF is aware that some clients record confidential meetings with staff. If DCF staff are aware that a client is recording their conversation, staff must act professionally and not disclose confidential information beyond what is necessary. A Division or Office may prescribe additional policies or procedures concerning recording by clients if needed. Such a recording is not a public record if staff do not possess a copy of the recording.

LEGAL REFERENCES

Federal

Confidentiality of Substance Use Disorder Patient Records, 42 C.F.R. Part 2 ([42 C.F.R. §§ 2.1–2.67](#))

Health Insurance Portability and Accountability Act of 1996 (HIPAA), [Public Law 104-191](#)
HIPAA General Administrative Requirements, 45 C.F.R. Part 160 ([45 C.F.R. §§ 160.101–160.552](#))
HIPAA Security and Privacy Rule, 45 C.F.R. Part 164 ([45 C.F.R. §§ 164.102–164.534](#))
Privacy and Security of Personally Identifiable Information, [45 C.F.R. § 155.260](#)
Safeguarding Information on Applicants and Beneficiaries, 42 C.F.R. Part 431, Subpart F ([42 C.F.R. §§ 431.300–431.307](#))

State

AHS Consumer Information and Privacy Rule [No. 08-048](#)
DCF Records of Abuse and Neglect, [33 V.S.A. § 4921](#)
DCF Records, Restrictions, Penalties, [33 V.S.A. § 111](#)
Disclosure of Registry Records, [33 V.S.A. § 4919](#)
Maintenance and Access to Records, [FSD Rules 9000–9005](#)
OCS Access to Information, Disclosure and Confidentiality, [33 V.S.A. § 4105](#)
Public Records Act, [1 V.S.A. §§ 315–320](#)
Social Security Number Protection Act, [9 V.S.A. § 2440](#)
Vermont Open Meeting Law, [1 V.S.A. §§ 310–314](#)