

**Memorandum of Understanding**  
**between**  
**Texas Health and Human Services Commission**  
**and**  
**Texas Department of Family and Protective Services**

The Health and Human Services Commission (“**HHSC**”) and the Department of Family and Protective Services (“**DFPS**”), who are each a “**Party**,” and collectively, the “**Parties**,” enter into this Memorandum of Understanding (“**MOU**”) to establish collaboration procedures between the Parties in satisfying the requirements of the Child Abuse Prevention and Treatment Act (“**CAPTA**”).

**I. Background and Purpose**

Children under the age of three who have been identified as victims of child abuse and neglect are at an increased risk for developmental delays and disabilities. CAPTA requires each state to develop procedures for referring children under age three who are involved in substantiated cases of child abuse and/or neglect to early intervention services funded under Part C of the Individuals with Disabilities Education Act (“**IDEA**”). To meet this goal, HHSC, through its Early Childhood Intervention Services (“**ECI**”) Program, and DFPS Child Protective Investigations (“**CPI**”) and Child Protective Services (“**CPS**”) Divisions agree to work together to design a referral and ongoing collaborative system that meets the needs of these vulnerable children and their caregivers.

The purpose of this MOU is to align our respective programs to: develop streamlined referral and reporting protocols; ensure an effective referral and communication system to support these children; enhance interagency collaboration and relationships; and coordinate an effective system of activities, training, policies and procedures between HHSC and DFPS.

**II. Program Overviews**

**Early Childhood Intervention Services**

ECI programs serve families with children birth to 36 months with developmental delays or disabilities. ECI provides family support and specialized services to strengthen the family’s ability to access resources and improve their child’s development through daily activities. ECI contracts with community organizations to ensure the required early childhood intervention services are available in every county to all eligible children and their families. An interdisciplinary team uses comprehensive evaluations and assessment to determine eligibility and assist in planning the needed services, that may include: family education and support, audiology and vision services, nursing and nutrition services, physical, occupational and speech-language therapies, and specialized skills training. ECI contracted programs must follow the Texas Administrative Code, Title 40, Part 2, Chapter 108.

**Department of Family and Protective Services**

DFPS works with communities to promote safe and healthy families and protect children and vulnerable adults from abuse, neglect, and exploitation through investigations, services and

referrals, and prevention programs. The agency's services are provided through its Statewide Intake, Child Protective Investigations, Child Protective Services, Adult Protective Services, and Prevention and Early Intervention divisions. These divisions investigate or provide an alternative response to reports of abuse and neglect of children, as well as provide services to children and families in their own homes, place children in foster care, provide services to help youth in foster care make the transition to adulthood, place children in adoptive homes, and provide services to protect eligible adults. This MOU specifically relates to the CPI and CPS Divisions.

References in the MOU to DFPS, CPI, or CPS refer to DFPS. References to DFPS also refer to employees of contractors who provide Family Based Safety Services (FBSS) or who provide services to children and families in the Community Based Care (CBC) service model.

### **III. Authority**

This MOU is made in accordance with the Child Abuse Prevention and Treatment Act (CAPTA), 20 U.S.C. § 5106a(b)(2)(B)(xxi) and the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1437(a)(6). HHSC and DFPS will exchange information as necessary to comply with these federal laws in accordance with the DFPS/HHSC Interagency Data Exchange Agreement Contract #

### **IV. Agreement**

DFPS and HHSC agree to require their employees, contractors, and providers, including employees of contractors who provide FBSS or who provide services to children and families in the CBC service model, to participate with the referral, screening, and service provisions for ECI services as outlined in this MOU.<sup>1</sup>

#### **A. DFPS Responsibilities**

DFPS agrees to refer a child under the age of three to ECI in accordance with the procedures below if the child is:

- involved in a substantiated case of abuse or neglect;
- suspected of having a disability or developmental delay; or
- identified as affected by substance abuse or withdrawal symptoms resulting from prenatal drug exposure, or a Fetal Alcohol Spectrum Disorder.

#### **1. Reason to Believe ("RTB") finding that abuse or neglect occurred, case closed**

When a case is given an RTB disposition and is closed after the completion of the investigation, DFPS forwards to ECI the parents' names and address if there is a child under three years of age in the home who was a designated victim. The DFPS case management system automatically generates the notification to ECI, and ECI sends the family information about the ECI program.

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<sup>1</sup> All references to children in this MOU refer to children from birth to 36 months of age.

## **2. Child entering DFPS conservatorship**

When a child is removed from the home and DFPS assumes conservatorship of the child, the child is then screened within 30 days by the child's STAR Health provider during a Texas Health Steps checkup. A referral to ECI may be made by the STAR Health provider.

The DFPS worker will only make a direct referral to ECI prior to the initial Texas Health Steps check-up if the worker suspects a developmental delay or disability and believes a child requires an intervention before the initial Health Steps check-up. The referral concerns and stage of service will be identified on the ECI Screening Referral form.

DFPS will inform the child's caregiver<sup>2</sup> they are making a referral to ECI and the caregiver will be required to show ECI their Placement Authorization Form at the first visit. The caregiver and the ECI contractor will determine how to obtain a copy of the Placement Authorization form for the child's ECI record.

## **3. Developmental delay or disability is suspected, any stage of service or case status**

Except as provided above in 2, the DFPS worker or caregiver will refer a child directly to ECI for a comprehensive evaluation if the DFPS worker or caregiver suspects that the child has a developmental delay or a disability. The DFPS worker will identify the referral concern or disability and the stage of service on the ECI Screening Referral form.

## **4. RTB, child not in DFPS conservatorship, involved in a substantiated case of child abuse or neglect and receiving Family Based Safety Services (FBSS)**

When a child is involved in a substantiated case of abuse or neglect and is receiving services through FBSS, the DFPS worker will make a referral to ECI using the ECI Screening Referral form regardless of whether developmental delay or disability is suspected.

## **5. Children identified as being affected by substance abuse or withdrawal symptoms resulting from prenatal drug exposure or a Fetal Alcohol Spectrum Disorder.**

DFPS workers will refer a child affected by substance abuse or withdrawal symptoms resulting from prenatal drug exposure or a Fetal Alcohol Spectrum Disorder to ECI. The DFPS worker must use the ECI Screening Referral form and document the child's case status and referral concern.

## **6. For all stages of service:**

- (a) DFPS will inform the child's parent(s) and foster caregiver(s) if applicable when DFPS makes a referral to ECI.
- (b) DFPS will use the ECI Screening Referral form when making a referral to an ECI contractor.

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<sup>2</sup> A "caregiver" meets the IDEA definition of Parent under 34 C.F.R. §303.27.



**7. For children in DFPS conservatorship:**

- (a) The CPS worker will collaborate with the ECI contractor to ensure that appropriate services are provided to the child.
- (b) Upon request, the CPS worker will provide relevant medical, physical, mental, emotional, developmental, and case information and/or records to the ECI contractor.

**B. HHSC ECI Responsibilities**

HHSC ECI agrees that ECI or its contractors or providers will respond to DFPS referrals for children under the age of three in accordance with the procedures below if the child is:

- involved in a substantiated case of abuse or neglect;
- suspected to have a disability or developmental delay; or
- identified as affected by substance abuse or withdrawal symptoms resulting from prenatal drug exposure or a Fetal Alcohol Spectrum Disorder.

**1. Reason to Believe ("RTB") finding that abuse or neglect occurred, case closed**

ECI contractors or providers will accept referrals directly from families who receive information about ECI through the automatic mailing and will follow their normal local procedures for screening and evaluation whether these families self-identify as having been involved in DFPS or not.

**2. Child entering DFPS conservatorship**

ECI contractors or providers will conduct a comprehensive evaluation for children in conservatorships of DFPS when they receive a completed developmental screening from a STAR Health provider indicating there is a suspected developmental delay.

ECI contractors or providers will accept referrals from a DFPS caseworker or foster caregiver prior to the STAR Health provider check-up when the DFPS worker suspects a developmental delay or disability and completes the ECI Screening Referral form identifying the stage of service and the referral concern.

When a DFPS worker refers a child in DFPS conservatorship who has not had a developmental screening from a STAR Health Provider, ECI contractors or providers will offer a developmental screening or may use professional judgment to proceed to a comprehensive evaluation.

ECI contractors or providers and the caregiver will review a copy of the Placement Authorization form prior to the start of services. ECI contractors or providers and the caregiver will determine how to obtain a copy of the Placement Authorization Form 2085 for the ECI child's record.

**3. Developmental delay or disability is suspected, any stage of service or case status**

When ECI contractors or providers receive a referral from a DFPS worker due to suspected delay or disability, the ECI contractor or provider will follow their normal local procedures for referral, screening, and evaluation.

**4. RTB, involved in a substantiated case of child abuse and neglect and receiving Family Based Safety Services (FBSS)**

When ECI contractors or providers receive a referral for a child who has a substantiated case of child abuse and/or neglect and is receiving FBSS services, the ECI contractor will offer a developmental screening or may use professional judgment to proceed to a comprehensive evaluation.

**5. Children identified as being affected by substance abuse or withdrawal symptoms resulting from prenatal drug exposure or a Fetal Alcohol Spectrum Disorder**

When ECI contractors or providers receive referrals for children who are identified as being affected by substance abuse or withdrawal symptoms resulting from prenatal drug exposure or Fetal Alcohol Spectrum Disorder, ECI contractors or providers will offer a developmental screening or may use professional judgment to proceed to a comprehensive evaluation.

Additionally, ECI contractors or providers must obtain medical records for children not in DFPS conservatorship from the child's healthcare providers with the consent of the child's parent in accordance with state and federal law.

**V. Local Collaboration**

DFPS Regional Directors or designees and ECI contractors will collaborate to ensure coordination of services, including:

1. Identification of a liaison for DFPS and for the ECI contractor and all appropriate contact information;
2. Methods for referrals, including use of the DFPS Referral to ECI form;
3. Processes, including methods and frequency, for the regular, ongoing exchange of information between agencies;
4. Processes for scheduling and documenting a collaborative review of coordination between agencies at least biannually;
5. Ongoing training efforts for local staff;
6. Procedures for informing appropriate DFPS staff if problems arise in obtaining consent for a child in DFPS conservatorship to receive early intervention services; and
7. Any other collaboration necessary to address local concerns or issues.

**VI. Data Exchange**

DFPS will provide HHSC with extract files for HHSC to mail materials to parents or caregivers of children whose cases have been closed. The files will be sent to HHSC via secured file transfer protocol (SFTP) twice monthly and will conform to specifications agreed upon by DFPS and HHSC.

## VII. Confidentiality

DFPS and HHSC must protect the confidentiality of personally identifiable information at all times, including but not limited to, collection, storage, disclosure and destruction stages. Each program must adhere to federal and state statutes related to the release of personal information as follows:

### A. Document flow from DFPS to ECI

DFPS is required by CAPTA and IDEA to make the referrals to ECI that are referenced in this Memorandum of Understanding and 20 U.S.C. § 1437.

In addition, DFPS is authorized by orders entered pursuant to Texas Family Code § 153.371, and by 40 T.A.C. § 700.203 (12) to provide medical records to ECI for children in DFPS conservatorship.

### B. Document flow from ECI to DFPS:

ECI is required to comply with the regulations of IDEA Part C and Family Educational Rights and Privacy Act (FERPA) regarding the release of the following information to DFPS:

- Screening, evaluation, and assessment results; and
- Individualized Family Service Plan (IFSP) and relevant notes and records.

The Uninterrupted Scholars Act Public Law No. 112-278, amends FERPA to permit ECI programs to disclose ECI records to a caseworker or other representative of DFPS in addition to the caregiver, parent or surrogate parent for a child who is in DFPS conservatorship. ECI records may be released to the child welfare system without giving the biological parent prior written notice or gaining parental consent.

ECI contractors are required to abide by Part C and FERPA laws in compliance with their respective ECI contracts. ECI must comply with state and federal laws relating to privacy, confidentiality and use/transfer of ECI data.

### C. Protected Health Information:

DFPS acknowledges that it will be receiving protected health information as defined in 45 Code of Federal Regulations (“CFR”) § 164.103 (“**Confidential Information**”) that must be safeguarded from any disclosures other than as required to perform DFPS services identified in this MOU (the “**Authorized Purpose**”). DFPS will comply with the following, as applicable:

1. Exercise reasonable care to protect Confidential Information from being used in a manner other than the Authorized Purpose or by other than an Authorized User.
2. Only disclose Confidential Information to authorized users to the extent necessary to accomplish the Authorized Purpose and as permitted by law.

3. Establish, implement, and maintain administrative, physical, and technical safeguards to preserve and maintain the confidentiality, integrity, and availability of the Confidential Information.
4. Maintain updated privacy, security, and breach response policies and procedures as required by law or internal policies.
5. Not disclose Confidential Information to any person other than an authorized user.
6. Establish, implement, and maintain corrective actions against any member of its workforce or subcontractor who fails to comply with the privacy and security requirements in this MOU.
7. Be directly responsible for the compliance of its subcontractors with the privacy and security requirements in this MOU.
8. Promptly notify HHSC of any requests for amendments to Confidential Information, access to Confidential Information by the individual subject of the Confidential Information, or record of disclosures of Confidential Information.
9. Maintain an accounting of all disclosures of Confidential Information.
10. Upon termination of this MOU, return or destroy Confidential Information received from HHSC to the extent reasonably feasible and permitted by law. If DFPS is required by law or litigation hold to retain Confidential Information beyond the termination of the MOU, DFPS will continue to safeguard the Confidential Information in accordance with this MOU.
11. If DFPS transmits or stores Confidential Information via electronic means, utilize secure file transfer protocol or encryption in motion and at rest and other applicable security controls in accordance with the most current version of the National Institute of Standards in Technology, Special Publication 800-53, or other equally protective security controls.
12. Designate a privacy official and a security official, who may be the same individual, authorized to act on behalf of the receiving agency with respect to implementing the privacy and security requirements in this MOU. Receiving agency will provide contact information for these officials to disclosing agency.
13. Timely cooperate with any request for information, documentation, audit, inspection, or investigation by any applicable regulatory authority or as required by HHSC to comply with its regulatory requirements.
14. Comply with all laws and regulations applicable to the type of Confidential Information, including incident and breach reporting, notification and corrective action requirements contained in applicable laws and regulations.

#### **VIII. Amendment**

This MOU may be amended at any time in writing by mutual consent of the Parties.

**IX. Effective Date and Review of Agreement**

This MOU shall commence on the date upon which it has been signed by all Parties and continue in effect until rescinded by either Party upon providing at least 30 days advance written notice to the other Party. This MOU must be reviewed every two years by the Parties program staff.

**X. Signatures**

**Health and Human Services  
Commission**

By: *Dee A. Budgewater*

**Department of Family and Protective  
Services**

By: *Krist Blackstone*

Kristene Blackstone  
Associate Commissioner for Child Protective  
Services *1.28.20*

By: *James Sylvester*  
James Sylvester  
Associate Commissioner for Child Protective  
Investigations

Date of Execution: *02/20/20*

Date of Execution: *01/28/2020*



**Texas Health and Human Services Commission  
Executive Commissioner Key Contract Provisions Summary (KCPS)**

**SECTION 1**

Contract Number:		Contractor Name: Department of Family and Protective Services (DFPS)	
Administering Division: Medical Social Services (MSS) HDI Services		Administering Department: Health & Developmental Services (Refer to HCATS Department drop down options)	
Contract Type: <input type="checkbox"/> Consulting Services <input type="checkbox"/> Major Information System <input type="checkbox"/> Professional Services <input type="checkbox"/> Other Services			
Type of submitted documentation	<input checked="" type="checkbox"/> New Contract <input type="checkbox"/> Amendment* <input type="checkbox"/> Renewal* <input type="checkbox"/> Extension*	Begin Date: _____ or <input checked="" type="checkbox"/> Effective upon execution	End Date: _____ or Expires _____ months after execution
*Begin date of the <b>original</b> contract: _____			

**SECTION 2**

Amendment/Renewal/Extension: <input type="checkbox"/> Decreases the Amount <input type="checkbox"/> Increases the Amount <input checked="" type="checkbox"/> Has No Monetary Change	
Amount of the submitted documentation:	<u>\$0.00</u>
If an amendment, renewal, or extension is being processed, enter the amount of the <b>original contract</b> plus all <b>prior</b> amendments, renewals, and/or extensions. <b>Do not</b> include the amount of the submitted documentation that is currently being processed.	_____
Grand Total:	\$ 0.00
What is the source of funds to be used to pay for the goods, services, and/or deliverables? (Check all that apply) <input type="checkbox"/> Appropriated receipts <input type="checkbox"/> Federal funds <input type="checkbox"/> General revenue <input type="checkbox"/> Interagency funding agreement (e.g., private grants)   (Medicaid, federal grants, etc.)   (state funds)	
Comments: _____	
List the Budget Department Identification number(s) (speed chart #) from which the contract will be paid. _____	

**SECTION 3**

<b>PURPOSE OF THE CONTRACT:</b> The purpose of this MOU is to align our respective programs to: develop streamlined referral and reporting protocols; ensure an effective referral and communication system to support these children; enhance interagency collaboration and relationships; and coordinate an effective system of activities, training, policies and procedures between HHSC and DFPS. Note: Contract terms provide for review every 2 years and contract continues in effect until rescinded by either party, therefore no expiration date or end date is applicable.
<b>SUMMARY OF THE SUBMITTED CONTRACT ACTIVITY:</b> <input type="checkbox"/> See Approved Action Memo, if applicable.

**SECTION 4**

<b>SIGNIFICANT CONCERNS/ISSUES</b> (legal, financial, etc.): Include any potential issue(s) (i.e., pros/cons, risks, etc.) that HHSC decision makers should be aware of or select N/A if there are none. <input checked="" type="checkbox"/> N/A <input type="checkbox"/> See the attached Action Memo previously approved by the Executive Commissioner, if applicable.
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## Texas Health and Human Services Commission Executive Commissioner Key Contract Provisions Summary (KCPS)

### PURPOSE

To provide a summary of the contract provisions for the Executive Commissioner's (EC) review prior to signing and executing the contract.

### WHEN TO PREPARE THIS FORM

The KCPS form is completed by the Project/Contract Manager at the time of preparation for all contracts considered as new, an amendment, a renewal, or an extension, prior to the submittal of the contract packet to Contract Administration (CA).

### PROCEDURES

The Division/Program staff forwards the completed form, along with the contract packet, to CA for coordination with the EC or Delegated Authority for review, approval, contract signature and execution.

### SECTION 1

- **Contract Number:** If known, enter the HHSC Contract Number and/or include the amendment letter or renewal number. Leave the box blank if a Contract Number has not been assigned. CA will assign a number and notify the program, after entering new information into HCATS.
- **Contractor Name:** Enter the legal name of the contractor.
- **Administering Division:** Enter the name of the Division and Program initiating, administering and managing this contract activity.
- **Administering Department:** Enter the name of the Department initiating, administering and managing this contract activity.
- **Contract Type:** Check the applicable contract type. Select from the following:
  - Consulting Service – Services that involve study of or advice to the contracting entity (e.g. supervising a project, providing research, examining strategies, etc).
  - Major Information Systems – Computers that cost more than \$100,000; services related to computers, including computer software that costs more than \$100,000; a telecommunications apparatus or device that serves as a component of a voice, data, or video communication.
  - Professional Service – Services rendered by a worker with specialized knowledge who is licensed or registered as cited in [Government Code 2254](#) and HHSC Rule, 391.109. A service provided within the scope of the practice, as defined by state law.
  - Other Services – Contracts that do not fit into any of the previous categories.
- **Type of submitted documentation:** Check the appropriate box for a new contract, a renewal, an amendment or an extension.
  - Enter the contract start date or check if Effective upon execution and enter the end date or time in monthly increments.
- **Begin date of the **original** contract:** If an amendment, renewal, or extension is being processed enter the begin date and end date of the **original** contract.

### SECTION 2

- **Amendment/Renewal/Extension:** If an amendment, renewal, or extension is being processed, check the appropriate box to designate if the amount of the Agreement will increase, decrease, or has no monetary change to the original contract.
- Enter the amount of the submitted document as stated in the Agreement being processed (**Hit tab**).
- Enter the amount of the **original** contract plus all **prior** amendments/renewals/extensions: **Do not** include the amount of the Agreement that is currently being processed (**Hit tab**).
- What is the source of funds to be used to pay for the goods, services, and/or deliverables? Check all that apply. Consult with the HHSC Budget Office to determine the source of funds to be used to pay for the contract.

**Texas Health and Human Services Commission  
Executive Commissioner Key Contract Provisions Summary (KCPS)**

- List the Budget Department Identification number(s) (speed chart #) from which the contract will be paid. For any questions, contact the Division/Program Budget Analyst or Central Budget.

**SECTION 3**

- **PURPOSE OF THE CONTRACT:** Provide an explanation of the overall purpose of the contract, including the service that is being purchased or delivered.
- **SUMMARY OF THE SUBMITTED CONTRACT ACTIVITY:** Provide a brief description or relevant history of the contract activity being executed (e.g. amendment to increase the contract budget, amendment to renew the contract for an additional year, etc.). The description should be specific.
  - If an Action Memo has been previously approved by the EC, reference here and attach the Action Memo to the completed KCPS form.

**SECTION 4**

- **SIGNIFICANT CONCERNS/ISSUES (legal, financial, etc.):** List and/or describe any issues of concern.
  - If an Action Memo has been previously approved by the EC, reference here and attach the Action Memo to the completed KCPS form.

EXAMPLE



Contract No. \_\_\_\_\_

**Memorandum of Understanding  
For Confidential Information Exchange  
Between  
Texas Health and Human Services (HHS) System  
And  
Texas Department of Family and Protective Services (DFPS)**

This Memorandum of Understanding (MOU) for Confidential Information Exchange is effective as of the date last signed below.

**I. PURPOSE**

The purpose of this Memorandum of Understanding is to align our respective programs to: develop an effective communication to support the HHS system and DFPS; enhance interagency collaboration and cooperation; protect information and data that is shared between HHS and DFPS in accordance with applicable laws and regulations; and enable the parties to exchange confidential and sensitive information as necessary to effectuate their respective powers and duties.

**II. BACKGROUND**

As required by and pursuant to the authority granted by the following legislation, as of September 1, 2017, DFPS will no longer be part of the Texas Health and Human Services system of agencies.

- Senate Bill 200 of the 84<sup>th</sup> Legislature, Regular Session (2015),
- House Bill 5 of the 85<sup>th</sup> Legislature, Regular Session (2017); and
- Senate Bill 11 of the 85<sup>th</sup> Legislature, Regular Session (2017).

Senate Bill 200 transferred administration of Child Care Licensing (CCL) and the Provider Investigations component of Adult Protective Services (APS-PI) from DFPS to HHSC. As required by House Bill 5 and Senate Bill 11, the CCL function related to the investigation of abuse, neglect, and exploitation in child-care facilities, including residential facilities, are the sole and complete responsibility of DFPS. Regulation of child-care facilities, including residential child-care facilities, are the sole and complete responsibility of HHSC.

Additionally, House Bill 5 requires DFPS and HHSC to enter into contracts for the provision of shared administrative services for information resources, procurement, purchasing, and contracting; and payroll and rate setting. The bill requires DFPS to collaborate with HHSC to ensure the effective provision of support services. The agencies have identified numerous areas of ongoing administrative support to be provided

between the agencies as detailed in joint House Bill 5 Steering Committee executive decision memos, and in additional related Memorandums of Understanding.

As a result of Senate Bill 200, House Bill 5, Senate Bill 11, and other laws pertaining to the agencies' operation, DFPS and HHSC workforce will be required to share information, data, and access to information systems needed to continue to perform functions and necessary activities for continued operation of the agencies and their respective clients.

### **III. AUTHORITY**

#### **Health and Human Services Commission (HHSC)**

As part of the HHS system, HHSC is the single state agency administering federal Medicaid funds. Tex. Gov't Code § 531.021. HHSC oversees and implements the Texas State Medicaid Plan and administers the state medical assistance program. For the purposes of this MOU "Medicaid" refers to medical assistance benefits without regard to whether they are federally or general-revenue funded.

HHSC may provide, in whole, or in part, the following functions for DFPS.

1. Information resources and technology, including development, maintenance and support for specified functions, services, systems, applications, and governance procedures.
2. Procurement, purchasing, and contracting, including support for specified contracting functions and contract data reporting.
3. Selected System Support Services functions such as regional administrative support, print shop, and switchboard support.
4. Selected financial services including payroll, rate setting, and forecasting.
5. Selected government relations and communications services including translation, video, and advertising.
6. Services provided by the Inspector General including audits, investigations, and inspections.
7. Services provided in support of rule development.
8. Services and activities provided by the Center for Elimination of Disproportionality and Disparities.
9. Civil Rights Office services.

## **DFPS**

DFPS is the state agency designated to protect children and to protect elderly and disabled adults in certain home-based settings and programs. DFPS performs functions including the following and has associated powers and duties:

1. Acts as the single state agency administering Parts B and E, Title IV, federal Social Security Act (42 U.S.C. § 620 et seq. and 670 et seq.) and the Child Abuse Prevention and Treatment Act (CAPTA) (42 U.S.C. Section 5101 et seq.);
2. Child protective and child welfare services, including those required by law to be provided by the state's child welfare agency;
3. Adult protective services, other than APS-PI;
4. prevention and early intervention services functions, including:
  - (A) prevention and early intervention services as defined under Section 265.001, Family Code; and
  - (B) programs that:
    - (i) provide parent education;
    - (ii) promote healthier parent-child relationships; or
    - (iii) prevent family violence.
5. the investigation of alleged abuse, neglect, and exploitation occurring at a child-care facility, including a residential child-care facility, s those terms are defined in Section 42.002, Human Resources Code;
6. the statewide intake of reports and other information related to the functions enumerated above, in addition to reports that relate to the regulation of child-care facilities and reports that related to Adult Protective Services provided by HHSC.

Texas Government Code § 531.0213; Texas Human Resources Code §§ 40.002 and 40.0025.

## **IV. Laws Governing Use and Disclosure of Information**

DFPS and HHSC carry out their respective duties governed by a series of laws that both authorize and limit the disclosure of confidential information. The parties agree that the exchange of information necessary to carry out their statutory powers and duties will be made in accordance with applicable laws, including but not limited to the following statutes and associated rules:

1. The relevant portions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. Chapter 7, Subchapter XI, Part C;
2. 42 CFR Part 2 and 45 CFR Parts 160 and 164;
3. The relevant portions of The Social Security Act,
4. 42 U.S.C. Chapter 7;
5. Laws governing medical assistance including 42 U.S.C. §1396;
6. The Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988, 5 U.S.C. § 552a;

7. Internal Revenue Code, Title 26 of the United States Code including IRS Publication 1075;
8. OMB Memorandum 07-16;
9. Texas Business and Commerce Code Chapter 521;
10. Texas Health and Safety Code, Section 81.006 and Chapters 181 and 611;
11. Texas Human Resources Code § 12.003;
12. Texas Government Code, Chapter 552, as applicable;
13. Title 3 of the Texas Occupations Code, as applicable;
14. Constitutional and Common Law Privacy; and
15. Any other applicable law controlling the release of information created or obtained in the course of providing the services described in this MOU.
16. U.S.C. §§ 671(a)(8) and 5106a(b)(2)(B);
17. Texas Family Code § 261.201
18. Texas Human Resources Code § 40.005
19. Texas Human Resources Code § 48.101.

## **V. Application of MOU**

This MOU applies to information systems and applications related to supporting the transfer and operation of programs and functions; and provision of administrative support services between the agencies under the requirements of SB 200, HB 5, and SB 11 and other law. This MOU applies to interfaces between HHS, HHSC and DFPS systems, and information or data that may be entered, securely shared, accessed, viewed, or reported from those systems. These information systems, sub-data sets, and applications include, but are not limited to, the following:

1. Health and Human Services system-wide applications as applicable.
2. Systems and applications supporting Medicaid and waiver programs as applicable.
3. DFPS Data Warehouse
4. Information Management Protecting Adults and Children in Texas (IMPACT)
5. Child Care Licensing Automated Support System (CLASS)
6. CLASSMate
7. Mobile Protective Services
8. DFPS Central Registry
9. DFPS Employee Misconduct Registry
10. HHSC Employee Misconduct Registry (DADS legacy)
11. Applications supporting purchasing, procurement and contract management
12. Applications supporting the Center for Learning and Organizational Excellence
13. Shared Drives and SharePoint

## **VI. AGREEMENT**

DFPS and HHSC agree to require their employees and contracted providers to comply with the following requirements.



1. Data access and usage shall be limited to appropriate business need and in accordance with any laws or regulations that pertain to access and usage;
2. Each party will follow breach notification procedures and report any unauthorized disclosures of confidential information as soon as possible to [privacy@HHSC.state.tx.us](mailto:privacy@HHSC.state.tx.us) with respect to breaches of HHS confidential information and to [mark.herber@dfps.state.tx.us](mailto:mark.herber@dfps.state.tx.us) with respect to breaches of DFPS confidential information;
3. Each party becomes the steward of the other agency's confidential information and shall use and disclose information received only in accordance with the agreement or applicable law;
4. The sharing of confidential information in accordance with this agreement shall not constitute a waiver of confidentiality;
5. Each party shall make confidential information available and accessible to the other as necessary to carry out party's functions to the greatest extent permitted by law;
6. Agency Sensitive Information means information that is not subject to specific legal, regulatory or other external requirements, but is considered HHS or DFPS sensitive and is not readily available to the public. "Agency Sensitive Information" could be subject to disclosure under the Texas Public Information Act, but disclosure should be controlled due to the data's sensitivity. Both DFPS and HHSC agree that they will protect HHS or DFPS Agency Sensitive Information from unauthorized access or disclosure.

## VI. Signatures

### A. Department of Family and Protective Services

  
H. L. Whitman, Jr., Commissioner

2-5-2017  
Date signed

### B. Health and Human Services Commission

DocuSigned by:  
  
C800 71B769504E9 ...  
Charles Smith,  
Executive Commissioner

10/11/2017 | 3:35 PM CDT

\_\_\_\_\_  
Date signed

EXAMPLE