



NEW JERSEY DEPARTMENT
OF CHILDREN AND FAMILIES

New Jersey Department of Children and Families Policy Manual

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Purpose

6-18-2001

“The purpose of this chapter is to protect the confidentiality of client information received, developed and maintained by the Division...” (N.J.A.C. 10:133G-1.1)

The policies and procedures in this subsection are designed to provide a framework for field office staff in the collection of client information. See [CP&P-IX-G-1-100](#) for policy on confidentiality and disclosure of client information. Federal and State statutes, regulations, Attorney General opinions and administrative policies are presented in general terms and serve as guidelines for decision-making in individual situations. This policy is not meant, nor should it be expected, to address in detail all possible circumstances under which questions concerning the collection and retention of client information may arise. Specific situations will necessarily require the exercise of sound judgment within the limits established by law, regulation and policy.

In circumstances involving the collection and retention of records or reports which are not expressly covered by statute or regulation, or addressed in policy, consult the Deputy Attorney General.

Policy

5-10-2010

Basic to the Division’s ability to provide appropriate and adequate services to individual clients is the need to obtain and record personal, economic, and psycho-social information. CP&P is obligated to treat as confidential all such information, whether or not the information is recorded in the client’s case record or in New Jersey SPIRIT (NJS). The policies and procedures outlined in this subsection are based on Federal and State laws and regulations which govern the Division’s collection and retention of confidential client information. The obligation of CP&P to safeguard confidential client information, once collected, is binding on all individual Workers, Supervisors, Administrators, clerks, typists, students, volunteers, and other staff members, as well as on the agency as a governmental entity.

For relevant terms and definitions used in this policy, see [CP&P-IX-G-1-100](#).

When domestic violence is alleged or co-occurs with child abuse and/or neglect, see [CP&P-VIII-B-1-100](#), and the [Domestic Violence Protocol](#), Section III, Confidentiality, for

additional confidentiality policies and procedures.

Laws and Regulations Governing CP&P Collection of Client Information 6-25-2001

N.J.S.A. 9:6-8.40 - CP&P Collection of Information from Agencies, Facilities, Providers, Law Enforcement 6-25-2001

N.J.S.A. 9:6-8.40 authorizes CP&P to request information from public or private agencies or facilities, private practitioners or service providers including law enforcement agencies, upon the Division's receipt of:

- a report of child abuse or neglect; or
- an order from Family Court to investigate an allegation of child abuse or neglect.

CP&P is exempted from paying for copies of records needed to complete an investigation of child abuse or neglect or to provide services to an abused or neglected child (N.J.S.A. 9:6-8.40).

The statute enables the Division to request "records past and present" pertaining to one, specific child, or other children "under the same care, custody, and control" (i.e., residing with or having resided with a parent or parents, guardian or other caregiver). The law protects the source of the information from liability, both civil and criminal, for disclosing records to CP&P.

CP&P may, under this statute, seek a court order to obtain records kept pursuant to the New Jersey Code of Juvenile Justice, N.J.S.A. 2A:4A-20 et seq., for the purpose of determining whether a child is an abused or neglected child.

See also Laws, Regulations and Administrative Orders Governing Disclosure of Information.

N.J.S.A. 30:4C-26.8 - Criminal History Records 7-24-2015

N.J.S.A. 30:4C-26.8 requires that criminal history background information be obtained on CP&P resource parent applicants and adults residing in their households. The checks include information gathered from the Division of State Police in the Department of Law and Public Safety and the Federal Bureau of Investigation.

If the prospective resource parent or any adult residing in his or her home has a record of criminal convictions, CP&P reviews the record with respect to the type and date of the offense, and makes a determination as to the suitability of the applicant to become a resource parent.

N.J.S.A. 2A:4A-60 - Juvenile Justice Information 10-5-2009

Under N.J.S.A. 2A:4A-60, social, medical, psychological, and legal records of the court, Probation Division, Family Crisis Intervention Units, and law enforcement agencies throughout the state pertaining to juveniles charged as delinquents or involved in juvenile-family crisis cases are kept strictly confidential by such authorities and agencies, but may be released to the Division, without a court order, if CP&P is providing care and custody of the juveniles.

See below for additional information about this statute. See also N.J.S.A. 2A:4A-60.2 - Disclosure, Use of Juvenile's Statement made in the Course of Screening, and N.J.S.A. 2A:4A-60.3 - Conditions for Disclosure of Juvenile's Information to Court.

N.J.A.C. 6A:16-11 – Reporting Potentially Abused or Neglected Children 3-25-2015

N.J.A.C. 6A:16-11, Reporting Potentially Missing, Abused, or Neglected Children, requires district boards of education to establish policies and procedures for reporting to and cooperating with child welfare authorities pursuant to N.J.S.A. 9:6-8.10.

N.J.A.C. 6A:16-11.1(a)6 requires that each district board of education establish a liaison to CP&P, whose job, in part, is to facilitate general information sharing and the development of mutual training and other cooperative efforts.

N.J.A.C. 6A:16-11.1(a)5iii and iv state that district boards of education must have provisions for “the release all records of the student who is the subject of the investigation that are deemed relevant to the assessment or treatment of a potentially...abused or neglected child...” and “the maintenance, security, and release all confidential information about potential...abused or neglected child situations in accordance with...” State statutes and administrative codes, including N.J.S.A. 9:6-8.40. See Collecting School Records, below.

42 CFR Part 2 - Records Relating to Drug and/or Alcohol Use 7-24-2015

Pursuant to Federal law, 42 CFR Part 2, the confidentiality of the records of patients involved in most drug and/or alcohol related treatment programs is protected, and requires the prior, written consent of the patient before they can be released. See the Consent for the Release of Confidential Substance Abuse Information to the Division of Child Protection and Permanency, CP&P [Form 11-48](#). The Authorization for Release of Information, CP&P [Form 26-15](#), is not appropriate for requests for drug or alcohol records.

If a patient refuses to provide consent to release his or her records to CP&P, a court order or subpoena may be required. An exception to this law, however, allows treatment programs, hospitals, and others to release drugs/alcohol related information when reporting suspected child abuse or neglect to State CPS agencies (e.g., CP&P).

See Collecting Records on Client Use of Drugs and/or Alcohol, below.

General Policy for Collection of Client Information 7-24-2015

Except as indicated in N.J.A.C. 10:133G, “each child welfare client is entitled to know what information is being collected, how it is used, and who has access to the information...” (N.J.A.C. 10:133G-2.2(a)) Emphasis added.

The Division representative (i.e., the Screener, followed up by the assigned Worker or IAIU Investigator) shall gather identifying information about the family members. The Division (i.e., the assigned Worker or IAIU Investigator) shall gather the majority of the information necessary to make an assessment through personal interviews with family members who are available.

The Division representative (i.e., the Screener, followed up by/or the assigned Worker or IAIU Investigator) may request written information from agencies and others who may have information about the family which is necessary to determine the family's need for child welfare services, in accordance with the provisions of N.J.S.A. 9:6-8.40, and 30:4C-11 and 12, as applicable.

The Division representative (i.e., the assigned Worker or IAIU Investigator) may interview any person who, by virtue of his or her relationship to the child, family, perpetrator or incident, can reasonably be determined to have information necessary to complete the assessment.

Thus, as a general rule, **client information is obtained from the client.** When it is necessary to obtain information about the client from other individuals, agencies, or institutions, the client is informed and his consent obtained, unless to do so would place a child at risk or impede a child protective services (CPS) investigation. To collect information from other sources, obtain the client's consent on CP&P [Form 26-15](#), Authorization for Release of Information. Forward the completed CP&P [Form 26-15](#) to the information source. Follow up with a telephone call, if necessary.

Mental health agencies may require additional release procedures for their records, pursuant to the Community Mental Health Services Act (N.J.A.C. 10:37-6.79). Some agencies require use of their own forms. Substance abuse treatment agencies and programs require use of a form with specific procedural guidelines for the release of drug-related client treatment information. See CP&P [Form 11-48](#), Consent for the Release of Confidential Substance Abuse Information to the Division of Child Protection and Permanency, and Collecting Records on Client Use of Drugs and/or Alcohol, below.

When CP&P collects information from other individuals, it is important to protect the client's reputation and right to privacy. **Information about a CPS allegation is given to other individuals only to the extent necessary to the client's situation or necessary to elicit required relevant information.** See [CP&P-IX-G-1-100](#), Disclosing Information When Requesting or Collecting Information, for policy about when CP&P must release some information to collect other needed information.

Tape recording for case recording or CPS investigation purposes -- including audio recording and video recording -- is not an acceptable method for collecting and documenting client information. See Tape Recording Prohibited, below.

For gathering information to document a child's disability when applying for SSI benefits, see [CP&P-IX-F-1-250](#).

Tape Recording Prohibited

9-8-98

Tape recording staff interactions with clients or others associated with a Division case for case recording or CPS investigation purposes -- including audio recording and video recording -- is not an acceptable method for fact gathering by Division field staff, and is prohibited.

Likewise, tape recording by Division clients is highly discouraged. If confronted with a situation in which a Division client or another person associated with a Division case requests to tape record an interview or telephone conversation with a CP&P representative, consult the DAG before proceeding.

Field staff are prohibited from tape recording any in-person interview or telephone conversation with a child, parent and family, alleged perpetrator, witness, extended family member, referral source, collateral source of information, fellow professional, etc.

Any exception to this policy -- whether or not the involved parties acknowledge and consent to the taping -- is routed through the LO Manager and requires the approval of the Area Director. Area Director approval must:

1. be in advance of the taping;
2. be in writing (both the request and the Area Director's consent must be written);
3. document a purpose for tape recording (i.e., state an intended use of the tape);
4. state why it is necessary to tape record the event rather than document its occurrence by other, more conventional means;
5. be detailed and specific (e.g., date, time, place of the taping; who is to be tape recorded; circumstances surrounding the tape recording; etc.); and
6. be provided each time that tape recording is to occur (i.e., specific, written approval from the Area Director is required for each individual in-person or telephone conversation that is to be taped).

Staff is permitted to participate in interview sessions or conversations which may be taped by law enforcement officers, County Prosecutors or a Medical Examiner when conducting criminal investigations or official business, subject to the stipulations and limitations of applicable criminal law.

Consult the DAG if staff question whether to participate in or attend a meeting with another agency, organization or entity at which the agency, organization or entity intends to tape record the proceedings, particularly if Division clients or CP&P intervention with a given family will be discussed at the meeting.

Tape recording of work-related activities is limited to the following conditions only:

- The Office of Training and Professional Development video tapes case simulations when conducting New Worker Training and other courses. (Participants are aware of the use of recording devices, and later play back and analyze tapes for training staff development purposes.)
- The tape recording of in- or out-service training sessions or professional conferences attended by CP&P staff is permitted, providing that the Trainer or guest speaker is aware that the session is being taped, and does not object to the taping.
- In-house committee meetings between staff, or inter-agency multi-disciplinary meetings or professional gatherings may be tape recorded, for documentation and/or policy-development purposes, if the attendees are aware of the presence of the recording device and do not object to being taped. The CP&P Chairperson or CP&P representative attending the meeting is responsible for advising participants that he or she is taping the meeting. If the recording device is seen to inhibit participation at the meeting or distract from the general

business at hand, the meeting should not be taped.

Field staff may dictate (i.e., audio record) case notes, for their own use when later completing CP&P case recording documents. See [CP&P-III-C-6-100](#).

In an effort to promote openness and trust between staff, and to encourage the development of good work ethics, the tape recording of all other work-related activities between CP&P employees is prohibited. This policy bars the tape recording of discussions relating to discipline, staff development or other personnel-related matters, case conferencing, unit meetings or any other professional, work-related conversations or activity between employees, whether in a Division field office, an Area Office, Central Office or outside the office, whether between two Workers, a Worker and a Supervisor, a Supervisor and a Casework Supervisor, a Casework Supervisor and an office Manager, an office Manager and an Assistant Area Director, etc.

Any exception to the policy -- even when all involved staff acknowledge and consent to the taping -- must be approved, in advance, by the Area Director or, when applicable, the Deputy Director or Chief of Staff for whom the employee works, under the six conditions listed above. The administrator consults the Employee Relations Coordinator before approving any tape recording activity related to a potential corrective or disciplinary action.

The tape recording of a Regional or IAIU-related dispositional conference is also prohibited by policy, even when requested by an appellant. Any exception requires the approval of the Area Director (for a Regional dispositional conference) or the Assistant Director for Intergovernmental Affairs (for an IAIU-related dispositional conference). See [CP&P-IX-M-1-100](#).

Note: This policy which prohibits tape recording does not apply to voice mail systems installed by the Office of Telecommunications and Information Technology (IT) throughout CP&P offices statewide. If a message is recorded on voice mail of a critical nature, however (e.g., a threat against a child or directed toward field staff), consult the DAG as to its evidentiary application, if any.

General Policy on Retention of Client Information 4-5-2010

Information collected by CP&P and recorded in hard copy (i.e., paper) shall be retained by the Division in the form of a case record or, for closed cases, on microfilm. The DCF Institutional Abuse Investigation Unit, IAIU, keeps "investigation reports" rather than case records. Electronic case files are stored in NJ SPIRIT.

Information associated with a CPS investigation determined to be "unfounded" may be subject to expunction (deletion) from the paper and electronic case record. Information shall not be deleted from microfilm, however, due to prohibitive costs.

See definition, Expunction (Expunge). Also see policy at [CP&P-III-E-2-100](#), Expunction of Records, [CP&P-IV-B-4-400](#), Retention of Resource Family Home Abuse/Neglect Incident Reports, and [CP&P-IV-C-10-200](#), Retention of Adoption Home Abuse/Neglect Incident Reports.

Collecting Records from Agencies, Institutions, and Private Practitioners 6-18-2001

During a child protective services investigation, upon the provision of child protective services, and/or when the Division has reason to believe that a child may be an abused or neglected child, CP&P has the authority to request records from agencies, institutions, and private practitioners under N.J.S.A. 9:6-8.40 and/or N.J.S.A. 2A:4A, with or without a parent's consent. Sources are not required to release the requested information. Sources who do provide information to CP&P, however, may not be punished - held liable - under N.J.S.A. 9:6-8.40.

CP&P field staff solicit information by sending sources CP&P [Form 21-7](#), Request for Information Pursuant to N.J.S.A. 9:6-8.40, a letter which explains this provision in the law. If the source refuses to release information to CP&P upon receipt of CP&P [Form 21-7](#), and the information is believed to be necessary for the child's protection, consult the DAG about initiating court action or obtaining a subpoena for its release.

When seeking information about a child who is not at risk (non-CPS), a parent's consent is needed.

As a government agency, CP&P does not pay for photocopies of reports requested. Send any bills for photocopies to the Management Coordinator, DCF Office of Accounting, Cost Code #973.

See [CP&P-III-C-6-100](#), Collecting Information and Negotiating Case Plans, for information gathering during case recording activities.

See [CP&P-IV-C-5-100](#) when gathering information from the police or a hospital about a Safe Haven infant.

Collecting School Records

3-25-2015

In addition to requirements for information sharing established by N.J.A.C. 6A:16-11.1 (see Reporting Potentially Abused or Neglected Children, above), a New Jersey Attorney General Opinion, M76-2748, makes it clear that State educational law, regulations, and the Federal Family Educational and Rights and Privacy Act of 1974 permit CP&P staff to review educational records in child abuse or neglect investigations (N.J.S.A. 9:6-8.40). Parental consent is not required. The Opinion further advises that any person who discloses information from education records to a duly authorized CP&P investigator under these conditions shall be immune from any civil or criminal liability for release of the information.

CP&P staff may refer to the Attorney General's opinion if difficulties arise in gaining access to education records. If, after requesting the records from a school principal, CP&P is not granted access to the requested information, contact the County Superintendent of Schools to aid in the resolution.

When CP&P seeks to obtain school records about a child who is not at risk, a parent's consent is needed.

Collecting Records on Client Use of Drugs and/or Alcohol

8-28-95

The confidentiality of records of patients involved in most drug abuse and/or alcohol treatment programs (substance abuse) is protected by Federal law. The law prohibits the release of information regarding a patient's identity, diagnosis, prognosis, or treatment without the patient's prior written consent (42 CFR Part 2). However, section 106 of Pub. L. 99-401, the Children's Justice and Assistance Act of 1988, amends section 523(e) and 42 U.S.C. 290ee3(e) to permit Federal authorities or State agencies receiving Federal funding to report suspected child abuse and neglect to appropriate State or local authorities in accordance with local State law. The amended sections of the Public Health Service Act include the following provision:

"The prohibitions of this section do not apply to the reporting under State law of incidents of suspected child abuse and neglect to the appropriate State or local authorities."

This exception in the Federal law to the restrictions on disclosure of alcohol and/or drug related patient information provides an avenue for the reporting of suspected child abuse and neglect in accordance with State law. Thus, Federal law makes an exception regarding the reporting of suspected child abuse and neglect from the usual restrictions on disclosure of alcohol/drug patient records, but permits all other patient information to be protected.

If, following receipt of a report of suspected child abuse/neglect, CP&P wishes to subpoena patient records (or treatment program personnel to testify about patient records) for civil proceedings relating to an incident of child abuse or neglect, written patient consent is required. All other alcohol and drug patient records covered by Federal law are not subject to subpoena unless a special court order is issued first. The Federal law permits the State court to issue an order authorizing disclosure if it is convinced that the public interest and need for disclosure out-weigh the possible injury to the patient, to the patient-physician relationship, and/or to the rendering of treatment services.

Criteria for Court Order for Drug and Alcohol Records 8-28-95

The criteria for issuance of a court order to release substance abuse-related information to CP&P are:

- notice to both the patient and the treatment program;
- a hearing; and
- a showing of good cause.

Once an order is issued, the information covered by the order may be subpoenaed.

Client Consent for Release of Drug and/or Alcohol Records to CP&P 7-24-2015

A client's consent to the release of drug and alcohol-related information to CP&P, or others must:

- be in writing;
- name the client and the program which is to make the disclosure;
- identify the party to whom the disclosure is to be made; and

- state the purpose or need for the information to be disclosed.

In addition, the consent to release drug/alcohol related information must contain a statement that such consent is subject to revocation at any time. It must specify the duration of the consent with reference to a date or the occurrence of an event or condition. Finally, the consent must be dated and signed by the client and, if the client is a minor, by his parent or guardian as well.

Either a representative from the treatment program or the CP&P Worker meets with the client or the minor client and his parent or guardian to review and witness the signing of the CP&P [Form 11-48](#), Consent for the Release of Confidential Substance Abuse Information to the Division of Child Protection and Permanency. The Authorization for Release of Information, CP&P [Form 26-15](#), is not appropriate for requests for drug or alcohol records. When a treatment program releases such information to CP&P, CP&P may not redisclose that information to another party without specific consent, unless the initial disclosure was intentionally and expressly made for the purpose of disclosure to the other party. A warning on redisclosure must accompany the release of information.

Control of Records 4-5-2010

Each Local, Area or Central Office unit must retain the physical custody and control of “paper” case records in its possession. No individual, employee, or representative is permitted or authorized to release the custody and control of any client case record.

If a situation requires that a “paper” case record, resource family home or adoptive home record be removed temporarily from the office (e.g., litigation, CPRB review), the responsible staff member must retain physical custody of the record and is not authorized to release it to any individual. The staff member in possession of the record is responsible for seeing that it is returned promptly to the office where it is normally kept. Case records shall not be taken home or retained out of the office overnight.

Only copies of case records shall be released to requesting parties, and then only those portions of the record required or authorized to be released in accordance with this subsection.

In accordance with Title 5, United States Code Annotated, Government Organizations and Employees (5 USC 552 and 552a), misuse of client-related information - including obtaining data by illegal means and/or disclosing information to unauthorized persons - could subject the offender to a fine up to \$5,000 and/or five years imprisonment, as well as to civil liability.

In addition, under N.J.S.A. 9:6-8.10b (New Jersey law), any person who permits or encourages the release of the contents of a CP&P client case record in violation of State law which prohibits the release of child abuse information may be guilty of a misdemeanor and subject to a fine of not more than \$1,000, imprisonment for not more than three years, or both.

For expunction of NJ SPIRIT records and “paper” records, see [CP&P-III-E-2-100](#), Expunction of Records. For retention expunction of resource family home records, see [CP&P-IV-B-4-400](#). For adoption home records, see [CP&P-IV-C-10-200](#).

Computer Information - NJ SPIRIT

4-5-2010

The computerized NJ SPIRIT (NJS) application and other client data computer systems to which DCF has control and/or access contain confidential client information. Computer screens are to be accessed by appropriate CP&P and Department of Children and Families staff members only, with the information obtained used for official, job-related purposes only. It is illegal for any Division or DCF employee to look up confidential client related Child Abuse Registry information for personal reasons. For expunction of computer files, see [CP&P-III-E-2-100](#), Expunction of Records.