



North Carolina Department of Public Safety

Juvenile Justice and Delinquency Prevention

Roy Cooper, Governor
Eddie M. Buffalo, Jr., Secretary

William L. Lassiter, Deputy Secretary

Division of Juvenile Justice and Delinquency Prevention Juvenile Justice Records Requests

All requests for juvenile records must be in writing and forwarded to the Juvenile Justice and Delinquency Prevention (JJDP) Records Manager at the email address listed below. The request and the consent for release of information (if required) should identify the specific record types requested. Requests are reviewed by DPS Legal Counsel to ensure compliance with state and federal confidentiality laws. If a release is required, JJDP will accept and review any completed release, but strongly encourages the use of the Juvenile Justice Behavioral Health Consent Form.

JJDP complies with the records retention schedule set by the Department of Natural and Cultural Resources, which requires that juvenile offender records be kept until the subject's 28th birthday, at which time they are destroyed.

For any questions not covered by the guidance in this document, contact Erin Hickey, JJDP Records Manager, at erin.hickey@ncdps.gov or (919) 324-6065.

I. ACCESS TO JUVENILE RECORDS BY CERTAIN PARTIES/ENTITIES

PARENTS)/GUARDIAN(S)/CUSTODIAN(S) or authorized representative of the juvenile's parent(s), guardian(s), custodian(s)

Statute(s): G.S. 7B-3001(c)(2); 42 CFR Part 2

Access: The parent/guardian/custodian may examine or obtain copies of JJDP records and files concerning a juvenile without an order of the court.

Consent Required: If there are records pertaining to substance use evaluation and treatment that the juvenile consented to without parent involvement, then the juvenile must provide consent to allow JJDP to redisclose substance use evaluation and treatment information to the parent/guardian/custodian. This requirement typically would apply to a case where there existed a treatment relationship between the juvenile and a provider prior to the juvenile's involvement with juvenile justice.

Mailing Address:
4212 Mail Service Center
Raleigh, NC 27699-4212

www.ncdps.gov



Office Location:
3010 Hammond Business Place
Raleigh, NC 27603
Phone: 919-733-3388

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JUVENILE'S ATTORNEY

Statute(s): G.S. 7B-3001(c)(1); 42 CFR Part 2

Access: The juvenile's attorney may examine or obtain copies of JJDP records and files concerning a juvenile without an order of the court. The same access applies to an attorney representing a former juvenile justice-involved youth who is now an adult.

Consent Required: The consent of the juvenile and parent (unless juvenile is 18 years of age or older or emancipated) is required for records concerning the evaluation and treatment for substance use. The attorney can also obtain a court order that complies with 42 CFR Part 2.

Note: see information below concerning substance abuse and education records

DEPARTMENT OF SOCIAL SERVICES

Statute(s): G.S. 7B-3001(c)(2); G.S. 7B-302(e); G.S. 7B-303; 42 CFR Part 2; 45 CFR 164.512

Note: G.S. 7B-3100 and 14B NCAC 11A .0301 is limited to the sharing of information and does not address the access to or copies of confidential juvenile records.

Access:

1. If DSS is the legal custodian of the juvenile, they may examine or obtain copies of JJDP records and files without an order of the court (G.S. 7B-3001(c)(2)).
2. In performing any duties related to the assessment of a report or the provision or arrangement for protective services, the director may consult with any public or private agencies or individuals, to assist in the assessment and evaluation of the seriousness of any report of abuse, neglect, or dependency. The director or the director's representative may make a written demand for any information or reports, whether or not confidential.

See G.S. 7B-302(e); 42 CFR 2.12 (c)(6); 45 CFR 164.512(b)(1)(ii).

3. When making a records request, the DSS official should indicate whether DSS has legal custody of the juvenile and provide a copy of the court order, which would authorize JJDP to provide records pursuant to G.S. 7B-3001(c), or whether DSS is investigating an abuse/neglect report and requesting records pursuant to G.S. 7B-302(e).
4. Otherwise, JJDP is authorized to release confidential juvenile records to DSS or the attorney representing DSS pursuant to a court order signed by a district court judge.

Consent Required: If DSS is not evaluating a report of abuse, neglect or dependency or is not the legal custodian for the juvenile, they must provide a court order, or a valid consent signed by the juvenile and/or parent.

Note: JJDP is not authorized to release confidential juvenile records pursuant to a subpoena.

U.S. PROBATION OFFICES

Statute: G.S. 7B-3001(c)

Access: None without the juvenile's consent

Consent Required: The juvenile's consent is required to release any records.

Note: see information below concerning education, medical, mental health, and substance abuse records.

LAW ENFORCEMENT

Statute(s): G.S. 7B-3001(c) and 7B-3001(a1)

Access:

1. To assist at the time of investigation of an incident that could result in the filing of a complaint, upon request, a juvenile court counselor shall share with a law enforcement officer sworn in this State information from the juvenile court counselor's record related to a juvenile's delinquency record or prior consultations with law enforcement. A law enforcement officer may not obtain copies of any part of the record, and all information shared pursuant to this subsection shall be withheld from public inspection.

Note: The juvenile code does not authorize court counselors to discuss with law enforcement whether a juvenile is on probation or electronic monitoring or to provide an NCJOIN number. Court counselors may only provide information related to the juvenile's prior delinquency adjudications and prior consultations with law enforcement.

2. Requests from law enforcement agencies for electronic monitoring (BI) records require a court order or a search warrant signed by a judge (not a magistrate). The contents of a search warrant, as outlined in G.S. 15A-246, may be included in the application and any attachments incorporated by reference. Every page of the attachment must be signed and dated by both the applicant and the judge.

DISABILITY DETERMINATION SERVICES (SSA)

Statute: G.S. 7B-3001(c)

Access: None without a valid consent or court order.

Consent Required: Yes. Unless a court order is provided, the juvenile or their parent/legal guardian must provide consent to authorize JJDP to release any records.

II. EDUCATION, MEDICAL, MENTAL HEALTH, AND SUBSTANCE ABUSE RECORDS

The disclosure of confidential juvenile records is governed by multiple state and federal privacy laws, including the HIPAA Privacy Rule (45 CFR Parts 160 and 164), the state mental health law (Chapter 122C of the North Carolina General Statutes), the North Carolina Administrative Code (NCAC) (10A NCAC 26B), the federal substance abuse records law (42 CFR Part 2), and the Family Educational Rights and Privacy Act (FERPA) (20 USCS § 1232g(b); 34 C.F.R. Part 99). Therefore, any protected medical, mental health, substance abuse treatment, or education information contained in a juvenile's confidential record may be disclosed only as permitted by these laws.

JJDP will not release medical, mental health, substance abuse, or education records unless permitted by state or federal law, or a valid consent or court order is provided which authorizes the disclosure of the information. A general directive to disclose "all records" does not satisfy the requirements outlined below.

Education Records:

Under the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C.S. § 1232g(b) and 34 C.F.R. Part 99), the parent or eligible student shall provide a signed and dated written consent before JJDP may disclose personally identifiable information from the student's education records, except as provided in [34 CFR § 99.31](#). (See *34 CFR § 99.30*).

The written consent must specify the records that may be disclosed, state the purpose of the disclosure, and identify the party or class of parties to whom the disclosure may be made.

An educational agency or institution (e.g., JJDP) may disclose personally identifiable information from an education record of a student without the consent required by [34 CFR § 99.30](#) only if the disclosure meets one or more of the conditions outlined in [34 CFR § 99.31](#).

Note: Although the juvenile's attorney is authorized to receive confidential juvenile court counselor's records without a consent or court order, a consent or court order is required before JJDP can release education records.

Medical and Mental Health Records

Medical, mental health and developmental disabilities records are governed by the HIPAA Privacy Rule (45 CFR Parts 160 and 164), the state mental health law (Chapter 122C of the North Carolina General Statutes), and the North Carolina Administrative Code (NCAC) (10A NCAC 26B) must not be disclosed unless disclosure is expressly permitted by written consent, court order or as otherwise permitted by state laws.

Substance Use Records:

A court order to disclose records governed by the federal substance abuse confidentiality law (42 CFR Part 2) must comply with Subpart E of 42 CFR Part 2 (outlined below).

Under 42 CFR Part 2, a court order must specifically authorize the disclosure of substance abuse treatment records and the court must determine that "*good cause*" exists for the disclosure. Furthermore, when authorizing disclosure for purposes other than criminal investigation or prosecution, the court must find that (1) other ways of obtaining the information are not available or would not be effective, and (2) the public interest and need for disclosure outweigh the potential injury to the patient, the patient's-program relationship, and the program's ongoing treatment services. See [42 CFR § 2.64\(d\)](#).

Note: Although the juvenile's attorney is authorized to receive confidential juvenile court counselor's records without a consent or court order, any records containing substance use evaluation and treatment information requires a consent or court order before JJDP will release the records.

III. REQUIRED ELEMENTS FOR WRITTEN CONSENT

The required elements and statements for a valid consent are outlined in federal statutes and the North Carolina Administrative Code. See 42 CFR 2.31, 45 CFR 164.508; 10A NCAC 26B .0202. The Juvenile Justice Behavioral Health Consent Form complies with all the elements and statements required.

Generally, a valid consent must

1. Be in writing.
2. Be addressed to NCDPS, JJ, or a specific district/facility.
3. Identify the individual, including name and a unique identifier such as SSN or DOB.
4. Identify the specific type of information to be disclosed.
5. Identify the purpose of the disclosure
6. Specify the date on which the authorization will expire.
7. Specify the dates of treatment/involvement for which information is requested.
8. Be signed and dated by the juvenile or their parent/legal guardian.
9. A description of the representative's authority to act for the juvenile/individual (if the consent is signed by a legally responsible person).