



Tennessee Department of Children's Services

**Engaging Parents and Other Involved Adults: Frequently Asked Questions
(FAQs)**

Supplemental to DCS Policies: Chapter 31

Section One: Definitions

Prior to sharing information with a non-offending parent or another involved adult, the worker must identify the legal status of the parent or adult to determine what information may be shared.

Note: An individual can always consent or sign a release of information for the protected/confidential information to be shared.

A. Non-residential/Non-offending legal parents (Married or Court-Ordered Custody): There is a current marriage in place or there are court documents that provide for a shared custody arrangement between the parents. This category would also apply to individuals who are not parents, but who have legal custody or guardianship of the child(ren).

Information to share:

- i. Information about the child (respecting specific confidentiality laws that apply to teenaged youth in regards to medical, mental health, and substance abuse records);
- ii. Information necessary to provide for the care of the child;
- iii. Information regarding DCS involvement (respecting the HIPAA privacy rights of the other parent).

B. Other Non-residential/Non-offending legal parents: Examples of parents meeting this category include parents who have established parentage, but do not have court-ordered custody rights; parents who have only signed a Voluntary Acknowledgement of Paternity (VAP); and parents who only appear on a birth certificate.

Information to share:

1/17/20

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- i. Information necessary to provide for the care of the child;
- ii. Information regarding DCS involvement (respecting the HIPAA privacy rights of the other parent).

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C. Alleged/putative parents/other involved adult: When a person has been named as a parent of a child, but there is no documentation that the person has been established as the child’s legal parent, workers should treat the person as a non-custodial relative or other involved adult.

Information to share:

- i. Information necessary to provide for the care of the child, if that person was caring for the child or is going to be caring for the child;
- ii. Limited information of DCS involvement (e.g. Court and CFTM dates). These individuals should be engaged and encouraged to participate in case planning, but information may only be shared on a ‘need to know’ basis.

Section Two: Confidentiality

- The Department shall comply with state and federal laws/regulations regarding confidentiality.
- Title 37 makes all information and records about persons receiving services from DCS confidential.
- The **Health Insurance Portability and Accountability Act (HIPAA)** establishes the **minimum** standards for confidentiality of Protected Health Information (PHI).

- **Mental health records and substance abuse records** are specifically given a higher level of protection. This means that the Department must obtain consent or a court order before releasing this information to any person.

- **Youth 16 and older** are treated as adults for the purpose of releasing mental health records or substance abuse treatment records. This means that the Department must obtain consent from a youth 16 or older or a court order before releasing these records to any person.

- **Alleged Perpetrators** are not entitled to records about the alleged child victim. **Referent name** in a Child Protective Services (CPS) case must not be disclosed.

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- **Youth 14 and older** are presumed under Tennessee law to be able to consent to medical care. If a youth has received treatment or health services based on their own consent, the youth controls the release of that health information. This means that the Department must obtain consent from the youth or a court order before releasing these records to any person.
- Some specific statutes permit health care providers in TN to treat minors without the consent of a parent or guardian, regardless of the age of the minor. This applies to birth control and reproductive health, and juvenile substance abuse treatment. If a youth receives these kinds of services based on his or her own consent, then the youth controls the disclosure of that health information.
- The **Family Educational Rights and Privacy Act (FERPA)** protects the privacy of student education records. Generally, schools must have written permission from the parent to release a student’s education record, but there are specific exceptions such as to comply with a subpoena or court order or in connection with a “health or safety emergency.”
- By statute, foster parents are also entitled to receive certain information before children are placed in their home and certain information after children are placed. This is commonly referred to as the **Foster Parent Bill of Rights**.

Note: If a worker has questions about whether or not information should be released, the worker should consult with his or her regional legal staff.

Section Three: Frequently Asked Questions

1. What obligations does the Department have to engage both parents in a non-custodial case? In a custodial case?

In both custodial and non-custodial cases, the Department shall engage all parents. Even if one parent has not lived with the child or has not been involved prior, the Department still has an obligation to locate, case plan, and provide services for that parent. If there are questions regarding whether to engage or not, contact your legal department.

2. What right to information does a parent have?

The legal status of a parent matters when determining what information can be shared with that individual. There is a difference in what we can tell someone who is alleged to be a child’s birth father versus what we can tell someone who has joint custody of the child. Legal parents with custodial rights are entitled to more

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information than alleged parents who have not established parentage. Individuals can always consent or sign a release of information to allow the protected/confidential information to be released.

3. Do I need to have proof of the legal status of a parent before I share any information with him/her? What information do I need to be able to communicate with him/her?

The Department will rely on information provided to them by the parents, as long as there is no dispute as to the legal status of the parent(s). If there is a dispute or question regarding legal status, then we seek information to determine their status. Until this is verified we can share the “need to know” information described under putative/alleged parent. Case workers still have an obligation to obtain birth certificates, social security cards, and other documentation as provided for in policy. Information that can be obtained to verify legal status includes, but is not limited to, birth certificates, parentage orders, custody orders, and marriage certificates reflecting the child was born during the marriage or within 300 days after a divorce.

4. Can putative fathers and/or non-parental caregivers have actions steps or involvement in a Family Permanency Plan?

Yes. All parents (legal, putative, etc.) shall be included on a family permanency plan. For an alleged parent, the action step could be to establish parentage. Other household members or non-parental caregivers can, and often should, be included on family permanency plans. The Department does fund services for individuals who are not legally parents, but there are specific requirements that must be met to do this, such as being included on a family permanency plan.

5. What efforts do I need to take with uninvolved parents?

Even if one parent does not want the other parent involved, or if one parent has historically been uninvolved with the child, the Department’s obligation is to locate, engage, case plan, and provide services for that parent.

6. What should I try when a mother refuses to provide any information on who the father is?

Tell legal. Attorneys can ask the court to place the mother under oath and require her to provide the information. Other sources of information should also be utilized, such as birth records and parentage records.

Section Four: Confidentiality in Practice-Examples

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Scenario 1

Amelia, age 13

Since school started in August, Amelia (age 13) has been complaining that she doesn't feel like her medications are working right, and she wants to see her doctor to evaluate her medications. She reports that she currently takes Lamictal and Lexapro. She reports that her mother refuses to take her to the doctor or listen to her concerns. Ms. Moore, the mother, has not been willing to communicate with the school counselor.

Around 11:20PM, Amelia's sister noticed Amelia was lying on the floor by her bedside. When she asked Amelia what was wrong, Amelia yelled at her and told her to, "Leave me alone!" Her sister mentioned that Amelia has been throwing stuff into the wall and her sister is terrified to be around her and sleep in there while Amelia is making all the noises, being so aggressive with herself, and hitting on the closet door and the mattress. There are several dents in the wall from Amelia throwing things.

Amelia said she's having a hard time controlling her emotions and wants her medicine re-evaluated. Her last medication management appointment was three months ago with Health Connect, but she believes Health Connect is no longer on the case. Her medication management hasn't been transferred to another doctor/agency. She said she's asked mom several times to get her medicine reevaluated but no luck. Amelia is also experiencing suicidal thoughts and said she has less than 30 pills remaining with no refills.

Ms. Moore has asked the school psychologist to take care of the problem and she does not seem to want to take Amelia to her doctor. The school psychologist (Mr. James Bert) has told Ms. Moore she needs to take Amelia to the doctor herself.

What information can you release?

Other parent:

If father is a legal parent, you can share everything regarding Amelia's health. If father is only an alleged/putative parent, you could share limited information necessary to provide for the care of Amelia.

Mr. Bert (school psychologist) wants to know if Amelia has been to the doctor. What can you tell him?

If the information is needed for Mr. Bert to provide treatment to Amelia, the information can be provided to Mr. Bert. Otherwise, without a release of information or mother's consent, Mr. Bert is not entitled to protected health information.

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During the course of the investigation, we determine Amelia is going to be placed non-custodially through an IPA with Grandma. What information can be shared with Grandma?

You can share limited information necessary to provide for the care of Amelia. For example, if Amelia has any doctor's appointments coming up, Grandma needs to know about that.

Mother's boyfriend has been caring for the child for many years, but is not the father. What information can be shared with him?

He is treated as other involved adult. You can share limited information needed to care for the child. Mother can consent to open discussion of all information, but her consent should be documented in TFACTS.

Scenario 2

Owen, Age 16

Owen Miller (16) resides with his mother, Lydia Davis (35), and Dylan Davis (34). Owen's birth father, name unknown, has not had contact with him.

Owen was observed being hit by Lydia a few days ago. It is reported that Lydia "open handedly hit him on the mouth because Owen didn't call her ma'am". There were no injuries observed on Owen after the incident. Dylan has hit and punched Owen in the face. Owen stated that Dylan has hit him in the back of the head and punched him in the face before.

Lydia has told Owen that he needs to commit suicide because "he serves no purpose on this earth". Owen has been having suicidal ideations and most recently had suicidal thoughts last night. Owen stated that last night he was thinking about committing suicide by overdosing on his mother's various prescription medications. It is believed that Owen had suicidal ideations last night because he could not take the "constant abuse" anymore. Owen has scars on his arms from self-mutilating and cutting himself. It is not believed that Owen has attempted suicide in the past.

Dylan and Lydia do not let Owen have friends or speak with mental health professionals because they are afraid that he will tell them about the abuse that he endures at home. Lydia purchased CBD oil as a way to treat Owen's mental health issues but it is not believed to be working. Both Lydia and Dylan tell Owen that he is "worthless and a piece of

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crap". Dylan and Lydia threaten to kick Owen out of the house all the time. Today, Owen stated that they threw all his things outside previously and locked him outside the house and told him to "figure it out".

Owen was observed stating that he was afraid to go home to Dylan and Lydia today. Owen stated that he "wishes that he could just disappear so that he wouldn't have to go back to the home because he doesn't feel safe there". Owen has recently been in such a state of stress and anxiety that he has begun having vivid, psychiatric hallucinations of Dylan and Lydia kicking him out of the home. It is reported that these hallucinations are "like PTSD".

Lydia drinks "somewhat heavily". Over the weekend, Lydia was observed drinking an entire bottle of Jack Daniels Eggnog by herself. It is reported that Lydia drinks wine, champagne, and vodka during the week. "Lydia gets way worse when she drinks". When Lydia has been observed drunk she gets "way crazier and she doesn't stop". Dylan drinks every now and then but it is not believed that he has a current alcohol addiction. It is believed that Lydia smokes marijuana regularly.

It is suspected that Lydia has borderline personality disorder. Lydia "has a mask that she puts on in front of other people so that they do not see the real side of her". Dylan will keep Owen out of school frequently because "he just doesn't want to take them to school". There was a previous report made to DCS due to truancy. Both Dylan and Lydia are currently employed. Dylan has guns and there are concerns for Owen's safety if Dylan finds out that DCS has been called. Dylan stated, "If anyone got in between his family, he wasn't afraid to shed blood over it".

What is the legal status of the involved parties?

In this scenario, it says that Owen's birth father is unknown. It also appears that mom and Mr. Davis are married. One question to ask to help determine legal status is how long mom has been married to Mr. Davis. If Owen was born within 300 days of the marriage, Mr. Davis is the presumptive legal father.

Owen says he doesn't want anything disclosed to his parents regarding his mental health (suicidal ideation and hallucinations). What do you do?

Because Owen is 16, he controls the release of information pertaining to mental health, unless there is another law permitting disclosure. If Owen is going to remain placed in the mother's home, mother would need to know information necessary to provide for the care and safety of Owen, which would include this information. However, Owen should be engaged and informed as to why the information has to be disclosed to mother. If Owen is placed outside of mother's home, mother would not be entitled to this information without Owen's consent. However, you can discuss the CPS investigation/assessment allegations with the parents without Owen's consent.

If looking at out of home placement, what can you share with the guardian regarding Owen or regarding Lydia? Do you let the placement know Dylan has guns and is threatening?

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Information about Lydia cannot be released without Lydia's consent or a court order. The prospective placement is entitled to information necessary to provide for the care of the child, which could include information about Owen's mental health so that the placement can provide for the care and safety of Owen. For example, the caretaker should know if Owen has had suicidal ideation, if Owen is on medications, side effects of medications, upcoming doctor's appointments, etc. We can also share 'need to know' information or information related to safety.

If a legal father is found, what information can be shared with him regarding DCS involvement, Owen's mental health, or Lydia's information?

Lydia's information cannot be released to the other parent without Lydia's consent or a court order. Father would be entitled to know about the reasons for DCS involvement, and any information necessary to provide for the care of the child. Owen would have to agree for information about his mental health to be shared with the father, unless father is a prospective placement for Owen, in which case he would be entitled to information necessary to provide for the care of the child, which could include information about Owen's mental health.

Law Enforcement is contacted due to concern for Owen's safety with Dylan's guns. What information can be shared?

Information necessary to prevent or lessen a serious and imminent threat to the health or safety of an individual or the public may be shared with law enforcement. This includes protected health information under HIPAA and mental health confidentiality laws. For example, you can tell law enforcement about Owen's suicide ideation if it is necessary to prevent or lessen an imminent threat to the health or safety of someone.

Scenario 3

Alexander, Age 3

Alexander Smith is a 3-year-old Caucasian male that has been in foster care for six months. Alexander entered custody due to his mother's drug use. The family consists of Alexander and his mother, Nora Smith. According to Ms. Smith, Alexander's biological father is John Brown, who abandoned the family shortly after his birth. The couple never married.

Alexander was originally brought to the Department's attention when the CPS worker was out on a referral on another family member (Judy Morris) at the home of Benjamin and Sarah Wilson, Alexander's step-grandfather and maternal grandmother. Nora Smith and Alexander were present at the home. CPS observed that Ms. Smith appeared to be under the influence while caring for Alexander. Ms. Wilson, Ms. Morris, and Ms. Smith all submitted to a drug screen and tested positive for oxycodone. The prescription was Mr. Wilson's and had been prescribed for a recent back injury.

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There were no other family members who could take custody of Alexander, so he entered foster care.

When Alexander entered custody, he was initially placed in a Level 1 resource home. One month later, Alexander's godparents, Chris and Denise Cook, came forward and stated that they would like to take custody of him. The transition to this kinship placement began after an expedited home study was completed. Shortly after being placed in the Cook home, the Cooks stated they could no longer care for Alexander because of the stress on their marriage and the impact it was having on their family. Alexander's former resource home was full, so Alexander was placed in the level 1 resource home of Nick and Alice Perry, where he has remained.

Since Alexander entered custody, Ms. Smith has continued test positive for various drugs including marijuana, oxycodone, valium, Adderall, and cocaine. Ms. Smith entered a rehabilitation facility for treatment three months ago, and completed a six day detox program. However, she then left the facility and did not complete treatment recommendations. On the day Ms. Smith left the facility, she was drug screened by the FSW and tested positive for cocaine and marijuana. She asked the FSW if she "was proud of her for being clean because she was not using her drugs of choice." Ms. Smith could not be located for several weeks after she left the facility. The FSW diligently tried to locate the mother by driving out to areas she may have been living, but was unsuccessful. The FSW was out visiting another client when she ran into Ms. Smith and her boyfriend Matthew Carson at the apartment complex. Ms. Smith was crying and appeared to be bleeding on her head and ear. It was apparent a domestic violence incident had just occurred. The FSW transported her back to the office and assisted Ms. Smith getting into a domestic violence shelter. Ms. Smith stayed there for a few days and then left, stating her mother, Sarah Wilson, was getting her a hotel room as she did not feel safe at that shelter.

At the present time, Ms. Smith is not in compliance with the plan. Ms. Smith continues to test positive for drugs, does not have permanent housing although she has been staying with a friend Julia Wright for the past several weeks, and has no legal source of income. She does continue to visit Alexander at

least weekly and states she wants to be reunited with him. She was scheduled to go for a Mental Health Assessment but has missed the appointment three times now. Once she said she had car trouble; another time she reported the facility required an ID that she did not have; and the last time, she said she was sick with the flu.

FSW was able to locate John Brown, the person identified as Alexander's birth father. Mr. Brown was notified Alexander was in custody and invited to participate in the permanency plan CFTM. Mr. Brown did not attend. The FSW has attempted to talk with him on numerous occasions by leaving voicemails and notes at his residence, all to no avail.

The mother also recently told the FSW that she was married previously to Aaron Smith and it is unknown if this man could be the legal father of Alexander.

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What is the legal status of the involved parties?

Nora Smith is the legal and biological mother of Alexander. John Brown has been identified as an alleged father of Alexander. Aaron Smith may be a presumptive legal father of Alexander, depending on when Ms. Smith and Mr. Smith were married. The Cooks may be considered as other involved adults as the godparents.

The Perrys want information on the case. What information can we share with foster parents? Can we release different information if the foster parents are kinship placements instead of non-kinship?

Pursuant to the Foster Care Bill of Rights, the Perrys are entitled to a lot of information about Alexander, since he is placed in their home. All foster parents, regardless of if they are kinship or nonkinship, receive the same information. They should receive information about Alexander's health history, behavioral issues, special medical or psychological needs, history of physical or sexual abuse, and any other information necessary to provide for the care of the child. They are also entitled to know about decisions made by the courts or DCS about the child, and have the right to notice of all court hearings and scheduled child and family team meetings. The Department may not release protected health information pertaining to the parents unless the parents' consent to the release of the information.

What information can be discussed at the CFTM? What if a progress CFTM is held and mother is not present?

All participants sign a confidentiality agreement at the beginning of the CFTM. At CFTMs, it is appropriate to discuss the strengths and needs of the family, as well as the progress made on completing the tasks on the permanency plan. If parents are present, they may be asked about their progress and share information about their circumstances, including protected health or other

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confidential information. When a worker is providing information to the CFT regarding progress and the parent is not present, the worker should focus on the tasks rather than specific information. For example, if Ms. Smith had completed her mental health assessment, it would be appropriate to say

that the task was completed and what the recommendations were, but you should avoid disclosing specific information from the assessment, such as any diagnosis or disclosures made by Ms. Smith.

What do we need to do about Aaron Smith?

It is important to determine Mr. Smith's legal relationship to Alexander. You need to determine when Mr. and Ms. Smith were married to see if Alexander was born during the marriage. If Alexander was born during the marriage or 300 days after the divorce, Mr. Smith is the presumptive legal father of Alexander.

While conducting the diligent search to locate Ms. Smith, the worker goes to an address listed as Ms. Smith's last known address on a CLEAR search. When knocking on the door, a neighbor comes out. What information can we share?

While you cannot disclose case specific information to a collateral contact, it is appropriate to gather information such as whether Ms. Smith still resides there or when she left. It is alright to identify yourself as DCS and to state that you are looking for Ms. Smith, but do not provide other information as to why DCS is involved unless there is some other confidentiality exception that would apply.

During a home visit with Ms. Smith at her current residence with Julia Wright, Ms. Wright asks why DCS is involved. What can we share?

Ms. Wright is not entitled to any information about the DCS case. However, Ms. Smith may ask for Ms. Wright to participate in the meeting/visit, or consent to the information being released. For example, you could ask mother if it is alright to discuss the case in front of Ms. Wright. If Ms. Smith agrees, you may provide information to Ms. Wright pursuant to the consent. However, this would not include protected or confidential information of other persons, such as the father.

Chris and Denise Cook want to stay involved as a support for Alexander. What information can we share with a non-placement support?

The Cooks could be considered as 'other involved adults.' You could provide limited information of DCS involvement, such as CFTM dates. The Cooks could also be engaged and encouraged to participate in case planning. However, as long as parental rights are intact, parents, and in some circumstances, youth, have the right to decide

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who is on their family team. If conflicts arise regarding participants in the family team, consult with your supervisor and legal.

Mother wants copies of the drugs screens administered to Judy Morris and Sarah Wilson. Can we share those with her?

We cannot release these records to mother unless Ms. Morris or Ms. Wilson consents to the release of the information. Even though they are not the parents or parties to Alexander's case, their information is entitled to the same confidentiality as any other record.

Scenario 4

Landon, Age 14

Landon originally entered custody when he was 10 years old as a dependent and neglected child. At that time, Landon was living with his mother, Emma, and George, the father of Landon's younger brother. Landon was placed into custody due to physical abuse by George. In the first few months after his removal, Landon was placed in six different foster homes. Each placement complained about Landon's bed-wetting, but the moves resulted from other circumstances.

At age 12, Landon was placed in the Powell foster home. The Powells reported that Landon no longer experienced problems with bed-wetting. However, they did start to see other problems begin such as hanging out with the wrong group of young men.

It was later discovered that Landon was a member of the Crips gang. Landon was involved in several illegal activities as a gang member. He was eventually caught by the police and was adjudicated delinquent at the age of 13 due to criminal acts such as criminal trespass, possession of a controlled substance for resale, possession of a firearm, aggravated assault, and resisting arrest.

After he was adjudicated delinquent, Landon's behaviors escalated and he continued to attempt to contact members of his gang. Due to his danger to the community in which he lived, Landon was placed in a youth development

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center. Landon's behaviors did not initially improve at the YDC. He was in frequent fights with the other residents, due primarily to gang conflicts. Landon's therapist changed six months ago, and he has been improving since then.

Landon is now 14 years old and appears to be doing much better. Landon is focusing more on his life and education. Landon is educationally on track, and is two months away from completing his treatment program at the facility. Landon is very concerned about where he will live once he is released from custody. Landon has had limited contact with his mother, Emma, since entering custody and has had none since he has been at the YDC. Mother has not participated in a CFTM since he was adjudicated delinquent. Landon says that his mother told him his father was someone named Bruce, but he's never met him. Landon has identified a former youth pastor, Greg, as someone he would consider to be a support.

What is the legal status of the involved parties?

Emma is the legal and biological mother of Landon. While mother has not identified a father for Landon, the youth has named "Bruce" as his alleged biological father. You should attempt to get as much information as possible from Landon and Emma about "Bruce." George is an 'other involved adult' since he is mother's paramour and the father of Landon's half-brother.

A man named Bruce shows up at the YDC and says that he is Landon's father and wants to know what's going on. What can we share?

You should gather information from Bruce to verify his identity. If Bruce has been identified as an alleged biological father, we may only share limited information of DCS involvement, such as the date of the next CFTM or court hearing. Bruce should be encouraged to participate in case planning, such as a CFTM.

George calls the worker and reports that mother asked him to call and get an update about Landon. What can we share?

George is another involved adult. You may provide limited information of DCS involvement, such as the date of the next CFTM or court hearing. Unless the mother has provided consent directly to DCS, other information may not be shared with George.

Landon's former foster parents, the Powells, reach out to the FSW and want to know how Landon is doing. What can we share? What if they are interested in being a placement again for Landon?

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As former foster parents, the Powells may be provided limited information on Landon's progress, but may not receive protected health information about Landon. For example, the FSW could report that Landon was doing well at his new placement, but not identify the placement name or location. If the Powells are interested in Landon being placed back into their home, they are entitled to information about Landon that may jeopardize the health and safety of the foster family, including information regarding Landon's charges of delinquency and prior gang affiliation.

Greg is interested in being a mentor for Landon. What information can we share?

Greg may be provided limited information about DCS involvement, such as the dates of the next CFTM or court hearing. Greg should be encouraged to participate in case planning for Landon.