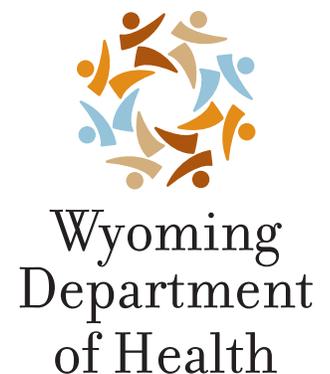


CONFIDENTIALITY

Training for HFWA Providers Working in
Wyoming's Juvenile Courts

Version 1

Module # 6



Confidentiality

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CONFIDENTIALITY IN JUVENILE COURT CASES

The juvenile court process is confidential by statute. Specifically, all records concerning reports and investigations of child abuse or neglect are confidential except as provided by W.S. 14-3-201 through 14-3-215. Any person who willfully violates this subsection is guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars (\$500.00) or imprisoned in the county jail for not more than six (6) months, or both.

Due to the confidential nature of juvenile court cases, the public is generally excluded. Foster parents, however, are allowed unless excluding them is in the best interest of the child or necessary to protect privacy. In special instances, the court may allow certain individuals to attend hearings. For example, a High Fidelity Wraparound (HFWA) provider may attend for the purpose of providing testimony on a specific issues or if a HFWA provider was appointed to the multidisciplinary team (MDT).

ATTORNEY AND GAL'S ETHICAL & CONFIDENTIALITY OBLIGATIONS

The child's attorney and/or guardian *ad litem* (GAL) have a presumption of a normal attorney-client relationship. In a normal attorney-client relationship, when the client confides in the attorney the information is confidential unless it is a safety concern.

For a GAL, when representing a child, information may also be disclosed if it is in the best interest of the child. Before information is shared, however, the GAL should make every effort to get the information from another source or get permission to share the information from the child.

When the GAL and child do not agree on the best interest of the child, the GAL must inform the court of the child's perspective of what is in his or her best interest. This helps the child to understand that he or she has a voice and helps establish trust.

FOSTER AND RELATIVE CAREGIVER CONFIDENTIALITY OBLIGATIONS

Foster and relative caregivers (FRCs) must understand the importance of confidentiality in juvenile court. The fact that a child is merely involved in a case is confidential. As explained above, violation of this confidentiality results in a misdemeanor crime. Confidentiality, however, does not apply to sharing information about the child's current care, medical needs, and visitation with the DFS caseworker and the GAL. The key to confidentiality for FRCs, as for most individuals involved in juvenile court proceedings, is to ask before releasing or sharing information that could result in a violation of juvenile court confidentiality rules.

MDT CONFIDENTIALITY OBLIGATIONS

MDTs are confidential and require the MDT members to sign confidentiality agreements. Wyoming statutes, however, do allow for the sharing of relevant information among MDT members to make case planning recommendations to the court. If an MDT member declines to share information due to confidentiality concerns, the first step is to try and get a release from the affected party. If the party refuses to sign, the court should be notified and the release obtained through court order.

Information learned during the MDT process can only be used for the purpose of making recommendations for family service planning and sanctioning. This includes information relevant to the treatment needs of a specific child or family member as well as information relevant to determining placement, education needs, and service needs. The members of the MDT team may not share information outside of the MDT process unless there is a separate authority for gaining access to and using the information. Note, HFWA provider appointed to the MDT may need to share non-negotiable items (items that are ordered by the court) with the wraparound team because non-negotiable items must be included in the HFWA plan to ensure court orders are followed, but this information is still confidential, so a discussion with the juvenile court attorneys (prosecutor, GAL, parents attorney) will need to occur to ensure this information is shared and confidentiality is not broken.

In order for the MDT to release most information, the MDT needs a release. Parents may be able to sign a multiparty release of information to provide information to the MDT. Note, separate releases are required for mental health and substance abuse. Releases must specifically state what information requested. If an entity chooses to not release requested information, the MDT should notify the court and obtain a court order for a release of the necessary information.

TIPS FOR HFWA PROVIDERS

Tips for HFWA providers regarding confidentiality include:

- Do not share the fact that a child is involved in the juvenile court process. This is confidential.
- Do not attend hearings unless ordered by the court.
- If appointed to the MDT, information learned cannot be shared with non-MDT members.
- HFWA providers appointed to an MDT may need to share non-negotiable items learned at the MDT with the wraparound team, but should talk to attorneys first to find a way to do this and not break confidentiality.
- If in doubt, check with the DFS caseworker or the child's attorney/GAL before releasing or sharing information.