



MINNESOTA JUDICIAL BRANCH

Frequently Asked Questions about the new Juvenile Protection (CHIPS) Rules Effective July 1, 2015 (includes amendments effective October 1, 2016)

The Juvenile Protection (CHIPS) Rules were amended in July 2015, and had some minor clarifications in October 2016. The 2015 changes made CHIPS filings electronically accessible statewide. To make this possible, the changes require everyone who files into CHIPS cases to separate public and confidential portions of their filings. Clarifying amendments were made in 2016 after a year's experience with electronic CHIPS records.

These are the answers to some frequently-asked questions about working with CHIPS cases.

Public Access to CHIPS Records	
How will the public have access to CHIPS records?	Members of the public can view public documents and the Registers of Actions for CHIPS cases on courthouse access terminals in every state courthouse in Minnesota. The public will not have remote (internet) access to any CHIPS records.
Will the public be able to see CHIPS documents filed before July 1, 2015 on courthouse access terminals?	No. Only public documents filed on or after July 1, 2015, are available at the courthouse access terminals. Public documents filed before July 1, 2015, are available in paper form at the courthouses where they were filed. For CHIPS cases with documents filed both before and after July 1, 2015, the entire Register of Actions is available electronically, but only the documents filed on or after July 1, 2015, are available electronically.
Can the public access Guardian ad Litem and social worker reports filed in CHIPS cases?	Yes. The public has access to Guardian ad Litem and social worker reports filed in CHIPS cases. As described below, Guardians ad Litem and social workers must segregate certain types of confidential information out of their reports. The public has no access to this confidential information. Note: GAL reports filed in family court cases are not accessible to the public.
What types of CHIPS records does the public not have access to?	Prior to October 1, 2016, CHIPS cases in which a child was named as a party were not accessible to the public. This was because the court's electronic records system could not restrict searches by party names. As of October 1, 2016, these cases are now treated the same as cases where no child is a party. The public does not have access to confidential information and confidential documents in any CHIPS case.

Confidential Information and Confidential Documents	
What are “confidential information” and “confidential documents”?	“Confidential information” and “confidential documents” are defined in Juvenile Protection Procedure Rule 8.04 . A list of what qualifies as “confidential information” and “confidential documents” is available in the Forms section of the Judicial Branch’s website: <i>Confidential Documents and Confidential Information in CHIPS Proceedings</i> , form CON115. The CHIPS rules about confidential information and confidential documents apply only to CHIPS cases: information that is “confidential information” and documents that are “confidential documents” may be public if they are filed in other case types.
How are confidential information and confidential documents filed with the court?	Confidential information and confidential documents should never be filed in public court documents. Confidential information should be filed on a Form 11.4, which is not accessible to the public. Confidential documents should be filed under a Form 11.3 cover sheet. The Form 11.3 cover sheet is accessible to the public, but the confidential documents are not.
The “name, address, home, or location of any shelter care or foster care facility in which a child is placed” is confidential information in a CHIPS case. Does this include court-ordered placements with custodial or noncustodial parents?	No. A court-ordered placement with a custodial or noncustodial parent, including a trial home visit or protective supervision, is not a placement with a “shelter care or foster care facility.” Information about the placement is not “confidential information.” Rule 8.04, subd. 2(m), was amended on October 1, 2016, to clarify this issue.
Can parties see confidential information in documents filed with the court?	Parties are able to see most confidential information that is filed with the court. Parties are served with copies of Form 11.4, so they can see this information. Parties do <i>not</i> have access to some types of confidential information: the identities of reporters of abuse, information about any person’s HIV status, and information about foster care placement if the petitioner has asserted that revealing that information would endanger the child.
Can participants see confidential information in documents filed with the court?	Participants are not able to see confidential information that is filed with the court unless a judge orders that they can see the information. Participants can request access to confidential information without filing a motion.

Confidential Information and Confidential Documents	
Can confidential information and confidential documents appear in discovery disclosures?	Yes. Confidential information and confidential documents only need to be segregated when they are filed with the court. Forms 11.3 and 11.4 are not required when parties exchange discovery.
Are change of foster care location forms confidential documents?	Yes. Change of foster care location forms are confidential documents, and should be filed under a Form 11.3 cover sheet.
A child’s current placement is confidential information. Are a child’s past placements (the placement history) also confidential information?	No. The child’s placement history is not confidential information unless there is specific language linking the current placement to the placement history. For example, this would be acceptable: “Child 1 was first placed in Home A in 2013, then placed in Home B in 2014, and <u>was placed in his current placement</u> on January 1, 2015. See Confidential Information Form 11.4 for Child 1’s current placement.” But this would not be acceptable: “Child 1 was first placed in Home A in 2013, then placed in Home B in 2014, and <u>was returned to his first placement</u> on January 1, 2015. See Confidential Information Form 11.4 for Child 1’s current placement.”

Cases with Foster Parents as Parties	
Does a case become confidential if the foster parents are parties?	No. The case does not become confidential if the foster parents are parties. But court staff must be careful to ensure that the foster parents are not identified as foster parents in the MPA Courthouse display. (For example, the register of actions could say that “John Smith” is a party, but should not say that “Foster Parent: John Smith” is a party.) If court staff are unable to keep information that identifies the foster parents as foster parents out of the public display, then they should make the case confidential.

Segregation of Confidential Information and Confidential Documents	
Who is required to segregate confidential information from public CHIPS filings, and when is segregation required?	Everyone who files documents in CHIPS cases is required to segregate confidential information and confidential documents from public filings. This applies to all CHIPS cases, including CHIPS, permanency, truancy, runaway, voluntary foster care, and voluntary foster care for treatment cases. This applies to all phases of CHIPS cases, including post-permanency review hearings. This applies to all courts in Minnesota, and to electronic and paper filings. And it applies regardless of whether the child is a party or a participant.
Can filers make an entire document confidential if it contains confidential information?	No. There is a presumption of public access to most court records. Most documents in CHIPS cases, including petitions, case plans, and reports by social workers and Guardians ad Litem, are accessible to the public. Confidential information needs to be removed from these documents and placed on separate confidential information forms.
What information is available to the public about truancy cases, runaway cases, and other cases where a child is a party?	Cases in which a child is a party were confidential cases between July 1, 2015, and October 1, 2016, due to technological limitations on restricting searches by child names. These cases become publicly accessible when a document is filed on or after October 1, 2016.
When is a child’s identity confidential?	<p>The identity of a child is confidential if the child is a victim or perpetrator of an alleged or adjudicated sexual assault. This requires making the child’s name, age, gender, and race confidential. The child should simply be referred to as “Child 1” in public court documents. If there are multiple children in a file, and only one is an alleged victim of sexual assault, all of the children should be referred to with pseudonyms (“Child 1”, “Child 2”, etc.). This is necessary to protect the identity of the victim. If you are using pseudonyms for multiple children, the best practice is to randomly assign pseudonyms (e.g., “Child 1” should not always be the oldest child).</p> <p>A child’s identity is also confidential if the petitioner has requested that it be confidential under Rule 33.02, subd. 6. The petitioner must allege that revealing the child’s identity would endanger the child, and request that the child’s identity be kept confidential. If this request is made, the child’s identity is confidential. (Note: This procedure may be used for foster parent names as well.)</p>

Segregation of Confidential Information and Confidential Documents	
Exhibits admitted at trial sometimes contain confidential information and documents. Are they accessible to the public?	Yes. Exhibits received into evidence at a trial or an evidentiary hearing are not “filed” and, therefore, are accessible to the public, even if they contain confidential information or confidential documents. The exhibits become inaccessible to the public only if a judge issues an order making them inaccessible.
Should confidential information be segregated from documents submitted to the court for <i>in camera</i> review?	No. Documents submitted to the court for <i>in camera</i> review are not filed with the court, but, rather, are submitted to the judge for review. For that reason, any confidential information in the documents does not need to be segregated. If the judge approves the filing of one or more of the documents, the confidential information must be segregated before the documents are filed.
Should attorneys or others preparing proposed orders segregate confidential information from proposed orders?	Attorneys or others preparing proposed orders should follow judicial preferences and local practices in preparing proposed orders. For example, if the judge prefers that confidential information not be included in the order and, instead, be included in a “Confidential Attachment to Order,” then that practice should be followed. People who file proposed orders with the court (whether through the eFS System or by conventional means) should keep in mind that they are subject to the restrictions on filing confidential information with the court.

Forms 11.3 and 11.4	
Who has access to Forms 11.3 and 11.4?	<p>Form 11.3 is the Confidential Documents Cover Sheet that is used to list confidential documents that are filed with the court. Form 11.3 makes it possible for the public to see what confidential documents were filed, and is accessible to the public. Form 11.3 is accessible to the parties, participants, and the public.</p> <p>Form 11.4 is the Confidential Information Form, and is used to file confidential information that has been segregated from public court filings. Parties have access to Form 11.4, unless the Form 11.4 contains information that cannot be disclosed to parties under the Rules of Juvenile Protection Procedure. Participants and the public have access to Form 11.4 only if ordered by the court.</p>

Forms 11.3 and 11.4	
Can we modify Forms 11.3 and 11.4 for local use?	No. The forms should not be modified for local use. Forms 11.3 and 11.4 are posted on the Judicial Branch's website .
If a judge segregates confidential information from a public court order, does the judge have to use Form 11.4?	A judge is not required to use Form 11.4 if the judge chooses to segregate confidential information from a public court order. Instead, the judge may include a "Confidential Attachment to Order." Form 11.4 was designed for use by filers when submitting confidential information to the court. While it can be used by judges, it was not designed for this purpose.
Should filers submit a Form 11.4 with every document that contains confidential information?	Yes. Filers should submit a Form 11.4 with every document that contains confidential information, unless the confidential information refers to a child or foster parent using a pseudonym that has already been provided on a Form 11.4 filed earlier in the case. In those situations, the filer can refer to the previously-filed Form 11.4, but should state the date it was filed ("Child 1 is identified on Form 11.4, filed July 1, 2016.").

Issues Specific to Social Workers and Guardians ad Litem	
How should social workers segregate confidential information and documents from reports generated through SSIS?	<p>Social workers can find guidance in DHS Bulletin #16-68-06 on how to prepare reports generated through SSIS for filing.</p> <p>Social workers are not required to segregate the identities of sexual assault victims from reports filed in adoption cases, because adoption cases are confidential cases.</p>
How should social workers file the signatures of foster parents when they sign the out-of-home placement plans?	Social workers should have the foster parents sign the out-of-home placement plan on a separate page, and should file that page as a confidential document. Both typographical and facsimile signatures are permissible. (A typographical signature is typed in the form /s/ <i>John Smith</i> . A facsimile signature is a scanned image of a signature on paper.)
Do tribal social workers have to use Forms 11.3 and 11.4 when they submit reports to the court?	Yes. Tribal social workers are subject to the same information segregation requirements as non-tribal social workers.

Notarization	
<p>Do I have to have all of my documents notarized?</p>	<p>No. The rules allow the filing of most documents under penalty of perjury without being notarized. In CHIPS and adoption cases, there are only three exceptions where notarization is still required:</p> <ul style="list-style-type: none"> • Admissions in CHIPS and adoption cases; • Settlement agreements in adoption cases; and • Consents to adoptions. <p>Notarization is still an option, but no longer a requirement, for other types of documents.</p>

Striking of Pleadings	
<p>General Rule of Practice 11 now has a process for striking pleadings that contain restricted identifiers. Must a document containing confidential information be stricken if a revised/corrected document is not filed with 21 days of service of a Notice of Deficiency?</p>	<p>The striking process referenced in General Rule of Practice 11 applies to all case types, including CHIPS cases. But the striking process doesn't apply to all types of non-public information. The key is that there are two types of non-public information in CHIPS cases: "restricted identifiers" defined in General Rule of Practice 11, and "confidential information" and "confidential documents" defined in Juvenile Protection Procedure Rule 8.04.</p> <p>"Restricted identifiers" include social security numbers, financial account numbers, and employer identification numbers. Restricted identifiers are seldom seen in CHIPS cases, but must be segregated out of public documents if they are filed. If a restricted identifier appears in a public document in a CHIPS case, the striking process, including the 21-day cure period, applies.</p> <p>Most of the non-public information in CHIPS cases is confidential information or confidential documents defined in Rule 8.04. If confidential information appears in a public document in a CHIPS case, the document is placed on confidential status and the filer is directed to resubmit the document. But the striking process does not apply. It is up to the judge to determine what sanctions to impose. The document is only stricken if the judge orders that it be stricken as a sanction.</p>

Have questions about the new CHIPS rules? Send them to:
State.CHIPS.Rules.Questions@courts.state.mn.us