



MINNESOTA JUDICIAL BRANCH

Frequently Asked Questions about the new Juvenile Protection (CHIPS) Rules Effective July 1, 2015

This document contains answers to questions State Court Administration has received from court staff and external court users about the changes to the Juvenile Protection (CHIPS) Rules that went into effect on July 1, 2015.

Overview of Changes	
What are the changes to the CHIPS rules?	<p>There are four major changes to the CHIPS rules effective July 1, 2015:</p> <ul style="list-style-type: none">• Members of the public can view public CHIPS records in electronic format at every courthouse in Minnesota.• Filers are required to segregate confidential information and confidential documents from public filings in CHIPS cases.• Most documents in CHIPS cases that require notarization may, alternatively, be signed under penalty of perjury without a notary.• Attorneys, government agencies (including social workers), and Guardians ad Litem must use the court's electronic filing system.
Public Access to CHIPS Records	
How will the public have access to CHIPS records?	<p>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 access to any CHIPS records.</p>
Will the public be able to see CHIPS documents filed before July 1, 2015?	<p>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.</p>



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Can the public access Guardian ad Litem and social worker reports filed in CHIPS cases?	<p>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 will segregate certain types of confidential information out of their reports. The public has no access to this confidential information.</p> <p>Note: Guardian ad Litem reports filed in family court cases are confidential and not accessible to the public.</p>
What types of CHIPS records does the public not have access to?	<p>CHIPS cases in which a child has been named as a party are currently not accessible to the public electronically. This is because the court’s electronic records system cannot currently restrict searches by party names. These cases are expected to be made available to the public once the technology has been developed to restrict party name searches. But, upon the court’s finding of an exceptional circumstance, the public may have access to these records under the old, paper-based system that was followed before 7/1/15.</p> <p>The public does not have access to confidential information and confidential documents in any CHIPS case. There is more information about confidential information and confidential documents in the next section.</p>
Confidential Information and Confidential Documents	
What are “confidential information” and “confidential documents”?	<p>“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.</p>
How are confidential information and confidential documents filed with the court?	<p>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.</p>



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<p>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?</p>	<p>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.”</p> <p><i>Please note that this is a change from the FAQ dated July 2, 2015.</i></p>
<p>Can parties see confidential information in documents filed with the court?</p>	<p>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.</p>
<p>Can participants see confidential information in documents filed with the court?</p>	<p>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.</p>
<p>Can confidential information and confidential documents appear in discovery disclosures?</p>	<p>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.</p>
<p>Are change of foster care location forms confidential documents?</p>	<p>Yes. Change of foster care location forms are confidential documents, and should be filed under a Form 11.3 cover sheet.</p>
<p>A child’s current placement is confidential information. Are a child’s past placements (the placement history) also confidential information?</p>	<p>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.”</p>



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Cases With Children Or Foster Parents As Parties

Cases become confidential when a child is a party. Does this mean that the child's identity is confidential and must be submitted on Form 11.4 for documents filed in the case?	No. The child's identity only needs to go on Form 11.4 if the identity is confidential for a reason other than the child's being a party, such as when the child is an alleged victim of sexual assault.
How are records for CHIPS cases <u>in which a child is a party</u> classified in the following situations? 1. The case was initiated before 7/1/15, and no documents have been filed after 7/1/15. 2. The case was initiated before 7/1/15, but documents have been filed after 7/1/15. 3. The case was initiated after 7/1/15.	<p>1. The case records are accessible to the public under the old, paper-based system that was followed before 7/1/15.</p> <p>2. The entire case becomes confidential upon the filing of the document after 7/1/15. This is true even though the case was accessible to the public under the paper-based system before the document was filed.</p> <p>3. All records of the case are confidential. (Please note that filers should use Forms 11.3 and 11.4 to segregate confidential information and documents in the case, even though it is confidential. The case may be made public in the future once technology is developed to restrict party name searches.)</p> <p>NOTE: Upon the court's order after finding an exceptional circumstance exists, the public may have access to confidential records under the old, paper-based system that was followed before 7/1/15.</p>
Records of CHIPS cases in which a child is a party are non-public. Are the hearings also closed to the public?	No. The hearings are open to the public unless a judge orders otherwise. Because the records of the case are confidential, court staff cannot give out the hearing dates to the public, confirm the existence of the case, or display the hearing on public calendars.
There are two children in a CHIPS case, and one is a party. The judge orders the party child removed from the file. Does the case become public once the child is no longer a party?	Yes. The case becomes public once no child is a party. Court staff should make sure that the child's address does not appear on the public records display, because the address may be the same as the remaining child's address.



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What is the minimum security classification for documents filed in cases in which a child is a party?	The minimum security classification is CON1.
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.



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<p>What information is available to the public about truancy cases, runaway cases, and other cases where a child is a party?</p>	<p>Cases in which a child is a party, including truancy and runaway cases, are currently not accessible to the public. Court staff will not acknowledge the existence of any of these cases to the public. (These cases may be made public in the future once technology is developed to restrict searches by party names.)</p> <p>Any case in which a child is a party is confidential. This is true even when there are grounds besides truancy or runaway in the petition, and when a ground other than truancy or runaway is admitted.</p> <p>NOTE: Upon the court's order after finding an exceptional circumstance exists, the public may have access to confidential records in these cases under the old, paper-based system that was followed before 7/1/15.</p>
<p>Do filers need to segregate confidential information in truancy cases, runaway cases, and other cases where a child is a party?</p>	<p>Yes. Cases in which a child is a party are currently not accessible to the public because the court's electronic records system cannot restrict searches by party names. Once this technology becomes available, these cases are expected to be made public. To prepare for that improved technology, filers must segregate confidential documents and confidential information in truancy, runaway, and other cases where the child is a party. Following this procedure will also assist court staff to provide paper copies of documents in truancy and runaway cases if the court grants a request for access by a member of the public because truancy and runaway records are not currently accessible electronically).</p> <p><i>Please note: This is a change from the FAQ dated July 2, 2015.</i></p>



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When is a child’s identity confidential?	<p>The identity of a child who is the subject of the petition is confidential if the child is a victim 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.</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> <p>If another person (e.g., the mother) involved in the case is a minor and is an alleged or adjudicated victim of sexual assault, that person’s name is not confidential unless the court issues a protective order.</p>
If the children in a case are identified by pseudonyms, should we ever change their pseudonyms?	<p>No. It’s important to use the same pseudonyms for the children throughout the case. Changing the pseudonyms makes it much more difficult to understand the documents that are filed.</p> <p>This means that the person who drafts the petition will effectively assign the pseudonyms for the children. Once the pseudonyms have been used in the petition, every subsequent filing should use the same pseudonyms.</p> <p>In cases with multiple children, one of the children may be dismissed from the case. Let’s say there are three children, identified by the pseudonyms Child 1, Child 2, and Child 3. Child 1 is dismissed from the case. Every filer should continue to use the pseudonyms “Child 2” and “Child 3” for the remaining two children, even though there is no longer a Child 1.</p>
Exhibits admitted at trial sometimes contain confidential information and documents. Are they accessible to the public?	<p>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.</p>



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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>
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.



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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, even if the confidential information has already been provided on a Form 11.4 filed earlier in the case. This makes it much easier for the judge and others looking at the document to locate the confidential information.
Issues Specific to Social Workers and Guardians ad Litem	
How should social workers segregate confidential information and documents from reports generated through SSIS?	<p>Case plans generated through SSIS are in Word format, which makes it possible to segregate the confidential information and file it on a Form 11.4 or under a Form 11.3.</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	
Do I have to have all of my documents notarized?	<p>No. The new 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>



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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>
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Have questions about the new CHIPS rules? Send them to:

State.CHIPS.Rules.Questions@courts.state.mn.us