

DEPARTMENT OF SOCIAL SERVICES

CHILDREN'S DIVISION

P. O. BOX 88

JEFFERSON CITY, MISSOURI

December 9, 2009

MEMORANDUM

**What's Inside:**  
New Supreme  
Court Rules

TO: REGIONAL EXECUTIVE STAFF, CIRCUIT MANAGERS, AND  
CHILDREN'S DIVISION STAFF

FROM: PAULA NEESE, DIRECTOR

SUBJECT: NEW SUPREME COURT RULES-IMPORTANT CHANGES TO  
INFORMAL DISCOVERY, NOTICE OF HEARINGS, AND TITLE  
IV-E

DISCUSSION:

The purpose of this memorandum is to introduce new Supreme Court rules, rule 123.08, that will make important changes to juvenile court procedure and will have a direct impact on the Children's Division's (CD) work with the court. These juvenile court rules, like laws that are passed by the legislature, are required to be followed. The new rules will go into effect on January 1, 2010.

**Title IV-E**

The new Supreme Court rules require the juvenile court to strictly follow the requirements of Title IV-E. This includes making the appropriate contrary to the welfare and reasonable efforts findings in court orders, which will ensure that the state will be able to claim Title IV-E federal funding for children in CD custody who qualify.

**Discovery**

The new rule regarding informal discovery in juvenile court requires the Children's Division and the Juvenile Officer to provide access to records and information within specific time frames without a formal discovery request. Within ten (10) days of the protective custody hearing or within fourteen (14) days of the filing of the petition or motion to modify, the Children's Division and Juvenile Officer must allow for certain records to be made available to all parties. The records may include the following and should be relevant to the allegations in the petition:

- Medical records of the juvenile;

- Law enforcement records, including incident reports. If information regarding an active investigation is requested, CD staff should request permission from law enforcement to release the information. If law enforcement will not approve the release due to an active investigation, CD should notify all parties that the information cannot be released at this time;
- Written statements, videotapes, and audiotapes regarding the juvenile and or parents/guardians;
- Reports and affidavits submitted by the Children's Division to the juvenile office recommending protective custody or a petition to be filed;
- Completed CD reports and safety plans;
- Written service agreements; and
- Completed hotline reports, redacted as required by law. If the hotline report is not completed by the timeframes set forth in the initial court hearing, the report should be made available upon completion.

**CD must also make available to all parties any new relevant information related to the allegations obtained within ten (10) days of receipt of the request. This rule only requires CD to make available completed documents in their case record. The rule does not require CD to request additional records not currently in its possession for any other party.**

**The Supreme Court rule expressly does not supersede HIPAA and other statutes and regulations which govern the confidentiality of information in the hands of the Children's Division. Information which may be confidential and may need to be redacted may include:**

- **Information which would identify the reporter of a hotline call;**
- **Protected health information of persons other than the child in CD's custody, such as parents, grandparents and other third parties (e.g. medical records, therapy records);**
- **Investigative reports prepared by law enforcement of active criminal investigations;**
- **Federally protected, confidential information relating to the testing, diagnosis and treatment for substance abuse.**

**It is therefore very important to make certain that any information provided under this rule is reviewed and appropriate redactions made before the information is released. If staff have any concerns about what information needs to be redacted they should contact the Children's Division's privacy officer. If the privacy officer is unable to resolve the question a referral for legal advice should be made to the Division of Legal Services, DLS.**

Staff are not required to have a release of information form signed by the parents to release information related to the allegations pursuant to a request made under this rule as long as there is an order of appointment by the court or entry of appearance made by the attorney. However, a signed release of information form is required to release

confidential materials regarding the parents' protected health information or materials not covered in the rule.

The rule states that CD must make these materials **available** for all parties, thus staff should have their case files ready for review within the specified timeframes. Parents without representation also have access to these records and staff should notify parents of this right at the protective custody hearing. It may also be beneficial for staff to put information regarding this rule in the parent pack that is provided to the parents at the time of custody. This information has also been added to the [Handbook for Parents of Children in Alternative Care](#), CS-304.

The rule does **not** require CD to make copies of the information. Staff may schedule an appointment for the party to review the relevant information in the record. If the party or attorney would like copies of the documents, they may provide a written or verbal request. If copies of the information are requested, the Children's Division must follow the timeframes established in this rule as this rule supersedes the CD policy which allows ten (10) days to prepare the case file. Only one copy per party will be made. Any additional copies will be made at the expense of the person requesting the copy.

It is important for each circuit to talk with their juvenile office to establish a local procedure for release of available information.

The Child Welfare Manual has been modified to include information and procedure regarding the new Supreme Court rules.

**NECESSARY ACTION:**

1. Review this memorandum with all Children's Division staff.
2. Review revised Child Welfare Manual chapters as indicated below.
3. All questions should be cleared through normal supervisory channels and directed to:

**PDS CONTACT:**

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**CHILD WELFARE MANUAL REVISIONS:**

Section 4 Chapter 2 Attachment A [The Juvenile Court and Other Legal Considerations](#)  
Section 5 Chapter 2 Subsection 1 [CA/N Investigations/Family Assessments](#)  
Section 5 Chapter 2 Subsection 2 [Treatment Records](#)  
Section 5 Chapter 2 Subsection 3 [Family-Centered Out-of-Home Care Records](#)  
Section 5 Chapter 2 Subsection 4 [Procedures for Sharing Information](#)  
Section 5 Chapter 2 Subsection 5 [Other Persons/Agencies Entitled to Case Record Information](#)

**FORMS AND INSTRUCTIONS**

[Handbook for Parents of Children in Alternative Care](#), CS-304

**REFERENCE DOCUMENTS AND RESOURCES**

[Supreme Court Rule](#)

<b>RELATED STATUTE</b> N/A
<b>ADMINISTRATIVE RULE</b> N/A
<b>COUNCIL ON ACCREDITATION (COA) STANDARDS</b> N/A
<b>CHILD AND FAMILY SERVICES REVIEW (CFSR)</b> N/A
<b>PROTECTIVE FACTORS</b> Parental Resilience-N/A Social Connections-N/A Knowledge of Parenting and Child Development-N/A Concrete Support in Times of Need-N/A Social and Emotional Competence of Children-N/A
<b>FACES REQUIREMENTS</b> N/A