

20R130

STATE OF NORTH CAROLINA **FILED** GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
COUNTY OF CABARRUS 2020 FEB 23 P 3:10 19A JUDICIAL DISTRICT

CABARRUS COUNTY  
BY     *ju*    

In re the Adoption of Local Rules )  
For Requesting and Reviewing )  
Cabarrus County DHS Records )

ADMINISTRATIVE ORDER  
20-03

The attached Local Rules for Requesting and Reviewing Cabarrus County Department of Human Services (CCDHS) Records are hereby adopted effective March 3, 2020, and shall apply to Subpoenas or records requests issued on or after that date.

It is therefore so ORDERED, this the 28th day of February 2020.

Christy E. Wilhelm  
The Honorable Christy E. Wilhelm  
Chief District Court Judge

**Local Rules for District 19A for Requesting and Reviewing  
Cabarrus County DHS Records**

**Rule 1: Acknowledgement of Protected Information**

The records in the custody of the Cabarrus County Department of Human Services (CCDHS) related to Child Protective Services contain information which was obtained in the course of performing official duties in connection with the administration of the programs of public assistance and social services in accordance with federal law, rules and regulations. The CCDHS records contain sensitive information including but not limited to Social Security numbers, confidential juvenile information, reporter information or information that may identify a reporter, foster parent information and other information that if released may pose a safety risk. It is paramount to assure that the sensitive information held by CCDHS shall not be released without safeguards of confidential information and being redacted in part, including but not limited to Social Security numbers, reporter information or information that may identify a reporter, or siblings if they are not part of the pending litigation. Pursuant to 10A N.C.A.C. 70A.0113 and N.C.G.S. §§ 7B-302 and 108A-80 disclosure of CCDHS records is prohibited.

**Rule 2: Contents of Subpoena or Subpoena *Duces Tecum***

A Subpoena or Subpoena *duces tecum* issued for CCDHS records shall be limited as much as possible by relevant dates and time periods, and shall contain the following information on its face:

- (1) The full name(s) and date(s) of birth for the child(ren);
- (2) The full name(s) and date(s) of birth for the child(ren)'s parent(s), caregiver(s) or guardian(s);
- (3) Contact information for opposing counsel, if any, or the opposing party, if self-represented; and
- (4) The assigned on-call District Court Judge to whom the records should be sent for an *in camera* inspection. The on-call Judge shall be determined according to the published District Court calendar.

**Rule 3: Service of Subpoena or Subpoena *Duces Tecum***

- (1) Subpoena for Testimony by a CCDHS Social Worker: When a subpoena is issued for testimony by a CCDHS Social Worker, the social worker shall be given at least 10 (ten) days' notice to appear and testify, unless the matter involves an emergency as defined by the North Carolina General Statutes. The subpoena shall be issued to CCDHS counsel via electronic mail, with a copy to opposing counsel or party. The attorney issuing the subpoena should contact CCDHS counsel in order to obtain the appropriate electronic mail addresses for service of the subpoena. In order to expedite testimony, in addition to the electronic mail notification, the issuing attorney should call CCDHS counsel to determine availability of the requested social worker or social worker supervisor contemporaneously with sending the electronic mail copy of the subpoena.

- (2) Subpoena *Duces Tecum* for CCDHS Records: When a subpoena *duces tecum* is issued for CCDHS records it shall be served upon counsel for CCDHS by electronic mail, with a copy also sent to opposing counsel or party. The attorney issuing the subpoena *duces tecum* should contact CCDHS counsel in order to obtain the appropriate electronic mail addresses for service of the subpoena.

**Rule 4:                    *Ex Parte* Records Review**

Upon receipt of a subpoena served in compliance with the above Rules, counsel for CCDHS shall produce the records for an *in camera* inspection to the Cabarrus County District Court Judges' office within fourteen (14) days of service of the subpoena or as soon as practicable thereafter. Upon delivery of the subpoenaed records to the District Court Judges' Office, the attorney who issued the subpoena and opposing counsel shall be notified.

If the record of CCDHS contains records that are otherwise protected by other federal or state laws (for example, health records, HIV treatment or status, mental health and/or substance abuse records, records from domestic violence treatment facilities or other protected records), the District Court Judge reviewing the records shall make a written order that complies with the requirements of those laws prior to the release of the records to the attorneys and/or parties to the action.

The on-call District Court Judge shall determine if the documents shall be released or if a portion of the documents shall be released. Information and documents contained in the CCDHS file which is otherwise confidential shall be produced as necessary to respond to the reasonable request of the subpoena. This information shall be used for no other purpose than prosecuting or defending the instant action for which the subpoena was issued.

**Rule 5:                    Admissibility**

Once the reviewing District Court Judge has determined that the entirety or a portion of the CCDHS should be released, those records will be deemed admissible in a court hearing without the necessity of testimony authenticating the documents by a records custodian or an affidavit submitted by the records custodian.

**Rule 6:                    Access and Distribution of Records**

Once the reviewing District Court Judge has determined that the entirety or a portion of the CCDHS records should be released, then those records shall be made available to the attorneys via a link in an electronic format, which will be password protected for viewing only. Copying, printing and editing functions will not be permitted. The CCDHS records shall not include records authored by third parties. Self-represented parties will not be given electronic access to the

requested records but must contact counsel for CCDHS or the District Court Judges' Office to arrange a time and location for reviewing said records in paper form.

Access to the information and documents including the matters contained and extracts or summaries thereof shall be limited to the presiding Judge, the attorneys of record, associated attorneys, assistants and employees of the attorneys of record, court personnel, and any actual trial witness, to the extent it is necessary to tender to such a witness a confidential document as an exhibit to elicit relevant testimony in this case.

**Rule 7: Unauthorized Release of Confidential Records**

Individuals permitted access to confidential records and information are ORDERED not to print, disseminate, show, reveal, convey, discuss or reproduce any information or documents so designated or any parts, extracts, or summaries to any individual or entity who would not otherwise have access to said information or documents under the provisions of this Administrative Order.

It is imperative that the names or identifying information of clients served by CCDHS remain confidential to protect the interest of the citizens of Cabarrus County. Therefore, there shall be no release of names or identifying information pertaining to clients to anyone other than the presiding District Court Judge, the attorneys of record, associated attorneys, assistants and employees of the attorneys of record; and the parties.

No copies of documents shall be given out to parties, witnesses or any other person who does not have a statutory right to the CCDHS documents.

Any party, witness, or attorney, or agent of the attorney who releases CCDHS records or information in contravention of these Rules and Administrative Order shall be punished with the contempt powers of the Court and be subject to any criminal or civil penalty permitted by law.

**Rule 8: Termination of Access to Records**

At the conclusion of the litigation, all documents containing confidential personal or client information shall be destroyed. If the case is appealed, the electronic documents shall remain under seal unless those documents are ordered to be unsealed for use by the North Carolina Court of Appeals or another appellate court.

Access to the records subpoenaed from the CCDHS pursuant to these Rules shall terminate at the conclusion of the litigation for which the records were requested, or upon the expiration of six months following the date of the request, whichever shall occur first.