



**Mecklenburg County**  
**PUBLIC RECORDS POLICY**

**A. PURPOSE AND APPLICATION**

The purpose of this Policy is to assist County officials and employees in understanding and complying with the public records law, including (1) record retention, (2) record disposition and (3) record inspection, examination and copying (hereafter sometimes jointly "disclosure") in response to proper public record requests. This Policy is designed to provide guidance only, and in the event of conflict between this Policy and the law, the law prevails. This Policy does not create any new or additional rights or obligations for any person or entity and is not designed to create a higher standard than the laws pertaining to public records establishes. For purposes of this Policy, the term County officials" or "officials" means all board and commission members and "employees" means all County employees, including temporary and part-time employees. Volunteers and persons working for a temporary employment service ("temps") are also subject to this Policy, but the County employee supervising the volunteer or "temp" is also responsible for the public records of such volunteer or "temp."

**B. PUBLIC RECORDS**

1. PUBLIC RECORDS DEFINED

With very few exceptions, all records, including e-mails, created or received by County officials and employees while transacting official County business are public records and must be retained, stored, or disposed of, and made available to the public in accordance with the law. The law is primarily contained in N.C.G.S.132-1 through N.C.G.S. 132-10 and cases interpreting those statutes. (N.C.G.S. 132-1 *et. seq.* can be viewed at the following site:

[http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/ByChapter/Chapter\\_132.html](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/ByChapter/Chapter_132.html).)

N.C.G.S.132-1 provides that public records are:

*(a) all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business...*

Public records, therefore, include paper and electronic documents, photos, videos, maps, computer files, and computer communications, including e-mails. (The term "record" used throughout this policy refers to all such "public records" including e-mails). Unless the purpose and content of a record is personal in nature and not related to the transaction of County business, it is a public record and should be treated, retained and disclosed in accordance with applicable law and this policy.

There are certain records that are exempted from the definition of "public records" and there are certain public records that do not have to be disclosed, however. The record may be a protected or confidential record ("protected record") if there is a federal or state statute or some other legal authority for exempting it from the definition of public record or protecting it from disclosure. Generally, protected records are those that fall within one of the specific legal exemptions set forth in the General Statues. (*See below and N.C.G.S. §132-1.1, §132-1.2, and §132-1.4 for a list of some protected records.*)

## 2. RETENTION AND DISPOSAL OF PUBLIC RECORDS

The law requires that public records be retained in a manner that allows public access, and not destroyed, for specific periods of time. *Retention* means retaining until obsolete, superseded, or until its administrative value is lost. This means that each County official and employee is responsible for maintaining and managing the public records they create or receive, including their e-mails. The person who would normally be responsible for maintaining the project or subject file to which the record(s) relates ("file custodian") likely has the duty to maintain the record(s) as required by law. However, the person who creates a record or is the primary recipient of a record should be responsible for that record unless he or she receives assurance that the file custodian is maintaining that record in the file. (See B.6. "RESPONSIBILITY FOR THE RECORD" which designates each department director of the County as the official "custodian" of all records in his or her department for purposes of records requests but makes clear that every employee and official is responsible for record retention and disclosure of records they create or of which they were the primary recipient.)

As to all records, the County follows the information and guidelines provided by the North Carolina Department of Cultural Resources, including the Department's Municipal Records and Retention and Disposition Schedule. See "Disposition Schedule" at:

<https://archives.ncdcr.gov/government/retention-schedules/local-government-schedules>

County officials and employees are directed to review the Disposition Schedule and refer to it as necessary. All records should be managed to meet all retention requirements set forth in Disposition Schedule and legal requirements.

Public records can and should be destroyed after they have been retained for the correct time period as determined by the Disposition Schedule unless there is some other reason that record should be retained, such as an outstanding record request, court subpoena or court order or some state or federal law or grant requirement. After the retention period set forth in Disposition Schedule is met, records may be purged in accordance with the guidelines set by the North Carolina Cultural Resources Department. A public record that is not properly purged remains a public record and must be disclosed upon proper request or upon receipt of a subpoena. Having a plan for the destruction of records eliminates obsolete records and saves resources by not indefinitely and unnecessarily storing records beyond appropriate retention periods.

[NOTE: Remember, if you decide to retain records beyond the retention period set forth in Disposition Schedule, you must disclose them upon proper request, even if you would no longer, by law, be required to have the record. For example, if the Disposition Schedule requires that you maintain a document for two (2) years and, when the document is aged three (3) years, you receive a public records request or a court order that includes this document, you must disclose that record. If litigation is threatened or commenced about a matter to which the record pertains, you may not destroy the record.]

Any record that is retained electronically should be maintained in a secure system that controls access, storage, retrieval, alteration, and deletion. Each official and employee must set up their own retention procedures, including appropriate backup, to assure compliance with the law.

Some records are "transitory" and although they are public records, they do not have to be retained after they serve their immediate administrative value. (See B.3. "TRANSITORY RECORDS".)

## 3. TRANSITORY RECORDS

Records that are ephemeral, temporary or transient in nature and have only short-term administrative value are considered transitory records. Transitory records are public records, but because of their nature, they do not have to be retained. Transitory records include, without limitation, messages with short-lived or no administrative value similar to voice mails, self-sticking notes, and facsimile cover sheets that do not contain substantive information, and telephone messages. Transitory records are records that are created primarily for the informal communication of information and not to perpetuate or formalize knowledge. Often, transitory records serve the simple purpose of notifying recipient(s) that information is attached or forthcoming. Transitory messages do not set policy, establish guidelines or procedures, discuss a County business matter, discuss a decision, certify a transaction or act as evidence of receipt. (Certified or registered mail return receipts that contain important information about the names of the sender/recipient and pertinent dates are not

transitory.) Transitory records may be treated as having a reference or administrative value that ends when you no longer need the information in the record. Under the law, transitory records may be erased or purged when their reference value has ended. However, if a record request is received for a transitory record before that transitory record has been erased or purged, that transitory record must be disclosed.

#### 4. DRAFT RECORDS

If you are drafting a document and have not yet circulated the document to others for review or comments, it likely is a draft document that has not yet matured to public record status. Such documents would likely not have to be disclosed if there were a public records request. However, once a draft document has been circulated to others it becomes public record.

To avoid misunderstandings that can sometimes arise from public circulation of discussion drafts, consider labeling each page of draft documents that you circulate to others with "DISCUSSION DRAFT ONLY." This can be done by going to the Format menu, pointing to "Background" and clicking on "Printed Watermark." Then, click on "Text Watermark", and type in as the text: "Discussion Draft Only."

#### 5. PROTECTED RECORDS

There are records that are exempt from the definition of "public records", and there are public records that are protected and do not have to be disclosed upon a public record request. Records that are exempt from the definition of public records and records for which there is statutory authority permitting or requiring that they not be disclosed are referred to in this policy as "protected records". Some of the statutory provisions that exempt or protect records from disclosure include:

- Exempt records (records that are not public records) include:
  - confidential communications within the scope of the attorney-client relationship as defined in N.C.G.S. 132-1.2 (which become public records in three years);
  - Public enterprise billing information, as provided in N.C.G.S. 132-1.1;
  - Controlled substances reporting system information as provided in N.C.G.S. 132-1.1 (which may be released only in accordance with The Controlled Substances Act);
  - Criminal investigation records and records of criminal intelligence information, as provided in N.C.G.S. 132-1.4 (note that certain information pertaining to violations of the law and arrests and indictments, and certain content of '911' calls is public record);
  - 911 data base information, if required by agreement with the telephone company as provided in N.C.G.S. 132-1.5.
  - Sensitive public security information including specific details of public security plans and arrangements, detailed plans and drawings of public buildings and infrastructure facilities and certain plans to prevent and respond to terrorist activity, as provided in N.C.G.S. 132-1.7, and technology security information;
  - Other records for which statutory exemptions apply.
  
- Records protected from disclosure:
  - Personnel files of employees, which includes any information gathered by the County with respect to an employee are protected, except as specifically authorized by NCGS 153A-98
  - "Tax information" pertaining to a taxpayer's income or gross receipts may not be disclosed, as provided in N.C.G.S.132-1.1.
  - Social security numbers and personal "identifying information" is confidential and unlawful to disclose to the public. You must check with Human Resources before collecting any social security number. If a social security number is lawfully collected, it must be segregated on a separate page, or as otherwise appropriate, from the rest of the record, as provided in N.C.G.S. 132-1.10. In addition to social security numbers, "personal identifying information"

includes: employer taxpayer identification numbers; drivers' license (except in cases where it appears on a non-protected law enforcement record), state identification cards and passport numbers; checking, savings, credit, and debit account numbers; personal identification code (PIN) numbers used to access financial resources; digital signatures; any other numbers or information that can be used to access a person's financial resources; biometric data; fingerprints; and passwords; all as provided in N.C.G.S. 132.1.10 and G.S. 14-113.20;

- Trade secrets and electronic payment account numbers (see "identifying information" above for protection of account numbers) as set forth in N.C.G.S. 132-1.2;
- Certain "trial preparation materials" as provided in N.C.G.S. 132-1.9;
- Names and addresses of complaining witnesses to crimes must be temporarily withheld if release of the information is reasonably likely to pose certain threats to the witness or materially compromise the investigation, as provided in N.C.G.S. 132-1.4.
- Certain economic development incentives are temporarily protected, but the County must make certain prior disclosures to applicants, as provided in N.C.G.S. 132-1.11.

All of the above are "protected records". There are other protected records, including records concerning juveniles. Protected records should not be disclosed, and in some cases must not be disclosed. Just as County employees and officials have a duty to disclose records, they have a duty to protect the privacy of protected records. In particular, a social security number must never be released as part of a public record. Make efforts not to commingle protected records with other records. Records, including e-mails, which contain a mix of public records and protected records, must be disclosed but the protected information must first be removed (if on a separate sheet) or obscured and made illegible ('redacted') (See C.4. "REDACTION" for methods of obscuring protected information.) When in doubt as to whether a record is a protected record, employees and officials should consult with the County Attorney's Office. Consulting with the attorney has advantages in the event you determine the record is protected and you do not disclose it and there is a legal challenge. (See Penalties.)

#### 6. RESPONSIBILITY FOR THE RECORD

The law provides in N.C.G.S. 132-2 that the "public official in charge of an office having public records shall be the custodian thereof." For purposes of this Policy, each department director is designated as the official custodian of all records in his or her department and is responsible for seeing that public record access requirements are complied with for records of their department. As to County appointed boards and commissions, the County Clerk is responsible for ensuring that Chapter 132, public access requirements are met. However, each board and commission member is responsible for records management and for purposes of this Policy is the record custodian of their records. Although department directors may be designated as the official custodians, every County official or employee who creates or receives a record in any form is responsible for the records management of that record and for purposes of this Policy is the primary record custodian.

County employees and officials should not create or maintain multiple copies of any record, regardless of its medium. For example, if ten (10) photographs are taken for purposes of retaining one or two acceptable photos for business purposes, then the unsatisfactory photos are likely *transient* records and should be purged. Refrain from keeping duplicate records. Maintaining duplicates and other unnecessary documents results in unnecessary expense to the County, creates a burden on the computer network, and the specific example given has the undesired effect of possibly creating 10 new records. As to copies of records received or maintained by more than one person, if you are able to obtain assurances that the file custodian of the main project file, subject file, or case file (jointly "main file") will include your record in the main file and become the record's custodian, then you may not need to personally retain that record. In the case of e-mails, the custodian of the main file about which the e-mail record pertains may keep that e-mail record in the main file. However, you are responsible for assuring that the custodian of the main file has the complete e-mail record. For instance, if you sent an e-mail to the main file custodian on which you also "blind carbon copy" ("bcc") another person, the main file custodian would not have the complete e-mail record because the "bcc" would not show up on their electronic copy of the e-mail. Similarly, if you forward an e-mail to someone not on the recipient list of the e-mail version that the main file custodian has, then the main file custodian does not have the complete e-mail record. It is the responsibility of the official

or employee who is relying on a main file custodian to retain an e-mail record to see that the main file custodian has the complete record (complete list of all recipients, etc.), or they have the responsibility to maintain the e-mail that reflects the complete record. You may be able to satisfy this obligation by providing a printed copy of the complete e-mail record to the file custodian. (For purposes of illustration, officials who receive a courtesy copy of a record, unless they are the custodian of that main file, probably are not required to keep a copy of the e-mail. However, the sender or blind copy recipient of a blind copy e-mail are deemed to be custodians of that e-mail and must retain it or assure that one of them retains it or that the main file custodian maintains the complete record in the main file.)

7. RECORDS OF DEPARTING EMPLOYEES AND OFFICIALS

Employees who terminate their employment with the County and officials who leave—elected or appointed office should deliver possession of all records to their successor, or to the County Clerk. Records must not be destroyed simply because the relationship between the records custodian and the County ends.

C. PUBLIC RECORD REQUESTS

Mecklenburg County's Procedures for requesting public records and responding to public records requests are provided as an attachment to this policy (Attachment 1 and Attachment 2):

D. E-MAIL RECORDS

1. E-mails that transact County business are public records, and all of this Policy applies to e-mails that are records. However, there are some retention issues that apply uniquely to e-mails.

2. PERSONAL E-MAILS AND INFORMATION

a. Personal E-mails and Information. Limited personal use of County technology resources is permitted in accordance with the County's Electronic Mail Usage Policy. However, there is no assurance of confidentiality or protection of personal or confidential information related to such use. For instance, the County has the right to review information on its computers as necessary and in addition, in fulfilling a public records request, personal or confidential information may be inadvertently released. County employees and officials who use the County's computers for personal matters do so at their own risk.

Protected information should not be placed into or attached to e-mails and protected records should not be transmitted by e-mail. In cases where such transmission is necessary, the e-mail record should be appropriately marked as containing protected information and stored appropriately.

3. E-MAIL RETENTION

If an e-mail pertains to County business, it is a public record. However, many e-mails are transitory records (see "TRANSITORY RECORDS"), do not need to be retained, and should be disposed of in accordance with this Policy. If an e-mail sets policy, establishes guidelines or procedures, discusses a County business matter, discusses a decision, certifies a transaction or is intended to act as evidence of receipt, then it is a record that must be retained and managed. Retaining e-mails includes capturing and maintaining the necessary *metadata* about the e-mail records. *Metadata* is "data about the data" and includes information about the creator of the e-mail, the creation date and the names of the recipients. E-mail records should have all the information necessary to ensure their long-term usefulness and the ability to retrieve them as needed.

As noted in B.6 RESPONSIBILITY FOR THE RECORD above, the custodian of the main file to which an e-mail record pertains may keep that e-mail record in the main file. However, if you send or receive an e-mail, you are responsible for assuring that the custodian of the main file has the complete e-mail record. For instance, if you sent an e-mail to the main file custodian on which you also "blind carbon copy" ("bcc") another person, the main file custodian would not have the complete e-mail record because the "bcc" would not show up on their electronic copy of the e-mail. Similarly, if you

forward an e-mail to someone not on the recipient list of the e-mail version that the main file custodian has, then the main file custodian does not have the complete e-mail record. It is the responsibility of the official or employee who is relying on a main file custodian to retain an e-mail record to see that the main file custodian has the complete e-mail record, which includes all the transmission and routing information, or that official or employee remains responsible for maintaining the e-mail that reflects the complete record. You may be able to satisfy this obligation by providing a printed copy of the complete e-mail record to the file custodian. For purposes of illustration, officials who are cc'd on an email, unless they are the custodian of that main file, probably are not required to keep a copy of the e-mail. However, the sender or bcc recipient of a bcc'd e-mail are deemed to be custodians of that e-mail and must retain it or assure that one of them retains it or that the main file custodian maintains the complete record in the main file.

An e-mail that is retained as a public record should be complete. The text/body of an e-mail alone is not enough. Complete e-mail records should include the following elements ("*complete e-mail record*"), as applicable:

- Name of Sender;
- Name of Recipient(s) including those bcc'd;
- Subject Matter;
- Text of Body (actual message);
- Date and Time sent;
- Complete attachment(s). If the e-mail had an attachment, the attachment is part of the e-mail record and should be included in full (not just indicated by file name);

#### 4. E-MAIL MANAGEMENT

You can comply with the retention and management requirements of the public records law by doing one of the following:

1. Print the *complete e-mail record*, created or received, and store the printed copy in the *main file* as you would any other printed record. Printing the e-mail record and retaining in the *main file* permits you to keep all information on a particular project or subject matter in one location, enhancing its historical and archival value.
2. Electronically store the complete e-mail record according to the conventions of your e-mail system, and retain it electronically pursuant to the lawful retention schedules.

E-mail records must be retained by their custodian in a manner that is complete and allows access for the applicable retention period. (The length of time a *record* must be retained is set by the Disposition Schedule and is determined by the type of *record*.) E-mail *records* should not be left in your computer's in-box, sent box, draft box or trash areas of the e-mail system. Instead, the *complete e-mail record* should be filed in more permanent storage methods on the computer or printed out assuring that all metadata is displayed, and filed appropriately. If retained electronically, e-mail *records* must meet the electronic retention requirements described in B. 2 above.

#### E. RECOMMENDATIONS

- Make thoughtful decisions about the medium you use to convey information. The creation and retention of unnecessary printed and electronic records places burdens on the County's physical and electronic storage systems. Avoid creating records that are not necessary and dispose of duplicate records and transitory records. Recognize that e-mails are not secure and should not be used to transmit or convey protected information
- Try not to mix public and protected *records*. Treat protected records with a heightened concern for security.

Never share protected records with a person who should not have access to that record or information. Segregate protected records from other records, if possible. In some cases, like Social Security numbers, the law requires that the protected information be segregated.

- Time spent creating a records retention and management system that meets the requirements of this Policy and works for the custodian is time well spent. Appropriately label and store records so they can quickly and easily be retrieved in the event a public records request is received. Label those records that are protected records or that contain protected records in a manner that clearly indicates their protected status. If a protected record will become a non-protected record at some time in the future, mark it in some way to identify the date it will lose its protected status. Dispose of transitory records, duplicate records, and records that have exceeded their retention period.
- Consider adding a message within the body of County e-mails that states that e-mails are public records. Example: *Pursuant to North Carolina General Statutes, Chapter 132, et. seq., this electronic mail message and any attachments hereto, as well as any electronic mail message(s) that may be sent in response to it may be considered public record and as such are subject to public record requests for review.*

## Attachment 1

### Mecklenburg County Public Records Requests Procedures

Mecklenburg County is committed to making public records available to members of the public in a timely manner. Therefore, the following public records request procedures are established to help accommodate the public's right to access public County records while setting forth defined and consistent steps for requesting these records. These procedures are balanced by the equally important need to protect records from damage, loss, alteration or disorganization, and to prevent excessive interference with essential functions of County government.

North Carolina public records law is found in G.S. Chapter 132. The definition of a public record is contained in N.C. G.S. §132-1, see B.1. The custodian of the records bears the responsibility of maintaining the records and also permitting the public inspection, or providing copies of the records upon request. The statute declares that the official in charge of an office that holds the public records is the custodian of the records. Some departments/agencies (e.g., Area Mental Health, GIS, Health Department, Register of Deeds Office, and Social Services) have specific policies for requesting and complying with a public records request, which are provided in Attachment 2. The statute also authorizes a fee to be charged for copying of records. These procedures also include a fee schedule to cover the reasonable cost of responding to public record requests, consistent with North Carolina's public records laws.

Unless specifically stated otherwise, the process includes the following procedures:

1. How to request copies of public records
2. What to expect after a request is made
3. How to request only inspection of records
4. Denial of request and appeals
5. Duplication and mailing fees
6. Deposit for duplication
7. Payment of required fees
8. Failure to pay required fees

#### 1. How to Request Copies of Public Records

A public records request should be made to the custodian of records at a specific department/agency where they are maintained [see above]. The procedure in place, if any, within that department must be followed. To process any other public records requests in a timely, consistent and orderly fashion, the County requests that these requests be submitted, in writing, using the Mecklenburg County Government Public Records Request Form and mailed, hand-delivered, or emailed to the Mecklenburg County Public Service and Information Department. Requests made in person at the Public Service and Information Department will be considered during normal business hours.

#### **Mailing / Delivery address:**

Mecklenburg County  
Public Service & Information  
Charlotte Mecklenburg Government Center  
600 E. Fourth St., Charlotte, NC 28202  
Email: [recordsrequest@MecklenburgCountyNC.gov](mailto:recordsrequest@MecklenburgCountyNC.gov)

To streamline and track the receipt and fulfillment of public record requests, requests made by phone will not be accepted. A request is considered filed when Public Service and Information has confirmed receipt of the request form. If a requestor does not use the form or provide the request to Public Service and Information, the County's consideration of the request may be delayed.

**Submitting a Public Records Request:** When making a records request, the written request using the County form should contain the following information:

1. Date of the request
2. Requestor's name
3. Requestor's full mailing address (name, organization, street address, city, state, ZIP)
4. Requestor's day time phone number
5. A complete description of the record or records requested;
6. The title and date of the requested record or records, if known; and
7. Whether the requestor intends to inspect the records or obtain a photocopy. A fee is required for photocopies as set forth below.

MECKLENBURG COUNTY PUBLIC RECORDS REQUEST FORM LINK:

<http://charmeckauth.ci.charlotte.nc.us/mecklenburg/county/CountyManagersOffice/OpenMeck/recordsrequest/Pages/request.aspx>

## **2. What to Expect After a Request is Made**

A. Within one business day of receipt of the request, the County will provide an acknowledgement of the request. For requests that do not require extensive research or use of information technology or extensive clerical resources, the County will provide a follow-up response to the request as soon as possible, normally within five (5) business days of receipt. If the request is received after 5 p.m., the request will be considered received on the next business day. The follow-up response may include:

- Providing or making available the record after the payment of applicable fees, if any, (see fee schedule below);
- An estimate of the time necessary for further response;
- Denying the request accompanied by an explanation of the basis for the denial;
- Requesting a deposit; or
- Requesting clarification of the request; and

If the follow-up response asks for clarification on the request, no further response will be made to the requestor until the clarification is received by Public Service and Information.

Where the request for public records is extraordinarily large such that extensive use of information technology resources or extensive clerical or supervisory assistance by personnel is required as set forth in G.S. 132-6.2(b), then the County shall respond to the requestor to discuss the most appropriate procedure to efficiently meet the request and the cost associated with the request.

B. Once the County receives a complete request, the County will respond either by:

- Providing or making available the record requested; or
- Denying the request accompanied by an explanation of the basis for the denial as well as the procedure for appealing the denial.

C. All public records requests become public records as soon as they are received by Mecklenburg County. Mecklenburg County may post online requests it receives for public records along with the response to the request.

D. A public record request is not continuing in nature. Therefore, it only applies to public records available at the time of the request. If additional records are created after the date of the requestor's original public records request, the requestor must submit a new request for this public record. Any records or portions of records made available by the County will be provided to the requestor in the same format they are maintained by the County.

If the requestor specifies a preference for a specific format, records will be produced in the requested format if: (1) it is determined that the records exist and are subject to release; (2) the County is capable of providing the records in the format requested; (3) the format requested is consistent with how the record is maintained or is otherwise reasonable; and (4) the requestor pays all fees associated with the fulfilling the request.

The County's response to the request will be considered complete and final upon:

1. Requestor's inspection of the records;
2. Upon notification to the requestor that the photocopies requested are available for payment and pick-up (in the event photocopies were requested);
3. A denial of the request.

E. Requests for public records will be addressed and fulfilled according to the order in which they are received. Multiple requests from the same requestor and/or different requestors from the same organization will be addressed and fulfilled according the order in which they are received, unless otherwise specified by the requestor or the organization.

### F. REDACTION

If a record subject to a public records request is a protected record, it will not be made available. However, a public record may contain information that is protected, but the entire record is not protected. In those cases, the protected

information will be deleted in a manner that shows that a deletion was made. It is the custodian's responsibility to see that protected information is protected. If a custodian is providing an electronic copy that includes protected information that must be redacted, he or she should either cut and paste or export and edit to protect the protected part of the record

### **3. How to Request Inspection Only of Records**

If a requestor chooses to only inspect records, the County will notify the requestor once the records are available for inspection. The records will be available for inspection at a date and time mutually agreeable between the requestor and the County. The appointment to inspect the records may need to be broken into intervals, possibly over a several days, so as to not interfere with the daily operations of County business.

Any appointment to inspect records is limited to no more than a two (2) hour appointment on any given day, unless otherwise mutually agreed upon between the requestor and the County. Records will be made available to the requestor for up to fourteen (14) calendar days. If the requestor fails to contact the County within fourteen (14) calendar days of being notified that the records are available for inspection, the requestor will need to submit a new request for the records and the process will begin anew.

### **4. Denial of Request and Appeals**

If a request for public records is denied, the requestor may appeal the denial in writing to the address or email below. A response to the appeal will be delivered to the requestor within five (5) business days of the County's receipt of the appeal. Appeals may be delivered to the County by hand delivery, mail or email using the contact information listed below:

Mecklenburg County Public Service and Information  
Attn: Records Appeal  
Charlotte Mecklenburg Government Center  
600 E. Fourth St., Charlotte, NC 28202  
[recordsappeal@MecklenburgCountyNC.gov](mailto:recordsappeal@MecklenburgCountyNC.gov)

### **5. Duplication and Mailing Fees**

If the requestor has asked that a copy of the public record be produced, then prior to the release of the copy the County will collect duplication fees. The County will update and post duplication fees as appropriate.

The 2011-2012 budget year fee schedule for copies is listed below:

8 1/2" X 11" single-sided hardcopy \$0.03  
8 1/2" X 11" double-sided hardcopy \$0.05  
Compact Disk Read-Only Memory (CD-ROM) \$0.49

DVD Duplication of Board of County Commissioners meeting \$3.00  
Email attachment (of ten megabytes or less) or link: No cost.

Copies of public records that are not otherwise available in pre-printed form and that require an extensive use of clerical or information technology resources may be considered a special service and subject to an additional labor charge based on the County's current pay schedule (February 2011) for the staff required to fulfill the request. Charges under this provision shall be imposed for every 6-minute increment or fraction thereof, but shall not relate back to the first 10 minutes.

Standard US Postal Service first class mailing fees shall be charged for mailing copies of public records to any person, firm or corporation. The mailing fee shall be in addition to any other copying fee provided for herein.

### **6. Deposit for Duplication**

In providing a response to a records request, the County will provide all requested audio tapes, DVDs, computer diskettes or other media containing public records.

If it is estimated that the duplication or transmission fees applicable to a particular records request exceed \$25.00, the County, at its discretion, may require the requestor to deposit a sum equal to 75 percent of the estimated cost prior to duplication of the records.

If a deposit is required, the County will notify the requestor of the necessity of the deposit. In the event that the actual duplication and deposit fees are less than the amount deposited by the requestor, the County will return the sum in excess of the actual amount to the requestor.

#### **7. Payment of Required Fees**

Payment of duplication and delivery fees will be made prior to the release of public records. When required, the payment of a deposit will be made prior to the duplication of any records (see 6 above). All payments will be made by cash, money order, or check payable to Mecklenburg County.

Payment will be made in person at the Public Service and Information office on the second floor of the Charlotte Mecklenburg Government Center. A copy of the public records request must be submitted with payment.

#### **8. Failure to Pay Required Fees**

If a requestor fails to pay a bill for fees incurred within 30 calendar days, the County may require the requestor to pay in full any past due amount owed before it will begin processing a new request or a pending request from the delinquent requestor.

In addition, the County may require advance payment for any future requests of the full amount of the estimated fee before the agency begins to process a new request or a pending request from that requestor.

If the County is unable to collect the duplication fees from the requestor, the County may, upon providing thirty (30) calendar days prior written notice to the requestor, destroy the duplicated set of records made available for the requestor to avoid storage concerns. Although the records are destroyed, the requestor will still be made responsible for the costs the County incurred in duplicating the records originally requested by the requestor.

## Attachment 2

### Public Records Request and Fulfillment Policies and Procedures by Department/Agency

Numerous Mecklenburg County public records are available online at [www.charmeck.org](http://www.charmeck.org) or [www.mecklenburgcountync.gov](http://www.mecklenburgcountync.gov).

Most Mecklenburg County departments/agencies follow the general policy and procedures provided in this document to receive and fulfill requests for public records. However, due to various factors, including the frequency of requests and specific laws governing certain records, some departments/agencies have additional policies and/or procedures for public records requests and fulfillment. Below is a summary of those departments/agencies that have policies and/or procedures in addition to the general policy and procedures provided in this document. This summary is followed by the policies and/or procedures for each department/agency listed in the summary.

- **AREA MENTAL HEALTH , DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE SERVICES (AMH)**  
A variety of statutes exclude certain records from public access as defined in Chapter 132 of the North Carolina General Statutes. The records that are exempt include those about particular patients as held by public health-related agencies. These include public hospitals, mental health agencies, and emergency medical services providers. However, information from reports and records or information regarding treatment or services that are shared for training, treatment, habilitation, or monitoring purposes that does not identify clients either directly or by reference to publicly known or available information may be disclosed if deemed appropriate. Area Mental Health (the Provided Services Organization and the Local Management Entity) has procedures it follows with respect to request for individually identified protected health information. See detailed procedures below.
- **GIS (Geospatial Information Services)**  
Geographic information systems (GIS) are computerized mapping systems that allow a wide variety of information to be attached to precise location coordinates. There is a qualified exception made in the Public Records Law for GIS databases. Therefore, additional policy and procedures, including fees for GIS records, are provided. See detailed procedures below.
- **HEALTH DEPARTMENT**  
Additional policy and procedures exist for Confidential Medical Records, and for Vital Records (Birth and Death Certificates). See detailed procedures below.
- **REGISTER OF DEEDS**  
The Register of Deeds Office has a public records request policy and procedures for those who request public records in person or through the Register of Deeds Office directly. Contact the Register of Deeds Office at 704-336-2443 or in person at 720 East Fourth Street, Charlotte, NC.
- **SOCIAL SERVICES (excludes Youth and Family Services - YFS)**  
Some public records for which the Department of Social Services (DSS) serves as custodian involve policy provisions and forms from the State of NC that are available online. Recipients of DSS services have the right to view their record of government assistance and may sign a consent form to let someone else see the record, such as an attorney or outside agency. Without the recipient's consent the record can only be released to an outside agency pursuant to a court order. A subpoena for records will be honored as a court order if it is signed by a judicial official (judge or magistrate depending on the court setting). See below the list of statutes and policy provisions relevant to confidentiality.  
  
**Youth and Family Services (YFS):** Unless specifically allowed by statute, YFS records are to be held in strict confidence, and therefore a court order is required for these documents to be released. In some instances, records may be released to the juvenile. See detailed procedures below.

### POLICIES AND PROCEDURES

#### **Area Mental Health, Developmental Disabilities and Substance Abuse Services (AMH)**

This is a general description of the process that Area Mental Health (the Provided Services Organization and the Local Management Entity) follows with respect to request for individually identified Protected Health Information.

Individuals can seek information about themselves or about a person for whom they serve as guardian. We can provide a copy of the approved policy and procedure and numerous citations as needed.

1. A request must be completed in writing on a HIPAA compliant authorization form. These requests are usually mailed or faxed.
2. Once that form is appropriately completed, the request is generally directed to Health Information Services (HIS).
3. The HIS staff person reviews the form and verifies that it is done correctly including valid reasons for the request.
4. There are times when information can be disclosed without approval by a clinician. An example of this is when a former client of the Substance Abuse Services Center (SASC) requests a letter or statement indicating that he or she was seen at the facility on certain date(s).
5. There are other times when a clinician's approval must be obtained. The purpose for this is because a request can be denied if there is the potential for the client to do harm to self or to someone else. Only a clinician should make that decision.
6. If a client is taking a copy of the records with them, we have the right to charge for that information. We do not charge when information is sent from this agency to another agency as for continuity of care purposes.

If the request is made in person, the same written authorization and process are followed. However, individuals are asked to present identification. The information may or may not be released at the time the request is received.

Separately, Area Mental Health has a written process describing how individuals can request aggregate data about populations served by Mecklenburg County's Mental Health, Developmental Disabilities and Substance Services (both direct and contract). This Policy & Procedure Document is posted on our public webpage.

Certificates are issued by the Office of Vital Records for births and deaths which occurred in Mecklenburg County from the year 1913 to the present and anywhere in North Carolina from 1972 to the present. Immediate family members with proper identification are authorized to receive certified birth and death certificates. Authorized agents must present proper identification and acceptable documentation in order to obtain certified certificates.

### **GIS Geospatial Information Services**

Mecklenburg County's Policy related to Geographic Information System (GIS) databases is as follows:

#### **a. Public Access**

The County shall provide access to its Geographical Information Systems (GIS) by public access terminals, the internet, and the main branch of the Charlotte-Mecklenburg Public Library System. All GIS data is protected by North Carolina Law (N.C.G.S. § 132-10) and are licensed (not sold). Mecklenburg County does not sell or transfer title to licensed GIS data.

#### **b. Requests**

All requests for licensed GIS data can be made on-line at Mecklenburg's County Geospatial Information Services GIS Data Center or in person at the Hal Marshall Services Building, 700 N. Tryon St., Charlotte, NC 28202.

#### **c. License**

In consideration of the payment of the license fees set forth in Attachment 1, the County will grant a nonexclusive license to use its GIS data in machine-readable form and related materials, including documentation and listings, subject to the following terms and conditions.

##### **1. Scope of Rights**

The Licensee may:

(a.) Install, use and execute the Licensed Data on their computer(s) or network for purposes of serving the internal needs of their business or organization;

(b.) In support of their authorized use of the Licensed Data, store its components in, transmit it through, and display it on machines associated with their company's or organization's computers; and

(c.) Make copies of the Licensed Data in machine-readable, object code form, as long as the dataset is for use on their company's or organizations computers only.

#### **d. Fees and Payments**

The license fees for the Licensed Data is specified in Attachment 1 and is provided for by N.C.G.S. § 132-10. These fees must be paid directly to an authorized agent of the County upon execution of the Agreement and prior to delivery of the Licensed Data.

**e. Reasonable Cost**

Chapter 132 of the North Carolina General Statutes, which deals with Public Records (N.C.G.S. § 132-1 to –10) defines public records and expresses the state’s policy that public records are the property of the people and should therefore be made available to the public “free or at minimal cost unless otherwise specifically provided by law.” Minimal cost is defined as “the actual cost of reproducing the public records.”

N.C.G.S. § 132-101 provides a qualified exception for geographic information systems. The statute requires a city or county to provide public access to GIS data by public access terminals, the statute requires that a city or county provide copies of GIS data, “in documentary or electronic form, to anyone requesting them at reasonable cost.” Although § 132-10 creates an exception to the “free or at minimal cost” rule in § 132-1 and permits a city or county to charge a “reasonable cost,” the statute does not provide any particular guidance as to what would be considered a reasonable fee. Mecklenburg County has defined reasonable cost as the cost of the value of county employee’s time spent developing, maintaining, and updating GIS data and the cost of reproduction.

**f. Special Service Charges**

Reasonable service or setup charges may be used when a request requires (1) extensive information technology resources, (2) extensive clerical or supervisory assistance, or (3) custom processing. Suggested fees are also provided in Attachment 1.

**g. Licensee’s Responsibilities**

(1.) Licensor is responsible for selecting an operator who is qualified to operate the Licensed Data on their own equipment and is familiar with the information, calculations, and reports that serve as input and output of the Licensed Data. The County reserves the right to refuse assistance or to charge additional fees if an operator seeks assistance with respect to such basic background information or any other matters not directly relating to the operation of the Licensed Data.

(2.) The Licensed Data is designed for use with peripheral equipment and software. Except as agreed otherwise in writing, the County assumes no responsibility under this Agreement for obtaining or providing such equipment. The licensee is also responsible for ensuring a proper environment and proper utilities for the computer system on which the Licensed Data will operate, including an uninterrupted power supply.

(3.) CREDITS: ALL HARDCOPY DOCUMENTS INCORPORATING MECKLENBURG COUNTYGIS DATA SHALL INCLUDE AN EXPLICIT REFERENCE TO THE MECKLENBURG COUNTYGIS DATABASE AS FOLLOWS:

“Information provided by Mecklenburg County Geospatial Information Services. Further information is available by contacting Mecklenburg Geospatial Information Services, Hal Marshall Services Building, 700 N. Tryon St., Charlotte, NC 28202.”

(4.) Licensee specifically agrees not to misrepresent Charlotte/Mecklenburg GIS Datasets, nor imply that any changes made to the datasets were approved by the County.

(5.) Proprietary Protection and Restrictions.

The County shall have sole and exclusive ownership of all right, title, and interest in and to the Licensed Data and all modifications and enhancements thereof (including ownership of all trade secrets and copyrights pertaining thereto), subject only to the rights and privileges expressly granted to the licensee by an authorized agent of the County. This Agreement does not provide the licensee with title or ownership of the Licensed Data, but only a right of limited use. The licensee must keep the Licensed Data free and clear of all claims, liens, and encumbrances.

IMPORTANT: Pursuant to N.C.G.S. § 132-10, licensee may not use, copy, modify, resell or distribute the licensed data (electronically or otherwise), or any copy, except as expressly authorized in writing by an authorized agent of the County or as otherwise authorized by law. The licensee’s rights may not be transferred, leased, assigned, or sublicensed except for a transfer of the licensed data in its entirety to (1) a successor in interest of the licensee’s entire business who assumes the obligations of this Agreement or (2) any other party who is reasonably acceptable to an authorized agent of the County, enters into a substitute version of this Agreement, and pays an administrative fee intended to cover attendant costs. No service bureau work, multiple-user license, or time-sharing arrangement is permitted, except as expressly authorized in writing by an authorized agent of the County. If the licensee uses, copies, or modifies the data or if the licensee transfers possession of any copy of the data to any other party in any way not expressly authorized in writing by an authorized agent of the County, the licensee’s use of the data is automatically terminated.

#### **h. Data Distribution Options**

**Option 1.** The licensed data is being purchased for the purpose of producing printed geographic images on hard copy or static, non-interactive geographic images on computer media in .gif, .tif, .jpg or .pdf format only. Any other file formats must be approved by advance written permission from an authorized agent of the County.

**Option 2.** Pursuant to N.C.G.S. § 132-10, news media may publish or broadcast data in connection with the process of gathering and disseminating news; real estate trade associations and multiple listing services operated by real estate trade associations may publish or broadcast data to bona fide constituent members; and real estate trade associations and multiple listing services operated by real estate trade associations may, at their cost, resell the Licensed GIS Data to bona fide constituent members.

**Option 3.** The Licensed Data is being purchased pursuant to additional terms and conditions agreed upon by an authorized agent of the County.

**Option 4.** Pursuant to N.C.G.S. § 132-10, news media may publish or broadcast the Licensed Data in connection with the process of gathering and disseminating news; real estate trade associations and multiple listing services operated by real estate trade associations may publish or broadcast GIS data obtained from the County to bona fide constituent members; and real estate trade associations and multiple listing services operated by real estate trade associations may, at their cost, resell the Licensed Data to bona fide constituent members.

#### **i. Limited Warranty and Limitation of Liability**

The data and information was prepared for the inventory of real property within Mecklenburg County and for use by City and County government planners. The data and information is compiled from recorded deeds, plats, tax maps, surveys, planimetric maps, FEMA floodway maps, and other public records and data. Although the County and its mapping and conversion contractors have made every effort to ensure the accuracy of this GIS data, because specialized geographic information systems process large and complex collections of data, and because property records, by their very nature, are in a constant state of change, and because government purpose for and use of this data may be distinctly different from private purpose for and use of this data, USERS OF THIS DATA AND INFORMATION ARE HEREBY NOTIFIED THAT CURRENT PUBLIC PRIMARY INFORMATION SOURCES SHOULD BE CONSULTED FOR VERIFICATION OF THE DATA AND INFORMATION CONTAINED HEREIN. ANY PRIVATE OR COMMERCIAL USE OF THIS DATA AND INFORMATION WITHOUT CONSULTING CURRENT PUBLIC RECORDS FOR VERIFICATION IS DONE EXCLUSIVELY AT THE RISK OF THE INDIVIDUAL, BUSINESS OR ORGANIZATION MAKING SUCH USE. MECKLENBURG COUNTY ASSUMES NO LEGAL RESPONSIBILITY FOR THE INFORMATION.

The County is not responsible for obsolescence of the data that may result from changes in the licensee's requirements. The County assumes no responsibility for the use of superseded, outdated, or uncorrected versions of the licensed data.

While Mecklenburg County, and its mapping and conversion contractors have no indication or reason to believe that there are inaccuracies or defects in information incorporated in the database, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE COUNTY DISCLAIMS ANY AND ALL PROMISES, REPRESENTATIONS, AND WARRANTIES WITH RESPECT TO THE LICENSED Data, INCLUDING ITS CONDITION, ITS CONFORMITY TO ANY REPRESENTATION OR DESCRIPTION, THE EXISTENCE OF ANY LATENT OR PATENT DEFECTS, ANY NEGLIGENCE, AND ITS MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE.

In no event shall the County be liable for any loss of profits; any incidental, special, exemplary, or consequential damages; or any claims or demands brought against the licensee, even if the County has been advised of the possibility of such claims or demands.

#### **j. Metadata**

Metadata or "data about data" describes the content, quality, condition, and other characteristics of data. The Federal Geographic Data Committee approved the Content Standard for Digital Geospatial Metadata (FGDC-STD-001-1998) in June 1998. Executive Order 12906, "Coordinating Geographic Data Acquisition and Access: The National Spatial Data Infrastructure," was signed on April 11, 1994, by President William Clinton. Section 3, Development of a National Geospatial Data Clearinghouse, paragraph (b) states: "Standardized Documentation of Data, ... each agency shall document all new geospatial data it collects or produces, either directly or indirectly, using the standard under development by the FGDC, and make that standardized documentation electronically accessible to the Clearinghouse network." This standard is the data documentation standard referenced in the executive order. Mecklenburg County Metadata is FGDC compliant and can be viewed at <http://maps.co.mecklenburg.nc.us/metadata/>

#### **k. Software**

##### **What Software Do I Need?**

Mecklenburg County GIS data can be viewed by a variety of desktop GIS software packages. Mecklenburg County GIS can advise on the type of software needed upon request.

**NOTE:** Certain map requests involve the creation of new data or the modification to existing data which carries a GIS project fee, billed at an hourly rate.

**Hourly Fee:**

- \$40.00 per hour
- \$10.00 per 1/4 hour

In addition to the hourly project fee, a printing fee will be charged if a hard-copy map is requested. The following fees are assessed on a per-map basis:

**Plotting Fees**

<b>SIZE</b>	<b>MYLAR</b>	<b>BOND</b>
11x17	\$10.00	\$5.00
24x36	\$20.00	\$10.00
34x44	\$20.00	\$10.00

- All street maps (4 sections) \$10.00each section.; \$40.00 for complete assembly
- All maps can be dry-mounted onto premium foam board for an additional charge of \$10.00 (per E-size sheet).
- All maps can be laminated for an additional charge of \$15.00 (per E-size sheet).

**GIS Data Layer**

	<b>Cost</b>
• 0 to 50 MB (51200 KB)	\$10.00
• 51 to 100 MB (102400 KB)	\$50.00
• Greater than 100 MB	\$100.00
• Compass Package - All GIS Data	\$1,000.00

*GIS Data may be purchased under additional terms and conditions under **Option 3** above. Price will be determined by Mecklenburg based on the use of the data.*

**Service or Media**

	<b>Fee</b>
Setup Cost/Tax data CD	\$25.00 each
Custom Processing	\$40.00 per hour
Street Atlas	\$15.00 each

**Photocopies**

8.5" x 11"	\$0.10 each
8.5" x 14"	\$0.10 each
11" x 17"	\$0.20 each
24" x 36"	\$1.00 each

**Health Department**

**RELEASE / REVIEW OF MEDICAL INFORMATION**

**Policy:** All requested information will be reviewed and/or released as outlined.

**Procedure:**

**A. Valid Authorization:**

1. A valid authorization must be signed by the patient or the patient's legal representative, whose relationship is stated. The authorization must be presented in writing to the Medical Records designee. The authorization will apply only to the date(s) of service specified. A valid authorization must contain the following elements:
  - a. A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion;
  - b. The name or other specific identification of the person(s), or class of persons, authorized to make the requested use or disclosure;
  - c. The name or other specific identification of the person(s), or class of persons to whom MCHD may make the requested use or disclosure;
  - d. A description of each purpose of the requested use or disclosure;
  - e. An expiration date or an expiration event that relates to the individual or the purpose of the use or disclosure;
  - f.. A statement of the individual's right to revoke the authorization in writing and the exceptions to the right to revoke, together with a description of how the individual may revoke the authorization;
  - g. A statement that MCHD may not condition treatment, payment, enrollment, or eligibility for benefits on whether the individual signs the authorization, except in certain stated circumstances;

- h. If the authorization is for MCHD to use or disclose information for marketing purposes and if the marketing involves direct or indirect remuneration to MCHD from a third party, a statement that such remuneration is involved;
- i. A statement that information used or disclosed pursuant to the authorization may be subject to redisclosure by the recipient and no longer be protected by this rule;
- j. Signature of the individual and date
- k. If the authorization is signed by a personal representative of the individual, a description of such representative's authority to act for the individual.
- l. If the patient is unable to sign because he/she does not have sufficient mental ability to understand the situation and make a rational decision regarding the authorization form, then reasonable efforts shall be made to contact a legal representative to sign.
- m. If a legal representative does not exist, then authorization may be signed by the next of kin.

#### **B. Authorization to Release Medical Information – With Authorization**

1. MCHD must obtain an individual's voluntary and informed authorization before using or disclosing PHI for any purpose that is not otherwise permitted or required under the Privacy Rule.
2. Only a competent adult (18 years of age or older) or minor emancipated by marriage or court, may sign an authorization to release his / her medical information.
3. The following exceptions apply:
  - a. Minors: If a minor has given consent for treatment to a licensed physician for the following conditions, the minor alone can authorize the release of medical information: 1) venereal disease and other reportable diseases, 2) pregnancy, 3) abuse of controlled substances or alcohol, and 4) emotional disturbances.
  - b. Incompetent Patient: If a patient has been declared incompetent by a court of law, the patient's legal guardian must sign the authorization form. The guardian's court appointment must be verified.
  - c. Signature: If a patient is unable to sign the authorization form, he/she should mark an "X" in the signature blank. A MCHD employee must witness the mark and sign the form. The patient representative cannot be a treatment professional.
  - d. Deceased: If the patient is deceased, an estate representative should present letters of administration from a court of law to the Medical Record Department. When there is no court-appointed executor or administrator, as evidenced by a written document signed by the clerk of court or a written affidavit signed by the patient's next of kin, the patient's next of kin may sign the authorization form for release of information.
  - e. Adoptions: If a patient is adopted, the patient's birth parents can no longer access the minors health records unless by court order or by written authorization of the adoptive parents. No person or entity shall release from any records any information that could reasonably be expected to lead to the identity of an adoptee, an adoptive parent of an adoptee, an adoptee's birth parent or an individual who, but for the adoption, would be the adoptee's sibling or grandparent, except upon a court order.
  - f. Foster Parents: The foster parent must provide a document certifying that he/she is the foster parent and must have an authorization from DSS in order to inspect or obtain copies of the minor's health information.
  - g. Step Parents: If the patient has a step-parent, the step parent is not legally authorized to access the minor's medical record except upon the written permission of the patient's parent or legal guardian.
  - h. Legal Guardians: If the patient has a legal guardian other than a(n) adopted, foster, or step parent, the legal guardian must provide written proof of guardianship (i.e. a court order).
  - i. Divorced/Separated Parents: If the patient's parents are divorced, either parent can access the minor's medical records, in the absence of a court order to the contrary which indicates the parent having custody.
  - j. Abortion: If the minor has had an abortion, only the minor's parent or a judge can authorize disclosure of the medical record. The minor cannot authorize disclosure of such record.

#### **C. Authorization to Release Medical Information – Without Authorization**

1. Medical information may be released without patient authorization for the following purposes:
  - a. Treatment: A patient's health information may be used or disclosed to doctors, nurses, technicians, medical students, other MCHD personnel, or people outside of MCHD who are providing services that are a part of a patient's medical care.
  - b. Payment: A patient's health information may be used or disclosed to an insurance company or third party payer so that treatment and services provided by MCHD may be billed and collected.
  - c. Health Care Operations: A patient's health information may be used or disclosed for health care operations in order to give quality care to our patients and evaluate the

- performance of our staff. Information may be disclosed to doctors, nurses, technicians, medical students, and other MCHD personnel for review and learning purposes.
- d. Medical Emergencies: Disclosures to medical personnel shall be made when and to the extent necessary to meet a bona fide medical emergency when there is a legitimate need for the information.
  - e. Judicial or Administrative Proceedings: Court Order / Subpoena / Law Suites / Disputes: Upon receipt of a court order or subpoena from a North Carolina court of law or a Federal court, medical information will be released. Information regarding alcohol, drug, or mental health treatment shall only be released upon receipt of a court order from a North Carolina court of law or a Federal court.
  - f. Research: Under certain circumstances, a patient's health information may be used or disclosed for research purposes. All research projects are subject to a special approval process, which evaluates the use of medical information for the research project in order to balance the research needs with the patient's need for privacy. In most circumstances patients are asked for specific permission if the researcher will have to access the patient's name, address or other information that reveals the identity of the patient. (Refer to the "Authorization for Release of Health Information for Purposes of Research" policy).
  - g. Threat to Health or Safety: If MCHD, in good faith, believes the use or disclosure:
    - 1) Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; and is disclosed to a person reasonably able to prevent or lessen the threat, including the target of the threat; or
    - 2) Is necessary for law enforcement authorities to identify or apprehend an individual:
      - i. Because of a statement by an individual admitting participation in a violent crime that MCHD reasonably believes may have caused serious physical harm to the victim (however, these types of disclosures are not permitted, if MCHD learns the information in the course of counseling); or
      - ii. Where it appears from all the circumstances that the individual has escaped from a correctional institution or from lawful custody.
  - h. Disaster Relief: MCHD may use or disclose protected health information to Federal, state, or local government agencies engaged in disaster relief activities, as well as to private disaster relief or disaster assistance organizations (i.e., the Red Cross) authorized by law to assist in disaster relief efforts, to allow these organizations to carry out their responsibilities in a specific disaster situation.
  - i. Public Health Activities: MCHD may disclose protected health information to a health authority that is authorized by law to collect or receive information for the purpose of preventing, or controlling disease, injury, or disability (i.e., surveillance, communicable disease investigations, registries, birth or deaths, immunizations, product defects or problems, adverse events)
  - j. Health Oversight Activities: Disclosure is allowed when activities are authorized by law, for appropriate oversight of MCHD (i.e., audits, administrative, or criminal investigations, licensure or disciplinary actions)
  - k. Food and Drug Administration: Disclosure of protected health information to a person under the jurisdiction of the FDA is not restricted for the purpose of reporting adverse events, product defects/problems, or biological product deviations, or for tracking products, enabling recalls, repairs, or replacement, or for conducting post-marketing surveillance.
  - l. Law Enforcement: MCHD is permitted to disclose protected health information in response to a request from a law enforcement official:
    - 1) For the purpose of identifying or locating a suspect, fugitive, material witness, or missing person;
    - 2) If it pertains to an individual who has died in order to alert law enforcement of the death if MCHD suspects that the death may have resulted from criminal conduct;
    - 3) For information that MCHD believes in good faith constitutes evidence of criminal conduct that occurred on its premises; and
    - 4) To alert law enforcement, in response to a medical emergency, of the commission and nature of a crime, the locations of the crime or its victims, and the location, description, and identity of the perpetrator.
    - 5) The information that may be disclosed is *limited* to:
      - i. Name and address;
      - ii. Date and place of birth;
      - iii. Social security number;
      - iv. ABO blood type and Rh factor;
      - v. Type of injury;
      - vi. Date and time of treatment;
      - vii. Date and time of death (if applicable); and

- viii. Description of distinguishing physical characteristics PHI related to DNA or DNA analysis, dental records, or typing, samples or analysis of tissue or body fluids (other than blood) may **not** be disclosed for the purposes of location or identification.
    - 6) Disclosures pertaining to victims of a crime are permitted *only* if the individual agrees to the release, or if agreement cannot be obtained due to the incapacity or other emergency situation of the individual,
    - 7) If law enforcement indicates that the requested information is needed to determine whether a violation of law by a person other than the victim has occurred, and the information is not intended to be used against the victim;
    - 8) If law enforcement represents that immediate law enforcement activity depends on whether the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure; or the disclosure is in the best interests of the individual.
  - m. Inmate: Disclosure of protected health information to a correctional institution or law enforcement official having lawful custody of an inmate or other individual is allowed if the institution or official represents that such PHI is necessary for the provision of health care to the individual; the health and safety of the individual; law enforcement on the premises of the institution; and administrative and maintenance of the safety, security, and good order of the institution.
  - n. Domestic Violence: The release of protected health information to an authority authorized by law to receive reports of child abuse or neglect does not require written authorization of the involved individual. There are no mandatory requirements for healthcare providers to report domestic violence in North Carolina unless the injury involves elder abuse, child abuse or one of the following:
    - 1) Bullet wounds, gunshot wounds, powder burns, and any other injury arising from or caused by the discharge of a gun or firearm
    - 2) Every case of illness caused by poisoning (refers to intentional poisoning, not suicide attempts by overdose)
    - 3) Every case of a wound or injury caused by a knife or sharp or pointed instrument if it appears that a criminal act was involved
    - 4) Every case of a wound, injury or illness involving grave bodily harm or grave illness if it appears that a criminal act was involved.
  - o. Organ Donation: CHS's designated organ procurement organizations (i.e., LifeShare of the Carolinas) may have access to the patient's medical record for the purpose of determining organ or tissue donation potential.
  - p. Military & Veterans: MCHD may use or disclose protected health information of individuals who are members of the United States Armed Forces for activities deemed necessary by appropriate military command authorities to assure the proper execution of the military mission, if the appropriate military authority has published by notice in the Federal Register the following information:
    - 1) Appropriate military command authorities; and
    - 2) The purposes for which the protected health information may be used or disclosed.
  - q. National Security & Intelligence Activities: MCHD may disclose protected health information to authorized Federal officials for the conduct of lawful intelligence, counter-intelligence, and other national security activities authorized by the National Security Act.
  - r. Workers' Compensation: Records may be sent to the workers' compensation insurance carrier or legal representative upon written verification of the patient's employment. Authorization is not required when information is necessary for a claim pending before the North Carolina Industrial Commission.
  - s. De-identified Information: Information which does not identify an individual patient is not subject to the HIPAA Privacy Rule. Protected health information is considered de-identified when MCHD has no reasonable basis to believe that the information can be used either individually or in combination to identify an individual. (Refer to the De-Identification of Protected Information Policy)
  - t. News Media: All requests for information by the news media shall be referred to the MCHD Communications Department.
2. General Record Access / Review:
    - a. Medical, Dental Staff, Interns, and Non-Medical Staff Members
    - b. Persons directly involved in the patient's care, or making a relevant contribution to the patient's care, will have access to an individual's health information as required to provide care. Disclosures or requests by/to a health care provider for treatment purpose will not be subject to the "minimum necessary standard".
  3. Committee Review: Clinicians and MCHD staff engaged in quality of care review shall have access to medical records for this purpose. This includes the committees formed for the purpose of evaluating the quality, cost of, or necessity for health care services.
  4. Marketing: Refer to Marketing Policy.

5. Fundraising: Refer to Fundraising Policy.
6. All requests for information should be evaluated and reasonable efforts should be taken to limit the use and disclosure of protected health information to the minimum necessary to accomplish the intended purpose of the request.

**D. Patient and Relative Access to Medical Records**

1. If a request to review the medical record is received from a patient or authorized representative, he / she will be advised that the request will be presented to the Medical Records Manager or designated individual, who will then make arrangements for the record review. A MCHD employee must be present when a medical record is reviewed for the purpose of guarding against the destruction or alteration of records.
2. Following receipt of a valid authorization, the record may be reviewed by the patient in the presence of a department employee or designee. Interpretations of record content will not be made by Medical Record personnel. The patient may request an appointment with the clinician who made the entry in the medical record for any interpretation or questions concerning his/her care and treatment. If copies are requested, payment shall be collected in accordance with the standard established fee.
3. Access to Psychotherapy Notes: MCHD may deny an individual access to psychotherapy notes, when a physician in accordance with North Carolina law believes that the information may be detrimental to the patient.
4. If a correction to the record is requested, refer to the "Request for Amendment or Correction to Health Record Information" policy in the MCHD Administrative Policy Manual.

**E. Charges for Review / Copies of Information Contained in the Medical Record:**

1. If a copy of the record is requested for continuity of patient care; there will be no charge for copies of the medical record, if the request is based upon further or continued care of the patient and is requested by an authorized individual or organization as outlined in this policy.
2. If a copy is requested for reasons other than continuing care, requestors will be charged according to the most recent schedule of copying fees for Medical Records as established by MCHD based on legal statutes. If the purpose of the request is for payment justification, the charge will be waived.
3. MCHD may impose a reasonable, cost-based fee, which includes only the cost of:
  - a. Copying, including the cost of supplies for and labor of copying the protected health information.
  - b. Postage, when the individual has requested the copy, or the summary or explanation, be mailed; and
  - c. Preparing an explanation or summary of protected health information when agreed upon by the individual in advance. MCHD may provide the individual with a summary of the health information requested, in lieu of providing access to the health record, if:
    - i. The individual agrees in advance to such a summary or explanation; and
    - ii. The individual agrees in advance to the fees imposed for such summary or explanation.

**\*Note: there will be no charge for inspection of health record information.**

**F. Insurance Related Requests**

1. Insurance related requests shall be honored when considered appropriate by MCHD employee. A charge shall be made for this service based upon the number of copies and type of information requested. Such requests may originate from the following:
  - a. Attorney(s)
  - b. Commercial Insurance Companies
  - c. The Social Security Administration unless for Disability
  - d. Life Insurance Carriers
2. Medicare Related Requests: Medicare related requests covered by Federal regulations prohibiting the charge for specified copies will be honored.

**G. Retention of Written Requests**

1. Copies of written requests shall be documented and maintained in original or electronic format in the permanent medical record for at least six years from the date of creation or the date that it was last in effect. Written requests for records on microfilm shall be maintained indefinitely by the Medical Record Dept.

**H. Revocation of Authorization**

1. If patients give authorization to use or disclose health information, they have the right to revoke the authorization, in writing, at any time. The written revocation only applies to uses or disclosures of health information after the date of the revocation. Each MCHD facility is responsible for documenting and tracking revocations.

**I. Method of Releasing Medical Records and Information**

1. Mail: Copies of patient medical records may be mailed to authorized requestors with patient or legal representative authorization.
2. Telefax: Disclosure of health record information via fax will be limited to urgent or non-routine transmittals for continued patient care. In general, sensitive or highly personal health information will not be faxed,

- unless an urgency exists. This would include health information about a patient's drug or alcohol treatment, mental illness, sexually transmitted diseases or HIV/AIDS status. PHI may be released via fax when the information is urgently required by a third-party payer and failure to fax the records could result in loss of reimbursement.
3. In Person Request: Copies of patient medical records may be released to authorized requestors, at the MCHD facilities, with patient or legal representative authorization.
  4. CD format will be made available (upon request)

## **Health Department/Register of Deeds Office – Vital Records**

### **Birth and Death Certificates**

Effective October 1, 2010, individuals born anywhere in the state of North Carolina from 1972 to the present may obtain a copy of a certified birth certificate at the Mecklenburg County Vital Records Office. Cost for the service is \$24.00 to research the certificate in the North Carolina state registry and includes one copy of the certificate. Additional certificates from the same search will be \$15.00 each. For residents born in Mecklenburg County, the cost for a certificate remains \$10.00.

### **Searching for Birth and Death Records**

Birth and death information may be [searched online](#).

### **Obtaining a Birth or Death Certificate**

To obtain a birth or death certificate, you must have the following information:

- Full name of the person named on the certificate
- Date of birth (required for birth certificates only)
- Father's full name (required for birth certificates only)
- Mother's full maiden name (required for birth certificates only)

### **Ordering a Certificate In Person**

You may request a birth certificate at the Vital Records office, located on the third floor of the Bob Walton Plaza at 700 East Stonewall St., Charlotte, NC. The Bob Walton Plaza is a seven-story building located at the intersection of McDowell and Stonewall streets and across the street from the Aquatic Center. The office hours are from 8:30 to 4:30 p.m. Monday through Friday.

### **Ordering a Certificate By Mail**

You may submit your request, including payment, by mail to:  
Mecklenburg County Health Department  
Office of Vital Records  
700 East Stonewall St., Suite 320  
Charlotte, NC 28202

### **Ordering a Certificate Online**

For convenience, online requests can be processed through an independent company that Mecklenburg County Health Department has partnered with to provide you this service; VitalChek Network, Inc. VitalChek can be reached through their [website](#). An additional fee is charged by VitalChek for this service, and all major credit cards are accepted, including American Express®, Discover®, MasterCard® or Visa®.

### **Cost**

- Certified Birth Certificate: \$10.00 per certificate
- Search Mecklenburg County birth registry: no charge
- Search North Carolina state registry (for birth in NC, but not in Mecklenburg County): \$24.00 per search and includes one copy of the certificate. Additional certificates from the same search will be \$15.00 each.

Payment may be made in cash; by check or money order made payable to Mecklenburg County; or by credit card (Visa, Master Card and Discover) when payment is made in person.

The Office of Vital Records can be reached by phone at 704-336-2819.

### **Register of Deeds Office**

The Register of Deeds Office has a public records request policy and procedures for those who request public records in person or through the Register of Deeds Office directly. Contact the Register of Deeds Office at 704-336-2443 or in person at 720 East Fourth Street, Charlotte, NC.

**Department of Social Services (excluding Youth and Family Services Division)**

**List of statutes and policy provisions relevant to confidentiality:**

1. **NCGS 108A-80** North Carolina General Statute establishing duty to protect information about recipients of government assistance. Misdemeanor violation to disclose information without client consent or lawful authority such as a court order.
2. **NCGS 108A-79**- Copy of client record of relevant information must be made available for the client and Hearing's Officer for internal Administrative Disqualification Hearing.
3. **10A North Carolina Administrative Code 69**- DSS records of client information are not public records and must be stored and maintained in a secure place with controlled access. Only those employees with a need to know are to have access to the records. The information is confidential with disclosure allowed only if specifically listed in the rules.
4. **10 NCAC 69 .0301**- Client records of Social Services government assistance (including computerized data) available for review upon verbal or written request. Confidential information may be withheld and copies of the file available upon request at no charge.
5. **10A NCAC 69 .0304** Director or representative from DSS must be present for review of record by client. **10A NCAC 69 .0306** Review of client record by personal representative or attorney allowed under same circumstances as client review with written authorization by client.
6. **10A NCAC 21A .0411** Release of Client Medicaid Record without client consent or court order is authorized only under certain limited circumstances as listed.
7. **NCGS 14-113.20**- Defines protected confidential information as identifying information including social security numbers, employer taxpayer identification numbers, drivers license numbers, passport numbers, fingerprints, passwords, etc.
8. **N. C. G. S. 143-64.60**- State privacy law which prohibits the use or release of social security numbers for any purpose other than the use for which it was collected. The use must be communicated when the number is collected.
9. **N.C. Gen. Stat. 132-1.10(a)(2)**- 2005 statute providing for the protection of certain identifying information from identity theft. Established that when State and local government agencies possess social security numbers or other personal identifying information, the governments should collect this information only when authorized by law, and take precautions regarding the dissemination either internally within government or to an authorized recipient and **never** released on public records. Never placed on a fax or in mailings not sealed in an envelope.
10. **42 U.S.C. §405(c)(2)(C)(viii)**- Federal law making it a felony for the unauthorized use or disclosure of social security numbers. Unauthorized use is for any purpose not disclosed when the number is obtained and unauthorized release is any release not authorized by federal or state law.
11. **42 U.S. Code 1320-b7**- Federal law provides that the programs of government assistance must use the social security number and share the information with other programs of government assistance, such as the child support enforcement program and the Employment Security Commission.
12. **42 U.S. Code 2020(8) and (16)**. Must release of the name, address, social security number and photograph of a household member in food stamp program to any federal, state or local law enforcement officer upon the written request of the officer if the household member who is the subject of the request has been convicted of a **felony** and is fleeing to escape custody or has violated a condition of probation or parole.; or is **charged with a felony** and is fleeing to avoid prosecution (outstanding Order for Arrest).
13. **42 U.S. Code 611**- TANF/Work First, provides for release of information to law enforcement paralleling the Food Stamp provision listed above in #11.
14. **Family and Children's Medicaid Manual- MA-3500 V**. Provides for the limited release of Medicaid information under heading, "Client Access and Release of Information."
15. **Food Stamp Policy Manual- FS 130.01**- Providing for the limited release of information from the Food Stamp case under the heading, "Disclosure of Information."

**Department of Social Services (Youth and Family Services Division)**

**Chapter VIII: Protective Services 1428 – CONFIDENTIALITY AND RELEASE OF INFORMATION**

**II. INTERAGENCY SHARING OF INFORMATION ABOUT JUVENILES**

[N.C.G.S. § 7B-302 \(a\)](#) states that the Department of Social Services (DSS) shall disclose confidential information to any federal, State, or local governmental entity or its agent needing confidential information to protect a juvenile from abuse and neglect.

This, along with [N.C.G.S. § 7B-302 \(e\)](#), expands the release of confidential information from county held records to qualified **out-of-state** entities and to situations other than an open CPS assessment.

**A.** The county director shall allow the District Attorney or his designee full access, except for any substance abuse patient records covered by 42 CFR Part 2, to the case record as needed to carry out his or her mandated responsibilities that result from a report of confirmed abuse or from the county director's decision not to file a petition.

**B.** When giving or receiving assistance with a case, the agency may share oral or written information with the following:

1. **Law enforcement officers** - when being asked to assist in CPS assessments or when the county director informs them about reports of abuse;
2. **The prosecutor** - when responding to reports of confirmed abuse; or when providing a summary for a review requested because a petition was not filed; or when necessary to carry out his mandated responsibilities;
3. **The court** - when an evaluation report is required for a dispositional hearing or at the time of a scheduled review. [N.C.G.S. § 7B-801](#) enables the court to be open for adjudicatory hearings regarding juveniles unless the judge determines that the court should be closed.
4. **Public and private mental health providers** - when necessary to assist in CPS assessments or CPS In-Home or Out-of-Home services;
5. **Public and private health care providers** - when necessary to assist in CPS assessments or CPS In-Home or Out-of-Home services;
6. **Multidisciplinary teams** - such as the Child and Family Teams, Child Fatality Review Team, the Community Child Protection Team, and the Child Fatality Prevention Team that provide case consultation on child abuse, neglect, dependency, or fatalities. (Other agencies such as Mental Health, the Juvenile Court, and schools have multidisciplinary teams as well);
7. **Institutional staff** - who may be assisting in a CPS assessment or preparing In-Home Family Services Agreements;
8. **School personnel** - when necessary to assist in CPS assessments or service delivery;
9. **DHHS personnel responsible for licensing or approving day care, foster care, group care, or institutional child caring facilities.**
10. **DSS representatives such as Work First and other child welfare programs-** assisting with a CPS assessment or development and provision of CPS In-Home or Out-of-Home Services.

Collaboration with other agencies to provide for safety of children is family-centered practice.

### **C. Department of Juvenile Justice and Delinquency**

[N.C.G.S. § 7B-3100](#) and [28 NCAC 01A .0301](#) state that the Department of Juvenile Justice and Delinquency Prevention shall designate local agencies that are authorized to share information concerning juveniles. Agencies so designated shall share with one another, upon request and to the extent permitted by federal law and restrictions, information in their possession that is relevant to any assessment of a report of child abuse, neglect, or dependency or the provision or arrangement of child protective services by a DSS or to any case in which a petition has been filed alleging that a juvenile is abused, neglected, dependent, undisciplined, or delinquent and shall continue to do so until the protective services case is closed by the local department of social services, or if a petition is filed when the juvenile is no longer subject to the jurisdiction of the juvenile court. Agencies that may be designated as "agencies authorized to share information" include, but are not limited, to the following:

- Local mental health facilities
- Local health departments
- Local departments of social services
- Local law enforcement agencies
- Local school administrative units
- The district attorney's office
- The Office of Juvenile Justice
- The Office of Guardian ad Litem services.

Any information shared among agencies under this provision shall remain confidential, shall be withheld from public inspection, and shall be used only for the protection of the juvenile and others or to improve the educational opportunities of the juvenile, and shall be released in accordance with the provisions of the Family Educational and Privacy Rights Act. Nothing in this section or any other provision of law shall preclude any other necessary sharing of information among agencies. Nothing herein shall be deemed to require the disclosure or release of any information in the possession of the district attorney.

### **D. Release of confidential information**

When a request for confidential information is received from a federal, State (in or out-of-state), or local government entity or its agent, the county DSS may share information from its record in order to carry out its mandate to protect children. This does not include substance abuse patient records covered under 42 CFR Part 2. It is permissible to inquire about former residences and to seek information from each county's records. The following are situations that would be appropriate for sharing confidential information from the county's records:

1. A request from an in-state or out-of-state DSS with an open child welfare case.
2. A request from an in-state or out-of-state Guardian Ad Litem / CASA with an open child welfare case in the requester's jurisdiction.
3. A request from an in-state or out-of state law enforcement entity with an open child welfare case or open criminal case resulting from the abuse or neglect of a child(ren).
4. A request from an out-of-state DSS (public child welfare agency) with a juvenile court case (including permanency planning or termination of parental rights (TPR)) resulting from the abuse or neglect of a child(ren).
5. A request from an in-state or out-of-state court or District Attorney that has a criminal case resulting from the abuse or neglect of a child(ren).

Please note that an open child welfare case refers not only to an open CPS assessment but to CPS In-Home or Out-of-Home services as well. **Civil child custody cases between parents or other parties that do not involve child welfare do not apply.**

Requests for information from out-of-state entities may read as requests for information from the central registry of abuse and neglect. When such a request meets the requirements specified above, information from the case record may be shared with the authorized person requesting the information. However, the Central Registry should not be accessed to fulfill that request. Information in the Central Registry may only be released

when one of the conditions specified in [10A NCAC 70A .0102\(6\)](#) exists. If the information is requested to comply with Adam Walsh legislation concerning foster and adoptive parents or fitness to care for children employment, use the form [DSS-5268](#) and see the Family Services Manual, Volume I, Chapter VIII, [Section 1427](#) for further information.

Requests for information from the Central Registry must be made using the [DSS-5277](#), Request for Confidential Information Regarding Abuse, Neglect and Dependency form.

## **Chapter VIII: Protective Services 1428 – CONFIDENTIALITY AND RELEASE OF INFORMATION**

### **IV. EXAMINATION OF THE CASE RECORD**

The court may order the sharing of information among such public agencies as the court deems necessary to reduce the trauma to the victim ([N.C.G.S. § 7B-2901](#)). The county director shall not allow anyone outside the county department of social services to directly examine the protective services case records, except under the following circumstances:

- A.** Federal and State personnel shall have access to the case record when carrying out their lawful responsibilities for program audit, review, and evaluation. See Section II above.
- B.** The child and his/her guardian ad litem shall have access to the child's record upon request. The child's attorney who has been employed to represent the child in a court hearing, and who has a specific need to see the case record in order to prepare the case, may have access to the record. Adults who were found to be abused, neglected, or dependent as children and who have child protective services records may view their CPS record. The county director must document the examination by the victim child (or victim who is now adult), the guardian ad litem, or the attorney. The county director has a right to withhold from examination any materials which are not related to protective services for the child. For example, the identity of the reporter and confidential materials specific to persons other than the victim child must be removed from the case record prior to examination by the child or child victim who is now an adult. When such materials are withheld, the child or his attorney must be informed.
- C.** The agency attorney shall have access to the case record when helping the agency prepare for and present its case in court or when advising on a case.
- D.** The prosecutor will have access to the case record when carrying out his or her mandated responsibilities. When law enforcement investigates a CPS case on behalf of a prosecutor, they shall be given access.
- E.** Persons other than those identified shall examine a case record only when they have an order from a judge. When a person claims to have such authorization, he or she should have a written order signed by the judge. If a written judge's order cannot be produced, the director may allow access only after verifying the oral order with the judge or another person who would have firsthand knowledge of the order. Documentation of the written or oral order must be entered into the case record.
- F.** The agency, through its attorney, may make a motion to the court to limit access to all or part of the case record. The agency attorney should be consulted in advance on the appropriate procedures to follow in such situations.

#### **G. Release of the Name of the Reporter**

Due to the reporter's potential vulnerability to actions by the alleged perpetrator, the name of the reporter should be protected to the fullest extent possible. The reporter's identity may be divulged only under the following conditions:

1. By specific order of the court to release the identity of the reporter; or
2. By decision of the agency director, the reporter's name, address, and telephone number may be shared with the district attorney or law enforcement when the sharing of such information is necessary for the performance of their duties; or

3. By decision of the agency director, identifying information about the reporter may be shared orally with an individual or investigative team that has mandated authority to conduct a criminal investigation into allegations of criminal abuse; (e.g., in an SBI child care investigation of sexual abuse).

**NOTE: Any information about the diagnosis or treatment of substance abuse must be removed from the case record prior to review unless there is a valid Consent for Release of Confidential Information signed by the patient or a court order that has been obtained following the instructions outlined in 42 CFR 2.61. Refer to Children's Services Manual, Volume 1, Chapter The Juvenile Court and Child Welfare for further information regarding 42 CFR 2.61 and the procedures for obtaining this court order.**

#### **IV. DISCLOSURE IN CHILD FATALITY OR NEAR FATALITY CASES (N.C.G.S. § 7B-2902)**

[N.C. G.S. § 7B-2902](#) states that if a child dies, or is in serious or critical condition as the result of sickness or injury caused by suspected abuse, neglect, or dependency **and** the person responsible for the fatality or near fatality is charged in the incident (or would have been charged were it not for that person's prior death), the DSS shall prepare a written summary for public release that includes:

- The dates, outcomes, and results of any actions taken or services rendered;
- The results of any review by the State Child Fatality Prevention Team, a local child fatality prevention team, a local CCPT, the Child Fatality Task Force, the State Child Fatality Review Team, or any public agency;
- Confirmation of the receipt of all reports accepted or not accepted by the DSS for an assessment of suspected child abuse, neglect, or maltreatment. This includes the results of the assessments, a description of services rendered, and a statement of the basis for the department's decision.

Within 5 working days from the receipt of a request for findings and information, the agency shall consult with the appropriate District attorney and provide the findings unless the agency has reasonable belief that release of the information:

- Is not authorized under sections (a) and (b) of [N.C.G.S. § 7B-2902](#);
- Is likely to cause mental or physical harm or danger to a minor child living in the deceased or injured child's household;
- Is likely to jeopardize the state's ability to prosecute the defendant;
- Is likely to jeopardize the defendant's right to a fair trial;
- Is likely to undermine an ongoing or future criminal investigation; or
- Is not authorized by federal law and regulations.

For further information on handling child fatalities, see [Chapter VIII, Section 1432](#) of the Children's Services Manual