

LEGAL INSIGHTS

CONFIDENTIALITY IN THE EARLY CHILDHOOD SETTING



The very job that you do as a child care provider working in an early care setting allows you access to a great deal of information regarding the children and families you service. Upon enrollment and throughout the year, parents provide you with their personal information so you can best care for their child, however they provide you with this information with the EXPECTATION that this personal information will be kept confidential. **Maintaining confidentiality is an important aspect of the job that you do as a child care provider.**

Despite the emphasis on maintaining confidentiality in early care, violations of rights to privacy and breaching of confidentiality occurs frequently in early care settings. Common reasons that breach of confidentiality occurs in the child care setting:

- Staff loses sight of the fact that they have a “professional” relationship with the families and children they service. When a professional relationship melds into a personal relationship, familiarity and comfort often set in and confidentiality can be breached.
- We find ourselves emotionally involved with the children that we service and our hearts go out to them. Their difficulties may weigh heavily on our hearts and we may discuss their situation with others to “unburden” ourselves, thus breaching confidentiality.
- Human nature makes us a “chatty” society—we like to talk about others.
- As a society, we seem to have lost our sense of privacy. The media has saturated us with “reality” shows where anything goes, as well as pharmaceutical commercials that describe maladies in detail.

Having roots in the Constitution, Confidentiality and Rights to Privacy are things Americans hold near and dear. Thus, violations of Confidentiality and Rights to Privacy often end up in the Court System.

Who in the child care setting is guaranteed rights to privacy?

- Children
- Families
- Staff, Employees, and YOU!

What information is to be kept confidential? Basically ALL personal information is to be kept private. However, there are exceptions and certain situations where you may need to, or be required to share information.

SHARING OF CHILDRENS’ INFORMATION

- **WITHIN the Child Care Agency:** At times it is necessary to share information about a child in your care to best service that child. Decide who to share information with, on a need-be, case-by-case basis. Ask yourself: Who needs to know? Who needs to know this information to best service this child? Different scenarios will yield different outcomes.
- **OUTSIDE the Child Care Agency:** Information can only be shared outside of the child care agency with the written permission of the child’s parent (or guardian). This written permission should include: what information can be shared, with whom the information can be shared, the reason for sharing the information, and a statement that the permission can be rescinded by the parent at any time. The document must be signed and dated by the parent.

Exceptions:

- **Subpoena** related to release of information
- **Court order** related to release of information
- **Mandated reporting of suspected child abuse and neglect**

SHARING OF FAMILIES’ INFORMATION

What is a family? Basically, the accepted definition is: those people living within a household. All information about the families you service should be kept confidential. This applies to information you get within or outside of the agency. Remember you have a professional relationship with the family 24 hours a day, seven days a week. Ask yourself

“Who Needs to Know?” Unless it is a serious safety concern, in most instances, the answer will be “no one needs to know”

SHARING OF STAFF/EMPLOYEE INFORMATION

Employees’ *personnel* information: Personnel information should be kept in a locked cabinet with limited access. Remember the information in the file belongs to the employee. In order to share personnel information, (let’s say if the employee is applying for a mortgage or car loan), the employer needs written permission from the employee granting permission that the information can be released, who it can be released to and the reason it is being released. Again, the document needs to be signed by the employee and dated.

Employees’ *personal* information: The individual employee owns the “personal” information about him or herself. Just because you have information about someone doesn’t give you the right to share it! If you know something about someone and you are tempted to share it, ask yourself: Who owns this information? Who needs to know it? Is it true? (you may not know whether it is true or not, but just think how hurtful it could be if isn’t true), and finally, What is my motivation for sharing it? Remember once information is out there, it can’t be rescinded. Sharing of information is basically gossip, and gossip in the workplace is deadly!

Breach of confidentiality and violation of rights to privacy can have huge ramifications. Not only can the child care agency be held liable, but the individual child care provider (YES, YOU!) can be held liable as well!

Recognize yourself as the professional that you are, and recognize that your professional responsibility to your clients (the children and families you service) includes maintaining their confidentiality and respecting their rights to privacy.

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