

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2011-0008, Appeal of William Woodson, the court on February 3, 2011, issued the following order:

Notice About Confidentiality

The September 27, 2010, decision of the personnel appeals board indicates that the hearing in this matter was closed to the public and that the record was sealed "to preclude disclosure of confidential juvenile records or records from juvenile case files to any unauthorized third party." Accordingly, the file in this matter shall be confidential. See Rule 12(2)(a).

This order is entered by a single justice (Lynn, J.). See Rule 21(7).

**Eileen Fox,
Clerk**

Distribution:

New Hampshire Personnel Appeals Board #2010-T-002

Michael C. Reynolds, Esq.

Attorney General

File

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THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2011-0008, Appeal of William Woodson, the court on February 28, 2011, issued the following order:

Appeal from a decision of the New Hampshire Personnel Appeals Board is accepted and is assigned to the 3JX docket for oral argument before a three-judge panel. Refer to Rule 12-D.

This case appears to be eligible for mediation pursuant to Rule 12-A. Under Rule 12-A(2), the agreement of all parties is required for appellate mediation. If all parties in this case agree to participate in mediation, William Woodson shall submit the completed Appellate Mediation Agreement form to the court on or before March 15, 2011. An Appellate Mediation Agreement form (NHJB-2614-SUP) is being provided to William Woodson with this order. If an Appellate Mediation Agreement form is not filed, an order will be issued regarding further proceedings.

Dalianis, C.J., and Duggan, Hicks, Conboy and Lynn, JJ., participated.

**Eileen Fox,
Clerk**

Distribution:

New Hampshire Personnel Appeals Board #2010-T-002

Michael C. Reynolds, Esq.

Attorney General

File

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THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2011-0008, Appeal of William Woodson, the court on April 23, 2012, issued the following order:

The petitioner, William Woodson, appeals the decision of the New Hampshire Personnel Appeals Board (board) that affirmed his dismissal from employment with the New Hampshire Department of Health and Human Services. He argues that: (1) he is entitled to reinstatement because his termination violated New Hampshire Administrative Rule, Per 1002.08(d); (2) his protected property interest in his employment entitled him to due process under the State and Federal Constitutions, and his due process rights were denied; and (3) he is entitled to a new hearing because the board violated RSA 21-I:46, IX (2000) and RSA 541-A:35 (2007). We affirm for the reasons stated in Appeal of Timothy Alexander, 163 N.H. ___ (decided March 23, 2012).

Affirmed.

HICKS, CONBOY and LYNN, JJ., concurred.

**Eileen Fox,
Clerk**

Distribution:

New Hampshire Personnel Appeals Board #2010-T-002
Michael C. Reynolds, Esquire
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File

State of New Hampshire



PERSONNEL APPEALS BOARD
25 Capitol Street
Concord, New Hampshire 03301
Telephone (603) 271-3261

**Personnel Appeals Board Decision on Appellant's Motion for Reconsideration/Rehearing
and**

Department's Objection to Appellant's Motion for Reconsideration/Rehearing

Appeal of William Woodson – Docket #2010-T-002

Division of Juvenile Justice Services

Department of Health and Human Services

December 9, 2010

On October 26, 2010, the New Hampshire Personnel Appeals Board received the Appellant's Motion for Reconsideration/Rehearing of the Board's September 27, 2010, decision in the above-titled appeal. The Department's Objection to that Motion was received by the Board on November 1, 2010.

In accordance with the provisions of Per-A 208.03 Rehearing,

(a) Pursuant to RSA 541:3, within 30 days after the date of notice of any decision or order of the board, any party to the action or proceeding before the board, or any person directly affected thereby, may apply for rehearing in respect to any matter determined in the action or proceeding, or covered or included in the order.

(b) In order to be considered, such request shall be delivered to the executive secretary of the board within the 30 day period specified in (a) above.

(c) Such motion for rehearing shall set forth fully every ground upon which it is claimed that the decision or order complained of is unlawful or unreasonable.

(d) The opposing party may file an objection within 5 days of the filing of the motion.

(e) The board shall not grant a motion for rehearing for 5 days after the motion is filed in order to permit the opposing party to respond. Thereafter the board shall, within 10 days of the filing of the motion, grant or deny the motion, whether or not it has received a response from the opposing party.

(f) A motion for rehearing in a case subject to appeal under RSA 541 shall be granted if it demonstrates that the board's decision is unlawful or unreasonable.

(g) Following the granting of a motion for rehearing, the board shall issue a notice as described in Per-A 206.11 (b).

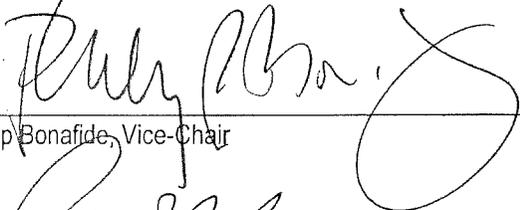
In its September 27, 2010, decision, the Board concluded after considering the all the facts in evidence that the Appellant endangered the health and safety of a resident, and committed Class I Neglect, as defined by DJJS policies, by failing to report the alleged abuse of a resident by another staff member. Given the seriousness of the offense, the Board then concluded that the agency acted appropriately in dismissing the Appellant.

Having now reviewed the Appellant's Motion and the Department's Objection, the Board voted unanimously to AFFIRM its decision and to DENY the Motion for Reconsideration/Rehearing for the reasons set forth in the Department's Objection. In so doing, the Board found that the Appellant failed to establish good reason to conclude that the Board's decision was unlawful or unreasonable.

THE PERSONNEL APPEALS BOARD



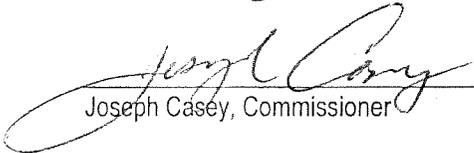
Patrick Wood, Chair



Philip Bonafide, Vice-Chair



Robert Johnson, Commissioner



Joseph Casey, Commissioner

cc: Karen Hutchins, Director of Personnel, 25 Capitol St., Concord, NH 03301
Michael Reynolds, SEA General Counsel, PO Box 3302, Concord, NH 03302-3303
Attorney Jonathan Gallo, Department of Health and Human Services, 129 Pleasant St., Concord, NH 03301
Mark Bussiere, HR Administrator, Department of Health and Human Services, 129 Pleasant St., Concord,
NH 03301

State of New Hampshire



PERSONNEL APPEALS BOARD

25 Capitol Street
Concord, New Hampshire 03301
Telephone (603) 271-3261

Appeal of William Woodson

Docket #2010-T-002

Department of Health and Human Services

Division of Juvenile Justice Services

September 27, 2010

The New Hampshire Personnel Appeals Board (Wood, Bonafide, and Johnson) met in closed session¹, under the authority of RSA 21-I:58 and Chapters Per-A 100-200 of the NH Code of Administrative Rules, on Wednesday, June 9, 2010, and Thursday, June 24, 2010, to hear the appeal of William Woodson, a former employee of the Sununu Youth Services Center. Mr. Woodson, who was represented at the hearing by SEA General Counsel Michael Reynolds, was appealing his July 13, 2009, termination from employment as a Youth Counselor II on charges that he failed to report the Class I Abuse of a resident of the Youth Services Center, as required by DJJS policies and procedures. Attorney Jonathan V. Gallo appeared on behalf of the State.

The record of the hearing in this matter consists of pleadings submitted by the parties, notices and orders issued by the Board, the audio-tape recording of the hearing on the merits of the appeal, and documents admitted into evidence as follows:

State's Exhibits²:

- State's 1: Policy and procedure checklist from the Sununu Youth Services Center
- State's 2: Supplemental job description for Youth Counselor II
- State's 3: Policy and Procedure Manual 1-C-03 effective 8/1/06
- State's 4: Policy C-002 effective 5/01/08

¹ Although Per-A 205.02 of the Board's rules indicates that hearing are open to the public and the Board's records are available for inspection, RSA 91-A:5, IV, specifically exempts "...confidential, commercial, or financial information..." from disclosure under the Right-To-Know law. In this instance, evidence to be presented at the hearing and entered into the record of the hearing included information from juvenile case records, which are considered confidential and protected from disclosure under the provisions of RSA 170-G:8 A. In order to be permitted to offer that information into evidence, Attorney Gallo obtained a final order from a court of competent jurisdiction that would allow that evidence to be offered and admitted into the record, provided that the Board agreed to close the hearing to the public and seal the record of the hearing to preclude disclosure of confidential juvenile records or records from juvenile case files to any unauthorized third party.

² State's Exhibits 1-10 were admitted. State's 11a, 11b and 11c (video CDs) were admitted subject to verification that the appellant had seen them before.

- State's 5: Policy C-002 signed copy, effective 05/01/08 revised 07/22/08 signed by Director Fenniman
- State's 6: SYSC Policy receipt 4/1/08 for Professional Conduct Policy C002
- State's 7: Supplemental job description 8/15/88 amended 06/06/00 for Youth Counselor II
- State's 8: Classification for Youth Counselor II established 07/30/82 revised 4/25/07
- State's 9: Copy of a letter to William Woodson June 29, 2009 re: Intent to dismiss
- State's 10: Dismissal from employment letter dated July 13, 2009
- State's 11: 3 Video CDs identified in the pre-termination letter showing the same incident and similar time period from different camera angles (videos identified as 11a, 11b, 11c)
- State's 12: Investigative file with 11 separate statements. (12a-12k)
- a: handwritten statement from William Woodson indicating he did not need union representation
 - b: incident report 11/7/08 from Steven Sage
 - c: interview of Bill Woodson 11/10/08
 - d: statement of the resident dated 11/7/08
 - e: interview of John Gonyer
 - f: interview of Michael Laughlin 1/22/09
 - g: interview of Jim Cohen
 - h: statement of the resident dated 02/06/09
 - i: handwritten statement of James Cohen 11/12/08
 - j. handwritten notes of interview of Mr. Laughlin
 - k. handwritten notes from the resident

Appellant's Exhibits:

- Appellant's A: Performance evaluations for William Woodson
- Appellant's B: Single-page signed statement of Donna St. Pierre (admitted over the State's objection to relevance)

The following persons gave sworn testimony. The Board granted the parties' joint motion to sequester the witnesses.

John Duffy, Chief of the Bureau of Residential Services, SYSC

John Louis Gonyer, former SYSC employee

Jacqueline Kramer, SYSC teacher, SEA steward

William Woodson, appellant

Sherry Hobbs, Child Protective Service Worker, DCYF Investigator for the November 5, 2008 incident

Position of the parties

The State alleged that on November 5, 2008, one of the Youth Counselors assigned to the Sununu Youth Services Center injured one of the residents by kneeling the resident in the groin during what the staff member described as "horseplay." The resident reported the incident to the Appellant, William Woodson, telling Mr. Woodson that the other staff member had kned him in the groin, that he was in pain, and that he wanted to see the nurse. Instead of persuading the resident to see the nurse or reporting the incident to a supervisor, the Appellant spoke directly to the accused member of the staff, telling him that he needed to "stop f---ing around" with the residents, and that he needed to talk to the resident and take care of things. The State alleged that the Appellant's actions constituted a violation of DJJS policies regarding the reporting of suspected abuse, and that failing to make such a report to supervisory and medical staff constituted Class I Neglect as defined by DJJS policies and procedures.

The Appellant argued that the appointing authority did not appropriately terminate him, and that he was not aware of any abuse if any such abuse actually did occur. He argued that he was unaware that the resident had suffered a serious injury as a result of the incident on November 5, 2008, and he therefore would have had no reason to report to supervisory or medical staff any concerns of abuse towards that resident.

Stipulations as to matters of fact or proof:

During the course of the hearing, the Appellant stipulated that the resident involved in the November 5, 2008, incident was examined by medical personnel and was found to have been injured. The Appellant also stipulated that if the nurse who examined the resident were to testify, her testimony and medical records concerning the resident, including photographs taken two weeks after the incident, would prove that the injuries were serious. The Appellant would not stipulate, however, that the injuries were necessarily the direct result of horseplay that occurred between the resident and staff member, or that the resident was in obvious pain or in need of medical attention when the resident spoke to the Appellant about what had occurred on the afternoon of the incident.

Narrative summary and discussion of the evidence

On Friday, November 7, 2008, SYSC staff member Steven Sage completed a DJJS Incident Report [State's Exhibit 12b] regarding one of the residents of H-unit at the Sununu Youth Services Center. Mr. Sage reported that the resident had approached him that morning about a groin injury, and that when Mr. Sage later asked for the resident's "medical memo," the student said he did not have one, as he had not seen a nurse. According to Mr. Sage's report, the resident then informed him that he had been kned in the groin by a staff member two days earlier while they

were "horse playing;" and that he did not seek medical attention because he did not want to cause trouble. According to the report, "[The resident] stated that John Gonyer told him that if it came to it he would say that [the resident] came at him and needed to be restrained." Mr. Sage reported that after counseling the resident, he proceeded to medical to arrange for a nurse to complete an assessment of the resident. He reported that he also spoke to the resident's mother and confirmed that during a phone conversation, the resident had given her the same information about the incident. Finally, Mr. Sage reported that he relayed the information to David Ball, Chief Operations Officer, and made plans for Mr. Gonyer to be assigned to other units until Mr. Sage could speak with him on Monday.

The nursing assessment completed on November 7, 2008, and attached to Mr. Sage's incident report, indicated that the resident told the nurse roughly the same thing that he had told Mr. Sage about how he had been injured and why he had not sought medical attention or reported the incident when it occurred. The nurse also wrote that she had spoken with the resident's mother, who reportedly said that her son had told her he was hurt during "rough housing" with staff. She told the nurse that her son had not sought medical attention "...because he did not want to get in trouble or cause trouble for the staff member because it may affect life on the unit." The nurse informed the resident's mother that the resident need not worry about being in trouble. She also told the mother that the resident was being referred to a doctor for an examination. Subsequent evaluation indicated that the resident had suffered serious injury to his groin area.

On November 7, 2008, John Duffy, Chief of the Bureau of Residential Services in the Division for Juvenile Justice Services, learned of the incident that had occurred on November 5, 2008, involving one of the staff and one of the residents. Mr. Duffy discovered that the incident was not documented at the time that it occurred, and was not brought to the attention of any administrative or medical staff until two days after the incident. He also learned that no report had been made to the DCYF (Division for Children, Youth and Families) of possible abuse of a resident. Mr. Duffy initiated an internal investigation that included reviewing videos taken in the area where the alleged assault occurred. Mr. Duffy also conducted staff interviews, interviewed the resident, and reviewed Bridges reports. After completing his investigation, Mr. Duffy concluded that the Appellant knew that the resident had been injured during horseplay with another staff member, and that by failing to report the assault and the resulting injury to appropriate supervisory and medical staff, the Appellant endangered the life, health and safety of the student. The Appellant was then dismissed under the provisions of Per 1002.08(b)(9).

Many of the material facts are not in dispute. Mr. Gonyer and the resident engaged in "horseplay" on the afternoon of November 5, 2008, and the resident was injured. Approximately 45 minutes after the incident occurred, the Appellant, William Woodson observed the resident seated on a couch in one of the common areas of H-unit. The

resident appeared to be upset, and Mr. Woodson invited him to play cards. The resident declined. When Mr. Woodson asked if the resident was all right, he said no. Mr. Woodson asked if the resident was having a bad day, and the resident informed Mr. Woodson that staff member John Gonyer had kneed him in the groin.

Instead of reporting the incident to a supervisor, referring the student to medical for an evaluation, completing a Bridges report, or contacting DCYF to report possible abuse of a resident, Mr. Woodson went to speak with Mr. Gonyer about the incident. According to the Appellant's testimony, the Appellant did not report the incident to his supervisor or to medical because he did not know if the allegation was true. He said he also felt that if anyone was required to report the incident, it would have been Mr. Gonyer, as he was the staff person directly involved. Finally, the Appellant indicated that he made no report because he planned to leave early that day.

The parties dispute whether or not the resident told the Appellant that he wanted to see a nurse, or whether the Appellant offered to have the resident seen by medical staff. The Appellant testified that he asked the resident twice if he wanted to see the nurse, not because he appeared to be injured, but "because he looked sad." The Appellant testified that the resident refused medical attention. The Appellant testified that immediately after the resident reported that he had been kneed in the groin, the appellant went directly to speak with Mr. Gonyer to tell him to "stop f---ing around with this kid." He testified that when Mr. Gonyer denied kneeing the resident, the Appellant told him to go speak with the resident and "find out what was going on." Mr. Woodson said he was unaware of the resident's injuries until he returned to work the following Sunday. When questioned further about why he never reported the incident, the Appellant testified that, "I thought John would take care of it."

Decision and Order

There is no dispute that the resident informed Mr. Woodson that he had been kneed in the groin by a member of the staff. Whether or not Mr. Woodson believed the report to be true is immaterial. The student was obviously upset about something, and alleged that he had been abused by a staff member. That fact alone was sufficient to trigger Mr. Woodson's obligations under the provisions of Policy #1-3-03, Abuse or Neglect of Residents (State's Exhibit 3) to report the incident so that an appropriate inquiry could be made. Instead, Mr. Woodson chose to alert the accused staff member, telling him to stop "f---ing around" with the residents. When asked why he did not speak with a supervisor or complete a Bridges report, Mr. Woodson said that he planned to leave early that day and assumed that Mr. Gonyer, the staff member accused of committing the abuse, would take care of it instead.

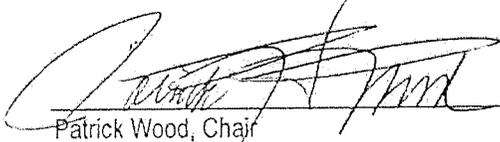
Mr. Woodson testified that he would have completed a Bridges report if he had ever seen the resident crying, or if he had known that the resident was injured. Again, he said he just believed that the resident "looked sad." The Board

found that statement to be completely inconsistent with the Appellant's claim that twice he offered the resident an opportunity to see the nurse. If Mr. Woodson did not believe that the resident was ill or injured, there would have been no reason for him to suggest that the resident see a nurse.

In accordance with the Personnel Rules Per 1002.08 (b)(7) and (9), an employee may be dismissed without prior warning for violation of a posted or published agency policy or procedure, the text of which warns that violation of same may result in dismissal, and for endangering the life, health or safety of another employee or individual served by the agency. On all the evidence, the Board found that Mr. Woodson endangered the health and safety of the resident, and committed Class I Neglect, as defined by DJJS policies, by failing to report the alleged abuse of a resident by another staff member. Reviewing that evidence in conjunction with the provisions of Per-A 207.12 (b), the Board determined that the Appellant failed to prove that the disciplinary action was unlawful; that the appointing authority violated the rules of the division of personnel by imposing the disciplinary action under appeal, that the disciplinary action was unwarranted by the alleged conduct or failure to meet the work standard in light of the facts in evidence; or that the disciplinary action was unjust in light of the facts in evidence. Given the seriousness of the offenses, the Board found that the agency acted appropriately in dismissing the Appellant.

Therefore, for all the reasons set forth above, the Board voted unanimously to DENY Mr. Woodson's appeal.

The Personnel Appeals Board


Patrick Wood, Chair

/s/
Philip Bonafide, Vice-Chair

/s/
Robert Johnson, Commissioner

cc: Karen Hutchins, Director of Personnel, 25 Capitol St., Concord, NH 03301
Michael Reynolds, SEA General Counsel
Attorney Jonathan Gallo, Department of Health and Human Services, 129 Pleasant St., Concord, NH 03301
Mark Bussiere, HR Administrator, Department of Health and Human Services, 129 Pleasant St., Concord, NH 03301

State of New Hampshire



PERSONNEL APPEALS BOARD
25 Capitol Street
Concord, New Hampshire 03301
Telephone (603) 271-3261

Board's Decision on Appellee's Motion to Close Hearing and Seal Records

In the Appeals of:

Timothy Alexander (2009-T-020), William Harris (2009-T-022), William Woodson (2010-T-002), and
Kendall Kienia (2010-T-005)

March 2, 2010

On February 2, 2010, Attorney Jonathan Gallo filed with the Board Appellee's Motion to Close Hearing and Seal Records in the appeals of Timothy Alexander, William Harris, William Woodson and Kendall Kienia, former employees of the Sununu Youth Services Center.

As stated in that Motion, the State intends to introduce at hearing records that would identify "certain individuals who are or were at the time of the appellants' employment, juveniles committed to the Department's Sununu Youth Services Center (SYSC). The SYSC is an architecturally secure facility, which houses juveniles either accused of or adjudicated on charges of delinquency (RSA 169-B). This evidence will consist of videos, documents, and witness testimony." After reviewing the Motion, the relevant statutes, and consulting with counsel, the Board found the following:

1. RSA 170-G:8-a, I defines juvenile case records as consisting of all "official records, regardless of the media upon which they are retained, created by the department of health and human services in connection with a report received pursuant to RSA 169-C:29, or cases brought under RSA 169-B, 169-C, 169-D, or 463, or services provided to the child or family without a court order pursuant to RSA 170-G:4, including intake and assessment reports, service or case plans, case logs, termination reports and a list of persons or entities providing reports to the department or services to the child or family."
2. DHHS "case records" are confidential with limited exceptions. RSA 170-G:8-a. If one of the exceptions does not apply, "[a]dditional access to case records and all other records of the

department shall be granted pursuant to the terms of a final order issued by a court of competent jurisdiction." RSA 170-G:8-a, IV.

3. As set forth in RSA 170-G:8-a, V, It is "unlawful for anyone entrusted with the information in case records to disclose the records of information contained in them."

The Board determined that if the evidence DHHS counsel seeks to introduce falls within the definition of "case records" and does not fall within any of the exceptions listed in RSA 170-G:8-a, in the absence of a final order issued by a court of competent jurisdiction, it is unlawful for anyone entrusted with the case records to disclose the records of information contained in the case records. As such, the Board would be unable to receive that evidence without the appropriate court order.

For the reasons set forth above, the Board voted to deny the motion to close the hearing and seal records without prejudice. If DHHS obtains a final order issued by a court of competent jurisdiction which would permit DHHS to offer those records into evidence, DHHS counsel can then refile its motion.

FOR THE PERSONNEL APPEALS BOARD



Patrick Wood, Chair

cc: Karen Hutchins, Director of Personnel, 25 Capitol St., Concord, NH 03301
Michael Reynolds, SEA General Counsel, 207 N. Main St., Concord, NH 03302-3303
Jonathan V. Gallo, Legal Counsel, Department of Health and Human Services, 129 Pleasant St.,
Concord, NH 03301

169-B:35 Juvenile Case and Court Records. –

I. All case records, as defined in RSA 170-G:8-a, relative to delinquency, shall be confidential and access shall be provided pursuant to RSA 170-G:8-a.

II. Court records of proceedings under this chapter, except for those court records under RSA 169-B:36, II, shall be kept in books and files separate from all other court records. Such records shall be withheld from public inspection but shall be open to inspection by officers of the institution where the minor is committed, juvenile probation and parole officers, a parent, a guardian, a custodian, the minor's attorney, the relevant county, and others entrusted with the corrective treatment of the minor. Additional access to court records may be granted by court order or upon the written consent of the minor. Once a delinquent reaches 21 years of age, all court records and individual institutional records, including police records, shall be closed and placed in an inactive file.

170-G:8-a Record Content; Confidentiality; Rulemaking. –

I. The case records of the department consist of all official records, regardless of the media upon which they are retained, created by the department of health and human services in connection with a report received pursuant to RSA 169-C:29, or cases brought under RSA 169-B, 169-C, 169-D, or 463, or services provided to the child or family without a court order pursuant to RSA 170-G:4, including intake and assessment reports, service or case plans, case logs, termination reports and a list of persons or entities providing reports to the department or services to the child or family. Such records do not include:

- (a) Records created as part of an action brought pursuant to RSA 170-B or 170-C.
- (b) Records submitted to or maintained by the courts, or records created by third parties, such as psychologists, physicians, and police officers, even if such records are prepared or furnished at the request of the department. Requests for access to court records and records created by third parties may be made directly to the court or to the third party who created the record. Nothing in this section shall restrict or limit access to records filed pursuant to RSA 169-C:12-b.
- (c) Reports contained in the central registry of abuse and neglect reports maintained pursuant to RSA 169-C:35.
- (d) The name of a person who makes a report of suspected abuse or neglect of a child pursuant to RSA 169-C:29, or any information which would identify the reporter.

II. The case records of the department shall be confidential.

(a) The department shall provide access to the case records to the following persons unless the commissioner or designee determines that the harm to the child named in the case record resulting from the disclosure outweighs the need for the disclosure presented by the person requesting access:

- (1) The child named in the case record.
- (2) The parent of the child named in the case record, as defined in RSA 169-C:3, XXI.
- (3) The guardian or custodian of the child named in the case record.
- (4) Another member of the family of the child named in the case record, if disclosure is necessary for the provision of services to the child or other family member.
- (5) Employees of the department and legal counsel representing employees of the department for the purpose of carrying out their official functions.
- (6) Persons made parties to judicial proceedings in New Hampshire relative to the child or family, whether civil or criminal, including the court with jurisdiction over the proceeding, any

attorney for any party, and any guardian ad litem appointed in the proceeding.

(7) A grand jury, upon its determination that access to such records is necessary in the conduct of its official business.

(8) The relevant county.

(9) Another state's child welfare agency, law enforcement agency, or other government entity that requires the information in order to carry out its responsibility under law to protect children from abuse or neglect.

(b) The department shall disclose information from case records or provide access to case records to the following persons or entities, if such information or access is not harmful to the child and is necessary in order to enable the person or entity requesting information or access to evaluate or provide services, treatment or supervision to the child named in the case record or to the family:

(1) A person or entity requested by the department or ordered by the court to perform an evaluation or assessment on or to create a service plan for the child named in the case record, the child's family, or an individual member of the child's family.

(2) A person or entity requested by the department or ordered by the court to provide services to the child named in the case record or the child's family.

(3) The superintendent of schools for the school district in which the child named in the case record is then, or will, according to the child's case plan, be attending school.

(4) The person or entity with whom the child resides, if that person is not the child's parent, guardian, or custodian.

III. The commissioner shall adopt rules, pursuant to RSA 541-A, governing the procedures regulating access to all of the records of the department. Such rules shall contain provisions relative to:

(a) Access to case records by persons named in paragraph II of this section.

(b) Access to case records by a physician who has examined a child who the physician reasonably suspects may be abused or neglected.

(c) Access to case records by a law enforcement official who reasonably suspects that a child may be abused or neglected, and who is participating with the department in a joint investigation.

(d) Access to case records by a state official who is responsible for the provision of services to children and families, or a legislative official who has been statutorily granted specific responsibility for oversight of enabling or appropriating legislation related to the provision of services to children and families, for the purposes of carrying out their official functions, provided that no information identifying the subject of the record shall be disclosed unless such information is essential to the performance of the official function, and each person identified in the record or the person's authorized representative has authorized such disclosure in writing.

(e) Access to case records by a person conducting a bona fide research or evaluation project, provided that no information identifying the subject of the record shall be disclosed unless such information is essential to the purpose of the research, each person identified in the record or an authorized representative has authorized such disclosure in writing, and the department has granted its approval in writing.

(f) Access to case records by any person making a report of suspected child abuse or neglect pursuant to RSA 169-C:29, provided that such disclosure is limited to information about the status of the report under investigation, or information reasonably required to protect the safety of such person.

(g) Access to all other records of the department which are not case records as defined in

paragraph II.

IV. Additional access to case records and all other records of the department shall be granted pursuant to the terms of a final order issued by a court of competent jurisdiction.

V. It shall be unlawful for any person entrusted with information from case records to disclose such records or information contained in them. Notwithstanding the previous sentence, it shall not be unlawful for a parent or child to disclose case records or the information contained in them to persons providing counsel to the child or family. It shall be unlawful for any person who receives case records or the information contained in them from a parent or a child to disclose such records or information. Any person who knowingly discloses case records or information contained in them in violation of this paragraph shall be guilty of a misdemeanor.

VI. Notwithstanding the foregoing:

(a) Any person who is entitled to access a case record pursuant to this section may share such information with any other person entitled to access pursuant to this section, unless the commissioner or a designee shall specifically prohibit such additional disclosure in order to prevent harm to a child.

(b) Nothing in this section shall be construed to require access to any records in violation of the order of a court of competent jurisdiction.

Source. 1985, 367:10. 1993, 355:8. 1994, 212:2. 1995, 310:143, 175, 181, 183, eff. Nov. 1, 1995. 2009, 47:1, eff. July 21, 2009.