

CASA KANE COUNTY

Confidentiality and the CASA GAL Volunteer

Below is a list of suggested prompts, definitions and reminders intended to help in maintaining confidentiality as a CASA/GAL Volunteer.

Confidentiality Definition:

- Under normal circumstances no one outside of CASA is given any information without an expressed written consent.
- Confidentiality is based upon mutual respect, trust and honesty. The boundaries of confidentiality are granted by the specific young person or guardian or child protection services.
- Not telling anyone other than those who should or need to know what a child has said to the case worker.
- No sharing with anyone an individual personal notes or computer records.

Personal Information Includes:

- Name, date of birth, age, sex and address
- Current contact details of family, guardian
- Medical history or records
- Personal care issues
- Service records and file progress notes
- Individual personal plans
- Assessments or reports

Boundaries:

- Contents of all therapy sessions
- Information and written records about a child cannot be shared without the written consent of the child's legal guardian

Principles:

- Justify the purpose
- Do not use child identifiable information unless it is absolutely necessary
- Use minimum necessary patient identifiable information
- Access to child identifiable information should be on a strict need to know basis

Obtaining Confidential Case-Related Records

Your appointment as a CASA/GAL volunteer will advise information keepers that you are allowed access to records—even records that would otherwise be confidential—pertaining to the child in your assigned case. Present photo identification and copies of your legal appointment when you visit an agency from which you seek information.

The court order appointing you as the child’s advocate provides fairly wide latitude to access that child’s records. Parents’ records are often more difficult to obtain. They or their attorneys may resist your efforts to access certain records if the information might damage the parents’ credibility and their chance to have their child returned home. The best way to ensure your ability to obtain confidential records for a parent or other adult party to a case is to submit a release of information (signed by the parent) to the agency from which you request records. A release of information is a signed statement by a client authorizing the indicated third party access to the client’s confidential information. Many agencies require that you use their form.

The process for obtaining information from child protective services agencies and schools differs from program to program. For example, information may be obtained through a legal process called “discovery,” or it may be up to the individual CASA/GAL volunteer to obtain those records. Follow the direction of your local CASA/GAL program on how best to access child protective services documents, school records and other information involving the child(ren) and family to whom you’ve been assigned.

Many child welfare agencies, hospitals and schools do not honor walk-in records requests. Plan to call ahead and request that records be pulled for you to read at a certain date and time. Some hospitals and agencies will allow you to make copies on their machines; others will ask you to mark the requested pages and will send the copies to you. If you are denied access to records, contact your CASA/GAL volunteer supervisor.

Your local program will advise you on how to access medical records. They may post hospital names and contact information on the program’s website or provide a handout with that information. There are some caregiver records that you will not be able to access due to law. This is most likely to occur with drug information, doctor and hospital records and mental health records.

Confidentiality and the CASA/GAL Volunteer

As a CASA/GAL volunteer, you will have access to confidential information about children and the people involved in their lives. You will need to understand your responsibilities in dealing with the confidential information you have gathered. The law governs who has access to confidential information. The CASA/GAL volunteer may not release this information except to the child, CASA/GAL program staff, the attorney(s) on the case, the caseworker, the court and others as instructed by law or local court rule. There will be times when it will be tempting to share information with others, for example, when a person has just finished sharing information with you or when you believe doing so might help your assigned child. However, your role is to be an information gatherer for the court—not a transmitter of

information to people with whom you are not authorized to share it. If certain information needs to be shared, consult with your supervisor to determine how you might facilitate communication among others without violating confidentiality yourself. Mistakes in handling confidential information can be detrimental to the children involved and can bring criminal action against the people who misuse the information. When in doubt, discuss any confidentiality concerns with your supervisor!

What Information Should the CASA/GAL Volunteer Share with the Child?

The CASA/GAL volunteer is expected to develop a meaningful relationship with the child in order to make sound, thorough and objective recommendations in the child's best interest. The volunteer also ensures that the child is appropriately informed about relevant case issues, considering both the child's age and developmental level. The child is informed in an age appropriate manner of impending court hearings, the issues to be presented, the recommendations of the volunteer and the resolution of those issues. If there is any question about what information should be shared with the child, ask your supervisor.

What Is Confidential?

The legal definition of "confidential" varies from state to state. Some laws are quite clear and others vague. The facilitator will share with you the definitions and rules in your state. As a CASA/GAL volunteer, you must regard as confidential any information that the source deems confidential. If any source from which you obtain information requires you to show the court order of appointment or inquiries about why you are entitled to get such information, you should respectfully produce your court order and photo identification. Your appointment order gives you the authority to obtain a great deal of information that is, in fact, confidential. Child protective services records are confidential and are not available for public inspection.

It is especially important that the name of any person who has made a report of suspected child abuse and neglect not be revealed. School records are also confidential. There are legal privileges that protect attorney/client, doctor/patient, clergyperson/congregation member, psychologist/patient and caseworker/client communications. Such communication, whether verbal or written, is all confidential and must remain so unless a court order specifically states otherwise. You are not allowed to share information with anyone other than the child, CASA/GAL program staff and attorney(s), the caseworker and the court unless a local or state order allows for a broader sharing of information.

You need not treat conversations with neighbors and friends who voluntarily give information as legally confidential. Also, if you speak with a teacher who is not providing confidential school records, but rather sharing impressions, these impressions would not be confidential unless the teacher requested that they be kept as such. This information, although not legally confidential, is still private and should not be shared except on a "need to know" basis, and then only with those people who need the information to better serve the child.

Should You Tell a Source That You Intend to Share Their Information?

There does not appear to be any legal requirement that you disclose to a source your intent to share information. However, it is important to be respectful of the source and to be honest about your intentions with regards to the use of the information. When introducing yourself as a CASA/GAL volunteer, mention that your role includes gathering information in order to make recommendations to the court. Never promise that you will not share information received.

Sharing Information with Foster Parents

As a CASA/GAL volunteer, you are not the foster parents' source of information about the child's case, nor are you their advocate. That is the responsibility of the social services department. Your job is to focus on the child's needs and keep the child informed about the case.

Foster parents may seek information from you about the children in their care, but foster parents' contractual relationship is with the child protective services agency or a private licensing agency. To provide adequate care, foster parents do need to know relevant information regarding the child. In fact, federal law requires that the child protective services agency provide the foster parent with the child's health and education records at the time of placement. The records should be updated periodically and each time the child is moved to another placement. These records must include, at a minimum, the following:

- Names and addresses of the child's health care provider and school
- The child's immunization record, known medical problems and medications
- The child's school record with current grade level performance
- Other relevant health and education information (e.g., behavioral problems and/or disabilities)

There may be instances, however, where you have information that would help a foster parent care for a child. Suppose, for instance, that you know the child has a history of sexual victimization and that he/she has been moved from an earlier foster home after being found in bed with a younger child. The current foster parent does not have this information and there is another young child in the home. In such a case, it is clearly in the best interest of both the child and other children in the home that this information be shared. After discussing the issue with your supervisor to determine the best approach, you should contact the caseworker and state a clear expectation that this critical background information be shared with the current foster care provider. As a CASA/GAL volunteer, you should not share this information yourself.

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