



FAQs: Buncombe County's Children Services Public Accountability

We all share a belief in both the rights of families to raise their children without government intrusion, as well as a belief that all children deserve to be protected from abuse and neglect. Those are two fundamental beliefs that seem simple as separate concepts; the challenge is to balance these two equally important values within a mandated and highly regulated system. Child welfare is an incredibly complex system both in terms of the latticework of federal and state laws, rules and administrative codes that govern the scope and practice of social work, as well as the complexity of the issues central to the work.

Q1: Can DSS answer the public's and / or the media's questions about specific cases?

A: State and Federal laws prohibit sharing case information with the public, except in specific situations as discussed below. Specifically, G.S. 108A-80 prohibits the disclosure of the names of social services clients and any information derived from the records, files or communications.

§ 108A-80(a)¹ Confidentiality of records.

Confidentiality of records. ...it shall be unlawful for any person to obtain, disclose or use, or to authorize, permit, or acquiesce in the use of any list of names or other information concerning persons applying for or receiving public assistance or social services that may be directly or indirectly derived from the records, files or communications of the Department or the county boards of social services, or county departments of social services or acquired in the course of performing official duties except for the purposes directly connected with the administration of the programs of public assistance and social services in accordance with federal law, rules and regulations, and the rules of the Social Services Commission or the Department.

In addition, from a policy and practice perspective, the ability to assure confidentiality is essential. It is our strict adherence to confidentiality that offers the community the needed protection so that concerned citizens will pick up the phone and contact DSS to report suspected abuse or neglect and speak openly about their concerns regarding a child's safety.

¹ http://www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter_108A/GS_108A-80.pdf

It is the protection guaranteed to families so they will share intimate and sometimes painful details regarding their personal and family life. It is the protective shelter offered to a child to feel safe to talk openly about their family situation.

Confidentiality also enables our highly skilled social work staff to assess risk, develop safety plans and ensure safety and permanency.

Q2: Who provides oversight of DSS?

A: In NC, DSS is a state-supervised and county-administered system.

The NC Department of Health and Human Services (NCDHHS) is the supervising entity responsible for oversight. NCDHHS is the appropriate place to refer consumers or citizens who have complaints or concerns regarding a County DSS when those concerns cannot be resolved by the DSS Director. Neither the Board of Commissioners nor Health and Human Services Board have authority specific to DSS child welfare programs and services. Please refer to DSS Protocol for Response to Client Complaints which provides citizens with specific portals to voice their concerns to the appropriate oversight body.

Q3: When a child dies of suspected abuse or neglect can DSS share the information with the public?

A: North Carolina has a specific law that requires DSS to consult with the prosecutor to determine the release of findings and information. The law also provides an appeal process when the release is denied. DSS has no authority to release information except as follows:

N.C.G.S. 7B-2902(a),(e)² Disclosure in child fatality or near fatality cases.

(a) Within five working days from the receipt of a request for findings and information related to a child fatality or near fatality, a public agency shall consult with the appropriate district attorney and provide the findings and information unless the agency has a reasonable belief that release of the information:

- (1) Is not authorized by subsections (a) and (b) of this sectionⁱ;
- (2) Is likely to cause mental or physical harm or danger to a minor child residing in the deceased or injured child's household;
- (3) Is likely to jeopardize the State's ability to prosecute the defendant;
- (4) Is likely to jeopardize the defendant's right to a fair trial;
- (5) Is likely to undermine an ongoing or future criminal investigation; or

² http://www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter_7B/GS_7B-2902.pdf

(6) Is not authorized by federal law and regulations.

(e) Any person whose request is denied may apply to the appropriate superior court for an order compelling disclosure of the findings and information of the public agency. The application shall set forth, with reasonable particularity, factors supporting the application. The superior court shall have jurisdiction to issue such orders. Actions brought pursuant to this section shall be set down for immediate hearing, and subsequent proceedings in such actions shall be accorded priority by the appellate courts. After the court has reviewed the specific findings and information, in camera, the court shall issue an order compelling disclosure unless the court finds that one or more of the circumstances in subsection (d) of this section exist.

Q4: How can the community be assured there is a review of the facts and appropriate accountability?

A: North Carolina State law specifically provides for a community system of review and accountability.

G.S. 7B-301³ requires any person with cause to suspect that a child died as a result of maltreatment to report to DSS. N.C.G.S. §7B-311⁴, requires that directors of county DSS report to the Department of Health and Human Services, Division of Social Services, all child fatalities that are a result of alleged maltreatment. The State requires all child fatalities to be reported to the state within 5 business days using a structured reporting format. The structured report is used to determine the need for a comprehensive on-site review.

In addition, N.C.G.S. §7B-1406⁵ mandates the establishment of Community Child Protection Teams; Child Fatality Prevention Teams; creation and duties. Specifically:

NC General Statutes - Chapter 7B Article 14 5

- (a) Community Child Protection Teams are established in every county of the State. Each Community Child Protection Team shall:
 - (1) Review, in accordance with the procedures established by the director of the county department of social services under G.S. 7B-1409⁶:
 - a. Selected active cases in which children are being served by child protective services; and

³ http://www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter_7B/GS_7B-301.pdf

⁴ http://www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter_7B/GS_7B-311.pdf

⁵ http://www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter_7B/GS_7B-1406.pdf

⁶ http://www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter_7B/GS_7B-1409.pdf

- b. Cases in which a child died as a result of suspected abuse or neglect, and
 1. A report of abuse or neglect has been made about the child or the child's family to the county department of social services within the previous 12 months, or
 2. The child or the child's family was a recipient of child protective services within the previous 12 months.
- (2) Submit annually to the board of County Commissioners recommendations, if any, and advocate for system improvements and needed resources where gaps and deficiencies may exist.

In addition, each Community Child Protection Team may review the records of all additional child fatalities and report findings in connection with these reviews to the Team Coordinator.

- (b) Any Community Child Protection Team that determines it will not review additional child fatalities shall notify the Team Coordinator. In accordance with the plan established under G.S. 7B-1408(1)⁷, a separate Child Fatality Prevention Team shall be established in that county to conduct these reviews. Each Child Fatality Prevention Team shall:
 - (1) Review the records of all cases of additional child fatalities.
 - (2) Submit annually to the board of County Commissioners recommendations, if any, and advocate for system improvements and needed resources where gaps and deficiencies may exist.
 - (3) Report findings in connection with these reviews to the Team Coordinator.
- (c) All reports to the Team Coordinator under this section shall include:
 - (1) A listing of the system problems identified through the review process and recommendations for preventive actions;
 - (2) Any changes that resulted from the recommendations made by the Local Team;
 - (3) Information about each death reviewed; and
 - (4) Any additional information requested by the Team Coordinator. (1993, c. 321, s. 285(a); 1998-202, s. 6.)

Q5: What accountability is there for DSS Children Services in general?

A: At all levels, there is oversight for DSS Children Services, specifically:

- Policy requires that case decisions must involve a two level review; no individual social worker can make those determinations. Buncombe also utilizes a Child and Family Team structure that provides a neutral facilitator for a team where recommended case plans are decided by the

⁷ http://www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter_7B/GS_7B-1408.pdf

family and their support systems along with involved professionals like therapist, teachers, clergy, and social workers.

- Reporters can request the District Attorney to review DSS's decision not to petition the court.
 - Parents or citizens can contact NC DHHS and request a review of DSS handling of a case specific to legal and policy compliance as well as best practices.
 - Both the state and federal government conduct audits and program reviews routinely.
 - In NC data is measured for all counties against federal performance benchmarks. This data is used on both a local and state level for improving performance and addressing system weaknesses.
 - Child & Family Services Review (CFSR) is a federal review process for all states that began in 2001. The Children's Bureau conducts the CFSRs, which are periodic developmental reviews of state child welfare systems to support continuous improvement. The CSFR has three main goals:
 1. Ensure conformity with federal child welfare requirements
 2. Determine what is actually happening to children and families as they are engaged in child welfare services
 3. Assist states in helping children and families achieve positive outcomes
 - In Buncombe County we have a Quality Assurance Team that randomly pulls and reviews cases using federal review tools.
 - In Buncombe County, the combined Community Child Protection/Fatality Prevention Team reviews all child fatalities and is charged to identify both case specific and system gaps. This team is specifically mandated to review fatalities that have resulted from suspected abuse or neglect in which DSS had involvement with the family in the preceding 12 months prior to the child's death. The team is charged with reporting these findings to the State Fatality Prevention Review Team as well as annually to the local Board of Commissioners.
 - For those cases that result in Court involvement to remove children from their homes, it is important to know that any decision to remove a child from the home, change the permanency plan for a child, alter the case plan or visitation plan is the decision of the Judge. When cases involve the Court all children are appointed both an attorney and volunteer advocate (GAL) to represent their best interest. All parents unable to afford an attorney are entitled to court appointed counsel.
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