

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF SONOMA  
STANDING ORDER NO. 2004 (2)  
ISSUED DECEMBER 16, 2004**

**RELEASE AND SHARING OF CONFIDENTIAL EDUCATION AND MENTAL  
HEALTH RELATED RECORDS TO ASSIST PROBATE GUARDIANSHIP AND  
JUVENILE COURT INVESTIGATIONS**

Schools, courts, mental health and child protective agencies share a common mission to promote a child's best interest in working to insure children have the opportunity to safely develop emotionally, psychologically, academically and physically. The Court is aware, however, that conflict and ambiguities in the law interfere with the ability of these agencies to work together efficiently to share necessary information among systems. Generally, a student's parents or educational guardian balance the child's educational and personal needs with requests for school records and other confidential information. During a guardianship, probation, or child welfare investigation, the role of the existing holder of educational and other confidentiality rights may be in conflict with the child's best interests. During the investigation period the court must have the ability, through its investigators, to examine relevant information to help safeguard the child's emotional, academic, and educational interests.

This issue was partially addressed in Standing Order 2004(1) which applied to juveniles adjudicated as court dependents and delinquents. Prior to adjudication, however, there remains a critical need for agencies to share information so that crucial decisions regarding a child's future can be made in the context of a juvenile dependency,

delinquency or probate guardianship action.

In particular, this Standing Order is to implement and further the statutory goal of protecting children and sharing information between child protective and educational institutions as contemplated, in part, by Probate Code section 1513 subdivision (e); Welfare and Institutions code sections 300.2 and 306, and Penal Code section 11167. These goals, at times, have been impaired by statutory and regulatory confidentiality and privacy protections, including the Family Education Right to Privacy Act (“FERPA”) which may prohibit the disclosure of educational or mental health records unless authorized by written consent or court order.

The Court hereby finds that the best interest and safety of children and the needs of the Court for relevant information about children, who are the subject of a probate guardianship or a juvenile court related investigations, outweigh the need for confidentiality, and therefore this order is consistent with California Civil Code section 56 et. seq., Welfare and Institutions Code sections 827, 828, 4514, 5328 and 10850, Education Code section 49602, 34 C.F.R. 99.31, 42 C.F.R. Part 2, 45 C.F.R. Part 160 and 164 and other provisions related to the confidentiality of the child’s school and mental health records. The interests of children include the need to have their needs met by appropriate caretakers and to have informed decisions made by the courts and social service agencies with regards to their safety and well-being. Good cause therefore exists for the following orders which shall apply to any child who is subject to a probate guardianship, juvenile dependency, or juvenile delinquency investigation.

IT IS HEREBY ORDERED that:

1. All public and non-public schools are authorized and directed to release any and all pupil records of a minor who is the subject of a Sonoma County probate guardianship, probation, or child protective service investigation related to a student's emotional, psychological or educational needs. These records include but are not limited to attendance records, IEP records, progress reports, immunization records, assessments or any other educational or health record maintained by a school upon the request of a Human Services Department investigative social worker, probation officer or a Superior Court investigator.

2. The Department of Health Services, specifically including Sonoma County Youth and Family Services and the Mental Health Resource Team, and county-contracted providers of mental health services to minors are authorized and directed to release relevant mental health records of a minor who is the subject of a Sonoma County probate guardianship, probation, or child protective service investigation related to a child's emotional, psychological or educational needs. These records are limited to records and information deemed by a Sonoma County Mental Health Program Manager to be relevant to the current investigation, and which concern the child and the child's environment, but excluding specific information about a parent or other person, except pursuant to an authorization or further court order.

3. The records identified in paragraph (1) and (2) shall be released without the requirement of parental consent. The individual requesting such records shall provide the agency with verification that the child is the subject of a probate guardianship, delinquency, or child welfare investigation and of the person's employment related to the case. In the event of a dispute over the provision of documents the parties shall meet promptly and confer to specifically identify the nature of the information/records and discuss the appropriateness of producing the withheld documents. Documents or information which continue to be in dispute after the meeting shall be submitted to the judge having jurisdiction over the matter to determine if they should be produced.

4. The records obtained may only be used in the respective guardianship, delinquency, or dependency proceeding and not for any other purpose. Records received pursuant to this Standing Order shall remain confidential and shall not be duplicated or disclosed to third parties except to the extent they are provided to the Court and served as part of a probate guardianship, delinquency, or juvenile dependency matter.

5. Superior Court investigators are authorized to release information to the school about a child subject to a guardianship investigation that is directly relevant to the student's ability to attend and benefit from the current educational placement. The child's mental health information, however, may not be further disclosed.

IT IS FURTHER ORDERED that a copy of this Standing Order shall be furnished by the Sonoma County Office of Education to all relevant schools and school districts within Sonoma County and by County Counsel to the Department of Human Services, Probation Department, Department of Health Services, Mental Health Division, and Probate Investigators.

Dated: December 16, 2004

/s/ Mark Tansil  
Mark Tansil, Superior Court Judge  
Presiding Judge of the Sonoma County Juvenile  
Courts

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Carla Bonilla, Commissioner  
Probate Court Judicial Officer