



CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
FAMILY COURT DIVISION
625 EAST 26TH STREET
KANSAS CITY, MISSOURI 64108-2719

POLICY & PROCEDURE

Issued by: Director of Office of the Guardian ad Litem – Family Court

Topic: **Policy No. 1030-07 -- GAL Standard 7 – Confidentiality and Privilege
File Retention and Destruction**

Effective Date: July 1, 2013

New: Revised: 10/01/2017 Rescinds: Reviewed: June 1, 2018

POLICY:

It is the policy of the Office of the Guardian ad Litem (OGAL) to adhere to the confidentiality requirements set forth in the Missouri Statutes requirements set forth in the Missouri Statutes, 211.319 RSMo., 211.321 RSMo., and the Missouri Supreme Court Rules, including Guardian ad Litem Standard 7, as well as MCRPC 4-1.6. It is further the policy of the Office of the Guardian ad Litem to maintain the confidentiality of our clients, given the sensitive nature of their cases. This policy shall apply to all employees and volunteers of OGAL. Information may be determined to be confidential by way of operation of law, court policy or procedure, or case information not authorized to be released by OGAL. Such records also include employee files and Human Resource Records.

PROCEDURES:

1. Employees are prohibited from releasing information to the public or other persons pursuant to sections 211.319 and 211.321 RSMo., unless permitted by a court order.
2. OGAL will not redisclose any confidential or privileged information without a valid court order or as required by law. OGAL will be familiar with Sec. 210.140 RsMo, 42 U.S.C. 290 dd.2 and 42 C.F.R. Sec. 2.
3. Unless authorized by law or with the Director's informed consent, no confidential information related to specific cases shall be dispersed to non-authorized personnel. Employees are prohibited from disclosing information obtained in the course of

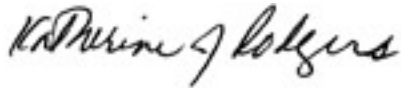
- employment with OGAL which could reasonably lead to the discovery of confidential information by a third party.
4. If the assigned Guardian ad Litem (GAL) believes that an open hearing will be detrimental to the best interests of the client, the assigned GAL shall file a motion pursuant to 122.01 that the courtroom be closed or that a protective order shall be issued.
 5. OGAL shall assure that photographs of the clients shall not be shared with people who are not parties to the case.
 6. Work product is expressly prohibited from release to persons not within the Office of the Guardian Litem. This includes material prepared by a lawyer, or other staff persons as directed by the lawyer, provided such materials were prepared with the understanding that they could be used in pending litigation. It includes memoranda, briefs, communications or other writings prepared by counsel for use in representing a client including the lawyer's mental impressions, conclusions, opinions and legal theories.
 7. Lawyers may reveal confidential information to prevent death or substantial bodily harm that is reasonably certain to occur. If time permits, the Director should give written consent prior to such disclosure. Support staff is prohibited from making such disclosures. They should immediately report such information to Director or managing attorney.
 8. OGAL's records and files shall be held and maintained in such a manner as to ensure that the information contained therein is not accessible to unauthorized persons. All staff shall assure that files and records are not left in open areas visible to the general public.
 9. The child is not the owner of the file. Only the Court has the authority to rule on any request concerning the handling or disposition of the file and order its release or early destruction. The Court through the Family Court Committee has authorized OGAL to destroy the contents of files, other than items of intrinsic value, on the later of two dates:
 - a. child's 21st birthday or
 - b. consistent with Rule 4-1.22, Rules of Professional Conduct for cases released prior to July 1, 2016, 10 years after release of jurisdiction or for cases released on or after July 1, 2016, 6 years after release of jurisdiction.
 - c. If any other disposition is desired, the assigned GAL shall file a motion to obtain the Court's approval of such disposition.
 - d. Items of Intrinsic Value are covered in Policy 1030-15.
 - e. The file shall be destroyed in a manner that preserves client confidentiality.
 10. Employees are prohibited from discussing representation of clients, clients' information or any other confidential information with non-parties. Each employee shall assure that communication is done in such a manner that non-parties are not receiving confidential information.
 11. Employees are prohibited from distributing reports, records or other case related information to non-parties.
 12. Employees shall refrain from discussing cases in public places. Even in areas behind locked areas at the Court, employees shall make sure that conversations can be heard only by those entitled to have the information.
 13. When employees have confidential materials outside of the office, employees shall take steps to insure that the confidential information is protected.

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14. Director and managing attorneys shall assure that all employee records and Human Resource records are maintained in a secure manner and shall assure that unauthorized access to such records does not occur.
15. Director and managing attorneys shall provide periodic training and reminders regarding confidential information to OGAL staff and volunteers.

REVISIONS: The proponent for this policy is the Director of the Office of Guardian ad Litem. If you have recommended changes or want to report errors, send your suggestions to the Director of Guardian ad Litem, Family Justice Center, 625 East 26th Street, Kansas City, MO 64108.

REVIEW DATE: July 1, 2019



June 1, 2018

Kathy J. Rodgers
Director of Office of the Guardian ad Litem-Family Court

Date

APPLICABLE STANDARDS:

Juvenile Officer Performance Standard: 1.13A, B, C; 5.5D

CC: Deputy Court Administrator – Family Court Division