	CHILD AND FAMILY SERVICES MANUAL	<i>Effective Date</i> March 9, 2006		
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Child Welfare Services Email Confidentiality Protocol Interim Operating Policy

Purpose

This protocol is designed to protect the client’s right to confidentiality when child welfare staff utilize email. All case-specific email, whether incoming to staff or outgoing from staff, is considered to be part of the case record. As such, it is potentially retrievable by the family and subject to discovery by an attorney. An additional confidentiality concern is that email sent outside of the DHHS “firewall” will be stored on an outside server. DHHS has no control over access to email stored on any such external server. Although many other organizations can encrypt messages for email communication, this technology is not yet available to Maine State government.

Legal Base

Title 22 MRSA Chapter 1071 section 4008

“Records; confidentiality; disclosure


1. Confidentiality of records and information. All department records that contain personally identifying information and are created or obtained in connection with the department’s child protective activities and activities to a child while in the care or custody of the department, and all information contained in those records, are confidential and subject to release only under the conditions of subsection 2 and 3.

Within the department, the records are available only to and may be used only by appropriate departmental and legal counsel for the department in carrying out their functions.

Any person who receives department records or information from the department may use the records or information only for the purposes for which that release was intended. A person, including, but not limited to, a child, parent, custodian or subject of a record, may not further disseminate any record or information that person receives from the department unless the dissemination is otherwise allowed by law.”

I. Email Communication inside the Firewall.

1. Because *Maine.gov* email is protected behind a secure firewall, email communication to anyone with a *maine.gov* address is permitted if it is optional or mandatory disclosure as specified in section 4008, subsection 2 or 3, or to an Assistant Attorney General. Child Welfare staff may send email to anyone with a *maine.gov* email address provided that we can legally disclose this case-specific information.
2. Staff may email the Ombudsman when using the Ombudsman’s *maine.gov* email.

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3. Staff are encouraged to use initials or a MACWIS number in the subject line of email. Staff should weigh their own needs for easy communication with the possible increased risk of emails falling into hands of unauthorized persons due to a hacker's or even a casual bystander's ability to recognize confidential information in subject lines.
4. Case-specific email should be written with the same care as an official letter, with full awareness that it is potentially subject to disclosure.

II. Email Communication outside of the Firewall

1. No case-identifying email may be sent outside the firewall.
2. Receiving case specific email from outside the firewall is not a violation of client confidentiality on our part, although the sender may be violating a client's rights to confidentiality. We are responsible for discouraging any email communication that violates confidentiality, such as from any Community Intervention Program, treatment foster care agency, medical office, foster parent, birth parent, service provider or even a child in care.
3. Foster parents should be working under same rules as case workers. Foster parents should not be communicating by email with their agencies, with the child's case worker, or with each other, if any confidential information is shared in the communication.
4. Staff may not send, forward, or return any email with any personally identifying or substantial information to any :
 - a. Community Intervention Program,
 - b. treatment foster care agency,
 - c. medical or mental health provider
 - d. foster parent
 - e. birth parent who is involved in an open case,
 - f. child who is in care or part of an in-home case or assessment,
 - g. attorney (other than an AAG),
 - h. guardian ad litem, or
 - i. other person with whom a caseworker communicates who is not an employee of the State of Maine.