

## Frequently Asked Questions – Case Records Public Access Policy of the Unified Judicial System of Pennsylvania

### **Section 7.0:**

1. When a Confidential Information Form is used, the confidential information (e.g., social security and financial account numbers) is listed on the Form and not in the body of the motion, pleading, or other document being filed with the court. What is accessible to the public?

**Answer:** The Confidential Information Form is not accessible to the public. However, the motion, etc. (which has no confidential information) is available to the public.

2. How do the requirements in Section 7.0 affect self-represented parties?

**Answer:** Self-represented parties must comply with the Policy or face possible sanctions. The Policy and related forms can be found at <https://www.pacourts.us/public-records>.

3. Section 7 (D): How do I comply with the required certification when e-filing my documents with a court? When filing my documents in paper form?

**Answer:** With regard to e-filing, in PACFile (the statewide e-filing system), there is a “checkbox” that contains the certification that filers have to check in order to e-file their documents. Some judicial districts may also have implemented a similar e-filing procedure; if you have questions, it is advised that you check with the pertinent filing office.

When filing your documents in paper form, the Confidential Information Form or Confidential Document Form contain the required certification. In addition, many party-filed forms in the Magisterial District Judge System (MDJS) also include the required certification.

The AOPC has also created a sample Certification Form that parties, and attorneys may use as a stand-alone document or incorporate in their filed documents. All Policy forms may be viewed at <https://www.pacourts.us/public-records>.

The certification is required for every filing.

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4. The requirements of Section 7.0 apply to all documents for any case filed with a court or custodian (except for cases sealed or exempted from public access pursuant to legal authority) on or after the effective date of this policy. Does this mean that all documents filed before the Policy was effective are not governed by the Policy but might be protected by a pre-existing policy or rule?

**Answer:** Sections 7.0 (Confidential Information) and 8.0 (Confidential Documents) are not applicable to documents filed with a court prior to the effective date of the Policy. To the extent that there were policies and rules in place that protected information or documents prior to that date, then they would govern documents filed before this Policy took effect.

5. What happens when a case that was previously sealed pursuant to a court order is unsealed?

**Answer:** A court on its own motion or upon a party's motion may direct that confidential information/documents contained in the previous filings be protected in accordance with the Policy. It is advised that parties and attorneys take all necessary actions during the pendency of a case to protect confidential information and documents, to avoid having to take action retroactively should a case be unsealed.

6. What if a court order or opinion contains confidential information? Who has the burden of redacting confidential information on routine scheduling orders or opinions issued by the courts?

**Answer:** Court-generated documents, such as hearing notices, orders and opinions, are not governed by Section 7.0, or by the Policy in general. The Policy governs documents filed with the court by a party or attorney. For more information, you may wish to read the Commentary to Sections 7.0 and 8.0 of the Policy.

The courts are not required to redact their opinions or other court-generated documents. It is important that the public has access to and an understanding of the courts' decisions, in order to assure that justice is being done fairly and impartially as well as to promote confidence in the judicial system.

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7. When a court order containing information which must be safeguarded pursuant to Section 7.0 is attached to a party filing, should the order be redacted?

**Answer:** The Policy does not impact court-generated documents, such as court orders and notices. Thus, if the order is available to the public in the file, the party attaching the order to the filing does not need to comply with the Section 7.0 protocols.

8. Under Section 7.0(A)(5), will the court include children's names and dates of birth in custody orders? Related to this specific question is the more general question about how the court intends to issue orders, opinions, judgments, or decrees so that confidential information is protected.

**Answer:** Section 7.0(A)(5) does not apply to court-generated documents (orders, opinions, etc.).

9. Currently our county does not place custody records online, does the Policy obligate a county to now put them online?

**Answer:** There is no requirement to place records online.

10. A custody case is filed, and the plaintiff alleges that the defendant has a specific mental health issue (e.g., bipolar disorder) and should not be awarded custody of the children. Can the pleading reference the mental health issue or must any reference to the issue be redacted?

**Answer:** Medical records are documents safeguarded by Section 8.0(A)(3). However, Section 7.0 does not list medical information as a piece of information that requires protection. There is no requirement under the Policy to redact or safeguard the mental health issue mentioned in the pleading.

However, attorneys should be mindful of the Rules of Professional Conduct that requires care in protecting the confidential information of clients (Rule 1.6) and competent representation (Rule 1.1).

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11. When is an individual considered an "abuse victim" for purposes of redacting their address?

**Answer:** An abuse victim is defined in the Policy as "a person for whom a protection order **has been granted** by a court pursuant to Pa.R.Civ.P. 1901 et seq. and 23 Pa.C.S. §§ 6101 et seq. or Pa.R.Civ.P. 1951 et seq. and 42 Pa.C.S. §§ 62A01 et seq., as well as Pa.R.Civ.P.M.D.J. 1201 et seq." See Section 1.0 (Definitions) of the Policy (emphasis added).

12. When an abuse victim (as defined in the Policy) files a custody complaint, he/she will enter contact information on the Confidential Information Form. When the custody complaint is served upon the defendant and the defendant is the "abuser", should the Confidential Information Form - Abuse Victim Addendum be provided to the defendant as well?

**Answer:** The Abuse Victim Addendum, and any additional pages, shall only be provided to the court and shall remain confidential.

13. Will the petitions created in the State Police's Protection from Abuse Database (PFAD) be altered to comply with the Policy?

**Answer:** A party filing a petition for protection must comply with the requirements of Section 7.0 and ensure that any confidential information is only set forth on the Confidential Information Form.

14. How do I handle Confidential Information, such as a victim's address, included in Protection from Abuse petitions and Protection from Abuse orders?

**Answer:** A party filing a petition for protection must comply with the requirements of Section 7.0 and ensure that any confidential information is only set forth on the Confidential Information Form. However, the court-generated documents, such as court orders, are exempt from Section 7.0.

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15. Do all Protection From Abuse Orders need to be filed with a Confidential Information Form?

**Answer:** No. Court-generated documents (such as a Protection From Abuse Order) are exempt from Section 7.0.

16. Does a hearing notice which includes information about witnesses and abuse victims in family law cases need to be filed with a Confidential Information Form?

**Answer:** No. Hearing notices are court-generated documents which are exempt from Section 7.0.

17. Regarding Section 7.0(A)(6) relating to abuse victims—how would the Domestic Relations Office know that someone is an abuse victim and not include address information in court generated notices and filings?

**Answer:** Court generated documents are exempt from Section 7.0.

18. The PFA order expired two years ago and is no longer in effect, is the abuse victim, under the above definition, protected under Section 7.0(A)(6)?

**Answer:** No. One is only an abuse victim for purposes of the Policy if there is a current order in effect when the document in a family court action is filed with the court.

19. Orders in child support entered by the Domestic Relations Office contain a child's name & date of birth—under Section 7(A)(6) of the Policy, is there a requirement to change what is displayed in the order?

**Answer:** No.

20. When filing a petition for expungement pursuant to Pa.R.Crim.P. 490 or 790, should the social security number be protected in accordance with Section 7.0?

**Answer:** A party filing a petition for expungement must comply with the requirements of Section 7.0 and ensure that any confidential information is only set forth on the Confidential Information Form.

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21. How does Section 7.0 reconcile with the requirements of what is to be included on the Complaint for Child Support, per Pa.R.Civ.P. 1920.27?

**Answer:** Pleadings in child support matters maintained by the Domestic Relations Office are not accessible by the public, except for PACSES dockets, court orders and opinions as provided by legal authority; for more information, please review the [Limits on Public Access to Unified Judicial System Case Records](#) chart.

22. How should parties, attorneys or judges differentiate between the children, if parties and attorneys refer to them as child 1, child 2, etc.? Or when all children share the same initials?

**Answer:** Section 7.0(A)(5) prohibits the use of minor's name and date of birth except when a minor is charged as a defendant in a criminal matter. The court could require that parties and attorneys use a combination of initials and perhaps partial date of birth (e.g. year of birth). Courts may wish to set local protocols for purposes of consistency and ease of administration.

23. Can a party to the case view the confidential information of the other party?

**Answer:** Yes. A party to the case does not fall under the definition of "public" in the Policy.

24. What happens when an attorney does not comply with the Policy's provisions?

**Answer:** A party's or attorney's failure to comply with the policy will not affect access to case records that are otherwise accessible. Depending upon the provision of the Policy violated, a court of record may order the noncompliant filing to be sealed, redacted, amended, impose sanction or any combination thereof. A magisterial district court may order the document to be sealed, redacted, and amended.

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25.Does the new policy apply to transcripts?

**Answer:** Rule of Judicial Administration 4014 (Redaction of Personal Data Identifiers) is the authority for safeguarding confidential information in a transcript, which is a court-generated document.

26.Why is a State Identification Number confidential under Section 7.0?

**Answer:** State Identification Numbers (“SID”) have been defined as “[a] unique number assigned to each individual whose fingerprints are placed into the Central Repository of the State Police. The SID is used to track individuals for crimes which they commit, no matter how many subsequent fingerprint cards are submitted.” 37 Pa. Code § 58.1.

The UJS' *Electronic Case Record Public Access Policy* also restricts public access to SIDs. See also, *Warrington Crew v. Pa. Dept. of Corrections*, (Pa. Cmwlth., No. 1006 C.D. 2010, filed Nov. 19, 2010), pertaining to a ruling by the Office of Open Records that a SID is exempt from disclosure through a right-to-know request because such numbers qualify as a confidential personal identification number.

27.If an attorney has been filing documents with a court that are not compliant with the Policy, what should the attorney do?

**Answer:** The attorney should take corrective action, or risk sanctions and possible ethical violations.

### **Section 8.0:**

1.What should an individual do when they have a “Confidential Document” that must be submitted to the court, but the document is not listed on the form? Which box should they check?

**Answer:** The Confidential Document Form should only be used for the “Confidential Documents” specifically listed in Section 8.0 of the Policy. If the document is not listed in Section 8.0, it is not a confidential document under the Policy. If a party is concerned about the public

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accessing a document not listed in Section 8.0, the party could request that the court seal the document.

2. What about Petitions for Wrongful Death Actions that have medical records attached to them and other related confidential information?

**Answer:** Section 8.0 requires that medical records be filed under a Confidential Document Form.

3. Should a Mental Health Petition be filed under a Confidential Document Form?

**Answer:** In matters involving an individual who is in treatment under the Mental Health Procedures Act, access to those matters is limited pursuant to 50 P.S. § 7111. In fact, this statutory restriction is referenced in a chart created by the AOPC entitled Limits on Public Access to Unified Judicial System Case Records.

4. Are Qualified Domestic Relations Orders considered confidential documents under the Policy?

**Answer:** These are court orders and not governed by the Policy.

5. What is considered an agreement between parties under 23 Pa.C.S. § 3105 in Section 8.0(A)(7)?

**Answer:** 23 Pa.C.S. § 3105(A) provides “[a] party to an agreement regarding matters *within the jurisdiction of the court* under this part, whether or not the agreement has been merged or incorporated into the decree, may utilize a remedy or sanction set forth in this part to enforce the agreement to the same extent as though the agreement had been an order of the court except as provided to the contrary in the agreement [emphasis added]. The jurisdiction of the court can be found under 23 Pa.C.S. § 3104 and provides the court with jurisdiction over cases of divorce, including decrees and orders. This can include property settlement agreements (PSA), separation agreements, custody stipulations, marriage settlement agreements, and under 23 Pa.C.S. § 3104(a)(5) “[a]ny other matters pertaining to the marriage and divorce or annulment authorized by law....”

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## **Section 9.0:**

1. Will guardianships be public unless the court directs otherwise?

**Answer:** Access to guardianship cases is limited in Section 9.0 to only orders finding a person incapacitated and the docket.

2. Is the decree for an emergency petition for guardianship available to the public?

**Answer:** Section 9.0(B) provides with regard to guardianship/incapacity proceedings that only the “docket and any final decree adjudicating a person as incapacitated” are available to the public. With the public having access to the docket, the public would be able to see that an emergency petition has been filed and that a decree has been entered granting the petition. The public could always petition the court to access more information.

3. Under Section 9.0(B), the public is only permitted to see the docket and final decree adjudicating a person as incapacitated. If a distant friend or family member wishes to review the file would they have to petition the court?

**Answer:** Under the Policy, the guardian, party to the case, and the attorney of record may review the file. Other individuals would need to petition the court. The Policy does not intend to stop friends or family from taking care of their loved ones in guardianship matters. The Policy is in place to protect the confidential information found in guardian matters from members of the public who have no reason to need that confidential information or have access to it.

4. How does the Policy impact the public’s access to child support records maintained by the Domestic Relations Office?

**Answer:** Access to the child support records would still be the same. No public access, except for PACSES dockets, court orders and opinions as provided by legal authority; for more information please review the [Limits on Public Access to Unified Judicial System Case Records](#).

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5. Section 9.0(H) provides that “[t]he Unredacted Version of any document filed in accordance with prior versions of this policy [shall not be accessible to the public].” Does this mean that all unredacted documents filed with a court are not accessible to the public or only those unredacted documents filed with the court since this Policy took effect in January of 2018?

**Answer:** Only those unredacted documents filed with a court since the Policy took effect are impacted by Section 9.0(H). From January 6, 2018 until January 1, 2022, an appellate or trial court could permit the filing of any document in two versions, a “Redacted Version” and “Unredacted version,” rather than require the use of a Confidential Information Form, to safeguard the information identified in Section 7.0(A). Beginning January 1, 2022, the Confidential Information Form became the single statewide method to safeguard that information.

### **Section 10.0:**

1. Section 10.0 limits remote access to family court records. Family court dockets, court orders and opinions are the only items that may be accessible via remote access. If someone comes to the filing office or Domestic Relations Office, are they prohibited from reviewing other original documents in the file, such as the pleadings and mailing notices?

**Answer:** Family court records are available at the courthouse facilities under Section 9.0. With regard to a Domestic Relations Office, no public access to child support records except for PACSES dockets, court orders and opinions as provided by legal authority. For more information, please review the Limits on Public Access to Unified Judicial System Case Records.

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## **Section 11.0:**

1. Section 11(A) provides that a party who wishes to request the correction of a clerical error “may submit a written request for correction.” The use of the term “may” could suggest that it is the option of the filing party whether or not to make a written request – thus leaving open the possibility of oral requests (perhaps for simple matters such as spelling errors, etc.) However, the subparagraphs of Section 11 that follow – specifically 11(B) and (C) which require submission of information on a form and service upon other parties (respectively) -- would suggest that all such requests must be in written form.

**Answer:** The Commentary following Section 11.0 provides in part that “[a] party or party’s attorney is not required to utilize the procedures set forth in this section before making a formal motion for correction of a case record in the first instance.” Thus, the protocols in Section 11.0 should not be viewed as the exclusive means for correcting clerical errors.

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## **Miscellaneous:**

1. Is the Policy applicable to Register of Wills and Recorder of Deeds?

**Answer:** No.

2. Do documents prepared and filed by the court that include confidential information need to comply with the public access policy?

**Answer:** The policy governs documents filed with the court by parties and attorneys. It does not govern court-generated documents.

3. Whether certification, as specified in Sections 7.0 and 8.0, is needed on every document filed with the court (e.g., entry of appearance, praecipe to transmit the record, etc.) or only those documents which have confidential information?

**Answer:** Yes. The certification is required on every document filed with a court or custodian regardless of whether the filing contains “confidential information” requiring safeguarding under the Policy. It serves the purposes of ensuring that the filing party has considered the Policy for every document before filing the same with the court.

4. When completing the forms online, how do I save them?

**Answer:** Download and save the form to your computer. You can

download the form by clicking the  button in the top right corner or by right-clicking on the form and selecting ‘Save As.’ Use the saved version to complete the form and ‘Save’.

5. Does the Policy require that a first and final accounting be filed in compliance with Sections 7.0 and 8.0?

**Answer:** These documents are filed in guardianship matters and also in other matters, such as trusts and decedent’s estates. With respect to guardianship matters only, these documents are not publicly accessible. Therefore, the filer would not need to follow the requirements of Sections 7.0 and 8.0 with respect to accounts filed in guardianship matters.

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6.What about Petitions to Settle Small Estates that consist of social security numbers and other confidential information?

**Answer:** A filer must comply with the requirements in Sections 7.0 and 8.0 to safeguard confidential information and documents.

7.Are Guardians Ad Litem, masters, mediators, conciliators, etc. required to comply with the Policy? Including filing certificates of compliance with everything?

**Answer:** With regard to masters, mediators, and conciliators, documents generated by these quasi-judicial officials when performing their duties should be considered court-generated documents for purposes of this Policy. However, they should omit confidential information not necessary to their evaluation/recommendation when drafting documents which are accessible to the public.

With regard to Guardians Ad Litem (GAL), a GAL should be considered a party, and not counsel, a member of the public, or court personnel. In Orphans' Court, a fiduciary (guardian, trustee, GAL, Trustee ad litem, executor, agent, etc.) is a party. In other matters, a GAL may not be a party in the narrowest sense of a "plaintiff" or "defendant," and perhaps a GAL is analogous to *amicus curiae*. It is recommended that they are treated as a "party" that is subject to the Policy.

8.Should only initials be used when advertising a child's name change pursuant to statute?

**Answer:** The statute requires notice of a proposed name change to be published, 54 Pa.C.S. § 701(a.1)(3)(ii)(A), while providing that "[i]f the court finds that the notice . . . would jeopardize the safety of the person seeking the name change or his or her child or ward, the notice required shall be waived by order of the court." 54 Pa.C.S. § 701(a.1)(3)(iii). Proof of publication is required (unless waived). See Section 701(a.1)(4)(ii)(A). Because publication would seem to be meaningless if only initials are used and there is an exception which requires court approval under certain circumstances, the use of the minor's name is otherwise required by law.

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9. Does the court have to comply with the Policy when filing custody orders?

**Answer:** Court-generated documents, such as orders and opinions, are not governed by the Policy. However, if it is possible to draft an order without using sensitive information, it is recommended that the court do so.

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