

LAW & POLICY JUVENILE LAW GROUP
DEPENDENCY CASES --
STATUTORY ACCESS PERMISSIONS/RESTRICTIONS
(Updated 5/12/10 - LNL)

Type of Record/ Applicable Statutes	Public	Parties	Lawyers of Record	Identified Agencies	Service Providers in the Case; Superint't	Designated Authority/ Persons in Danger	Judges and Court Staff; Other OJD Personnel	Other State Courts
<p>Juvenile Court Legal File</p> <p>ORS 419A.255(1) (e.g., "record of case" including summons/process, petition, pleadings, motions, orders, and other filings with court)</p> <p>(excluding reports/other material relating to child/ward's history and prognosis)</p> <p>ORS 419B.875(1)(a) (defining "parties" for purposes of 419B proceedings),</p> <p>ORS 419B.875(2) (defining "rights of parties" for purposes of ORS 419B.100 (dependency) and 419B.500 (TPR))</p> <p>42 USC 5101-116i (Child Abuse Prevention and Treatment Act) (CAPTA)¹</p>	<p>No right to inspect or copy</p> <p>419A.255(1)-- (case record "shall be withheld from public inspection" (note that term "public" is not defined))</p> <p>419A.255(3)-- except for parties/attys of record, public safety, and special provisions (right), no info from case record may be disclosed absent court's consent</p>	<p>Parties include: -- child/ward -- parent -- guardian -- putative father (with conditions) -- state -- juv. dept. -- CASA -- DHS or other child-caring agency, if has temp'y custody -- tribe - if intervened per ICWA -- surrogate -- intervenors per ORS 419B.116</p> <p>419B.875(1)(a)-- Lists parties 419A.255(1)-- Listed parties may inspect, but not copy 419B.875(2)-- in own cases, parties entitled to copies of petitions, answers, motions, other papers</p>	<p>Lawyers include: -- Attorneys for all persons who are "parties" -- District Attorney or AAG representing state</p> <p>419A.255(1)-- Lawyers of record may inspect AND copy</p> <p>419A.257(1)-- District Attorneys and AAG representing state may inspect/copy legal file materials to same extent as lawyers of record</p>	<p>-- juv. dept. (also "party")</p> <p>-- DHS (also "party")</p> <p>-- OYA</p> <p>-- DOJ Division of Child Support</p> <p>419A.257(1)- Juv. dept, DHS, & OYA may inspect/copy legal file same as attys of record</p> <p>419A.255(3)- Inspection also permitted for purpose of evaluat'g special ed eligibility</p> <p>419B.400-.408- DCS access permitted re: need for support orders for child w/in juris'n or ward</p>	<p>(Not mentioned)</p> <p>(but see next page)</p>	<p>(Not mentioned)</p> <p>(but see next page)</p>	<p>(--Judges/staff not mentioned)</p> <p>-- local Citizen Review Boards</p> <p>(Judges and court staff -- Inferred authority to inspect and copy when necessary)</p> <p>419A.102-- local CRBs have access to court records as pertinent to case; CRB access is same as internal OJD employees</p>	<p>Other state courts involved in placement of Oregon ward or child</p> <p>419A.255(11) Oregon courts must cooperate in sharing file information with court of another state to facilitate interstate placement of ward or child</p> <p>417.010-.105; 417.200-.260 Interstate compact for Juveniles/ Placement of Children; info provided by juvenile dept. and/or OYA, not juvenile court</p>

¹ Federal CAPTA and implementing CFRs require states to preserve confidentiality of all records concerning child abuse "to protect the rights of the child and the child's parents or guardians, 42 USC § 5106a(b)(2)(A)(vii), and to enact protections such that "all records concerning reports * * * of child abuse and neglect are confidential and that their unauthorized disclosure is a criminal offense," 45 CFR § 1340.14(i)(l).

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<p>Juvenile court "social file"</p> <p>(ORS 419A.255(2))</p> <p>(e.g., reports and other material relating to child, ward, youth, or youth offender's history and prognosis)</p>	<p>No right to inspect or copy</p> <p>419A.255(2,3)- Social file is privileged; may not be disclosed to anyone absent request of child/ward, other than those statutorily enumerated (right); court approval otherwise required (no disclosure to general public)</p>	<p>Parties include:</p> <ul style="list-style-type: none"> -- child/ward -- parent -- guardian -- putative father (with conditions) -- state -- juv. dept. -- CASA -- DHS or other child-caring agency, if has temp'y custody -- tribe - if intervened per ICWA -- surrogate -- intervenors per ORS 419B.116 <p>419A.255(2),(3)-- Social file is privileged; child/ward may grant permission to disclose to those other than lawyers (see right), service providers, judge and court staff, and superintendents (see right); court approval otherwise required</p> <p>No express provision permitting parties to inspect/copy.</p>	<p>Lawyers include:</p> <ul style="list-style-type: none"> -- Attorneys for all persons who are "parties" -- District Attorney or AAG representing state <p>419A.255(2)-- Lawyers for following parties may inspect and copy: child, ward, parent, guardian, CASA, surrogate, or permitted intervenor</p> <p>419A.257(1)-- District Attorneys and AAG may inspect/copy social file materials to same extent as lawyers of record</p>	<p>-- juv. dept. (also "party")</p> <p>-- DHS (also "party")</p> <p>-- OYA</p> <p>419A.257(1)- Juv. dept, DHS, and OYA may inspect/copy social file materials to same extent as lawyers of record</p> <p>419A.255(3)-- Inspection also permitted for purposes of evaluating special ed eligibility per ORS ch 343; court approval not required</p> <p style="text-align: center;">2</p>	<p>"Service Providers" in the case</p> <p>Superinten't of the school district in which youth offender resides or designee</p> <p>419A.255(2)- Service providers in the case, superinten't or superint.'s designee, and their attys, may inspect and copy; must return copies to court upon conclusion of involvement</p> <p>See also 419A.255(7) (juvenile counselor or caseworker specifically may inspect history and prognosis materials that reflect impending danger)</p>	<p>Appropriate Authority or Person in Danger</p> <p>419A.255(7)- Information in social file that, in profess'l judgment of juvenile counselor, caseworker, school superintend't or designee, teacher or detention worker, indicates clear and immediate danger to another person or to society may be disclosed to the appropriate authority and the person in danger (no obligation on juvenile court to provide info)</p>	<p>-- Judge and court staff acting under judge's direction</p> <p>-- local Citizen Review Boards</p> <p>419A.255(2)- May inspect (no "copy" provision or prohibition)</p> <p>419A.102-- local CRBs have access to court records as pertinent to case; CRB access is same as internal OJD employees</p>	<p>Other state courts involved in placement of Oregon ward or child</p> <p>419A.255(11) Oregon courts must cooperate in sharing file information with court of another state to facilitate interstate placement of ward or child</p> <p>417.010-.105; 417.200-.260 Interstate compact for Juveniles/ Placement of Children; info provided by juvenile dept. and/or OYA, not juvenile court</p>

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Juvenile Court transcripts, once prepared and filed with court ORS 419A.256(1)	(Subject to same restrictions as juvenile court legal file)	(Subject to same restrictions as juvenile court legal file)	(Subject to same restrictions as juvenile court legal file)	(Subject to same restrictions as juvenile court legal file)	(Subject to same restrictions as juvenile court legal file)	(Subject to same restrictions as juvenile court legal file)	(Subject to same restrictions as juvenile court legal file)	(Subject to same restrictions as juvenile court legal file)
Juvenile Court video, audio, and other recordings ORS 491A.256(2)	No right to inspect	(same parties may inspect as those who may inspect juvenile court legal file)	(same lawyers may inspect as those who may inspect and copy juvenile court legal file)	(not mentioned)	(not mentioned)	(not mentioned)	(Judges and court staff -- Inferred right to inspect)	(not mentioned)
Drug Court Program files/records (includes family dependency, drug treatment, and other "specialty courts" created under ORS 3.450) (drug-court program records must be maintained separately from other court records) ORS 3.450(3)	No right to inspect or copy 3.450(3)-- (Records confidential and may not be disclosed except as provided under federal rule)	(Party definitions not separately articulated in ORS 3.450) 3.450(3)-- Disclosure governed by federal rules promulgated under 42 USC 290dd-2 (consent of patient required, etc.)	(not mentioned) 3.450(3)-- Disclosure governed by federal rules promulgated under 42 USC 290dd-2 (consent of patient required, etc.)	(not mentioned) 3.450(3)-- Disclosure governed by federal rules promulgated under 42 USC 290dd-2 (consent of patient required, etc.)	(not mentioned) 3.450(4)-- With patient consent, disclosure to local drug court team permitted, for identified purposes 3.450(3)-- Disclosure governed by federal rules promulgated under 42 USC 290dd-2 (consent of patient required, etc.)	(not mentioned) 3.450(3)-- Disclosure governed by federal rules promulgated under 42 USC 290dd-2 (consent of patient required, etc.)	(not mentioned) 3.450(3)-- Disclosure governed by federal rules promulgated under 42 USC 290dd-2 (consent of patient required, etc.)	(not mentioned) 3.450(3)-- Disclosure governed by federal rules promulgated under 42 USC 290dd-2 (consent of patient required, etc.)

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<p>Adoption Cases</p> <p>ORS 419B.529(4)</p> <p>(adoption after permanent commitment or surrender; records under this provision shall be kept in accordance with, and are subject to, ORS 7.211)</p> <p>ORS 7.211</p> <p>(adoption cases treated as sealed; pre-judgment inspection not permitted absent court order; record to be sealed once judgment issues)</p> <p>Best Practices Note:</p> <p>If a dependency proceeding results in the commencement of an adoption proceeding under ORS 419B.529(4), then the juvenile court should open a new adoption case file and keep all filings relating to the adoption in that file, due to the more restrictive statutory access provisions applying to adoption cases.</p>	<p>No right to inspect or copy</p> <p>7.211-- (inspection not permitted for any person, except upon court order)</p>	<p>Parties include:</p> <ul style="list-style-type: none"> -- child/ward -- parent -- guardian -- putative father (with conditions) -- state -- juv. dept. -- CASA -- DHS or other child-caring agency, if has temp'y custody -- tribe - if intervened per ICWA -- surrogate -- intervenors per ORS 419B.116 <p>7.211-- Pre-judgment access requires court order; no access post-judgment</p>	<p>(not mentioned)</p> <p>7.211-- Pre-judgment access requires court order; no access post-judgment</p>	<p>(not mentioned)</p> <p>7.211-- Pre-judgment access requires court order; no access post-judgment</p>	<p>(not mentioned)</p> <p>7.211-- Pre-judgment access requires court order; no access post-judgment</p>	<p>(not mentioned)</p> <p>7.211-- (n/a; no provision for disclosure)</p>	<p>(not mentioned)</p> <p>(Judges and court staff -- Inferred right to inspect, but staff permissions limited)</p>	<p>(not mentioned)</p> <p>7.211-- Pre-judgment access requires court order; no access post-judgment</p>