

**Prepared Statement in Response to Subpoena for Testimony or Records  
in a Civil, Non-Juvenile Court Proceeding**

When an employee has been subpoenaed to testify or present records that are confidential or exempt from disclosure, the following statement should be read to the court before testifying or producing the records.

“Your Honor, legal counsel has advised that the child welfare records of the Department of Human Services, Child Welfare Program (DHS) regarding (child’s name) and my testimony about these records generally are exempt from disclosure, as privileged under Rule 509 of the Oregon Rules of Evidence (ORS 40.270), exempt from disclosure under ORS 192.502, and confidential under 42 USCS §§ 300gg *et seq.* and its implementing regulations, 42 USC § 290dd-2(a), ORS 409.225, 418.130, 419A.255, and 419B.035.”

“The Child Abuse Reporting Law, ORS 419B.035 (3), states, “The name, address and other identifying information about the person who made the report may not be disclosed. I can not disclose this information unless the Court orders the disclosure.””

“I ask this Court for guidance in regard to any testimony or providing any records to the court in this matter. If the Court determines that certain records may be disclosed, I have a complete and true copy for your *in camera* inspection.”

“Your Honor, would the Court like a copy of this prepared statement, with citations for review?”

**Statutes Cited Above:**

- Rule 509 of the Oregon Rules of Evidence, ORS 40.270, Public Officer Privilege
- ORS 192.502, Records Exempt from the Public Records Law
- 42 USCS §§ 300gg, Health Insurance Portability and Accountability Act of 1996 (HIPAA), and implementing regulations, 45 CFR 160.201, 164.203, 164.508, 164.510, and 164.512
- 42 USC § 290dd-2(a), Confidentiality of substance-abuse treatment and education records
- ORS 409.225, Confidentiality of child welfare records, files, papers, and communications
- ORS 418.130, Records of Temporary Assistance for Needy Families (TANF) program
- ORS 419A.255, Court records in a juvenile court proceeding
- ORS 419B.035, Reports & records compiled under the Child Abuse Reporting Law
- ORS 409.225 – Confidentiality of records held by DHS

Other confidentiality statutes may apply, depending on the type of records in the file.

Optional

ORS 419B.035 allows the child welfare program to disclose certain information compiled pursuant to “The Child Abuse Reporting Law, for various reasons, such as the disclosure is in the best interests of the child, and it is necessary to administer child welfare services or such disclosure would prevent child abuse.” (See ORS 419B.035).