

Disclosing Adult Protective Services Information and Records: The Legal Framework in North Carolina

In North Carolina, each county department of social services (DSS) is responsible for receiving and evaluating reports of alleged abuse, neglect, or exploitation of disabled adults. *See* Chapter 108A, Sections 102 and 103 of the North Carolina General Statutes (hereinafter G.S.). These reports and the evaluations that follow them often involve highly sensitive information about vulnerable adults. DSS must synthesize many state and federal confidentiality requirements when dealing with a request for adult protective services (APS) information. To help determine if disclosing information is permitted, prohibited, or required, DSS should consider the five questions below. The questions reflect the steps in the disclosure decision process and correlate with the boldfaced numerals in the flowchart below.

1. Does a state or federal law require the disclosure of this information to the requesting party? In other words, does the requesting party have a statutory right of access to this particular information, even if it would otherwise be confidential?

Some state and federal laws require the disclosure of information or records in certain circumstances to certain recipients, even when that information would otherwise be confidential under state law. If the disclosure of certain APS information is required by *federal* law, DSS should disclose the information. If the disclosure of certain APS information is required by *state* law, DSS should disclose the information, unless *federal* law prohibits the disclosure (see Step 5).

2. If the answer to Question 1 is “no” (the law does not require disclosure of the information), then ask: does the requested information fall into one of three specific categories of APS information (identity of the reporter, specific APS evaluation findings, certain financial records) that receive more heightened confidentiality protection under state law?

If so, DSS should look to the specific statute or rule that applies to that information to see if the disclosure is allowed.

- For information about the identity of the reporter or anyone who provides information to DSS in the course of an APS investigation, look to **Title 10A, Chapter 71A, Section .0802 of the North Carolina Administrative Code (hereinafter N.C.A.C.)**.
- For specific findings included in DSS’s evaluation report when evaluating a report of abuse, neglect, or exploitation of a disabled adult, look to **10A N.C.A.C. 71A, § .0803**.
- For copies of (1) a disabled adult’s or older adult’s financial records or (2) other information DSS receives in the course of a report of financial exploitation from a financial institution, look to **G.S. 108A-116(d)**.

3. If the answer to Question 2 is “no” (the information does not fall into a category that receives heightened protection under state law), then ask: do the generally applicable social services confidentiality rules in Chapter 69 of Title 10A of the N.C. Administrative Code allow this disclosure?

The **Chapter 69** rules allow disclosure of social services information in a number of different circumstances, including

- when the client provides written consent (10A N.C.A.C. 69, § .0401);
- when the client requests access to their own information (10A N.C.A.C. 69, § .0301);
- internally within DSS, when necessary for DSS to make internal referrals, provide supervision and consultation, or determine client eligibility for services or programs (10A N.C.A.C. 69, § .0501);
- to another county DSS, when a different county DSS is providing services to a client (10A N.C.A.C. 69, § .0501);

- for research purposes, as approved by the North Carolina Department of Health and Human Services (10A N.C.A.C. 69, § .0502);
- as required to comply with a court order or state or federal law (10A N.C.A.C. 69, § .0504); and
- to federal, state, or county employees for the purpose of monitoring, auditing, evaluating, or facilitating the administration of other state and federal programs (10A N.C.A.C. 69, § .0503).

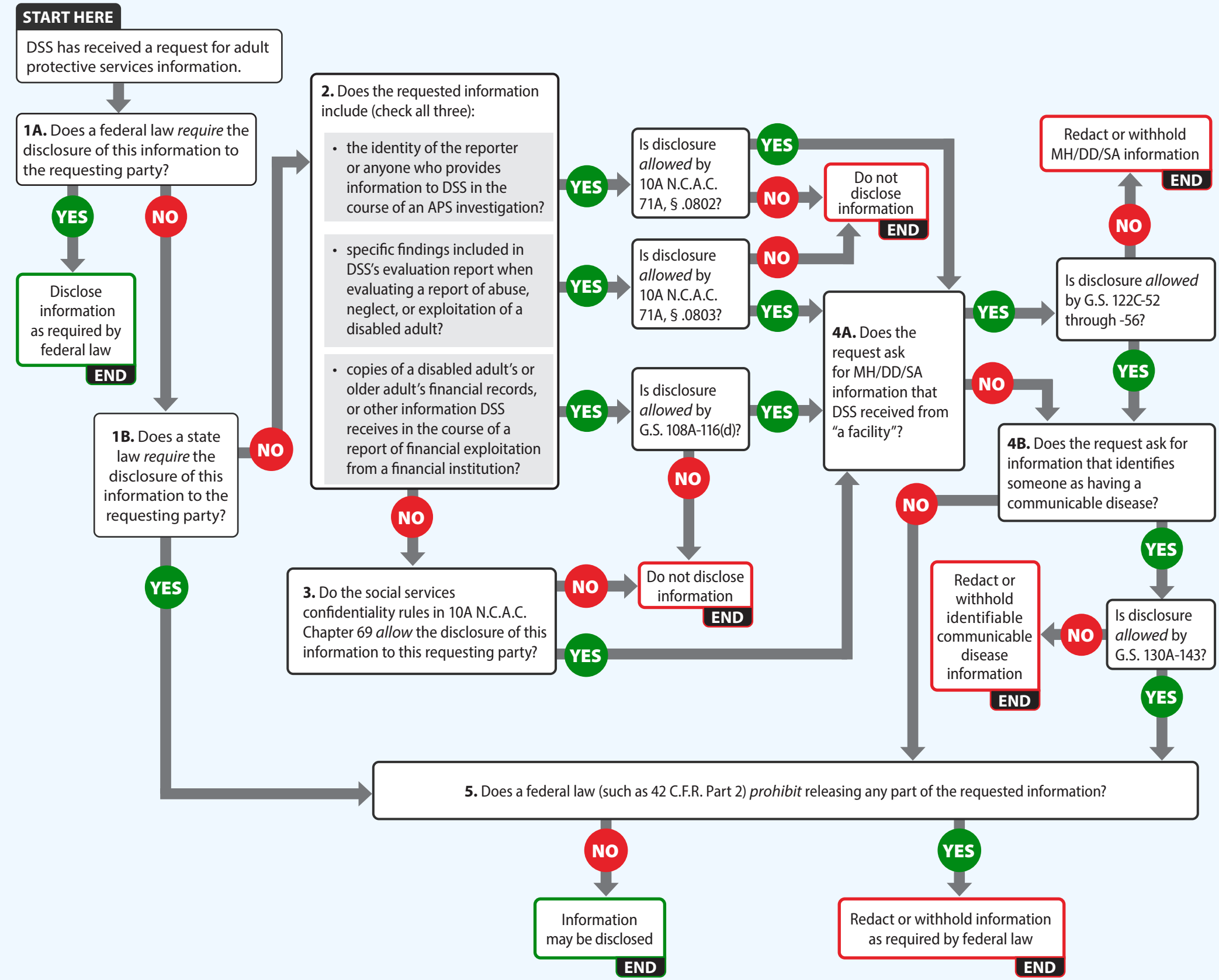
Each of these rules has specific requirements and conditions regarding when information may be disclosed. DSS employees should review the specific rule that applies to the situation to determine whether (and to what extent) DSS is allowed to release information.

4. If disclosure of APS records or information is allowed under the steps set out in Questions 2 and 3 above, then ask: does the requested information include mental health, developmental disabilities, or substance abuse (MH/DD/SA) services information that DSS received from “a facility” (defined in G.S. 122C-3(14)) or information that identifies someone as having a communicable disease?

- If the requested information includes MH/DD/SA information that DSS received from “a facility,” DSS should look to **G.S. 122C-52 through -56** to determine when that information may be released. These statutes contain many different exceptions that allow disclosure of MH/DD/SA information, including allowing disclosure to the client or their “legally responsible person” (under certain circumstances, see G.S. 122C-53(c)–(d)), disclosure pursuant to the consent of the client or their legally responsible person (G.S. 122C-53(a)), disclosure as required by state or federal law (G.S. 122C-54(h)), and disclosure for purposes of filing a petition for the adjudication of incompetency of the client and the appointment of a guardian under Chapter 35A of the General Statutes (G.S. 122C-54(a1)).
- If the requested information includes communicable disease information, DSS should look to **G.S. 130A-143** to determine when that information may be released. This statute lists eleven different circumstances in which communicable disease information may be disclosed.

5. If disclosure of APS records or information is required or allowed under the steps set out in Questions 1 through 4 above, then ask: does a federal law (such as 42 C.F.R. Part 2) prohibit DSS from releasing any part of the requested information?

If a federal law prohibits disclosure of certain information, then DSS *must* redact or withhold that information, even if it would be allowed (or required) to release it under state law.



Note: For a disclosure to an APS Case Review Multidisciplinary Team, refer to the “Special Considerations for Case Review Multidisciplinary Teams” section on the back page of this resource.

Special Considerations for Case Review Multidisciplinary Teams

Effective October 1, 2025, DSS may share APS information with an adult protection Case Review Multidisciplinary Team, as defined in G.S. 108A-118.1 and established pursuant to G.S. 108A-118.2.

- DSS is authorized to share any information (whether or not confidential under any other state law) with the Case Review Multidisciplinary Team if such information is relevant to (1) performing reviews of selected active cases in which disabled adults or older adults are being served by APS through local departments of social services or (2) providing, arranging, or coordinating services on behalf of disabled adults or older adults whose cases have been or are currently under review by the Case Review Multidisciplinary Team. G.S. 108A-118.6(a).
- DSS cannot, however, share with the Case Review Multidisciplinary Team (1) any information that discloses the identity of an individual who has reported suspected abuse, neglect, or exploitation of a disabled adult or older adult to DSS, except as allowed by state or federal law (look to 10A N.C.A.C. 71A, § .0802 to determine which reporter identity may be disclosed), or (2) any information that DSS would be prohibited from sharing under federal law. G.S. 108A-118.6(a)–(b).

Accordingly, when DSS is considering whether it may disclose APS information to a Case Review Multidisciplinary Team, it may skip the steps above and solely consider the following:

1. Is this information relevant to

- performing reviews of selected active cases in which disabled adults or older adults are being served by APS through local departments of social services or
- providing, arranging, or coordinating services on behalf of disabled adults or older adults whose cases have been or are currently under review by the Case Review Multidisciplinary Team?

2. If the answer to either question set out immediately above is “yes,” then DSS may DSS may disclose such information to the Case Review Multidisciplinary Team, with the exception of

- information about a reporter of abuse, neglect, or exploitation, which may only be disclosed to specific team members when allowed by 10A N.C.A.C. 71A, § .0802, and
- information that DSS is prohibited from releasing to the team by federal law.



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