



**WORKSHEET TO ANALYZE MEMORANDA OF UNDERSTANDING AND  
PROTOCOLS  
FOR INFORMATION SHARING BETWEEN YOUTH-SERVING AGENCIES**

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*Developed based on*  
GUIDELINES FOR JUVENILE INFORMATION SHARING  
(Office of Juvenile Justice and Delinquency Protection, 2006)  
and  
PROTECTING YOUTH FROM SELF-INCRIMINATION WHEN UNDERGOING SCREENING,  
ASSESSMENT AND TREATMENT WITHIN THE JUVENILE JUSTICE SYSTEM  
(Juvenile Law Center, 2007)

**Participating Agencies**

1. Which agencies will participate in the information sharing project created by the MOU/protocol?
2. Does the MOU/protocol specify the individuals (by title) or departments within each agency that will be authorized to *disclose* information to another participating agency?
3. Does the MOU/protocol specify the individual(s) (by title) or departments within each agency that will be authorized to *receive* information from another participating agency?
4. Does the MOU/protocol specify the individual (by title) within each participating agency who will be responsible for ensuring that the agency only discloses and uses information in compliance with the terms of the MOU/protocol and other applicable federal and state laws?
5. Does the MOU/protocol specify the individual (by title) within each participating agency who will be responsible for receiving and resolving complaints of improper disclosure or use of information in violation of the terms of the MOU/protocol and other applicable federal and state laws?
6. Does the MOU/protocol create a conflict resolution mechanism to which participating agencies can submit complaints about the interpretation or implementation of the requirements of the MOU/protocol?

7. Does the MOU/protocol mandate training for personnel in the participating agencies on the requirements of the MOU/protocol and other applicable federal and state laws with regard to information disclosure and use? If yes, which agencies are responsible for developing and conducting the trainings? If yes, will the training be offered on a regular basis to ensure that new employees of participating agencies are trained?
8. Does the MOU/protocol create an audit procedure to assess each participating agency's compliance with the requirements of the MOU/protocol and other applicable federal and state laws? If yes, what agency is responsible for conducting the audit? How often will the audit be performed? Will the results of the audit be publicly available?

### **Applicable Federal and State Laws**

9. Does the MOU/protocol describe all the applicable federal and state laws that govern the internal maintenance and handling, including security protections and technological requirements, of information held by each participating agency?
10. Does the MOU/protocol list all the applicable federal and state laws that govern the disclosure of information by each participating agency to other participating agencies as well as third parties outside the scope of the protocol?
11. Does the MOU/protocol list all the applicable federal and state laws that govern the receiving agency's
  - a. maintenance and handling of the information, including security protections and technological requirements?
  - b. use of the information?
  - c. re-disclosure of received information to other participating agencies and third parties outside the scope of the legislation/protocol?
12. Does the MOU/protocol specify in which instances the receiving agency becomes subject to the same federal and state laws regarding information as the disclosing agency?

## Procedures for Disclosure of and Access to Information

13. Is the information sharing scheme created by the MOU/protocol *consent driven*, meaning that the person who has legal authority over the information (usually the youth and/or his/her parent/legal guardian)
  - a. must give prior written consent before any participating agency may disclose information?
  - b. has the option to refuse consent for disclosure to all or some of the participating agencies?
  
14. Does the MOU/protocol create a *common process for obtaining informed consent* for the disclosure of information that provides verbal and written notice to the youth and/or parent/legal guardian, in understandable language, of the following:
  - a. The reason why the youth and/or parent/legal guardian is being asked to authorize the disclosure of information.
  - b. The permitted and prohibited uses of the disclosed information.
  - c. The rules regarding use and re-disclosure to which the receiving agency is subject.
  - d. That the youth and/or parent/legal guardian has the option to refuse consent for disclosure to all or some of the participating agencies, and the consequences, if any, of refusing consent.
  - e. The way by which the youth and/or parent/legal guardian can revoke consent for disclosure.
  - f. The grievance procedure for suspected improper disclosure or use of information in violation of the terms of the protocol and other applicable federal and state laws.
  - g. The penalties to which the participating agencies are subject for the improper disclosure or use of information in violation of the terms of the protocol and other applicable federal and state laws.
  
15. Does the MOU/protocol create a *universal written consent form* for use by all participating agencies that complies with applicable federal laws and regulations and contains at least the following elements:
  - a. Identifies the individual who is the subject of the information.
  - b. Identifies the agency that is disclosing the information.
  - c. Identifies the agency that is receiving or accessing the information.
  - d. Identifies with sufficient specificity the information that will be disclosed.
  - e. Identifies with sufficient specificity the *permitted* and *prohibited* uses of the disclosed information.
  - f. States that the youth and/or legal guardian has the option to refuse consent for disclosure to all or some of the participating agencies, and how/where on the consent form the youth and/or parent/legal guardian can specify which agencies s/he does not authorize to receive or access information.
  - g. Describes how the youth and/or parent/legal guardian can revoke consent for disclosure.

- h. Describes the grievance procedure for suspected improper disclosure or use of information in violation of the terms of the protocol and other applicable federal and state laws.
  - i. Describes the penalties to which the participating agencies are subject for the improper disclosure or use of information in violation of the terms of the protocol and other applicable federal and state laws.
  - j. States that the subject of the information has been provided a copy of the signed consent form for his/her records.
  - k. States the expiration date or event of the consent form.
  - l. Dated signature of the youth and/or parent/legal guardian.
16. For each participating agency, does the MOU/protocol describe with sufficient specificity the information that the agency is *permitted* to disclose without the prior written consent of the youth and/or parent/legal guardian?
17. For each participating agency, does the MOU/protocol describe with sufficient specificity the information that the agency *must* disclose without the prior written consent of the youth and/or parent/legal guardian to comply with other legal mandates (i.e., mandated child abuse reporting laws)?
18. Does the MOU/protocol contain a statement that all participating agencies will only access information in accordance with the terms of the protocol as well as other applicable federal and state laws?
19. If the MOU/protocol allows a participating agency that does not have the youth's (or parent/legal guardian's) consent to disclose information to comply with a court order, does it provide
- a. That the agency must notify the youth and/or parent/legal guardian and the youth's legal counsel about the court order prior to disclosing any information?
  - b. That the youth's lawyer has the opportunity to appear in court to challenge the court order?

### **Permitted and Prohibited Uses of Information**

20. Does the MOU/protocol state the purposes for the information sharing?
21. For each participating agency, does the MOU/protocol describe with sufficient specificity the *permitted* uses of information that it receives?
22. For each participating agency, does the MOU/protocol describe with sufficient specificity the *prohibited* uses of information that it receives?
23. Does the MOU/protocol state with sufficient specificity which information is admissible and is inadmissible as evidence in any court proceeding involving the

youth, including hearings in delinquency proceedings, criminal prosecutions, and child welfare cases?

### **Consumer Protections**

24. Does the MOU/protocol specify that the youth and/or parent/legal guardian has the option to refuse consent for disclosure to all or some of the participating agencies?
25. Does the MOU/protocol specify how the youth and/or parent/legal guardian can access information and obtain copies?
26. Does MOU/protocol provide a procedure by which the youth and/or parent/legal guardian can seek to amend inaccurate information?
27. Does the MOU/protocol create a grievance procedure for suspected improper disclosure or use of information in violation of the terms of the protocol and other applicable federal and state laws?
28. Does the MOU/protocol impose penalties on the participating agencies for improper disclosure or use of information in violation of the terms of the protocol and other applicable federal and state laws?
29. Does the MOU/protocol create a mechanism by which consumers can dispute policies and procedures created by the participating agencies in implementing and executing the information sharing scheme created?

### **Review and Approval**

30. Has the MOU/protocol been reviewed by legal counsel for each of the participating agencies? Have all the participating agencies approved the legislation/protocol? If no, what are their specific concerns?
31. Has the MOU/protocol been reviewed by legal counsel for the youth who are the subject of the information? By legal counsel for the parents/legal guardians of the youth? Has legal counsel for the youth approved the MOU/protocol? If no, what are their specific concerns?