



September 25, 2019

Family, Children, and Adult Services Manual Transmittal Letter No. 424

TO: All Family, Children, and Adult Services Manual Holders

FROM: Kimberly Hall, Director

SUBJECT: **Five Year Rule Review and Amendments to Ohio Administrative Code Rules 5101:2-42-04, 5101:2-42-05, 5101:2-42-08, 5101:2-42-09, 5101:2-42-18.1, 5101:2-42-64, 5101:2-42-65, 5101:2-42-67, 5101:2-42-68, 5101:2-42-70, 5101:2-42-71, 5101:2-42-87, 5101:2-42-88, 5101:2-42-92, 5101:2-42-93, and 5101:2-42-95**

This letter transmits Ohio Administrative Code rules governing Substitute Care policy that have been amended as a result of the Five-Year Rule Review. The following is a brief explanation of the changes.

The amended rule 5101:2-42-04 entitled "Authority to assume and retain custody of a child" of the Administrative Code sets forth the authority to place a child outside of the parental home only if custody has been assumed or retained by the public children service agency or private child placing agency. The rule has been amended to adhere to the five-year rule review. The language of the Family First Prevention Services Act is being included into this rule specifically pertaining to substance use disorder residential facilities.

The amended rule 5101:2-42-05 entitled "Selection of a placement setting" of the Administrative Code sets forth the requirements in the selection of a placement setting when a child cannot remain in their own home. The rule has been amended to adhere to the five-year rule review. The language of the Family First Prevention Services Act is being included into this rule specifically pertaining to substance use disorder residential facilities. In addition, the rule has been amended to format the rule for clarity and minor grammatical changes were made.

The amended rule 5101:2-42-08 entitled "Acceptance of temporary custody by agreement and court-approved extensions" of the Administrative Code sets forth the requirements of a temporary custody agreement between the PCSAs and PCPAs and a parent upon the request of a secondary extension. The rule has been amended to adhere to the five-year rule review and minor changes were made to correct formatting for clarity.

The amended rule 5101:2-42-09 entitled "Acceptance of permanent custody by permanent surrender" of the Administrative Code sets forth the requirements of a permanent custody

agreement between the PCSAs and PCPAs and a parent. The rule has been amended to adhere to the five-year rule review and minor changes were made.

The amended rule 5101:2-42-18.1 entitled "Non-discrimination requirements for foster care placements" of the Administrative Code sets forth the requirements not to deny or delay prospective foster parents or the placement of children into foster care on the basis of race, color or national origin of that person. The rule has been amended to adhere to the five-year rule review and to format the rule for clarity and minor grammatical changes were made.

The amended rule 5101:2-42-64 entitled "Preplacement services" of the Administrative Code sets forth the guidance for preplacement services for a child and his or her parent, guardian or custodian when substitute care is going to occur. The rule has been amended to adhere to the five-year rule review. The language of the Family First Prevention Services Act is being included into this rule specifically pertaining to substance use disorder residential facilities.

The amended rule 5101:2-42-65 entitled "Caseworker visits and contacts with children in substitute care" of the Administrative Code sets forth the requirements for caseworker visits with the child and the substitute caregiver in the placement setting to ensure safety and well-being. The rule has been amended to adhere to the five-year rule review. The language of the Family First Prevention Services Act is being included into this rule specifically pertaining to substance use disorder residential facilities.

The amended rule 5101:2-42-67 entitled "Preparation of lifebook" of the Administrative Code sets forth the requirements for the PCSA or PCPA to create and maintain and share a lifebook while the child is in substitute care. It is a document for the child to have regarding childhood milestones and memories. The rule has been amended to adhere to the five-year rule review and no changes were made to this rule.

The amended rule 5101:2-42-68 entitled "Necessity for continued substitute care placement: Court reviews and hearing" of the Administrative Code sets forth the requirements for each PCSA or PCPA to determine if the need for continued placement in a substitute care setting is necessary. The rule has been amended to adhere to the five-year rule review and minor changes were made to correct formatting for clarity.

The amended rule 5101:2-42-70 entitled "Provision of services to unmarried minor parents" of the Administrative Code sets forth the requirements for the PCSA to provide and/or arrange services to abused, neglected or dependent unmarried minor during pregnancy through delivery. The rule has been amended to adhere to the five-year rule review and no changes were made to this rule.

The amended rule 5101:2-42-71 entitled "Approval of adult-supervised living arrangements" of the Administrative Code sets forth the requirements of an adult-supervised living arrangement which includes an approved family setting, licensed or

certified foster home. The rule has been amended to adhere to the five-year rule review and minor changes were made to correct formatting for clarity.

The amended rule 5101:2-42-87 entitled "Termination of substitute care and custody of a child" of the Administrative Code sets forth the requirements for the PCSA to assess the need for continued custody of a child. The rule changes the requirements of a trial home visit from sixty consecutive days to ninety consecutive days.

The amended rule 5101:2-42-88 entitled "Requirements for substitute care placement disruptions" sets forth the requirements that PCSAs and PCPAs shall document when there is a disruption of a child in substitute care. The rule has been amended to adhere to the five-year rule review and no changes were made to this rule.

The amended rule 5101:2-42-92 entitled "Visitation for child in temporary custody" sets forth the requirements of the PCSAs and PCPAs to arrange regular and frequent opportunities for visitation for children in temporary custody with their parents or guardians. The rule has been amended to adhere to the five-year rule review and no changes were made to this rule.

The amended rule 5101:2-42-93 entitled "Change of placement or visitation plan prior to journalization of case plan" sets forth the requirements when a child's placement or visitation plan has been specified by a court order or the court has ordered that no change in the child's placement can occur without the court's approval a motion to modify is to be filed and the court's approval must be obtained. The rule has been amended to adhere to the five-year rule review and minor changes were made.

The amended rule 5101:2-42-95 entitled "Obtaining permanent custody: termination of parental rights" sets forth the conditions upon which a PCSA or PCPA may petition the court to request permanent custody of a child under specific conditions. The rule has been amended to adhere to the five-year rule review and minor changes were made to correct formatting for clarity.

INSTRUCTIONS:

The following chart depicts what materials should be deleted from the Family, Children and Adult Services Manual (FCASM) and what materials are to be inserted in the FCASM.

LOCATION	REMOVE AND FILE AS OBSOLETE	INSERT/REPLACEMENT
SOCIAL SERVICES Substitute Care	5101:2-42-04 5101:2-42-05 5101:2-42-08 5101:2-42-09 5101:2-42-18.1	5101:2-42-04 5101:2-42-05 5101:2-42-08 5101:2-42-09 5101:2-42-18.1 5101:2-42-64

	5101:2-42-64 5101:2-42-65 5101:2-42-67 5101:2-42-68 5101:2-42-70 5101:2-42-71 5101:2-42-87 5101:2-42-88 5101:2-42-92 5101:2-42-93 5101:2-42-95	5101:2-42-65 5101:2-42-67 5101:2-42-68 5101:2-42-70 5101:2-42-71 5101:2-42-87 5101:2-42-88 5101:2-42-92 5101:2-42-93 5101:2-42-95
FORMS		
TRANSMITTAL		FCASMTL 424

5101:2-42-04

Authority to assume and retain custody of a child.

- (A) A public children services agency (PCSA) or private child placing agency (PCPA) shall place a child in a substitute care setting apart from his parents, guardian, or custodian only if custody of the child has first been assumed or retained by that agency. A PCSA or PCPA with custody of a child may place the child(ren) with the parent in a substance use disorder residential facility (SUD). A PCSA or PCPA may provide placement services for a child through the direct placement of the child by his parent, guardian, or custodian into a facility operated by the PCSA or PCPA.
- (B) A PCSA or PCPA may assume or retain custody of a child through:
- (1) Temporary court order, including an ex parte emergency order, issued by a juvenile court.
 - (2) Temporary custody issued or extended by a juvenile court exercising jurisdiction pursuant to section 2151.353, 2151.354, 2151.415, or 2151.417 of the Revised Code.
 - (3) Execution of a JFS 01666 "Permanent Surrender of Child" (rev. 10/2013) in accordance with requirements of rule 5101:2-42-09 of the Administrative Code.
 - (4) Permanent custody issued by a juvenile court exercising jurisdiction pursuant to section 2151.353, 2151.354, 2151.414, 2151.415, or 2151.417 of the Revised Code.
 - (5) Execution of a JFS 01645 "Agreement for Temporary Custody of Child" (rev. 4/2006) in accordance with requirements of rules 5101:2-42-06 and 5101:2-42-08 of the Administrative Code.
 - (6) Execution of another JFS 01645 for extension of temporary custody in accordance with requirements of rules 5101:2-42-07 and 5101:2-42-08 of the Administrative Code.
 - (7) Planned permanent living arrangement order issued by a juvenile court exercising jurisdiction pursuant to division (A)(5) of section 2151.353 of the Revised Code.
- (C) A PCSA may place a child in substitute care upon acceptance of the child from a law enforcement officer or duly authorized officer of the court. Upon acceptance of the child the PCSA ~~shall request an ex parte order from the court and~~ shall file a petition with the court for an ex parte order authorizing the continued placement of the child within twenty-four hours or the next working day, pursuant to rule 5101:2-39-01 of the Administrative Code, if applicable.

(D) A PCSA shall accept and take emergency temporary custody of a deserted child as defined in rule 5101:2-1-01 of the Administrative Code. The PCSA shall:

- (1) Provide temporary emergency care for the child.
- (2) Petition the juvenile court for an order within twenty-four hours or the next working day requesting that temporary custody be granted to the PCSA or a designated PCPA.
- (3) Perform such duties for the deserted child as required for any child in the agency's custody.

Effective: 11/1/2019

Five Year Review (FYR) Dates: 7/2/2019 and 11/01/2024

CERTIFIED ELECTRONICALLY

Certification

09/12/2019

Date

Promulgated Under: 119.03

Statutory Authority: 5153.166, 5103.03

Rule Amplifies: 2151.421, 5153.16, 5103.03

Prior Effective Dates: 01/14/1983, 09/28/1987 (Emer.), 12/27/1987,
01/01/1989, 01/01/1990, 12/01/2001, 10/09/2006,
11/09/2009, 08/11/2014

5101:2-42-05

Selection of a placement setting.

- (A) When a child cannot remain in his or her own home, the public children services agency (PCSA) or private child placing agency (PCPA) shall explore both maternal and paternal relatives including a non-custodial parent regarding their willingness and ability to assume temporary custody or guardianship of the child. Unless it is not in the child's best interest, the PCSA or PCPA shall explore ~~placement with a~~ the non-custodial parent before considering other relatives.
- (B) If a suitable relative is not available to assume temporary custody, guardianship, or placement, the PCSA or PCPA shall explore placement with a suitable nonrelative who has a relationship with the child and/or family.
- (C) The PCSA or PCPA shall only place children:
- (1) In homes of relative or non-relatives approved by the PCSA or PCPA in accordance with rule 5101:2-42-18 of the Administrative Code.
 - (2) In substitute care settings that are licensed, certified or approved by the agency of the state having responsibility for licensing, ~~certifying~~ certifying or approving facilities of the type in which the child is placed.
- (D) The PCSA or PCPA shall attempt to place siblings in the same home unless it is not in the child's or siblings' best interest.
- (E) When the PCSA or PCPA has temporary custody of a child, it shall select a substitute care setting that is consistent with the best interest and special needs of the child and that meets the following criteria:
- (1) Is considered the least restrictive, most family-like setting available to meet the child's emotional and physical needs.
 - (2) Is in close proximity to the home from which the child was removed or the home in which the child will be permanently placed.
 - (3) Is in close proximity to the school in which the child was enrolled prior to placement.
 - (4) Is designed to enhance the likelihood of achieving permanency plan goals.
 - (5) Is able to provide a safe environment for the child.
- (F) The following allowable substitute care settings are listed in order from least restrictive to most restrictive:

- (1) ~~The home of a suitable relative as defined in rule 5101:2-1-01 of the Administrative Code.~~ With the parent in a substance use disorder (SUD) residential facility.
- (2) The home of a suitable relative, excluding the parent, as defined in rule 5101:2-1-01 of the Administrative Code.
- ~~(2)~~(3) The home of a suitable nonrelative as defined in rule 5101:2-1-01 of the Administrative Code.
- ~~(3)~~(4) A foster home.
- ~~(4)~~(5) An independent living arrangement, as appropriate for the child.
- ~~(5)~~(6) A group home.
- ~~(6)~~(7) A maternity home.
- ~~(7)~~(8) An emergency shelter care facility.
- ~~(8)~~(9) A children's residential center.
- ~~(9)~~(10) A medical or educational facility.
- (G) For a child in the permanent custody of a PCSA or PCPA, an adoptive placement shall be considered the least restrictive setting. When selecting an adoptive placement, the agency shall follow rule 5101:2-48-16 of the Administrative Code.
- (H) ~~Only when a PCSA or PCPA determines that a child's mental, physical or emotional needs indicate that a less-restrictive setting cannot address his or her needs, the PCSA or PCPA may place the child in a more restrictive setting.~~ The PCSA or PCPA may place the child in a more restrictive setting, only when the PCSA or PCPA determines that a child's mental, physical or emotional needs indicate that a less-restrictive setting cannot address the child's needs.
- (I) This rule shall not contravene the placement of a child in a secure facility or other specified setting by law enforcement or any court of jurisdiction.
- (J) The PCSA or PCPA shall document the following in the child's case plan:

 - (1) Educational, medical, psychological, and social information used by the agency to select a placement setting.
 - (2) How the setting constitutes a safe and appropriate placement.

- (3) Why less-restrictive placements, if applicable, were not utilized.
- (K) The provisions of this rule do not apply to a permanent surrender agreement executed in the child's best interest by a PCPA in accordance with division (B)(2) of section 5103.15 of the Revised Code for a child less than six months of age for the purpose of adoption on the date of the execution of the agreement.
- (L) All placement activities shall be in compliance with rules 5101:2-42-18.1 and 5101:2-48-13 of the Administrative Code and 42 U.S.C. sections 671(a)(18), 674(d) and 1996b (collectively, the Multiethnic Placement Act of 1994 as amended by Section 1808 of the Small Business Job Protection Act of 1996 ~~or MEPA~~ as in effect January 1, 1997).

Effective: 11/1/2019

Five Year Review (FYR) Dates: 7/2/2019 and 11/01/2024

CERTIFIED ELECTRONICALLY

Certification

09/12/2019

Date

Promulgated Under: 119.03
Statutory Authority: 5153.166, 5103.03
Rule Amplifies: 5103.02, 5103.03, 5153.16
Prior Effective Dates: 01/14/1983, 09/23/1987 (Emer.), 12/27/1987,
01/01/1989, 01/01/1990, 10/01/1990, 12/15/1995
(Emer.), 03/01/1996, 10/01/1997, 12/30/1997,
03/18/1999 (Emer.), 06/17/1999, 01/01/2003,
10/04/2004, 12/19/2008, 05/10/2014

5101:2-42-08

Acceptance of temporary custody by agreement and court-approved extensions.

- (A) Agreement for temporary custody or an extension of the agreement may be accepted by a public children services agency (PCSA) or private child placing agency (PCPA) only by proper execution of the JFS 01645 "Agreement for Temporary Custody of Child" (rev. 4/2006) and compliance with the conditions stated therein.
- (B) For the purpose of this rule, the PCSA or PCPA shall execute the JFS 01645 in the county in which the parent, guardian or custodian has residence or legal settlement.
- (C) Temporary custody by agreement shall be accepted only from a child's parent, guardian, or custodian.
- (D) The JFS 01645 shall not be executed until the PCSA or PCPA has completed all of the following:
 - (1) Evaluated the reason for the transfer of temporary custody.
 - (2) Explored all reasonable less drastic alternatives for the care of the child by his:
 - (a) Parent
 - (b) Non-custodial parent
 - (c) Guardian
 - (d) Custodian
 - (e) Relative, or
 - (f) Other interested nonrelative
 - (3) Determined that appropriate placement resources are available for the child.
 - (4) Reviewed the JFS 01645 with the parent, guardian, or custodian.
- (E) When the child is less than six months of age on the date of the execution of the JFS 01645 and the purpose is adoption, the agreement for temporary custody shall be for a specified period of not more than sixty days. If the PCSA or PCPA determines temporary custody should continue beyond sixty days and the child's parent, guardian, or custodian concurs, the PCSA or PCPA shall file a request with the juvenile court of the county in which the parent, guardian or custodian has residence or legal settlement for a thirty-day extension of such agreement for temporary custody.

(F) When the agreement for temporary custody is not for the purpose of adoption, the agreement for temporary custody shall be for a specified period of not more than thirty days.

(1) If the PCSA or PCPA determines temporary custody beyond thirty days is appropriate, and the child's parent, guardian, or custodian concur, the PCSA or PCPA shall file a request with the juvenile court for an original thirty-day extension of the agreement for temporary custody.

(2) If the PCSA or PCPA determines temporary custody beyond the original thirty-day extension approved by the juvenile court is appropriate, and the child's parent, guardian, or custodian concur, the PCSA or PCPA shall seek approval from the juvenile court which granted approval of the original thirty-day extension for an additional thirty-day extension of the agreement.

(G) When requesting juvenile court approval for a thirty-day original extension or an additional thirty-day extension of an agreement, the PCSA or PCPA shall:

(1) File the request in sufficient advance of the expiration date of the agreement, as directed by the court, to allow the court to determine whether the extension is in the best interest of the child; and

(2) If the request is for an original extension, file a copy of the case plan prepared in accordance with ~~new rules~~rule 5101:2-53-05 and 5101:2-38-05 of the Administrative Code for PCSAs, and ~~rules~~rules 5101:2-38-06 and 5101:2-38-07 of the Administrative Code for PCPAs; or

(3) If the request is for an additional extension, file a copy of the amended case plan prepared in accordance with ~~new rules~~rule 5101:2-53-05 and 5101:2-38-05 of the Administrative Code for PCSAs, and ~~rules~~rules 5101:2-38-06 and 5101:2-38-07 of the Administrative Code for PCPAs.

(4) Document in the case record the reasons why an original or additional extension is necessary and efforts to be made during the extension period to fulfill the case plan.

(H) If the PCSA or PCPA does not request an original thirty-day extension or an additional thirty-day extension, the PCSA or PCPA shall:

(1) Return the child to his parent, guardian, or custodian; or

(2) File a complaint with the juvenile court pursuant to section 2151.27 of the Revised Code requesting temporary or permanent custody.

- (I) When filing a complaint with the juvenile court, the complaint must be accompanied by a case plan prepared in accordance with rule 5101:2-38-05 of the Administrative Code for PCSAs, and ~~rule~~ rules 5101:2-38-06 and 5101:2-38-07 of the Administrative Code for PCPAs.
- (J) If the PCSA or PCPA is denied an extension, it shall return the child unless it has obtained a court order authorizing it not to do so. Upon being denied an extension, the PCSA or PCPA may file a complaint and seek an emergency order permitting the PCSA or PCPA to retain custody pursuant to section 2151.33 of the Revised Code.

Effective: 11/1/2019

Five Year Review (FYR) Dates: 7/2/2019 and 11/01/2024

CERTIFIED ELECTRONICALLY

Certification

09/12/2019

Date

Promulgated Under: 119.03
Statutory Authority: 5153.166, 5103.03
Rule Amplifies: 2151.27, 5153.16, 5103.15
Prior Effective Dates: 01/14/1983, 06/01/1985 (Emer.), 08/12/1985,
09/29/1987, 01/01/1989, 01/01/1990, 02/01/2003,
04/20/2008, 05/10/2014

5101:2-42-09

Acceptance of permanent custody by permanent surrender.

- (A) The parents, guardian, or other persons having custody of a child may enter into an agreement with a public children services agency (PCSA) or private child placing agency (PCPA) to voluntarily surrender a child into the permanent custody of an agency when there is mutual agreement that a permanent surrender would be in the best interests of the child. The PCSA or PCPA shall use the JFS 01666 "Permanent Surrender of Child" (rev. 10/2013) when executing the agreement. The JFS 01666 shall not be executed until at least seventy-two hours after the birth of the child has elapsed.
- (B) At least seventy-two hours prior to the PCSA or PCPA execution of the JFS 01666, the assessor shall meet with the parents, guardian or ~~other persons having custody~~custodian of the child to do the following:
- (1) Discuss with the parents, guardian, or ~~persons having custody~~custodian of the child other options available in lieu of surrendering the child.
 - (2) Advise the parents, guardian, or ~~persons having custody~~custodian of the child that execution of a JFS 01666 will sever all parental rights to the child and will terminate all residual parental rights, privileges and responsibilities as defined in section 2151.011 of the Revised Code.
 - (3) Advise the parents, guardian or ~~persons having custody~~custodian of the child that execution of a permanent surrender must be approved by the juvenile court unless the JFS 01666 is executed by a PCPA solely for the purpose of obtaining an adoption of a child who is less than six months of age on the date that the agreement is executed.
 - (4) Advise the parents, guardian or ~~persons having custody~~custodian of the child of Ohio law regarding open adoption and Ohio adoption procedures.
 - (5) Review, discuss and complete the JFS 01693 "Ohio Law and Adoption Materials" (rev. 5/2009). Only sections "I", "II", and "III" need to be completed for a child over six months of age on the date the JFS 01666 is executed.
- (C) The PCSA or PCPA shall not execute the JFS 01666 until:
- (1) All activities outlined in paragraph (B) of this rule have occurred.
 - (2) The social and medical histories and any releases of information have been obtained from the parents, guardian or ~~persons having custody~~custodian of the child in accordance with the requirements contained in rule 5101:2-48-03 of the Administrative Code.

- (D) Except as provided in paragraph (F) of this rule, each PCSA or PCPA that executes a JFS 01666 shall seek approval of the permanent surrender by the juvenile court of the county in which the child has a residence or legal settlement. At the time the PCSA or PCPA files its request for approval of the permanent surrender with the court:
- (1) The PCSA shall file a case plan prepared in accordance with rule 5101:2-38-05 of the Administrative Code and shall submit the JFS 01693.
 - (2) The PCPA shall file a case plan prepared in accordance with rules ~~5101:2-38-07~~5101:2-38-06 and ~~5101:2-38-06~~5101:2-38-07 of the Administrative Code and shall submit the JFS 01693.
- (E) Except as provided in paragraph (F) of this rule, permanent custody of the child through execution of a JFS 01666, is not established until the juvenile court approves the permanent surrender.
- (F) When a PCPA executes a JFS 01666 involving a child under six months of age where the agreement is executed solely for obtaining the adoption of the child and the parents(s) consent to the permanent surrender, approval by the juvenile court is not required. The PCPA shall notify the court no later than two business days after entering into the agreement that the JFS 01666 has been executed. At the time the PCPA notifies the court that an agreement has been executed, the JFS 01693 shall be submitted. The PCPA shall also notify the court no later than two business days after the child is physically placed for adoption.
- (G) If a child has not been placed for adoption within six months after the JFS 01666 is executed without juvenile court approval for any child in the custody of a PCPA who was under the age of six months at the time a JFS 01666 was executed, the PCPA shall:
- (1) Request the juvenile court with continuing jurisdiction hold a review hearing as outlined in section 2151.417 of the Revised Code.
 - (2) Submit a case plan prepared in accordance with rules ~~5101:2-38-07~~5101:2-38-06 and ~~5101:2-38-06~~5101:2-38-07 of the Administrative Code at the time of the review hearing.
- (H) If a final decree of adoption or an interlocutory order of adoption is not issued or does not become final within seven months after the JFS 01666 has been approved by the juvenile court, the PCSA or PCPA shall request the juvenile court with continuing jurisdiction hold a review hearing as outlined in section 2151.417 of the Revised Code.

- (I) The PCSA or PCPA shall follow placement requirements pursuant to rule 5101:2-48-16 of the Administrative Code.
- (J) A PCSA or PCPA shall not attempt to collect support payments from a biological parent, or legal guardian, for the cost of care incurred while a child is in the PCSA's or PCPA's permanent custody.
- (K) A PCSA or PCPA shall not secure or attempt to secure the permanent surrender of a child by the parent, guardian, or custodian through threats, intimidation, or offers of gain or reward.
- (L) The PCSA or PCPA shall document in the child's case record:
 - (1) The date, time, place and circumstances under which the activities listed in paragraph (B) of this rule occurred.
 - (2) The date, time, place and circumstances under which the JFS 01666 was executed.

Effective: 11/1/2019

Five Year Review (FYR) Dates: 7/2/2019 and 11/01/2024

CERTIFIED ELECTRONICALLY

Certification

09/12/2019

Date

Promulgated Under: 119.03
Statutory Authority: 5101.03, 5153.166, 3107.083
Rule Amplifies: 3107.071, 3107.083, 5103.152, 5103.153, 5103.16
Prior Effective Dates: 12/30/1966, 01/14/1983, 06/01/1985 (Emer.),
08/12/1985, 01/01/1989, 01/01/1990, 05/01/1994,
09/18/1996, 02/13/1998 (Emer.), 05/14/1998,
08/18/2003, 12/19/2008, 05/10/2014

5101:2-42-18.1

Non-discrimination requirements for foster care placements.

- (A) A public children services agency (PCSA), private child placing agency (PCPA), or private noncustodial agency (PNA) shall not deny any person the opportunity to become a foster caregiver on the basis of race, color or national origin (RCNO) of that person, or of the child involved; nor shall the PCSA, PCPA, or PNA delay or deny the placement of a child into foster care on the basis of RCNO of the foster caregiver or of the child involved.
- (B) The Multiethnic Placement Act of 1994 as amended by Section 1808 of the Small Business Job Protection Act of 1996, 42 U.S.C. 622(b)(7), 671(a)(18), 674(d) and 1996(b) ~~(1/2/06)~~ (MEPA) and Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d ~~(1/2/06)~~, as they apply to the foster care process ~~(Title VI)~~, do not supercede the provisions of the Indian Child Welfare Act of 1978, 25 U.S.C.A. 1901 ~~(1/2/06)~~.
- (C) A PCSA, PCPA, or PNA shall not routinely consider RCNO as a factor in assessing the needs or best interests of children. In each case, the only consideration shall be the child's individual needs and the ability of the prospective foster caregiver to meet those needs.
- (D) Only the most compelling reasons may serve to justify the consideration of RCNO as part of a placement decision. Such reasons emerge only in the unique and individual circumstances of each child and each prospective foster caregiver. In those exceptional circumstances when RCNO need to be taken into account in a placement decision, such consideration shall be narrowly tailored to advance the child's best interests. Even when the facts of a particular case allow consideration related to RCNO, this consideration shall not be the sole determining factor in the placement decision.
- (E) The following actions by a PCSA, PCPA, and PNA are permitted as it applies to the foster care placements.
- (1) Asking about and honoring any initial or subsequent choices made by prospective foster caregivers regarding what RCNO of child the prospective foster caregivers will accept.
 - (2) Providing information and resources about fostering a child of another RCNO to prospective foster caregivers who request such information and making known to all families that such information and resources are available.
 - (3) Considering the request of a birth parent(s) to place the child with a relative or non-relative identified by name.

- (4) Considering the RCNO of the child as a possible factor in the placement decision when compelling reasons serve to justify that the RCNO need to be a factor in the placement decision pursuant to paragraph (G) of this rule. Even when the facts of a particular case allow consideration related to the RCNO, this consideration shall not be the sole determining factor in the placement decision.
- (5) Promoting cultural awareness, including awareness of cultural and physical needs that may arise in the care of children of different races, ethnicities and national origins as part of the training which is required of all applicants who seek to become foster caregivers.
- (6) Documenting verbal comments, verbatim, or describing in detail any other indication made by a prospective foster caregiver or prospective foster caregiver family member living in the household or any other person living in the household reflecting a negative perspective regarding the RCNO for whom the prospective foster family have expressed an interest in fostering.
 - (a) The documentation shall indicate whether those comments were made before or after completion of the cultural diversity training that is required for all foster care applicants.
 - (b) The documentation shall be included in the family's homestudy, update, or an addendum to the homestudy or update prior to consideration of placement.
- (F) The following actions by a PCSA, PCPA, and PNA are prohibited as it applies to the foster care process:
 - (1) Using the RCNO of a prospective foster caregiver to differentiate between foster care placements for a child, unless the procedures in paragraphs (G) to (K) of this rule are followed.
 - (2) Honoring the request of a birth parent(s) to place a child with a foster parent(s) of a specific RCNO unless the birth parent(s) identifies a relative or non-relative by name and that person is found to meet all relevant state child protection standards and the agency determines that the placement is in the best interests of the child.
 - (3) Requiring a prospective foster family to prepare or accept a transracial foster care plan.
 - (4) Using culture or ethnicity as a proxy for RCNO.
 - (5) Delaying or denying placement of a child based upon the following:

- (a) The geographical location of the neighborhood of the prospective foster caregiver if geography is being used as a proxy for the racial or ethnic composition of the neighborhood.
 - (b) The demographics of the neighborhood.
 - (c) The presence or lack of presence of a significant number of people of a particular RCNO in the neighborhood.
- (6) Requiring extra scrutiny, additional training, or greater cultural awareness of individuals who are prospective foster caregivers of children of a different RCNO than is required of other prospective foster caregivers.
- (7) Relying upon general or stereotypical assumptions about the needs of children of a particular RCNO.
- (8) Relying upon general or stereotypical assumptions about the ability of prospective foster caregivers of a particular RCNO to care for or nurture the sense of identity of a child of another RCNO.
- (9) Steering prospective foster caregivers away from parenting a child of another RCNO. "Steering" is any activity that attempts to discourage prospective foster caregivers from parenting a child of a particular RCNO.
- (G) If a medical or psychological evaluation, school record, or other material documented in the file, including statements made by the child to a caseworker, indicate that there may be compelling reasons to consider needs the child may have regarding RCNO in the placement process, the agency shall determine if the child should be referred for an assessment of whether the child has individual needs involving RCNO.
- (H) One of the following licensed professionals shall conduct the assessment regarding RCNO:
 - (1) A licensed child psychiatrist.
 - (2) A licensed child psychologist.
 - (3) A licensed independent social worker.
 - (4) A licensed professional clinical counselor.
- (I) The licensed professional conducting the assessment shall not be employed by the PCSA or PCPA making the referral.

(J) At the time of the referral, the PCSA or PCPA shall initiate and subsequently complete the JFS 01688 "Individualized Child Assessment" (~~rev. 5/2007~~)(rev. 6/2017) using the following procedures:

- (1) The caseworker shall complete section I of the JFS 01688 and submit the JFS 01688 and all relevant medical or psychological evaluations, school records, or other material documented in the file to the caseworker's supervisor and the PCSA or PCPA MEPA monitor.
- (2) If both the supervisor and the MEPA monitor determine that the documented material contained in the case file indicates there may be compelling reasons to consider the needs the child may have regarding RCNO in the placement process, the child shall be referred within ten days of the signature of the caseworker for an individual child assessment as indicated in paragraph (G) of this rule. At the time of the referral, the agency shall forward to the licensed professional the following documents:
 - (a) The original JFS 01688.
 - (b) All relevant medical or psychological evaluations, and school records.
 - (c) All other relevant material documented in the child's case file.
- (3) The PCSA or PCPA shall request in writing that the licensed professional complete and sign section II of the original JFS 01688 and return it within sixty days to the PCSA or PCPA with a copy of the requested assessment attached.
- (4) The licensed professional shall determine whether the child has needs involving RCNO and any other needs of a psychological or behavior nature and, if so to specify what those needs are and how those needs may impact a potential substitute care placement.
- (5) The licensed professional shall not complete an assessment pursuant to paragraph (G) of this rule until the PCSA or PCPA has provided the licensed professional with copies of this rule and each of the following:
 - (a) JFS 01607 "MEPA Educational Materials" (~~rev. 1/2009~~)(rev. 10/2016).
 - (b) The JFS 01611 "Non-discrimination Requirements for Foster Care and Adoptive Placements" (~~rev. 1/2009~~)(rev. 10/2016).
 - (c) Rule 5101:2-48-13 of the Administrative Code.
 - (d) Rule 5101:2-48-16 of the Administrative Code.

- (6) The licensed professional shall sign the JFS 01608 "Licensed Professional Statement" (~~rev. 1/2009~~)(rev. 10/2016) acknowledging receipt of the materials required in paragraph (J)(5) of this rule. A copy of the signed JFS 01608 shall be submitted to the PCSA or PCPA.
- (7) The PCSA or PCPA shall keep the JFS 01608 and attach a copy to each JFS 01688 the licensed professional completes. The PCSA or PCPA shall submit a copy of the JFS 01608 and JFS 01688, if applicable to the Ohio department of job and family services (ODJFS) ten days after receiving it.
- (8) Each completed JFS 01688 shall remain in effect for twelve months from the date of the final decision as documented on the JFS 01688.
 - (a) If it has been determined that RCNO should be a factor considered in the child's placement, an updated JFS 01688 and assessment shall be completed prior to the twelve month expiration date.
 - (b) If it has been determined that RCNO should not be a factor considered in the child's placement, an updated JFS 01688 and assessment is not required prior to the twelve month expiration date. In such instance, the PCSA or PCPA may update the JFS 01688 and assessment as deemed necessary.
- (9) The JFS 01688 shall be considered as part of the placement decision making process.
- (K) The PCSA or PCPA shall maintain in the child's case file the completed original JFS 01688 and all medical or psychological evaluations, school records, or other material in the file.
- (L) A PCSA, PCPA, or PNA shall not intimidate, threaten, coerce, or in any way discriminate or retaliate against any person who has filed an oral or written complaint, testified, assisted, or participated in any manner in the investigation of an alleged violation of MEPA and Title VI. This includes:
 - (1) Any prospective or certified foster family.
 - (2) Any employee of a PCSA, PCPA, or PNA.
 - (3) Any employee of any other agency with responsibilities regarding the care or placement of a child in the temporary custody or permanent custody of the PCSA, PCPA or PNA such as a guardian ad litem (GAL) or court appointed special advocate (CASA) volunteer.
- (M) Prohibited retaliatory conduct includes, at a minimum:

- (1) A reduction in the amount of foster care payments which a family should receive based on the child's needs.
- (2) Unwarranted poor evaluations of an employee by his or her supervisor.

Effective: 11/1/2019

Five Year Review (FYR) Dates: 7/2/2019 and 11/01/2024

CERTIFIED ELECTRONICALLY

Certification

09/12/2019

Date

Promulgated Under: 119.03

Statutory Authority: 5101.141, 5103.03, 5153.166

Rule Amplifies: 2151.412, 5153.16

Prior Effective Dates: 09/01/2000, 05/01/2002, 02/01/2005, 05/15/2009,
03/01/2010, 05/10/2014

5101:2-42-64

Preplacement services.

- (A) Each PCSA or PCPA shall provide or arrange preplacement services to the child and his or her parent, guardian, or custodian when substitute care placement of the child is to occur. Preplacement services shall include, but not be limited to:
- (1) Counseling the child and his or her parent, guardian, or custodian regarding feelings of separation.
 - (2) Establishing communication between the PCSA or PCPA, the child, and his or her parent, guardian, or custodian.
 - (3) Arranging at least one preplacement visit with the caregiver.
- (B) The requirements of paragraph (A) of this rule may not apply to:
- (1) Children who are less than one year of age.
 - (2) Children who are familiar with the caregiver, unless the PCSA determines that preplacement visits are in the child's best interest.
 - (3) Children residing with a parent in a substance use disorder (SUD) residential facility.
 - ~~(3)~~(4) Placements involving children's residential centers or specialized placement facilities, when such visits conflict with the facility's or center's preplacement visitation policy.
 - ~~(4)~~(5) Placements in accordance with the interstate compact on placement of children (ICPC) pursuant to rules 5101:2-52-04 and 5101:2-52-06 of the Administrative Code.
 - ~~(5)~~(6) Placement of a child on an emergency basis as set forth in rules 5101:2-39-01 and 5101:2-39-03 of the Administrative Code.
- (C) Documentation or other notes regarding the provision of preplacement services shall be maintained in the child's case record.

Effective: 11/1/2019

Five Year Review (FYR) Dates: 7/2/2019 and 11/01/2024

CERTIFIED ELECTRONICALLY

Certification

09/12/2019

Date

Promulgated Under: 119.03

Statutory Authority: 5103.03, 5153.166

Rule Amplifies: 5103.03, 5153.16

Prior Effective Dates: 09/28/1987, 01/01/1989, 02/01/2003, 10/20/2006,
11/09/2009, 08/11/2014

5101:2-42-65

Caseworker visits and contacts with children in substitute care.

- (A) The public children services agency (PCSA) or private child placing agency (PCPA) that holds custody of a child shall comply with the provisions set forth in this rule regarding caseworker visits and contacts with the child and the substitute caregivers to ensure the child's safety and well-being, and to assess whether the placement and services continue to meet the child's needs in accordance with the case plan.
- (B) Visits and contacts shall be conducted by a caseworker within the PCSA or PCPA that has full responsibility for case planning and case management of the child's case.
 - (1) If the caseworker responsible for the child's case is unable to complete the visit, the caseworker completing the visit shall document in the child's case the reason someone other than the assigned caseworker visited the child.
 - (2) The caseworker assigned to the child's case shall complete the majority of the required monthly visits.
 - (3) The PCSA or PCPA, as part of a managed care agreement as defined in rule 5101:2-1-01 of the Administrative Code, may contract with another agency to have the managed care caseworker assume responsibility for the child's case and caseworker visits required by this rule.
- (C) The minimum frequency of visits shall be as follows, with individual time for the child as appropriate to his or her ability to communicate:
 - (1) For a child placed in a relative or non-relative home approved pursuant to rule 5101:2-42-18 of the Administrative Code or a foster home certified pursuant to Chapter 5101:2-5 of the Administrative Code:
 - (a) One face-to-face visit with the child and substitute caregiver within the substitute care setting during the first week of placement, not including the first day of placement.
 - (b) One face-to-face visit with the child and the substitute caregiver within the substitute care setting during the first four weeks of placement, not including the visit during the first week of placement.
 - (c) Monthly face-to-face visits with the child and substitute caregiver within the substitute care setting, which may include visits referenced in paragraphs (C)(1)(a) and (C)(1)(b) of this rule, provided that at least one of the visits occurs within each month.
 - (d) In a home which has two or more substitute caregivers, assure that each caregiver receives at least one of the face-to-face visits referenced in

paragraphs (C)(1)(a) to (C)(1)(c) of this rule in each three-month period. If a caregiver is out of the home for the entire three-month period (e.g. military leave or extended hospital stay) the caregiver is exempt from the visits for that time period.

- (e) If the circumstances of the case require more than one monthly visit, the additional visit(s) may be conducted by a caseworker employed by an agency contracted by the PCSA or PCPA to provide services for the case.
- (2) For a child for whom a special, exceptional, or intensive needs difficulty of care payment is made pursuant to rule 5101:2-47-18 of the Administrative Code and placed in a treatment or medically fragile foster home certified pursuant to Chapter 5101:2-5 of the Administrative Code:
- (a) One face-to-face visit with the child and substitute caregiver within the substitute care setting during the first week of placement, not including the first day of placement.
 - (b) One contact each week with the caregiver to monitor the child's progress.
 - (c) One face-to-face visit with the substitute caregiver and child should occur twice monthly, but not within the same week.
 - (d) At least one of the monthly visits shall occur within the treatment or medically fragile foster home.
 - (e) In a foster home which has two or more substitute caregivers on the certificate, assure that each caregiver receives at least one of the face-to-face visits referenced in paragraphs (C)(2)(a) to (C)(2)(c) of this rule in each three-month period. If a caregiver is out of the home for the entire three-month period (e.g. military leave or extended hospital stay) the caregiver is exempt from the visits for that time period.
 - (f) At least one of the monthly visits shall be conducted by a caseworker within the PCSA or PCPA that has full responsibility for case planning and case management of the child's case. Any additional visit(s) may be conducted by a caseworker employed by an agency contracted by the PCSA or PCPA to provide services for the case.
- (3) For a child placed in a residential facility or substance use disorder (SUD) residential facility as defined in rule 5101:2-1-01 of the Administrative Code:

- (a) One contact with the residential facility or SUD residential facility and the child as developmentally appropriate within ten days of placement, not including the first day of placement.
 - (b) Monthly face-to-face visits with the child, within the residential facility or SUD residential facility. Visits shall be conducted by a caseworker within the PCSA or PCPA that has full responsibility for case planning and case management of the child's case.
 - (i) If the caseworker responsible for the child's case is unable to complete the visit, the caseworker completing the visit shall document in the child's case the reason someone other than the assigned caseworker visited the child.
 - (ii) The caseworker assigned to the child's case shall complete the majority of the required monthly visits.
 - (c) The caseworker within the residential facility or SUD residential facility, performing casework duties, shall not conduct visits on behalf of the PCSA or PCPA.
- (4) For a child who is sixteen years of age or older and placed in an independent living arrangement in which he or she has responsibility for his or her individual living environment:
- (a) One face-to-face visit with the child within the living environment within the first week of placement, not including the first day of placement.
 - (b) Monthly face-to-face visits with the child, within the living environment, which may include the visit referenced in paragraph (C)(4)(a) of this rule. Visits shall be conducted by a caseworker within the PCSA or PCPA that has full responsibility for case planning and case management of the child's case.
 - (i) If the caseworker responsible for the child's case is unable to complete the visit, the caseworker completing the visit shall document in the child's case the reason someone other than the assigned caseworker visited the child.
 - (ii) The caseworker assigned to the child's case shall complete the majority of the required monthly visits.

(D) Contacts and visits for children in the custody of a PCSA or PCPA shall be documented in the child's case record as outlined in rules 5101:2-33-23 and 5101:2-33-70 of the Administrative Code and address the following:

- (1) The child's safety and well-being within the substitute care setting. In assessing the child's safety and well-being, the caseworker shall consider the following through observation and information obtained during the contact or visit:
 - (a) The child's current behavior, emotional functioning and current social functioning within the substitute care setting, and any other settings/activities in which he or she is involved. The caseworker shall also document evidence that the caregiver is following the reasonable and prudent parent standard in allowing the child regular opportunities to participate in age or developmentally appropriate activities.
 - (b) The child's current vulnerability.
 - (c) The protective capacities of the child's caregiver(s).
 - (d) Any new information regarding the child, the substitute care setting, and impact on the substitute caregiver's willingness or ability to care for the child including but not limited to:
 - (i) Changes in the marital status.
 - (ii) Significant changes in the health status of a household member.
 - (iii) Placement of additional children.
 - (iv) Birth of a child.
 - (v) Death of a child or household member.
 - (vi) A criminal charge, conviction or arrest of any household member.
 - (vii) Addition or removal of temporary or permanent household members.
 - (viii) Family's relocation.
 - (ix) Child's daily activities.
 - (x) A change in the caregiver's employment or other financial hardships.
 - (e) Any supportive services needed for the child or caregiver to assure the child's safety and well-being.

- (2) The child's progress toward any goals in the case plan as applicable from information obtained from the child and caregiver.
- (3) Permanency planning in accordance with the child's case plan.
- (E) For a child who is placed through the "Interstate Compact for the Placement of Children" into a substitute care setting outside of Ohio, the agency shall follow the directives in Chapter 5101:2-52 of the Administrative Code, and the regulations of the interstate compact, located at <http://icpc.aphsa.org/content/AAICPC/en/ICPCRegulations.html>~~https://aphsa.org/AAICPC/AAICPC/ICPC_Regulations.aspx~~.

Effective: 11/1/2019

Five Year Review (FYR) Dates: 7/2/2019 and 11/01/2024

CERTIFIED ELECTRONICALLY

Certification

09/12/2019

Date

Promulgated Under: 119.03

Statutory Authority: 5103.03, 5153.166

Rule Amplifies: 5103.03, 5153.16

Prior Effective Dates: 09/28/1987, 01/01/1991, 09/01/1993, 10/01/1997,
10/09/2006, 02/17/2008, 06/22/2009, 08/11/2014,
01/01/2016

5101:2-42-67

Preparation of lifebook.

- (A) When a child remains in substitute care for longer than six months, the public children services agency (PCSA) or private child placing agency (PCPA) shall begin to prepare a lifebook. The lifebook shall be updated every six months so long as the child remains in substitute care and shall include, but not limited to, the following information:
- (1) Information regarding the child's birth.
 - (2) Information regarding the birth parent and birth family.
 - (3) The child's developmental milestones.
 - (4) Information on placements.
 - (5) The child's education history.
 - (6) Any sports and hobbies in which the child is involved.
 - (7) The child's medical history.
 - (8) Photos.
- (B) The PCSA or PCPA may prepare a lifebook for a child sooner than six months after the child's placement.
- (C) The PCSA or PCPA shall ensure that the lifebook is shared with the child during the placement, as appropriate to the child's age and understanding, and the lifebook should accompany the child when a placement move occurs and when the child is leaving substitute care.
- (D) The PCSA or PCPA shall not place identifying information, as defined in rule 5101:2-1-01 of the Administrative Code, in the lifebook. The child may add identifying information to the lifebook.
- (E) The PCSA or PCPA shall document in the child's case record the date it began to prepare the lifebook, and the date of each update to the lifebook as required in paragraph (A) of this rule.
- (F) If a child in the permanent custody of a PCSA or PCPA is placed for adoption, the lifebook shall be given to the child and a copy shall be maintained in the child's record.

Effective: 11/1/2019

Five Year Review (FYR) Dates: 7/2/2019 and 11/01/2024

CERTIFIED ELECTRONICALLY

Certification

09/12/2019

Date

Promulgated Under: 119.03

Statutory Authority: 5153.166, 5103.03

Rule Amplifies: 5103.03, 5153.16

Prior Effective Dates: 09/28/1987, 01/01/1989, 02/13/1998 (Emer.),
05/14/1998, 08/18/2003, 12/19/2008, 05/30/2014

5101:2-42-68

Necessity for continued substitute care placement: court reviews and hearing requirements.

- (A) Each public children services agency (PCSA) or private child placing agency (PCPA) shall determine the necessity for continued substitute care placement of each child, whether the child's custody is by agreement or court commitment or whether the child's custody status is temporary or permanent. The agency shall conduct a case review and assess the need for continued substitute care placement no later than every three months after whichever activities occur first as outlined in rule 5101:2-38-09 of the Administrative Code. ~~The JFS 01413 "Comprehensive Assessment and Planning Model - I.S. Case Review" (rev. 8/2010) shall be completed and the assessment shall be documented in the case record.~~
- (B) In the case of any child maintained in excess of thirty days in an emergency shelter care facility, the PCSA or PCPA shall determine and document in the child's case record the specific efforts undertaken to achieve a more appropriate placement for the child and the anticipated time frame for achieving such a placement. Documentation shall be completed promptly after each succeeding thirty day period as long as the child remains in an emergency shelter care facility.
- (C) For children in temporary custody, the PCSA or PCPA shall determine whether the:
- (1) Continued substitute care placement is not needed because:
 - (a) The child's vulnerability, if returned to his or her own home, to the conditions of abuse, neglect or dependency has diminished, and
 - (b) The child's parent, guardian or custodian is able to show a protective capacity to the child and the child's needs.
 - (2) Continued substitute care placement is needed because:
 - (a) The child remains vulnerable to conditions of abuse, neglect, or dependency, if returned to his or her own home, and
 - (b) The child's parent, guardian or custodian does not show protective capacities to the child or the child's needs, and
 - (c) Provision of supportive services could not reduce the child's vulnerability to the contributing factors requiring substitute care.
- (D) Upon determining the need for continued temporary custody of a child, the PCSA or PCPA shall file a motion with the court that issued the order of disposition requesting a permanency review hearing for the court to grant any of the following:

- (1) An order for the extension of temporary custody for six months. The PCSA or PCPA shall not petition the court for more than two six-month extensions of temporary custody.
- (2) An order that the child be placed in the legal custody of a relative or nonrelative.
- (3) An order that the child, sixteen or older, be placed in a planned permanent living arrangement and the following is completed at both the initial planned permanent living arrangement (PPLA) hearing and any subsequent hearings regarding permanency outcomes:
 - (a) The PCSA shall document at each permanency hearing the efforts to place a child permanently with a parent, relative or in a guardianship or adoptive placement.
 - (b) The PCSA should ensure the child's presence at the permanency hearing and the child is asked about his or her desired permanency outcome.
 - (i) If there is any significant safety concerns deterring the youth from participating in the hearing, the PCSA must document the reason for the youth's absence in the child's case record.
 - (ii) In the youth's absence, the PCSA must ensure a representative is present in court to address the youth's desire regarding the permanency outcome.
 - (c) The PCSA must document a judicial determination was made at each hearing that PPLA is the best permanency plan for the child and the compelling reasons why it is not in the best interest of the child to be placed permanently with a parent, relative, or in a guardianship or adoptive placement.
 - (d) The PCSA shall document the steps the agency is taking to ensure the foster family follows the reasonable and prudent parent standard engaging the child with regular opportunities to participate in age or developmentally appropriate activities. The documentation of the activities shall be placed in the case record as outlined in rule 5101:2-33-23 of the Administrative Code.
- (4) An order permanently terminating the parental rights of the child's parents.
- (E) The PCSA or PCPA shall file the motion prescribed by paragraph (D) of this rule no later than thirty days prior to the earlier of the following:

- (1) One year from the date on which the complaint in the case was filed.
 - (2) One year from the date on which the child was first placed into shelter care.
 - (3) The date set at the last dispositional hearing for the review hearing of the child's custody.
- (F) The PCSA or PCPA must request that a permanency hearing be held within thirty days of a judicial determination that reasonable efforts are not required pursuant to rule 5101:2-39-01 of the Administrative Code. This permanency hearing is not mandatory if the requirements of the permanency hearing are fulfilled at the hearing in which the court determines that reasonable efforts are not required.
- (G) The provisions of this rule do not apply to a PCPA which is providing services to a child who is the subject of a voluntary permanent custody surrender agreement. All reviews of these cases shall comply with the provisions found in section 5103.153 of the Revised Code and rules 5101:2-42-09 and ~~5101:2-53-06~~5101:2-53-05 of the Administrative Code.

Effective: 11/1/2019

Five Year Review (FYR) Dates: 7/2/2019 and 11/01/2024

CERTIFIED ELECTRONICALLY

Certification

09/12/2019

Date

Promulgated Under: 119.03

Statutory Authority: 5153.166, 5103.03

Rule Amplifies: 5103.03, 5153.16

Prior Effective Dates: 09/28/1987 (Emer.), 12/27/1987, 01/01/1989,
10/01/1997, 03/18/1999 (Emer.), 06/17/1999,
06/13/2000 (Emer.), 09/07/2000, 04/20/2008,
09/01/2014, 12/01/2015

5101:2-42-70

Provision of services to unmarried minor parents.

- (A) The public children services agency (PCSA) shall provide or arrange for the provision of services to any unmarried minor female who meets both of the following:
- (1) Is adjudicated as an abused, neglected or dependent child.
 - (2) Is pregnant or has delivered a child.
- (B) The PCSA shall develop and complete a case plan pursuant to the requirements set forth in rule 5101:2-38-01 or 5101:2-38-05 of the Administrative Code. The PCSA shall consider the following:
- (1) Services to assist the unmarried minor female and the child's father in providing the necessary care for the child including, but not limited to:
 - (a) Parent education.
 - (b) Child development.
 - (c) Family budgeting.
 - (d) Self sufficiency.
 - (2) Health related services for the unmarried minor female and child.
 - (3) Referrals to:
 - (a) Early intervention services.
 - (b) Child support enforcement agency.
 - (c) Services for the minor's parents, guardian or custodian.
- (C) The PCSA shall conduct semiannual administrative reviews of the case plan pursuant to the requirements contained in rule 5101:2-38-10 of the Administrative Code.
- (D) When the unmarried minor female is a member of an "Ohio Works First" (OWF) assistance group, the PCSA shall work with the county department of job and family service (CDJFS) in coordinating services to the unmarried minor female. At the request of the CDJFS, the PCSA shall assist with the following:
- (1) Determining if it would be in the best interests of an unmarried minor parent to reside in the household of a parent, legal guardian or specified relative of the unmarried minor parent.

- (2) Locating an adult-supervised living arrangement when it is determined that it would not be in the best interests of an unmarried minor parent to reside in the household of her or his parent, legal guardian or specified relative.

Effective: 11/1/2019

Five Year Review (FYR) Dates: 7/2/2019 and 11/01/2024

CERTIFIED ELECTRONICALLY

Certification

09/12/2019

Date

Promulgated Under: 119.03

Statutory Authority: 5103.03, 5153.166

Rule Amplifies: 5103.03, 5153.16

Prior Effective Dates: 04/01/1986 (Emer.), 07/01/1986, 03/01/1996,
10/01/1997 (Emer.), 12/30/1997, 05/01/2003,
10/09/2006, 11/09/2009, 08/11/2014

5101:2-42-71

Approval of adult-supervised living arrangements.

- (A) An adult-supervised living arrangement means a family setting approved, licensed, or certified by the Ohio department of job and family services (ODJFS), the ~~Ohio department of mental health (ODMH)~~ Ohio department of mental health and addiction services (OMHAS), the Ohio department of developmental disabilities (ODODD), the Ohio department of youth services (ODYS), a public children services agency (PCSA), a private child placing agency (PCPA), or a private noncustodial agency (PNA) which assumes responsibility for the care and control of a pregnant minor, unmarried minor parent, or child of a minor parent. An adult-supervised living arrangement includes the following:
- (1) A foster home certified by ODJFS pursuant to Chapters 5101:2-5 and 5101:2-7 of the Administrative Code.
 - ~~(2) A residential parenting facility with five or fewer pregnant minors or minor parents or combination thereof certified by ODJFS pursuant to Chapters 5101:2-5 and 5101:2-9 of the Administrative Code.~~
 - ~~(3)~~(2) A family setting which has been approved by a PCSA, PCPA or PNA, pursuant to the procedures contained in paragraph (C) of this rule which:
 - (a) Provides the unmarried minor parent, pregnant minor, or child of a minor parent with supportive services, including counseling, guidance and supervision.
 - (b) Is maintained by a person age eighteen or older who assumes responsibility for the care and control of the unmarried minor parent, pregnant minor, or child of a minor parent.
- (B) A pregnant minor, unmarried minor parent, or child of an unmarried minor parent exempt from the requirement of division (B)(1) of section 5107.24 of the Revised Code must reside in an adult supervised living arrangement to be eligible to participate in Ohio works first.
- (C) When approving an applicant to operate an adult-supervised living arrangement for a specified individual pursuant to paragraph (A)~~(3)~~(2) of this rule the PCSA, PCPA or PNA shall:
- (1) Have the applicant complete the PCSA, PCPA, or PNA designed application for the operation of an adult-supervised living arrangement.
 - (2) Conduct an evaluation of the applicant which shall, at a minimum, include:

- (a) Completing the JFS 01348 "Safety Audit ~~of a Foster Home~~" (~~rev. 1/2003~~ rev. 12/2014).
 - (b) Determining whether the applicant is willing to be responsible for providing or arranging supportive services, including counseling, guidance and supervision, to the pregnant minor, unmarried minor parent, or child of a unmarried minor parent.
 - (c) Determining if the applicant is age eighteen or older.
- (D) The PCSA, PCPA, or PNA shall be responsible for investigating any complaint received on an adult-supervised living arrangement that the agency has approved and arrive at a determination to:
- (1) Continue approval of the setting.
 - (2) Revoke the approval for the setting.
 - (3) Initiate a corrective action plan.
- (E) If the complaint alleges child abuse and neglect, the PCPA or PNA shall immediately report the complaint to the PCSA for investigation. The PCSA shall follow investigation procedures found in rule 5101:2-36-04 of the Administrative Code, if applicable.
- (F) The PCSA, PCPA, or PNA shall develop written procedures for reviewing complaints or disapprovals of agency actions involving adult-supervised living arrangements. Agency procedures shall include, at a minimum:
- (1) Operational procedures for conducting grievance reviews.
 - (2) Reasonable time frames for conducting the grievance review and issuing a decision.
- (G) The PCSA, PCPA or PNA shall maintain a record of each adult-supervised living arrangement it evaluates. The record shall contain, but not be limited to, the following:
- (1) A copy of the of the approval, certificate, or license of a foster home, residential parenting facility, or other family setting pursuant to paragraphs (A)(1) ~~to~~ and (A)(4)(2) of this rule.
 - (2) Adult-supervised living arrangement application.
 - (3) Evaluation of the adult-supervised living arrangement.

- (4) Approval or disapproval of the adult-supervised living arrangement.
- (5) Statement signed by the operator of the adult-supervised living arrangement agreeing to be responsible for providing supportive services, including counseling, guidance and supervision, to the pregnant minor, unmarried minor parent, or child of a unmarried minor parent.
- (H) The PCSA, PCPA or PNA shall provide a copy of the approval or disapproval of the adult-supervised living arrangement to the applicant and the county department of job and family services requesting initiation of the approval of the applicant as an adult-supervised living arrangement.
- (I) The application to operate an adult supervised living arrangement is child specific. The approval expires when the adult supervised living arrangement is terminated.

Effective: 11/1/2019

Five Year Review (FYR) Dates: 7/2/2019 and 11/01/2024

CERTIFIED ELECTRONICALLY

Certification

09/12/2019

Date

Promulgated Under: 119.03

Statutory Authority: 5103.03, 5107.05

Rule Amplifies: 5107.24

Prior Effective Dates: 06/01/1998, 08/18/2003, 10/09/2006, 11/09/2009,
08/11/2014

5101:2-42-87

Termination of substitute care and custody of a child.

- (A) Each public children services agency (PCSA) shall determine the necessity for continuing or terminating custody of a child, whether the child's custody is by agreement or court order or whether the child's custody status is temporary or permanent. The agency shall assess the need for continued custody at least every three months from date of initial placement and at each semiannual administrative review. Such assessment shall be documented in the case record. In making a determination that there is no need for continued custody, the agency shall:
- (1) Complete the JFS 01404 "Comprehensive Assessment Planning Model - I.S. Reunification Assessment" (rev. 2/2006) pursuant to rule 5101:2-37-04 of the Administrative Code.
 - (2) Use the JFS 01404 as a guide to determine whether the child's parent, guardian, or custodian is available, able and willing to demonstrate protective capacities for the child.
 - (3) Consider whether supportive services can provide adequate protection for the child if he or she were returned to his or her own home under a court order of protective supervision, or the agency's involvement is no longer deemed necessary and termination is sought.
- (B) The PCSA's or private child placing agency's (PCPA) custody shall automatically terminate when one of the following occur:
- (1) A court of jurisdiction issues an order terminating agency custody.
 - (2) A JFS 01645 "Agreement for Temporary Custody of Child" (rev. 4/2006) expires or is terminated early.
 - (3) A probate court issues a final decree of adoption or an interlocutory order of adoption becomes final.
- (C) While in substitute care, a child may be on leave from his or her current placement for a trial visit with his or her parent, guardian or custodian up to ~~sixty~~ninety consecutive days.
- (D) When the PCSA or PCPA plans to recommend that the court terminate custody, the agency shall give the substitute caregiver and recommending agency at least five days advance notice. Advance notice shall not be required if a court of jurisdiction terminates agency custody on its own accord, or the substitute caregiver agrees to a lesser advance notice. Documentation of the notification (written or oral) to a caregiver shall be maintained in the child's case record.

- (E) The agency shall provide the following services to prepare the child and his or her parent, guardian, or custodian when the child is to be returned home, which shall include, but not be limited to:
- (1) Arranging visits or other contacts as needed between the parent, guardian, or custodian and child to discuss what has transpired between the time of initial placement and the present.
 - (2) Increasing the length and number of home visits to help the child become reacquainted with his or her family, when applicable.
 - (3) Providing emotional support for feelings the child may have about leaving the substitute caregiver.
- (F) The custodial agency shall provide case planning services to emancipating youth pursuant to rules 5101:2-42-19 and 5101:2-38-05 of the Administrative Code and pursuant to rule 5101:2-38-07 of the Administrative Code, if applicable for the PCPA.
- (G) When termination of substitute care occurs, those services offered to and provided to the child and his or her parent, guardian, or custodian in preparation for the child's reunification, adoption or emancipation shall be noted in the child's case record.
- (H) The agency shall inform the county department of job and family services (CDJFS) healthchek coordinator when the child has been returned home and custody has been terminated.
- (I) The agency shall provide the parent, guardian, custodian, prefinalized adoptive parent, or a child who is emancipating with a copy of the child's health care record prepared pursuant to rules 5101:2-42-66.2 and 5101:2-38-08 of the Administrative Code upon termination of the child's custody. The agency shall provide the parent, guardian, custodian, prefinalized adoptive parent, or a child who is emancipating with information about the healthchek program, if the child was in the healthchek program during the child's stay in substitute care.

Effective: 11/1/2019

Five Year Review (FYR) Dates: 9/1/2020

CERTIFIED ELECTRONICALLY

Certification

09/12/2019

Date

Promulgated Under: 119.03

Statutory Authority: 5103.03, 5153.166

Rule Amplifies: 5103.03, 5153.16

Prior Effective Dates: 09/28/1987 (Emer.), 12/27/1987, 01/01/1989,
01/01/1990, 10/01/1997, 02/01/2003, 04/20/2008,
05/30/2014, 09/01/2015

5101:2-42-88

Requirements when a child in substitute care disrupts from placement or is absent without leave (AWOL).

- (A) When there is a disruption of a child's substitute care placement, the public children services agency (PCSA) or private child placing agency (PCPA) shall address and document in the child and caregiver's case record the following information:
- (1) Length of time the child was in the particular substitute care setting.
 - (2) Circumstances which led to the child's removal.
 - (3) Any efforts to maintain the placement, including supportive services offered to the child and caregiver.
- (B) A disruption of a child's substitute care placement shall require an amendment to the case plan pursuant to rule 5101:2-38-05 of the Administrative Code or rule 5101:2-38-07 of the Administrative Code.
- (C) If a disruption of a child's substitute care placement occurs prior to the child's dispositional hearing, the PCSA or PCPA shall follow procedural requirements pursuant to rule 5101:2-42-93 of the Administrative Code.
- (D) Upon receiving notification that a child is absent without leave (AWOL) from a substitute care placement, the PCSA or PCPA shall immediately, and in no case later than twenty-four hours contact both:
- (1) Law enforcement for entry into the national crime information center (NCIC) database.
 - (2) The national center for missing and exploited children (NCMEC).
- (E) The PCSA or PCPA shall document in the child's case record the following information:
- (1) The date, time and name of the law enforcement agency contacted.
 - (2) The date and time NCMEC was contacted.
 - (3) The last known location of the child.
 - (4) The length of time the child has been AWOL.
 - (5) Anyone the child may have been with prior to or during AWOL.
 - (6) Efforts and resources used to locate the child.

- (F) Upon the child's return from AWOL, the PCSA or PCPA shall address and document in the child's case record the following information:
- (1) The circumstances that contributed to the child running away or being absent from care. When possible, these factors shall be considered when determining subsequent placements.
 - (2) The events or experiences that took place while the child was AWOL, including if the child is found to be a sex trafficking victim. The PCSA shall follow procedural requirements pursuant to rule 5101:2-36-12 of the Administrative Code. The PCPA shall report any allegations of abuse or neglect to the PCSA.
- (G) The PCSA or PCPA shall send a copy, within fourteen days, of the documentation identified in this rule to the recommending agency of the caregiver, if the caregiver is not certified by the PCSA or PCPA. The recommending agency shall maintain the information in the caregiver's record.

Effective: 11/1/2019

Five Year Review (FYR) Dates: 7/2/2019 and 11/01/2024

CERTIFIED ELECTRONICALLY

Certification

09/12/2019

Date

Promulgated Under: 119.03

Statutory Authority: 5103.03, 5153.166

Rule Amplifies: 5103.03, 5153.16

Prior Effective Dates: 09/28/1987 (Emer.), 12/27/1987, 01/01/1989,
01/01/1990, 02/01/2003, 04/20/2008, 05/30/2014,
10/01/2015

5101:2-42-92

Visitation for child in temporary custody.

(A) Each public children services agency (PCSA) or private child placing agency (PCPA) shall arrange for and provide each child in temporary custody, whether custody is by agreement or commitment, an opportunity for regular and frequent visitation with his parent, guardian or custodian. Such visitation schedule shall be developed in accordance with the requirements of this rule and contained in the case plan as required by rule 5101:2-38-05 of the Administrative Code, if applicable for the PCSAs and rules 5101:2-38-06 and 5101:2-38-07 of the Administrative Code for the PCPA.

(B) The PCSA or PCPA shall consult with the parent, guardian, or custodian, child, when age-appropriate, and other service providers, when applicable, in developing the plan for visits. The PCSA or PCPA shall address the following criteria for planning the visits.

(1) Frequency of the visits shall be based on:

- (a) The attitudes and feelings between the child and parent, guardian, or custodian in the present relationship.
- (b) The case plan goal.
- (c) The need to maintain or enhance the bonding relationship between the parent, guardian, or custodian and child.
- (d) What is determined to be in the child's best interest, and is conducive to the child's physical and emotional well-being.

(2) Duration of the visit shall be based on:

- (a) The amount of time needed to maintain or enhance the bonding relationship between the parent, guardian, or custodian and child.
- (b) A determination based upon the current relationship between the child and parent, guardian, or custodian on the length of time that would be in the child's best interest.

(3) Location of the visit shall be in:

- (a) The least-restrictive setting consistent with the goals of the case plan. The following list represents the order of least-restrictive to most-restrictive settings.
 - (i) Visitation in the home of the parent, guardian, or custodian.

- (ii) Visitation in the home of a friend, relative, substitute caregiver or other noninstitutional setting.
 - (iii) Visitation at the agency or other substitute care setting.
- (b) A location providing a safe setting for the child.
- (4) Restrictions on the frequency, duration, location of visits, and supervision of visits shall be based on factors related to:
 - (a) Potential harm to the child as a result of the parent's, guardian's or custodian's behavior or pattern of conduct toward the child.
 - (b) Special needs or problems of the child.
 - (c) The parent's, guardian's, or custodian's failure to be available for more frequent or longer visits.
- (5) The PCSA shall review the JFS 1413 "Comprehensive Assessment and Planning Model - I.S., Case Review" (rev. 8/2010) pursuant to rule 5101:2-38-09 of the Administrative Code, if applicable to assist in arriving at a decision to guide the frequency, duration and location of visits or to determine the level of supervision needed during visits.
- (C) The PCSA or PCPA also shall ensure that the child has an opportunity for other forms of communication with his parent, guardian, or custodian on a regular basis.
- (D) In the child's best interest, the PCSA or PCPA shall make arrangements for visitation and communication with siblings and significant others integral to maintaining connections with those individuals. The agency shall also make arrangements for visitations related to the maintenance and connection with Indian tribes pursuant to rule 5101:2-53-06 of the Administrative Code.
- (E) Withholding of visits shall never be used as a threat or form of discipline to the child or to control or punish the parent for failure to work with the agency or other community providers.
- (F) The PCSA's or PCPA's decision on each of the criteria identified in paragraph (B) of this rule and the need for visitation restrictions and supervision and the reason for the decision must be recorded in the case plan as required by rule 5101:2-38-05 of the Administrative Code, if applicable for PCSAs and rules 5101:2-38-06 and 5101:2-38-07 of the Administrative Code, if applicable for PCPAs.

Effective: 11/1/2019

Five Year Review (FYR) Dates: 7/2/2019 and 11/01/2024

CERTIFIED ELECTRONICALLY

Certification

09/12/2019

Date

Promulgated Under: 119.03
Statutory Authority: 5103.03, 5153.166
Rule Amplifies: 5103.03, 5153.16
Prior Effective Dates: 09/28/1987 (Emer.), 12/27/1987, 01/01/1989,
10/01/1997, 02/01/2003, 04/20/2008, 05/30/2014

5101:2-42-93

Change of placement or visitation plan prior to journalization of case plan.

- (A) When a child's placement or visitation plan has been specified by a court order, or the court has ordered that no change in the child's placement can occur without the court's approval, the public children services agency (PCSA) or private child placing agency (PCPA) shall file a motion to modify such an order and receive court approval prior to effecting a change in the child's placement or visitation plan. Such motion to modify may be filed and court approval obtained after the change in placement or visitation plan only where there exists reasonable cause to believe the child is in immediate danger of serious harm by reason of the current placement or visitation plan. In such an emergency, the motion to modify must be filed or court approval obtained within seven days after the change in placement or visitation plan occurs.
- (B) ~~Where~~When a child's placement or visitation plan is not the subject of a court order described in paragraph (A) of this rule, the PCSA or PCPA shall provide written notice to the parent, guardian, or custodian and guardian ad litem of the opportunity for a review to be conducted by the PCSA or PCPA prior to effecting a change in the child's placement or visitation plan or shall obtain advance court approval of the change pursuant to court action pursuant to division (B) of section 2151.33 or division (B)(4) of section 2151.35 of the Revised Code. Such notice and review may occur after the change as identified in paragraph (C) of this rule. Such notice shall, at a minimum, advise of:
- (1) The proposed action and reasons for that action.
 - (2) The date of the proposed action, unless the parent agrees to an earlier date.
 - (3) The opportunity for a review and the method by which such review can be requested.
 - (4) The time within which the review must be requested.
- (C) When the PCSA or PCPA determines that the child, as identified in paragraph (A) or (B) of this rule, by reason of his current placement or visitation, is in immediate danger of serious harm, a change in the child's placement or visitation may occur. In such an emergency, the agency shall notify the parent, guardian or custodian and guardian ad litem, verbally of the change by the next working day and send written notice to the child's parent, guardian, or custodian and guardian ad litem. The written notice shall include the following:
- (1) The change in placement or visitation.
 - (2) The reasons for such change.

- (3) The opportunity for judicial or PCSA or PCPA review, as applicable, and the method by which such review can be requested.
 - (4) As applicable, the method and the timeframe within which such review must be requested.
- (D) The requirements set forth in paragraph (B) of this rule do not apply in the following situations:
- (1) A change from an emergency placement to a nonemergency placement.
 - (2) A change to a less-restrictive placement.
 - (3) A determination affecting visitation privileges of parents which does not reduce or significantly alter the visitation privileges of the parents.
 - (4) A change in placement or visitation plan to which the guardian ad litem and parents agree.
- (E) A parent, guardian, custodian or guardian ad litem must request an agency review within ten days after the mailing of the notice described in paragraph (B) of this rule. A PCSA or PCPA review must occur no later than ten days after receipt of the request for review.
- (F) The PCSA or PCPA review shall be held before a review agent. The review agent shall be:
- (1) A person not involved in the decision to effect a change in placement or visitation unless the person is the administrator or assistant administrator of the agency.
 - (2) A person knowledgeable in child welfare services and capable of objectively reviewing the decision.
- (G) A parent, guardian, custodian or guardian ad litem requesting the review, the PCSA or PCPA, and their respective legal counsel, if they choose to be represented, shall be free to examine all documents and physical evidence introduced by parties to the review, with the exception of: reports made pursuant to section 2151.421 of the Revised Code and rules 5101:2-33-21 and 5101:2-33-70 of the Administrative Code; documents or other evidence which disclose the identity of persons complaining of parental misconduct; and any other confidential document or report which ~~is protected~~ is protected by law. The parties to the review may also present and examine witnesses.

- (H) The review agent shall render a written decision stating the reasons for such decision. The decision must be based upon the evidence presented at the review. Copies of the decision shall be provided to all parties to the agency review within fifteen days of the review.
- (I) The requirements of this rule shall be satisfied if a hearing concerning the issues of change in placement or visitation has been conducted by a court of jurisdiction.
- (J) All documentation required by this rule shall be maintained by the agency in the child's case record.

Effective: 11/1/2019

Five Year Review (FYR) Dates: 7/2/2019 and 11/01/2024

CERTIFIED ELECTRONICALLY

Certification

09/12/2019

Date

Promulgated Under: 119.03

Statutory Authority: 5103.03, 5153.166

Rule Amplifies: 5153.16, 5103.03

Prior Effective Dates: 09/28/1987, 12/27/1987, 01/01/1989, 10/09/2006,
11/09/2009, 08/11/2014

5101:2-42-95

Obtaining permanent custody: termination of parental rights.

(A) Unless the public children services agency (PCSA) or private child placing agency (PCPA) has compelling reasons for not pursuing a request for permanent custody of a child, the agency, pursuant to section 2151.413 of the Revised Code, shall petition the court that issued the current order of disposition to request permanent custody of a child when any of the following conditions are present:

(1) A court of competent jurisdiction has determined that the parent from whom the child was removed has:

(a) Been convicted of or pleaded guilty to one of the following:

- (i) An offense under section 2903.01 (aggravated murder), 2903.02 (murder), or 2903.03 (voluntary manslaughter) of the Revised Code or under existing or former law of this state, another state, or the United States that is substantially equivalent to an offense described in those sections and the victim was a sibling of the child or the victim was another child who lived in the parent's household at the time of the offense.
- (ii) An offense under section 2903.11 (felonious assault), 2903.12 (aggravated assault), or 2903.13 (assault) of the Revised Code or under existing or former law of this state, any other state, or the United States that is substantially equivalent to an offense described in those sections and the victim of the offense is the child, a sibling of the child, or another child who lived in the parent's household at the time of the offense.
- (iii) An offense under division (B)(2) of section 2919.22 (endangering children) of the Revised Code or under existing or former law of this state, any other state, or the United States that is substantially equivalent to the offense described in that section and the victim of the offense is the child, a sibling of the child, or another child who lived in the parent's household at the time of the offense.
- (iv) An offense under section 2907.02 (rape), 2907.03 (sexual battery), 2907.04 (unlawful sexual conduct with a minor), 2907.05 (gross sexual imposition), or 2907.06 (sexual imposition) of the Revised Code or under existing or former law of this state, any other state, or the United States that is substantially equivalent to an offense described in those sections and the victim of the offense is the child, a sibling of the child, or another child who lived in the parent's household at the time of the offense.

(v) An offense under section 2905.32 (trafficking), 2907.21 (compelling prostitution), and 2907.22 (promoting prostitution) of the Revised Code or under an existing or former law of this state, any other state, or the United States that is substantially equivalent to the offense described in that section and the child, a sibling of the child, or another child who lived in the parent's household at the time of the offense is the victim of the offense;

~~(v)~~(vi) A conspiracy or attempt to commit, or complicity to committing, an offense described in paragraph (A)(1)(a)(i), (A)(1)(a)(iv) or (A)(1)(a)~~(iv)~~(v) of this rule.

- (b) Repeatedly withheld medical treatment or food from the child when the parent has the means to provide the treatment or food. If the parent has withheld medical treatment in order to treat the physical or mental illness or defect of the child by spiritual means through prayer alone, in accordance with the tenets of a recognized religious body, the court or agency shall comply with the requirements of division (A)(1) of section 2151.419 of the Revised Code.
 - (c) Placed the child at substantial risk of harm two or more times due to alcohol or drug abuse and has rejected treatment two or more times or refuses to participate in further treatment two or more ~~times~~times after a case plan was developed pursuant to rule ~~5101:2-39-10, 5101:2-38-05, 5101:2-39-11~~ or 5101:2-40-02 of the Administrative Code, if applicable, requiring such treatment of the parent and was journalized as part of the dispositional order issued with respect to the child or an order was issued by any other court requiring such treatment of the parent.
 - (d) Abandoned the child pursuant to rule 5101:2-1-01 of the Administrative Code.
 - (e) Had parental rights involuntarily terminated pursuant to section 2151.353 (disposition of abused, neglected or dependent child), 2151.414 (hearing on motion for permanent custody), or 2151.415 (motion requesting disposition order upon expiration of temporary custody order) of the Revised Code with respect to a sibling of the child.
- (2) A court of competent jurisdiction has determined the child to be a deserted child pursuant to section ~~2151.3520~~2151.3522 of the Revised Code.
- (3) Any PCSA or PCPA has had temporary custody of the child under one or more orders of disposition for twelve or more months (three hundred and sixty- five

days or more) of a consecutive twenty-two month period ~~ending on or after March 18, 1999~~. For the purpose of calculating the twelve or more months of a consecutive twenty-two month period, a child shall be considered to have entered the temporary custody of an agency on the earlier of the following:

- (a) The date the child is adjudicated abused, neglected or dependent pursuant to section 2151.28 of the Revised Code.
- (b) Sixty days after the child was removed from his or her home and placed into substitute care.

The PCSA or PCPA must not include trial home visits or runaway episodes when calculating the twelve of the most recent twenty-two months. Trial home visits and runaway episodes are included when calculating the twenty-two month period.

- (B) The PCSA or PCPA is not required to file a motion for permanent custody of a child when one of the following is met:
 - (1) The PCSA or PCPA has documented in the case plan there is a compelling reason for determining that the filing of a motion to seek permanent custody of the child and terminate parental rights is not in the best interest of the child.
 - (2) The PCSA or PCPA has documented in the case plan that the agency has not provided the child's parent, guardian, or custodian with services outlined in the case plan which were deemed necessary for the safe return of the child to the child's home.
- (C) The PCSA or PCPA shall meet with the parent to review the agency's decision to file a motion with the court to terminate parental rights. The PCSA or PCPA shall seek to amend the case plan prior to filing a motion to terminate parental rights.
- (D) At the time a motion is filed with the court to obtain permanent custody of the child, the PCSA or PCPA shall submit a case plan to the court which includes a specific plan to seek an adoptive family ~~or planned permanent living arrangement~~ for the child and to prepare the child for adoption ~~or permanency with a specified individual~~.

Effective: 11/1/2019

Five Year Review (FYR) Dates: 7/2/2019 and 11/01/2024

CERTIFIED ELECTRONICALLY

Certification

09/12/2019

Date

Promulgated Under: 119.03

Statutory Authority: 5153.166, 5103.03

Rule Amplifies: 2151.413, 2151.27, 2151.35

Prior Effective Dates: 03/18/1999 (Emer.), 06/13/2000 (Emer.), 09/07/2000,
12/01/2001, 10/09/2006, 03/15/2009, 11/09/2009,
05/01/2014