



Ohio Department of Job and Family Services
Office of Families and Children

Policy and Practice Guidance Document #041
House Bill 33 Policy and Practice Updates
August 2, 2023

Amended Substitute House Bill 33 of the 135th General Assembly (HB 33) was signed by Governor Mike DeWine on July 4, 2023, and includes statutory changes that will be effective on October 3, 2023, with the exception of certain provisions that otherwise identify a specified later effective date.

This Policy and Practice Guidance Document (PPGD) provides an overview of the statutory changes included in HB 33 that will have impact upon Ohio Administrative Code (OAC) rules to be amended or developed, or practice changes not associated with rule changes. If rules are unable to be effective by the statutory effective date, a Procedure Letter will be issued until the rule effective date. Additional PPGDs regarding specific topic areas may also be provided.

SUMMARY OF CHANGES

Background Checks

Changes to Ohio Revised Code (ORC) section 109.572 add additional prohibitive offenses for foster care employees, foster caregivers and prospective adoptive parents to be reviewed prior to hire, certification, or approval. The additional prohibitive offenses also apply to kinship caregivers as the kinship caregiver rule aligns with foster care rules.

Rule: The appendices of the following rules will be amended to add the additional criminal codes.

- 5101:2-5-09 Personnel and prohibited convictions for employment.
- 5101:2-7-02 General requirements for foster caregivers and applicants.
- 5101:2-42-18 PCSA and PCPA approval of placements with relative and nonrelative substitute caregivers to be amended.

Continuous Certification

Changes to numerous ORC sections that refer to a certification span to allow for the implementation of continuous, ongoing certification system for all ODJFS certified agency function types (residential, foster care, adoption, independent living). Please note the adoption approval process will also transition to a continuous approval span.

The Ohio Department of Job and Family Services (ODJFS) is currently engaging stakeholders with scheduled Microburst on Reviewing Rules Policies Hearings (MORRPH) sessions for draft rule presentation which outlines the criteria for moving from a two-year certification period to a process of a continuous certification period with required updates at specified intervals.

Rule: The following rules will be amended to incorporate all changes needed to move to a continuous certification/approval system. As work continues, additional rules may also be identified for revision.

- 5101:2-5-02 Application for an agency to perform specific functions; amended applications.
- 5101:2-5-03 Certification of an agency to perform specific functions.

- 5101:2-5-04 Recertification of an agency to perform specific functions.
- 5101:2-5-04.1 Acceptance of accreditation in lieu of certification requirements.
- 5101:2-5-06 Agency appeal of findings of noncompliance.
- 5101:2-5-07 Denial or revocation of an agency's certificate or certification to perform specific functions; temporary certificates.
- 5101:2-5-09.1 Criminal records check required for certain prospective employees and certified foster caregivers.
- 5101:2-5-13.1 Disaster preparedness plan requirements.
- 5101:2-5-20 Initial application and completion of the foster care homestudy.
- 5101:2-5-24 Foster home recertifications.
- 5101:2-5-26 Procedures for revocation, denial of initial certification or denial of recertification of a foster home certificate.
- 5101:2-5-28 Agency cause for denial of initial certification, denial of recertification or revocation of a foster home certificate.
- 5101:2-5-31 Sharing or transfer of a foster home.
- 5101:2-5-33 Foster caregiver preplacement and continuing training.
- 5101:2-5-40 Preplacement and continuing training programs.
- 5101:2-7-02 General requirements for foster caregivers and applicants.
- 5101:2-9-08 Fire safety.
- 5101:2-9-37 Information to be provided by residential facilities.
- 5101:2-48-05 Agency adoption policy and recruitment plan.
- 5101:2-48-06 Assessor roles and responsibilities for foster care and adoption.
- 5101:2-48-09 Application process and preservice training.
- 5101:2-48-12 Completion of the adoption homestudy.
- 5101:2-48-12.1 Adoption homestudy updates.
- 5101:2-48-12.2 Required notification and adoption homestudy amendments.
- 5101:2-48-19 Sharing or transferring an adoptive homestudy.

Former Foster Youth Access to Case File

Changes to ORC section 5153.17 allows former foster youth access to their case records during the time they were placed in foster care. Records may include medical, mental health, education, legal, and a comprehensive summary of reasons why the former foster youth was placed in substitute care.

Rule: ODJFS will engage with stakeholders to gather feedback on the information that should be included in a comprehensive summary to be generated by Ohio SACWIS for the former foster youth requesting their records. Following discussion with stakeholders, the following rule will be amended.

- 5101:2-33-21 Confidentiality and dissemination of child welfare information.

Abused Child Definition

Changes to ORC section 2151.031 to include "caretaker" to align with current child protective services practice in serving families in which an alleged perpetrator is a caretaker of a child and not the parent, guardian, or custodian. Additionally, abused child was further defined as "the victim of disseminating, obtaining, or displaying 'materials' or 'performances' that are 'harmful to juveniles' as defined under Chapter 2907."

Rule: The following rule will be amended to reflect the above changes to the definition of “Abused Child.”

- 5101:2-1-01 Children services definitions of terms.

Deserted Child

Changes to ORC sections 2151.3515, 2151.3516, and 2151.3517 adds “Peace officer support employee” as an individual authorized to take possession of a deserted child.

Rule: ODJFS is currently engaged in a workgroup consisting of internal and external stakeholders for revisions to Chapter 5101:2-36 Screening and Investigation for the five-year rule review process. The following rule will be amended to include peace officer support employee.

- 5101:2-36-06 PCSA requirements of a deserted child assessment investigation.

Electronic Reporting to Child Protection Services (CPS)

Changes to ORC section 2151.421 adds electronic as a means of reporting child abuse and neglect.

Rule: ODJFS is currently engaged in a workgroup consisting of internal and external stakeholders for revisions to Chapter 5101:2-36 Screening and Investigation for the five-year rule review process. The following rule will be amended to include electronic reporting.

- 5101:2-36-01 Intake and screening procedures for child abuse, neglect, dependency, and family in need of services reports; and information and/or referral intakes.

Prevention Referral/Preservation Services

Changes to ORC sections 2151.421 and 2151.423 permits an agency to refer a screened-out referral for prevention services and disclose confidential information discovered during an investigation to any agency providing prevention services to the child.

Rule: ODJFS is currently engaged in a workgroup consisting of internal and external stakeholders for revisions to Chapter 5101:2-36 Screening and Investigation for the five-year rule review process. The following rules will be amended to include language allowing an agency to refer families for prevention services on screened-out referrals and to reflect the ability to disclose confidential information to any agency providing prevention services to a child.

- 5101:2-33-21 Confidentiality and dissemination of child welfare information.
- 5101:2-36-01 Intake and screening procedures for child abuse, neglect, dependency, and family in need of services reports; and information and/or referral intakes.

Alleged Perpetrator History, Notification and Workgroup

Change to ORC section 2151.421 adds the requirement the written disposition notification shall be made in a form designated by the ODJFS and include the alleged perpetrator of their right to appeal the decision. An alleged perpetrator notification letter is currently accessible to generate within Ohio SACWIS; however, the letter will be revised to further clarify the individual’s rights to due process.

ORC section 5101.136 was added and requires ODJFS to send a letter to an individual who has requested a search be conducted on whether their name has been placed or remains in the Ohio SACWIS Alleged Perpetrator Registry as an alleged perpetrator of a substantiated child abuse and/or neglect report disposition.

ORC section 5101.137 was added requiring ODJFS to work with stakeholders on establishing an expungement policy regarding dispositions of child abuse or neglect in Ohio's SACWIS Alleged Perpetrator Registry by March 1, 2024. ODJFS will begin identifying a group of diverse stakeholders to develop a rule for expungement of report dispositions. If an agency representative is interested in participating in this workgroup, please email your interest to Ashley.Keller2@jfs.ohio.gov.

Rule: ODJFS held listening sessions with various stakeholders in May and June 2023 to discuss current practice application and procedure on alleged perpetrator notification and processes in place for the report disposition appeal process. Feedback from these sessions will be considered and incorporated into required OAC rule revisions, practice application and guidance, and notification letter updates.

ODJFS is currently engaged in a workgroup consisting of internal and external stakeholders for revisions to Chapter 5101:2-36 Screening and Investigation for the five-year rule review process. The following rules will be updated to reflect the statutory changes for the alleged perpetrator disposition notification:

- 5101:2-36-03 PCSA requirements for intra-familial child abuse and/or neglect assessment/investigations.
- 5101:2-36-04 PCSA requirements for conducting a specialized assessment/investigation.
- 5101:2-36-05 PCSA requirements for conducting stranger danger investigations.
- 5101:2-36-07 PCSA requirement for conducting an assessment/investigation of the alleged withholding of medically indicated treatment from a disabled infant with life-threatening conditions.
- 5101:2-36-11 Extending time frames for completion or waiving completion of assessment/investigation activities.

Once a workgroup is developed, a rule will be created to address expungement of report dispositions of child abuse and/or neglect by March 1, 2024.

Ohio Child Welfare Training Program (OCWTP) Changes

Changes to ORC section 5153.122 removes the 102-hour requirement for the caseworker core series and changes to ORC section 5153.123 removes the 60 hours for the supervisor core series; both for flexibility of content design.

Rule: The following rules will be amended to remove required hours for in-service (Core) and domestic violence training. Staff are to complete in-service (Core) and domestic violence training offered by the Ohio Child Welfare Training Program. Coaching activities have been added for caseworkers and supervisors as acceptable activities to meet the requirements for ongoing training hours.

- 5101:2-33-55 Education and training requirements for PCSA caseworkers.
- 5101:2-33-56 Training requirements for PCSA supervisors.

Elimination of the Adoption Loan Program

Repeals ORC sections 3107.018 and 5101.143 related to the adoption loan program as the program was not utilized by families nor supported by a lending agency. Agencies should inform prospective adoptive families in need of a loan about the [Family Forward \(ohio.gov\)](http://FamilyForward.ohio.gov) program administered through the Ohio Treasurer's office.

Rule: The following rule will be rescinded.

- 5101:2-44-14 State adoption assistance loan.

Interstate Compact on the Placement of Children (ICPC) Alignment

Changes to ORC section 5103.20 to update the Interstate Compact on the Placement of Children (ICPC) to align with the revised language of the ICPC adopted by 14 other states at this time. The changes will not go into effect until the revised ICPC has been ratified by a total of 35 states.

Rule: No rule changes are planned until the revised ICPC has been ratified.

Scholars Residential Centers

Enacts ORC section 5103.021 of the ORC to establish and regulate scholars residential centers. Please note that youth in the custody of a Title IV-E agency cannot be placed in these centers.

Rule: The following rules will be amended or created to address the requirements for scholars residential centers including the certification requirements, allowable waivers, and exemption as a QRTP.

- 5101:2-5-03 Certification of an agency to perform specific functions.
- 5101:2-5-18 Waivers and variances.
- 5101:2-9-42 Qualified residential treatment program.
- 5101:2-9-45 Scholars residential center (new rule).

Resource Caregivers and Qualified Immunity

Changes ORC section 5103.162 to replace the term foster parent with resource caregiver to expand the general immunity granted for acts authorized under the public welfare law to include both foster parents and kinship caregivers.

Changes to ORC section 2151.315 to replace the term foster parent with resource caregiver. This expands the population entitled to participate in age-appropriate extracurricular, enrichment, and social activities to include alleged abused, neglected, or dependent child placed with a resource caregiver, which includes a foster caregiver or a kinship caregiver.

Rule: The following rules will be amended to address the term change and expansion of immunity and age-appropriate enrichment for alleged abuse, neglected, or dependent children that have been placed with a resource caregiver.

- 5101:2-42-18 PCSA and PCPA approval of placements with relative and nonrelative substitute caregivers to be amended.

Ohio Children's Trust Fund

Changes to numerous ORC sections governing the Ohio Children's Trust Fund including to membership, acceptance of federal funds, children advocacy centers and child abuse and neglect regional prevention councils.

Rule: No rule changes are needed.

QUESTIONS

If you have questions about any of the information in this PPGD regarding statutory changes in HB 33 and impact upon OAC rules to be amended or developed, and/or impact upon practice, please contact your Technical Assistance Specialist, Foster Care Licensing Specialist, or the OFC Help Desk at 1-866-886-3537 option 4 or HELP-DESK-OCF@jfs.ohio.gov.