



September 25, 2019

Family, Children, and Adult Services Manual Transmittal Letter No. - 423

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 5101:2-42-89, and the addition of new rule 5101:2-33-14**

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

The new rule 5101:2-33-14 entitled "PCSA requirements for recording a child fatality or near fatality" sets forth the requirements of recording a report of a fatality or near fatality of a child in the custody or the care of the PCSA due to child abuse and/or neglect.

The amended rule 5101:2-42-89 entitled "Private child placing agency procedures when a child in agency custody dies" sets forth the requirements of PCPAs to have written policies and procedures when there is a child fatality or near fatality. The rule has been amended to adhere to the five-year rule review and the requirements for PCSAs have been removed from this rule as a new rule has been created to address PCSA requirements for recording a child fatality or near fatality.

LOCATION	REMOVE AND FILE AS OBSOLETE	INSERT/REPLACEMENT
SOCIAL SERVICES Substitute Care	5101:2-42-89	5101:2-33-14 5101:2-42-89
FORMS	JFS 01987 JFS 01987I	JFS 01987 (rev. 05/2019) JFS 01987I (rev. 05/2019)
TRANSMITTAL		FCASMTL 423

5101:2-33-14**PCSA requirements for recording a child fatality or near fatality.**

- (A) Upon receipt of information involving a child fatality or near fatality, the public children services agency (PCSA) shall record the information into the statewide automated child welfare information system (SACWIS) pursuant to rule 5101:2-36-01.
- (B) The PCSA shall categorize a child fatality or near fatality alleged to have occurred through known or suspected child abuse or neglect as a child abuse or neglect report.
- (C) A near fatality includes allegations of known or suspected child abuse or neglect certified by a physician to place a child in serious or critical condition in accordance with the Child Abuse Prevention and Treatment Act Reauthorization Act of 2010 (P.L. 111-320, 12/20/10).
- (D) The PCSA shall complete the child fatality/near fatality record in SACWIS, in accordance with 42 U.S.C. 5106A (1/2019), within five days of receipt of a referral pursuant to paragraph (B) of this rule when any of the following apply:
- (1) The death of a child occurred while in the custody of the PCSA.
 - (2) The near fatality of a child occurred while in the custody of the PCSA.
 - (3) The death of a child resulting from suspected child abuse or neglect.
 - (4) The near fatality of a child resulting from suspected child abuse or neglect.
- (E) The PCSA shall complete the following for a child fatality that meets the criteria identified in paragraph (D) of this rule:
- (1) Notify the law enforcement agency with jurisdiction within one hour of its knowledge of the child's death pursuant to rule 5101:2-33-26 of the Administrative Code.
 - (2) Notify the local health department and/or the child fatality review board, pursuant to sections 3701.045 and 307.623 of the Revised Code.
 - (3) Amend the case plan pursuant to rule 5101:2-38-01 or 5101:2-38-05 of the Administrative Code, as applicable.
 - (4) If the child is in the temporary custody or a permanent planned living arrangement of the PCSA, the PCSA shall complete all of the following:
 - (a) Inform the parent, guardian, custodian of the child's death within one hour of receipt of the information.

(b) Assist the family in planning funeral arrangements, if requested.

(5) If the child is in the permanent custody of the PCSA, the PCSA shall complete all of the following:

(a) Determine whether notification to the parent, guardian, custodian or other relatives is appropriate.

(b) Assume responsibility for funeral arrangements.

(F) The PCSA shall update the child fatality/near fatality record in SACWIS within five days of receipt of any additional information required to be documented in the child fatality/near fatality record.

Effective: 11/1/2019

Five Year Review (FYR) Dates: 11/01/2024

CERTIFIED ELECTRONICALLY

Certification

09/12/2019

Date

Promulgated Under: 119.03
Statutory Authority: 5153.166, 5103.03
Rule Amplifies: 5103.03, 5153.166

5101:2-42-89

Public children services agency and private child placing agency procedures when a child is receiving services or is in agency custody dies
Private child placing agency procedures when a child in agency custody dies.

(A) If a child in the temporary custody or a planned permanent living arrangement of a ~~public children services agency (PCSA)~~ or a private child placing agency (PCPA) dies, the ~~PCSA or PCPA~~ shall:

- (1) Notify the public children services agency (PCSA) and the law enforcement agency with jurisdiction within one hour of its knowledge of the child's death ~~pursuant to rule 5101:2-33-26 of the Administrative Code.~~
- (2) Contact the parent, guardian or custodian within one hour of its knowledge of the child's death.
- (3) Complete the JFS 01987 "Child Fatality Report Face Sheet" ~~(rev. 10/2009)~~(rev. 5/2019) and send it to the Ohio department of job and family services (ODJFS) within five working days after receiving the report. The JFS 01987 shall be sent electronically as directed by the JFS 01987I "Instructions for completing JFS 01987 child fatality report face sheet" ~~(rev. 10/2009)~~(rev. 5/2019).
- ~~(4) Notify the local health department and/or the child fatality review board.~~
- ~~(5)~~(4) Assist the family in planning funeral arrangements, if requested.

(B) If a child in the permanent custody of a ~~PCSA or PCPA~~ dies, the ~~PCSA or PCPA~~ shall:

- (1) Notify the PCSA and the law enforcement agency with jurisdiction within one hour of its knowledge of the child's death ~~as described in paragraph (A)(1) of this rule.~~
- (2) Determine whether notification of the parent, guardian, custodian or other relatives is appropriate.
- (3) Complete the JFS 01987 and send it to ODJFS as described in paragraph (A)(3) of this rule.
- ~~(4) Notify the local health department and/or the child fatality review board.~~
- ~~(5)~~(4) Assume responsibility for funeral arrangements.

~~(C) If the death of a child is the result of suspected child abuse or neglect, the PCSA shall:~~

- ~~(1) Follow procedures set forth pursuant to rule 5101:2-36-01 of the Administrative Code regarding children with:~~
- ~~(a) Suspected child abuse and neglect as determined by law enforcement, medical or PCSA personnel.~~
 - ~~(b) Prior involvement with the PCSA or any member of the household including:~~
 - ~~(i) Open in-home voluntary cases.~~
 - ~~(ii) Open court ordered protective supervision.~~
 - ~~(iii) Open intake assessments within twelve months of the fatality.~~
 - ~~(iv) A closed, inactive case within twelve months of the fatality.~~
- ~~(2) Complete part three of the JFS 01987 and send electronically to the assigned ODJFS regional field office.~~
- ~~(D)~~(C) The PCSA or PCPA shall maintain documentation regarding the provision of notices as required by this rule in the child's case record and the custodial recommending agency's provider record.

Effective: 11/1/2019

Five Year Review (FYR) Dates: 6/13/2019 and 11/01/2024

CERTIFIED ELECTRONICALLY

Certification

09/12/2019

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Rule Amplifies: 5103.03, 5153.166

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