



September 29, 2021

Family, Children and Adult Services Manual Transmittal Letter No. 475

TO: Family, Children and Adult Services Manual Holders

FROM: Matt Damschroder, Director

SUBJECT: **Amendments to Children Services Licensing OAC Rules in Chapter 5101:2-5**

This letter transmits the amendment of four rules related to foster care that are being amended as a result of the passage of HB 8 of the 134th General Assembly and five-year review. The rules will be effective October 15, 2021.

The following is a brief explanation of the changes:

OAC 5101:2-5-02 entitled **Application for an Agency to Perform Specific Functions; Amended Applications** provides guidance to agencies on the process of applying for certification. Paragraph (A) was amended to remove the date from form JFS 01290.

OAC 5101:2-5-03 entitled **Certification of an Agency to Perform Specific Functions** provides guidance to agencies regarding the functions for which an agency may receive a certificate. A new paragraph (E) was added to specify the length of an agency certificate, along with reasons for a possible extension. Paragraph (G) was amended to remove specific rule chapter numbers.

OAC 5101:2-5-04 entitled **Recertification of an Agency to Perform Specific Functions** provides guidance to agencies regarding the procedure for recertifying. Paragraph (E) was amended to reference the new extension process as prescribed in rule 5101:2-5-03 of the Administrative Code.

OAC 5101:2-5-13 entitled **Required Agency Policies, Plans and Procedures** provides guidance to agencies on what specific policies and plans are required. A new paragraph (A)(17) was added to ensure that an agency operating a residential facility has a policy that complies with the qualified residential treatment program (QRTP) requirements as described in rule 5101:2-9-42 of the Administrative Code.

INSTRUCTIONS:

The following chart indicates the materials that should be removed from the Family, Children and Adult Service Manual (FCASM) and the materials that are to be inserted in the FCASM.

LOCATION	REMOVE AND FILE AS OBSOLETE	INSERT/REPLACEMENT
Foster Care Licensing	5101:2-5-02	5101:2-5-02
	5101:2-5-03	5101:2-5-03
	5101:2-5-04	5101:2-5-04
	5101:2-5-13	5101:2-5-13
Transmittal Letters		FCASMTL No. 475

30 East Broad Street
Columbus, OH 43215
jfs.ohio.gov

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

- (A) An applicant seeking to operate a private child placing agency (PCPA) or a private noncustodial agency (PNA) with the purpose of performing any of the functions specified in rule 5101:2-5-03 of the Administrative Code shall electronically submit a complete and correct JFS 01290 "Application for Certification of Agency Functions" (~~rev. 9/2014~~) with the Ohio department of job and family services (ODJFS) not less than one hundred-twenty days prior to the intended date of commencing operation.
- (B) A local public entity (LPE) that is not a public children services agency (PCSA) that operates one or more of the functions specified in rule 5101:2-5-03 of the Administrative Code shall be considered by ODJFS as though the local public entity is a PNA. Unless a specific exception is made, references throughout Chapters 5101:2-5, 5101:2-7 and 5101:2-9 of the Administrative Code to a PNA or to an agency shall apply to a LPE that is not a PCSA. "Local public entity" (LPE) as used in this chapter of the Administrative Code means a county, including county courts, a municipal corporation, a combination of counties, a combination of municipal corporations, or a combination of one or more counties and one or more municipal corporations and that is not a PCSA.
- (C) An applicant shall submit all materials and documentation required by the JFS 01290.
- (D) Any PCSA which intends to operate a residential facility shall electronically file a complete and correct JFS 01290 with ODJFS to be certified to operate the facility not less than one hundred-twenty days prior to the intended date of commencing operation.
- (E) Applicable rules for agencies.
- (1) Any PCSA, PCPA or PNA certified to perform functions listed in rule 5101:2-5-03 of the Administrative Code shall comply with all provisions of the Administrative Code applicable to the agency's performance of functions listed on its certificate. For agency noncompliance with applicable administrative rules, ODJFS may require the agency to submit and comply with a corrective action plan or may deny initial certification, or in the case of a certified agency, deny renewal of a certificate or revoke the PCSA's, PCPA's or PNA's certificate pursuant to Chapter 119. of the Revised Code.
 - (2) Any PCSA performing any function listed in rule 5101:2-5-03 of the Administrative Code not requiring certification by ODJFS shall comply with all applicable provisions of the Administrative Code. For PCSA noncompliance with applicable administrative rules when performing any function not

requiring certification, ODJFS may take any action permitted under division (C) of section 5101.24 of the Revised Code.

- (F) The application shall be submitted to the appropriate ODJFS field office. The date of initial application shall be the date of receipt as noted by the ODJFS date stamp. The application shall not be considered to have been filed until it is submitted to the appropriate ODJFS field office in complete and correct form.
- (G) An application may be denied by ODJFS for failure to comply with any requirement of this rule or for any reason specified in rule 5101:2-5-07 of the Administrative Code.
- (H) An agency shall not operate until a certificate is issued by ODJFS.
- (I) When an application to amend the certificate is required.

- (1) When an agency certified to operate a function listed in rule 5101:2-5-03 of the Administrative Code seeks to operate another function that is required to be certified by rule 5101:2-5-03 of the Administrative Code, not less than one hundred-twenty days prior to the anticipated operation of the new function, it shall electronically submit a complete and correct amended JFS 01290 to ODJFS requesting certification of the additional function. All additional information required by ODJFS for certification of the new function shall be submitted with the JFS 01290.
- (2) When an agency certified to operate one or more functions listed in rule 5101:2-5-03 of the Administrative Code seeks to relocate or operate a residential facility, except in an emergency situation where residential facility becomes uninhabitable for any reason, it shall notify ODJFS not less than sixty days prior to the intended relocation or operation by submitting an amended JFS 01290 to ODJFS requesting certification of the residential facilities at the new location.
- (3) If a residential facility has become uninhabitable, due to an emergency situation, the agency shall:
 - (a) Immediately notify any agency with children in placement and ODJFS of the emergency.
 - (b) Relocate the facility and any children in placement.
 - (c) Submit an amended JFS 01290 to ODJFS immediately after relocating.
- (4) When an agency certified to operate one or more functions listed in rule 5101:2-5-03 of the Administrative Code seeks to relocate or add an office

it shall submit a JFS 01290 which lists the office to ODJFS not less than thirty days prior to the anticipated operation of the new office. In emergency situations the agency shall follow the procedures in their agency policy developed pursuant to rule 5101:2-5-13.1 of the Administrative Code.

- (5) An agency shall submit a JFS 01290 to ODJFS not less than ten days prior to any of the following changes:
 - (a) When an agency ceases to operate a certified function.
 - (b) When an agency ceases to operate a branch office.
 - (c) When an agency ceases to operate a residential facility.
- (6) An agency shall request and receive approval from ODJFS prior to implementing a change in a private, nonprofit therapeutic wilderness camp, children's residential center or a group home by submitting a JFS 01290 and any supporting documentation to ODJFS indicating the agency wishes to change any of the following:
 - (a) Sex of the children served.
 - (b) Age range of the children served.
 - (c) Number of the children served.
- (7) An agency shall submit a JFS 01290 to notify ODJFS within ten days after implementing a change to any of the following positions of its governing body:
 - (a) The administrator.
 - (b) The chairperson.
 - (c) The president.
- (8) If an agency wishes to change the agency name, the agency shall submit a JFS 01290 to notify ODJFS not later than thirty days prior to implementing a name change. The agency shall submit the following information along with the JFS 01290:
 - (a) A copy of any amended articles of incorporation authorizing the name change.
 - (b) A copy of the minutes of the governing body meeting authorizing the name change.

- (J) An agency shall not operate any function requiring certification by ODJFS that has not been certified by ODJFS. An agency shall not operate an office or residential facility that is not correctly listed on the most recent JFS 01290 on file with ODJFS.
- (K) The certificate issued by ODJFS to the agency shall be posted in a prominent place so that visitors to the agency may view it.
- (L) When a PCSA, PCPA or PNA is currently operating one or more functions requiring certification by ODJFS on a temporary certificate, the agency shall not request certification of another function by ODJFS or expansion of an existing certified function.

Effective: 10/15/2021
Five Year Review (FYR) Dates: 7/15/2021 and 10/15/2026

CERTIFIED ELECTRONICALLY

Certification

09/24/2021

Date

Promulgated Under: 119.03
Statutory Authority: 5103.03, 5103.54, 5153.166
Rule Amplifies: 5103.03, 5153.16
Prior Effective Dates: 12/30/1966, 10/01/1986, 07/02/1990 (Emer.),
10/01/1990, 01/01/1991, 09/18/1996 (Emer.),
10/21/1996, 01/01/2003, 12/11/2006, 08/01/2010,
07/01/2016

5101:2-5-03

Certification of an agency to perform specific functions.

(A) Specific functions of a public children services agency (PCSA) which require certification by the Ohio department of job and family services (ODJFS) are:

- (1) To operate children's residential center(s).
- (2) To operate group home(s).
- (3) To operate residential parenting facilities.
- (4) To operate children's crisis care facilities.

(B) Functions performed by a PCSA that do not require certification by ODJFS shall comply with the Administrative Code rules applicable to the functions performed. ODJFS may take any appropriate action permitted under division (D) of section 5101.24 of the Revised Code for noncompliance with applicable rules.

(C) Specific functions of a private child placing agency (PCPA) which require certification by ODJFS are:

- (1) To operate children's residential center(s).
- (2) To operate group home(s).
- (3) To operate or provide independent living arrangements.
- (4) To operate residential parenting facilities.
- (5) To operate children's crisis care facilities.
- (6) To act as a representative of ODJFS in recommending pre-adoptive infant foster homes for certification.
- (7) To act as a representative of ODJFS in recommending family foster homes for certification.
- (8) To act as a representative of ODJFS in recommending treatment foster homes for certification.
- (9) To act as a representative of ODJFS in recommending medically fragile foster homes for certification.
- (10) To accept temporary, permanent or legal custody of children.
- (11) To place children for foster care or adoption.

(D) Specific functions of a private noncustodial agency (PNA) or a local public entity that is not a PCSA which require certification by ODJFS are:

- (1) To operate children's residential center(s).
- (2) To operate group home(s).
- (3) To operate or provide independent living arrangements.
- (4) To operate residential parenting facilities.
- (5) To operate children's crisis care facilities.
- (6) To operate private, nonprofit therapeutic wilderness camp(s).
- (7) To act as a representative of ODJFS in recommending pre-adoptive infant foster homes for certification.
- (8) To act as a representative of ODJFS in recommending family foster homes for certification.
- (9) To act as a representative of ODJFS in recommending treatment foster homes for certification.
- (10) To act as a representative of ODJFS in recommending medically fragile foster homes for certification.
- (11) To participate in the placement of children in foster homes or for adoption.

(E) A certificate issued by ODJFS is valid for two years unless revoked sooner. ODJFS may extend a certification span up to six months. An extension request is to be made no less than one hundred twenty days prior to the end date of the current certificate. An extension may be approved for either of the following if both the agency and ODJFS are in agreement:

- (1) An agency requests an extension due to agency need.
- (2) ODJFS needs to extend the certification span.

~~(E)~~(F) Any certificate issued by ODJFS shall not be transferable from one agency, owner, operator, corporation, partnership, or association to another.

~~(F)~~(G) A PCPA shall maintain compliance with any applicable rules of Chapters ~~5101:2-38, 5101:2-39, 5101:2-42 and 5101:2-53~~ of the Administrative Code for any child it

is serving under a court order for protective supervision or for any child in the temporary, permanent or legal custody of the PCPA.

~~(G)~~(H) During a complaint investigation or review of an agency acting as representative of ODJFS in recommending foster homes for certification, ODJFS may inspect any foster home recommended for certification by the agency. The inspection may be announced or unannounced.

~~(H)~~(I) An agency may voluntarily terminate certification of any or all of its authorized functions upon written notice to ODJFS.

Effective: 10/15/2021
Five Year Review (FYR) Dates: 7/15/2021 and 10/15/2026

CERTIFIED ELECTRONICALLY

Certification

09/24/2021

Date

Promulgated Under: 119.03
Statutory Authority: 5103.03, 5103.54, 5153.166
Rule Amplifies: 5103.03, 5153.16
Prior Effective Dates: 12/30/1966, 10/01/1986, 07/02/1990 (Emer.),
10/01/1990, 01/01/1991, 09/18/1996 (Emer.),
10/21/1996, 07/01/2000, 01/01/2003, 12/11/2006,
08/01/2010, 07/01/2016

5101:2-5-04

Recertification of an agency to perform specific functions.

- (A) To apply for recertification an agency shall submit a JFS 01290 "Application for Certification of Agency Functions," ~~(rev. 7/2016)~~. The agency shall, at the time of recertification and whenever the agency changes their certification information, submit the following documentation with the JFS 01290:
- (1) Any information required by rule 5101:2-5-02 of the Administrative Code.
 - (2) An audit if one is required.
 - (3) The first time a private child placing agency (PCPA) or private noncustodial agency (PNA) seeks recertification, it shall submit to the Ohio department of job and family services (ODJFS) with its application:
 - (a) A copy of an independent financial statement audit performed by a licensed public accounting firm following applicable american institute of certified public accountants (AICPA) auditing standards for the most recent fiscal year.
 - (b) The independent audit shall demonstrate the agency operated in a fiscally accountable manner as determined by ODJFS.
 - (4) After the first recertification, when a PCPA or PNA seeks recertification, it shall submit to ODJFS with its application, as a condition of recertification:
 - (a) A copy of an independent financial statement audit performed by a licensed public accounting firm following applicable AICPA auditing standards for the two most recent previous fiscal years it is possible for an independent audit to have been conducted.
 - (b) The independent audit shall demonstrate the agency operated in a fiscally accountable manner as determined by ODJFS.
 - (5) All audits required by this rule shall be conducted in accordance with AICPA auditing standards. As used in this rule, "AICPA auditing standards" has the same definition as in division (A) of section 5103.0323 of the Revised Code.
- (B) If fiscal accountability cannot be readily determined for a PCPA or PNA, the agency may be issued a temporary certificate and be placed on fiscal watch during that period. During a fiscal watch period, the agency may be expected to submit, but is not limited to, the following:

- (1) An explanation of any internal or external factors that may be affecting the provider's financial status and any action plan as to how provider intends to address such factors.
 - (2) A corrective action plan to address any significant audit issues noted in the financial audit.
 - (3) Any business plan which may specifically address actions taken, or to be taken, by the provider to improve financial condition which could help demonstrate that provider is or can be fiscally accountable.
 - (4) Any subsequent financial audits performed beyond the submitted audit period.
 - (5) Monthly financial statements.
 - (6) Monthly bank statements or similar information.
 - (7) Placement records and related financial activity records.
- (C) ODJFS may work closely with the agency during the fiscal watch period to monitor financial activity to help ensure the agency can remain fiscally viable and financial resources are sufficient for providing the necessary level of care for the well-being of children placed with the agency. At any point up to and including the end of the fiscal watch period, ODJFS may recommend the agency:
- (1) Be removed from the temporary certificate and reinstated to a full certificate.
 - (2) Be placed on a second fiscal watch period and the fiscal watch process will be repeated. The agency will also be issued a second temporary certificate.
 - (3) Be revoked.
- (D) The requirements of paragraph (A) of this rule do not apply to a public children services agency (PCSA) or to a local public entity that is not a PCSA.
- (E) An agency seeking recertification shall electronically submit all information and documentation required for recertification to ~~the appropriate ODJFS field office~~ not less than one hundred twenty days prior to the date of expiration of its current certificate unless an extension has been granted pursuant to rule 5101:2-5-03 of the Administrative Code. Failure of an agency to submit an application for recertification within the timeframes required by this rule may cause a lapse in certification or a delay in issuance of a certificate.

- (F) When an application for recertification is received and found to be incomplete or incorrectly completed, the recertification application shall be returned to the applicant for completion and resubmission to ODJFS. A recertification application shall not be considered to have been submitted until it is received by the appropriate ODJFS field office in complete and correct form.
- (G) An agency shall submit a list of all records, as requested by ODJFS, from which a sample will be selected for review during the site inspection.
- (H) An agency shall return the list of records pursuant to paragraph (G) of this rule, within fourteen calendar days of receipt of the ODJFS request. Failure of an agency to submit the list of records as requested shall not cause the start of the recertification review to be delayed but may cause a lapse in certification or a delay in issuance of a certificate.
- (I) If an agency's list of records as requested by ODJFS, pursuant to paragraph (G) of this rule, is received by ODJFS within the timeframe specified in paragraph (H) of this rule, ODJFS may select a random sample of records from the list to be reviewed during the site inspection and shall provide the identity of these records to the agency two weeks prior to the scheduled site inspection.
- (J) If an agency's list of records is not received by ODJFS within the timeframes specified in paragraph (H) of this rule, ODJFS may elect to do a random selection of records at the time of the site inspection with no prior notice to the agency of the identity of the records to be reviewed.
- (K) An agency administrator or staff person shall not deny ODJFS access to any relevant records, information, personnel, residential facility, residents, offices or areas of the agency in the course of a recertification study or at any other time.

Effective: 10/15/2021
Five Year Review (FYR) Dates: 7/15/2021 and 10/15/2026

CERTIFIED ELECTRONICALLY

Certification

09/24/2021

Date

Promulgated Under: 119.03
Statutory Authority: 5103.03, 5103.54, 5153.166
Rule Amplifies: 5103.02, 5103.0323, 5103.03
Prior Effective Dates: 12/30/1966, 10/01/1986, 07/02/1990 (Emer.),
10/01/1990, 01/01/1991, 09/18/1996, 01/01/2003,
12/11/2006, 08/01/2010, 07/07/2014, 05/01/2019

5101:2-5-13

Required agency policies, plans and procedures.

(A) A public children services agency (PCSA), private child placing agency (PCPA) or private noncustodial agency (PNA) engaging in any of the functions listed in rule 5101:2-5-03 of the Administrative Code shall have, at a minimum, all of the following policies as applicable to the function or functions being performed.

(1) An agency shall have a written discipline policy which:

(a) Prohibits the use of prone restraints. Prone restraint is defined as all items or measures used to limit or control the movement or normal functioning of any portion, or all, of an individual's body while the individual is in a face-down position for an extended period of time. Prone restraint includes physical or mechanical restraint.

(b) If an agency has a discipline policy that does not allow any type of restraint, the agency can document this in its policy and the agency does not have to address the issues in paragraph (A)(1)(a) of this rule.

(2) An agency shall have a written plan describing strategies for foster caregiver recruitment that complies with the Multiethnic Placement Act, Oct. 20, 1994, P.L. 103-382, as amended by Section 1808 of the Small Business Job Protection Act of 1996, P.L. 104-188 (MEPA), and the Civil Rights Act of 1964 (Title VI), as it applies to the foster care process. If the PCSA, PCPA or PNA amends its recruitment plan, the agency shall be responsible for submitting the amended recruitment plan to ODJFS within ninety days following a plan change. This policy shall include:

(a) A description of the characteristics of foster children served by the agency that shall include the following:

(i) Ages.

(ii) Developmental needs.

(iii) Emotional needs.

(iv) Physical needs.

(v) Race, color and national origin backgrounds.

(vi) Levels of care needed.

(b) Diverse methods of disseminating general information regarding the children served by the agency.

- (c) Specific strategies to reach all parts of the community as defined by the agency.
 - (d) Strategies for assuring that prospective foster caregivers have access to the application process, including the flexibility of service to the community served by the agency.
 - (e) Strategies for training staff to work with diverse cultural, racial, ethnic and economic communities.
 - (f) Strategies for dealing with linguistic barriers.
 - (g) Procedures for a timely search for foster caregivers, including the use of interagency efforts, provided that such procedures ensure that placement of a child in an appropriate household is not delayed by the search for a same race or ethnic placement.
 - (h) A statement of assurance that all foster caregiver recruitment activities and materials shall be in compliance with MEPA and Title VI, the Indian Child Welfare Act of 1978, 25 U.S.C. 1901 and the Adoption and Safe Families Act of 1997.
- (3) An agency shall have a written policy describing the process for simultaneously approving applicants for foster care placement and adoptive placement.
- (4) An agency shall have a written policy detailing any assessment activities in which an agency would require a foster caregiver applicant to participate and any materials or documentation, not specifically required by Chapter 5101:2-5 or 5101:2-7 of the Administrative Code, which a foster caregiver applicant would be required to submit as part of the assessment or homestudy process.
- (5) An agency shall have a written policy detailing all payments to foster caregivers.
- (6) An agency shall have a written grievance policy detailing the methods for hearing grievances and for resolving differences with a foster caregiver or applicant relative to the requirements imposed by Chapter 5101:2-7 of the Administrative Code and other agency policies. This policy shall include a method of review by the highest administrative employee of the agency or designee for any unresolved grievance within thirty calendar days of the filing of the grievance.
- (7) A PCSA or PCPA shall have a written policy regarding the required notification to the foster or kinship caregiver if the PCSA or PCPA seeks permanent custody of a child placed with the caregiver and if a child placed with the caregiver becomes available for adoption. The notification shall also be

given to the recommending agency when the custodial agency is different than the recommending agency. The notification shall be consistent with the requirements contained in section 5103.161 of the Revised Code.

- (8) An agency shall have written policies that shall be explained to potential foster caregivers during initial orientation for all of the following:
- (a) Liability insurance and compensation for damages done by children placed in foster care.
 - (b) Legal representation, legal fees, counseling or legal advocacy for foster caregivers for matters directly related to the proper performance of their roles.
 - (c) Investigations of abuse and/or neglect involving a child living in a foster home.
- (9) Each recommending agency shall establish and implement a policy regarding good cause for a foster caregiver's failure to complete the continuing training in accordance with rule 5101:2-5-33 of the Administrative Code. If the foster caregiver complies with the policy, as determined by the agency, ODJFS may renew the foster caregiver's foster home certificate. The agency shall submit the policy to the department and provide a copy to each foster home the agency recommends for certification or renewal.

The policy shall include all of the following:

- (a) What constitutes good cause, including documented illness, critical emergencies, and lack of accessible training programs.
 - (b) Procedures for developing a scheduled corrective action plan that provides for prompt completion of the continuing training.
 - (c) Procedures for recommending revocation of the foster home certificate if the foster caregiver fails to comply with the corrective action plan.
- (10) An agency operating a specialized foster home program shall have a written policy on the operation of the specialized foster home program which shall comply with the requirements of rules 5101:2-5-36, 5101:2-5-37, 5101:2-7-16, and 5101:2-7-17 of the Administrative Code, as applicable. The policy shall specify:
- (a) The hierarchy of the program including:

- (i) The number of treatment team leaders each supervisor is responsible for providing supervision.
 - (ii) The specific number of treatment and medically fragile foster children for which each treatment team leader shall be responsible for providing case management services.
 - (b) How the agency will determine the equivalent experience required by paragraph (A) of rule 5101:2-7-16 of the Administrative Code and rule 5101:2-7-17 of the Administrative Code, as applicable.
- (11) An agency operating a specialized foster home program shall have a written policy that provides for access to both planned and crisis respite care, the amount to be determined on a case-by-case basis, for children in the program's care. The respite care policy shall include, but is not limited to, the following provisions:
- (a) Utilization of respite care shall be only with the approval of the administrative director of the specialized foster care program or his or her designee.
 - (b) A process for the specialized foster care program to select and approve respite care providers.
 - (c) Only approved respite care providers shall be utilized.
 - (d) An approved respite care provider, who is not certified as a foster caregiver or specialized foster caregiver, shall receive at least twelve hours of orientation and training relevant to the children served by the specialized foster care program and have a criminal record check conducted as for a foster caregiver pursuant to rule 5101:2-5-09.1 of the Administrative Code prior to providing respite care.
 - (e) A respite care provider shall not provide respite care for children for more than two consecutive weeks unless the provider is certified as a specialized foster caregiver.
 - (f) Prior to each occasion of respite care, the recommending agency shall provide the respite care provider with a copy of the JFS 01443 "Child's Education and Health Information" (~~rev. 8/2010~~) or the form the agency uses in lieu of the JFS 01443 completed for the child pursuant to rule 5101:2-38-08 of the Administrative Code as part of his case plan and at least a written summary of the child's service plan and any information required to be shared with a foster caregiver by rule 5101:2-42-90 of

the Administrative Code. In addition, for a medically fragile child, any nursing treatment plan containing physician orders shall be provided. The information required by this paragraph shall be provided to the respite care provider by the agency that has approved the respite care provider. Documentation that this has been done shall be maintained in the child's case record by the agency that approved the respite care provider.

- (g) For each occasion of respite care, a respite care provider shall provide a written report of the child's stay in respite care to the specialized foster caregiver.
 - (h) A respite care provider for a medically fragile child shall be certified as a foster caregiver for medically fragile children or be a licensed medical professional.
- (12) An agency operating a specialized foster home program shall have a written policy, outlining procedures for matching children with specialized foster caregivers, that ensures consideration of the child's needs, the capabilities of the specialized foster caregiver, and family-centered, neighborhood-based practices.
- (13) An agency operating a specialized foster care program shall have a written policy to assure that all children in specialized foster care and all specialized foster caregivers and their families affiliated with the program shall have access to crisis counseling, arranged by the program, for issues or problems caused by a specific incident related to a child receiving treatment within the caregiver's home, including the death or hospitalization of a child.
- (14) An agency which is certified to operate a residential facility, a treatment foster care program, or a medically fragile foster care program shall be responsible for developing and implementing a behavior intervention policy which includes a description of the facility's behavior management program. The behavior intervention policy shall, at a minimum, contain the following components:
- (a) A detailed description of the full range of behavior intervention procedures (intervention that is the least intrusive and least disruptive to the child, positive behavioral interventions, prompted relaxation, time out, physical restraints, supervised restraint, and isolation) or combination of procedures employed, including operational details of the interventions themselves and a definition of each behavior intervention.

- (b) The use of restrictive behavior interventions, behavior management techniques or aversive procedures and identification of instances in which such procedures may be contraindicated.
 - (c) Procedures for carrying out these provisions consistent with the needs of children with disabilities.
 - (d) A description of the credentials of the personnel involved in designing, approving, implementing, monitoring and supervising the implementation of the behavior interventions.
- (15) An agency which is certified to operate a residential facility shall have a written policy on the use of alcohol, tobacco and tobacco products by staff and children within such facilities which shall conform to, but is not limited to, the requirements of rule 5101:2-9-06 of the Administrative Code. No residential facility shall use alcohol, tobacco or tobacco products to influence or control the behavior of a child.
- (16) An agency which is certified to operate a residential facility shall have a written admissions policy specifying the type of child who will be accepted into the facility and the conditions under which a child would not be accepted.
- (17) An agency which is certified to operate a residential facility is to have a written policy to address the requirements of being a qualified residential treatment program (ORTP) as outlined in rule 5101:2-9-42 of the Administrative Code.
- ~~(17)~~(18) An agency shall have a written policy which describes the conditions under which, and the procedures by which, a child will be discharged from an out-of-home care setting including any criteria for emergency discharges and discharges not in accordance with a child's service plan.
- ~~(18)~~(19) An agency shall have a written policy which specifies the procedures for ensuring the accessibility of the administrator or designee with executive authority to agency staff and ODJFS representatives at all times.
- ~~(19)~~(20) An agency shall have a written policy regarding access, confidentiality, maintenance, security and disposal of all records maintained by the agency.
- ~~(20)~~(21) An agency shall have a written policy which protects the confidentiality of information concerning a child and the child's family. This policy shall include the agency's procedure for disseminating information to a child fatality review board.

~~(21)~~(22) An agency shall have a written policy governing the agency's participation in human research projects, fund raising and publicity activities, and shall not involve a child in any such activity without the prior informed, written consent of the parent, guardian or legal custodian and the child, according to the child's age and functioning level. Such written consent shall be contained in the child's case record.

~~(22)~~(23) An agency shall have written personnel policies and procedures which are provided to all personnel. These personnel polices and procedures shall include, but are not limited to:

- (a) Procedures for recruitment, screening, orientation, assignment, supervision, promotion, training, and written annual evaluation of all employees.
- (b) Procedures for discipline of employees including suspension and dismissal.
- (c) Procedures for handling staff grievances.
- (d) Salary and fringe benefit plan.
- (e) A requirement for an employee that he shall notify the agency within twenty-four hours of any charge of any criminal offense that is brought against him. This policy shall also contain a provision that:
 - (i) Failure to notify the agency within twenty-four hours of any charge of any of the crimes listed in rule 5101:2-5-09 of the Administrative Code shall result in immediate dismissal from employment.
 - (ii) If the charges result in a conviction, the employee shall notify the agency within twenty-four hours of the conviction. Failure to notify the employer of any conviction of any criminal offense shall result in the employee's immediate dismissal from employment.
 - (iii) Conviction of any of the crimes listed in rule 5101:2-5-09 of the Administrative Code while in the employ of the agency shall result in immediate dismissal from employment with the agency.

~~(23)~~(24) An agency which uses volunteers or college interns shall have a written policy for screening which includes conducting criminal background checks, orienting, training, supervising and assigning volunteers and college interns, as appropriate to the function to be performed. The policy shall include a requirement for any volunteer or college intern to notify the agency within twenty-four hours of any charge of any criminal offense that is brought against him. The policy shall also contain the following provisions:

- (a) Failure to notify the agency within twenty-four hours of any charge shall result in immediate dismissal from the agency.
 - (b) If the charges result in a conviction, the volunteer or college intern shall notify the agency within twenty-four hours of the conviction. Failure to notify the agency of any conviction of any criminal offense shall result in the immediate dismissal of the volunteer or college intern from the agency.
 - (c) Conviction of any of the crimes listed in rule 5101:2-5-09 of the Administrative Code while serving as a volunteer or college intern for the agency shall result in the immediate dismissal of the volunteer or college intern from the agency.
- ~~(24)~~(25) An agency shall have a written policy and procedure which assures protection of a child's civil rights.
- ~~(25)~~(26) An agency operating a foster care program shall include in its foster care policy a copy of the JFS 01611 "Non-discrimination Requirements for Foster Care and Adoptive Placements," ~~(rev. 1/2009)~~. No additional language regarding non-discrimination in the foster care process based upon race, color, or national origin shall be permitted in the PCSA, PCPA or PNA foster care policy unless additional language is required pursuant to a federal court order and is approved by the ODJFS.
- ~~(26)~~(27) An agency operating a foster care program shall comply with the standards of conduct regarding MEPA and Title VI in accordance with rule 5101:2-33-11 of the Administrative Code.
- ~~(27)~~(28) An agency operating a foster care program shall include in its foster care policy the complaint process pursuant to rule 5101:2-33-03 of the Administrative Code.
- ~~(28)~~(29) If a recommending agency has a foster home that is providing care for a child in the custody of another agency, the recommending agency shall have a written policy and procedure to notify the custodial agency if any of the following incidents occur:
- (a) A serious injury or illness involving medical treatment of the foster child.
 - (b) The death of the foster child.
 - (c) Unauthorized absence of the foster child from the home. The recommending agency shall provide the notification to the custodial agency immediately,

but no later than twenty-four hours from the time the recommending agency became aware of the unauthorized absence.

(d) Removal or attempted removal of the foster child from the home by any person or agency other than the placing agency.

(e) Any involvement of the foster child with law enforcement authorities.

~~(29)~~(30) A PCSA shall have a written policy for monitoring the appropriate use of psychotropic medications for children in foster care. In preparation for developing the policy, the PCSA may review the JFS 01682 "Psychotropic medication toolkit for Public Children Services Agencies;" ~~(4/2014)~~. This policy shall include:

(a) Comprehensive and coordinated screening, assessment, and treatment planning mechanisms to identify the child's mental health and trauma-treatment needs including a psychiatric or medical evaluation, as necessary, to identify needs for psychotropic medication.

(b) Informed and shared decision-making and methods for ongoing communication between the prescriber, the child, the child's parents or caregivers, other healthcare providers, and the agency case worker.

(c) Effective medication monitoring for the children placed in care.

~~(30)~~(31) A residential facility operating as a private, nonprofit therapeutic wilderness camp shall have written policies in accordance with division (D) of section 5103.50 of the Revised Code.

(B) Unless otherwise indicated, policies, plans and procedures related to ODJFS certified or approved functions shall be submitted to ODJFS in accordance with the following:

(1) At the time of application for an initial certificate, all policies, plans, and procedures shall be submitted.

(2) At the time of application for an amended certificate to add an additional function, the agency shall submit any policy, plan, or procedure related to the new function.

(3) At the time of request for approval of any new foster home function of a PCSA, all policies, plans, and procedures related to that function shall be submitted.

(4) When an agency revises a policy, plan or procedure, the revision shall be submitted within ninety calendar days of the change.

- (5) If a change of the Administrative Code or the Revised Code requires the agency policy to change, the agency shall submit the affected agency policy to ODJFS within ninety days of the effective date of the Administrative Code or the Revised Code change.
- (C) An agency shall ensure that agency staff and contractors performing work related to the functions listed in rule 5101:2-5-03 of the Administrative Code shall implement all current written policies of the agency related to those functions and that all activities and programs related to those functions occur in accordance with such policies.
- (D) All policies required by this chapter shall be provided to any person affected by the policy. Any policy required by this chapter shall be provided to any person upon request.
- (E) If ODJFS determines an agency's foster care policy, policy revisions or plans are noncompliant, the agency shall accept technical assistance from ODJFS until such time that the policy or recruitment plan is in compliance.

Effective: 10/15/2021
Five Year Review (FYR) Dates: 7/15/2021 and 10/15/2026

CERTIFIED ELECTRONICALLY

Certification

09/24/2021

Date

Promulgated Under: 119.03
Statutory Authority: 5103.03, 5103.54, 5153.166
Rule Amplifies: 5103.03
Prior Effective Dates: 12/30/1966, 10/01/1986, 07/02/1990 (Emer.),
10/01/1990, 01/01/1991, 09/18/1996 (Emer.),
10/21/1996, 05/02/1998, 07/01/2000, 01/01/2003,
02/01/2005, 12/11/2006, 04/01/2010, 07/07/2014,
07/01/2016, 08/01/2017