



August 29, 2022

Family, Children and Adult Services Manual Transmittal Letter No. 502

To: Family, Children and Adult Services Manual Holders

From: Matt Damschroder, Director

Subject: **Amendment to Ohio Administrative Code (OAC) Rules 5101:2-33-26 The County Child Abuse and Neglect Memorandum of Understanding and 5101:2-36-12 PCSA Requirement for Cross-referring Reports of Child Abuse and/or Neglect**

This letter transmits Ohio Administrative Code (OAC) rules 5101:2-33-26 and 5101:2-36-12. OAC 5101:2-33-26 has been amended due to the passage of House Bill 4 and sets forth Public Children Services Agency (PCSA) requirements when developing and submitting the county memorandum of understanding (MOU) for compliance determination. OAC 5101:2-36-12 has been amended due to the passage of House Bill 4 and sets forth PCSA requirements for cross-referring reports of child abuse and/or neglect to law enforcement. These rules will become effective 9/15/2022.

The following is a brief explanation of the changes to these rules:

OAC 5101:2-33-26 entitled **The County Child Abuse and Neglect Memorandum of Understanding** has been amended to outline PCSA requirements for ensuring that the county MOU is signed by specified community partners, approved by the local county commissioners, and submitted to ODJFS biennially. The rule also outlines actions the PCSA is to take if their county's MOU is determined compliant or non-compliant by ODJFS, if a required official refuses to sign the MOU, and if the PCSA revises a previously approved MOU. Paragraphs within the rule have also been restructured and re-worded to promote clarity. Additionally, a new form has been developed to assist PCSAs in implementing the new MOU requirements. The JFS 01425 Model Memorandum of Understanding to Address Child Abuse and Neglect provides an outline and template that PCSAs may use to establish MOUs that meet the statutory requirements.

OAC 5101:2-36-12 entitled **PCSA Requirement for Cross-referring Reports of Child Abuse and/or Neglect** has been amended to include language to reflect the statutory requirement for PCSAs to cross-refer screened-in reports of child abuse to the appropriate law enforcement authority. Language was also added to detail which screened-in reports of child neglect must be cross-referred to law enforcement. These revisions were made to increase communication with law enforcement on cases necessitating a safety plan while promoting PCSA discretion around additional communication with law enforcement.

Wording was also updated to include contacting licensing and supervising authorities for qualified residential treatment programs as applicable.

INSTRUCTIONS:

The following chart indicates the materials that should be removed from the Family, Children and Adult Services Manual (FCASM) and the materials that should be added.

| LOCATION | REMOVE AND FILE AS OBSOLETE | INSERT/REPLACEMENT |
|-------------------------------|------------------------------------|---------------------------|
| MANAGEMENT AND ADMINISTRATION | 5101:2-33-26 | 5101:2-33-26 |
| SOCIAL SERVICES | 5101:2-36-12 | 5101:2-36-12 |
| FORMS | | JFS 01425 |
| | | JFS 01425-I |
| Transmittal Letters | | FCASMTL No. 502 |

5101:2-33-26

The county child abuse and neglect memorandum of understanding.

- (A) The county child abuse and neglect memorandum of understanding, hereinafter referred to as the memorandum, is a document that sets forth the normal operating procedures to be employed by all concerned officials in the execution of their respective responsibilities pursuant to division (J)(2) of section 2151.421 of the Revised Code when conducting a child abuse or neglect assessments/investigations. The purpose of the memorandum is to delineate clearly the role and responsibilities of each official or agency in assessing or investigating child abuse or neglect in the county. The respective duties and requirements of all involved shall be addressed in the memorandum.
- (B) Each public children services agency (PCSA) ~~shall~~ is to prepare a memorandum and submit it to Ohio department of job and family services (ODJFS) before December thirty-first of each biennial year. PCSAs may complete the JFS 01425 "Model Memorandum of Understanding" using JFS 01425I "Instructions for the Model Memorandum of Understanding". The PCSA may create a template in lieu of the JFS 01425, containing all requirements outlined in the JFS 01425, that is signed by all of the following parties:
- ~~(1) The juvenile judge of the county or the juvenile judge's representative; or if there is more than one juvenile judge in the county, a juvenile judge or the juvenile judge's representative selected by the juvenile judges or, if they are unable to do so for any reason, the juvenile judge who is senior in point of service or the senior juvenile judge's representative.~~
 - ~~(2) The county peace officer.~~
 - ~~(3) All chief municipal peace officers within the county.~~
 - ~~(4) Other law enforcement officers who handle child abuse and neglect cases in the county.~~
 - ~~(5) The prosecuting attorney of the county.~~
 - ~~(6) If the PCSA is not the county department of job and family services (CDJFS), the CDJFS.~~
 - ~~(7) The county humane society.~~
 - ~~(8) If the PCSA participated in the execution of a memorandum under section 2151.426 of the Revised Code establishing a children's advocacy center, each participating member of the children's advocacy center.~~

(C) ~~The memorandum is to be signed by the following parties: If any individual serving as the official identified in paragraph (B) of this rule changes, an amendment of the memorandum is required, including the signature of all the required parties:~~

(1) The juvenile judge of the county or the juvenile judge's representative with approval from the juvenile judge; or if there is more than one juvenile judge in the county, a juvenile judge or the juvenile judge's representative selected by the juvenile judges or, if they are unable to do so for any reason, the juvenile judge who is senior in point of service or the senior juvenile judge's representative.

(2) The county peace officer.

(3) Chief peace officers of all political subdivisions within the county.

(4) Other law enforcement officers, designated by the chief of their department, assigned to investigate child abuse and neglect cases in the county.

(5) The prosecuting attorney of the county.

(6) The PCSA.

(7) If the PCSA is not the county department of job and family services (CDJFS), the CDJFS.

(8) The local animal cruelty reporting agency.

(9) If the PCSA participated in the execution of a memorandum under section 2151.426 of the Revised Code establishing a children's advocacy center, each participating member of the children's advocacy center.

(D) The clerk of the court of common pleas in the county may sign the memorandum.

~~(D)~~(E) The memorandum shall include all of the following:

(1) A statement that failure to follow procedures set forth in the memorandum by the concerned officials is not grounds for, and shall not result in the dismissal of any charges or complaints arising from any reported case of abuse or neglect or the suppression of any evidence obtained as a result of any reported child abuse or neglect and does not give, and shall not be construed as giving, any rights or grounds for appeal or post-conviction relief to any person: pursuant to section 2151.4223 of the Revised Code.

(2) The PCSA's system for receiving reports of child abuse and neglect twenty-four hours per day, seven days per week. If the PCSA contracts with an

outside source to receive after-hour calls, a copy of a signed agreement shall be attached to the memorandum which indicates that all reports with identifying and demographic information of the reporter and principals of the report will be forwarded to a designated PCSA worker within an hour of receipt and that confidentiality requirements will be met. In addition, when the PCSA contracts with an outside source, the PCSA shall include in the memorandum its system for informing the general public of the after-hours phone number, as applicable.

- (3) The roles and responsibilities of all concerned officials for responding to emergency and non-emergency reports of child abuse and neglect pursuant to section 2151.4221 of the Revised Code.
- (4) A system for consultation among subscribers as it is deemed necessary to protect children. The county's system for consultation shall include at a minimum the PCSA's protocol for consulting with law enforcement, the prosecuting attorney's office, the juvenile judge, and if applicable, the children's advocacy center established pursuant to section 2151.426 of the Revised Code, for any cases which may require their intervention or assistance.
- (5) Standards and procedures for handling and coordinating joint investigations of reported cases of child abuse and neglect including sharing of investigative reports and procedures specific to cases which:
 - (a) Involve out-of-home care child abuse or neglect.
 - (b) Involve third party investigative procedures and the assistance of law enforcement including addressing instances where law enforcement declines to assist the PCSA.
 - (c) Require law enforcement to respond immediately.
 - (d) Involve a child death in which abuse or neglect is suspected as the cause of death.
 - (e) Involve alleged withholding of medically indicated treatment from disabled infants with life-threatening conditions.
 - (i) Gathering and maintaining current information regarding the name, address, and telephone number of each appropriate health care facility within its jurisdiction.
 - (ii) Identifying and maintaining current data regarding the name, title, and telephone number of each facility's contact person for allegations

involving alleged withholding of medically indicated treatment from disabled infants with life-threatening conditions.

(iii) Identifying and maintaining the name and chairperson of the appropriate health care facility's review committee, if such a committee exists.

(iv) Internal PCSA procedures for intervening in cases involving alleged withholding of medically indicated treatment from disabled infants with life-threatening conditions.

- (f) Involve the death of a child who is in the custody of the PCSA in accordance with rule 5101:2-42-89 of the Administrative Code.
 - (g) Involve alleged child abuse and/or neglect constituting a crime against a child, including human trafficking, and require a joint assessment/investigation with law enforcement. The procedures shall include a statement of assurance as to how the PCSA will ensure child safety and not compromise the child protective assessment/investigation while concurrently assisting law enforcement with the criminal investigation.
- (6) A statement addressing the PCSA's policy for requesting the assistance of law enforcement, which may include, but is not limited to:
- (a) The PCSA has reason to believe the child is in immediate danger of serious harm.
 - (b) The PCSA has reason to believe the worker is, or will be in danger of harm.
 - (c) The PCSA has reason to believe that a crime is being committed, or has been committed against a child.
 - (d) An exigent circumstance exists.
 - (e) The PCSA worker must conduct a home visit after regular PCSA business hours and a law enforcement escort is requested as a standard operating procedure.
 - (f) The PCSA is removing a child from his or her family via an order of the court and the assistance of law enforcement is needed as the PCSA has reason to believe the family will challenge the removal.

- (g) The PCSA is working with a client who has a propensity toward violence and the assistance of law enforcement is needed to ensure the safety of all involved.
 - (h) The PCSA is working with a family that has historically threatened to do harm to PCSA staff.
- (7) A statement regarding the processes and procedures to attempt to ensure the assistance of law enforcement is obtained timely in cases where child abuse or neglect is alleged in order to ensure child safety and conduct investigative activities within the maximum sixty day time frame afforded PCSAs to complete abuse/neglect assessment/investigations pursuant to Chapter 5101:2-36 of the Administrative Code.
- (8) Methods to be used in interviewing the child who is the subject of the report.
- (9) Standards and procedures addressing the categories of persons who may interview the child who is the subject of the report.
- (10) A system for the elimination of all unnecessary interviews of a child who is the subject of the report.
- (11) A system for receiving and responding to reports involving:
- (a) Individuals who aid, abet, induce, cause, encourage, or contribute to a child or a ward of the juvenile court:
 - (i) Becoming a dependent or neglected child.
 - (ii) Becoming an unruly or delinquent child.
 - (iii) Leaving the custody of any person, department, or public or private institution without the legal consent of that person, department, or institution.
 - (b) Missing children.
- (12) Standards and procedures for removing and placing children on an emergency and non-emergency basis.
- (13) The PCSA's system for notifying the county prosecuting attorney or city director of law when any mandated reporter of child abuse or neglect fails to report suspected or known child abuse or neglect.

(14) The PCSA's system for notifying the county prosecuting attorney or city director of law when there is unauthorized dissemination of confidential PCSA information.

~~(15) The PCSA's procedures to respond to cases regarding the alleged withholding of medically indicated treatment from a disabled infant with life threatening conditions including:~~

~~(a) Gathering and maintaining current information regarding the name, address, and telephone number of each appropriate health care facility within its jurisdiction.~~

~~(b) Identifying and maintaining current data regarding the name, title, and telephone number of each facility's contact person for allegations involving alleged withholding of medically indicated treatment from disabled infants with life-threatening conditions, hereinafter referred to as alleged withholding.~~

~~(c) Identifying and maintaining the name and chairperson of the appropriate health care facility's review committee, if such a committee exists.~~

~~(d) Internal PCSA procedures for intervening in cases involving alleged withholding.~~

~~(E)~~(F) In accordance with rule 5101:2-5-13.1 of the Administrative Code, the memorandum may address how the PCSA would continue to maintain operations including, but not limited to, receiving and investigating child abuse and/or neglect reports in the event of a disaster.

~~(F)~~(G) The PCSA is to ensure that every official pursuant to paragraphs (C) and (D) of this rule biennially: ~~All PCSAs shall submit a written copy of the memorandum to the appropriate Ohio department of job and family services (ODJFS) field office.~~

(1) Reviews and evaluates the memorandum for updates to terms and procedures;

(2) Updates the memorandum terms and procedures, if it is determined that an update is necessary;

(3) Signs the reviewed memorandum.

~~(1) The PCSA shall submit a written copy of any amendment to the memorandum to the appropriate ODJFS field office within ninety days of amendment.~~

~~(2) If amendment to the memorandum is necessary because of revisions to this rule, the PCSA shall submit a written copy of the revised memorandum to the ODJFS field office within ninety days of the effective date of this rule. The revised memorandum shall be signed by all parties to the memorandum.~~

(H) Upon obtaining the required signatures, the PCSA is to submit the signed memorandum to the board of county commissioners for approval.

(I) The PCSA is to submit a copy of the memorandum to Ohio department of job and family services (ODJFS) within thirty days from the board of county commissioners' approval and before December thirty-first each biennium for compliance determination.

(J) If ODJFS determines the memorandum to be compliant pursuant to section 2151.4230 of the Revised Code, the memorandum is considered effective and supersedes any previous memorandum. The PCSA is to post the memorandum to the general web site of the county within thirty days from the compliance determination.

(K) If ODJFS determines the memorandum is non-compliant, the PCSA is to submit a compliance assurance plan not later than sixty days from the date ODJFS determined the memorandum non-compliant.

(L) If there is a change to an individual who signed the memorandum pursuant to paragraphs (C) and (D) of this rule the PCSA is to provide the new individual with a copy of the current memorandum and obtain their signature acknowledging the memorandum. The new individual remains bound by the most recently approved version of the memorandum for the remainder of the biennium.

(M) If any required official refuses to sign the agreement, the PCSA is to document the reason(s) for the refusal to sign.

(N) If the PCSA revises a previously approved memorandum, the PCSA is to obtain all required signatures and submit a copy of the revised memorandum to ODJFS within ninety days.

Effective: 9/15/2022

Five Year Review (FYR) Dates: 5/30/2025

CERTIFIED ELECTRONICALLY

Certification

08/24/2022

Date

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07/01/2014

5101:2-36-12 **PCSA ~~requirement~~ requirements for cross-referring reports of child abuse and/or neglect.**

- (A) The provisions of rule 5101:2-33-21 of the Administrative Code regarding confidentiality apply to all cross-referrals of child abuse and/or neglect required by this rule.
- (B) At minimum, the ~~The~~ public children services agency (PCSA) ~~shall~~ is to make a cross referral to law enforcement; ~~if the report alleges a criminal offense.~~
- (1) Upon receiving information alleging a criminal offense.
 - (2) Within seven calendar days of screening in a report alleging abuse in which law enforcement is not the referent.
 - (3) Within seven calendar days of screening in a report alleging neglect in which law enforcement is not the referent if the PCSA enacts a safety plan, including but not limited to removal, due to neglect.
- (C) The PCSA shall cross refer reports of child abuse and or neglect in accordance with the PCSA's county child abuse and neglect memorandum of understanding, and if applicable, the interagency agreement with a child advocacy center pursuant to rule 5101:2-33-26 of the Administrative Code and section 2151.428 of the Revised Code.
- (D) The PCSA shall contact the following licensing and supervising authorities, as applicable, no later than the next working day from the date the referral was screened in to share information pursuant to rules 5101:2-33-21 and 5101:2-36-04 of the Administrative Code:
- (1) The Ohio department of developmental disabilities (ODDD) division of developmental centers quality assurance if the report involves a developmental center managed by ODDD; or the office of licensure if the report involves a foster or group home licensed by ODDD.
 - (2) The local county board of developmental disabilities (DD) if the report involves any program managed by the county board of DD.
 - (3) The local board of alcohol, drug addiction, and mental health and the Ohio department of mental health and addiction services (OMHAS) if the report involves a qualified residential treatment program certified by OMHAS ~~residential care facility licensed by ODMH.~~
 - (4) The Ohio department of youth services' (ODYS) chief inspector if the report involves an institution or facility for delinquent children managed by ODYS; or the juvenile judge and ODYS' division of parole, courts, and community

services if the report involves a detention or rehabilitation facility managed by a juvenile court and approved by ODYS.

- (5) The superintendent of the local schools or the Ohio department of education's (ODE) legal counsel if the report involves the school for the deaf or blind or early education programs managed by ODE.
- (6) The Ohio department of job and family services (ODJFS), foster care licensing, if the report involves a foster home, group home, ~~or~~ children's residential facility, or qualified residential treatment program certified by ODJFS.
- (7) The ODJFS, child care licensing, if the report involves a child care center (~~more than twelve children~~) or a type A or type B family child care home which is or should be licensed by ODJFS.
- (8) The local county department of job and family services (CDJFS) if the report involves an in-home aide who is certified by the CDJFS or a type B family child care provider.

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CERTIFIED ELECTRONICALLY

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08/24/2022

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