



December 1, 2022

**Family, Children and Adult Services Manual Transmittal Letter No. 514**

**To:** Family, Children and Adult Services Manual Holders  
**From:** Matt Damschroder, Director  
**Subject:** **Public Children Services Agency Case Plan & SAR for Concurrent Planning**

This letter transmits Ohio Administrative Code (OAC) rules 5101:2-38-05 and 5101:2-38-10, which were amended due to revisions in Ohio Revised Code (ORC) 2151.412 upon the passing of House Bill 110 of the 134<sup>th</sup> General Assembly (HB 110). These rules outline the requirements for concurrent planning to be addressed in the family case plan and during the semiannual administrative review (SAR). These rules will become effective on 1/1/2023.

The following is a brief explanation of the rules:

OAC 5101:2-38-05 entitled **PCSA Family Case Plan for Children in Custody or Under Protective Supervision** identifies the requirements for a PCSA when completing a family case plan. The rule includes requirements for concurrent planning within the family case plan when a child enters temporary custody of a PCSA. Language has been included to meet federal and state requirements established in ORC 2151.412.

OAC 5101:2-38-10 entitled **PCSA Requirements for Completing the Semiannual Administrative Review** identifies the requirements for a PCSA when completing a semiannual administrative review (SAR). The rule includes requirements to review the concurrent plan. Language has been included to meet federal and state requirements established in ORC 2151.412.

**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
SOCIAL SERVICES	5101:2-38-05	5101:2-38-05
SOCIAL SERVICES	5101:2-38-10	5101:2-38-10
TRANSMITTALS		FCASMTL No. 514

5101:2-38-05

**PCSA family case plan for children in custody or under protective supervision.**

- (A) The public children services agency (PCSA) shall develop and complete the family case plan if services are provided to the child in the child's own home or in a substitute care setting and file with the court no later than thirty days from when one of the following occurs:
- (1) The PCSA files a complaint pursuant to section 2151.27 of the Revised Code alleging the child is an abused, neglected, or dependent child.
  - (2) The PCSA has court ordered temporary custody or permanent custody of the child.
  - (3) The court orders the PCSA to provide protective supervision for a child living in the child's own home.
  - (4) The court orders the PCSA to place the child, sixteen or older, in a planned permanent living arrangement.
- (B) The PCSA shall develop one family case plan per case unless directed otherwise by an order of the court.
- (C) The following are considered parties to the family case plan:
- (1) Child's parent (including non-custodial parent), guardian, or custodian.
  - (2) Pre-finalized adoptive parent, if applicable.
  - (3) Guardian ad litem and or court appointed special advocate, if one has been appointed.
  - (4) Child age fourteen and older.
  - (5) Child under age fourteen if developmentally appropriate.
  - (6) The Indian custodian, if any, and child's Indian tribe and extended relatives as defined in rule 5101:2-53-01 of the Administrative Code, if applicable.
  - (7) Child's attorney, if applicable.
  - (8) Any other party specifically identified by the court as a party to the family case plan.
- (D) The family case plan shall be based on the completion of the "Family Assessment."

(E) Completion of the "Family Assessment" is not required in order to complete a family case plan resulting from the following family in need of service reports:

- (1) Deserted child.
- (2) Emancipated youth.
- (3) Permanent surrender.
- (4) Interstate compact on the placement of children.

(F) Notification and participation of the child or parent is not required for the development of the family case plan or any updates to the family case plan if the child has been adjudicated as a deserted child pursuant to section 2151.3519 of the Revised Code.

(G) When initiating the family case planning process, the PCSA shall:

- (1) Unless the family agrees to waive the right to the seven days' notice, the PCSA is to provide at least seven days' notice of the opportunity to participate in the development of the family case plan to the following:
  - (a) All parties to the family case plan as outlined in paragraph (C) of this rule.
  - (b) The substitute caregiver as defined in rule 5101:2-1-01 of the Administrative Code.
  - (c) For substitute care cases in which the child is age fourteen and older, two individuals, at the option of and as selected by the child, pursuant to rule 5101:2-42-19 of the Administrative Code and in accordance with the JFS 01677 "Foster Youth Rights Handbook."
    - (i) One of the individuals selected by the child may be designated to be the child's advisor and advocate regarding application of the prudent parent standard.
    - (ii) A PCSA may reject individuals referenced in paragraph (G)(1)(c) of this rule if the agency has good cause to believe the individual(s) would not act in the best interest of the child. The agency shall document in an activity log the individual's name and the reason the agency found the individual would not act in the best interest of the child.
  - (d) The permanency team for substitute care cases in which a child is placed in an approved qualified residential treatment program (QRTP) determined

by the assessment pursuant to rule 5101:2-42-12 of the Administrative Code.

- (2) Document the date and method of notification, along with any waivers of notification.
  - (3) Work with all parties on the development of the family case plan; attempt to obtain agreement of the contents of the family case plan by the parties outlined in paragraph (C) of this rule and provide each party with a copy of the family case plan no later than seven days from the child's parent (including non-custodial parent), guardian, or custodian's signature not including the date of signature.
  - (4) Inform all parties identified in paragraph (C) of this rule if agreement cannot be obtained on the contents of the family case plan, the parties may present evidence at the dispositional hearing and the court will determine the contents of the family case plan based upon the evidence presented.
- (H) The family case plan shall include a written visitation plan for siblings removed from their home and not jointly placed pursuant to rules 5101:2-42-92 and 5101:2-39-01 of the Administrative Code. The visitation plan shall provide for regular, ongoing visitation and interaction between the siblings no less than monthly unless the PCSA has documented that it would be contrary to the safety or well-being of any child.
- (I) For all children receiving PCSA services pursuant to rule 5101:2-42-92 of the Administrative Code the family case plan shall include a written visitation plan for the child's parent (including non-custodial parent), guardian, or custodian. The visitation plan shall provide for regular, ongoing visitation and interaction between the child placed in substitute care and the parent (including non-custodial parent), guardian, or custodian.
- (J) The PCSA shall attach the JFS 01443 "Child's Education and Health Information," to the family case plan for each child placed in a substitute care setting.
- (K) The family case plan is to contain required documentation of the family and permanency team for a child placed in a qualified residential treatment program (QRTP) pursuant to rules 5101:2-38-05.1 and 5101:2-42-12 of the Administrative Code.
- (L) The PCSA shall act in accordance with Chapter 5101:2-53 of the Administrative Code for children identified as Indian. Services provided shall be specifically designed for the Indian family if available, including resources of the extended family, the tribe, Indian organizations, tribal family service programs and individual Indian caregivers.
- (M) If sufficient information is not available to complete any element contained on the family case plan, the PCSA shall do all of the following:

- (1) Specify in the family case plan developed pursuant to paragraph (G) of this rule, the additional information needed in order to complete all parts of the family case plan and the steps needed to obtain the missing information and file with the court.
  - (2) Obtain the missing information, complete the missing elements of the family case plan, and submit to the court no later than thirty days after the adjudicatory hearing or by the date of the dispositional hearing.
- (N) The family case plan shall serve as the permanency plan for the child.
- (O) Once the court journalizes the family case plan, the parties including PCSA staff, are bound by the provisions outlined in the journalized family case plan. Failure to comply with the family case plan by any party to the family case plan may result in a finding of contempt of court.
- (P) The PCSA shall complete contact in accordance with the following:
- (1) For court-ordered protective supervision cases the PCSA shall:
    - (a) Complete face-to-face contact with each parent (including non-custodial parent), guardian, or custodian, or if applicable, pre-finalized adoptive parent, and child participating in and being provided services listed in the family case plan no less than monthly to monitor progress on the family case plan objectives.
    - (b) Complete at least one contact every other month in the child's parent (including non-custodial parent), guardian, or custodian's home, or if applicable, pre-finalized adoptive parent's home.
  - (2) For cases with children in temporary custody of the PCSA, the PCSA shall:
    - (a) Complete face-to-face contact with the child pursuant to rule 5101:2-42-65 of the Administrative Code.
    - (b) Complete face-to-face contact with each parent (including non-custodial parent), guardian, or custodian, or if applicable, pre-finalized adoptive parent participating in and being provided services listed in the family case plan no less than monthly to monitor progress on the family case plan objectives.
    - (c) Complete at least one contact every other month in the child's parent (including non-custodial parent), guardian, or custodian's home, or if applicable, pre-finalized adoptive parent's home.

- (3) For cases with children in the permanent custody of the PCSA, the PCSA shall:
- (a) Complete face-to-face contact with the child pursuant to rule 5101:2-42-65 of the Administrative Code.
  - (b) Complete face-to-face contacts pursuant to rule 5101:2-48-17 of the Administrative Code, as applicable.
- (Q) If the initial attempt to complete face-to-face contact pursuant to paragraph (P) of this rule is unsuccessful, the PCSA shall make a minimum of two additional attempts to complete the face-to-face contacts within the month.
- (R) For an adult who is a party to the family case plan where minimum face-to-face contacts cannot be completed pursuant to paragraph (P) of this rule and the attempts of face-to-face contact pursuant to paragraph (Q) of this rule have been completed, the subsequent month(s) the PCSA is to identify and document the following information and provide regulatory review of the contact status with the individual in SACWIS:
- (1) The case circumstance, identifying the barrier to completing face-to-face contact.
  - (2) The alternative forms of contact, if possible, to be completed with the individual in lieu of face-to-face contact (telephone, video conference, electronic communication, etc).
  - (3) The plan of diligent efforts to successfully resume monthly face-to-face contact with the individual.
  - (4) Supervisory approval.
- (S) The PCSA may suspend home visits with the child's parent (including non-custodial parent), guardian, or custodian of a child in PCSA custody if conducting visits in the home presents a threat to the safety of the caseworker. A written justification to suspend visits in the home shall be documented in the case record and shall include all of the following:
- (1) Identification of the specific threat to the caseworker's safety and the person posing the threat.
  - (2) Identify alternative forms of contact, if possible, to be completed with the individual in lieu of face-to-face contact (telephone, video conference, electronic communication, etc).
  - (3) The plan of diligent efforts to successfully resume monthly face-to-face contact with the individual.

- (4) Authorization of the executive director or his or her designee to suspend home visits.
- (T) If home visits are suspended pursuant to paragraph (S) of this rule, the PCSA shall complete face-to-face contact with the child's parent (including non-custodial parent), guardian, or custodian no less than monthly in a location that assists in ensuring the safety of the caseworker.
- (U) If a voluntary family case plan had been implemented pursuant to rule 5101:2-38-01 of the Administrative Code and the PCSA determines the involvement of the court is necessary, the PCSA shall update the family case plan and submit the updated family case plan to the court within fourteen days of the event listed in paragraph (A) of this rule.
- (V) If a prevention services plan under the "Prevention Services" case category in SACWIS is to transfer to a family case plan under the "Ongoing" case category in SACWIS pursuant to rule 5101:2-40-05 of the Administrative Code, the PCSA is to create and submit a family case plan to the court within fourteen days of the event listed in paragraph (A) of this rule.
- (W) The PCSA shall contact the parties to the family case plan as outlined in paragraph (C) of this rule and seek agreement and obtain the signatures of the parties to the family case plan for any update to the family case plan if any of the following occurs:
- (1) The conditions of the child or the child's parent (including non-custodial parent), guardian, or custodian, or if applicable, pre-finalized adoptive parent change; and the change affects the legal status of the child or the provision of supportive services.
  - (2) There is a change in the goal for the child and/or changes that family members need to address to alleviate concerns.
  - (3) The child needs to be placed in a substitute care setting; reunified with the child's parent (including non-custodial parent), guardian, custodian, or pre-finalized adoptive parent; or moved to another substitute care setting.
  - (4) The child attains the age of fourteen, has had a completed life skills assessment, and an independent living plan is developed pursuant to rule 5101:2-42-19 of the Administrative Code.
  - (5) The child attains the age of sixteen and the court orders the PCSA to place the child in a planned permanent living arrangement.
  - (6) A change in the visitation plan for a child.

- (7) A party must be added or deleted from the family case plan.
- (X) The PCSA shall record, on the family case plan, the reasons for any agreed upon update made and submit the updated family case plan to the court within seven days of the change.
- (Y) If agreement as described in paragraph (X) of this rule is not obtained, the PCSA shall request a change in the family case plan by filing the proposed change with the court and do the following:
- (1) Provide written notice of the proposed change to all parties listed in paragraph (C) of this rule.
    - (a) Written notice of the proposed change shall be provided no later than the close of business of the day after the proposed change is filed with the court.
    - (b) Notify parties listed in paragraph (C) of this rule; that if a party disagrees with the change in the family case plan, the party may request a court hearing of the proposed change within seven days of the filing with the court, not including the date of filing.
  - (2) The PCSA may implement the update fifteen days after it is filed with the court if:
    - (a) The court does not approve or disapprove the change.
    - (b) The court does not schedule a hearing.
    - (c) The court journalizes the updated family case plan.
- (Z) In an emergency situation or if a child is in immediate danger of serious harm, the PCSA shall implement the change, update the family case plan, and do all of the following:
- (1) Notify all parties of the family case plan, as outlined in paragraph (C) of this rule, and the court of the change no later than the next day.
  - (2) File a statement of the change with the court within three days of the change.
  - (3) Provide to all parties to the family case plan as outlined in paragraph (C) of this rule the following:
    - (a) A copy of the statement filed with the court within three days of the change.



- (b) Notification that if any party disagrees with the change in the family case plan, the party has ten days to object to the change and to request a court hearing.
- (4) Continue to implement the change unless the court disapproves.
- (5) Revert back to implementing the provisions of the journalized family case plan if the court does not approve the change.
- (AA) The PCSA shall review the progress in achieving the family case plan objectives and services by completing the "Case Review" pursuant to rule 5101:2-38-09 of the Administrative Code and the "Semiannual Administrative Review (SAR)" pursuant to rule 5101:2-38-10 of the Administrative Code.
- ~~(BB) The PCSA may develop a supplemental plan for locating a permanent family placement for a child concurrently with reasonable efforts to preserve and reunify families. The supplemental plan shall not be considered a part of the family case plan and does not require agreement or approval by the parties to the family case plan as outlined in paragraph (C) of this rule. Any supplemental plan shall be discussed and reviewed with the parent (including non-custodial parent), guardian, or custodian. The PCSA is to exercise due diligence in informing relatives and kin of their options pursuant to rule 5101:2-39-01 of the Administrative Code.~~
- (BB) The PCSA is to document the permanency plan and the concurrent plan objective for a child in temporary custody when the primary permanency plan is reunification on the family case plan effective on or after January 1, 2023. For children in custody prior to January 1, 2023, a concurrent plan will be documented in the family case plan no later than July 1, 2023. The concurrent plan is to be documented in the case record and reviewed during the SAR. The concurrent plan is an additional plan to achieve permanency for the child in the event the primary permanency case plan goal is unable to be achieved.
- (CC) The PCSA shall maintain a copy of the original family case plan, all updates, documentation of the face-to-face contacts, home visits, including attempted contacts and home visits to monitor progress on the family case plan objectives.
- (DD) Upon determining case closure the PCSA shall do all of the following:
- (1) Notify all parties of the family case plan as listed in paragraph (C) of this rule of the case closure and document in SACWIS the date and method of notification.
  - (2) Update family case plan.

Effective: 1/1/2023

Five Year Review (FYR) Dates: 2/1/2027

CERTIFIED ELECTRONICALLY

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Certification

11/29/2022

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Date

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5101:2-38-10      **PCSA requirements for completing the semiannual administrative review.**

- (A) Each public children services agency (PCSA) required to prepare a "Family Case Plan" for a child pursuant to rule 5101:2-38-01 or 5101:2-38-05 of the Administrative Code shall complete the JFS 01412 "Semiannual Administrative Review (SAR)" for the "Family Case Plan."
- (B) The PCSA shall complete the SAR no later than every one hundred eighty days from whichever of the following activities occurs first:
- (1) Date the original PCSA court complaint was filed.
  - (2) Date of placement.
  - (3) Date of court ordered protective supervision.
  - (4) Date of parent, guardian, or custodian's signature on the "Family Case Plan" for in-home supportive services only.
- (C) The PCSA shall continue to complete the SAR no later than every one hundred eighty days from the date established pursuant to paragraph (B) of this rule.
- (D) The PCSA shall complete the SAR no more than thirty days prior to the due date.
- (E) The PCSA shall complete the "Case Review" in conjunction with the SAR.
- (F) The PCSA is to approve the SAR within five working days from the date of submission in SACWIS.
- (G) The PCSA is to provide at least seven days' notice prior to the SAR including date, time, and place convenient to the family to all of the following:
- (1) For in-home supportive services cases, all parties to the "Family Case Plan" as outlined in paragraph (C) of rule 5101:2-38-01 of the Administrative Code.
  - (2) For protective supervision and substitute care cases:
    - (a) All parties to the "Family Case Plan" as outlined in paragraph (C) of rule 5101:2-38-05 of the Administrative Code.
    - (b) The substitute caregiver, as defined in rule 5101:2-1-01 of the Administrative Code.

- (c) For substitute care cases in which the child is age fourteen and older, two individuals as outlined in paragraph (G)(1)(c) of rule 5101:2-38-05 of the Administrative Code.
  - (d) The permanency team members for a child placed in an approved qualified residential treatment program (QRTP) pursuant to rule 5101:2-42-12 of the Administrative Code.
- (H) The PCSA does not have to include any individual listed in paragraph (G) of this rule if any of the following apply:
- (1) Cannot be located after reasonable efforts to do so;
  - (2) Declines to participate in the SAR after being contacted; or
  - (3) Fails to appear for the scheduled review.
- (I) For a child adjudicated as a deserted child, pursuant to section 2151.3519 of the Revised Code, an invitation and participation of the child and parent in the SAR is not required.
- (J) For in-home supportive services cases, a review panel of at least two people is to conduct the SAR. The review panel is to include but not be limited to:
- (1) A caseworker with day-to-day responsibility for, or familiarity with, the management of the "Family Case Plan,"
  - (2) A supervisor or designee.
- (K) For protective supervision and substitute care cases, a review panel of at least three people is to conduct the SAR. The review panel is to include but not be limited to:
- (1) A caseworker with day-to-day responsibility for, or familiarity with, the management of the "Family Case Plan."
  - (2) A person, not responsible for the management of the "Family Case Plan," or the delivery of services to the child, the child's parent, guardian, custodian, pre-finalized adoptive parent, or substitute caregiver.
  - (3) A supervisor or designee.
- (L) A court hearing may take the place of a SAR with the individuals listed in paragraph (K) of this rule if all of the following requirements are met:
- (1) The hearing is held in time to comply with paragraph (B) of this rule.

- (2) Notification is made to the parties to the "Family Case Plan" as outlined in paragraph (C) of rule 5101:2-38-05 of the Administrative Code.
  - (3) During the hearing, the court addresses each of the issues stated in paragraph (N) of this rule.
  - (4) The court hearing documents each issue either on the SAR or by journal entry.
- (M) For in-home supportive services cases, the PCSA shall provide a copy of the SAR to all parties outlined in paragraph (G)(1) of this rule no later than seven days after completion of the SAR.
- (N) For protective supervision and substitute care cases the PCSA shall:
- (1) File with the court a copy of the SAR no later than seven days after completion of the SAR and shall include a copy of the updated "Family Case Plan" as applicable.
  - (2) Provide a copy of the SAR to all parties to the "Family Case Plan" in accordance with paragraph (G)(2)(a) of this rule, before the end of the next business day, after filing the SAR with the court.
  - (3) Indicate, in writing, the parties identified in paragraph (G)(2)(a) of this rule shall have seven days after the date the notice is sent to object to proposed changes made in the "Family Case Plan" as a result of the SAR and request a hearing on the proposed change.
- (O) For cases with an active concurrent plan the PCSA will review and complete applicable updates within each SAR.
- ~~(P)~~ (P) The PCSA shall maintain a copy of the SAR and any resultant updates to the "Family Case Plan" in SACWIS.

Effective: 1/1/2023

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CERTIFIED ELECTRONICALLY

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Certification

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Date

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