



December 19, 2023

Family, Children and Adult Services Manual Transmittal Letter No. 532

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 and 5101:2-9

This letter transmits amendments to three Ohio Administrative Code (OAC) rules and one new rule regarding Scholar Residential Centers as a result of HB 33 of the 134th General Assembly. These rules will be effective XXXX, 2023.

The following is a brief summary of the changes and additions:

OAC 5101:2-5-03 entitled **Certification of an agency to perform specific functions** provides guidance to agencies on what functions of certification is available for agencies. Paragraph (D) was amended to add a scholars residential center as a function type.

OAC 5101:2-5-18 entitled **Waivers and variances** provides guidance to agencies on how to request a rule waiver. Paragraph (A) was amended to allow a scholars residential center to request agency waivers and to allow an agency to request a waiver for a foster home in the case of a disaster or emergency situation regarding the home.

OAC 5101:2-9-42 entitled **Qualified residential treatment program** provides guidance to agencies on the requirements for the operation of a QRTP. The definition in paragraph (A) was amended to add a scholars residential center is exempt from being a QRTP.

OAC 5101:2-9-45 entitled **Scholars residential center** provides guidance to agencies on a new residential facility called a scholars residential center which is focused on an educational population of children.

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	5101:2-5-03	5101:2-5-03
	5101:2-5-18	5101:2-5-18
	5101:2-9-42	5101:2-9-42
		5101:2-9-45
Transmittal Letters		FCASMTL No. 532

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.
- (5) To operate residential infant care center(s).
- (6) To operate family preservation center(s).

(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 operate residential infant care center(s).
- (7) To operate family preservation center(s).

(8) To operate a scholars residential center(s).

~~(8)~~(9) To act as a representative of ODJFS in recommending pre-adoptive infant foster homes for certification.

~~(9)~~(10) To act as a representative of ODJFS in recommending family foster homes for certification.

- ~~(10)~~(11) To act as a representative of ODJFS in recommending treatment foster homes for certification.
- ~~(11)~~(12) To act as a representative of ODJFS in recommending medically fragile foster homes for certification.
- ~~(12)~~(13) To accept temporary, permanent or legal custody of children.
- ~~(13)~~(14) 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 operate residential infant care center(s).
 - (8) To operate family preservation center(s).
 - (9) To operate a scholars residential center(s).
- ~~(9)~~(10) To act as a representative of ODJFS in recommending pre-adoptive infant foster homes for certification.
- ~~(10)~~(11) To act as a representative of ODJFS in recommending family foster homes for certification.
- ~~(11)~~(12) To act as a representative of ODJFS in recommending treatment foster homes for certification.
- ~~(12)~~(13) To act as a representative of ODJFS in recommending medically fragile foster homes for certification.
- ~~(13)~~(14) 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.
- (F) Any certificate issued by ODJFS shall not be transferable from one agency, owner, operator, corporation, partnership, or association to another.
- (G) A PCPA shall maintain compliance with any applicable rules 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.
- (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.
- (I) An agency may voluntarily terminate certification of any or all of its authorized functions upon written notice to ODJFS.

Effective: 1/1/2024

Five Year Review (FYR) Dates: 1/1/2028

CERTIFIED ELECTRONICALLY

Certification

12/18/2023

Date

Promulgated Under: 119.03
Statutory Authority: 5103.03, 5103.6018, 5103.617, 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, 10/15/2021, 01/01/2023

5101:2-5-18

Waivers and variances.

- (A) The granting of a waiver of any requirement imposed by Chapters 5101:2-1, 5101:2-5, 5101:2-7, 5101:2-9, 5101:2-39, and 5101:2-42 of the Administrative Code is a discretionary act of the Ohio department of job and family services (ODJFS) based upon documentation as to why the agency or foster caregiver is not in compliance. The refusal of ODJFS to grant a waiver, in whole or in part, shall be final and shall not be construed as creating any rights to a hearing under Chapter 119. of the Revised Code. Waivers shall only be requested, and will be considered on a case by case basis, for the following:
- (1) Relative foster homes when the request is for a non-safety issue. As used in this rule, relative has the same meaning as kin.
 - (2) A private, nonprofit therapeutic wilderness camp (PNTWC).
 - (3) A scholars residential center.
 - (4) An agency may request a waiver for a foster home in the event of a disaster or emergency where the home or part of the home becomes uninhabitable.
- (B) A request for a waiver shall be written and time limited. A waiver request shall include sufficient information, including the time period for which the waiver is requested. The time limit of a waiver shall not exceed the expiration date of the current certificate. Upon the written request of an agency, a waiver may be renewed, at the discretion of ODJFS, contingent upon documentation to ODJFS of the efforts of the agency or foster caregiver to come into compliance and the reasons they have not come into compliance.
- (C) A request for a waiver of the requirements or prohibitions imposed by Chapters 5101:2-1, 5101:2-5, 5101:2-9, 5101:2-39, and 5101:2-42 of the Administrative Code on an agency's administration shall be written using the JFS 01376 "Rule Waiver Request for Agencies, CRCs and Group Homes" and submitted to the appropriate ODJFS field office.
- (D) A request for a waiver of the requirements or prohibitions imposed upon a foster home or a foster caregiver by Chapters 5101:2-1, 5101:2-7, 5101:2-39, and 5101:2-42, of the Administrative Code and related foster home provisions of Chapter 5101:2-5 of the Administrative Code shall be requested through the statewide automated child welfare information system (SACWIS).
- (E) The approval of a waiver request by ODJFS shall not be construed as constituting precedence for the approval of any other waiver request or the renewal of an existing waiver.

- (F) Waiver requests that have been approved prior to the effective date of this rule shall remain in effect until the waiver expires unless the terms or conditions of the waiver are violated or otherwise become nullified by a situation or by a change in the applicable Administrative Code rule.
- (G) Effective October 1, 2011, no variances shall be approved.
- (H) Variance requests that have been approved prior to October 1, 2011 shall remain in effect unless the terms or conditions of a variance are violated or otherwise become nullified by a situation or by a change in the applicable Administrative Code rule. If the variance is nullified, it shall be rescinded. ODJFS has sole discretion in the rescission of a variance. The rescission of a variance shall not be construed as creating any rights to a hearing under Chapter 119. of the Revised Code.

Effective: 1/1/2024

Five Year Review (FYR) Dates: 6/15/2025

CERTIFIED ELECTRONICALLY

Certification

12/18/2023

Date

Promulgated Under: 119.03
Statutory Authority: 5103.02, 5103.03
Rule Amplifies: 5103.02, 5103.03 , 5103.54
Prior Effective Dates: 12/30/1966, 10/01/1986, 07/02/1990 (Emer.),
10/01/1990, 01/01/1991, 09/18/1996, 05/01/1998,
07/01/2000, 01/01/2003, 12/11/2006, 10/01/2011,
07/07/2014, 07/01/2016, 04/21/2020 (Emer.),
06/15/2020

5101:2-9-42

Qualified residential treatment program (QRTP).

- (A) A residential facility that is certified by the Ohio department of job and family services (ODJFS) and accepts children for placement is to comply with the requirements in this rule. Agencies whose initial certification date is on or after October 1, 2020 are to be compliant with this rule in order to become certified. Agencies certified prior to October 1, 2020 have until October 1, 2024 to become compliant with the requirements related to meeting QRTP standards. In order to maintain title IV-E reimbursability, residential agencies are to meet the standards in this rule by October 1, 2021.
- (B) A QRTP is defined as a facility that:
- (1) Is not a private, nonprofit therapeutic wilderness camp.
 - (2) ~~Is not a scholars residential facility.~~
 - ~~(2)~~(3) Has a residential program that is accredited by at least one of the following national accrediting bodies and provides ongoing proof of such accreditation status to ODJFS:
 - (a) Commission on accreditation of rehabilitation facilities.
 - (b) Joint commission on accreditation of healthcare organizations.
 - (c) Council on accreditation.
 - ~~(3)~~(4) Implements a trauma-informed approach in which all employees, volunteers, interns and independent contractors within the facility are trained in that trauma-informed approach. Trauma-informed training is to occur within the first thirty days of hire and annually thereafter in accordance with rule 5101:2-9-03 of the Administrative Code. The required trauma training competencies are located at <https://jfs.ohio.gov/ocf/Family-First.stm>.
 - ~~(4)~~(5) Utilizes a trauma-informed treatment model that is approved by ODJFS for the population the facility serves. A trauma-informed treatment model is a program, organization or system that:
 - (a) Ensures all clinical staff are trained on the trauma model approved by ODJFS. If the program adds that staff other than those with clinical responsibilities are to be trained on the trauma model, the program is to document this through policy and training records.
 - (b) Realizes the widespread impact of trauma and understands potential paths for recovery;

- (c) Recognizes the signs and symptoms of trauma in clients, families, staff and others involved with the system;
 - (d) Responds by fully integrating information about trauma into policies, procedures and practices;
 - (e) Seeks to actively resist re-traumatization.
 - (f) Includes service of clinical needs and that:
 - (i) Is an approved trauma informed treatment model applicable to the population of youth served, located at <https://jfs.ohio.gov/ocf/Family-First.stm> or,
 - (ii) Meets the substance abuse and mental health services administration (SAMHSA) implementation domains and follows the six key principles of the SAMHSA trauma informed approach which are located at <https://jfs.ohio.gov/ocf/Family-First.stm>; and
 - (iii) Receives approval by the department or designee.
- ~~(5)~~(6) Has registered or licensed nursing and clinical staff who operate in accordance with the following:
- (a) Provide care within the scope of their practice as defined by state law.
 - (b) Are accessible on-site or face-to-face via interactive videoconferencing based on the youth's clinical and/or medical needs. Interactive videoconferencing may not be appropriate for a youth in crisis at the facility.
 - (c) Are available twenty-four hours a day and seven days a week.
- ~~(6)~~(7) Cooperates with the qualified individual and the family and permanency team to complete the assessment within thirty days of placement of a child in a QRTP in accordance with rule 5101:2-42-12 of the Administrative Code.
- ~~(7)~~(8) Provides consideration for the youth's safety and developmental needs, the treatment should be family-driven with both the youth and the family included in all aspects of care, if in the best interest of the youth. The key components of family-centered residential treatment are to be documented in the child's record and include the following:

- (a) Facilitation of regular contact between the youth and other members of the family including siblings,
- (b) Actively involving and supporting families who have a youth placed in the residential facility,
- (c) Providing outreach, ongoing support and aftercare for the youth and the family.

~~(8)~~(9) Completes discharge planning that is to:

- (a) Include planning for all youth discharged from the QRTP.
- (b) Begin in partnership with the legal custodian and/or custodial agency no later than the next business day after a youth is admitted to the QRTP.
- (c) Be reviewed by the QRTP no less than every thirty days and during every service plan review.

~~(9)~~(10) Provides aftercare support for all youth placed more than fourteen days who are exiting the QRTP to family-based settings including:

- (a) Reunification with family.
- (b) Pre-finalized adoptive family.
- (c) Kinship care.
- (d) Foster care.
- (e) Independent living.

~~(10)~~(11) Includes at least a six-month period of family-based aftercare support for all youth after discharge, even if the youth reaches the age of majority. The aftercare support is to:

- (a) Be provided within the youth or family's community as appropriate to promote the continuity of care for children.
- (b) Be individualized and driven by the youth, the caregivers and the family as appropriate, and include the following:
 - (i) Monthly contact with the youth and caregivers to promote and maintain engagement, and to regularly evaluate the family's

needs. Monthly contact may be in-person, through interactive videoconferencing, or via phone or other electronic means.

- (ii) Referring and coordinating engagement with any applicable community providers serving the youth or family. The QRTP will ensure they make themselves available to the community providers for ongoing consultation and document the consultation in writing. Documentation should include all resources and services needed and detail how the resources and services will be provided.
- (iii) Written documentation provided to all participants of the discharge plan prior to discharge with information on how to access additional supports from the QRTP and community providers including contact information and steps required to access each provider.

~~(H)~~(12) May provide six months of aftercare services as defined in rule 5101:2-1-01 and pursuant to rule 5101:2-47-23.1 of the Administrative Code, if the child was placed by a Title IV-E agency.

~~(12)~~(13) Ensures all QRTP requirements able to be recorded in the residential treatment information system (RTIS) are documented within RTIS.

Effective: 1/1/2024

Five Year Review (FYR) Dates: 10/1/2025

CERTIFIED ELECTRONICALLY

Certification

12/18/2023

Date

Promulgated Under: 119.03
Statutory Authority: 5103.03
Rule Amplifies: 5103.03
Prior Effective Dates: 10/01/2020, 10/01/2021

5101:2-9-45

Scholars residential center.

(A) A scholars residential center (SRC) is a center that meets all of the following:

(1) The center is a certified affiliate in good standing of a national organization with a mission to help underserved children in middle school and high school in a comprehensive manner that:

(a) Is academically focused and service-oriented and in a family-like setting.

(b) Is voluntary and uses a competitive selection process.

(2) Is private and not-for-profit.

(3) Does not receive Title IV-E funding or any associated Title IV funds related to child welfare.

(4) Only accepts direct placement of children placed by their parents or legal guardians.

(B) A private non-custodial agency (PNA) operating as a scholars residential center (SRC) is to comply with all applicable rules of Chapters 5101:2-5 and 5101:2-9 of the Administrative Code. If there is a conflict between a requirement of any provision in this rule or any provision of Chapter 5101:2-5 or 5101:2-9 of the Administrative Code, the provisions of this rule will take precedence.

(C) A scholars residential center is exempt from the following:

(1) Any policy or component of policy that is not specific or relevant to the SRC.

(2) Discharge summaries.

(3) Case plans or service plans.

(4) Recreation and leisure activity requirements, provided that the center has a recreation area available and permits children to swim and has a person present, who has completed life-saving or water safety training.

(5) Visiting and communications policies, provided that the center ensures the children have contact with their family.

(6) Treatment focused requirements established for residential agencies.

(D) A SRC is permitted to request agency waivers.

(E) The SRC training requirements for staff include:

- (1) Orientation training, with a minimum of twenty hours of orientation within the first thirty days of hire before staff are able to be alone with the children, as described within rule 5101:2-9-03 of the Administrative Code.
 - (2) Current American red cross, American heart association, or equivalent first aid and cardiopulmonary resuscitation certification as described within rule 5101:2-9-03 of the Administrative Code.
 - (3) One hour of annual trauma training.
- (F) A center will provide notification and documentation of critical incidents to the child's parent(s) or legal custodian(s).

Effective: 1/1/2024

Five Year Review (FYR) Dates: 01/01/2029

CERTIFIED ELECTRONICALLY

Certification

12/18/2023

Date

Promulgated Under: 119.03
Statutory Authority: 5103.03, 5103.021
Rule Amplifies: 5103.03, 5103.021