

# Ohio Administrative Code Chapters 33 Rule Revisions Summary

## 5101:2-33-21 Confidentiality and dissemination of child welfare information.

Register of Ohio Website Link for 5101:2-33-21:

[http://www.registerofohio.state.oh.us/pdfs/5101/2/33/5101\\$2-33-21 PH OF A RU 20140206 1153.pdf](http://www.registerofohio.state.oh.us/pdfs/5101/2/33/5101$2-33-21 PH OF A RU 20140206 1153.pdf)

	Amendment	Impact
<b>A</b>	Requirements address the confidentiality of child welfare information through the continuum of receiving a referral, screening, assessment/investigation and the provision of ongoing services to families.	All intake types captured in 5101:2-36-01 are now addressed within this rule. The confidentiality of SACWIS as outlined in the Ohio Revised Code was also included.
<b>B and C</b>	Requirements address the notification and documentation of the receiver of confidentiality of child welfare information.	Moved from the old paragraphs E and F. The rule is now structured to address broad confidentiality issues at the beginning of the rule.
<b>D</b>	Requires notification to the county prosecutor or city director of law and ODJFS regarding unauthorized dissemination of child welfare information.	<b>This will impact current internal PCSA processes:</b> Moved from the old paragraph G with the addition of a <b>new requirement to notify ODJFS of any unauthorized dissemination of child welfare information.</b>
<b>E</b>	Prohibits the release of the identity of the referent/reporter.	This was moved from the old paragraph B of the rule and it is now addressed as a separate paragraph for clarity.
<b>F</b>	Requires the release of child welfare information to ODJFS, law enforcement, the county prosecutor, another PCSA or child services agency to assist in carrying out their respective responsibilities to: administer Ohio's child welfare program; investigate child abuse and neglect; investigate a report of an individual making a false allegation; or to issue a subpoena to a referent/reporter.	<b>This may impact current internal PCSA processes:</b> <b>The release of information to the court, for the purpose of issuing a subpoena to the referent/reporter, is a process that occurred in practice; however, it was not addressed in rule previously.</b> Language regarding ODJFS staff was clarified to include staff with supervisory responsibility in administering Ohio's child welfare program. Moved from the old paragraph B to improve the flow of the rule and provide clarity.
<b>G</b>	Requires dissemination of all relevant information to federal, state or local governmental entities, agents of such entities to assist in carrying out their responsibilities to protect children from abuse and neglect.	<b>This will impact current internal PCSA processes:</b> <b>(G) (10) is a new requirement to release information to the approving authority of a kinship care setting if child abuse or neglect is alleged to have occurred.</b>  Requirements listed in (G)(1-16) were moved from the old paragraph (D) (1) (a) through (n) of the rule.  Paragraph (G)(4) combined the requirements outlined in 5101:2-33-22 (C) and 5101:2-33-21 (D)(1)(d) requiring the release of information to any PCSA or child servicing agency currently assessing/investigating a report of child abuse or neglect or providing services to a principal of the case.  Paragraph (G)(16) combined the requirements from the old paragraph (D)(1)(p) and (q) of the rule requiring the release of information to the CDJFS for joint planning and evaluating the fitness of person for a type A or B family child-care home.
<b>H</b>	Permits the PCSA director to authorize the release of relevant information to an individual or agency when it is determined to be in the best interest of the alleged child victim, a child subject of the report, the family, or the caretaker; children in an out of home care setting; a child who is an alleged perpetrator.	<b>This may impact current internal PCSA processes:</b> <b>Added a child subject of the report to address reports assigned to the Alternative Response pathway.</b> All other requirements were moved from the old paragraph (D) (2).
<b>I</b>	Addresses disclosure to the public regarding the findings or information about a case of child abuse or neglect which	<b>This will impact current internal PCSA processes:</b> <b>A new requirement has been added for the PCSA to</b>

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has resulted in either a child fatality or a near fatality. Requires the PCSA to prohibit disclosure of such information if it is determined by the PCSA that any of the following would occur:

- (1) Harm to the child or the child's family.
- (2) Jeopardize a criminal investigation or proceeding.
- (3) Interfere with the protection of those who report child abuse or neglect.

**determine if the release of case information requested for the public will cause harm a child or the child's family, jeopardize a criminal investigation or proceeding or interfere with the protection of those who report child abuse or neglect.** This requirement resulted from policy guidance provided by the Children's Bureau regarding the reauthorization of Child Abuse Prevention and Treatment Act of 2010.

**J** If the PCSA has determined to disclose to the public information pursuant to paragraph (I) of this rule, the PCSA shall provide all of the following:

- (1) The cause of and circumstances regarding the fatality or near fatality.
- (2) The age and gender of the child.
- (3) Information describing and the findings of any previous reports of child abuse or neglect assessment/investigations that are pertinent to the child abuse or neglect that led to the fatality or near fatality.
- (4) Any services provided by the PCSA on behalf of the child that are pertinent to the child abuse or neglect that led to the fatality or near fatality.
- (5) Any actions, including but not limited to court filings, removals or implementation of safety plans on behalf of the child that are pertinent to the child abuse or neglect that led to the fatality or near fatality.

**This will impact current internal PCSA processes:**

**A new requirement has been added regarding the type of information that the PCSA must disclose to the public in cases that resulted in a child fatality or a near fatality.**

This requirement resulted from policy guidance provided by the Children's Bureau regarding the reauthorization of Child Abuse Prevention and Treatment Act of 2010.

**K** Requirements regarding the specific case information that must be disclosed upon the request of a mandated reporter.

This was moved from the old paragraph (D) (4) of the rule.

**L** Requirement to inform all principals of the case of each allegation contained in the report, all report dispositions resulting from the assessment/investigation, and all case decisions resulting from the alternative response assessment.

**This may impact current internal PCSA processes:**

**Added language to include the requirement to inform principals of the case all case decisions from alternative response assessments.** The intent of the Differential Response leadership council was that all principals of the case would be notified of the case decision in the alternative response pathway as it is best practice to do so; however, the specific requirement was not previously addressed in rule. The requirement was not clear to PCSAs who implemented after the pilot and evaluation phases of implementation.

This was moved from the old paragraph (D) (5) of the rule.

**M** Requires dissemination of all information determined to be relevant to all of the following:

- (1) The non-custodial parent of the alleged child victim or **child subject of the report, and children being provided services by the PCSA** when the PCSA believes such sharing would be in the best interest of the child.
- (2) A physician, for the diagnostic assessment of a child where there is reason to believe the child may be a victim of abuse or neglect.
- (3) A private service provider, for diagnostic evaluations of and service provision to the alleged child victim or child subject of the report and his family.
- (4) The administrator of a non-public out-of-home care

**This may impact current internal PCSA processes:**

**Added language to permit the dissemination of information determined to be relevant to the non-custodial parent of the child subject of the report and children being provided services by the PCSA when the PCSA believes such sharing would be in the best interest of the child. Added language to permit the dissemination of information determined to be relevant to relative and non-relative caregivers as required by rule 5101:2-42-90.** Although dissemination of information determined to be relevant to the non-custodial parent, relative and non-relative caregivers occurred in practice, it was not addressed in rule previously.

This was moved from the old paragraph (D)(1)(o) and (D)(6)

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setting in which child abuse or neglect is alleged to have occurred.

(5) A foster, **relative, and non-relative caregiver** as required by rule 5101:2-42-90 of the Administrative Code.

(6) The superintendent of public instruction, pursuant to section 5153.176 of the Revised Code, when the report involves a person who holds a license issued by the state board of education where the agency has determined that child abuse or neglect occurred and that abuse or neglect is related to the person's duties and responsibilities under the license.

through (D) (10)

- N** Requires the PCSA to utilize the alleged perpetrator search within SACWIS for the purpose of a background check for:
- (1) Foster care licensure, pursuant to Chapters 5101:2-5 and 5101:2-7 of the Administrative Code.
  - (2) An adoption homestudy, pursuant to Chapter 5101:2-48 of the Administrative Code.
  - (3) A relative or non-relative caregiver approval for placement, pursuant to rule 5101:2-42-18 of the Administrative Code.

This requirement was previously contained in 5101:2-33-24 of the Administrative Code.

- O and P** Requires the PCSA to consider substantiated and indicated reports where the subject of the search was the alleged perpetrator when information is being used for a background check. Release of any information pertaining to an unsubstantiated report or an alternative response report is not permissible for the purpose of a background check.

**This may impact current internal PCSA processes: Language regarding alternative response reports was added to clarify an ODJFS legal interpretation.** Other requirements were previously contained in 5101:2-33-24 of the Administrative Code.

- Q** Requires the PCSA to refer any individual who inquires whether his or her name has been placed or remains within SACWIS as the subject of a report of alleged child abuse and/or neglect to ODJFS. Permits an individual to submit a request to determine if they are the subject of a report of alleged child abuse or neglect to ODJFS.

**This may impact current internal PCSA processes: Language was added to clarify the process already occurring in practice for the PCSA to refer an individual to ODJFS upon receipt of an inquiry as to whether the individual has been named within SACWIS as the subject of a report of alleged child abuse and/or neglect.** This requirement was previously contained in 5101:2-33-22 of the Administrative Code.

- R** Permits the release of child welfare information for the purposes of research. Requires documentation of the authorization of the release of the information; limits the information to be released to the minimum necessary to perform the study; requires all researchers to sign an agreement with specific criteria prior to any information being disseminated.

**This may impact current internal PCSA processes:** A written request to ODJFS to release information for the purposes of child welfare research is no longer required. However, direct access to SACWIS is not permissible. Researchers must enter into a data sharing agreement for state level non-identifying child welfare information from ODJFS for research purposes. This may change current PCSA processes. This language was moved from the old (D) (11) and 5101:2-33-22 (D).

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**5101:2-33-22 Access/confidentiality of child abuse and neglect information contained in the uniform statewide automated child welfare information system.**

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<i>Amendment</i>	<i>Impact</i>
This rule has been rescinded. The requirements of this rule were moved into 5101:2-33-21 in an effort to streamline the requirements for the release of confidential child welfare information and SACWIS access.	Reflects current internal PCSA processes.

**5101:2-33-24 Access to child abuse and neglect reports for background checks.**

Register of Ohio Website Link for 5101:2-33-24:

[http://www.registerofohio.state.oh.us/pdfs/5101/2/33/5101\\$2-33-24 PH OF R RU 20140206 1153.pdf](http://www.registerofohio.state.oh.us/pdfs/5101/2/33/5101$2-33-24 PH OF R RU 20140206 1153.pdf)

<i>Amendment</i>	<i>Impact</i>
This rule has been rescinded. The requirements of this rule were moved into 5101:2-33-21 in an effort to streamline the requirements for the release of confidential child welfare information into one rule.	Reflects current internal PCSA processes.