

5101:2-33-21

**Confidentiality and dissemination of information relating to child abuse or neglect.**

- (A) Each report and assessment/investigation of alleged child abuse or neglect is confidential and may be shared only when dissemination is authorized by this rule.
- (B) The identities of the referent/reporter and any person providing information during the course of a child abuse or neglect assessment/investigation shall remain confidential. The identities of these individuals shall not be released or affirmed by the public children services agency (PCSA) to any party except for those listed in paragraphs (B)(1) to (B)(4) of this rule, without the written consent of the individuals involved. The PCSA shall inform the referent/reporter and any person providing information that a subpoena for judicial testimony may be issued if court intervention is deemed necessary. The PCSA shall release the identity of the referent/reporter and/or persons providing information only to the following persons or entities:
- (1) Ohio department of job and family services (ODJFS) staff with supervisory responsibility for child protective services.
  - (2) Law enforcement officials who are investigating a report of child abuse or neglect or a report that a person violated section 2921.14 of the Revised Code, by knowingly making or causing another person to make a false report.
  - (3) The county prosecutor who is investigating a report of child abuse or neglect or a report that a person violated section 2921.14 of the Revised Code by knowingly making or causing another person to make a false report.
  - (4) Any PCSA or children services agency (CSA) assessing/investigating a child abuse or neglect report involving a principal of the case.
- (C) The PCSA shall promptly disseminate any information requested by:
- (1) ODJFS staff with supervisory responsibility for child protective services and/or children services licensing.
  - (2) ODJFS staff responsible for responding to complaints received by ODJFS that involve the PCSA.
- (D) The PCSA shall promptly disseminate all information it determines to be relevant to the following persons or entities:
- (1) Any federal, state, or local governmental entity, or any agent of such entity,

with a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect including but not limited to:

- (a) Law enforcement officials, as set forth in the child abuse and neglect memorandum of understanding, to investigate a PCSA report of child abuse or neglect, a report of a missing child, or a report that a person has violated section 2921.14 of the Revised Code, by knowingly making or causing another person to make a false report of child abuse or neglect.
- (b) The county prosecutor, to provide legal advice or initiate legal action on behalf of an alleged child victim; and to prosecute any person who has violated section 2921.14 of the Revised Code, by knowingly making or causing another person to make a false report of child abuse or neglect.
- (c) A guardian ad litem or court appointed special advocate.
- (d) Any PCSA or CSA which is currently assessing/investigating a report of child abuse or neglect involving a principal of the case or providing services to a principal of the case.
- (e) A coroner, to assist in the evaluation of a child's death due to alleged child abuse and/or neglect.
- (f) Child abuse and neglect multidisciplinary team members, for consultation regarding investigative findings or the development and monitoring of a case plan.
- (g) Public service providers working with caretakers or children of the family about whom the information is being provided, including but not limited to:
  - (i) Probation officers and caseworkers employed with the court, adult parole authority, rehabilitation and corrections, or the department of youth services.
  - (ii) Employees of the local boards of mental retardation and developmental disabilities and employees of the local boards of alcohol drug addiction and mental health.
- (h) A school administrator or designee when a PCSA intends to place a child

in a foster home in a county other than the county in which the child resided at the time the child was removed from the home.

- (i) The licensing and supervising authorities of a public or non-public out-of-home care setting in which child abuse or neglect is alleged to have occurred.
- (j) Administrators of public out-of-home care settings in which child abuse or neglect is alleged to have occurred including but not limited to:
  - (i) Psychiatric hospitals managed by the Ohio department of mental health.
  - (ii) Institutions managed by county courts for unruly or delinquent children.
  - (iii) Institutions managed by the Ohio department of youth services.
  - (iv) Institutions or programs managed by the Ohio department of mental retardation and developmental disabilities or local boards of mental retardation and developmental disabilities.
- (k) Child abuse citizen review boards and community evaluation teams recognized by ODJFS, upon request.
- (l) A child fatality review board recognized by the Ohio department of health, upon request except when a county prosecutor intends to prosecute or a judge prohibits release according to procedures contained in sections 5153.171, 5153.172 and 5153.173 of the Revised Code.
- (m) A grand jury or court, as ordered.
- (n) A children's advocacy center, as set forth in the PCSA child abuse and neglect memorandum of understanding, to comply with the protocols and procedures for receiving referrals and conducting investigations, to coordinate activities, and to provide services for reports alleging sexual abuse or other types of abuse.
- (o) ODJFS or county departments of job and family services (CDJFS), pursuant to rule 5101:2-33-22 of the Administrative Code, to assist the agency in completing its evaluation of the applicant seeking licensure

or renewal of licensure as a type A family child care ~~day-care~~ home, pursuant to section 5104.01 of the Revised Code, or certification or renewal of certification as a type B family child care ~~day-care~~ home, pursuant to section 5104.01 of the Revised Code, and determining whether the applicant may endanger the health, safety or welfare of a child.

(i) The PCSA shall provide ODJFS and the CDJFS all of the following:

(a) A summary document of the chronology of substantiated and indicated child abuse and neglect reports contained in the uniform statewide automated child welfare information system ~~database~~ for which the person is the alleged perpetrator.

(b) The PCSA that conducted the assessment/investigation of each report contained in the chronology.

(ii) If the applicant is not listed in the uniform statewide automated child welfare information system ~~database~~ as the subject of a substantiated or indicated child abuse or neglect report, the PCSA shall provide ODJFS or the CDJFS with a statement to that effect.

(iii) The PCSA may not release:

(a) The name of the person or entity that made the report or participated in the making of the report of child abuse or neglect.

(b) Any information pertaining to an unsubstantiated report.

(p) Any of the following individuals or non-public agencies with a need for information:

(i) A mandated reporter who makes a report of child abuse or neglect. Upon request, the reporter shall be informed of all of the following:

(a) Whether the PCSA has initiated an investigation.

(b) Whether the PCSA is continuing to investigate.

- (c) Whether the PCSA is otherwise involved with the child who is the subject of the report.
  - (d) The general status of the health and safety of the child who is the subject of the report.
  - (e) Whether the report has resulted in the filing of a complaint in juvenile court or of criminal charges in another court.
- (ii) Principals of the case, in accordance with rule 5101:2-36-03 of the Administrative Code, to inform them of the following:
  - (a) Each allegation contained in the report.
  - (b) The report disposition of the assessment/investigation.
- (iii) The non-custodial parent of the alleged child victim when the PCSA believes such sharing would be in the best interest of the child.
- (iv) 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.
- (v) Private service providers, for diagnostic evaluations of and service provision to the alleged child victim and the family or the caretaker.
- (vi) The administrator of a non-public out-of-home care setting in which child abuse or neglect is alleged to have occurred.
- (vii) An individual, agency, or organization conducting research in the area of child welfare. The PCSA shall determine what information is appropriate to make available to the researcher. Prior to disseminating information to the researcher, the PCSA shall require the researcher to sign an agreement which addresses all of the following:
  - (a) Information provided by the PCSA shall remain the property of the PCSA.

- (b) The researcher shall not disseminate confidential information containing names or data by which any individual or out-of-home care setting could be identified or deductively disclosed.
        - (c) The PCSA shall review the research prior to its dissemination or publication to ensure that the research is void of names or data by which any individual or out-of-home care setting could be identified or deductively disclosed.
        - (d) The researcher shall accept liability for unauthorized dissemination of information.
      - (viii) A foster caregiver as required by rule 5101:2-42-90 of the Administrative Code.
- (2) With written authorization from the PCSA director, any individual or agency when it is believed to be in the best interest of any of the following:
  - (a) An alleged child victim, the family, or the caretaker.
  - (b) Any child residing within, or participating in an activity conducted by an out-of-home care setting when necessary to protect children in that setting.
  - (c) A child who is an alleged perpetrator.
- (3) A CDJFS pursuant to rule 5101:2-33-28 of the Administrative Code.
- (4) With written authorization from the PCSA director, public disclosure of the findings or information about the case of child abuse or neglect which has resulted in either of the following:
  - (a) A child fatality.
  - (b) A near fatality that, as certified by a physician, places the child in serious or critical condition.
- (E) When any information is disseminated, the PCSA shall notify the receiver of the information that all of the following apply:

- (1) The information is confidential- and is not subject to disclosure pursuant to section 149.43 or 1347.08 of the Revised Code by the agency to whom the information was disclosed. The agency receiving the information shall maintain the confidentiality of information disclosed pursuant to this paragraph.
  - (2) Unauthorized dissemination of the contents of the information is in violation of section 2151.421 of the Revised Code.
  - (3) Anyone who permits or encourages unauthorized dissemination of the contents of the information is in violation of section 2151.99 of the Revised Code and such a violation is a misdemeanor of the fourth degree.
- (F) The PCSA shall document in the case record that the dissemination of information occurred. Documentation shall include a summary of all of the following:
- (1) The specific information disseminated.
  - (2) The date the information was disseminated.
  - (3) The agency, organization, or individual to whom the information was disseminated.
  - (4) The reason for the dissemination of information.
  - (5) If required, written authorization to disseminate information pursuant to paragraphs (D) and (E) of this rule.
- (G) When any person commits, causes, permits, or encourages unauthorized dissemination of information, the PCSA shall give written notification of such unauthorized dissemination to the county prosecutor or city director of law. A copy of the written notification shall be maintained in the case record.

Effective:

R.C. 119.032 review dates: 11/30/2010

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Certification

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Date

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