

5101:2-42-93

**Procedural requirements regarding change of placement or visitation plan prior to journalization of case plan.**

~~(A)~~ This rule applies when a child is in substitute care by court order and the public children services agency (PCSA) or private child placing agency (PCPA) seeks a change of placement or visitation plan prior to the journalization of the case plan.

~~(B)~~(A) When a child's placement has been specified by type or location in a court order, or the court has ordered that no change in the child's placement can occur without the court's approval, the PCSA or PCPA shall file a motion to modify such an order and receive court approval prior to effecting a change in the child's placement. Such motion to modify may be filed and court approval obtained after the change in placement only where there exists reasonable cause to believe the child is in immediate danger of serious harm by reason of the current placement. In such an emergency, the motion to modify must be filed or court approval obtained within seven days after the change in placement occurs.

~~(C)~~(B) When a child's visitation plan has been specified in a court order, or the court has ordered that no change in the child's visitation plan can occur without the court's approval, the PCSA or PCPA shall file a motion to modify such an order and receive court approval prior to effecting a change in the child's visitation plan. Such motion to modify may be filed and court approval obtained after the change in visitation only when there exists reasonable cause to believe the child is in immediate danger of serious harm by reason of the current visitation plan. In such an emergency, the motion to modify must be filed or court approval obtained within seven days after the change in the visitation plan occurs.

~~(D)~~(C) Where a child's placement or visitation plan is not the subject of a court order described in paragraph ~~(B)~~(A) or ~~(C)~~(B) of this rule, the PCSA or PCPA shall provide written notice to the parent, guardian, and guardian ad litem of the opportunity for a review to be conducted by the PCSA or PCPA prior to effecting a change in the child's placement or visitation plan or shall obtain advance court approval of the change pursuant to court action pursuant to division (B) of section 2151.33 or division (B)(4) of section 2151.35 of the Revised Code. Such notice and review may occur after the change as identified in paragraph ~~(E)~~(D) of this rule. Such notice shall, at a minimum, advise of:

- (1) The proposed action and reasons for that action.
- (2) The date of the proposed action, unless the parent agrees to an earlier date.
- (3) The opportunity for a review and the method by which such review can be requested.

(4) The time within which the review must be requested.

~~(E)~~(D) When the PCSA or PCPA determines that the child, as identified in paragraph (B), ~~(C)~~(B) or ~~(D)~~(C) of this rule, by reason of his current placement or visitation, is in immediate danger of serious harm, a change in the child's placement or visitation may occur. In such an emergency, the agency shall, within twenty-four hours or the next working day of changing the child's placement or visitation, send written notice to the child's parent, guardian, and guardian ad litem which identifies all of the following:

(1) The change in placement or visitation.

(2) The reasons for such change.

(3) The opportunity for judicial or PCSA or PCPA review, as applicable, and the method by which such review can be requested.

(4) As applicable, the method and the timeframe within which such review must be requested.

~~(F)~~(E) The requirements set forth in paragraph ~~(D)~~(C) of this rule do not apply in the following situations:

(1) A change from an emergency placement to a nonemergency placement.

(2) A change to a less-restrictive placement.

(3) A determination affecting visitation privileges of parents which does not reduce or significantly alter the visitation privileges of the parents.

(4) A change in placement or visitation plan to which the guardian ad litem and parents agree.

~~(G)~~(F) A parent, guardian, or guardian ad litem must request an agency review within ten days after the mailing of the notice described in paragraph ~~(D)~~(C) of this rule. A PCSA or PCPA review must occur within a reasonably prompt period no later than ten days after receipt of the request for review.

~~(H)~~(G) The PCSA or PCPA review shall be held before a review agent. The review agent shall conduct the review in a nonadversarial atmosphere. The review agent shall be:

- (1) A person not involved in the decision to effect a change in placement visitation.
  - (2) Neither a co-worker nor a person directly in the chain of supervision of any of the persons involved in the decision affecting a change in placement or visitation unless the agent is the administrator or assistant administrator of the agency.
  - (3) A person knowledgeable in child welfare services and capable of objectively reviewing the decision.
- ~~(H)~~(H) A parent, guardian, or guardian ad litem requesting the review, the PCSA or PCPA, and their respective legal counsel, if they choose to be represented, shall be free to examine all documents and physical evidence introduced by parties to the review, with the exception of: reports made pursuant to section 2151.421 of the Revised Code and ~~rule 5101:2-34-38~~rules 5101:2-33-21 and 5101:2-33-22 of the Administrative Code; documents or other evidence which disclose the identity of persons complaining of parental misconduct; and any other document or report the confidentiality of which is required or protected by law. The parties to the review may also present and examine witnesses.
- ~~(I)~~(I) The review agent shall render a written decision stating the reasons for such decision. The decision must be based upon the evidence presented at the review. Copies of the decision shall be provided to all parties to the agency review within fifteen days of the review.
- ~~(J)~~(J) The requirements of this rule shall be satisfied if a hearing concerning the issues of change in placement or visitation has been conducted by a court of jurisdiction.
- ~~(K)~~(K) All documentation related to notices to changes in placements or visitation plans and/or written decisions of a review agent required by this rule shall be maintained by the agency in the child's case record.

Effective: 11/09/2009

R.C. 119.032 review dates: 07/31/2009 and 08/01/2014

CERTIFIED ELECTRONICALLY

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Certification

10/13/2009

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Date

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