



HANDBOOK

Ohio County Commissioners

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CHAPTER 45

PUBLIC CHILDREN SERVICES AGENCY (PCSA)

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45.01 INTRODUCTION

Counties, and specifically the public children services agencies designated by each county, are given the responsibility under ORC Chapter 5153 to provide for prevention or remedy of the dependency, neglect, abuse, or exploitation of children in a county who are unable to protect their own interests.

This entails receiving reports of alleged abuse, neglect, abandonment and dependency; investigating and assessing those complaints, and providing services to families or to individual children to ensure their safety. Among these services are in-home protective services, foster care, group home or residential care, and ultimately adoption services for those children who are unable to return to their own families.

With the emphasis in recent years at the state and federal level on keeping children in their own homes, placing children with kin, or providing children a new permanent family, many counties have closed traditional county children's homes and have emphasized in-home services to families and adoption programs. State and federal funding, priorities and restrictions have also encouraged that shift.

This responsibility for abused, neglected and dependent children falls ultimately to the county commissioners, whether a separate children services board exists in the county or not. Failure to investigate complaints within 24 hours or failure to protect children at risk presents a direct and serious liability problem for commissioners. Care should be

taken to ensure that the public children services agency (PCSA), whether it is a combined job and family services department (CDJFS) or children services board (CSB), has sufficient resources to carry out its responsibilities.

45.02 STRUCTURAL ALTERNATIVES (ORC 5153.02)

Children services may be managed through different structures, utilizing either a separate county children services board (CSB), children services operated through the county department of job and family services (CDJFS), or another governmental or private entity. As of December 2012, there are 22 separated county children services boards, 60 counties operating children services through the county department of job and family services, and 2 counties operating children services as a hybrid, where the state releases one allocation, but the PCSA has its own director who reports directly to the board of commissioners/county administrator rather than to the CDJFS director. For a listing of how the counties are organized refer to County Data Exchange Bulletin 2013-05 at <http://www.ccao.org/userfiles/CDE2013-05%207-26-13.pdf>.

While the Ohio Revised Code often refers to a specific structure such as a children services board or county department of job and family services, both structures are able to carry out the function of a public children services agency. Any reference to the Ohio Revised Code (ORC) or the Ohio Administrative Code (OAC) in this *Handbook* Chapter will use the codified term, otherwise agencies will be referred to broadly as public children services agencies (PCSA).

45.03 ESSENTIAL ELEMENTS NEEDED FOR ANY PCSA TO BE SUCCESSFUL

1. The staff must be well trained and experienced.
2. The agency must have an adequate funding base which supports the child protection function; allows for social workers to have reasonable workloads in the areas of referral screening, investigation and assessment, in-home protective services, foster care services, and adoption; and permits the agency to purchase the supportive services it needs to effectively serve children and families.
3. The agency must be well administered so as to effectively and efficiently utilize the financial and human resources it has available.
4. The agency needs to have the support of the community and the elected officials to effectively protect children and stabilize families when possible and appropriate.

45.04 CHANGING LOCAL ADMINISTRATIVE STRUCTURE (ORC 307.981)

Should a county consider changing structure of their public children services agency, ORC Section 307.981 outlines the required process.

County commissioners have the ability to change their administrative structures for children services. At any time within the statutory framework of ORC Section 307.981, they may, by resolution, revoke the authority of the CDJFS to operate children services and establish a separate children services board of five to 15 members. CCAO is aware of one county that has exercised this authority.

Likewise, the duties of children services may also be transferred to the CDJFS by dissolving the appointed children services board under the framework of ORC Section 307.981. This *Handbook* does not purport to recommend one system of administration over the other. Differences in local needs and preferences have made it possible for counties to operate children services efficiently and effectively under several models. Commissioners considering a change from one system to another are urged to consider carefully the advantages and disadvantages of all models based on local needs. Staff of CCAO, the Public Children's Services Association and the Ohio Job and Family Service Directors Association is available to assist any county considering a change in structure.

45.05 POTENTIAL ADVANTAGES AND DISADVANTAGES OF A COMBINED AGENCY

Many factors have prompted boards of county commissioners to examine whether or not combining a PCSA with the CDJFS is sound public policy. Oftentimes, such questions are borne out of child welfare tragedies or personnel issues. Other times it is a matter of timing, such as a long-time PCSA director announcing his or her retirement.

Exhibit 1 of this *Handbook* Chapter is a white paper that has been developed between CCAO, PCSAO and JFSDA as an initial resource to help boards of county commissioners and other interested stakeholders think through these complex decisions.

45.06 MEMBERSHIP AND GOVERNANCE OF CHILDREN SERVICES BOARDS (ORC 5153.03)

If a county children services board (CSB) is a public children services agency (PCSA) for a county, the board of county commissioners appoints five members of the county children services board - and for good cause, may remove any member so appointed. Each of these members is appointed for a term of four years, but the terms are staggered so that the terms of not more than two of the members expire in one year.

In addition to the five members it is required to appoint, a board of county commissioners may appoint additional members to the board, the number of which varies by population:

1. In a county with a population less than 100,000 (according to the last federal census), up to five additional members may be appointed; and,

2. In a county with a population of 100,000 or more (according to the last federal census), up to nine additional members may be appointed.

If these additional members are appointed, they must be appointed for initial terms of one, two, three, or four years in order to maintain balance in the expiration dates of the members of the board. After the expiration of these original terms, these additional members are appointed for four-year terms. Any vacancy is filled in the same manner as the original appointment.

A county children services board must elect one of its members as chairperson and another as secretary. The chairperson may appoint committees composed of board members and other persons interested in child welfare.

A children services board must meet at least once a month, and may hold special meetings. The board can act only if a quorum is present - that is, a majority of the members of the board.

Board members may be removed from office for non-attendance at three consecutive regular meetings unless such absences were for reasons beyond the member's control, such as illness. In addition to such reasons as malfeasance or misfeasance in office, board members may also be removed for "manifest indifference to the purposes or work of the board" (ORC 5153.04).

Although there is no requirement that members be bonded, the director of the PCSA must be bonded for the faithful performance of duties of the position. The bond is in an amount fixed by the CSB or CDJFS. The board members serve without compensation, but they are also entitled to their necessary expenses and are considered employees of the county under ORC Section 325.20, which allows them to attend conferences at county expense out of the children services board's appropriation for travel expenses.

45.07 CITIZENS ADVISORY COMMITTEE (ORC 5153.05)

Counties may choose to have a citizens advisory committee to provide additional community input, oversight and participation. If appointed, either by the CSB or the county commissioners, depending on the governing authority of the PCSA, an advisory committee may do all of the following:

1. Facilitate further cooperation between the public children services agency and other child-caring agencies in the county;
2. Carry out studies of the effectiveness and need for particular services to children in the county; and,
3. Advise the public children services agency on policies pertaining to the provision of services to children.

In the case of counties with a separate children services board, the elected chairperson of any citizens advisory committee is an ex officio voting member of the board.

45.08 LIABILITY INSURANCE (ORC 5153.131)

A PCSA may procure a policy or policies of insurance, insuring employees of the agency, volunteers, or foster parents associated with the agency, against liability arising from the performance of their official duties. The policy could also cover children services board members if a separated agency.

Officers or agents of a children services agency are immune from civil liability for the exercise of discretionary functions unless a plaintiff challenging the public officer's good faith can show that the official acted in willful, reckless or wanton disregard of rights established under law (ORC 2744.02).

45.09 SPECIFIC POWERS OF A PUBLIC CHILDREN SERVICES AGENCY (ORC 5153.16)

The powers, duties, and functions of a public children services agency are specified in ORC Section 5153.16. The agency deals primarily with children in the county who are deemed to be in need of public care or protective services. It may make investigations concerning any child reported to be in need of care, protection, or service. It may make agreements with parents, guardians, or other persons with legal custody of a child with respect to the child's care, custody, or placement.

The primary function of the agency is to provide any kind of care which is in the best interest of the children under its jurisdiction, whether the care is provided in the child's own home, a relative or kinship home, foster home, or other alternative setting.

The agency must initiate an investigation / assessment of any report of potential abuse or neglect within 24 hours and take appropriate action to protect children. And, every county must offer emergency and protective services as required in Section 5101:2-36 of the Ohio Administrative Code.

The agency also has extensive jurisdiction over adoptions.

"Childrens' homes," per se, are an outdated practice concept, although still authorized under Ohio law. Counties may operate a childrens' home in name, but the program is usually treatment oriented using a group milieu, and a responsibility of the PCSA director, rather than being operated under a separate appointed director. That being said, the agency does have the statutory authority to establish or operate a county children's home or training school, even in conjunction with a city or other political subdivision, but such authority is specifically subject to the approval of the county commissioners and the Ohio Department of Job and Family Services (ORC 5153.16).

In addition, the PCSA has the authority to adopt rules and regulations for operation not inconsistent with the law or ODJFS rules (ORC 5153.10).

45.10 FUNCTIONS APPROPRIATE FOR THE GOVERNING AUTHORITY OF A PCSA

Whether the governing authority of a PCSA is a children services board or board of county commissioners, the following functions are appropriate for the governing authorities of public children services agencies:

1. Review and final approval of the agency budget;
2. Approval of any action which might commit the board to unusual costs;
3. Approval of payment rate structures for foster care;
4. Approval of agency policy related to all provided services;
5. Determination of priorities of service to be provided by the agency beyond the minimum mandatory services; and,
6. Approval of personnel practices, including qualifications of employees not set by law.

45.11 FUNCTIONS LIKELY TO BE AREAS OF WEAKNESS FOR THE GOVERNING AUTHORITY OF A PCSA

Whether the governing authority of a PCSA is a children services board or board of county commissioners, the following functions are inappropriate for the governing authorities of public children services agencies:

1. Decision on placement of individual children;
2. Approval of adoptive homes or adoptive placements; and,
3. Direct involvement in any case planning activity involving confidential information.

Decisions relative to case planning must be delegated to the director and appropriate staff to insure the provision of services and adherence to the rules around the confidentiality of information.

If the governing authority is concerned about the overall operation of the agency or certain cases, and those concerns cannot be satisfied by the director, the board should contact the appropriate regional office of the Ohio Department of Job and Family Services. This office will provide technical assistance to counties and will review particular problems brought to their attention. The ODJFS regional office may also

provide copies of the most recent child welfare program monitoring document which consists of a compliance review of procedures and case records. These reviews were begun in 1986 and now mirror the federal review process for the state.

It should be noted that areas of weakness cited in these reviews require the agency to file a performance improvement plan with ODJFS. Repeated failure to correct deficiencies may result in monetary sanctions against the county. Effective January 1987, ODJFS also began doing an annual fiscal review of PCSA operations on problems which are identified. The ODJFS regional office is the logical contact point for assistance when the PCSA feels it needs aid in carrying out its monitoring functions. (OAC 5101:2-33-02)

45.12 STAFF AND EMPLOYEES

1. SEPARATED PCSA¹

- a. EXECUTIVE DIRECTOR (ORC 5153.03, 5153.04, 5153.06, 5153.10, and 5153.13)

In a separated agency, the children services board appoints the PCSA's executive director. The board may enter into a written contract with the board's executive director specifying terms and conditions of the executive director's employment. The executive director is not in the classified civil service. The period of the contract cannot exceed three years. Such a contract cannot in any way abridge the right of the county children services board to terminate the employment of the executive director as an unclassified employee at will, but may specify terms and conditions for any such termination.

Before the executive director begins employment, the director must give a bond to the county in an amount the PCSA fixes, with sufficient surety, conditioned upon the faithful performance of official duties and the full and faithful accounting of all funds and properties of the agency or county coming into the director's hands. Additionally, the executive director must give a bond to the probate court, with sufficient surety, conditioned upon the full and faithful accounting of all trust funds that the director holds on behalf of wards. The court will determine and may modify the bond amount provided that the minimum amount of the bond is \$5,000.

- b. EMPLOYEES (ORC 5153.11, 5153.111, 5153.112, 5153.12, 5153.13)

The PCSA executive director has the authority to appoint all other PCSA employees without commissioner or children services board approval. These employees must submit to criminal records checks and meet certain educational qualifications. The employees are in the classified civil

¹ Excerpt from *Handbook Chapter 43: County Human Services Agencies*

service. Additionally, the executive director may require employees to post a bond in an amount the children service board determines.

2. COMBINED AGENCY UNDER CDJFS ²

a. CDJFS DIRECTOR (ORC 329.01, 329.02, 329.021, 329.022)

County commissioners must appoint the CDJFS director. Any director appointed on or after October 5, 1987, is in the unclassified civil service and serves at the pleasure of the commissioners. If a person holding a classified position in the department is appointed as director on or after that date and is later removed by the board, the person so removed has the right to resume the position the person held in the classified service immediately prior to being appointed as director. Or, if that position no longer exists or has become an unclassified position, the person must be appointed to a position in the classified service that the board, with the director of the Ohio Department of Administrative Service's approval, determines is equivalent to the position the person held immediately prior to being appointed as director.

County commissioners may enter into a written contract with a CDJFS director specifying the terms and conditions of the director's employment. The contract's period cannot exceed three years. In addition to any review specified in the contract, the contract is subject to review and renegotiation for 30 days, from the 60th to the 90th days after the beginning of the term of any newly elected commissioner. Such a contract must in no way abridge the right of the board to terminate the director's employment as an unclassified employee at will, but may specify terms and conditions of any such termination. Examples of CDJFS director job descriptions and pay information are available upon request. Before the director begins employment, the director must give a bond, conditioned for the faithful performance of the director's official duties, in an amount the commissioners specify.

b. CDJFS EMPLOYEES (Including Children Services Employees, if combined) (ORC 309.02, OAG 1983-023)

County commissioners have joint appointing authority with the CDJFS director for CDJFS employees. The power to appoint a CDJFS employee is a two-step process, requiring the CDJFS director to make the initial appointment and then having the county commissioners approve or disapprove the appointment. PCSA employees must submit to criminal records checks and meet certain educational qualifications. Unless the employee is appointed an administrator (as explained in *Handbook Chapter 43*, Section 43.06(3),) or is one of five administrative positions the

² Excerpt from *Handbook Chapter 43: County Human Services Agencies*

director creates, all CDJFS employees are in the classified civil service. Additionally, the director may require any CDJFS assistant or employee to give a bond in an amount the commissioners determine.

45.13 SHARING OF STAFF BETWEEN CSB AND CDJFS (ORC 5153.121)

In counties where the PCSA is a separate agency from the CDJFS, statute permits the sharing of employees and duties among the agencies, should the children services board and board of county commissioners agree to such an arrangement. ORC Section 5153.121 also authorizes financial agreements between the parties for such arrangements.

45.14 POWERS AND DUTIES OF PCSA DIRECTOR (ORC 5153.11, 5153.16)

The PCSA director has the following duties and powers:

1. To administer the work of the PCSA subject to the rules and regulations of the board of county commissioners (combined or hybrid agency) or children services board (separated agency.)
2. To appoint, with the approval of the governing authority in the instance of a combined agency, all other employees of the PCSA.
3. To consent to such medical dental and surgical care, including surgery and the administration of anesthetics, inoculations, and immunizations, or other care as appears to be necessary for any child who is in the temporary or permanent custody of the PCSA, under the advice of one or more reputable, practicing physicians.
4. If delegated in writing by the agency's governing authority, to be responsible to sign a consent for adoption of a child in the permanent custody of the agency.

The Attorney General has ruled that the PCSA director has no legal right to sign a consent for adoption of a child in the permanent custody of the agency; the opinion indicated that only a majority of the agency's governing authority (board of county commissioners or CSB board members) could sign such consent pursuant to ORC Section 3107.06 (OAG 65-24). Since involvement of the governing authority at this level of detail in case planning is not desirable, many have adopted a written policy delegating this function to the director.

5. To file an annual report on the public children services agency with the board of county commissioners, the Ohio Department of Job and Family services and the juvenile court at the end of each calendar year, per ORC Section 5153.14.

45.15 CHILDREN SERVICES FINANCING

Financing of children services falls heavily on counties in Ohio. In 2011, \$846 Million was spent on child welfare in Ohio. Forty-four percent (44%) was local contribution, 46% was federal and 10% was state. Of Ohio's 88 counties, 45 have children services levies.³ Because county funds are so heavily involved in children services, commissioners should familiarize themselves with the financing process.

45.16 FEDERAL FUNDS

1. FEDERAL TITLE IV-E FUNDS (ORC 5101.141, OAC 5101:9-6-28)

Title IV-E provides support for administrative activities (primarily casework and other indirect services to children at risk of needing or currently in foster or adoptive care), Foster Care Maintenance (FCM) for placement costs, Adoption Assistance (AA) to families that adopt Title IV-E eligible children, and training for foster care.

All Title IV-E funds are paid on a reimbursement basis - the federal government reimburses the Ohio Department of Job and Family Services, which in turn reimburses each county agency, based on that county's documented allowable costs. Each county is responsible to cover the non-federal share, also referred to as the "match".

a. TITLE IV-E ADMINISTRATIVE FUNDS

The federal financial participation (FFP) rate for IV-E administrative cost is a stable 50% reimbursement for allowable costs provided to eligible children and their families. The social services random moment sample time study (SSRMS) is used to identify percentages for county employee efforts directed to Title IV-E eligible activities. The calculations and reimbursements are made quarterly.

b. TITLE IV-E FOSTER CARE MAINTENANCE AND ADOPTION ASSISTANCE FUNDS

The reimbursement rate for both Foster Care Maintenance (FCM) and Adoption Assistance (AA) is dependent upon each state's Medicaid reimbursement rate, or FMAP, and is set each October 1 for the federal fiscal year, which runs October 1 – September 30. Ohio's rate is usually at or above 60%.

Foster Care Maintenance

Title IV-E FCM funds support the cost of a child's daily needs while in a

³ 2011-2012 Public Children Services Association of Ohio (PCSAO) Factbook

licensed/certified/approved foster care placement (including foster families, group and residential care), and may include such costs as food, clothing, shelter, daily supervision, school supplies, personal incidentals, travel for visitation and travel to keep the child in the school district.

Such funds received must be deposited in the county's children services fund pursuant to ORC Section 5101.144 and used solely for services to children under ORC Chapter 5153.

Federal IV-E funds devoted to this purpose in Ohio amounted to more than \$125 million in SFY 2012.

Adoption Assistance

Adoption Assistance (AA) payments are provided directly to families that have legally adopted special needs children. The AA payment rate is determined on an individual basis for each child, based on that child's needs and the family's capacity to meet those needs. The monthly AA payment cannot exceed the cost of foster care.

Adoption Assistance is a shared cost between the federal government, ODJFS, and the county PCSA. While Title IV-E will provide partial reimbursement on the full monthly amount based on that year's FFP, the State of Ohio pays the match for any portion up to \$250/month (as of SFY 2013), and the county must pay the match for any AA amount over \$250.

Adoption Assistance contracts are established between the county and the family, and federal guidelines prohibit the subsidy amount being lowered without the consent of the adoptive parents. As such, counties rely heavily on the state to maintain their \$250 per child, per month commitment, as any reduction to this line item in the state budget results in a direct cost shift to counties.

Federal IV-E funds and state match for this purpose amounted to more than \$99.5 million in SFY12. The local contribution was \$22 million.

When the nonfederal share includes donated funds, rule 5101:9-7-50 of the Ohio Administrative Code must be followed.

c. TITLE IV-E TRAINING FUNDS

Federal IV-E funds reimburse 75% of the cost of training personnel employed by or preparing for employment by the state or a public children services agency administering the Title IV-E state plan.

Reimbursable training expenses also include training court personnel, and short-term training for current or prospective foster parents, adoptive parents, kinship guardians and licensed or approved child care institutions providing care to foster or adopted children. While the match / reimbursement for the cost of training is covered by the State, primarily using a 2.5% pooling of Title IV-E Administration earned reimbursements, PCSAs can claim IV-E administrative “hits” at the 50% reimbursement rate for staff attending training.

d. **TITLE IV-E CHAFEE INDEPENDENT LIVING FUNDS**

This capped allocation is based on the number of transition aged youth (youth in custody aged 16-18 and those recently emancipated out of care, up to age 21). The federal government reimburses this cost at 80% for allowable independent living services aimed at preparing the youth for self sufficiency. (Each PCSA also receives a modest TANF Independent Living allocation, which can be used for this population, once their available Chaffee funds have been exhausted.)

2. FEDERAL TITLE IV-B FUNDS (ORC 5103.07; OAC 5101:9-6-37)

Title IV-B of the Social Security Act, regarding Child and Family Services, provides an allocation to reimburse counties for the delivery of children services as described in the Ohio Child and Family Services Plan. This allocation consists of federal funds. The county must use eligible state funding or provide local funds at a 25% match rate for the non-federal share. (When the non-federal share includes donated funds, rule 5101:9-7-50 of the Ohio Administrative Code must be followed.) Ohio received three IV-B grants totaling \$24,089,149 in FFY 2012.

a. **TITLE IV-B PART I**

Ohio received \$10,382,617 in IV-B Part I in 2012. IV-B Part I funds are utilized in Ohio through county allocation and statewide programming benefiting local child welfare agencies through grant agreements held at the state level.

The Ohio Department of Job and Family Services (ODJFS) issued more than \$4.9 million of this grant via allocation in 2012. Expenditures in excess of the allocation amount are the responsibility of the county agency.

The public children services agency can charge expenditures outlined in the Ohio Child and Family Services plan against this allocation - primarily in-home, reunification or post adoption services.

The remainder of the grant supports statewide programming benefiting local child welfare agencies through grant agreements held at the state level. These grant agreements support the Ohio Child Welfare Training program, Regional Training Centers, University Partnership Programs, Council on Accreditation activities at the local level, Wendy's Wonderful Kids and the Foster Parent Training Stipend and Allowance program.

b. TITLE IV-B CASEWORKER VISIT GRANT

Ohio received \$768,837 in this grant for 2012.

The caseworker visits allocation reimburses the PCSA for the direct cost of caseworker visits to children who are in the agency's custody as described in rule 5101:2-42-65 of the Ohio Administrative Code.

The PCSA can charge expenditures against this allocation for activities that are designed to improve:

- 1) Caseworker retention;
- 2) Caseworker recruitment;
- 3) Caseworker training;
- 4) Caseworker's ability to access the benefits of technology.

c. TITLE IV-B PART II

The IV-B Part II grant, equal to \$12,937,995 in 2012, is required by the Department of Health and Human Services, Office of Children and Families, to be distributed to a minimum of five categories.

- 1) Family Support Services – Ohio distributed \$2,952,481 to a joint grant agreement with the Department of Mental Health to provide Family Support Programming through allocation to Family and Children First Councils at the local level. ODJFS provides the federal funds and ODMH provides the required match.
- 2) Adoption Promotion and Support Services – Ohio utilized \$2,636,250 of this grant to fund the non-federal share of the Post Adoption Special Services Subsidy. ODJFS also provides the match from General Revenue Funds for this program.
- 3) Family Preservation Services – Ohio allocated \$3,230,218 to local child welfare agencies to provide Family Preservation Services. Funds may be spent on the direct cost of providing emergency

support services for children and/or families in order to preserve the family unit in crisis.

- 4) Family Reunification Services – Ohio allocated \$2,825,246 to local child welfare agencies to provide Family Reunification Services. Funds may be spent on the direct cost of providing emergency support services for children and/or families in order to facilitate safe and timely family reunification.
- 5) Administration – Ohio allocated \$1,293,800 to local child welfare agencies to support their administrative cost of providing direct Family Preservation and direct Family Reunification Services.

3. FEDERAL SOCIAL SERVICES BLOCK GRANT - TITLE XX (ORC 5101.46; OAC 5101:2-25)

The Title XX allocation, provided under the Social Security Act's Title XX, Block Grants to States for Social Services and Elder Justice, may be used by a CDJFS for various services for low income families and single adults.

ODJFS receives 72.5% of Ohio's allocation, with the remainder going to the Departments of Mental Health and Developmental Disabilities.

Every two years, the CDJFS must develop, and the board of county commissioners must approve, a comprehensive Title XX social services plan, also known as CSSP. The CSSP lists the social services that will be offered in the county such as transportation, home cleaning services, adult protective services, case management, etc. The plan must be approved by the commissioners and submitted to ODJFS by the last week of October every two years, and send an updated copy to ODJFS by the second week of February every other year if at all modified.

At least one service must be offered in each county that is directed to each of the five national goals for Title XX:

- a. Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;
- b. Achieving or maintaining self-sufficiency including reduction or prevention of dependency;
- c. Preventing or remedying neglect, abuse, or exploitation of children or adults unable to protect their own interest or preserving, rehabilitating or reuniting families;

- d. Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care or other forms of less intensive care; and,
- e. Securing referral or admission for institutional care when other forms of care are not appropriate or providing services to individuals in institutions.

Most often the CDJFS allocations are used for adult protective services and to help support children services. A CDJFS may also use this funding to support the administrative cost of providing child welfare services.

4. TANF TITLE XX TRANSFER (ORC 5101.02) (OAC 5101:0-6-12.1)

These are funds that were transferred by ODJFS to the CDJFS from their TANF allocation. The TANF allocation is reduced by the amount of the transfer, but the more flexible use of the funds under Title XX is valuable. These funds must be used for families with minor children whose income is under 200% of the Federal Poverty Level, and may be used for most Title XX services that would include dependent children (thus excluding adult protective and other single adult services). Counties may also use this funding to support the administrative cost of providing child welfare services.

5. MEDICAID FUNDS (TITLE XIX) (ORC 5101.141, OAC 5101:2-47-01(J))

Any child in the temporary or permanent custody of a public or private non-profit agency, or in a subsidized adoption placement, is eligible for services under the Medicaid program pursuant to ORC Chapter 5111. These services include the full range of traditional medical services from doctor visits to prescriptions and hospitalization. However, services may also include screening, preventive services, therapy, and case management portions of the services provided to children maintained in their own homes, or those placed in foster, group or residential treatment. The federal Medicaid reimbursement, or FMAP, determines the Title IV-E reimbursement rate, and is usually at or above 60% for Ohio. It is important that children services agencies make full use of Medicaid funding to preserve county funds for other services not covered by state and federal funds; including ensuring purchased treatment providers are Medicaid certified.

6. COUNTY TANF ALLOCATION

While this allocation is awarded to the local JFS regardless of agency structure, the funds are allowable to use for certain child welfare purposes – maintaining children in their own homes or the home of a relative - and many combined JFS agencies report using a significant portion of their local TANF allocation for child welfare, which then relieves pressure on county finances for these services. These dollars are also the sole funding for other Prevention, Retention

and Contingency (PRC) plan services, which is the primary program aimed at keeping people off of public assistance, helping people maintain employment, and providing emergency assistance to individuals in need. Transfer of TANF to separated agencies can be done through the county Memorandum of Understanding which includes the JFS, PCSA and Child Support agencies. Counties may choose to address in their PRC plans how available funds can be used for kin caregivers and families with protective services involvement.

45.17 STATE FUNDS

1. CHILD, FAMILY AND ADULT COMMUNITY AND PROTECTIVE SERVICES (533 LINE ITEM)

This allocation, created as a part of the SFY10-11 budget, is 100% state GRF and may be used for any legitimate family service purpose by a CDJFS, PCSA, or CSEA, including, but not limited to:

- a. Child protective services;
- b. Adult protective services;
- c. Direct services or contracted services;
- d. Social Services Administration;
- e. Income maintenance match;
- f. Child support match;
- g. Child care administration and non-administration.

These funds are sent directly to the CDJFS. However, funds may be expended only after a Plan of Cooperation is agreed to by the county commissioners, the CDJFS, the PCSA, and the CSEA (Child Support Enforcement Agency).

The funds are distributed using the same formula as the Title XX allocation.

2. STATE CHILD PROTECTION ALLOCATION / FEISEL ALLOCATION (ORC 5101.14) (OAC 5101:9-6-19)

With the consent of the county, the State Child Protection Allocation, or SCPA, is issued to the county agency responsible for children services. This allocation is issued for a state fiscal year and assists in meeting the expense of services to children. Use of these funds is flexible for all child welfare uses including intake/assessment and safety services; in-home protective services; placement

costs including kinship supports, foster, group and residential costs; adoptive supports; and all associated agency and contracted costs. The funds received by the county agency must be deposited in the county's children services fund.

The following methodology is used to distribute available funds for this allocation:

- a. Available funds equal to the immediately preceding fiscal year allocation are distributed with each county receiving an amount equal to the amount it received in the preceding fiscal year.
- b. Any available funds exceeding the amount initially appropriated for the immediately preceding fiscal year are allocated as follows:
 - 1) The county agency receives an advance of this allocation within 30 days after the beginning of each calendar year quarter. The advance will not exceed one-fourth of the total allocation each quarter.
 - 2) 12% is equally divided among 88 counties.
 - 3) 48% is proportionally distributed based on the most recent Census count of child population of each county; and,
 - 4) 40% is proportionally distributed based on the number of county residents with incomes under 100% of the federal poverty level.

County agency expenditures which may be properly charged against this allocation are those for the purpose of meeting the expenses of the children services program, including costs for the care of a child who resides with a caretaker relative and other services a PCSA considers necessary to protect children from abuse, neglect, or dependency. Total funds allocated to county agencies for SCPA and Feisel were more than \$43.9 million in SFY12.

45.18 COUNTY FUNDING

County commissioners are responsible for providing adequate funds to see that abused, neglected, dependent or exploited children receive services to ensure their safety. This funding may be provided from the general fund from revenues received within the ten mill limitation or through a levy. Currently, 45 counties have a children services levy, whereas the remaining 43 fulfill their local funding obligations with general fund dollars.

1. CHILDREN SERVICES LEVY UNDER ORC 5705.24

ORC Section 5705.24 reads, in part, as follows:

The board of county commissioners, at any time and in any year, after providing the normal and customary percentage of the total general fund appropriations for the support of the children services and the care and

placement of children by vote of two-thirds of all the members of said board, may declare by resolution that the amount of taxes which may be raised within the ten-mill limitation will be insufficient to provide an adequate amount for the support for children services, and that it is necessary to levy a tax in excess of the ten-mill limitation to supplement such general fund appropriations for such purpose. Taxes collected from a levy imposed under this section may be expended for any operating or capital improvement expenditure necessary for the support of children services and the care and placement of children.

It should be noted that this section provides for approving a levy only after providing the "normal and customary percentage of the total general fund appropriations" for children services for the year. The State Auditor has interpreted this to mean that at a minimum, the salary of the CSB executive director must be paid from the county general fund, not from the children services fund. Also note that levy funds may be used for operating or capital improvement expenditures.

2. CHILDREN SERVICES, COMBINED, OR GENERAL HEALTH AND HUMAN SERVICES LEVY UNDER ORC 5705.191

A second authority under which commissioners may submit a children services levy is ORC 5705.191 which states in part:

"The taxing authority of any subdivision, other than the board of education of a school district or the taxing authority of a county school financing district, by a vote of two-thirds of all its members, may declare by resolution that the amount of taxes which may be raised within the ten mill limitation by levies on the current tax duplicate will be insufficient to provide an adequate amount for the necessary requirements of the subdivision, and that it is necessary to levy a tax in excess of such limitation for any of the purposes in Section 5705.19 of the Revised Code, or to supplement the general fund for the purpose of making appropriations for one or more of the following purposes: public assistance, human or social services, relief, welfare, hospitalization, health and support of general hospitals, and that the question of such additional tax levy shall be submitted to the electors of the subdivision at a general, primary, or special election to be held at a time therein specified. Such resolution shall not include a levy on the current tax list and duplicate unless such election is to be held at or prior to the general election day of the current tax year. Such resolution shall conform to the requirements of Section 5705.19 of the Revised Code, except that a levy to supplement the general fund for the purposes of public assistance, human or social services, relief, welfare, hospitalization, health, or the support of general or tuberculosis hospitals may not be for a longer period than ten years."

Currently, two counties (Cuyahoga and Montgomery) have enacted a general health and human services levy which can fund children services as well as behavioral health, senior services, public health, and other types of related functions. And, some counties have enacted combined senior and children services levies under ORC Section 5705.191.

It should be noted that this section makes no reference to first appropriating the normal and customary percentage of the general fund. The Attorney General has ruled that "social services" as listed in ORC Section 5705.191 includes children services, but further ruled that a children services levy collected under ORC Section 5705.191 may only be used for operating costs and not for construction of permanent improvements (OAG 63-154). However, the Attorney General has also stated that a special levy under ORC Section 5705.191 may be used to construct permanent improvements if that is the single purpose of the levy (OAG 71-033). Therefore, the prohibition in OAG 63-154 is against using funds from a general children services levy under ORC Section 5705.191 for anything other than operating children services programs.

45.19 THIRD PARTY RESOURCES (ORC 2151.36, 2151.361, 5153.19, 5153.20)

1. DETERMINATION OF ABILITY TO PAY FOR CARE

The juvenile court must issue an order with respect to the care of any child, determine the ability of the child, parent, guardian, or other person to pay for the cost of such care, having due regard for other dependents, when a child is placed in the care of a public children services agency. Such determination shall be made as part of the journalized juvenile court order according to ORC Sections 2151.36 or 2151.361.

If the agency director has been appointed in lieu of a guardian and is acting as trustee of the estate of the child, such determination is subject to the approval of the probate court. Petitions for custody filed by the public children services agency in juvenile court should include a request for court ordered support for maintenance and medical care of the child.

2. DIFFERENT COUNTIES OF LEGAL RESIDENCE AND CARE

ORC Section 5153.20 deals with county of legal residence. It provides that, generally, the cost of care furnished by the PCSA or county commissioners to any child having a legal residence in another county is charged to the county of legal residence. In addition, any moneys received by the agency under the above section are to be credited to the county of legal residence.

One exception is in the case of an adopted child who is back in the temporary or permanent custody of a PCSA that is in a different county than prior to the adoption placement. In that instance, the agency that previously held custody when the child was placed in the adoptive home is given the opportunity to participate in planning for the child's care by the agency in the county of current legal residence of the child, and must assume 50% of the financial responsibility for the care and treatment of the child.

AN OUTLINE OF THE LOCAL CASEWORK PROCESS (OAC 5101:2-36, 5101:2-37, and 5101:2-38)

1. INITIAL REPORT AND PROCESS

- a. The public children services agency receives a report of intra-familial child abuse, neglect, or dependency report which is screened for an assessment/investigation.
- b. An assessment worker will be assigned the case and will complete an initial visit within 24 hours of the screened in report and assess the safety of the alleged child victim(s).
 - 1) The assessment worker will complete a Safety Assessment within four working days from receipt of the report.
 - 2) If during the initial visit, the alleged child victim(s) are determined to be in immediate danger of serious harm, the assessment worker will immediately implement a safety plan in order to assure the safety of the child(ren).
 - 3) During the course of the investigation, the assessment worker will continue to evaluate the safety of the child(ren).
- c. The assessment worker is required to complete a Family Assessment within 30 calendar days from the date of the report. At that time, the assessment worker needs to determine if the family is in need of additional agency services.
 - 1) If not, the assessment worker will close the case.
 - 2) If the assessment worker determined that the family is in need of additional services, the case will be transferred to an ongoing, protective services caseworker.

2. WHEN A CASE REQUIRES ONGOING PCSA INVOLVEMENT

The ongoing caseworker will develop a Case Plan with the family within 30 days of the disposition date of the assessment case.

- a. The support caseworker will meet with the family on a monthly basis and will complete a Case Review every 90 days to determine if continued services are needed.
 - 1) If not, the case will be closed.

2) If continued services are needed, the caseworker will continue to work with the family to successfully complete the services developed on the case plan.

b. Every 180 days, the caseworker must complete a Semiannual Administrative Review to review the progress on the case plan.

3. WHEN CHILDREN MUST BE REMOVED FROM THE HOME

If a case requires the child(ren) to be placed in an out of home setting and there is juvenile court involvement, ORC Section 2151.412 requires that each public or private child caring agency prepare, file and maintain a case plan for every child to whom the agency is providing services.

a. The plan must be agreed to by the agency and all parties (agency, parents, guardian ad litem) and journalized by the juvenile court. All changes must be approved by all parties and journalized by the court.

b. A semi-annual administrative review of all case plans must be conducted by a review panel of at least three persons and requires a meeting with the child's parents, guardian, guardian ad litem and foster care provider.

1) A revised plan must be submitted to the juvenile court for approval.

2) If the court does not approve, it must hold a hearing.

45.20 ROLE OF JUVENILE COURT IN CHILD WELFARE PRACTICE (ORC 2151)

The juvenile court is intimately and essentially involved with the overall operation of the county children services agency in that the court must approve taking any child into custody, approve the original case plan and any modifications in the plan, review the cases of children in custody every six months, and approve final disposition of the case of children in custody.

1. TAKING CHILDREN INTO CUSTODY (ORC 2151.31)

A child may be taken into custody in any of the following ways:

a. pursuant to an order of the court under ORC Section 2151.31, or pursuant to an order of the court upon a motion filed pursuant to division (B) of ORC Section 2930.05;

b. pursuant to the laws of arrest;

- c. by a law enforcement officer or duly authorized officer of the court when any of the following are present:
 - 1) There are reasonable grounds to believe that the conduct, conditions, or surroundings of the child are endangering the health, welfare, or safety of the child;
 - 2) The child's removal is necessary to prevent immediate or threatened physical or emotional harm.
 - 3) A parent, guardian, custodian, or other household member of the child's household has abused or neglected another child in the household and believe that the child is in danger of immediate or threatened physical or emotional harm from that person;
 - 4) There are reasonable grounds to believe the child is suffering from illness or injury and not receiving proper care per ORC Section 2151.03, and the child's removal is necessary to prevent immediate or threatened physical or emotional harm;
 - 5) There are reasonable grounds to believe the child has ran away from his or her parents/guardian/custodian;
 - 6) The child is required to appear in court and there are reasonable grounds to believe the child will not be brought before the court when required;
 - 7) There are reasonable grounds to believe the child has committed a delinquent act and taking the child into custody is necessary to protect public interest and safety.
- d. An enforcement official designated under ORC Section 4109.01 finds a violation of ORC Section 4109.08, involving age and schooling certificate requirements.

2. COURT HEARINGS (ORC 2151.35)

The general processes and procedures for hearings in juvenile court are set forth in statute. The following provides a brief overview of the types of juvenile court hearings:

- a. **EMERGENCY** - An emergency hearing must be held within one business day or 72 hours of removal of a child from his home.

- b. ADJUDICATORY - An adjudicatory hearing must be held within 30 days after a complaint is filed alleging that a child is abused, neglected or dependent at which time the court must determine if the child is abused, neglected or dependent and whether the child should remain in care.
- c. DISPOSITIONAL - A dispositional hearing must be held within 1-30 days after the adjudicatory hearing. The court must then enter a judgment ordering one of the following:
 - 1) Protective supervision - under which a child remains in the custody of parent or guardian subject to court imposed limitations and services (must terminate within one year);
 - 2) Temporary custody to an agency or relative for out of home placement. The PCSA must provide a permanency recommendation to court within one year within the following options:
 - i. Custody / Reunification with a parent;
 - ii. Temporary or Legal Custody to a Relative or Kin provider
 - iii. Planned Permanency Living Arrangement; or
 - iv. Termination of Parental Rights with Permanent Custody to an agency (after which the PCSA will typically seek adoptive home for child).

Any dispositional order must be reviewed by the court within one year.

3. GUARDIAN AD LITEM (ORC 2151.281)

In any case involving an alleged or adjudicated abused or neglected child, or an agreement for the voluntary surrender of temporary or permanent custody of a child that is made in accordance with ORC Section 5103.15, the court shall appoint the guardian ad litem in each case as soon as possible after the complaint is filed, the request for an extension of the temporary custody agreement is filed with the court, or the request for court approval of the permanent custody agreement is filed.

The guardian ad litem for an alleged or adjudicated abused, neglected, or dependent child shall perform whatever functions are necessary to protect the best interest of the child, including, but not limited to: investigation, mediation, monitoring court proceedings, and monitoring the services provided the child by the public children services agency or private child placing agency that has

temporary or permanent custody of the child, and shall file any motions and other court papers that are in the best interest of the child.

The role of the guardian ad litem may be filled by a trained attorney or a trained volunteer, known as a Court Appointed Special Advocate or CASA.

EXHIBIT 1

ADVANTAGES AND DISADVANTAGES of Combining Public Children Services Agency and a County Department of Job & Family Services

ORC.981 gives counties the authority to change the administrative structure of their public children services agency (PCSA) at any time. Counties may choose to have a stand-alone agency governed by an appointed children services board, a PCSA that is combined with and administered by the county department of job and family services, or elect to have a governmental or private entity serve as the PCSA.

One-quarter of counties (22) have a separated PCSA governed by a children services board; the rest are combined with the county department of job and family services. Two of the combined agencies function as hybrids with separate directors that all report directly to the County Commissioners, though the Ohio Department of Job and Family Services distributes one allocation to the county as if the agency were combined. (The funds are then separated at the county level.)

Commissioners, county executives and county councilmembers may consider restructuring – legally known as redesignating - their public children services agency (PCSA) for a variety of reasons. Such consideration can often times be sparked by a long-time director retiring, public perception issues, or, unfortunately, a child welfare tragedy.

Whenever such a consideration begins, CCAO, OJFSDA and PCSAO recommend a joint meeting to meet with county officials to talk through such a change and share best practices and past experiences from other counties.

While the needs and circumstances of individual communities vary, consideration should be given to the general potential advantages and disadvantages of combining the PCSA with the CDJFS listed below.

POTENTIAL ADVANTAGES OF A COMBINED AGENCY

Some potential advantages may be realized should a county with a stand-alone PCSA decide to combine it with the county department of job and family services, including:

1. The board of county commissioners has direct control of both agencies through its contractual relationship with the CDJFS director. In separated agencies, the county commissioners work through a governing board (which the commission appoints) to provide oversight. Commissioners also have co-appointing authority with the CDJFS director over all employees, unlike with separated PCSAs.

2. The agency has the potential to reduce duplication, and possibly increase the federal financial participation of the administrative functions of supervision and supportive services, i.e. executive director, financial support, and clerical support. By assigning shared functions to such staff, an agency may be able to increase the federal yield, maximizing higher yields funding streams.
3. The agency may have an easier ability to use other funding streams to enhance the funding available to child protection, i.e. TANF, Title XX, child support, etc. Experience has shown that CDJFS' tend to have a higher spending level using TANF and Title XX especially, to support child welfare in-home services. Recent budget environments have seen increases and decreases in funds available to CDJFS, particularly the 533 Line item and the TANF allocation. Regardless of agency structure, county commissioners should facilitate and explore investment where most needed by that county. A local MOU is required to be in place that allows transfer, even if agencies are separated. Most local levies that support child protection are dedicated funds, unable to transfer into the public assistance side of the agency.
4. The interrelationship and communication between the child protection division, child support, and the public assistance divisions should be better since the work of those divisions occurs under one administrative head instead of two or three.
5. By combining agencies and streamlining services clients may be better served by receiving more comprehensive assistance and uniform case management. This approach maximizes the availability of services throughout the entire local job and family services system.

POTENTIAL DISADVANTAGES OF A COMBINED AGENCY

Some potential disadvantages could be realized if a stand-alone PCSA is combined with the county job and family services department, such as:

1. The cost of assuming the PCSA under the civil service system needs to be explored. If pay scales and classification plans vary between the CDJFS and PCSA, it could mean that salaries for one set of employees would need to increase.
2. A combined agency does not automatically benefit from a separate board of community members via the children services board to provide additional oversight, guidance and accountability to the child welfare agency to promote accountability. And, when high profile incidents such as a child death hits, the county commissioners have a more direct accountability role than if a board was providing oversight. However, it should be noted that boards of county commissioners do have the option to set up an advisory committee on children services, even for combined agencies (ORC 5153.05.)

3. The Ohio Department of Job and Family Services disburses Title IV-E Administration and Training reimbursements on a county-specific basis. Due to agency structure spending patterns, the amount of quarterly reimbursements to separated children services boards is significantly higher than the amount reimbursed to county departments of human services. In analyzing the reasons for this, it was found that the children services board primary function is child protection and therefore has more eligible "hits" on the random moment time study. This equates, in general, to more reimbursement for the children services board.

Conversely, the department of job and family services administers adult services, day care, children services, and many other programs. This multi-program responsibility has the potential to "dilute" the eligible Title IV-E "hits" on the random moment time study and reduces the amount of reimbursement that county departments of human services receive. Should federal block granting of Title IV-E ever occur, Ohio's award would be based on historical claims. If county awards were subsequently based on historical claims, a county with lower "hits" would be eligible for a smaller amount of Title IV-E. It is worth noting that while the idea had been pursued legislatively in recent decades, it is not something currently being discussed by Congress.

4. A combined DJFS would need to consciously ensure the community understands the child protection mission of the agency, in attempts to pass a children services levy. Currently 24 of 62 combined PCSAs have children services levies and 21 of 26 separated or hybrid PCSAs have levies. Of recent years, agencies of all structures have successfully passed and continued levies. (It should be noted that even if the agencies are combined, children services levy dollars cannot be used for a broader purpose beyond those stated in the levy language.)
5. Qualified and experienced leadership is important for child safety and well-being. Even though a merger of agencies could reduce administrative duplication, newly combined agencies often appoint a top level administrator to oversee the day to day operations of the child protection system. Cost savings, if any, are usually in the difference between the salaries of the executive director and the child protection administrator. Ability to merge other functions, such as the fiscal support position, may depend upon the size of the agency.