

Policy and Practice Guidance Document (PPGD) #037
Foster Parent as Kin Court Order Policy and Practice Guide
December 14, 2022

Background

In November 2020, the Children Services Transformation Advisory Council's final report contained two recommendations to address the bond that is developed after a youth is in a foster home for an extended period of time. The Advisory Council recommended establishing statutory requirements for family finding and due diligence to clarify the circumstances under which family finding efforts may be discontinued. As part of their recommendation to establish requirements for concurrent planning, the Advisory Council also recognized that foster parents who have cared for a child for an extended period of time should be considered as kin when determining permanency for youth.

Ohio Revised Codes (ORC) 2151.4115, 2151.4116, 2151.4117, 2151.4118, 2151.4119, 2151.4120, 2151.4121, and 2151.4122 have been created. A court may determine a youth's current caregiver is to be considered as having a kinship relationship with the youth upon 12 months of consecutive placement, upon certain findings being made. The finding(s) allows an agency to consider the youth's current caregiver as having a kin relationship with the child and at an equal standing to other kin regarding permanency. As the result of such an order, an agency can make permanency decisions regarding the child based solely on the best interest of the child. Upon receipt of this finding, multiple areas of practice may be impacted including, but not limited to, family search and engagement, placement, concurrent planning, adoption, and the kinship guardianship assistance program.

Effective: September 30, 2021 Latest Legislation: House Bill 110 - 134th General Assembly

Purpose

This document is intended to provide knowledge and guide your agency's decision making in the event this situation should arise.

Legal Process for Practice

Intensive Efforts to Locate Family/Kin

Ohio Revised Code section 2151.4116 describes the intensive efforts that must be made to locate and engage willing relative/kin for a child. Identifying and locating maternal and paternal relatives/kin should begin at the case opening to evaluate potential placement options if necessary and/or provide positive supports for the child. Diligent efforts to identify, locate, inform, and evaluate maternal and paternal relatives/kin continue until custody is terminated or permanency is achieved.

Section 2151.4116- Intensive efforts required for locating and engaging kinship caregiver

[Link to ORC HERE](#)

A public children services agency or private child placing agency shall make intensive efforts to identify and engage an appropriate and willing kinship caregiver for a child who is in:

- Temporary custody of the agency.
- A planned permanent living arrangement (PPLA) with the agency.

When does the court review intensive efforts to find relatives/kin?

At every court hearing regarding a child in the temporary custody or PPLA of the agency, the court shall determine whether the public children services agency or private child placing agency has continued intensive efforts to identify and engage appropriate and willing kinship caregivers for the child.

Section 2151.4117- Court Review of Intensive Efforts

[Link to ORC HERE](#)

At each hearing the court is to:

- Review the placement of the child to determine if the child is receiving care in the home of a kinship caregiver.
- Review the efforts of the agency since the previous hearing to place the child with a kinship caregiver, including efforts to utilize search technology (including but not limited to Genpro, Accurint, social media, Vinelink, etc.) to find biological family members for the child.
- If previous court orders were made under section ORC 2151.4118, the court will review those orders to determine if the order should continue based on the child's current placement situation.

How does the court order continuation of placement with a current caregiver?

The court may order the continuation of placement with the current caregiver and consider the current caregiver as having a kin relationship to the child. If the court has made this finding, then continued intensive efforts to identify and engage appropriate and willing kinship caregivers may be unnecessary. However, the agency may continue to search and evaluate additional kinship caregivers as a potential placement option or permanent positive support.

The following Ohio Revised Codes are provided to help guide agencies in decision making when the court has made this finding:

Section 2151.4118 -Court determination intensive efforts not required

[Link to ORC HERE](#)

A court may issue an order that determines, with respect to a child in the temporary custody of the agency or in a PPLA with the agency, ***who is not receiving care in the home of a kinship caregiver:***

- The continuation of the child's current placement is in the child's best interest.

- Intensive efforts to identify and engage an appropriate and willing kinship caregiver for the child are unnecessary if the court makes all the findings pursuant to section [2151.4119](#) of the Revised Code.

Section 2151.4119 | Findings supporting court determination

[Link to ORC HERE](#)

A court may issue an order continuing the placement of the child, if continued placement is in the child’s best interest, and that intensive efforts to identify and engage kinship caregivers are unnecessary, if it finds **all** the following:

- The child has been living in a stable home environment with the child's current caregivers for the past twelve consecutive months.
- The current caregivers have expressed interest in providing permanency for the child.
- The removal of the child from the current caregivers would be detrimental to the child's emotional well-being.

Section 2151.4120 Current caregiver equal to kin regarding permanency

[Link to ORC HERE](#)

Finding Foster Parent as Kin:

- If a court makes the findings under section [2151.4119](#) of the Revised Code, the court and public children services agency or private child placing agency may consider the child's current caregiver as having a kin relationship with the child and at an equal standing to other kin regarding permanency.

Section 2151.4121 | Disqualifying kin unwilling or not interested in providing permanency

[Link to ORC HERE](#)

If the court has issued an order under section 2151.4119 of the Revised Code, the court may excuse the public children services agency or private child placing agency from considering such relative for placement if the following applies:

- A relative who received the required notice pursuant to [section 2151.33](#) of the Revised Code (a parent, noncustodial parent, guardian, custodian, all adult grandparents, and other adult relatives of the child, including any adult relatives suggested by the parents); Fails within six months from the date of receipt of the notice to demonstrate interest in and willingness to provide a permanent home for a child.

Section 2151.4122 | Continued search to locate and engage kinship caregiver permitted

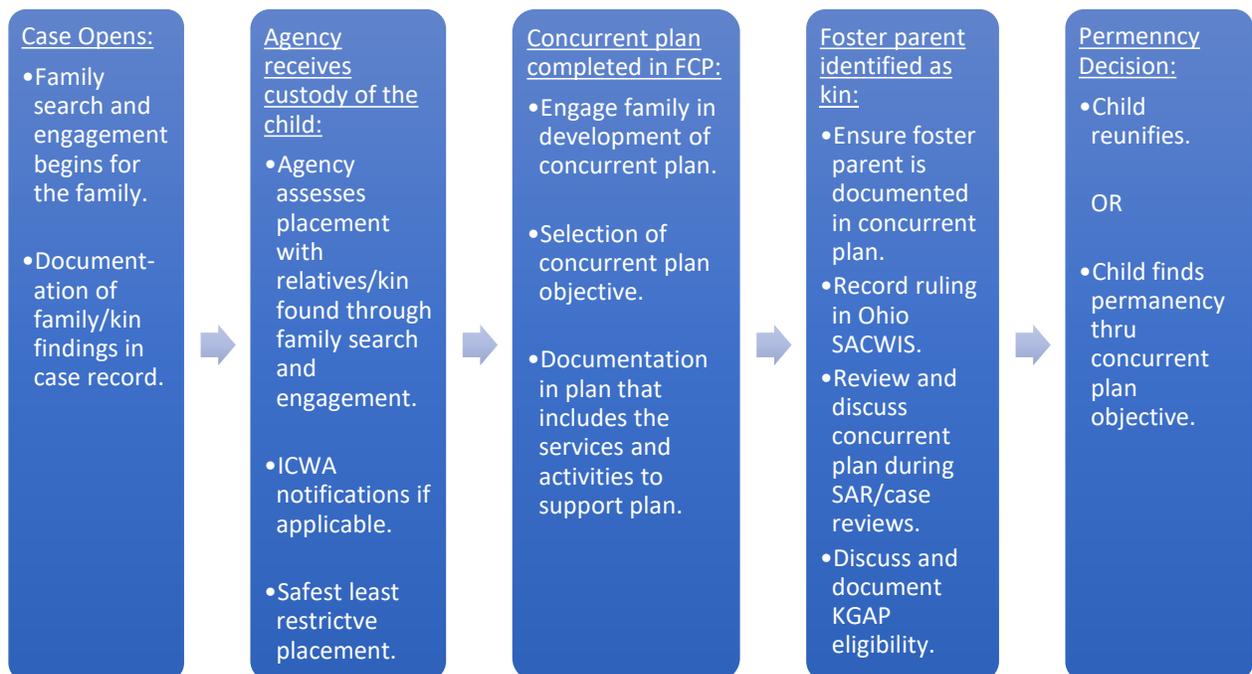
[Link to ORC HERE](#)

- Nothing in sections [2151.4115](#) to [2151.4121](#) of the Revised Code shall be construed to prevent a public children services agency or private child placing agency from continuing to search or consider kinship caregivers should they desire to keep looking.

Who may request a court order for continuation of placement with the current caregiver and a finding to consider the current caregiver as having a kin relationship to the child?

<p>A motion may be filed by:</p> <ul style="list-style-type: none"> • Current caregiver/foster parent or their attorney, • Parent Attorney, • Guardian ad litem, • PCSA/PCPA. 	<p>During the hearing the court will:</p> <ul style="list-style-type: none"> • Evaluate the stability of the home environment, • Determine intent of the current caregiver to provide permanency, • Determine best interest of the child. 	<p>Ruling is made to:</p> <ul style="list-style-type: none"> • Identify current caregiver as kin, OR • Deny the motion/request.
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Family Search and Engagement Efforts & Case Flow



When the court makes a ruling indicating the foster parent has a kin relationship with the child, Ohio SACWIS allows this documentation.

From the Ruling Record for the child in focus:

1. Record the **Date the Ruling** on the Journal Entry.
2. Select a **Ruling Type**; in this instance **Permanency Plan** would be appropriate.
3. Select the Rulings Received **Foster Family has Kin Relationship**.
4. Ability to record Comments are available if applicable.
5. **Save** the Ruling.

Ohio SACWIS includes legal custody with a relative/kin or adoption to be selected as a Permanency Goal or a Concurrent Plan Objective, when applicable based on the individual needs of a case.

From the Family Case Plan > Parties to the Plan Topic:

1. Select the appropriate Child Permanency Goal while the Family Case Plan is In Progress.
2. Select the appropriate Concurrent Plan Objective while the Family Case Plan is In Progress, if applicable.

Documenting Foster Parent as Kin in Ohio SACWIS

The screenshot displays the Ohio SACWIS interface for a Family Case Plan. The case name is 'Smith, Person P / 0000000 [R]' and the status is 'Ongoing / Open (01/01/2014)'. The plan name is 'Updated / Sept 8th, 2016' and the status is 'In Progress'. The 'Parties to the Plan' section is active, showing details for 'Charlesworth- Dewitt, Jimmy Chainsaw / 0000000', a male child aged 1, born 01/01/2016. The child's location is 'Own Home' and the agency legal status is 'Open Custody Episode, no Legal Status'. The 'Child's Permanency Goal' dropdown menu is highlighted with a red box, showing options for 'Child's Permanency Goal' and 'Concurrent Plan Objective'. The 'Update Information' and 'Parties to the Plan' sections are marked as 'Completed', while 'Strengths and Needs', 'Concerns', 'Placement Information', and 'Non-Custodial Parent Info' are marked as 'Not Completed'.

Family Team Meeting (FTM) outcome: How to document when agency recommendation is custody to relative/kin?

If a FTM occurred and the outcome is recommending custody to kin, Ohio SACWIS allows this to be documented.

***Note Ohio SACWIS allows alternative outcomes to be documented following these steps.**

From the Family Team Meeting

1. ~~Select~~ a **Stated Purpose of FTM**.
2. Identify the child(ren) in the FTM.

- From the **Meeting Outcomes** Tab, Select custody to kin (relative or non-relative, temporary, or legal custody).

Primary	Secondary	Recommended Change
<input type="checkbox"/>	<input type="checkbox"/>	Initiate PCSA custody
<input type="checkbox"/>	<input type="checkbox"/>	Terminate PCSA custody
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Custody to kin (relative or non-relative, temporary or legal custody)
<input type="checkbox"/>	<input type="checkbox"/>	Protective Supervision Order or extension
<input type="checkbox"/>	<input type="checkbox"/>	Temporary Custody or extension
<input type="checkbox"/>	<input type="checkbox"/>	PPLA
<input type="checkbox"/>	<input type="checkbox"/>	TPR

Primary	Secondary	Recommended Change
<input checked="" type="checkbox"/>	<input type="checkbox"/>	To kinship caregiver
<input type="checkbox"/>	<input type="checkbox"/>	To foster home
<input type="checkbox"/>	<input type="checkbox"/>	To other (group home, institution)
<input type="checkbox"/>	<input type="checkbox"/>	Reunify (or move to other parent)

Practice Impacts

When an agency receives a court order for continuation of placement with the current caregiver and considers the current caregiver as having a kin relationship with the child(ren) they have an equal legal standing to other kin with respect to permanency.

- If a relative comes forward after foster parent has been found to be kin, there is no requirement to change placement. The agency shall weigh the best interest factors for*

the child. The conversation with the relative and rationale for the agency's decision should be documented in an activity log.

- 2. If the caregiver is an adoptive placement for the child,** documentation should be entered into Ohio SACWIS in an activity log and on the JFS 1690, "Documentation of the Pre-Adoptive Staffing and Updates" [[LINK to JFS 1690](#)] and on the JFS 1689, "Documentation of the Placement Decision-Making Process" [[LINK to JFS 1689](#)].

<p>Practice areas affected by the foster parent as kin court order are:</p> <ul style="list-style-type: none"> • Placements, • Continued efforts to locate family/kin, • Adoption preplacement, and • Adoption placement procedures. 		
<p>The following permanency discussions should occur when the court has made the ruling by the Caseworker:</p> <p><i>All discussions should be documented in Ohio SACWIS activity logs</i></p>		
<p>With the Parent(s):</p> <ul style="list-style-type: none"> • Permanency options for the child: <ul style="list-style-type: none"> ○ Reunification. ○ Legal custody to current caregiver. ○ Adoption by current caregiver. • Family Case Plan Permanency goal for the child. • Concurrent planning objective, if applicable. • Agency will continue efforts to evaluate relative/kinship caregivers as a potential placement option or a 	<p>With the current caregiver:</p> <ul style="list-style-type: none"> • Permanency options for the child: <ul style="list-style-type: none"> ○ Reunification ○ Legal custody to current caregiver. ○ Adoption by current caregiver. • If the current caregiver has been considered to have equal standing to other kin regarding permanency, the current caregiver would receive the same preferential consideration in the adoption matching process as any adult 	<p>With the child(ren), if developmentally appropriate:</p> <ul style="list-style-type: none"> • Permanency options for the child: <ul style="list-style-type: none"> ○ Reunification. ○ Legal custody to current caregiver. ○ Adoption by current caregiver. • Family Case Plan Permanency goal for the child. • Concurrent planning objective, if applicable. • If the current caregiver has been considered to have equal standing to other kin in regard to permanency, the current caregiver would receive the same preferential

<p>permanent positive support, if applicable.</p>	<p>kin outlined in paragraph (V)(3) of Rule 5101:2-48-16 - Ohio Administrative Code Ohio Laws.</p> <ul style="list-style-type: none"> • If the current caregiver does not wish to pursue adoption of the child(ren), inform of the KGAP eligibility requirements. • The permanency decision will be made based in the best interest of the child(ren). • The agency will continue efforts to evaluate relative/kinship caregivers as a potential placement option or a permanent positive support, if applicable. 	<p>consideration in the adoption matching process as any adult kin outlined in paragraph (V)(3) of Rule 5101:2-48-16 - Ohio Administrative Code Ohio Laws.</p> <ul style="list-style-type: none"> • The permanency decision will be made based in the best interest of the child(ren). • The agency will continue efforts to evaluate relative/kinship caregivers as a potential placement option or a permanent positive support, if applicable.
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Foster Parent as Kin & Concurrent Planning

A concurrent plan is maintained within the family case plan within the parties to the plan topic. Each child in the family case plan is required to have a concurrent plan when in the temporary custody of a PCSA/PCPA and the permanency goal is reunification. This documentation consists of each child’s individual concurrent plan objective and high-level descriptive narrative outlining services and activities to support the concurrent plan. The options for the concurrent plan objective are one of the following:

1. legal custody to relative / kinship,
2. adoption,
3. independent Living / emancipation with family and kinship connections.

- ★ When a foster parent is identified as kin, they may be added to the concurrent plan along with a description of how the foster parent is assisting in providing permanency for the child.
- ★ If the family case plan goal changes to “legal custody to relative/kinship” or “adoption” a concurrent plan is not required.

Kinship Guardianship Assistance Program (KGAP) Impacts

<p>When the court orders continuation of placement with the current caregiver and the caregiver does not wish to pursue adoption of the child, eligibility requirements for KGAP may be explored.</p> <p><i>KGAP rules and programming are effective 1/1/2023.</i></p>	
<p>For purposes of Federal & State KGAP, the following is considered a kinship caregiver:</p>	<ul style="list-style-type: none"> • Child's current foster family that does not wish to pursue adoption of the child. • Court has made a finding pursuant to sections 2151.4119 and 2151.4120 of the Revised Code. • Meet the eligibility requirements of 5101:2-46-02 (federal) or 5101:2-56-02 (state).
<p>Family Case Plan Requirements for KGAP: 5101:2-38-05.02-PCSA family case plan requirements for kinship guardianship assistance program (KGAP)</p>	<p>The Family Case Plan is to include the following for KGAP:</p> <ul style="list-style-type: none"> • The steps the PCSA has taken to determine it is not appropriate for the child to be returned home. • The efforts the PCSA has made to discuss adoption with the child’s fit and willing kinship caregiver(s) as a more permanent alternative to legal guardianship and document the reasons why adoption is not the preferred option of the kinship caregiver(s). • An explanation as to why a permanent placement with a fit and willing kinship caregiver(s) through a kinship guardianship assistance arrangement is in the child’s best interests. • The efforts the PCSA has made to discuss kinship guardianship assistance arrangement with the child's parent(s), or reasons why efforts were not made by the PCSA to discuss with the child's parent(s) the kinship guardianship assistance arrangement. • If applicable, the reason(s) for any separation of siblings from the child if the child’s placement with the kinship caregiver(s) does not include the child’s siblings.

	<ul style="list-style-type: none"> The efforts the PCSA has made to consult with youth aged fourteen and older regarding the kinship guardianship arrangement.
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Case Scenarios/Frequently Asked Questions

I have a court order identifying a foster parent as kin; do I need to change the placement setting type from foster home to relative/kin placement?
No, the placement setting type should remain a foster care placement with the agency paying the same per diem to the family. It is important to note that the placement setting of a child does not determine the relationship of the child to the caregiver. The relationship of the child to any caregiver is simply determined by the actual relationship the child has to that caregiver.
What should be considered when changing the placement of a child who resides with a foster parent who has received this court order?
The agency should always consider what is in the best interest of the child. This ruling allows the agency to consider the child's current caregiver as having a kin relationship with the child and at an equal standing to other kin regarding permanency.
If I receive this order, do all family search and engagement efforts need to stop by the agency?
No, according to section 2151.4118 of the revised code, a court may issue an order that continuation of the child's current placement is in the child's best interest and that intensive efforts to identify and engage an appropriate and willing kinship caregiver for the child are unnecessary. This does allow the agency to cease family search and engagement efforts but does not prevent an agency from continuing to search or consider kinship caregivers.
What should be considered if this order is received regarding family search and engagement efforts for a child?
Once a court makes a ruling stating a foster parent has a kin relationship to the child, the agency can make permanency decisions for the child as it would for any child that is placed in a kinship home. Youth placed in a kinship home regardless of whether the home is a foster home or not are considered a lesser restrictive placement than a foster home per Administrative Rule 5101:2-42-05 .
How does the order “foster parent as kin” impact case documentation?
The following are to be considered when a foster parent is found as kin for best practice documentation: <ol style="list-style-type: none"> 1. Add foster parent in the Family Case Plan as a positive support. This can be completed in the concurrent plan section and/or the placement section of the Family Case Plan. 2. In the placement tab of Family Case Plan, check the box “Does this child have a kin relationship with foster parent”. 3. Add the court findings to the legal section in Ohio SACWIS. 4. Review and discuss the child/kin relationships during the Semi-Annual Administrative Review and Case Review.

What should be considered when a relative is identified (with or without an approved relative home study) after the agency receives a court order that considers the foster parent as kin?	
After the court orders the foster parent may be considered as kin, if a relative is identified with or without a home study, the relative and foster parent will be on equal ground regarding permanency determinations. Therefore, the agency would consider and weigh the best interest of the child factors when considering a placement change.	
How does this order affect ICWA, if a child(ren) is determined to be eligible for membership in a Federally recognized Tribe after the agency receives a court order that considers the foster parent as kin?	
If a child has been determined eligible for ICWA, the existing placement preferences are to be followed pursuant to OAC 5101:2-53-08 (B) In any substitute or pre-adoptive placement of an Indian child where the Indian child's tribe has not established a different order of preference pursuant to paragraph (D) of this rule, the agency shall give preference in the following order to placement of the child with: <ol style="list-style-type: none"> 1. A member of the Indian child's extended family. 2. A foster home that is licensed, approved, or specified by the Indian child's tribe. 3. An Indian foster home certified by the Ohio department of job and family services (ODJFS) or another state agency with such authority; or 4. An institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs. 	
For further information on ICWA please visit Chapter 5101:2-53 - Ohio Administrative Code Ohio Laws	
Will the court order that considers the foster parent as kin be child specific?	
Yes, each child will be considered individually with respect to the court order. The best interests of each child should also be weighed individually. The factors for one child may not be the same for a sibling.	

Resources

Additional information can be found in the SACWIS Knowledge Base:	SACWIS Knowledge Base - Home (ifskb.com)
Entering Hearing and Rulings SACWIS Knowledge Base Article:	SACWIS Knowledge Base - Entering Hearings and Rulings (ifskb.com)

Recording a Placement SACWIS Knowledge Base Article:	SACWIS Knowledge Base - Recording a Placement Record (jfskb.com)
Recording a Family Team Meeting SACWIS Knowledge Base Article:	SACWIS Knowledge Base - Recording a Family Team Meeting (FTM) (jfskb.com)
Completing a Family Case Plan SACWIS Knowledge Base Article:	SACWIS Knowledge Base - Completing a Family Case Plan (jfskb.com)
Kinnect Family Finding:	https://kinnectohio.org/wp-content/uploads/2022/04/Family-Finding-Process-Guidelines.pdf
OAC Removal Rule:	https://codes.ohio.gov/ohio-administrative-code/rule-5101:2-39-01

Contacts

For more information regarding Foster Parent as Kin, please contact CPS policy:

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