

**Subpart C. ADMINISTRATION AND FISCAL
MANAGEMENT**

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**CHAPTER 3130. ADMINISTRATION OF COUNTY CHILDREN AND
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Authority

The provisions of this Chapter 3130 issued under the Public Welfare Code (62 P. S. §§ 201—211, 701—774 and 901—922), unless otherwise noted.

Source

The provisions of this Chapter 3130 amended through October 1, 1982, effective October 1, 1982, 12 Pa.B. 3650, unless otherwise noted.

Cross References

This chapter cited in 55 Pa. Code § 3140.11 (relating to general requirements); 55 Pa. Code § 3140.16 (relating to content of the plan and budget estimate); 55 Pa. Code § 3140.111 (relating to county agency responsibilities); 55 Pa. Code § 3150.12 (relating to county responsibility); 55 Pa. Code § 3480.1 (relating to applicability); 55 Pa. Code § 3490.56 (relating to county agency investigation of suspected child abuse perpetrated by persons employed or supervised by child care agencies and residential facilities); 55 Pa. Code § 3490.59 (relating to action by county agency after determining the status of the report); 55 Pa. Code § 3490.60 (relating to services available through the county agency); 55 Pa. Code § 3490.61 (relating to supervisory review and child contacts); 55 Pa. Code § 3490.68 (relating to retention of information on unfounded reports); 55 Pa. Code § 3490.235 (relating to services available through the county agency for children in need of general protective services); 55 Pa. Code § 3490.322 (relating to county agency compliance with risk assessment standards); 55 Pa. Code § 3680.1 (relating to applicability); and 55 Pa. Code § 4000.115 (relating to process for ongoing responsibilities).

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INTRODUCTION

§ 3130.1. Applicability and compliance.

(a) This chapter applies to county children and youth social service agencies and governs the administration and provision of public children and youth social services.

(b) Procedures relating to the issuance of a certificate of compliance are governed by Chapter 20 (relating to licensure or approval of facilities and agencies).

Authority

The provisions of this § 3130.1 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.1 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (109556).

§ 3130.2. Regulatory goal.

The goal of this chapter is to ensure the proper accomplishment of the child welfare duties and functions vested by law in the counties.

§ 3130.3. Legal base.

The legal base of this chapter is the following statutory provisions:

- (1) Articles II, VII and IX of the Public Welfare Code (62 P. S. §§ 201—211, 701—774 and 901—922).
- (2) Sections 6301—6365 of 42 Pa.C.S. (relating to the Juvenile Act).
- (3) Section 2168 of the County Code (16 P. S. § 2168).
- (4) Section 405 of the act of June 24, 1937 (P. L. 2017, No. 396) (62 P. S. § 2305).
- (5) The Child Protective Services Law (11 P. S. §§ 2201—2224).
- (6) Part III of 23 Pa.C.S. (relating to the Adoption Act).
- (7) The Pennsylvania Adoption Cooperative Exchange Act (11 P. S. §§ 2501—2507).

Authority

The provisions of this § 3130.3 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.3 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (109556).

§ 3130.4. Waivers.

(a) A waiver of a requirement of this chapter may be requested as specified in procedures published by the Department.

(b) A waiver may be granted by the Department if the waiver:

- (1) Does not alter the applicability, scope or purpose of this chapter.
- (2) Is based on evidence, supplied by the requesting agency, that the objective of the requirement will be achieved in another way.
- (3) Is based on evidence, supplied by the requesting agency, that a waiver will have no adverse effect on the health, safety and rights of children.
- (4) Does not violate or condone noncompliance with Federal statutes, Federal regulations, Commonwealth statutes or regulations, other than the requirement of this chapter for which the waiver is approved.
- (5) Does not jeopardize receipt of Federal monies.

Authority

The provisions of this § 3130.4 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.4 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (109556).

§ 3130.5. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Accept for service—Decide on the basis of the needs and problems of an individual to admit or receive the individual as a client of the agency or as required by a court order transferring custody of a child to the county agency under 42 Pa.C.S. §§ 6301—6365 (relating to the Juvenile Act).

Arrange—Make a service available to a client accepted for service through another agency or service provider which is not paid for by the county children and youth social service agency.

Child—An individual whose custody has been transferred to the county agency under 42 Pa.C.S. §§ 6301—6365, or whom the agency has otherwise accepted for service and who:

- (i) Is under the age of 18 years.
- (ii) Is under the age of 21 years who committed an act of delinquency before reaching the age of 18 years.

(iii) Is under the age of 21 years who was adjudicated dependent before reaching the age of 18 years and while engaged in a course of instruction or treatment requests the court to retain jurisdiction until the course has been completed.

Child care facility—The physical location or site, including buildings, grounds, supplies and equipment, as well as staff, involved in providing part-day or full-day—24 hour—social services for children. The term does not include a foster family residence as defined in Chapter 3700 (relating to foster family care agency).

Children and youth social services—Public child welfare services referred to in the Public Welfare Code (62 P. S. § 701), including those activities or services designed to:

- (i) Prevent neglect, abuse and exploitation and help overcome problems that result in dependency and delinquency.
- (ii) Provide services to families in their own homes which protect children from continued harm.
- (iii) Provide temporary, substitute care in foster family homes or residential child care facilities for a child in need of the care.
- (iv) Reunite children and their families if children are placed in temporary substitute care.
- (v) Provide a permanent, legally assured family for a child in temporary, substitute care who cannot be returned to his home.
- (vi) Provide court-ordered care or supervision to alleged or adjudicated dependent or delinquent children.

County—County institution district or its successor.

Date of placement—The date of the child's most recent physical removal from the home and placement under the care and responsibility of the county agency. A planned temporary visit home or the child's running away from placement to home does not change the child's date of placement.

Department—The Department of Human Services of the Commonwealth.

Facility designed or operated for the benefit of delinquent children—A facility which is one of the following:

- (i) Identifies itself by charter, articles of incorporation or program description as solely for delinquent children.
- (ii) A secure facility.

Parent—Biological parent, adoptive parent or legal guardian.

Placement—Twenty-four hours out-of-home care and supervision of a child.

Provide—Perform an activity directly through county agency staff or ensure the performance of an activity through a purchase of service agreement with another agency or individual.

Authority

The provisions of this § 3130.5 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.5 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (75131) to (75132).

GOAL**§ 3130.11. Goal of children and youth social services.**

It is the goal of children and youth social services to ensure for each child in this Commonwealth a permanent, legally assured family which protects the child from abuse and neglect.

Notes of Decisions*Dependency*

Considering enormous implications of dependency finding, such a determination can only be made in compliance with statutory requirements regarding dependency determinations and cannot be made by trial court sua sponte without petition for dependency having been filed. *Fallaro v. Yeager*, 528 A.2d 222 (Pa. Super. 1987)

§ 3130.12. Responsibilities for children and youth services.

(a) The Department and each of the 67 counties are jointly responsible for the achievement of the goal of children and youth services and for assuring the availability of adequate children and youth social services to children who need the services, regardless of race, sex, religion, settlement, residence, economic or social status.

(b) The Department is responsible for:

(1) Regulating the level and the scope of minimum children and youth services, minimum standards of children and youth services delivery and minimum standards of children and youth services administration, including the provision of procedural safeguards for parents and children when the goal of a family service plan is changed, or when a child's placement location or visitation arrangements are modified.

(2) Supervising the administration of children and youth social services.

(3) Reimbursing counties in accordance with Chapter 3140 (relating to planning and financial reimbursement requirements for county children and youth social service programs) for Department approved services provided in accordance with State laws and Department regulations.

(4) Monitoring the county agencies to ensure compliance with minimum standards for children and youth services including the requirements of this chapter.

(c) Each county is responsible for administering a program of children and youth social services that includes:

- (1) Services designed to keep children in their own homes; prevent abuse, neglect and exploitation; and help overcome problems that result in dependency and delinquency.
- (2) Temporary, substitute placement in foster family homes and residential child care facilities for a child in need of the care.
- (3) Services designed to reunite children and their families when children are in temporary, substitute placement.
- (4) Services to provide a permanent legally assured family for a child in temporary, substitute care who cannot be returned to his own home.
- (5) Service and care ordered by the court for children who have been adjudicated dependent or delinquent.

Source

The provisions of this § 3130.12 adopted December 21, 1990, effective December 22, 1990, 20 Pa.B. 6269. Immediately preceding text appears at serial pages (124159) to (124160).

§ 3130.12a. County children and youth agency responsibility for juveniles in police custody—statement of policy

(a) The county children and youth system assists law enforcement officials who must discharge from custody a juvenile who has not committed a detainable offense or who is a nondelinquent offender. The assistance is provided or arranged in a manner which will promptly respond to requests to accept the juveniles ready for release. The response may be delayed only if one of the following exists:

- (1) Staff are responding to a report of suspected child abuse.
- (2) Staff are responding to a case emergency other than child abuse.
- (3) The law enforcement official has not implemented the guideline set forth in § 3130.12b (relating to police guidelines for sheltering of dependent/delinquent juveniles in a nonsecure facility—statement of policy).

(b) A response may be refused if the presenting information clearly indicates the juvenile poses a threat to the safety of county children and youth staff, its agents or its providers.

(c) The policy is considered a minimum course of action. Counties which have a policy in effect as of March 19, 1994, which meets or exceeds the minimum course of action may retain the existing policy upon receipt of concurrence from the county court. Concurrences which were obtained after the July 12, 1991, initial issuance of this policy need not be renewed for purposes of this subsection.

(d) The policy in this section is based on § 3130.12(c) (relating to responsibilities for children and youth services).

Source

The provisions of this § 3130.12a adopted March 18, 1994, effective March 19, 1994, 24 Pa.B. 1502.

§ 3130.12b. Police guidelines for sheltering of dependent/delinquent juveniles in a nonsecure facility—statement of policy.

(a) Log the time a juvenile arrives at police headquarters. Status offenders may never be held securely—that is, in a cell, locked room or handcuffed to a stationary object.

(b) Check National Criminal Information Clearinghouse (NCIC) and other local areas for any wants or outstanding warrants.

(c) Document all attempts to reach parents, family or other responsible adults. Obtain the following information:

- (1) The name of person called.
- (2) The time called.
- (3) The phone number called.
- (4) The nature of discussion and response, if any.

(d) If parents are not available, an attempt should be made to call the following persons:

- (1) Grandparents, godparents, cousins.
- (2) Adult aunts, uncles, brothers, sisters.
- (3) A responsible adult with proper identification whom is capable of taking custody.

(e) If after 4 hours, a juvenile is still in custody and no parent or guardian is available, notify the on-duty juvenile probation officer or the on-duty children and youth services caseworker to make him aware of the existing problem. If the juvenile is under the influence of drugs or alcohol, threatening suicide or exhibiting mental problems, take the juvenile to the nearest hospital emergency room for evaluation or treatment.

(f) If the juvenile is classified as a delinquent offender—that is misdemeanor or felony charges will be filed—contact the on-duty juvenile probation officer to see if the juvenile is eligible for secure detention under *Coleman v. Stanziani*, (No. 81-2215 U. S. District Court for Eastern Pennsylvania).

(g) If the juvenile is not eligible for secure detention or the probation officer does not authorize detention, and the sole reason that the juvenile is still in custody is the unavailability of a parent or responsible adult, call the on duty children and youth services caseworker and make the caseworker aware of the problem. Throughout the process in this section, the police should continue to try to locate a responsible adult to take custody.

(h) If after 5 hours, a responsible adult to take custody of the juvenile is not located, call children and youth services and state:

“I HAVE CUSTODY OF A DEPENDENT JUVENILE WHO IS IN NEED OF CARE. I HAVE FOLLOWED THE PROPER PROCEDURES AND REQUIRE ASSISTANCE IN OBTAINING SHELTER CARE UNDER SECTION 6325 OF THE JUVENILE ACT.”

- (i) When permission is received, transport the juvenile to the shelter designated by the caseworker.
- (j) The Request for Shelter Care Services Form should be completed on children and youth services referrals and taken to the youth shelter with the juvenile.
- (k) Stop the 6-hour time count when the juvenile leaves the building.
- (l) The police officer shall be available to appear in court at a detention hearing, if called to do so, so that the officer can testify as to the reasons for taking custody.

Source

The provisions of this § 3130.12b adopted March 18, 1994, effective March 19, 1994, 24 Pa.B. 1502.

Cross References

This section cited in 55 Pa. Code § 3130.12a (relating to county children and youth agency responsibility for juveniles in police custody—statement of policy).

§ 3130.13. Goal for reducing the number of children in placement.

- (a) A Statewide goal of 1% reduction in the number of children in placement for 2 or more years is established for each of the next 7 years beginning in Fiscal Year 1983–1984 and concluding at the end of Fiscal Year 1989–1990 with a cumulative reduction of 7%. This goal does not apply to individual counties.
- (b) The steps taken to achieve this goal will include:
 - (1) Semiannual judicial or administrative review of the status of children in placement.
 - (2) Uniform monitoring and enforcement of the case planning and review requirements established in this chapter.
 - (3) Increased emphasis on the development of adoption resources, including the Pennsylvania Adoption Cooperative Exchange (PACE) and the Pennsylvania Adoption Assistance Program.
 - (4) Increased emphasis on services to children in their own homes.

Authority

The provisions of this § 3130.13 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.13 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (75133).

Notes of Decisions*Dependency*

Considering enormous implications of dependency finding, such a determination can only be made in compliance with statutory requirements regarding dependency determinations and cannot be made by trial court sua sponte without petition for dependency having been filed. *Fallaro v. Yeager*, 528 A.2d 222 (Pa. Super. 1987).

ADMINISTRATIVE REQUIREMENTS**§ 3130.21. Responsibilities of county executive officers.**

(a) The county executive officers shall delegate responsibility for the administration of the county children and youth social services program to a county children and youth social service agency, referred to as a county agency.

(b) The executive officers shall ensure that the agency is operated in conformity with applicable Federal, State and local statutes, ordinances and regulations.

(c) The executive officers shall appoint an agency administrator to manage the county agency.

(d) The executive officers shall appoint an advisory committee to review and make recommendations pertaining to the county's children and youth social service program and the operation of the county agency. The membership of the advisory committee shall be representative of the county's population in relation to race and sex.

(e) The executive officers shall consult with the advisory committee on development of the County Children and Youth Services Plan and Budget Estimate.

(f) The executive officers shall immediately notify the regional office of the Department of an event which will significantly affect the ability of the county agency to carry out its duties and responsibilities, such as a strike, work stoppage or natural disaster.

(g) The executive officers shall establish written personnel policies and operate the personnel system for the county agency in accordance with a Federally approved merit system.

(h) After consultation with the agency administrator, the executive officers shall:

(1) Budget adequate funds to perform the duties and functions and to provide the services required by this chapter.

(2) Submit a Children and Youth Services Plan and Budget Estimate and quarterly reports of expenditures as required in Chapter 3140 (relating to planning and financial reimbursement requirements for county children and youth social service programs).

(3) Determine for which services the county agency will charge fees, and establish written fee schedules for those services. The fee schedules shall be based on the client's ability to pay.

- (4) Establish written service policies and procedures for county agency operation, including the following:
- (i) Intake assessment and case acceptance.
 - (ii) Case termination.
 - (iii) The delivery of services provided or arranged by the county agency.

Authority

The provisions of this § 3130.21 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.21 amended January 23, 1987, effective January 24, 1987, except subsection (h)(4)(i)—(iii) effective 1 year after issuance of a model manual by the Department, 17 Pa.B. 392. Immediately preceding text appears at serial pages (75133) to (75135).

Cross References

This section cited in 55 Pa. Code § 3130.36 (relating to adoption services); 55 Pa. Code § 3490.241 (relating to appeals with respect to general protective services); and 55 Pa. Code § 3490.361 (relating to requirements for agencies providing protective services).

§ 3130.22. Duties of the advisory committee.

- (a) The advisory committee shall make recommendations on matters referred by the executive officers or the agency administrator and shall suggest policies for the agency's operation and development at the committee's own initiative.
- (b) The advisory committee shall advise the executive officers and the agency administrator on the development of the County Children and Youth Services Plan and Budget Estimate.

§ 3130.23. Availability of agency rules and policies.

County agency rules and policies describing the services offered by the county agency, service policies and procedures, eligibility for services, financial liability of clients and the rights of clients to receive or refuse services shall be available to the public for review or study in every county agency office on regular work-days during regular office hours.

Authority

The provisions of this § 3130.23 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.23 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (75135).

§ 3130.24. Administrative reports and records.

- (a) The county agency shall prepare and submit reports required by the Department.

(b) The county agency shall report suspected abuse to ChildLine under 23 Pa.C.S. §§ 6301—6384 (relating to the Child Protective Services Law).

(c) The county agency shall submit immediately, to the appropriate regional office of the Department, an oral report of an incident involving the death of a child in a foster home or residential child care facility for which it has administrative responsibility.

(d) The county agency shall make a written report on forms provided by the Department to the appropriate regional office of the Department within 10 calendar days of knowledge of the occurrence of the following:

(1) The death of a child in the custody of the county agency.

(2) An injury to a child in the custody of the county agency which requires inpatient hospitalization or which, in the opinion of the treating physician, may cause death, serious disability or disfigurement and an occurrence, such as a fire in a foster family home or a residential child care facility, which threatens the health or safety of a child or requires a facility providing residential child care to relocate children temporarily.

(e) Oral and written reports required by this section shall provide, at a minimum, the name of the child involved and a full description of the circumstances surrounding the incident, including time, date, place, apparent cause and actions taken or proposed in response to the incident, such as arranging for temporary shelter or medical care and notifying the child's parents.

Authority

The provisions of this § 3130.24 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.24 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (75135) to (75136).

PROGRAM REQUIREMENTS

§ 3130.31. Responsibilities of the county agency.

The county agency shall be organized and staffed to ensure the following:

(1) Administration of the agency, including the following:

(i) The maintenance of case records by county agency staff.

(ii) Provision for planning, budgeting, accounting and staff development.

(2) Intake to services, including the following:

(i) Provision of 24-hour, 7-day-per-week telephone access and the capacity to respond to emergency requests for service.

(ii) The direct investigation and assessment, by county agency staff, of complaints, requests and referrals for service to determine their appropriateness for the following:

- (A) Child abuse protective service.
- (B) General child protective service.
- (iii) Referral to other service providers and agencies.
- (iv) Cooperation with other providers and agencies to ensure the appropriateness and follow-up of referrals to and from the county agency.
- (3) Direct case management by county agency staff of cases accepted for service by the county agency, including the following:
 - (i) Developing family service plans as required by §§ 3130.61, 3130.66 and 3130.67 (relating to family service plans; case planning for children in emergency placement; and placement planning).
 - (ii) Responsibility for the child's placement and care and for assuring that services are provided as required by family service plans.
 - (iii) Scheduling and conducting case reviews as required by §§ 3130.63, 3130.71 and 3130.72 (relating to review of family service plans; placement reviews; and dispositional review hearings).
 - (iv) Filing petitions or motions with the court and mailing copies of the petition or motion, proposed family service plan and notices of hearings to the child, if age appropriate, the child's attorney and the child's parents or legal guardians and their attorney, if known to the county agency at least 15 days in advance of case reviews and dispositional hearings.
 - (v) Revising the service plans as required by the case review process.
- (4) Investigation of reports of suspected child abuse and services provided to abused children and their families under Chapter 3490 (relating to protective services).

Authority

The provision of this § 3130.31 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.31 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392; amended December 21, 1990, effective December 22, 1990, 20 Pa.B. 6269. Immediately preceding text appears at serial pages (124163) to (124164).

Cross References

This section cited in 55 Pa. Code § 3130.32 (relating to staffing requirements); and 55 Pa. Code § 3130.67 (relating to placement planning).

§ 3130.32. Staffing requirements.

- (a) There shall be supervision of caseworkers and other direct service staff to ensure the following:
 - (1) Consultation on emergency cases.
 - (2) Ongoing support and direction for the case activities of supervised staff.

(3) An average direct service staff to supervisor ratio for the county agency of no more than five to one.

(b) To investigate child abuse and child neglect reports and to carry out case management functions required in § 3130.31(2)(ii) and (3) (relating to responsibilities of the county agency), the caseworker-to-client family ratio may be no greater than 1 to 30. If staff have other ongoing responsibilities not directly related to families in their own caseload, the caseworker-to-client family ratio shall be reduced in proportion to the percentage of time required to perform the other ongoing responsibilities.

Authority

The provisions of this § 3130.32 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.32 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (97941).

Cross References

This section cited in 55 Pa. Code § 3490.341 (relating to staff-to-family ratios).

§ 3130.33. Use of volunteers.

The county agency shall use volunteers to aid in the delivery of services.

§ 3130.34. Required services.

The county agency shall provide or arrange for the provision of:

- (1) Placement prevention and reunification services.
- (2) Adoption services.
- (3) Emergency and planned temporary placement services.
- (4) Other required services, including services or care ordered by the court.

Notes of Decisions

Other Required Services

The provision of paragraph (4) and 55 Pa. Code § 3130.38(a) (relating to other required services) contemplate the court entering a dispositional order under its authority in 42 Pa.C.S. § 6351 (relating to disposition of dependent child) which order mandates participation by the county institution district. *In re Lowry*, 484 A.2d 383 (Pa. 1984).

Cross References

This section cited in 55 Pa. Code § 3140.17 (relating to review of county plans and budgets).

§ 3130.35. Placement prevention and reunification services.

Placement prevention and reunification services include all of the following:

- (1) *Counseling service*. Supportive and therapeutic activities provided to a child or a child's family and directed at preventing or alleviating conditions,

including crisis conditions, which present a risk to the safety or well-being of the child by improving problem-solving and coping skills, interpersonal functioning, the stability of the family, or the capacity of the family to function independently.

(2) *Parent education.* Practical education and training for parents in child care, child development, parent-child relationships and the experience and responsibilities of parenthood.

(3) *Homemaker/caretaker service.* Home help, home care skills instruction and/or child care and supervision provided to a child and the child's family in the child's home by a trained homemaker or caretaker.

(4) *Part day service.* Care and supervision for a child for less than 24 hours per day provided under a family service plan to enable the child to remain in or return to the child's own home.

Notes of Decisions

Dependency

Considering enormous implications of dependency finding, such a determination can only be made in compliance with statutory requirements regarding dependency determinations and cannot be made by trial court sua sponte without petition for dependency having been filed. *Fallaro v. Yeager*, 528 A.2d 222 (Pa. Super. 1987).

Cross References

This section cited in 55 Pa. Code § 3140.17 (relating to review of county plans and budgets).

§ 3130.36. Adoption services.

(a) The county agency shall make adoption services available to a child in the custody or under the supervision of the county agency who is in temporary, substitute care and who cannot be returned to his own home.

(b) Adoption services include the following:

(1) *Adoption service.* Activities designed to culminate in legal adoption of a child, including adoptive home recruitment, study of adoptive parent applicants, placement and supervision of the child in the adoptive home, preparation and presentation of material for the adoption hearing and ensuring adoption assistance, when needed.

(2) *Adoption assistance.* The county shall actively seek ways to promote the adoption assistance program as set forth in Chapter 3140 Subchapter C (relating to adoption assistance).

(c) The county agency shall, upon request of another county agency, conduct a study of adoptive parent applicants residing in that county who seek to adopt a child who is in placement under the case management responsibility of the county agency requesting the study. The county agency conducting the study may apply its fee schedule as established under § 3130.21(h)(3) (relating to responsibilities of county executive officers) to pay the cost of the study.

(d) Before making a request of another county agency for an adoptive study under subsection (c), the county agency shall seek other alternatives. The alternatives may include the following:

- (1) Arranging for an adoptive study through a private agency.
- (2) Considering other ways of arranging a study with the adoptive parent.

(e) The county agency shall comply with the Pennsylvania Adoption Cooperative Exchange Act (11 P. S. §§ 2501—2507).

Authority

The provisions of this § 3130.36 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.36 amended January 23, 1987, effective January 24, 1987, except subsections (c) and (d) effective April 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (97942).

Notes of Decisions

Adoption Assistance

In accordance with this section relating to the administration of the various counties' Children and Youth Services agencies, the direction that, "[t]he county shall actively seek ways to promote the adoption assistance program as set forth in Chapter 3140 Subchapter C (relating to adoption assistance)" requires that Children and Youth Services (CYS) utilize all available Federal policy interpretations if it enables a greater number of adopted children to benefit from this Federally funded program; in this instance, the court adopts the Federal policy interpretations PIQ 87-05 and PIQ 92-02 as being indicative of the standard required of state and Federal law on adoption assistance; thus, this court holds that the local agency must first find, not just "an appropriate" adoptive home, but must first "locate the most suitable family for the child," without regard for whether or not the most suitable family does or does not require any form of assistance. *Gruzinski v. Department of Public Welfare*, 731 A.2d 246 (Pa. Cmwlth. 1999); appeal denied 747 A.2d 902 (Pa. 1999).

Dependency

Considering enormous implications of dependency finding, such a determination can only be made in compliance with statutory requirements regarding dependency determinations and cannot be made by trial court sua sponte without petition for dependency having been filed. *Fallaro v. Yeager*, 528 A.2d 222 (Pa. Super. 1987).

Cross References

This section cited in 55 Pa. Code § 3140.17 (relating to review of county plans and budgets).

§ 3130.37. Emergency and planned temporary placement services.

(a) *Emergency placement service.* Residential care and supervision in a non-secure setting, not to exceed 30 consecutive days for a child:

(1) Whose immediate safety, protection and well-being requires removal from his own home.

(2) Who would present a danger to himself or others or who would abscond if he were living at home.

(b) *Planned temporary placement services.*

(1) *Foster family care.* Residential care and supervision of a child in a foster family home.

(2) *Residential child care.* Twenty-four-hour out-of-home care in a nonsecure facility for children not related to the provider.

Authority

The provisions of this § 3130.37 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.37 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (97942).

Notes of Decisions

Dependency

Considering enormous implications of dependency finding, such a determination can only be made in compliance with statutory requirements regarding dependency determination and cannot be made by trial court sua sponte without petition for dependency having been filed. *Fallaro v. Yeager*, 528 A.2d 222 (Pa. Super. 1987).

Cross References

This section cited in 55 Pa. Code § 3140.17 (relating to review of county plans and budgets).

§ 3130.38. Other required services.

(a) *Court-ordered services.* The county agency shall provide or arrange for the provision of service and care ordered by the court under 42 Pa.C.S. §§ 6301—6365 (relating to the Juvenile Act).

(b) *Child protective services.* Other services required by Chapter 3490 (relating to protective services).

(c) *Family service plans.* Other services required by the service plan and service plan reviews in §§ 3130.61, 3130.63, 3130.67 and 3130.71.

Authority

The provisions of this § 3130.38 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1008).

Source

The provisions of this § 3130.38 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (97943).

Notes of Decisions

Dental Care

Where the trial court exercised its continuing discretion at the best interest of the child, it was not an abuse of discretion for it to require payment by the Philadelphia Department of Human Services for the child's dental care, even though the child was not committed to DHS. *In re N.E.*, 787 A.2d 1040 (Pa. Super. 2001).

Education

Juvenile Court has authority to order county youth services agency to fulfill a duty to give financial support to dependent child, and trial court may enter an order directing agency to fund placement

of child in preschool program, although the cost for such would not be reimbursed by Department of Public Welfare. *In re Tameka M.*, 580 A.2d 750 (Pa. Cmwlth. 1990).

Dependency

Considering the enormous implications of a dependency finding, such a determination can only be made in compliance with statutory requirements regarding dependency determinations and cannot be made by a trial court sua sponte without petition for dependency having been filed. *Fallaro v. Yeager*, 528 A.2d 222 (Pa. Super. 1987).

Subsection (a)

The provisions of subsection (a) and 55 Pa. Code § 3130.34(4) contemplate the court entering a dispositional order under its authority in 42 Pa.C.S. § 6351 (relating to disposition of dependent child) which order mandates participation by the county institution district. *In re Lowry*, 484 A.2d 383 (Pa. 1984).

Cross References

This section cited in 55 Pa. Code § 3140.17 (relating to review of county plans and budgets).

§ 3130.39. Services and facilities which may be used.

(a) A service or facility used by the county agency to serve children shall be licensed or approved by the appropriate State agency if that service or facility is subject to licensure or approval.

(b) Facilities used by the county agency for the residential care of children shall meet basic State and local requirements for the health and safety of children.

(c) Children who are dependent and not also adjudicated delinquent may not be placed in a facility operated for the benefit of delinquent children.

Notes of Decisions

Dependent

Juvenile Court has authority to order county youth services agency to fulfill a duty to give financial support to dependent child, and trial court may enter an order directing agency to fund placement of child in preschool program, although the cost for such would not be reimbursed by Department of Public Welfare. *In re Tameka M.*, 580 A.2d 750 (Pa. Cmwlth. 1990).

Considering the enormous implications of a dependency finding, such a determination can only be made in compliance with statutory requirements regarding dependency determinations and cannot be made by a trial court sua sponte without a petition for dependency having been filed. *Fallaro v. Yeager*, 528 A.2d 222 (Pa. Super. 1987).

General Comment

The provisions of this section act as a limitation upon the services and facilities which may be used by county agencies. *In re Lowry*, 464 A.2d 333 (Pa. Cmwlth. 1983).

Judicial Review

In ordering a disposition under 42 Pa.C.S. § 6351 (relating to disposition of dependent child) the Court acts not in the role of adjudicator reviewing the action of an administrative agency, but rather acts under a separate discretionary role with the purpose of meeting the child's best interests, so the court does have the authority to order the county institution district to place children in homes not yet

approved, even though the provisions of this section prohibit the county institution district from doing so on its own initiative, and the Superior Court judgment was reversed. *In re Lowry*, 484 A.2d 383 (Pa. 1984).

Standing

The Supreme Court concluded that foster parents lacked standing to seek or contest custody of their foster child who had been adjudicated dependent. *In re G. C.*, 735 A.2d 1226 (Pa. 1999).

Because foster parents have neither permanent custody of their foster children nor an expectation of permanent custody, the decision of a legal custodian regarding custody does not cause the type of direct and substantial injury necessary for standing. *In re G. C.*, 673 A.2d 932 (Pa. Super. 1996); affirmed 735 A.2d 1226 (Pa. 1999).

Cross References

This section cited in 55 Pa. Code § 3130.67 (relating to placement planning); 55 Pa. Code § 3140.21 (relating to general); and 55 Pa. Code § 3490.361 (relating to requirements for agencies providing protective services).

§ 3130.40. Delivery of services through other service providers.

(a) When the county agency arranges for the provision of children and youth services through the County Mental Health/Mental Retardation Agency, the Drug and Alcohol Abuse Agency or the County Assistance Office, it shall have a written service agreement with the provider agency which describes the responsibilities of the agency providing the service.

(b) If the county agency provides children and youth services for which State reimbursement will be claimed, the county agency shall comply with Chapters 3140 and 3170 (relating to planning and financial reimbursement requirements for county children and youth social service programs; and allowable costs and procedures for county children and youth).

(c) The county agency shall make available to a service provider diagnostic, service plan and case information that is necessary to carry out the terms of a service plan as required by §§ 3130.61 and 3130.67 (relating to family service plans; and placement planning).

Notes of Decisions

Dependency

Considering enormous implications of a dependency finding, such a determination can only be made in compliance with statutory requirements regarding dependency determinations and cannot be made by a trial court sua sponte without a petition for dependency having been filed. *Fallaro v. Yeager*, 528 A.2d 222 (Pa. Super. 1987).

Cross References

This section cited in 55 Pa. Code § 3490.361 (relating to requirements for agencies providing protective services).

§ 3130.41. Requirements relating to interstate compacts.

The county agency shall comply with the requirements of the Interstate Compact on Juveniles in section 731 of the Public Welfare Code (62 P. S. § 731) and

the Interstate Compact on the Placement of Children in section 761 of the Public Welfare Code (62 P. S. § 761). These compacts outline procedures that ensure the proper care and supervision of children who cross state boundaries.

(1) Under the provisions of the Interstate Compact on Juveniles, the county agency shall:

(i) Provide the services necessary to return a nondelinquent juvenile who has run away from home or other placement to a county within this Commonwealth.

- (ii) Return to the county alleged or adjudicated dependent children who are under the supervision of the county agency or the court and who have run away or absconded to other states.
- (iii) Perform other services ordered by the court.
- (2) Under the provisions of the Interstate Compact on the Placement of Children, the county agency shall:
 - (i) Apply for and receive approval from the receiving state prior to sending a child to a placement in another state. The approval process is initiated through the Interstate Office of the Department.
 - (ii) Perform adoptive home studies and reviews of proposed placements for other states participating in the compact, upon written request of the Department.

§ 3130.42. Requirements relating to the interstate placement of children in noncompact states.

- (a) If a county agency plans to send a child to a noncompact state for the purpose of placement or adoption, the county agency shall first inform the Interstate Office of the Department which will immediately send the information to the appropriate department of government of the receiving state.
- (b) The county agency shall perform adoptive home studies and reviews of proposed placements for noncompact states upon written request of the Interstate Office of the Department.

Notes of Decisions

Dependency

Considering enormous implications of dependency finding, such a determination can only be made in compliance with statutory requirements regarding dependency determinations and cannot be made by trial court sua sponte without petition for dependency having been filed. *Fallaro v. Yeager*, 528 A.2d 222 (Pa. Super. 1987).

§ 3130.43. Family case records.

- (a) The county agency shall establish and maintain a family case record for each family accepted for service.
- (b) The family case record shall contain the following:
 - (1) The date the family was accepted for services.
 - (2) The name and address of the parents.
 - (3) The name, race, sex and date of birth of each family member.
 - (4) A family service plan as defined in § 3130.61 (relating to family service plans), including the results of plan reviews.
 - (5) A record of service activity, including the following:
 - (i) The dates of the contact with family members.
 - (ii) The parties involved in the contact.
 - (iii) The action taken.

- (iv) The results of the actions.
- (6) Correspondence between agencies and individuals involved in the case.
- (7) Appropriate medical information on family members.
- (c) A section of the family case record that includes the following shall be established for each child in placement:
 - (1) The court order placing the child or the voluntary placement agreement.
 - (2) Copies of each document filed by the county agency with the court, including petitions, motions and attachments. These documents shall have the date on which they were sent to the court noted thereon by date stamp.
 - (3) Date stamped copies of the documents maintained under paragraph (2) that were sent to each party required by this chapter to receive them.
 - (4) Other notifications required by this chapter.
 - (5) The date the child was placed.
 - (6) The location of the child's placement, including the name and address of the placement.
 - (7) An emergency telephone number where parents or guardian can be reached.
 - (8) Amendments to the service plan as required in § 3130.67 (relating to placement planning) and the results of reviews of children in placement as required in §§ 3130.71 and 3130.72 (relating to placement reviews; and dispositional review hearings).
 - (9) Copies of applications for Federal and other benefits.
 - (10) Educational reports and records.
 - (11) Indication if the child is disabled and, if so, the type of physical, mental or emotional disability.
- (d) The county agency shall retain family case records for 5 years following closure of the family's case. Adoption records and child abuse records shall be handled in the manner specified in Chapters 3350 and 3490 (relating to adoption services; and protective services) pertaining to those services.

Authority

The provisions of this § 3130.43 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080); 42 Pa.C.S. §§ 6301—6365; and section 405 of the County Institution District Law (62 P. S. § 2305).

Source

The provisions of this § 3130.43 amended January 23, 1987, effective January 24, 1987, except subsection (c)(7) and (8) effective April 24, 1987, 17 Pa.B. 392; amended December 14, 1990, effective December 15, 1990, 20 Pa.B. 6175; amended December 21, 1990, effective December 22, 1990, 20 Pa.B. 6269. Immediately preceding text appears at serial pages (124171) to (124172).

Cross References

This section cited in 55 Pa. Code § 3490.236 (relating to general protective services records).

§ 3130.44. Confidentiality of family case records.

(a) Information that may be used to identify the child or the parents by name or address, and information contained in the case record, is confidential. A staff person may not disclose or make use of information concerning the child or the parents other than in the course of the performance of his duties.

(b) Federal authorities, the Commonwealth and the Department or respective authorized agents officially charged with administrative supervision, review, evaluation or audit responsibilities may have access to and the right to use information identifying applicants for and recipients of children and youth services. The information shall be necessary to carry out the mandated functions of the agency and may not be protected by a specific law, such as 23 Pa.C.S. §§ 6301—6384 (relating to the Child Protective Services Law).

(c) Members of the administrative review panels, volunteers, another county agency and other providers of services to children and families who are accepted for service by the county agency may have access to and the right to use information identifying recipients of children and youth services. The amount and type of information to be released shall be determined by the county agency and shall be limited to information needed by the service provider to carry out its responsibilities. The decision to release information shall be based on the county agency's assessment of the individual case record and the responsibilities of a service provider. Information released may include part or all of the case record.

(d) Information contained in case records shall be released upon request to:

- (1) Parents and legal guardians.
- (2) Children's and parents' attorneys.
- (3) The court and court staff.
- (4) County executive officers.
- (5) The child, if 14 years of age or older. The county agency may withhold information from a child which it has reason to believe it will be harmful to the child. The basis for withholding information from a child shall be recorded in the child's case record.

(e) Information in case records may not be released to a person or agency other than those specified in subsections (b)—(d) without prior authorization of the court.

(f) Information from a case record may be made available only if the information released does not contain material which violates the right to privacy of another individual or is protected or made confidential by law. This may not be construed to protect the right to privacy of a county agency employe.

(g) Except as limited by subsection (h), the county agency may use or authorize the use of information contained in the case records for teaching or research, if the teaching or research does not include names or other information which may directly or indirectly identify persons involved in the case. The county agency administrator shall approve or disapprove, in writing, requests from per-

sons not employed by the county agency who wish to use agency case records for teaching or research purposes.

(h) To the extent that information contained in the family case record is protected by 23 Pa.C.S. Part III (relating to the Adoption Act), 23 Pa.C.S. §§ 6301—6384 (relating to the Child Protective Services Law) and Chapter 3490 (relating to protective services), access to and release of information shall be under the statutes and regulations.

Authority

The provisions of this § 3130.44 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.44 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (75142) to (75143).

Cross References

This section cited in 55 Pa. Code § 3490.242 (relating to confidentiality).

§ 3130.45. Permanent documents.

Permanent documents, such as birth certificates, immunization and health records, education records and legal documents relating to custody or guardianship, shall be given to the legally responsible person when the child is discharged from service. The county agency shall obtain a signed and dated receipt from the person to whom the documents are given. If the child being discharged is 18 years or older or is emancipated, the documents shall be given to the child.

§ 3130.46. Child placement registration index.

The county agency shall establish and maintain a child placement registration index from which up-to-date information about every child in placement can be readily obtained, including:

- (1) Demographic characteristics of the child.
- (2) Legal status.
- (3) Location.
- (4) Goals for each child.
- (5) Information relating to case reviews.
- (6) Information to be specified in procedures published by the Department.

PERSONNEL REQUIREMENTS

§ 3130.51. Hiring practices.

(a) With the exception of the agency administrator, county agency staff hired or reclassified after January 1, 1978, shall be appointed in accordance with a Federally approved merit system of personnel administration. County agency

staff who were not covered by an approved merit system as of January 1, 1978, are not required to be reappointed through the merit system to retain the position held before January 1, 1978.

(b) A candidate for the position of agency administrator shall possess the minimum experience and training described in the job specifications for the Children and Youth Administrator Series (1420-1424) as approved by the Governor's Office of Budget and Administration. Prior to the appointment of an agency administrator, the county shall submit a resume of the applicant's qualifications and experience to the Department's Bureau of Personnel for review and approval.

(c) The county agency may not hire a staff person without first complying with section 23.1 of the Child Protective Services Law (11 P. S. § 2223.1) and Chapter 3490 (relating to protective services).

Authority

The provisions of this § 3130.51 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.51 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (75143) to (75144).

§ 3130.52. Staff orientation and training.

(a) The agency shall have a program of staff training for county agency staff, including supervisors, caseworkers, paraprofessionals and volunteers.

(b) The staff training program shall provide:

- (1) Orientation for new and reassigned staff.
- (2) In-service training to provide, maintain or improve skills and knowledge needed by staff.
- (3) The opportunity for staff to attend workshops, seminars or meetings related to their responsibilities with the county agency.

CASE PLANNING AND CASE MANAGEMENT

§ 3130.61. Family service plans.

(a) The county agency shall prepare, within 60 days of accepting a family for service, a written family service plan for each family receiving services through the county agency.

(b) The service plan shall be a discrete part of the family case record and shall include:

- (1) Identifying information pertaining to both the child and other family members.
- (2) A description of the specific circumstances under which the case was accepted.

- (3) The service objectives for the family, identifying changes needed to protect children in the family in need of protection from abuse, neglect and exploitation and to prevent their placement.
- (4) The services to be provided to achieve the objectives of the plan.
- (5) The actions to be taken by the parents, children, the county agency or other agencies, and the dates when these actions will be completed.
- (6) Placement amendments as required by § 3130.67 (relating to placement planning).
- (7) The results of family service plan reviews and placement reviews as required by §§ 3130.63 and 3130.73 (relating to review of family service plans; and recording the results of reviews and hearings).
- (c) The service plan shall be signed by the county agency staff person responsible for management of the case. The parent or legal guardian and the child, if 14 years of age or older, shall be given the opportunity to sign the service plan. The county agency shall inform the parent or guardian that signing the plan constitutes agreement with the service plan.
- (d) The county agency shall provide family members, including the child, their representatives and service providers, the opportunity to participate in the development and amendment of the service plan if the opportunity does not jeopardize the child's safety. The method by which these opportunities are provided shall be recorded in the plan.
- (e) The county agency shall provide family members, their legal counsel, other representatives and agencies or facilities providing services to the child and family with a copy of the service plan, including service plan amendments and results of reviews when the amendments or reviews change the previously agreed upon plan.
- (f) [Reserved].
- (g) [Reserved].

Authority

The provisions of this § 3130.61 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.61 amended January 23, 1987, effective January 24, 1987, except subsection (b) effective April 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (75144) to (75145).

Notes of Decisions

Dependency

Considering enormous implications of dependency finding, such a determination can only be made in compliance with statutory requirements regarding dependency determinations and cannot be made by trial court *sua sponte* without petition for dependency having been filed. *Fallaro v. Yeager*, 528 A.2d 222 (Pa. Super. 1987).

Family Participation in Plan Development

Family members must be afforded the opportunity to participate in the development and amendment of the service plan for a dependent child, so long as that does not jeopardize the child's safety; however, that mandate does not convey the right of the family member to attend or participate in the county agency's internal placement meetings. By asking the parents for input into the placement plan being formulated, the Agency complied with the family participation requirement. *In re R.T.*, 778 A.2d 670 (Pa. Super. 2001); appeal denied 792 A.2d 1254 (Pa. 2001).

Family Service Plan

It was improper for the trial court to rely exclusively on the "psychological parent" doctrine given Federal and State legislative intent that every reasonable effort be made to retain a child in the parental home by utilization of court and social services to improve parenting and ameliorate deficiencies before a child is removed. *Burke v. Pope*, 531 A.2d 782, 788 (Pa. Super. 1987).

The county children and youth service agency was responsible for formulating a family service plan which identified an ultimate goal for the child, including return home, placement in the home of another relative, adoption, placement with a legal guardian, independent living or long term placement. *Walker v. Johnson*, 891 F.Supp. 1040 (M. D. Pa. 1995).

Goal

Goal of family service plan may be changed from reunification to adoption where parent is incapable of mastering basic parenting skills. *In re M. B., K. B., J. B., L. B.*, 565 A.2d 804, 810 (Pa. Super. 1989); appeal denied 589 A.2d 692 (Pa. 1990).

Cross References

This section cited in 55 Pa. Code § 3130.31 (relating to responsibilities of the county agency); 55 Pa. Code § 3130.38 (relating to other required services); 55 Pa. Code § 3130.40 (relating to delivery of services through other service providers); 55 Pa. Code § 3130.43 (relating to family case records); 55 Pa. Code § 3130.66 (relating to case planning for children in emergency placement); 55 Pa. Code § 3140.22 (relating to reimbursable services and reimbursement rates); and 55 Pa. Code § 3490.235 (relating to services available through the county agency for children in need of general protective services).

§ 3130.62. Parent appeals and fair hearings.

(a) The county agency shall provide to the parents, along with a copy of the family service plan and, if applicable, placement amendment, a written notice of their right to appeal the following to the Department's Office of Hearings and Appeals:

- (1) A determination which results in a denial, reduction, discontinuance, suspension or termination of service.
- (2) The county agency's failure to act upon a request for service with reasonable promptness.

(b) The notice shall include a statement of the parents' right to be represented by an attorney or other representative and the name and address of the local legal services agency.

(c) In addition to the written notice, the county agency shall notify the parents of children who are under the jurisdiction of the court in writing of their right to petition the court regarding an action of the county agency affecting their children.

(d) If parents wish to appeal, they shall submit a written appeal to the county agency postmarked no later than 15 calendar days from the date of the written notice from the county agency.

(e) Upon receipt of the parent's appeal, the county agency shall date-stamp the appeal and submit it, along with the proposed family service plan and placement amendment and court orders involving the parents and the child, to the Department's Office of Hearings and Appeals, within 5 working days. The Office of Hearings and Appeals has the exclusive authority to grant or dismiss the appeal for failure to file in a timely manner.

(f) During an appeal procedure, the most current family service plan and placement amendment as approved by the county agency remains in effect.

(g) In appeal proceedings, the county agency has the burden of proving by clear and convincing evidence that the challenged term is necessary to achieve the goals of the service plan.

(h) The hearing examiner shall make a recommendation to the director of the Office of Hearings and Appeals. The director shall enter an order that is binding upon the parties to the proceeding. If the order requires a change in the plan, the county agency shall comply with the director's order.

(i) This chapter does not supersede the authority vested by law in the State courts. The director of the Office of Hearings and Appeals has no authority to issue a ruling modifying a term of a service plan which has been specifically approved or ordered by a court of competent jurisdiction.

Authority

The provisions of this § 3130.62 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.62 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (75145) to (75146).

Notes of Decisions

Dependency

Considering enormous implications of dependency finding, such a determination can only be made in compliance with statutory requirements regarding dependency determinations and cannot be made by trial court *sua sponte* without petition for dependency having been filed. *Fallaro v. Yeager*, 528 A.2d 222 (Pa. Super. 1987).

Jurisdiction

The Department of Public Welfare (DPW) erred in dismissing the parents' appeal for lack of basis for appeal on the motion of the county Children and Youth Services (CYS) during a prehearing con-

ference even though the parents' written "Basis for Appeal" did not set forth grounds for appeal which fall within the DPW's jurisdiction, where the father did state during the prehearing conference that he had requested specific services from CYS which were denied, and, any implicit factfinding during the prehearing conference, such as the rejection of the father's statement, was improper. *Tully v. Department of Public Welfare*, 727 A.2d 1219 (Pa. Cmwlth. 1999).

Right to Appeal

Department of Public Welfare had no authority to review mother's appeal to modify terms of family service plan developed by hearing master resulting from child dependency hearing; Court of Common Pleas approved the plan in its order adopting the hearing master's recommended decision and mother's only recourse was to present her claims to the Court. *Sanner v. Department of Public Welfare*, 878 A.2d 947, 953 (Pa. Cmwlth. 2005).

The Department of Public Welfare did not err in not conducting a full evidentiary hearing on mother's appeal of family service plan from child dependency case when her appeal presented no factual issues that would have provided the Department a basis to grant relief. *Sanner v. Department of Public Welfare*, 878 A.2d 947, 953 (Pa. Cmwlth. 2005).

Following repeated failure of the petitioner to attend hearings and respond to notices, dismissal of her appeal was appropriate. Dismissal was further justified because petitioner failed to state a claim within the jurisdiction of the Bureau of Hearings and Appeals as required by § 3130.62(a). *Burch v. Department of Public Welfare*, 815 A.2d 1143 (Pa. Cmwlth. 2002).

Where the father's basis for appeal was stated as violations of Chapter 3680, the appeal was properly dismissed. Those regulations do not govern the administration or operation of county children and youth social service agencies, and therefore are not applicable to the instant action, which involves such an agency. *Hudock v. Department of Public Welfare*, 808 A.2d 310 (Pa. Cmwlth. 2002).

Agency goal change of dependent children to adoption is a final, and appealable order. *In the Interest of M. B.*, 674 A.2d 702 (Pa. Super. 1996); appeal denied 688 A.2d 172 (Pa. 1997).

This section does not provide for an appeal concerning the goal of a family service plan; jurisdiction over such an appeal lies not with the DPW, but with the county Court of Common Pleas. *Conklin v. Department of Public Welfare*, 522 A.2d 1207 (Pa. Cmwlth. 1987).

Cross References

This section cited in 55 Pa. Code § 3130.68 (relating to visiting and communication policies).

§ 3130.63. Review of family service plans.

(a) Except as provided in subsection (b), the county agency shall review service plans at least every 6 months. The service plan review shall be recorded in the plan and shall include:

(1) An assessment of the progress made toward alleviating the conditions necessitating service.

(2) An assessment of whether planned actions have occurred and services have been provided.

(3) An assessment of whether the children continue to be safe in the home.

(4) Amendment to the plan as determined by the review.

(b) If a child is in placement, the county agency shall follow the requirements of § 3130.71 (relating to placement reviews).

Authority

The provisions of this § 3130.63 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.63 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (75146) and (109557).

Notes of Decisions*Dependency*

Considering enormous implications of dependency finding, such a determination can only be made in compliance with statutory requirements regarding dependency determinations and cannot be made by trial court sua sponte without petition for dependency having been filed. *Fallaro v. Yeager*, 528 A.2d 222 (Pa. Super. 1987).

Cross References

This section cited in 55 Pa. Code § 3130.31 (relating to responsibilities of the county agency); 55 Pa. Code § 3130.38 (relating to other required services); 55 Pa. Code § 3130.61 (relating to family service plans); 55 Pa. Code § 3490.61 (relating to supervisory review and child contacts); and 55 Pa. Code § 3490.235 (relating to services available through the county agency for children in need of general protective services).

§ 3130.64. Placement of children.

(a) If the county agency finds placement essential to protect the health and safety of a child, it may place the child if any of the following apply:

(1) Placement of the child has been authorized by a court order issued under 42 Pa.C.S. §§ 6301—6365 (relating to the Juvenile Act).

(2) The county agency obtains a voluntary placement agreement under § 3130.65 (relating to voluntary placement agreement).

- (3) The child has been taken into custody under 42 Pa.C.S. §§ 6301—6365.
- (b) The county agency is responsible for seeking a court order which authorizes placement if it appears that placement of a child is necessary.
- (c) The county agency shall comply with 42 Pa.C.S. §§ 6301—6365 as it relates to the taking of custody, filing of petitions, presenting the child for hearings, giving testimony and obtaining court orders.

Authority

The provisions of this § 3130.64 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.64 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (109557).

Notes of Decisions

Dependency

Considering enormous implications of dependency finding, such a determination can only be made in compliance with statutory requirements regarding dependency determinations and cannot be made by trial court sua sponte without petition for dependency having been filed. *Fallaro v. Yeager*, 528 A.2d 222 (Pa. Super. 1987).

§ 3130.65. Voluntary placement agreement.

- (a) Custody of a child may be temporarily transferred to the county agency for no more than 30 days if the child's parents or other person legally responsible for the child freely enter into a written agreement with the county agency. The agreement may not be renewed beyond the 30 days and shall contain:
- (1) A statement of the parents' or legal guardian's right to be represented by legal counsel or other spokesperson during conferences with the county agency about voluntary placement.
 - (2) A statement of the parent's or legal guardian's right to refuse to place the child.
 - (3) A statement of the parents' or legal guardian's right to visit the child, to obtain information about the child, and to be consulted about and approve medical and educational decisions concerning the child while the child is in voluntary placement.
 - (4) A statement of the parents' or legal guardian's right to the immediate return of the child upon request of the parent or guardian, unless the court orders the legal custody of the child to be transferred to the county agency.
- (b) Placement of a child may not extend beyond 30 days unless a court order has been entered under 42 Pa.C.S. §§ 6341 and 6351 (relating to adjudication; and disposition of dependent child) which authorizes continued placement.

Authority

The provisions of this § 3130.65 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.65 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial pages (109557) to (109558).

Notes of Decisions*Dependency*

Considering enormous implications of dependency finding, such a determination can only be made in compliance with statutory requirements regarding dependency determinations and cannot be made by trial court sua sponte without petition for dependency having been filed. *Fallaro v. Yeager*, 528 A.2d 222 (Pa. Super. 1987).

Cross References

This section cited in 55 Pa. Code § 3130.64 (relating to placement of children).

§ 3130.66. Case planning for children in emergency placement.

(a) If a child has been placed in emergency placement and continued placement is necessary, the county agency shall prepare a family service plan under §§ 3130.61 and 3130.67(b) (relating to family service plans; and placement planning) no later than 30 days from the date the child enters emergency placement.

(b) If a child is in emergency placement and continued placement is not necessary but in-home services are needed, the county agency shall prepare a family service plan under § 3130.61 no later than 60 days after the date the child enters emergency placement.

Authority

The provisions of this § 3130.66 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.66 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392. Immediately preceding text appears at serial page (109558).

Notes of Decisions*Dependency*

Considering enormous implications of dependency finding, such a determination can only be made in compliance with statutory requirements regarding dependency determinations and cannot be made by trial court sua sponte without petition for dependency having been filed. *Fallaro v. Yeager*, 528 A.2d 222 (Pa. Super. 1987).

Cross References

This section cited in 55 Pa. Code § 3130.31 (relating to responsibilities of the county agency).

§ 3130.67. Placement planning.

(a) Except for emergency placement, the county agency shall prepare an amendment to the service plan prior to placing a child.

(b) The amendment to the service plan shall include the following, for each child placed:

(1) A description of the circumstances that make placement necessary.

(2) Effective April 1, 1990, to the extent available and accessible, health and educational information on the child which includes the following:

(i) The names and addresses of the child's health and educational providers.

(ii) The child's grade level performance.

(iii) The child's school record.

(iv) Assurances that the child's placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement.

(v) A record of the child's immunizations.

(vi) The child's known medical problems, including the identification of known physical, mental or emotional disabilities.

(vii) The child's medications.

(viii) Other relevant health and educational information concerning the child determined to be appropriate by the county agency.

(3) Effective April 1, 1990, information relating to a child's health and educational status shall be reviewed and updated each time a child in foster care changes his place of residence. Each time a child receiving foster care has health or educational information updated, the most current information shall be given to the foster parent or foster care provider with whom the child is placed.

(4) For children whose placement plans were completed after April 1, 1990 but before December 15, 1990, and children whose place of residence changed after April 1, 1990 but before December 15, 1990, the health and educational information in their plans shall be updated and given to their foster caregivers by December 31, 1990.

(5) For children being served through a private agency, the county agency shall notify the private agency of its responsibility to provide the foster caregiver with reviewed and updated health and educational information on children for whom they are providing care.

(6) A description of efforts that have been made and the services that have been provided to prevent placement. This is required only at initial placement.

(7) An identification of the type of home or facility in which the child will be placed and a discussion of the appropriateness of the placement, including:

- (i) How the placement setting is the least restrictive—most family-like setting available for the child, consistent with the best interest and special needs of the child.
- (ii) How the location of placement is in proximity to the child’s home and will serve to encourage visiting between the child and parents, consistent with the best interest and special needs of the child.
- (8) The anticipated duration of placement, stated in months.
- (9) An identification of one of the following goals for the child in placement:
 - (i) Return to own home.
 - (ii) Placement in the home of another relative.
 - (iii) Adoption.
 - (iv) Placement with legal guardian.
 - (v) Independent living.
 - (vi) Long-term placement.
- (10) A description of the service objectives that shall be achieved by the parents or child prior to reunification.
- (11) For every child 16 years of age and older, the county agency shall consider the appropriateness of providing programs and services to help the child prepare for transition from foster care to independent living. When appropriate, a written description of the program and service shall be provided. When independent living services are deemed inappropriate, the basis for the choice not to offer independent living services shall be described.
- (12) An identification of services to be provided to the family, the child and, if applicable, the foster family by the county agency and other service providers to achieve the goal for the child in placement and to ensure that the child receives proper care as required under §§ 3130.31(3)(ii) and 3130.39 (relating to responsibilities of the county agency; and services and facilities which may be used).
- (13) An identification of the steps the county agency shall take to ensure that the service plan is implemented, including a schedule for a review of the status of each child as required by §§ 3130.71 and 3130.72 (relating to placement reviews; and dispositional review hearings).
- (14) The schedule for visits between the child and parents, including frequency, location and participants as required by § 3130.68(a) (relating to visiting and communication policies).
- (15) A description of the services actually provided to the child and the parents to implement the plan and achieve the goal established for the child in placement and changes to the elements of the plan described under paragraphs (3)—(9). This description shall be updated every 6 months or prior to submitting the plan to the court as required at § 3130.71(1)(iii) or to an administrative review panel as required at § 3130.71(1)(iii). This is not required at the time the initial placement amendment is developed.

(16) The results of placement reviews as required by § 3130.71.

(c) The county agency shall send a copy of the family service plan, as amended in compliance with this section, to the court prior to the initial dispositional hearing unless otherwise directed by the court under 42 Pa.C.S. §§ 6341(c) and (d) and 6351 (relating to adjudication; and disposition of dependent child).

Authority

The provisions of this § 3130.67 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080); 42 Pa.C.S. §§ 6301—6365; and section 405 of the act of June 24, 1937 (P. L. 2017, No. 396) (62 P. S. § 2305).

Source

The provisions of this § 3130.67 amended January 23, 1987, effective January 24, 1987 except subsection (b) effective April 24, 1987, 17 Pa.B. 392; amended December 14, 1990, effective December 15, 1990, 20 Pa.B. 6175. Immediately preceding text appears at serial pages (124181) to (124182).

Notes of Decisions

Dependency

Considering enormous implications of dependency finding, such a determination can only be made in compliance with statutory requirements regarding dependency determinations and cannot be made by trial court sua sponte without petition for dependency having been filed. *Fallaro v. Yeager*, 528 A.2d 222 (Pa. Super. 1987).

Goals

In a placement plan, one goal is not mandated over another, nor does the language of § 3130.67 require that each goal be implemented in the order in which it is listed. *In the Interest of C.J.R.*, 782 A.2d 568 (Pa. Super. 2001).

Although the polestar of the Juvenile Act is reunification of the family, regulations permit adoption as a permissible goal for a dependent child. Even though various permissible goals are provided by the regulations, no particular one is mandated over any other. *In re R.T.*, 778 A.2d 670 (Pa. Super. 2001).

The regulations governing the placement of dependent children do not require that the list of goals be implemented in the order they appear. One goal is not mandated over another. *Matter of Luis R.*, 635 A.2d 170 (Pa. Cmwlth. 1993); appeal denied 647 A.2d 511 (Pa. 1994).

Not Abuse of Discretion

Where the placement plan was the result of a full study and investigation, it was not an abuse of discretion for the trial court not to transfer the child to the grandparents' custody rather than that of foster parents. *In the Interest of C.J.R.*, 782 A.2d 568 (Pa. Cmwlth. 2001).

Cross References

This section cited in 55 Pa. Code § 3130.31 (relating to responsibilities of the county agency); 55 Pa. Code § 3130.38 (relating to other required services); 55 Pa. Code § 3130.40 (relating to delivery of services through other service providers); 55 Pa. Code § 3130.43 (relating to family case records); 55 Pa. Code § 3130.61 (relating to family service plans); 55 Pa. Code § 3130.66 (relating to case planning for children in emergency placement); 55 Pa. Code § 3140.22 (relating to reimbursable services and reimbursement rates); and 55 Pa. Code § 4000.115 (relating to process for ongoing responsibilities).

§ 3130.68. Visiting and communication policies.

(a) The county agency shall provide opportunity for visits between the child and parents as frequently as possible but no less frequently than once every 2 weeks at a time and place convenient to the parties and in a location that will permit natural interaction, unless visiting is:

- (1) Clearly not in keeping with the placement goal—for example, in adoption or independent living.
- (2) Freely refused in writing by the parents.
- (3) Not in the child's best interest and is limited or prohibited by court order.

(b) Except in a circumstance in which the county agency has reason to suspect that a child is at risk of abuse as defined in Chapter 3490 (relating to protective services), the county agency may not reduce the opportunity for visitation between parents and their child in placement to less than once every 2 weeks without prior court approval of the reduction. In a situation of suspected child abuse as described in this subsection, the county agency may reduce visitation without prior court approval if it petitions or files a motion with the court requesting a hearing within 24 hours of the action taken.

(c) If visitation between parents and their child in placement is cancelled by the county agency, the county agency shall do one of the following:

(1) Schedule a make-up visit if the cancellation results in less than two visits per month. The county agency is not required to but may schedule make-up visits if the reason for the cancellation was the parent's decision not to attend an agreed upon visit unless a valid excuse was provided at least 48 hours in advance.

(2) Schedule either a make-up visit or reasonable additional visitation if the parents receive more than two visits per month. The county agency is not required to but may schedule make up visits or additional visitation time if the reason for the cancellation was the parent's decision not to attend an agreed upon visit unless a valid excuse was provided at least 48 hours in advance.

(d) The county agency shall provide for the minimum required visits in all cases in which the child's initial placement location has been changed and the change in location makes visitation a hardship on the parent. For this purpose, one of the following circumstances shall be deemed to create a hardship:

(1) The parent is a recipient of any form of public assistance, unless the new placement is closer to the parent's home.

(2) The parent is not a public assistance recipient and the new placement is 150 miles or more away from the county boundaries.

(e) The county agency shall provide for the minimum visitation required in subsection (d) by doing one of the following:

(1) Transporting the child to the county agency.

(2) Transporting the child to the parent's home.

(3) Providing transportation for the parent to visit the child.

(f) The county agency shall, within 24 hours of a child's placement, provide the child's parents with:

(1) A telephone number that provides 24-hour access to the county agency.

(2) A written statement regarding the opportunity for visits as outlined in subsection (a).

(g) The county agency shall, within 15 calendar days of placing a child, provide the parents with the following:

(1) The address of the physical location of the child.

(2) The name of the person, agency or facility responsible for the child's care, unless one of the following applies:

(i) The release of the information in paragraph (1) and this paragraph threatens the health and well-being of the child or of the persons providing the care if the agency documents its basis for its refusal to disclose the information.

(ii) The release of the information in paragraph (1) and this paragraph is limited or prohibited by court order.

(h) The county agency shall, for children in placement on April 24, 1987, provide the parents of the children with the information required by subsections (b) and (c) by October 24, 1987.

(i) Except for emergency shelter placements or when the county agency has reason to suspect that a child is at risk of abuse as defined in Chapter 3490, the county agency shall notify the parent and child at least 15 calendar days prior to a change in the physical location of the placement or the visiting arrangements. The notification shall be provided in accordance with § 3130.62(b) and (c) (relating to parent appeals and fair hearings). The basis for the county agency's decision to refuse disclosure shall be documented in the case record.

(1) In cases in which the placement location or visiting arrangement proposed to be changed was originally ordered by the court, the county agency shall obtain court approval prior to making the change.

(2) If the county agency changes the physical location of the child, it shall, within 15 days of the change, provide the parents of the child in placement with the address of the physical location of child and the name of the person or agency responsible for the child's care. This requirement does not apply if the county agency determines that the disclosure of the information is a threat to the health and well-being of the child or persons providing care to the child or the disclosure of information is limited or prohibited by court order.

Authority

The provisions of this § 3130.68 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.68 adopted January 23, 1987, effective April 24, 1987, 17 Pa.B. 392; amended December 21, 1990, effective December 22, 1990, 20 Pa.B. 6269. Immediately preceding text appears at serial pages (141279) to (141280).

Notes of Decisions

Binding Effect

This visitation regulation is not binding on the court, where the rule is clearly internal or interpretative; this regulation binds only the county department of children and youth services to its "best interest" standard. *In re C. J.*, 729 A.2d 89 (Pa. Super. 1999).

Parental Visitation

This section which provides for parental visitation "as frequently as possible" and does not specify the amount of visitation necessary to advance a "reasonable effort" toward making it possible for the

child to return to his home is not violative of Federal law. *Winston by Winston v. Children and Youth Services of Delaware County*, 948 F.2d 1380 (3rd Cir. 1991); cert. denied 504 U. S. 956 (U. S. 1992).

Cross References

This section cited in 55 Pa. Code § 3130.67 (relating to placement planning); and 55 Pa. Code § 3130.74 (relating to petitions, or motions for court approval filed with the court).

CASE REVIEW OF CHILDREN IN PLACEMENT**§ 3130.71. Placement reviews.**

The county agency shall ensure that the status of a child in placement under its case management responsibility is reviewed periodically but no less frequently than once every 6 months. The child's first review shall occur no later than 6 months from the date of placement. Subsequent periodic reviews—those following the first review—shall be held no later than 6 months from the date of the previous periodic review.

(1) *Petitioning the court for placement review.*

(i) Except under the circumstances outlined in subparagraph (ii), the county agency is required to petition the court, under 42 Pa.C.S. §§ 6301—6365 (relating to the Juvenile Act), to conduct a placement review once every 6 months.

(ii) Under any of the following circumstances, the county agency may either petition the court to conduct a placement review or conduct an administrative review as specified in paragraph (2):

(A) On alternate review dates beginning with the fourth review of the child's placement.

(B) If the child is placed in a permanent foster family home with a specific caregiver under a court order.

(C) If the child is legally free for adoption and is placed in an adoptive home pending finalization of the adoption.

(iii) A petition for placement review filed with the court by the county agency shall include a copy of the family service plan, including placement amendment, and shall request the court to:

(A) Determine the continuing necessity for and appropriateness of the placement.

(B) Determine the extent of compliance with the service plan.

(C) Determine the extent of progress made toward alleviating the circumstances which necessitated the original placement.

(D) Project a likely date by which the goal for the child may be achieved.

(iv) If the court does not conduct a placement review when petitioned by the county agency or if the court does not consider the factors in subparagraph (iii), the county agency shall conduct an administrative review as specified in paragraph (2).

(v) The county agency may petition the court to conduct a placement review prior to the regularly scheduled reviews.

(2) *Conducting an administrative review.* If the county agency chooses to conduct an administrative review under paragraph (1)(ii) or is required to conduct an administrative review under paragraph (1)(iv), the county agency shall do the following:

- (i) Establish a panel of at least three persons, one of whom is a staff person employed by the county agency and one of whom is not employed by or providing service for the county agency.
- (ii) Require the administrative review panel to:
 - (A) Make the determinations listed in paragraph (1)(iii).
 - (B) Make changes in the service plan that it finds appropriate, including petitioning the court for a hearing under 42 Pa.C.S. §§ 6301—6365 or 23 Pa.C.S. Part III (relating to the Adoption Act), except that nothing in this paragraph may be construed to authorize the administrative review panel to change a goal ordered by the Juvenile Court.
- (iii) Give a copy of the most recent information about the child, including the family service plan and reports from service providers, to each member of the administrative review panel at least 10 days prior to the review.
- (iv) Ensure that family members—including the child, if 14 years of age or older—and their representatives have the opportunity to be present at and participate in any administrative review of the child’s placement.
- (v) At least 15 calendar days prior to the review, give the child, if age appropriate, the child’s attorney and the child’s parents or legal guardians and their counsel, if known to the county agency, written notice of the date, location and purpose of the review, including the agency’s recommendations, if any, and of their right to be represented.

Authority

The provisions of this § 3130.71 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.71 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392; amended December 21, 1990, effective December 22, 1990, 20 Pa.B. 6269. Immediately preceding text appears at serial pages (141280) to (141282).

Notes of Decisions

Considering enormous implications of dependency finding, such a determination can only be made in compliance with statutory requirements regarding dependency determinations and cannot be made by trial court sua sponte without petition for dependency having been filed. *Fallaro v. Yeager*, 528 A.2d 222 (Pa. Super. 1987).

To ensure that the agency does not neglect its responsibility of seeking a permanent home for the child, the provisions of paragraph (1)(ii) provide that the agency must every 6 months either petition a court to conduct a placement review or conduct an administrative review. *In Re Adoption of Crystal D.R.*, 480 A.2d 1146 (Pa. Super. 1984).

Cross References

This section cited in 55 Pa. Code § 3130.31 (relating to responsibilities of the county agency); 55 Pa. Code § 3130.38 (relating to other required services); 55 Pa. Code § 3130.43 (relating to family case records); 55 Pa. Code § 3130.63 (relating to review of family service plans); 55 Pa. Code

§ 3130.67 (relating to placement planning); 55 Pa. Code § 3130.72 (relating to dispositional review hearings); and 55 Pa. Code § 4000.115 (relating to process for ongoing responsibilities).

§ 3130.72. Dispositional review hearings.

(a) Except as provided in subsection (d), the county agency shall petition the court to conduct a dispositional review hearing under 42 Pa.C.S. §§ 6301—6365 (relating to the Juvenile Act) or 23 Pa.C.S. Part III (relating to the Adoption Act) at the same time the county agency petitions the court to conduct a placement review under § 3130.71(1) (relating to placement reviews).

(b) A petition for a dispositional review hearing filed by the county agency shall request the court to determine whether the child should be:

- (1) Returned to the parents.
- (2) Continued in foster care for a specified period.
- (3) Placed for adoption.
- (4) Continued in foster care on a permanent or long-term basis because of the child's special needs and circumstances.
- (5) Prepared for transition to independent living, if 16 years of age or older.

(c) The county agency may petition the court for a dispositional review prior to the regularly scheduled reviews.

(d) The county agency is not required to petition the court for a dispositional review hearing under subsection (a) if:

- (1) The child is placed in a permanent foster family home with a specific caregiver under a court order.
- (2) The child is legally free for adoption and is placed in an adoptive home pending finalization of the adoption.

(e) If a child in placement under the case management responsibility of the county agency has not received a dispositional review hearing within 18 months of the child's date of placement, the county agency shall notify the Department in writing of this situation within 10 calendar days from the date the hearing was due.

Authority

The provisions of this § 3130.72 amended under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080); 42 Pa.C.S. §§ 6301—6365; and section 405 of the act of June 24, 1937 (P. L. 2017, No. 396) (62 P. S. § 2305).

Source

The provisions of this § 3130.72 amended January 23, 1987, effective January 24, 1987, 17 Pa.B. 392; amended December 14, 1990, effective December 15, 1990, 20 Pa.B. 6175. Immediately preceding text appears at serial pages (141282), (124187) and (121441).

Notes of Decisions*Jurisdiction*

Under the regulations governing the Department's placement responsibilities, it is taken for granted that jurisdiction over agency's placement goal is with the juvenile division of the court. *Conklin v. Department of Public Welfare*, 522 A.2d 1207 (Pa. Commw. 1987).

Periodic Review

A periodic dispositional review hearing is required for dependent children until they are placed in foster care or in an adoptive home. *In re Interest of M.L.E.*, 632 A.2d 329 (Pa. Super. 1993).

Petition

At the same time that an agency petitions the court to conduct a placement review, it must petition the court to conduct a dispositional review hearing. *In re Adoption of Crystal D.R.*, 480 A.2d 1146 (Pa. Super. 1984).

Cross References

This section cited in 55 Pa. Code § 3130.31 (relating to responsibilities of the county agency); 55 Pa. Code § 3130.43 (relating to family case records); and 55 Pa. Code § 3130.67 (relating to placement planning).

§ 3130.73. Recording the results of reviews and hearings.

- (a) The county agency shall record the results of each placement review and dispositional review hearing in the service plan.
- (b) The county agency shall amend the service plan as required by the findings and determinations of the reviews and hearings.

Cross References

This section cited in 55 Pa. Code § 3130.61 (relating to family service plans).

§ 3130.74. Petitions, or motions for court approval filed with the court.

- (a) The county agency shall file a petition or motion for court approval prior to a change in a court-ordered goal, placement, visitation or service.
- (b) Petitions or motions, including petitions for placement reviews and dispositional review hearings, shall clearly state the agency's recommendation about each issue before the court and the factual allegations supporting each recommendation.
- (c) A petition or motion filed with the court shall be mailed to all parties and their counsel of record at least 15 days in advance of a hearing thereon. The county agency will not be sanctioned by the Department for noncompliance with the 15-day requirement of this section in instances when the scheduling of the hearing is beyond the control of the agency, and the agency has given as much notice as possible under the circumstances.
- (d) In an emergency as defined in § 3130.68(b) and (i) (relating to visiting and communication policies), the county agency may change the child's location or visiting arrangements prior to obtaining court approval if it files a petition or

motion with the court within 24 hours of the action taken. In these cases, the county agency shall immediately provide date stamped copies of the petition or request to the child's attorney, the child, if age appropriate, the child's parents or legal guardians and their legal counsel, if known.

Source

The provisions of this § 3130.74 adopted December 21, 1990, effective December 22, 1990, 20 Pa.B. 6269.

**REQUIREMENTS FOR FOSTER CARE PROGRAMS
AND CHILD CARE FACILITIES OPERATED
BY A COUNTY AGENCY**

§ 3130.81. Licensure, approval and notification requirements.

(a) The county agency shall ensure that foster homes which it approves and child care facilities which it operates comply with applicable fire, safety and building requirements of the Department of Labor and Industry and local authorities located in Philadelphia, Pittsburgh or Scranton.

(b) The county agency shall identify in writing, at the time of its application for licensure, approval or renewal, the name of the individual who is responsible for the daily operation of a child care facility which it operates.

(c) The county agency shall submit, in writing and within 30 calendar days of occurrence, notification of changes in the information provided under subsection (b).

(d) Subsections (a)—(c) and 3130.82—3130.92 do not apply to child residential and day treatment facilities which are governed by Chapter 3800 (relating to child residential and day treatment facilities).

Authority

The provisions of this § 3130.81 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.81 adopted January 23, 1987, effective January 24, 1987, 17 Pa.B. 392; amended June 25, 1999, effective October 26, 1999, 29 Pa.B. 3295. Immediately preceding text appears at serial page (216266).

§ 3130.82. Appeals.

(a) The county agency has the right to appeal the Department's decisions related to licensure or approval under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(b) Appeals related to the Department's approval or licensure shall be made by filing a petition within 30 days after service of notice of the action.

(c) Subsection (b) supersedes the appeal period of 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

Authority

The provisions of this § 3130.82 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.82 adopted January 23, 1987, effective January 24, 1987, 17 Pa.B. 392; amended October 3, 2008, effective November 3, 2008, 38 Pa.B. 5435. Immediately preceding text appears at serial pages (257413) to (257414).

Cross References

This section cited in 55 Pa. Code § 3130.81 (relating to licensure, approval and notification requirements).

§ 3130.83. Staffing requirements.

(a) The county agency shall ensure that when children are physically present at a child care facility, there is always, on site, a staff person who is designated as responsible for the operation of the facility.

(b) The county agency shall ensure that a staff person responsible for operation of the child care facility may be contacted if all children and staff are temporarily absent from the facility. Use of a telephone answering service, telephone call-forwarding or similar procedures may be used to meet this requirement.

Authority

The provisions of this § 3130.83 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.83 adopted January 23, 1987, effective April 24, 1987, 17 Pa.B. 392.

Cross References

This section cited in 55 Pa. Code § 3130.81 (relating to licensure, approval and notification requirements).

§ 3130.84. Use of volunteers.

If the county agency uses volunteers to fulfill the minimum staffing requirements in a child care facility governed by a service-specific chapter, the volunteers shall be selected, trained and supervised according to procedures established by the applicable service-specific chapter. The use of volunteers is not subject to the requirements of section 23.1 of the Child Protective Services Law (11 P. S. § 2223.1).

Authority

The provisions of this § 3130.84 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.84 adopted January 23, 1987, effective January 24, 1987, 17 Pa.B. 392.

Cross References

This section cited in 55 Pa. Code § 3130.81 (relating to licensure, approval and notification requirements).

§ 3130.85. Children's money.

(a) The county agency shall develop a written policy governing money acquired or received by children placed in foster homes it approves or child care facilities it operates. The policy shall include, at a minimum, the following provisions:

(1) Money earned, received as a gift or received as allowance by a child is the child's personal property.

(2) Limitations may be placed on the amount of money to which a child has access.

(b) The county agency shall ensure that a separate system is maintained for the money of children in placement. Interest earned on a child's money shall be applied to the child's account.

(c) Money in a child's account shall be returned to the child when the child leaves placement.

Authority

The provisions of this § 3130.85 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.85 adopted January 23, 1987, effective July 23, 1987, 17 Pa.B. 392.

Cross References

This section cited in 55 Pa. Code § 3130.81 (relating to licensure, approval and notification requirements).

§ 3130.86. Religious practices.

The county agency shall provide an opportunity for a child placed in a foster home or child care facility which it administers to participate in religious activities, services and counseling, taking into account choices specified by the parents or guardian or the child.

Authority

The provisions of this § 3130.86 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.86 adopted January 23, 1987, effective July 23, 1987, 17 Pa.B. 392.

Cross References

This section cited in 55 Pa. Code § 3130.81 (relating to licensure, approval and notification requirements).

§ 3130.87. Education.

(a) The county agency shall ensure that children who are receiving services are enrolled in, or have access to, education in conformance with the Public School Code of 1949 (24 P. S. §§ 1-101—27-2702).

(b) If the county agency directly operates an educational program, the program shall comply with applicable requirements of the Department of Education.

(c) If a child receiving services is beyond the age of compulsory school attendance, the county agency shall ensure that the child has the opportunity to obtain career counseling or continuing education.

Authority

The provisions of this § 3130.87 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.87 adopted January 23, 1987, effective January 24, 1987, 17 Pa.B. 392.

Cross References

This section cited in 55 Pa. Code § 3130.81 (relating to licensure, approval and notification requirements).

§ 3130.88. Children's grievances.

(a) The county agency shall develop and implement a written policy and procedure governing the filing of a grievance by children placed in the foster homes and child care facilities that it operates.

(b) The grievance procedure shall be written in a clearly understandable fashion and shall be designed so that children may file grievances without fear of retaliation.

(c) The procedure shall be explained to a child as soon as the child is placed in the foster home or child care facility.

(d) Notation shall be made in a child's record that the agency's grievance procedure was explained to the child.

(e) The grievance procedure shall be explained to children who can be reasonably expected to understand it, as determined by the county agency.

Authority

The provisions of this § 3130.88 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.88 adopted January 23, 1987, effective January 24, 1988, 17 Pa.B. 392.

Cross References

This section cited in 55 Pa. Code § 3130.81 (relating to licensure, approval and notification requirements).

§ 3130.89. Transportation requirements.

(a) The county agency shall establish, and ensure adherence to, written policies and procedures regarding the transportation of children placed in county-approved foster homes and child care facilities that it operates.

(b) The policies shall include, at a minimum, the following provisions:

(1) A vehicle used in transporting children shall be validly licensed and inspected under 75 Pa.C.S. §§ 101—9910 (relating to the Vehicle Code).

(2) A person transporting children on behalf of the agency shall possess a valid driver's license for the class of vehicle being operated.

(3) The number of persons in a vehicle used to transport children may not exceed the passenger capacity as determined by the vehicle manufacturer. Safety restraints, as installed at the time of manufacturing, shall be used by occupants.

(4) Children who are younger than 4 years of age shall be transported in motor vehicles in accordance with the requirements for parents and guardians under 75 Pa.C.S. § 4581 (relating to restraint systems).

Authority

The provisions of this § 3130.89 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.89 adopted January 23, 1987, effective July 23, 1987, 17 Pa.B. 392.

Cross References

This section cited in 55 Pa. Code § 3130.81 (relating to licensure, approval and notification requirements).

§ 3130.90. Insurance protection.

If the county agency directly approves and supervises foster family homes, persons providing foster family care shall purchase or otherwise obtain general liability insurance and fire insurance coverage for the premises where foster family care is provided as a condition of approval. Nothing in this section precludes the county agency from purchasing the liability insurance on behalf of persons seeking approval as foster family parents.

Authority

The provisions of this § 3130.90 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.90 adopted January 23, 1987, effective January 24, 1987, 17 Pa.B. 392.

Cross References

This section cited in 55 Pa. Code § 3130.81 (relating to licensure, approval and notification requirements).

§ 3130.91. Consent to treatment.

The county agency shall comply with the following requirements relating to consent for medical and dental examination and treatment prior to undertaking to furnish the treatment or examination of a child:

- (1) If the child is placed under a voluntary placement agreement:
 - (i) Obtain prior written consent for routine treatment from the child's parent. Examples of routine treatment include well baby visits, immunizations and treatment for ordinary illnesses.
 - (ii) Obtain consent for an instance of nonroutine treatment from the child's parent. Examples of nonroutine treatment include nonemergency surgery, cosmetic surgery and experimental procedures or treatment.
 - (iii) Obtain an order of the court authorizing routine or nonroutine treatment if the child's parent refuses, or cannot be located to provide consent.
- (2) If the child is in legal custody of the county agency under 42 Pa.C.S. §§ 6301—6365 (relating to the Juvenile Act):
 - (i) Authorize routine treatment.
 - (ii) Obtain consent for an instance of nonroutine treatment from the child's parent.
 - (iii) Obtain an order of the court authorizing nonroutine treatment if the child's parent refuses, or cannot be located to provide consent.
- (3) If the child requires emergency treatment, immediately take the child to a physician for treatment. It is not necessary to obtain or provide consent when, in the physician's judgment, an attempt to secure consent would result in delay of treatment which would increase the risk to the child's life or health.

(4) A minor may consent to medical treatment for conditions relating to drug and alcohol use, pregnancy and venereal disease, and under those circumstances specified by the act of February 13, 1970 (P. L. 19, No. 10) (35 P. S. §§ 10101—10105). In these instances it is not necessary to obtain the consent of another person or the court.

(5) Under the Mental Health Procedures Act (50 P. S. §§ 7101—7503), a child who is 14 years of age or older shall consent to mental health treatment, including the administration of psychotropic medication. If a child refuses to give consent, a court order for involuntary treatment shall be obtained under Article III of the Mental Health Procedures Act (50 P. S. §§ 7301—7306). The consent of the parent or legal custodian is not valid in these instances.

(6) A minor who seeks consent for a physician to perform an abortion shall comply with applicable law.

Authority

The provisions of this § 3130.91 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.91 adopted January 23, 1987, effective April 24, 1987, 17 Pa.B. 392.

Cross References

This section cited in 55 Pa. Code § 3180.81 (relating to licensure, approval and notification requirements); and 55 Pa. Code § 3680.52 (relating to consent to treatment).

§ 3130.92. Issuance of bulletins.

The Department may periodically issue bulletins for the purpose of clarifying and interpreting this chapter.

Authority

The provisions of this § 3130.92 issued under Articles II, VII, IX and X of the Public Welfare Code (62 P. S. §§ 201—211, 701—774, 901—922 and 1001—1080).

Source

The provisions of this § 3130.92 adopted January 23, 1987, effective January 24, 1987, 17 Pa.B. 392.

Cross References

This section cited in 55 Pa. Code § 3180.81 (relating to licensure, approval and notification requirements).

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(257420) No. 298 Sep. 99

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