



## OACCA Discussion Paper: Planned Permanent Living Arrangements (PPLA) in Ohio

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The federal Adoption and Safe Families Act (ASFA) of 1997 qualifies a planned permanent living arrangement (PPLA) as a permanency goal for children in foster care. Ohio law 2151.353 establishes PPLA as a child custody status in which parental rights of the child are maintained, reunification efforts are not required, and adoption is not possible. The intent of the Ohio PPLA law was to prevent situations of children experiencing long term foster care. The PPLA custody status is allowable for children if a court determines it to be in the best interest of the child and at least one of three criteria exists:

- 1) the child is unable to function in a family-like setting and requires institutional care;
- 2) the child's parents are unable to provide necessary care because of mental or physical problems, adoption is not in the child's best interest, and the child maintains a good relationship with the parents; or
- 3) the child is 16 or older, unable or unwilling to adapt to a permanent placement, and is preparing for independent living.

In all cases, the child's custodial agency must recommend PPLA, and a juvenile court must make the formal disposition.

According to the PCSAO Factbook, on January 1, 2010, there were 1,815 children classified under PPLA. This comprises 15.4% of all children in foster care. 96% of the PPLA children were age 12 or older, and 4% were age 11 or younger. 77% of those classified under PPLA were in protective custody for two or more years. 60% of children classified under PPLA resided in foster homes while 27% resided in group/residential care settings and 10% resided in independent living placements.

Serious problems have arisen concerning Ohio's use of PPLA as a permanency option for children. These include the vague legal eligibility criteria for PPLA which leads to overuse and misuse of the custody status, and the significantly large number of young children placed into PPLA, particularly those under age 13. Further, Ohio may not be in compliance with federal law that requires classification of children into PPLA *only when it is the least preferred permanency option*. Some consider Ohio to be implementing PPLA in place of long term foster care, with no discernable difference between the two. The federal ASFA law explicitly prohibits long-term foster care as a permanency option.

OACCA proposes for discussion the addition of guidelines to Ohio law that will ensure children do not linger in long term foster care, and support compliance with the requirements of ASFA.

**Proposal: Require Courts to Show Compelling Reasons to Justify a Child Entering PPLA**

In accordance with federal regulation (CFR Title 45, Part 1356, § 1356.21 (h)(3)), Ohio law should require courts to demonstrate “compelling reasons” for classifying children into PPLA before denying them permanency options, such as adoption. Demonstration of compelling reasons should be supported with case-specific facts and evidence including justification for decisions made and an explanation of why no permanent options for the children are reasonable, appropriate, or possible.

Currently, Ohio law provides three reasons for courts to select when classifying children into PPLA. These reasons are found in ORC 2151.353(A)(5)(c) and are described in Addendum III. We propose replacing these vague criteria with two clear criteria that originate from federal regulations:

- 1) the child is 16 or older and requests emancipation as his/her permanency plan; or
- 2) a substitute caregiver has committed to raising the child through emancipation.

(These proposed criteria are described in detail on the next page.)

The two proposed criteria are cited in federal regulations (CFR Title 45, Part 1356, § 1356.21 (h)(3)) as guidance for states to “document to the court the compelling reason for the alternate plan” of PPLA. According to a government analysis of the regulations (of 45 CFR Parts 1355, 1356 and 1357), the “compelling reason” term was adopted by the federal government because far too many children languish in long-term foster care rather than finding permanence with an adoptive family, with their own extended family, or in emancipation. The law is intended to encourage states to move children from foster care into the most appropriate permanent situation available, as quickly as possible. Ohio should adopt this philosophy and revise its PPLA law accordingly.

**Addendum I: Current Ohio PPLA “Reasons” Compared to OACCA’s Proposal**

<p><b>Current Ohio PPLA Law – The Three Reasons</b> ORC 2151.353(A)(5)(c)</p>	<p><b>OACCA’s Proposal – Two Reasons</b></p>
<p>1. The child, because of physical, mental, or psychological problems or needs, is unable to function in a family-like setting and must remain in residential or institutional care now and for the foreseeable future beyond the date of the dispositional hearing held pursuant to section 2151.35 of the Revised Code.</p> <p>2. The parents of the child have significant physical, mental, or psychological problems and are unable to care for the child because of those problems, adoption is not in the best interest of the child, as determined in accordance with division (D)(1) of section 2151.414 of the Revised Code, and the child retains a significant and positive relationship with a parent or relative.</p> <p>3. The child is sixteen years of age or older, has been counseled on the permanent placement options available to the child, is unwilling to accept or unable to adapt to a permanent placement, and is in an agency program preparing the child for independent living.</p>	<p>1. The child is an older teen, age 16 or older, and specifically requests emancipation to be established as the permanency plan.</p> <p>2. The parent(s) and child have a significant bond but the parent(s) is unable to care for the child because of a mental or physical disability and the child's substitute caregiver has committed to care for the child through the age eighteen and will facilitate visitation with the disabled parent(s), if appropriate.</p>

## ***Addendum II: Federal Origin Of PPLA***

The concept of Planned Permanent Living Arrangements (PPLA) has been in existence for a decade. The Adoption and Safe Families Act of 1997(ASFA) created Another Planned Permanent Living Arrangement (APPLA) as the least preferred permanency option for children. It replaced the use of Long Term Foster Care. APPLA is a case plan designation for children in out-of-home care for whom there is no goal for placement with a legal, permanent family. By federal policy, APPLA is considered an acceptable designation only if there is sufficient reason to exclude all possible legal, permanent family goals. However, APPLA designations must include plans for permanent placements of children and youth that meet their developmental, educational, and other needs.

Long Term Foster Care was a case plan designation used in out-of-home care programs prior to the passage of ASFA. Similar to APPLA, it was used for children for whom there was no goal for placement with a legal, permanent family.

Not intended to be a catch all for whatever temporary plan is needed, APPLA is a “living arrangement that is truly planned and permanent” in nature. “Planned” means the arrangement is intended, designed, considered, premeditated, or deliberate. “Permanent” means enduring, lasting, or stable. The term “living arrangement” includes not only the physical placement of the child, but also the quality of care, supervision, and nurturing the child will receive. While “living arrangement” may not necessarily be a specific residence or facility it does imply certain stabilizing features.

The other four preferred permanency plans (reunification, adoption, guardianship, and placement with relative) consider more than the physical place a child resides. They involve a specific adult or couple (as opposed to an organization) who will be in charge of the young person, exercise certain powers and responsibilities, and likely live with the young person. Further, under these four options it is expected that the caregiver’s familial relationship with the child will be continuing in nature. Therefore, it follows that an APPLA either will involve a permanent adult caregiver of the child or at least adult parent figures playing permanent and important roles in the child’s life.

Unfortunately, the intent of APPLA as a goal that has become increasingly overused and inappropriately used as a default plan for many older adolescents in foster care. In many cases, the misuse of APPLA as a permanency goal has replaced long term foster care, which no longer exists in federal law. The preamble of the APPLA federal regulations state that, “Far too many children and youth are given the permanency goal of long-term foster care, which is not a permanent living situation for a child.” Furthermore, using APPLA without providing supports to establishing permanency, as a replacement to long term foster care, is an unsuitable permanency goal because long term foster care has seldom been stable, may disrupt often, and may lead to frequent moves for the youth. This is the antithesis of permanency. The child welfare system must develop integrated strategies, approaches, and policies that assist agencies as they prepare to focus additional attention and provide leadership for the complex issues of facilitating permanency for older adolescents.

### **Sources:**

- Ohio Children in PPLA: Trends and Outcomes, AdoptOhio Kids, 2007
- Mallon, Gerald P., & HESS, Peg McCartt (Eds.). Child Welfare for the Twenty-First Century: A Handbook of Practices, Policies, and Programs. New York: Columbia University Press, 2005.

### ***Addendum III: State PPLA Law***

In Ohio, PPLA is one of six types of custody options a court may order, including temporary custody, permanent custody, legal custody, protective supervision, and removing pending further court order. PPLAs are governed by R.C. 2151.353, which provides for PPLA as a type of permanency disposition. PPLAs are requested by a custodial agency of the child, and approved by a juvenile court. State law lists three circumstances, in which at least one must be present, for PPLA to be ordered.

1. The child, because of physical, mental, or psychological problems or needs, is unable to function in a family-like setting and must remain in residential or institutional care;
2. The parents of the child have significant physical, mental, or psychological problems and are unable to care for the child because of those problems, adoption is not in the best interest of the child, as determined in accordance R.C. 2151.414(D), and the child retains a significant and positive relationship with a parent or relative; or
3. The child is sixteen years of age or older, has been counseled on the permanent placement options available to the child, is unwilling to accept or unable to adapt to a permanent placement, and is in an agency program preparing the child for independent living.