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|  | GEORGIA DIVISION OF FAMILY AND CHILDREN SERVICES CHILD WELFARE POLICY MANUAL | | | |
| | Chapter: | Child Protective Services Information System (Child Abuse Registry) | Effective Date: | July 2016 |
| | Policy Title: | OSAH Administrative Review of Substantiated Maltreatment Findings | | |
| | Policy Number: | 20.2 | Previous Policy #: | N/A |

CODES/REFERENCES

O.C.G.A. §49-5-180 Central Child Abuse Registry Definitions
O.C.G.A. § 49-5-181 Establishment of Central Registry; Function of Registry
O.C.G.A. § 49-5-182 Notice to Division of Substantiated Case Resulting from Investigation by Abuse Investigator; Contents of Notice
O.C.G.A. § 49-5-183 Division to Update Registry Upon Notification of Substantiated Case; Notice to Alleged Abuser; Representation of Alleged Minor Child Abuser; Hearing on Expungement of Name From Registry
O.C.G.A. § 49-5-185 Access to Information in Registry; Statistical Analysis of Substantiated Cases Entered into Child Abuse Registry; Requests to Determine if One's Name is Included in Registry
O.C.G.A. § 49-5-186 Confidentiality of Information in Registry; Penalties for Unauthorized Use of Information
O.C.G.A. § 49-5-187 Immunity from Civil or Criminal Liability

REQUIREMENTS

The Division of Family and Children Services (DFCS) shall:

1. Review written requests for an administrative review hearing from an alleged child abuser for the following:
 - a. The substantiated case of child abuse or neglect for which the administrative review hearing is being requested.
 - b. The request for the hearing includes the current address and telephone number (if available) of the alleged child abuser.
NOTE: Update any address or phone numbers into the CPSIS as needed based on any changes in information received.
 - c. The request was received **within 10 calendar days** of the receipt of notification regarding the substantiation being entered into the CPSIS.
NOTE: The 10 calendar day timeframe is calculated from the date the certified return receipt was signed from the certified [Notice of Inclusion in the Georgia Central Child Abuse Registry](#).
2. Transmit written requests for an administrative review hearing to the Office of State Administrative Hearings (OSAH) **within 10 calendar days** of the receipt of the written request from the alleged child abuser.
3. Request an administrative review hearing for all alleged minor child abuser in the temporary or permanent custody of DFCS or another state placed in Georgia through the Interstate Compact for the Placement of Children (ICPC).
NOTE: The Division Director/Designee shall request an administrative review hearing on behalf of the minor.

4. Determine the need to request a judicial review when the substantiated case of child abuse or neglect is overturned by the administrative law judge.
 - a. The decision to request a judicial review shall be made in consultation with the Special Assistant Attorney General (SAAG).
 - b. If the decision is made to request the judicial review, the request shall be made to Superior Court **within 10 calendar days** of the OSAH decision.
5. Update the CPSIS to reflect the administrative law judge's decision to uphold or overturn the substantiated case.
 - a. If the county or the alleged child abuser appeals OSAH's decision, the substantiated case shall be updated to be "non-viewable" until the decision of the Superior Court is received.
 - b. Georgia SHINES will be automatically updated via the bi-directional interface between Georgia SHINES and the CPSIS.

PROCEDURES

CPSIS Receipt of Requests for Administrative Review

Upon receipt of a written request by the alleged child abuser for an administrative review **the Child Abuse Registry Specialist (CARS) will:**

1. Review the request for the following:
 - a. The specified substantiated case of child abuse or neglect for which the administrative review hearing is being requested.
 - b. The request for the hearing includes the current address and telephone number (if available) of the alleged child abuser.
NOTE: Update any address or phone numbers into the CPSIS as needed based on any changes in information received.
 - c. To ensure it was received within the 10 calendar day timeframe from the alleged child abuser receipt of the [Notice of Inclusion in the Georgia Central Child Abuse Registry](#).
2. Transmit the request packet to the Office of State Administrative Hearings (OSAH) **within 10 calendar days** of the receipt of the request. The packet will include:
 - a. OSAH Form 1;
NOTE: Include whether the request for the administrative review hearing was received within the required timeframe from the alleged child abuser.
 - b. A copy of the [Notice of Inclusion in the Georgia Central Child Abuse Registry](#) that was sent to the alleged child abuser;
 - c. The alleged child abuser's written request for the administrative review; and
 - d. The substantiation justification.
NOTE: If the alleged child abuser is a minor in DFCS temporary or permanent custody, or the custody of another state placed in Georgia via ICPC, generate the request for appeal for the Division Director/Designee signature and transmit with the information above to OSAH.
3. Notify the applicable County Department and the ICPC office (when applicable) that an administrative review request has been received and transmitted to OSAH;
 - a. Send notification via email to the County and Regional Director;
 - b. When applicable, send notification to ICPC at ICPC_Consultation@dhs.ga.gov;
 - c. Include the following in the notification to the County Department and/or ICPC:
 - i. Whether the alleged child abuser is a minor in the temporary or permanent custody of DFCS or another state (identifying the state that holds custody);

- ii. Whether the alleged child abuser's request for the administrative review was made within the 10 day period.
 - iii. The Georgia SHINES case ID information; and
 - iv. The date the request packet was transmitted to OSAH.
4. Document the receipt of the request for the administrative review and the date the request was transmitted to OSAH in the CPSIS.

CPSIS Receipt of Administrative Review Decision from OSAH

Upon receipt of the Administrative Law Judge's decision **the CARS will:**

1. If the substantiation results are upheld by the court:
 - a. Immediately update the alleged child abuser status in the CPSIS to "OSAH upheld";
NOTE: The update to the CPSIS will automatically update Georgia SHINES via the bi-directional interface.
 - b. Upload a copy of the OSAH decision into the CPSIS;
 - c. Notify the County Department of the receipt of the OSAH decision via email and provide a copy of the decision.
2. If the substantiated maltreatment findings are overturned by the Administrative Law Judge:
 - a. Upload a copy of the court order to the CPSIS;
 - b. Notify the County Department of the OSAH decision to overturn the substantiation;
 - c. Immediately update the alleged child abuser's status in the CPSIS to "overturned."
NOTE: Always review OSAH's decision to make sure the overturned finding relates to specific maltreatment codes when there are multiple substantiated maltreatment codes in a case.
 - d. The overturned finding will be transmitted to Georgia SHINES via the bi-directional interface with the CPSIS.
NOTE: If OSAH dismisses the alleged child abuser's request for an administrative review based upon an untimely request, the alleged child abuser may appeal the dismissal to Superior Court. If the alleged child abuser petitions Superior Court, this stays the listing of their name on the CPSIS.

County Department Notification of OSAH Administrative Review and Hearing Results

1. Upon notification from the CPSIS that an administrative review has been transmitted to OSAH concerning a substantiated maltreatment investigation, the **County Department will:**
 - a. Notify the Special Assistant Attorney General (SAAG) regarding the pending administrative review hearing and submit the [Legal Action Request Form](#);
NOTE: If the alleged child abuser's request was not received by the CPSIS within the required 10 day period, consult with the SAAG regarding whether a Motion to Dismiss should be filed with OSAH, unless the alleged child abuser is a minor in the custody of DFCS.
 - b. If the alleged child abuser is a minor, arrange/request for an attorney to represent the minor at the OSAH hearing;
NOTE: This request for an attorney shall be made to the county Superior Court pursuant to an order from the Administrative Law Judge.
 - c. Participate in the administrative review hearing including providing case information as appropriate to OSAH, ensuring the appropriate social services staff is present for the hearing and are prepared to testify to their direct knowledge of the facts in

- dispute concerning the substantiation of abuse or neglect;
2. Upon notification from the CPSIS that a substantiated maltreatment finding has been upheld or overturned by OSAH:
 - a. Upload a copy of the court order into Georgia SHINES External Documentation;
 - b. Consult with the SAAG to determine if a judicial review by Superior Court will be requested if the substantiated maltreatment finding was overturned.

PRACTICE GUIDANCE

Office of State Administrative Hearings (OSAH) Responsibilities

Within 30 business days of the receipt of a notice requesting an administrative review regarding a substantiation of child abuse and neglect **the OSAH will:**

1. Provide at least a **10 calendar day** notice via first class mail to the requestor and DFCS denoting when and where the Administrative Hearing will take place;

NOTE: The hearing venue may be anywhere within the State of Georgia, or held via telephone if all parties and the administrative law judge are in agreement. However, unless otherwise agreed upon, the hearing should be conducted in the county in which the alleged act of child abuse was committed.

2. Conduct the administrative review hearing unless postponed by mutual consent of the requestor, DFCS and administrative law judge, or for good cause;

NOTE: A motion for an expedited hearing may be filed or the hearing may be continued as necessary to allow for the appointment of counsel.

3. **Within 5 business days** of the hearing, render a decision based on the evidence presented to determine if credible evidence supports the substantiation of child abuse or neglect;; supporting the individual's name being placed on the CPSIS;
4. **Within 10 calendar days** of the decision, issue and transmit to the CPSIS the court order that supports the requestor's name remaining on the CPSIS based on credible evidence supporting a substantiation of abuse or neglect unless a petition for judicial review has been filed in Superior Court; **OR**
5. **Within 10 calendar days** of the decision, issue and transmit to the CPSIS the court order that supports the requestor's name being expunged from the CPSIS based on a lack of evidence to support a substantiation of child abuse or neglect.

Appeals for Minor Alleged Child Abuser

The law supports minors who have a substantiated finding the ability to request an appeal on their own behalf. Minor alleged child abuser's (those that have not gained the age of maturity set forth by Code Section 39-1-1) are entitled to representation at the hearing either by the parent, other legal guardian, or by an attorney employed by the parent or guardian. In the event the administrative law judge conducting the hearing determines that the minor alleged child abuser will not be so represented at the hearing, or that the interests of the minor may conflict with that of the parent or guardian, the administrative law judge shall order DFCS to apply to superior court of the county in which the alleged act of child abuse was committed to have counsel appointed for the minor alleged child abuser. Payment for such court appointed representation shall be made by such county court.

FORMS AND TOOLS

[Legal Action Request Form](#)

[Notice of Inclusion into the Georgia Central Child Abuse Registry](#)