	GEORGIA DIVISION OF FAMILY AND CHILDREN SERVICES CHILD WELFARE POLICY MANUAL			
	Chapter:	Child Protective Services Information System (CPSIS)/Child Abuse Registry	**Effective Date:**	January 2020
	Policy Title:	Judicial Review of OSAH Decision		
	Policy Number:	20.3	**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
O.C.G.A. § 50-13-19 Judicial Review of Contested Cases

REQUIREMENTS

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

1. Determine the need to request a judicial review of the OSAH decision when a substantiated case of child abuse is overturned by the administrative law judge in accordance with policy 20.2 CPSIS: OSAH Administrative Review Hearing
2. To pursue a judicial review, file a petition in the Superior Court **within 30 calendar days** after the decision of the administrative law judge is issued.
   NOTE: Service of the Petition for Judicial Review shall stay the listing of the alleged child abuser's name upon the child abuse registry
3. In consult with the SAAG, prepare for the judicial review hearing.
4. Participate in any judicial review of the OSAH decision conducted by the Superior Court requested by the alleged abuser or DFCS.
5. Review the Superior Court decision rendered by the Superior Court.
   a. Consult with the SAAG and Office of the General Counsel regarding any appeal of the Superior Court decision.
6. Document the appeal decision in the Safety Section database.
7. Upload the decision or order from each hearing or appeal to document the proceeding in the Safety Unit database.

To seek judicial review of the Administrative Law Judge (ALJ) decision, any party may:

1. File a petition with the Superior Court of the county where the hearing took place or, if the hearing was conducted by telephone, the Superior Court of Fulton County within 30

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calendar days of the decision.
2. Follow procedures for such appeal substantially the same as those for judicial review of contested cases under Code Section 50-13-19.

To seek judicial review (appeal) of the Superior Court decision, any party may:
1. File a petition for appeal with the clerk of the Court of Appeals of Supreme Court of Georgia within 30 days of the entry of the Superior Court order.
2. Follow appellate procedures as indicated by the respective court rules, under the guidance of the SAAG and Office of the General Counsel.

PROCEDURES

Safety Section

1. Upon service of a petition for judicial review in superior court of the administrative law judge's decision to uphold or overturn a substantiation, the **Safety Unit Staff** will:
   a. Update the Safety Unit database to reflect the Judicial Review request and upload the petition being filed in Superior Court;
2. Upon receipt of the Superior Court's decision concerning the petition filed for judicial review **the Safety Unit Staff will**:
   a. Review the court's decision and document and/or upload the court order to the Safety Unit database
   b. Update the Safety Unit database with the following decisions:
      i. Judicial review – Upheld substantiation
      ii. Judicial review - Overturned substantiation

Inclusion in the Child Abuse Registration

1. DFCS shall not include an alleged abuser's name in the child abuse registry until the exhaustion of such child abuser's appellate rights. (See policy 20.5 CPSIS: Inclusion in the CPSIS)
2. When DFCS includes a name in the child abuse registry, it shall be accompanied by the classification and type of abuse and a copy of the investigator's report.

County Department and the Judicial Review

1. Upon receipt of the decision that a substantiated child abuse finding has been upheld or overturned by OSAH the **County Department** will:
   a. Immediately notify the SAAG and determine if a judicial review by Superior Court will be requested if the substantiated finding was overturned;
      i. If the SAAG determines there is sufficient evidence to appeal, the SAAG shall consult with the DFCS Office of General Counsel and Law Department to discuss further and for submission of the request for a judicial review within 30 calendar days of OSAH's decision.
      ii. Immediately notify the Safety Unit staff via email at cpsis.helpdesk@dhs.ga.gov of the County Department's decision to request a judicial review and provide a copy of the petition or other documentation.
   b. If the substantiated finding was upheld by OSAH and the County is notified that the alleged child abuser has requested a judicial review:
      i. Immediately consult with the SAAG regarding the alleged child abuser's

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request for judicial review and for consultation with the DFCS Office of General Counsel and Law Department regarding the case.

ii. Immediately notify the Safety Unit of the judicial review request via email at cpsis.helpdesk@dhs.ga.gov and provide a copy of the petition or other documentation received.

2. Consult with the SAAG to prepare for and participate in the judicial review hearing.
3. Review the decision issued by the Superior Court.
4. Upon being notified by Superior Court that a substantiated child abuse finding has been upheld or overturned**:**
   a. Immediately notify the Safety Section via email at cpsis.helpdesk@dhs.ga.gov regarding the outcome of the judicial review and provide a copy of the court order.
   b. Upload a copy of the court order into the Safety Section database; Consult with the SAAG, DFCS Office of General Counsel and Law Department regarding any further appeals, if appropriate.

PRACTICE GUIDANCE

Requests for Superior Court Judicial Review Subsequent to Administrative Review Hearings

Any party has the right to a judicial review of the OSAH's decision if a petition for review is filed **within 30 calendar days** of the OSAH decision with the Superior Court in the county in which the administrative review hearing was held, or if held via telephone, the Superior Court of Fulton County. Therefore, when a petition for judicial review is filed:

1. The Petitioner will be required to serve notice as provided by law to the opposing party;
2. The Superior Court shall:
   a. Conduct the judicial review as outlined in O.C.G.A § 50-30-19 **within 30 calendar days** following the service of the petition in Superior Court; and
   b. Render a decision based on credible evidence concerning a substantiation of child abuse and issue an order notifying the alleged abuser and outlining the court's decision **within 10 calendar days** of the decision.

   NOTE: The filing of the petition for judicial review stays the petitioner's name from being placed on the CPSIS. DFCS shall not include an alleged child abuser's name in the child abuse registry until the exhaustion of such child abuser's appellate rights.

Appeals to the Court of Appeals and Supreme Court of Georgia

Any party may exercise the right to request an appeal of the Superior Court decision to the Georgia Court of Appeals and further to the Supreme Court of Georgia.

1. If the alleged child abuser seeks an appeal beyond the Superior Court, the County Department shall immediately contact the Office of the General Counsel.
2. If the County Department wishes to appeal beyond the Superior Court, the Office of the General Counsel shall be consulted prior to any appeals.

FORMS AND TOOLS

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