	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:	OSAH Administrative Review Hearing		
	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 OSAH administrative review hearing from an alleged child abuser for the following:
   a. The substantiated case of child abuse for which the hearing by the Office of State Administrative Hearings (OSAH) is being requested.
   b. The request for hearing includes the current address and telephone number (if available) of the alleged child abuser.

   NOTE: After receiving the Notice of Substantiated Case, the alleged abuser is responsible for updating OSAH with any changes to his/her address or telephone number.

   c. The request for hearing was received from the alleged abuser within 30 calendar days as required by law.

   NOTE: All requests for hearings, including those received more than 30 days after the alleged abuser received the Notice of Substantiated Case, should be transmitted to Office of State Administrative Hearings (OSAH) for consideration.
2. Transmit written requests for hearing **within 10 calendar day of receipt to the following:**
   a. County Director of the county of incident.
   b. Office of State Administrative Hearings (OSAH).
   c. Office of the District Attorney for the judicial circuit in which the child abuse was committed.

   NOTE: The district attorney may file a motion requesting postponement of the hearing

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in order to avoid interference with the prosecution of the related criminal case. Upon such motion, the hearing will be stayed by order of the administrative law judge until final disposition of the criminal prosecution. Within 30 days of the final disposition, the prosecuting attorney shall notify OSAH, DFCS, and the alleged child abuser. Within 30 days of the notice of final disposition from the District Attorney, OSAH will conduct the administrative hearing.

3. Staff with the Special Assistant Attorney General (SAAG) to prepare for and conduct the initial OSAH hearing.
4. Review the decision of the administrative law judge after the OSAH Administrative Review Hearing.
5. Determine the need to request an appeal, also known as a judicial review, in consultation with the SAAG when the substantiated case of child abuse is reversed by the administrative law judge.
   a. If the decision is made to proceed with the judicial review, make the request in accordance with policy 20.3 CPSIS: Judicial Review of OSAH Decision.
   b. The filing of a petition for judicial review by Superior Court stays the listing of the alleged child abuser on the CPSIS.
6. Update the Safety Section database with the administrative law judge's decision and the appeal status of the case.
7. If the substantiation is upheld and no further appeal is sought, include the individual's name on the CPSIS. (See policy 20.4 CPSIS: Inclusion in the CPSIS)

PROCEDURES

Safety Section

1. Upon receipt of a written request from the alleged child abuser for an administrative review **the Safety Section staff will:**
   a. Review the request for the following:
      i. The specified substantiated case of child abuse or neglect for which the administrative review hearing is being requested.
      ii. 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 Safety Section database as needed based on any changes in information received.
      iii. To determine if the hearing request was received within 30 calendar days of the alleged abuser receiving the Notice of Substantiated Case as required by law. The 30 calendars days is calculated from the date the Notice of Substantiated Case return receipt was signed.
   b. Complete the OSAH Form 1
   c. Send one email with the hearing request packet to the following recipients: the Office of State Administrative Hearings (OSAH), the District Attorney for the judicial district in which the child abuse was committed, and the County Director of the County of Incident, **within 10 calendar days** of the receipt of the request. The request packet will include:
      i. OSAH Form 1;
      NOTE: The OSAH Form 1 includes the date the alleged abuser received the Notice of Substantiated Case and the date the hearing request was received by DFCS in order determine if the request for the OSAH administrative review

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hearing was received within the required timeframe from the alleged child abuser.

ii. A copy of the Notice of Substantiated Case that was sent to the alleged child abuser;

iii. A copy of the alleged child abuser's written request for the OSAH administrative review hearing

c. Document the receipt of the request for the OSAH administrative review in the Safety Section database and the date the request was transmitted to OSAH.

2. Upon receipt of the Administrative Law Judge's decision**:**
   a. Review the decision to determine whether the substantiation was upheld or reversed;

      NOTE: When there is a "reversed" decision, always review to determine whether the reversed finding relates to specific classification and types of abuse when there are multiple substantiated types of abuse.

   b. Document the OSAH decision in the Safety Section database.
   c. Upload a copy of the OSAH decision to the Safety Section database.

   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.

3. Ensure proper documentation in the Safety Section database of the administrative law judge decision and the appeal status of the case.

County Department

1. Upon notification of the request for an OSAH administrative review hearing, the **SSCM will:**
   a. Notify the SAAG regarding the pending OSAH administrative review hearing via current notification procedures;

      NOTE: If the alleged child abuser's request was not received by the Safety Section within the required 30 calendar day period, consult with the SAAG regarding whether a Motion to Dismiss should be filed with OSAH.

   b. Participate in a staffing with the SAAG and Social Services Supervisor (SSS) to review case and prepare evidence and testimony for the OSAH hearing.
   c. Participate in the OSAH administrative review hearing by:

      i. Being present and prepared with knowledge of case information.

         NOTE: If Case Manager who investigated the case is no longer with the agency, the county director shall ensure the appropriate social service staff is available to attend the hearing.

      ii. Providing appropriate case information to the SAAG;

      iii. 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 substantiated case of child abuse.

2. Review the decision issued by the administrative law judge.
   a. Determine in consultation with the SAAG if a request for a judicial review by the Superior Court should be made if the substantiation is reversed by OSAH.
   b. If the substantiation is upheld, consult with SAAG to determine if the alleged abuser has filed a request for judicial review by the Superior Court.

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The SSS will:

1. Obtain the request for the OSAH administrative review hearing of the substantiated case from the County Director.
2. Review the request for hearing with the SSCM.
3. Ensure the SAAG is notified of the request for hearing and participate in staffing with the SAAG and SSCM.
4. Review the resulting decision of the administrative law judge and staff with SAAG to:
   a. Request a judicial review to superior court after a reversal of the substantiation finding.
   b. Prepare for a judicial review requested by the alleged abuser after a substantiation finding is upheld.

PRACTICE GUIDANCE

The OSAH Administrative Hearing

The Office of State Administrative Hearings (OSAH) is charged with impartially resolving disputes between the public and state agencies. Alleged child abusers may request an OSAH administrative hearing to challenge the substantiation finding of DFCS and avoid placement on the CPSIS registry. The parties to this hearing are the alleged abuser and DFCS. Each party has the right to be represented by an attorney. Attorneys are not appointed to indigent alleged abusers. Special Assistant Attorney Generals (SAAG) represent DFCS in OSAH administrative hearings. During the hearing, an administrative law judge (ALJ) listens to the evidence presented by the parties and their witnesses to determine if sufficient evidence supports the investigator's substantiation of the case. Parties may question their own witnesses and cross exam adverse witnesses. After the hearing is concluded, the ALJ will make a ruling (decision) either upholding or overturning the substantiation. This ruling may occur at the end of the proceeding or within five days of the conclusion of the hearing.

Office of State Administrative Hearings (OSAH) Responsibilities

1. Conduct the administrative hearing **within 30 calendar days** of the receipt of a request for an administrative review regarding a substantiation of child abuse;
2. Provide notice of the time and place of the administrative hearing by first-class mail at least **15 calendar days prior to the date of the hearing** to the requestor, DFCS, and the district attorney for the judicial circuit in which the alleged act of child abuse was committed;
   NOTE: The hearing may be held via telephone if all parties and the administrative law judge agree. However, unless otherwise agreed upon, the hearing should be conducted in the county in which the alleged act of child abuse was committed or a suitable location no farther than 50 miles from such county.
3. 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 retention of counsel.
4. **Within 5 calendar days** after the conclusion of the hearing, issue and transmit to the alleged child abuser a decision upon a finding that there is a preponderance of evidence to conclude that the alleged child abuser committed an act of child abuse and such child abuser's name shall be included in the child abuse registry; provided, however, that if

the evidence was insufficient, the administrative law judge shall issue an order to that effect.

5. **Within 10 calendar days** after the expiration of the period to seek judicial review by a superior court, if no review is sought, the ALJ will issue and transmit to DFCS his or her order regarding the alleged child abuser and the investigator's report.

FORMS AND TOOLS

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