



Office of Inspector General Residential Child Care Licensing

The information in this publication is intended solely as a tool to clarify state regulatory requirements related to interstate adoptions. While the information in this publication may refer to Georgia adoption laws, it is not intended as legal advice nor as a substitute for the advice of your legal counsel. Please consult with your legal advisor on your specific legal questions related to adoption law or proceedings. RCCL staff is not authorized to provide legal advice.

Interstate Adoptions and Compliance with CPA Rules and Regulations

The Residential Child Care Licensing (RCCL) unit of the Department of Human Services' Office of Inspector General (OIG) has the authority to license and regulate Child-Placing Agencies (CPA) in the State of Georgia. A CPA may place children for temporary care or adoption. Interstate adoption is the process of adopting a child across state lines. When any portion of an adoption takes place in Georgia and at least one other state, it may be referred to as an interstate adoption. Interstate adoptions are subject to the provisions of the Interstate Compact on the Placement of Children (ICPC). See O.C.G.A. Sections 39-4-1 et seq., or its successor statutes.

CPA Rule 290-9-2-.05(4) requires compliance with the provisions of the ICPC and applicable state laws prior to accepting a child from another state or prior to placing a child outside Georgia for temporary care or adoption. An out-of-state agency must consider several factors when evaluating compliance with Georgia CPA rules and regulations. Such factors include, but are not limited to, whether the out-of-state agency is operating as a CPA as defined by the term "child-placing agency," the types of activities considered "child placement" or "placement activities," and the circumstances by which an out-of-state agency's association with a licensed Georgia CPA is sufficient to conduct placement activities in lieu of obtaining a CPA license in Georgia.

CPA Rule 290-9-2-.01(I) defines "Child-Placing Agency" or "Agency" as "any institution, society, agency, or facility, whether incorporated or not, which places children in foster homes for temporary care or in prospective adoptive homes for adoption. For purposes of this definition, agencies that engage in placement activities are required to be licensed as Child-Placing Agencies. This term does not apply to a licensed professional providing only home study preparation services as an evaluator."

As noted in **CPA Rule 290-9-2-.01(I)**, the rules and regulations require that those engaging in placement activities in Georgia be licensed as a CPA. **CPA Rule 290-9-2-.01(m)** defines "child placement" or "placement activity" as "the selection, by a person or Agency other than the child's parent or guardian, of a foster family or prospective adoptive family, or effecting the movement of the child into the foster family or prospective adoptive family. This definition includes any preparation of a home study of a foster home or of a prospective adoptive home. Counseling with respect to options available, legal services, or services as an agent for the purpose of notice of revocation of consent by the biological parent does not constitute child placement under this definition. For purposes of this rule, this definition does not include the Department or a licensed professional providing only home study preparation services as an evaluator."



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CPA Rule 290-9-2-.02(1) further prohibits engagement in child placement activities without a license, including the advertisement of those activities. However, **CPA Rule 290-9-2-.02(1)** does allow CPAs licensed in other states to engage in placement activities if it has entered into a written agreement with a CPA licensed in Georgia to ***cooperate in*** and to ***supervise the placement***. Specifically, this rule states that “no person, facilitator, consultant, institution, society, agency, corporation or facility shall engage in child placement activities, including the advertising of such child placement activities, in Georgia unless a license has first been obtained from the Department. For purposes of this rule, Child-Placing Agencies licensed in other states and wishing to engage in placement activities, including the advertising of such placement activities, in Georgia shall also be licensed in Georgia or shall have a written agreement with a Child-Placing Agency licensed within the state to cooperate in and to supervise the placement. This agreement shall be approved by the Department prior to the placement.”

Inter-Agency Agreement with a Georgia Licensed CPA

A CPA that is licensed in another state is allowed to engage in placement activities (e.g., the selection, by a person or Agency other than the child's parent or guardian, the selection of a prospective adoptive family, effecting the movement of the child into the prospective adoptive family, and preparation of a home study) in Georgia only if the CPA is also licensed in Georgia or has an approved agreement with a Georgia licensed CPA. See **CPA Rule 290-9-2-.02(1)**.

The written inter-agency agreement should include two essential components: delineation of both the cooperation between the Georgia licensed CPA and the out-of-state agency and the supervision of the placement by the Georgia licensed CPA¹. The agreement must clearly reflect that the Georgia licensed CPA will cooperate in and supervise the placement. Placement activities encompass all areas of a placement including, but not limited to, the selection of the prospective adoptive family, the signing of birth parent surrenders, the matching of a prospective adoptive family to a prospective adoptive child and post-placement activities such as home visits. See **CPA Rule 290-9-2-.01(m)**. Essentially, any type of placement activity in the State of Georgia conducted by an out-of-state licensed CPA shall be in cooperation with and supervised by a Georgia licensed CPA.

The inter-agency agreement must be approved by the Department's Office of Inspector General Residential Child Care Licensing (RCCL) unit prior to engaging in any child placement activities in Georgia. If approved, the Georgia licensed CPA and the out-of-state agency shall operate in conformity with the inter-agency agreement and Georgia law.

Inducements

Additionally, any out-of-state licensed CPA entering into an inter-agency agreement with a Georgia licensed CPA must ensure that any financial assistance, either direct or indirect, provided to a biological parent who is present in and/or residing in Georgia is made in compliance with

¹ In commonly accepted definitional terms, “cooperate” means “to act or work with another or others: act together or in compliance,” and “supervise” means “to be in charge” or “oversee.”



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Georgia law. Pursuant to O.C.G.A. Section 19-8-24, any person, organization, corporation, hospital, facilitator, or association of any kind whatsoever which directly or indirectly holds out or provides inducements to any biological parent to part with his or her child shall be guilty of a felony.

CPA Rule 290-9-2-.01(bb) defines “inducements” as any financial assistance, either direct or indirect, from whatever source. The rule then specifies that the term “inducements” shall not include:

1. Payment or reimbursement of medical expenses directly related to the biological mother’s pregnancy and hospitalization for the birth of the child and medical care for such child if paid by a licensed Child-Placing Agency or an attorney,
2. Payment or reimbursement of expenses for counseling services or legal services for a biological parent related to the placement by such parent or her or his child for adoption if paid by a licensed Child-Placing Agency or an attorney,
3. Payment or reimbursement of reasonable living expenses for the biological mother if paid by a licensed Child-Placing Agency, or
4. Payment or reimbursement of reasonable expenses for rent, utilities, food, maternity garments and maternity accessories for the biological mother if paid from the trust account of an attorney, who is a member of the State Bar of Georgia in good standing.

In the context of payment or reimbursement of allowable expenses to a Georgia birth parent, an inter-agency agreement shall acknowledge and specify that “child placing agency” means only a CPA licensed in Georgia pursuant to Chapter 5 of Title 49. See O.C.G.A. Section 19-8-1(5).

Factors to be Considered in Assessing an Out-of-State Agency’s Compliance with Georgia CPA Rule and Regulations

- Is the out-of-state agency proposing to or actively advertising child placement services in Georgia?
- Is the out-of-state agency proposing to or actively providing child placement services in Georgia as defined above?
- Does the out-of-state agency have a written inter-agency agreement with a Georgia licensed CPA?
- Is the out-of-state agency proposing to or actively providing financial assistance to birth parents in Georgia?
- Does the inter-agency agreement meet the requirements of an acceptable agreement per the rules and regulations?
- Did the RCCL unit approve the inter-agency agreement prior to any child placement activities in Georgia?



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Additional CPA Rules to Consider Regarding Interstate Adoptions

CPA Rule 290-9-2-.06(7)(h) allows the receiving state's requirements to meet the Georgia requirements for services following an adoption placement. These services include post-placement home visits, verification of a safe and healthy living environment, observation of the child/parent in the home, documentation of the home visits, explanation to the family that they can engage an attorney of their choice, and assistance with completing the adoption as required by court. Specifically, this rule provides that "in an interstate adoption placement where Georgia is the state of origin, the requirements for services following an adoption placement may be met by fulfilling the requirements of the receiving state."

CPA Rule 290-9-2-.02(2) addresses persons or entities who may not advertise adoption services. The rule states that "no person, organization, corporation, hospital, facilitator, or association that is not a Child-Placing Agency, a prospective adoptive parent with a valid, approved preplacement home study report, or an attorney who is a member of the State Bar of Georgia representing a prospective adoptive parent with a valid approved preplacement home study report shall advertise that the person, organization, corporation, hospital, facilitator, or association will adopt, arrange for or cause children to be adopted or placed for adoption as provided in O.C.G.A. Section 19-8-24."

CPA Rule 290-9-2-.01(v) defines a "facilitator" as "an individual or Agency who is engaged in the matching of biological parents with adoptive parents. This term does not apply to a person or Agency who refers biological parents, prospective adoptive parents and children to licensed Child-Placing Agencies for adoption services."

For questions concerning this guidance, please contact rcs@dhs.ga.gov for assistance.