

**RULES
OF
DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY AND CHILDREN SERVICES
CHAPTER 290-2-30
RULES AND REGULATIONS GOVERNING THE CHILD PROTECTIVE SERVICES
INFORMATION SYSTEM**

290-2-30-.02 Definitions

- (a) "Child Abuse Registry" means the Child Protective Services Information System established by Article 8 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated, O.C.G.A. § 49-5-180 et seq.
- (b) "Department" means the Department of Human Services.
- (c) "Division" means the Division of Family and Children Services of the Department of Human Services.
- (d) "Child Abuse" has the same meaning as set forth in ~~paragraph (4)~~ of subsection (b) of O.C.G.A. § 19-7-5.
- (e) "Alleged child abuser" means an individual named in an investigator's report as having committed a substantiated case of child abuse.
- (f) "Substantiated case" means an investigation of a child abuse report by an abuse investigator which has been confirmed based upon a preponderance of the evidence that child abuse has occurred.
- (g) "Abuse investigator" means the division, any county department of the family and children services, or any designee thereof.
- (h) For purposes of Rule 290-2-30-.05, "final disposition of a criminal case" means the dismissal of the criminal charges or entry of judgment and the resolution of any direct appeal thereon.

Authority: O.C.G.A. Secs. 49-5-180 and 49-5-183.

290-2-30-.03 Inclusion of Name on Child Abuse Registry and Notice of Substantiated Case

- (1) The division shall establish and maintain a central child abuse registry, called the "Child Protective Services Information System" in accordance with Article 8 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated. When the division 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 prepared and submitted in accordance with O.G.C.A. § 49-5-18 and this Rule 290-2-30-.03 of the Department of Human Services.
- (2) An alleged child abuser's name shall not be included in the child abuse registry until the exhaustion of such alleged child abuser's appellate rights as provided in O.C.G.A § 49-5-183.

(23) An abuse investigator who completes the investigation of a child abuse report made pursuant to O.C.G.A. § 19-7-5 or otherwise determines, on or after January 1, 2020, that it is a substantiated case, if the alleged abuser was at least 138 years of age at the time of the commission of the act, shall notify the division within 30 business days following such determination. The child abuse registry shall contain only the names of alleged child abusers who were at least 18 years of age at the time of commission of the act upon which a substantiated case is based. Such notice may be submitted electronically and shall include the following:

(a) Name, age, sex, race, social security number, if known, and birthdate of the child alleged to have been abused;

(b) Name, age, sex, race, social security number and birthdate of the parents, custodian, or caretaker of the child alleged to have been abused, if known;

(c) Name, age, sex, race, social security number, and birthdate of the person who committed the substantiated case, ~~and~~;

(d) The date the child abuse occurred;

(e) The date the child abuse was reported; and

~~(df) A summary of the known details of the child abuse which as a minimum shall contain the classification and type of the abuses as provided in O.C.G.A. § 19-7-5(b)(4) as either sexual abuse, physical abuse, child neglect or a combination thereof.~~

(4) Upon receipt of an investigator's report of a substantiated case transmitted pursuant to O.C.G.A. § 49-5-182(a) naming an alleged child abuser, the division ~~shall~~ mail to such alleged child abuser in such report a notice regarding the substantiated case via certified mail, return receipt requested. It shall be a rebuttable presumption that such notice has been received if the return receipt has been received by the division. The notice shall:

~~(1) Include in the child abuse registry the name of the alleged child abuser, the classification of the abuse as provided in O.C.G.A. § 49-5-182(a)(4) and the investigator's report; and~~

~~(2) Mail to such alleged child abuser in such report a notice regarding the substantiated case via certified mail, return receipt requested. The notice shall further inform such alleged child abuser of such person's right to a hearing to appeal such determination and shall further inform such alleged child abuser of the procedures for obtaining a hearing and that an opportunity shall be afforded all parties to be represented by legal counsel to respond and present evidence on all issues involved. It shall be a rebuttable presumption that such notice has been received if the return receipt has been received by the division.~~

(a) State that an abuse investigator has investigated a report of child abuse and has found by a preponderance of the evidence that such alleged child abuser committed an act of child abuse;

(b) State that the name of the such alleged child abuser and a copy of the investigator's report shall be included in the child abuse registry, unless a hearing to dispute the investigator's determination is requested within 30 days of receipt of the notice;

(c) Include:

(i) The name of the alleged child abuser;

- (ii) The name of the child alleged to have been abused;
- (iii) The date the child abuse occurred;
- (iv) The date the child abuse was reported;
- (v) A copy of the investigator's report; and
- (vi) A summary of the known details of the child abuse which at a minimum shall contain the classification and type of the abuse.

(d) Advise such alleged child abuser of:

- (i) The right to request a hearing to dispute the investigator's determination that he or she committed an act of child abuse;
- (ii) The procedure and time frame in which to request a hearing of such dispute and the name and address to which the request for a hearing should be delivered via mail or hand delivery;
- (iii) The right to be represented by an attorney of his or her choice at the hearing and to present evidence on the issues involved;
- (iv) The consequences of being named in the child abuse registry, including the effect on employment opportunity and professional licensure; and
- (v) The opportunity to request expungement and the details for the procedure.

Authority: O.C.G.A. Secs. 49-5-181, 49-5-182 and 49-5-183.

290-2-30-.04 Right to Appeal Prior to Inclusion of Name on Child Abuse Registry

- (1) In order to exercise ~~such~~ his or her right to a hearing, the alleged child abuser must file a written request for a hearing with the division within ~~ten~~ thirty days after receipt of such notice. Such written request for a hearing shall be sent via mail or hand delivered to the person and address designated by the division in the notice provided in accordance with ~~Rule 290-2-30-.03(3)(b)~~ O.C.G.A. § 49-5-183 and Rule 290-2-30-.03(4) of the Department of Human Services above.
 - (a) If the written request for a hearing is mailed, the date of receipt by the division shall be considered the date of the post mark of such written request. If such written ~~notice~~ request is hand delivered, the date of receipt by the division shall be the actual date of receipt of the request by the division.
 - (b) If the ~~10th~~ thirtieth day from the receipt of the notice by the alleged child abuse is a Saturday, Sunday or state holiday when the division is closed for business, the request for a hearing may be mailed or hand delivered to the division on the next business day.
- (2) The written request for a hearing shall contain the alleged child abuser's current residence address and, if the person has a telephone number, the telephone number at which such person may be notified of the hearing. It shall be the responsibility of such alleged child abuser requesting such hearing to inform the division and the Office of State Administrative Hearings of any subsequent change in address or telephone number.

- (3) After the expiration of the period to request a hearing pursuant to O.C.G.A. Section 49-5-183(b), if the division has not received such a request, it shall include in the child abuse registry the name of the alleged child abuser, the classification and type of the abuse, and a copy of the investigator's report.
- (34) If the division receives a timely written request for a hearing meeting the requirements of O.C.G.A. § 49-5-183(e), it shall transmit such written request to the Office of State Administrative Hearings (OSAH) and the office of the district attorney for the judicial circuit in which the child abuse was committed within ten days of receipt.
- (5) The Office of State Administrative Hearings shall conduct a hearing upon the request of the alleged child abuser in accordance with Administrative Procedure Act, O.C.G.A. Chapter 50-13 and the rules of the Office of State Administrative Hearings, except as otherwise provided by Article 8 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated.
- (56) The hearing shall be for the purpose of an administrative determination regarding whether, based on a preponderance of the evidence, there was child abuse committed by the alleged child abuser.
- (7) O.C.G.A. Section 49-5-41, relating to access to records concerning reports of child abuse, shall be applicable to the administrative hearing.
- (48) At the conclusion of the OSAH administrative hearing, upon a finding by the administrative law judge that there is not a preponderance of the evidence to conclude that the alleged child abuser committed an act of child abuse and upon receipt of an order that the alleged child abuser's name be removed from the registry, the administrative law judge shall order that such alleged child abuser's name be included in the child abuse registry. the division shall remove the name of the alleged child abuser from the registry unless and until such time as the division receives a decision, following appeal, that the alleged child abuser's name should be included in the child abuse registry. If the evidence was insufficient to make such a finding, the administrative law judge shall issue an order to that effect. In accordance with O.C.G.A. § 49-5-183, the decision of the administrative law judge shall be the final administrative decision.
- (59) The appeal of the decision of the administrative law judge inclusion of the name of the alleged child abuser in the child abuse registry shall proceed as provided in O.C.G.A. § 49-4-183. The filing of a petition for judicial review in the superior court by the alleged child abuser, in accordance with O.C.G.A. § 49-4-183(f), shall stay the listing of the petitioner's name on the child abuse registry. The petition for judicial review shall be filed within 30 days after the Office of State Administrative Hearings decision and shall only be filed with and the decision shall only be appealed to 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.
- (610) The alleged child abuser and the division shall have the right of judicial review. The division is authorized, in its discretion, to seek judicial review of an adverse decision of the administrative law judge, the superior court or any other appeals court, as provided in O.C.G.A. § 49-5-183.
- (11) The filing of a petition for judicial review in the superior court by the alleged child abuser, in accordance with O.C.G.A. § 49-5-183(f), shall stay the listing of the alleged child abuser's name on the child abuse registry.

(12) The appeal of a substantiated case of child abuse and the placement of an alleged child abuser's name on the child abuse registry on or before December 31, 2019 shall be governed by O.G.C.A. § 49-5-183 (2019) and Rules 290-2-30-.03 and 290-2-30-.04 of the Department of Human Services as such Code Section and rules existed on December 31, 2019, except as modified by law. In order to exercise his or her right to a hearing, the alleged child abuser who is placed on the child abuse registry as the result of a case substantiated on or before December 31, 2019 must file a written request for a hearing with the division within ten days after receipt of the of such notice in accordance with O.C.G.A. § 49-5-183(c)(2019) and Rule 290-2-30-.04 as it existed on December 31, 2019.

Authority: O.C.G.A. Sec. 49-5-183.

~~290-2-30-.05 Expungement of Name from Registry When the Individual Who Requests Expungement is Not the Individual Who had the Substantiated Case~~

- ~~(1) An individual, whose name appears on the child abuse registry as having committed a substantiated abuse case and who has not waived a hearing after receipt of a notice that such individual's name has been included on the registry, shall be entitled to a hearing for an administrative determination concerning whether expungement of such individual's name should be ordered.~~
- ~~(2) Upon receipt of a written request for a hearing for expungement of the alleged child abuser's name from the registry, the division shall transmit such request to the Office of Administrative Hearings within ten days of receipt. Upon a finding that there is no credible evidence that the individual who requested the hearing is the individual who had a substantiated case and receipt of an order that the division expunge that name from the registry, the division shall expunge the name from the registry.~~
- ~~(3) The appeal of the decision concerning the expungement of the name of the alleged child abuser from the child abuse registry shall proceed as provided in O.C.G.A. § 49-5-184.~~
- ~~(4) The division is authorized, in its discretion, to seek judicial review of an adverse decision of the OSAH administrative law judge, as provided in O.C.G.A. § 49-5-184.~~

290-2-30-.05 Stay of Child Abuse Registry Appeal

- (1) The prosecuting attorney with jurisdiction over the criminal prosecution of any child abuse charges may file a motion requesting postponement of the hearing, to be held in accordance with O.C.G.A. § 49-5-183 and (b)(2) and Rule 290-2-30-.04(5), if in such attorney's opinion conducting such hearing will impact the ability to prosecute the criminal case. Such motion shall be filed with the Office of State Administrative Hearings within 20 days after the office of the district attorney receives the written request for a hearing. Upon such motion, the hearing shall be stayed by order of the administrative law judge until final disposition of the criminal prosecution.
- (2) Within 30 days of the final disposition of the criminal prosecution, the prosecuting attorney shall notify the Office of State Administrative Hearings, the division, and the alleged child abuser of such disposition. Within 30 days following receipt by the Office of State

Administrative Hearings of such notification, the administrative law judge shall conduct a hearing in accordance with this subsection.

- (3) When an order staying a hearing is granted, at least once every three years from the date of such order, until final disposition of the criminal prosecution, the prosecuting attorney shall notify the Office of State Administrative Hearings, the division, and the alleged child abuser that there has not been a final disposition of the criminal prosecution. If the Office of State Administrative Hearings does not receive timely notification from the prosecuting attorney, the administrative law judge shall conduct a hearing in accordance with this subsection.

Authority: O.C.G.A. Sec. 49-5-183.

Rule 290-2-30-.06 Removal of the Name of an Individual Who Committed Substantiated Child Abuse While a Minor from the Registry

- (1) ~~With regard to a minor child alleged to have committed abuse, the division shall remove such individual's name from the registry if:~~
- ~~(a) He or she has reached 18 years of age;~~
 - ~~(b) More than one year has passed from the date of the act or omission that resulted in a substantiated case and there have been no subsequent acts or omissions resulting in a substantiated case; and~~
 - ~~(c) He or she can prove by a preponderance of the evidence that he or she has been rehabilitated.~~
- (2) ~~An individual whose name was placed in the child abuse registry while a minor may request the removal of his or her name from the child abuse registry by:~~
- ~~(a) Submitting a completed request for the removal of his or her name from the child abuse registry in the form designated by the division to the person and address designated by the division;~~
 - ~~(b) Submitting written evidence with the request which proves that each of the requirements in subsection (a) above has been met. Such evidence shall be submitted by affidavit or other sworn or verified statement. The agency may also consider, in its discretion, statements or other information submitted by the individual, provided that such statements or information are of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs; and~~
 - ~~(c) Upon the request of the division, in its discretion, submitting medical, psychiatric, or psychological evaluations or reports or other reports or similar evidence from a licensed counselor, social worker or mental health clinician, concerning whether the individual has been rehabilitated.~~
 - ~~(d) Notifying the division, within three business days, of any change in such individual's address after submission of the request.~~
- (3) ~~The division may, in its discretion, make an independent inquiry into whether the individual seeking to have his or her name removed from the registry has committed an act or omission resulting in a substantiated case subsequent to the act or omission which~~

resulted in the inclusion of the individual's name on the registry as a minor. The division shall inform the individual of its findings.

- (4) ~~The evidence submitted shall be reviewed and evaluated, on behalf of the division, by a designee or designees chosen by the division director, who shall determine the weight and credibility of the evidence presented. Further, for the purpose of such review, the designee or designees shall consider the acts or omissions which resulted in the substantiated case as true and shall take into consideration such acts or omissions in determining whether the individual requesting that his or her name be removed from the registry has met the requirements of O.C.G.A. § 49-5-183(h). After considering the acts or omissions which caused the case to be substantiated and the evidence presented, such designee or designees shall determine whether the individual who has requested that his or her name be removed from the registry has met the requirements of O.C.G.A. § 49-5-183(h) and has proved (i) that he or she has reached the age of 18, (ii) that more than a year has passed from the date of the act or omission which resulted in the substantiated case and there have been no subsequent acts or omissions resulting in a substantiated case and (iii) that he or she has been rehabilitated, by a preponderance of the evidence. The division shall transmit its decision to the last known address provided by the individual requesting removal of his or her name from the registry within 60 days of the individual's submission of the request for removal of his or her name from the registry, receipt of all evidence submitted by the individual and any additional evaluations, reports or similar evidence requested by the division pursuant to subsection (2)(c) of this Rule.~~

Rule 290-2-30-.06 Expungement of the Name of an Individual Who Committed Substantiated Child Abuse from the Registry

- (1) Except as provided in O.C.G.A. § 49-5-184(d), an individual whose name appears in the child abuse registry as having committed a substantiated case shall be entitled to a hearing for an administrative determination of whether or not expungement of such individual's name should be ordered. In order to exercise such right, such individual shall, after three years from the date such individual's name was included in the child abuse registry, file a written request for a hearing with the division.
- (2) Upon receipt by the division of a written request for an expungement hearing pursuant to O.C.G.A. Section 49-5-184(a), the division shall transmit such request to the Office of Administrative Hearings within ten days of receipt. The Office of Administrative Hearings shall conduct a hearing in accordance with Chapter 50-13 of the Official Code of Georgia, the Administrative Procedure Act, except as otherwise provided in O.C.G.A. section 49-5-184. A hearing shall be held within 60 days following the receipt of the request by the Office of State Administrative Hearings.
- (3) In determining whether to expunge an individual's name from the child abuse registry, the administrative law judge shall consider:
- (a) The nature and circumstances of the substantiate child abuse;
 - (b) The seriousness of the harm caused by the substantiated child abuse;
 - (c) The criminal history of the individual who requested the hearing;
 - (d) The risk to the child who was found to have been abused such individual poses;
 - (e) The risk to the community such individual poses;

- (f) The impact on such individual's employment and licensure opportunities due to inclusion of such individual's name in the registry;
 - (g) Evidence of such individual's completion of training, rehabilitation, or efforts to learn effective strategies to care for children; and
 - (h) Any other factors deemed by such administrative law judge to be relevant to the determination.
- (4) An individual's name shall not be expunged from the child abuse registry:
- (a) While such individual is involved in an open dependency case for the act of child abuse for which such individual was included in the child abuse registry;
 - (b) If such individual was included in the child abuse registry for an act of child abuse that resulted in a child fatality; or
 - (c) If such individual's parental rights have been terminated either voluntarily or involuntarily as a result of the act of child abuse for which such individual was included in the child abuse registry.
- (5) Within five days after the conclusion of the hearing, the administrative law judge shall issue an order regarding whether the name of the individual who requested the hearing should be removed from the registry and transmit such order to the individual and the division. The decision of the administrative law judge shall be the final administrative decision. The alleged child abuser and the division shall have the right to judicial review of such decision in accordance with Chapter 50-13 of the Official Code of Georgia Annotated, the Administrative Procedure Act, except that the petition for review shall be filed within 30 days after such decision and shall be filed with and the decision appealed to 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. The procedures for such appeal shall be the same as those for contested cases pursuant to O.C.G.A. Section 50-13-19. The division is authorized, in its discretion, to seek judicial review of an adverse decision of the OSAH administrative law judge, of the superior court, or any other appeals court.
- (6) Upon receipt of an administrative decision ordering that an individual's name be removed from the child abuse registry, the division shall remove such individual's name, the classification and type of abuse and the copy of the investigator's report from the child abuse registry.
- (7) If an individual's request for expungement is denied, such individual may submit to the division a subsequent request for hearing, in accordance with O.C.G.A. Section 49-5-184(a) no sooner than three years after such denial.

Authority: O.C.G.A. Sec. 49-5-184.

~~Rule 290-2-30-.07 Appeal of Decision to Deny Removal of Name from the Child Abuse Registry~~

- ~~(1) Within ten days of receipt of the division's decision that his or her name will not be removed from the registry pursuant to Rule 290-2-30-.06 above, an individual who has requested that his or her name be removed from the registry shall be authorized to request a hearing to appeal the division's decision that he has not met the requirements of O.C.G.A. § 49-5-183(h) by mailing or hand-delivering such request to the division to~~

~~the person at the address designated by the division. Such hearing shall be conducted by the Office of State Administrative Hearings in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," the Rules and Regulations of the Office of State Administrative Hearings, and the rules and regulations of the Department of Human Services. The decision of the Office of State Administrative Hearings shall constitute the final agency decision.~~

- (2) ~~Any party shall have a right to judicial review of the decision of the Office of Administrative Hearings as provided in Chapter 13 of Title 50, of the "Georgia Administrative Procedures Act.~~

Rule 290-2-30-.07 Reserved.