

RULES
OF
DEPARTMENT OF HUMAN SERVICES
ADMINISTRATION
CHAPTER 290-1-10
RULES FOR POWER OF ATTORNEY FOR THE CARE OF A CHILD

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290-1-10-.01 Definitions

These rules are adopted and published pursuant to the Official Code of Georgia Annotated (O.C.G.A.) Sections 19-9-120 et seq. ('Supporting and Strengthening Families Act'), relating to the power of attorney for the care of a child.

Authority: O.C.G.A. Secs. 19-9-120 et seq.

290-1-10-.02 Title and Purpose.

These rules shall be known as the Rules for Power of Attorney for the Care of a Child. The purpose of these rules is to promote compliance with O.C.G.A. Sec. 19-9-123 by establishing annual reporting guidelines for nonprofit entities or faith-based organizations providing services under the 'Supporting and Strengthening Families Act.' These rules also provide guidelines for the referral of individuals seeking to execute a power of attorney to such nonprofit entities or faith-based organizations in accordance with the provisions of the 'Act.' Additionally, these rules promote compliance with O.C.G.A. Secs. 19-9-120 et seq., by providing general guidelines and highlighting specific provisions pertaining to rule applicability, maintenance of records and child abuse and neglect for child-placing agencies, nonprofit entities and faith-based organizations providing services under the 'Act.'

Authority: O.C.G.A. Secs. 19-9-120 et seq.

290-1-10-.03 Definitions.

Unless the context otherwise requires, the words and phrases set forth herein shall mean the following:

- (a) "Agent" means an individual delegated caregiving authority regarding a child by the child's parent. For the purpose of these rules, an agent shall be an individual who is a nonrelative of a child and approved by a child-placing agency, a nonprofit organization or faith-based organization to provide caregiving services to a child pursuant to Chapter 9 of Title 19.
- (b) "Child" means an unemancipated person who is under 18 years of age.
- (c) "Child-Placing Agency" means an agency licensed as such pursuant to Chapter 5 of Title 49. A child-placing agency includes any institution, society, agency, or facility, whether incorporated or not, that 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.
- (d) "Department" means the Georgia Department of Human Services.
- (e) "Foster care" means supervised care for a child in a home other than the child's own home on a 24-hour full-time basis for a temporary period of time.
- (f) "Nonprofit entity or faith-based organization" means a business that provides child or family services and that is in good standing with the Internal Revenue Service, if applicable.
- (g) "Parent" shall have the same meaning as provided in Code Section 19-3-37.
- (h) The singular includes the plural, the plural the singular, and the masculine the feminine, when consistent with the intent of these Rules.

Authority: O.C.G.A. Secs. 19-9-120 et seq., 49-5-12.

290-1-10-.04 Applicability of These Rules

- (a) A parent of a child may delegate caregiving authority of such child to an adult residing in this state who is the grandparent, great-grandparent, stepparent, former stepparent, step-grandparent, aunt, uncle, great aunt, great uncle, cousin, or sibling of a child or to a non-relative of the child who is approved as an agent by a child-placing agency, a non-profit entity or a faith-based organization for a period not to exceed one year, except as provided in O.C.G.A. Sec. 19-9-132, by executing a power of attorney in accordance with the provisions of O.C.G.A. Secs. 19-9-120 et seq.
- (b) The Department shall not license or regulate a power of attorney for the care of a child delegation executed in accordance with the provisions of O.C.G.A. Secs. 19-9-120 et seq.
- (c) The parties subject to a power of attorney executed under O.C.G.A. Secs. 19-9-120 et seq., shall not be subject to any of the licensing requirements or regulations for foster care or other requirements or regulations relating to community care for children. A child subject to a power of attorney executed under O.C.G.A. Secs. 19-9-120 et seq., relating to the power of attorney for care of a child, shall not be considered placed in foster care under Chapter 5 of Title 49. The caregiving authority delegated under O.C.G.A. Secs. 19-9-120 et seq., relating to the power of attorney for care of a child, shall not constitute an out-of-home child placement.
- (d) Although the parties subject to a power of attorney are not required to meet rules and regulations applicable to child welfare agencies licensed pursuant to Chapter 5 of Title 49, the parties shall make available to the Department's licensing authority any documentation required to confirm that services being provided are not subject to licensure pursuant to Chapter 5 of Title 49.
- (e) The execution of a power of attorney under O.C.G.A. Secs. 19-9-120 et seq., relating to the power of attorney for care of a child, shall not delegate caregiving authority for more than one child unless such power of attorney delegates caregiving authority for children who are siblings or stepsiblings.
- (f) If an agent ceases its role as a caregiving authority as delegated by the child's parent under O.C.G.A. Secs. 19-9-120 et seq., and wishes to become an alternative placement resource for the child, the agent must first be approved as a placement resource by a child-placing agency or the Department.

Authority: O.C.G.A. Secs. 19-9-120 et seq., 49-5-12.

290-1.10-.05 Required Annual Reports to the Department

- (a) Each nonprofit entity or faith-based organization that is not licenses by the Department but is providing services under O.C.G.A. Secs. 19-9-120 et seq., shall submit an annual report to the Department.
- (1) Annual reports shall be submitted by January 15th of each year and shall contain all powers of attorney executed during the prior calendar year.
 - (2) All reports shall be submitted on forms provided by the Department and include the following:
 - A. Its legal name, address, telephone number, e-mail address, and any other contact information;
 - B. The name of its director;
 - C. A list (names, addresses and offices held, if applicable) of its governing body;
 - D. The total number of approved volunteer families with which it works; and
 - E. The total number of children served in the previous calendar year.
- (b) A listing of all faith-based organizations and non-profit entities who have met the reporting requirements of section (a) will be made available on the Department's website. The listing will be maintained and updated by the Department in accordance with established policies and procedures.
- (c) If a faith-based organization or a non-profit entity does not execute a power of attorney during the previous calendar year but wishes to remain on the list of faith-based organizations and non-profit entities providing services under O.C.G.A. Secs. 19-9-120 et seq., the organization or entity must continue to submit the annual report as required in section (a) and indicate that no powers of attorney were executed during the previous calendar year.

Authority: O.C.G.A. Sec. 19-9-123.

290-1-10-.06 Referrals

- (a) Individuals seeking assistance with identifying persons to delegate a power of attorney under O.C.G.A. Secs. 19-9-120 et seq., may be referred by the Department to the website that identifies the faith-based organizations and nonprofit entities that have met the annual reporting requirements of Rule 290-1-10-.05.
- (b) The Department shall not be liable for civil damages or be subject to any claim, demand, cause of action, or proceeding as a result of referring persons seeking assistance to identify a nonprofit entity or faith-based organization that has met the annual reporting requirements of Rule 290-1-10-.05.

Authority: O.C.G.A. Sec. 19-9-123.

290-1-10-.07 Maintenance of Records

- (a) Each nonprofit entity or faith-based organization that is not licensed by the Department but is providing services pursuant to O.C.G.A. Secs. 19-9-120 et seq., shall maintain records and submit annual reports to the Department in accordance with Rule 290-1-10-.05.
- (b) Each child-placing agency, nonprofit entity or faith-based organization that assists with the execution of a power of attorney under O.C.G.A. Secs. 19-9-120 et seq., shall maintain a record of all powers of attorney executed by agents approved by such agency, entity or organization for at least five years after the expiration of such powers of attorney.
- (c) Each child-placing agency, nonprofit entity or faith-based organization that receives a revocation of a power of attorney or a resignation by an agent under O.C.G.A. Secs. 19-9-120 et seq., shall maintain a record of the revocation of power of attorney and/or resignation of the agent for at least five years after the expiration of such power of attorney and shall notify schools, health care providers, and others known to the agent to have relied upon such power of attorney within 48 hours of receiving such notification.
- (d) Records of powers of attorney shall be kept confidential.
- (e) Records of powers of attorney shall be kept current and accessible to the Department and any local, state, or federal authority that is conducting an investigation involving the agent or the individual who executed such power of attorney in accordance with O.C.G.A. Sec. 19-9-129.

Authority: O.C.G.A. Secs. 19-9-123, 19-9-124, 19-9-129, 19-9-130.

290-1-10-.08 Child Abuse and Neglect

- (a) The execution of a power of attorney under O.C.G.A. Secs. 19-9-120 et seq., shall not, in the absence of other evidence, constitute abandonment, abuse, neglect, or any indication of unfitness as a parent.
- (b) Whenever a child-placing agency, nonprofit entity or faith-based organization has reason to believe that a child in care has been subjected to child abuse, it shall cause a report of such abuse to be made to the child welfare agency of the county of occurrence providing protective services as designated by the Department of Human Services (Division of Family and Children Services) or in the absence of such an agency to an appropriate police authority or district attorney in accordance with the requirements of O.C.G.A. Sec. 19-7-5.
- (c) Nothing in the provisions of O.C.G.A. Secs. 19-9-120 et seq., nor these rules shall prevent the Division of Family and Children Services of the Department or law enforcement from investigating and taking appropriate action regarding allegations of abuse, neglect, abandonment, desertion, or other mistreatment of a child.
- (d) An individual shall not execute a power of attorney under this article for the purpose of subverting an investigation of the child's welfare initiated by the Division of Family and Children Services of the Department and shall not execute such power of attorney so long as the Division of Family and Children Services has an open child welfare and youth services case with regard to the child, his or her parent, or another child of the parent.
- (e) Nothing in the provisions of O.C.G.A. Secs. 19-9-120 et seq., nor these rules shall be construed to diminish or limit any rights, power, or authority of or by the Department's Division of Family and Children Services for the protection of any child.

Authority: O.C.G.A. Secs. 19-9-126, 19-9-128.

290-1-10-.09 Severability

In the event that any rule, sentence, clause, or phrase of any of these rules may be construed by any court of competent jurisdiction to be invalid, illegal, unconstitutional, or otherwise unenforceable, such determination or adjudication shall in no manner affect the remaining rules or portion thereof. The remaining rules or portions of rules shall remain in full force and effect, as if such rule or portions thereof so determined, declared, or adjudged invalid or unconstitutional were not originally a part of these rules.

Authority: O.C.G.A. Secs. 19-9-120 et seq.