

**RULES
OF
GEORGIA DEPARTMENT OF HUMAN SERVICES**

**CHAPTER 290-2-30
RULES AND REGULATIONS GOVERNING THE CHILD PROTECTIVE SERVICES
INFORMATION SYSTEM**

TABLE OF CONTENTS

290-2-30-.01	Legal Authority
290-2-30-.02	Definitions
290-2-30-.03	Inclusion of Name on Child Abuse Registry
290-2-30-.04	Right to Appeal Inclusion of Name on Child Abuse Registry
290-2-30-.05	Expungement of Name from Registry When the Individual Who Requests Expungement is Not the Individual Who had the Substantiated Case
290-2-30-.06	Removal of the Name of an Individual Who Committed Substantiated Child Abuse While a Minor from the Registry
290-2-30-.07	Appeal of Division of Family and Children Services decision to Deny Removal of Name from the Child Abuse Registry
290-2-30-.08	Access to Information in the Registry
290-2-30-.09	Confidentiality of Information in the Child Abuse Registry
290-2-30-.10	Child Abuse Registry Governed by Article 8 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated

290-2-30-.01 Legal Authority

These rules are adopted and published pursuant to Chapter 13 of title 50 of the Official Code of Georgia annotated (O.C.G.A.), the "Georgia Administrative Procedure Act." The legal authority for these rules is O.C.G.A. § 49-5-180 et seq.

Authority: O.C.G.A. Secs. 49-5-180 et seq.

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 in paragraph (4) of subsection (b) of O.C.G.A. § 19-7-5.
- (e) "Alleged child abuser" means an individual named in an abuse 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.

Authority: O.C.G.A. Sec. 49-5-180.

290-2-30-.03 Inclusion of Name on Child Abuse Registry

- (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.
- (2) An abuse investigator who completes the investigation of a child abuse report made pursuant to O.C.G.A. § 19-7-5 or otherwise and determines that it is a substantiated case, if the alleged abuser was at least 13 years of age at the time of commission of the act, shall notify the division within 30 business days following such determination. Such notice shall include the following:
 - (a) Name, age, sex, race, social security number, if known, and birthdate of child alleged to have been abused,
 - (b) Name, age, sex, race, social security number, birthdate of the parents, custodian, or caretaker of the child alleged to have been abused,
 - (c) Name, age, sex, race and social security number and birthdate of the person who committed the substantiated case, and
 - (d) A summary of the known details of the child abuse which at a minimum shall contain the classification 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.
- (3) Upon receipt of an investigator's report of a substantiated case pursuant to O.C.G.A. § 49-5-182(a) naming an alleged child abuser, the division shall:
 - (a) Include in the child abuse registry the name of the alleged child abuser, the classification of the abused as provided in O.C.G.A. § 49-5-182(a)(4), and a copy of the investigator's report; and
 - (b) 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.

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

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

- (1) In order to exercise such right to hearing, the alleged child abuser must file a written request for a hearing with the division within ten 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) 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 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 day from the receipt of the notice by the alleged child abuser 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 shall be notified of the hearing.
- (3) If the division receives a written request for a hearing meeting the requirements of O.C.G.A. § 49-5-183(c), it shall transmit such written request to the Office of State Administrative Hearings (OSAH) within ten days after receipt.
- (4) 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 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.
- (5) The appeal of the 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.
- (6) 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. § 49-5-183.

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 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.

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

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.

Authority: O.C.G.A. Secs. 49-5-183(h).

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 the right of judicial review of the decision of the Office of Administrative Hearings as provided in Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

Authority: O.C.G.A. Secs. 49-5-183(h).

290-2-30-.08 Access to Information in the Registry

- (1) Access to any information in the child abuse registry shall be provided only to persons to whom such access is provided by O.C.G.A. § 49-5-185, as amended.
- (2) A person may make a written request to the division to find out whether such person's name is included in the child abuse registry. Upon presentation of a passport, military identification card, driver's license or identification card authorized under O.C.G.A. §§ 40-5-100 through 40-5-104, the Division of Family and Children Services shall disclose to such person whether his or her name is included in the child abuse registry, and, if so, the date upon which his or her name was listed in the registry.
- (3) The division shall provide and maintain such statistical analysis of substantiated cases as required in Article 8 of Chapter 5 of Title 49 of the Official Code of Georgia annotated.

Authority: O.C.G.A. Secs. 49-5-181, 49-5-185.

290-2-30-.09 Access to Information in the Registry

- (1) Information in the child abuse registry is confidential and shall not be subject to Article 4 of Chapter 18 of Title 50 of the official Code of Georgia Annotated and access is prohibited except as provided in this rule or by state or federal law. Such information is not a record of child abuse for purposes of Article 2 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated. However, information in the child abuse registry applicable to a child, who at the time of his or her death, was in the custody of a state department or agency or foster parent shall not be confidential and shall be subject to Article 4 of Chapter 18 of Title 50 of the Official Code of Georgia Annotated.
- (2) Any person who knowingly provides any information from the child abuse registry to a person not authorized to be provided such information or who knowingly and under false pretense obtains or attempts to obtain information which was obtained from the child abuse registry shall be guilty of a misdemeanor as provided in O.C.G.A. § 49-5-186(c) and (d).

Authority: O.C.G.A. Sec. O.C.G.A. 49-5-186.

290-2-30-.10 Child Abuse Registry Governed by Article 8 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated

- (1) The operation of The Child Abuse Registry shall not conflict with the provisions of Article 8 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated.
- (2) Should any provision of these Rules conflict with Article 8 of Chapter 5 of the Official Code of Georgia Annotated, as amended, Article 8 of Chapter 5 of the Official Code of Georgia Annotated shall take precedence and shall govern the operation of the Child Abuse Registry.

Authority: O.C.G.A. Secs. 49-5-180 et seq.