



# OLR RESEARCH REPORT

March 2, 2012

2012-R-0114

## **CHILD ABUSE AND NEGLECT REGISTRY**

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You asked how someone's name is added to or removed from the Department of Children and Families' (DCF) child abuse and neglect registry. You were specifically interested in knowing about the process for appealing registry entries.

### **SUMMARY**

DCF maintains a child abuse and neglect registry that holds the names of individuals against whom DCF has investigated and subsequently substantiated child abuse or neglect.

The registry includes the following information about the perpetrator:

1. name, gender, birth date, race, and address;
2. case name and number;
3. investigation date;
4. substantiated allegations; and
5. whether the information can be disclosed.

Generally, DCF will not place a name on the registry until the alleged perpetrator exhausts or waives all appeal opportunities. This includes both an internal department review, an administrative review as permitted by the state's Uniform Administrative Procedures Act (UAPA), and court challenges.

Access to the registry is limited to duly authorized DCF employees for purposes of obtaining information for child abuse and neglect investigations, background checks, and other uses the law permits. In most cases, the subject of the check must give consent before the information can be released.

The law currently does not allow names to be removed from the registry once all appeals have been exhausted or waived. In the 2012 legislative session, DCF has proposed, and the Select Committee on Children has raised, a bill (HB 5217) that would establish a process for individuals to request, and DCF to allow, the removal of names from the registry for good cause. Under the bill, the earliest someone could request the removal would be five years after any final decision to place the name on the registry.

## **CHILD ABUSE AND NEGLECT REGISTRY LAW**

### ***Criteria for Registry Placement***

By law, the DCF commissioner must maintain a central child abuse and neglect registry. The commissioner cannot enter a name on the registry until after the department has investigated a report of alleged abuse or neglect and found (1) reasonable cause to believe that the abuse or neglect has in fact occurred (substantiation) and (2) made a "recommended finding" in this regard. Additionally, the commissioner must determine whether an identifiable person (1) is responsible for the abuse or neglect and (2) poses a risk to the child's health, safety, or well-being and should therefore have his or her name placed on the registry ([CGS § 17a-101g](#)).

### ***Notification***

The commissioner must notify the alleged perpetrator by first class mail, within five business days after such determination. The law requires the notice to:

1. include a short and plain description of the finding that the individual is responsible for the child's abuse or neglect;

2. inform the individual (a) of the registry's existence and the commissioner's intention to place his or her name on it unless the individual appeals and (b) of his or her right to administrative appeal procedures;
3. inform the individual of the potential adverse consequences of being listed on the registry, including its potential effect on employment, licensure, or engaging in activities involving direct contact with children; and
4. include a form that the individual can sign and return invoking his or her right to appeal ([CGS § 17a-101k](#)).

The regulations further require the notice to contain the name of the child, the report and substantiation date, the individual's name, and the steps the individual must follow to request an internal review (Conn. Agency Regs. § 17a-101k-2 (c)).

### ***Appealing the Finding***

Anyone may request an internal review (1) who has been substantiated responsible for child abuse or neglect, (2) against whom a determination has been made to add his or her name to the registry, or (3) who is the child's parent or guardian who has been substantiated as responsible for the child abuse or neglect and disagrees with the substantiation or registry finding.

To request a review, the individual or his or her legal representative must (1) do so in writing or (2) return the form that DCF included as part of the notice to its investigative unit within 30 days after receiving the DCF notice (Conn. Agency Regs. §17a-101k-4).

***Internal Review.*** If such an individual requests an appeal, the DCF commissioner or her designee must first conduct an internal review of her finding to determine whether it is factually or legally deficient and should be reversed. Before completing the review, the commissioner must give the appellant access to all relevant documents regarding the finding, within the confines of DCF's confidentiality law. DCF must complete the review within 30 days after it is requested ([CGS § 17a-101k \(c\)](#); Conn. Agency Regs. § 17a-101k-5)

DCF must deny such requests when a criminal or civil court proceeding has been finally disposed with the court's factual determination that the identified person committed the substantiated

child abuse or neglect act. The department must defer any requests when such cases are pending, but a deferral for a pending criminal case can be lifted if the individual objects in writing.

The individual or his or her representative can submit any documentation relevant to a determination of the issue and can, at the DCF commissioner's discretion, participate in a telephone conference or face-to-face meeting in order to gather additional relevant information to determine any deficiencies (Conn. Agency Regs. § 17a-101k-4).

**Reversals.** If after the review the commissioner or her designee determines the finding has one or more factual or legal deficiencies, she must indicate so in writing and reverse the initial finding. The regulations also require the reversal of registry findings if a criminal or civil case was finally disposed without a factual determination.

DCF must notify the person who requested the review of such findings by certified mail within five days of the determination. And DCF must amend its records accordingly with "reasonable immediacy" if it finds deficiencies (Conn. Agency Regs. §§ 17a-101k-5(d) and (e)).

Regardless of the internal review's outcome, the commissioner must notify the individual of her decision within five business days of making it. If the original finding is upheld, the notice must conform with the UAPA and give the individual the right to request an administrative hearing ([CGS § 17a-101k\(c\)\(3\)](#); Conn. Agency Regs. § 17a-101k-5 (d) through (g)).

**Administrative Hearing.** Someone aggrieved by the internal review's outcome can request an administrative hearing within 30 days after notification of the internal review's outcome. The hearing must conform to UAPA procedures and be held within 30 days after it is received, unless either party shows good cause.

At the hearing, the (1) individual can be represented by legal counsel and (2) commissioner must support her finding by showing a fair preponderance of the evidence.

Within 30 days of the hearing, the DCF hearing officer must issue a written decision to either uphold or reverse the commissioner's finding. The decision must contain findings of fact and a conclusion of law on each issue raised at the hearing. If the hearing officer reverses either the substantiation decision or the registry finding, he or she must immediately direct that case record be amended accordingly ([CGS § 17a-101k](#); Conn. Agency Regs., §17a-101k-8).

***Appeal to Superior Court.*** Individuals aggrieved by the administrative hearing outcome can appeal to the Superior Court. The individual also may ask the court to order a stay, in accordance with the UAPA ([CGS § 17a-101k \(e\)](#)); Conn. Agency Regs. §§ 17a-101k (f) and -101k-11).

***Placing the Name in the Registry.*** If the hearing officer upholds the commissioner's finding and there is no court-ordered stay, the commissioner must accurately reflect the finding in the registry and forward to any agency or official any information the law requires the agency or official to disclose ([CGS § 17a-101k \(f\)](#)).

### ***Disclosure of Registry Information***

By law, an individual must waive or exhaust all available appeals before DCF may (1) enter recommended findings in the registry or (2) disclose the information to (a) someone checking the registry or (b) a public or private entity requesting it for employment, licensure, or child care reimbursement under a Department of Social Services child care program or under any other law requiring a registry check.

But DCF can enter the information and disclose it before the appeals are waived or exhausted if the child abuse or neglect resulted in or involves (1) the child's death, (2) risk of serious physical injury or emotional harm to a child, (3) the child's serious physical harm, (4) the arrest of a person due to child abuse or neglect, (5) a petition to terminate parental rights that is at least partially based on the substantiated child abuse or neglect and is pending in Superior Court or is on appeal, or (6) sexual abuse of the child ([CGS § 17a-101g \(d\)](#)).

The regulations further provide that to make such a disclosure before the appeals, DCF may also determine that the individual poses a risk to the child's health, safety, or well-being and (1) the substantiation is for sexual abuse and the individual responsible is over age 16; (2) there is a second substantiation for physical or emotional abuse; or (3) the perpetrator is a person entrusted with the child's care (this includes anyone given access to a child by the person responsible for the child's health, welfare, or care to provide, among other things, education, child care, coaching, training, instruction, tutoring, or mentoring (Conn. Agency Regs. §17a-101k-3 (b))).

***Prohibition When Educational Neglect Occurs.*** The regulations prohibit an individual from having his or her name placed on the registry if the only substantiated allegation is educational neglect (Conn. Agency Regs. § 17a-101k-3(h)).

### ***Registry Access***

Registry access is limited to duly authorized DCF employees to conduct child abuse and neglect investigations, background checks, and other uses the law permits. (PA 11-93 requires teachers to submit to registry checks.) In most cases, the subject of the check must give consent before the information can be released.

Prospective employers or licensing authorities can request background checks for anyone, provided they submit a signed release form from the subject. Signed releases are not required for background checks the departments of public health or social services request under state law (DCF Policy Manual, [Sec. 33-31](#)).

The regulations provide that when an individual is denied employment, licensing, or certification based on a registry search, the employer or entity must inform the individual that he or she is listed on the registry. It requires DCF to instruct such employers or entities of (1) their need to inform the subject of the background check that he or she is entered in the registry and (2) the subject's potential ability to contest the substantiation and registry finding (Conn. Agency Regs. § 17a-101k-13 (e)).

### **RAISED BILL TO ALLOW REGISTRY REMOVALS**

This legislative session, the Select Committee on Children raised a bill (requested by DCF) that establishes a process for DCF to remove names from the child abuse and neglect registry. The committee heard the bill on February 28, 2012. (The Judiciary Committee has raised a nearly identical bill (SB 310).)

Under HB 5217 (§ 11), a registrant can apply to DCF (on a form DCF creates) to have his or her name removed no earlier than five years after the date of a final decision to place the individual's name on the registry.

The bill requires DCF to include on the application form a provision allowing the applicant to indicate good cause for the removal, which can include:

1. the applicant's rehabilitation,
2. the applicant's accepting personal responsibility for actions or omissions that resulted in his or her name being placed on the registry,
3. a bona fide need for the removal, and
4. at least two letters of support from competent adults.

The bill (1) authorizes the DCF commissioner to grant the applicant's request and (2) entitles someone whose application is denied the right to an administrative hearing.

A person whose application is denied can re-apply, without limitation, no earlier than two years after the administrative hearing's final decision. Any subsequent application must indicate good cause that has occurred since the final decision date.

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