



Child Abuse and Neglect Reports in The State Central Register and How to Seal or Expunge Them

State Central Register:

Reports of child abuse and maltreatment are made to the New York State Central Register (SCR). The SCR decides whether a report should be investigated and, if so, forwards it to the local child welfare agency. In New York City, this is the Administration for Children's Services (ACS). ACS has sixty days to complete the investigation, which can include interviewing the children at home, making home visits, and speaking with family, friends, doctors, and teachers. The result of the investigation will be that a report is either "indicated" (some believable evidence of child abuse or neglect) or unfounded (not true).

Indicated Reports:

If the local agency finds that there is some believable evidence that the report is true, it will mark the report as "indicated." Indicated reports are kept at the SCR until the youngest child named is 28 years old. Child care employers, foster care and adoption agencies may be notified of indicated reports. An indicated report may affect a person's ability to obtain employment in child care, to become a foster parent, or to adopt. Law enforcement agencies, child welfare agencies, and the courts will have access to this information (for example, when custody issues are decided).

Unfounded Reports:

If the local agency finds that there is no believable evidence that the report is true, it will mark the report as "unfounded." The report will be maintained at the SCR, but will be **sealed** or **amended**. This means that it is only available to police or ACS when they are investigating another report of child abuse or neglect involving you or your children. A sealed report is not available to employers or licensing agencies that deal with the care of children. A sealed case will be **expunged** (removed from SCR records) when the youngest child named turns 28. An unfounded report can also be expunged if: 1) the source of the report was convicted for falsely making the report; or 2) the subject presents clear and convincing evidence that affirmatively refutes the allegation of abuse or maltreatment. The agency is not required to hold an expungement hearing. You can request that the report be expunged by writing to the NYS Office of Children and Family Services, Child Abuse and Maltreatment Register, 40 North Pearl Street, Albany, New York 12243.

Getting Information about Your Case:

You should receive a letter telling you whether the report is unfounded or indicated within 60 days of the start of the investigation. You can ask for a copy of the report and any other reports the SCR has on you by writing to the address above.

Challenging an Indicated Report:

You can challenge an indicated report and have it sealed if you were notified less than ninety days ago, if you never received notification, or if you were refused a job or a license less than ninety ways ago as a result of the report. You cannot challenge a report if there has been a court finding of abuse or neglect, or if you have admitted to abuse or neglect.

How to request a fair hearing:

Send a letter to NYS Office of Children and Family Services, P.O. Box 4480, Albany, NY 12204. Attn: CCU.

If you never received notice:

If the report was filed more than 90 days ago, but you never received notice of the result of the investigation, you can still request a fair hearing. Your ninety day period starts when either ACS or the SCR notifies you. You do not have to prove that you did not receive notice – the local agency has to prove they notified you.

If you were notified within the past ninety days:

You should write to OCFS to request a copy of the contents of the report and any other reports the SCR has on you. (The address is on the first page.) Also, ask that the reports be changed to unfounded or sealed. Give your name, the report State Register number, and the names of any children that the report might mention. Send this letter return receipt requested so you have a record.

The Office of Children and Family Services ("OCFS") has 90 days to conduct an internal review. You may submit documentation to be reviewed during this process. If you do not submit materials, OCFS will only look at the materials ACS has sent them. OCFS may decide the report should be unfounded.

If OCFS finds that it is more likely than not that you committed the acts described in the report, or if the review is not completed in 90 days, then a fair hearing should be scheduled automatically. (If it is not scheduled, then request one.) You should receive notice of where and when the fair hearing will be held. At the hearing, you may present your side of the story and any proof or evidence you have.

There will be two questions:

1. did the abuse or neglect occur; and
2. if so, is it relevant and reasonably related to a job in childcare or licensing. Any efforts at rehabilitation should be considered by the administrative judge. If you win, your report will be either sealed (if the report was made on or after 2/12/96) or expunged (before 2/12/96).

If you lose, you may challenge the decision by filing a petition in Supreme Court on the grounds that the determination was capricious, arbitrary, or not in compliance with the law. You will need a lawyer to do this.

If you received notification that a report was indicated more than 90 days ago and are now being denied a job based on the report:

Certain agencies and employers must check the SCR to see if an applicant has an indicated report. If you apply for a license to be a foster parent, to adopt a child, or for a job involving "regular and substantial contact" with children, there must be an SCR clearance. If the agency or employer decides to hire or license you anyway, they must write their reasons for doing so. If the application is denied, the agency or employer must tell the applicant if the denial was based on the indicated report.

If an employer or agency submits a clearance request, and you have not had a hearing, the SCR should send you a letter that there is an indicated report. The internal review by OCFS will be held, and you may submit evidence or documentation. If you lose, you may request a fair hearing. The only issue will be whether the report is relevant and reasonably related to a job or a childcare license. (Because you were already notified of the allegations and did not dispute them, you may not challenge the truth of those allegations at the fair hearing.)

If you have questions and live in Brooklyn, call the Family/Domestic Violence Unit hotline, on Tuesdays between 12:00-1:00 at (718) 237-5563.

*This article was posted **August 31, 2007***