

Licensing and Inspection of Child Welfare Providers

September 8, 2014

State Agencies and Interested Parties

2. DHS

1. What was the disposition of the 470 CPS referrals that resulted from/accompanied RCC Intake Referrals in FY2014?

The number is pulled from the attached presentation from Residential Child Care (slide 6). Please also provide information on whether the allegations in those referrals were regarding "child on child" maltreatment or "staff on child" maltreatment. Staff is still pulling together this information. We will follow-up when it is complete.

2. How many children in private placements are in Maximum Watchful Oversight facilities?

444 Child Caring Institutions; 685 Child Placing Agencies

3. How long does the Residential Childcare refutation process typically take?

Policy requires the following: "Acknowledgement of receipt of refutations will be sent to the licensed provider within five business days of receipt. A final response and detailed outcome will be provided to the licensed provider within 30 calendar days of the Acknowledgement Letter."

Due to an organizational move of Residential Child Care to the Office of Inspector General, a transfer to a new database and a high staff turnover rate, standards of promptness were not met in the first quarter of FY 2014. The overall average response time for refutations in FY 2014 was 42 days.

However, the average response time improved in subsequent quarters, and averaged 29 days in the last three quarters of FY 2014.

4. What is the tracking mechanism for ensuring children with special education needs have a surrogate as mandated by federal law?

DFCS does not have any authority on who can act as the surrogate parent for any youth (in foster care and those who have special needs); Local Education Agencies (LEA's) assign Surrogate Parents.

DFCS only tracks whether a child receives an Individualized Education Plan and that the services in that plan are provided to the child. Individualized Education Plans are signed

by Surrogate Parents. Local Education Agencies are responsible for assigning Surrogate Parents and vetting those designees.

5. Please provide a copy of a report from an annual comprehensive review.

A sample annual comprehensive review and blank safety review survey forms are attached.

6. What has been the average timeframe for returning surveys to providers?

The policy is 30 days but we are moving to 45 days. Additionally, Residential Child Care was informed by Information Technology (IT) staff that they are not able to provide the data on surveys that were closed within 30 days after the exit date for FY 2014. However, the IT team indicated they will implement a data field to capture the actual close dates for future reports. Approximately 59% of surveys were closed within the 30 days of the exit date in FY 2013. This was largely attributed to the shifting of Residential Child Care to the Office of Inspector General; transfer to a new database; and a high staff turnover rate. This led to the unit revising policy to require closure within 45 days of the initiation date.



GEORGIA BUREAU OF INVESTIGATION

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Vernon M. Keenan
Director

August 22, 2014

Ms. Terry Hamrick
Department of Human Services, Office of the Inspector General
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Ms. Hamrick:

I am writing in response to an email from DHS regarding questions brought up during the recent House Study Committee on Child Care Licensing meeting regarding the sharing of criminal history record information between DHS and DBHDD.

Pursuant to Pub. L. 92-544, the FBI is empowered to exchange identification records with officials of state and local governments for purposes of licensing and employment if authorized by a state statute which has been approved by the Attorney General of the United States. The Attorney General's approval authority is delegated to the FBI by Title 28, CFR, § 0.85(j). The standards employed by the FBI in approving Pub. L. 92-544 purposes have been established by a series of memoranda issued by the Department of Justice (DOJ), Office of General Counsel (OGC), and Access Integrity Unit (AIU).

Pub.L. 92-544 prohibits the results of the record check being released outside the receiving governmental department or related governmental agency. The FBI defines "Related Agency" as "a legal principle providing for the re-dissemination of CHRI by an authorized recipient. Agencies that have a commonality of purpose and (typically) congruent responsibility, authorized by federal statute or executive order, or approved state statute pursuant to Pub. L. 92-544, can receive CHRI and exchange that information with each other for the authorized purpose originally requested." The agencies must have a unity of purpose and typically, concurrent regulatory responsibility.

The FBI previously determined that DHS and DBHDD are not related agencies. The FBI determined that DHS and DBHDD do not share congruent regulatory responsibility, or have a unity of purpose; therefore, prohibiting the sharing of criminal history record information.

Sincerely,

Terri Fisher
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HR 1723 Appeals Process - Efficiency and Impartiality

The Department of Human Services (DHD) is a Department within the State of Georgia created by O.C.G.A. § 49-2-1(a) and therefore follows by the Georgia Administrative Procedure Act (GA APA) (O.C.G.A. § 50-13-1).

Under the APA, all parties shall be afforded an opportunity for hearing after reasonable notice. (O.C.G.A. § 50-13-13). The initial hearing is presided over by the Department where the Department can hear all sides to the controversy and a decision on the findings can be recommended. A final decision by the agency shall be rendered within 30 days after the close of the record of the contested case.

Any Final Decision by DHS can be appeal the Decision for Judicial Review in the Superior Court. (O.C.G.A. § 50-13-19) The Superior Court is an independent third party adjudicator available to all parties within the jurisdiction of the Court. However, with most courts, litigating in Superior Court can become expensive with legal fees, court fees, and the time frame can become greatly expanded. In addition, corporate entities must be represented by an attorney in Superior Court.

Any party who is not satisfied with the final judgment by the Superior Court is entitled to appeal the case to the Court of Appeals or the Supreme Court. (O.C.G.A. § 50-13-20) The Court of Appeals and the Supreme Court are independent third party adjudicators available to all parties within the jurisdiction of the Court.

In the case of DHS, DHS has adopted the Georgia Office of State Administrative Hearings (OSAH) as its agency representative to preside over the initial hearings requested by either party instead of the Department presiding over the initial hearing. OSAH is empowered by statute to adjudicate contested cases on behalf of state agencies. OSAH is an independent third party adjudicator that is made available to constituents of state agencies. There were over 59,000 cases filed with OSAH in FY14.

Therefore, when a hearing is requested within any agency within DHS, the case is first referred to OSAH for a hearing. All OSAH Administrative Law Judges (ALJ) are subject to the Georgia Code of Judicial Conduct and must approach each case with impartiality. Utilizing the OSAH ALJs is an impartial and efficient method for adjudicating grievances, both in the sake of time and expenses.

Once the OSAH Judge issues an Initial Decision, within 30 days, either party can request a review of that decision by the Commissioner of the Department of Human Services. The Commissioner or his designated Appeals Reviewer will review the Initial Decision. The Commissioner or Appeals Reviewer may issue a Final Decision by affirming or reversing the Initial Decision or remanding the case back to the ALJ to review the case and the Initial Decision. (O.C.G.A. § 50-13-17)

If a party is not satisfied with the Final Decision of the Department, all parties are still entitled to judicial review in the Superior Court as outlined above and then Court of Appeals and/or Supreme Court of Georgia.