
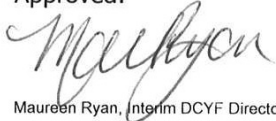


1268 EXPUNGEMENTS FROM THE CENTRAL REGISTRY

Chapter: Child Protective Field Services		Section: Central Registry	
	New Hampshire Division for Children, Youth and Families Policy Manual		
	Policy Directive: 17-23		Approved:
	Effective Date: March 2017		
	Scheduled Review Date:		Maureen Ryan, Interim DCYF Director
Related Statute(s): RSA 169-C Related Admin Rule(s): He-C 6430 Related Federal Regulation(s):		Related Form(s): Judicial Form NHJB-2171-fp , FORM 1271 , FORM 1272 , FORM 1273 , and FORM 1274 Bridges' Screen(s) and Attachment(s):	

All families have strengths, and the ability and capacity to make positive changes in their lives. The Division for Children, Youth and Families collaborates with the courts and persons who have been found responsible for child abuse and/or neglect to have the person's name removed from the DCYF Central Registry database when they do not pose a present threat to the safety of children.

Purpose

This policy describes how an individual may seek to have their name removed through an expungement process.

Definitions

"Central Registry" means the state registry that maintains all founded reports of child abuse and/or neglect established pursuant to RSA 169-C:35.

"CPS" means the Bureau of Field Services' Child Protective Services within DCYF.

"CPSW" or **"Child Protective Service Worker"** means an employee of DCYF who is specially trained to work with families referred to the Division pursuant to RSA 169-C, RSA 170-B, RSA 170-C, and RSA 463.

"Date of Finding" means the date that the court ordered a sufficient finding of facts that an individual abused and/or neglected a child/youth, the date that the Administrative Appeal was waived, or the date that the Administrative Appeals Unit (AAU) upheld a founded determination.

"DCYF" or the **"Division"** means the Department of Health and Human Services' Division for Children, Youth and Families.

"Founded Determination" means a specific allegation of child abuse or neglect where the Department has determined that there is a preponderance of the evidence to believe that a child has been abused and/or neglected:

1. **"Founded, Court Action"** means a determination by the court, either after a hearing or pursuant to a consent decree, that a child/youth has been found to be abused and/or neglected through a preponderance of evidence.
2. **"Founded, Problem Resolved"** means a determination by DCYF that there is a preponderance of evidence to believe that the child/youth has been abused and/or

neglected and that the presenting danger has been resolved through the provision of services, supports, or other interventions to protect the child/youth and there are no ongoing safety concerns for the child/youth.

3. **"Founded, Services Only"** (Non-Court Agreement) means an agreement between the CPSW and the person responsible for the child abuse and/or neglect in which that parties agree that: the report is founded; the responsible party waives his or her right to an appeal; the responsible party's name will be placed on the state's Central Registry of founded reports of abuse and neglect; and, DCYF will provide services to the family to address the identified maltreatment.

"Founded Report" means a report of child abuse and/or neglect where DCYF has made one or more founded determinations.

"Person Responsible for the Child Abuse and/or Neglect" means the individual who has been determined by DCYF or the court to have abused and/or neglected a child/youth.

Policy

- I. Any person responsible for child abuse and/or neglect, whose name is listed on the Central Registry, may petition the Circuit Court to have his or her name expunged from the Central Registry prior to the expiration.
 - A. No petition to expunge shall be brought to the Circuit Court within one (1) year from the date of finding.
 - B. The petition to expunge shall be filed in the Circuit Court where the petition for abuse and/or neglect was heard.
 1. In cases where there was not a court finding made, the petition to expunge shall be filed in the Circuit Court where the abuse and/or neglect petition could have been brought.
 - C. A petition to expunge shall be filed on Circuit Court forms and may include any information that the petitioner deems relevant.
 - D. When a petition to expunge is filed, the Circuit Court may order DCYF to:
 1. Report to the court any additional founded abuse and/or neglect reports;
 2. Submit the petitioner's name, birth date, social security number, and address to the Department of Safety to obtain information regarding criminal convictions; and
 3. Provide any additional information relevant in making a determination.
- II. If a District Office receives expungement petitions or orders from a Circuit Court, and the Circuit Court has not provided a copy of the documents to Central Registry staff, the District Office Supervisor shall send the expungement petitions or orders to Central Registry.
- III. The Central Registry Program Specialist will respond to any Circuit Court requests regarding petitions for expungement within ten (10) calendar days of the receipt of the request.

- A. The Central Registry Program Specialist will perform a Central Registry check of the petitioner to confirm he or she is listed on the Central Registry.
 - 1. The Central Registry Program Specialist will stamp a completed DHHS Record Release Authorization (form NHJB-2171-fp), or the petition for expungement if a DHHS Release is not available, with the DCYF Central Registry Name Check stamp.
 - 2. The Central Registry Program Specialist will indicate the corresponding response on the stamp for positive finding or no finding, the Program Specialist's initials, and the date processed.
 - 3. The Central Registry Program Specialist will complete a Subsequent Finding Notice (Form 1272) to the Circuit Court, indicating that there was a positive finding, the date of the finding, any subsequent findings that are listed on the Central Registry, and the District Office that completed the prior Assessment(s).
 - B. The Central Registry Program Specialist will forward the criminal records check to the Department of Safety with the Department of Safety Letter for Petition to Expunge (Form 1271) to be processed and returned to Central Registry.
- IV. Upon completion of the above steps the Central Registry Program Specialist will forward an expungement packet to the District Office CPS Supervisor for the office that established the finding.
- A. The expungement packet will include:
 - 1. A Cover Letter for Expungement Packet to District Office (Form 1273);
 - 2. The individual's petition as ordered by the court;
 - 3. The processed Central Registry background check, including the appropriate letter to the court completed in III-A:3 above;
 - 4. The processed criminal background check (if available); and
 - 5. A copy of the State Office procedure for the expungement process.
 - B. A copy of the petition to expunge will be attached to the Central Registry record for the person responsible for child abuse and/or neglect until a determination has been made in regard to expunging that individual from the Central Registry.
- V. District Office Supervisors must review Assessment records and consult with the District Office Attorney before responding to a petition for expungement to a Circuit Court.
- A. The District Office will provide a written response to the court regarding the petition within ten (10) business days from the date the expungement packet was received at the District Office from DCYF State Office.
 - B. The District Office may:
 - 1. Request a hearing if there are on-going concerns related to the individual being removed from the Central Registry; or

2. If the Division has no concerns, the District Office will send a cover letter to the court explaining the findings from a Bridges search and criminal records request, indicating the last date of involvement with the individual and that the Division cannot comment of the current family status.
- C. The District Office may submit any additional information that it deems relevant to the court's determination of whether or not to grant the petition.
 - D. The District Office will copy the petitioner on all correspondence and submissions to the court.
- VI. Once the Circuit Court has received the information requested from DCYF it may make a determination or schedule the matter for hearing at the request of either party.
- A. If the court determines that the petitioner does not pose a present threat to the safety of children, the court shall grant the petition and order DCYF to remove the individual's name from the Central Registry, pursuant to RSA 169:C35 IV(d).
 - B. If the petition is denied, the petitioner cannot bring another petition forward for three (3) years.
- VII. If a court orders that the petitioner's name be expunged, the Central Registry Program Specialist will comply by:
- A. Completing a Central Registry search to locate and open the Bridges electronic record of the petitioner's history of Assessments;
 - B. Locating and opening the Assessment containing the finding to be expunged;
 - C. Entering the date of the Expungement order and expunging the petitioner's name;
 - D. Verifying that the petitioner's name is removed from the Central Registry or if there have been multiple findings, then the finding that was expunged does not populate in the results of a Central Registry search;
 - E. Locating and removing the Central Registry Paper File regarding the petitioner for the expunged finding from the Central Registry; and
 1. All documentation attached to the cover sheet will be destroyed.
 - F. Notifying the petitioner, via the Expungement Confirmation Notice (Form 1274) within 10 business days of the Central Registry's receipt of the expungement order, informing them that his or her name has been expunged and that there are no longer any records related to the expunged finding in the Central Registry for persons responsible for child abuse and/or neglect.
 1. A copy of this letter is to be sent to the Circuit Court that issued the expungement order.
 2. A copy of this letter is to be sent to the District Office that established the finding, with the expungement order from the Court.

VIII. All expungement records received by the District Office will be maintained in the Assessment file for the remainder of the seven (7) years from the date of finding.

Practice Guidance

What do I do if I receive an order to expunge at our District Office?

- If you receive an order to expunge at your District Office then please forward that order to the Central Registry at State Office in Concord. At that point, the Central Registry staff will process the petition and forward all information back to the District Office to formulate a reply to the court.

Who makes the final decision for DCYF to either support or deny the expungement request?

- The Division of Children, Youth and Families staff does not have the authority to deny a request to expunge someone from the Central Registry. Therefore, the District Office Supervisor, in consultation with their District Office Attorney, make a determination as to whether they will support the petition to expunge or request a hearing in court to plead against the request to expunge.