

# **Kansas Administrative Regulations**

## **Kansas Department for Children and Families**

### **Article 46.—Child Abuse and Neglect**

#### **30-46-17. Expungement of record of perpetrator from child abuse and neglect central registry.**

(a) Application for expungement.

(1) Any perpetrator of abuse or neglect may apply in writing to the secretary to have the perpetrator's record expunged from the child abuse and neglect central registry when three years have passed since the perpetrator's name was entered on the child abuse and neglect central registry. Thereafter, if the expungement is denied, an application for expungement may be submitted by the perpetrator to the secretary no more than once every 12 months after the date of the most recent expungement review panel hearing.

(2) Each application for expungement shall be referred to the expungement review panel. The panel shall consist of the director of prevention and protection services or the director's designee, the chief legal counsel of the department or the counsel's designee, and a representative of the public appointed by the secretary. The director of prevention and protection services or the director's designee shall chair the panel.

(b) Expungement review panel hearing.

(1) A review hearing shall be convened by the panel, at which time the applicant may present evidence supporting expungement of the applicant's name from the child abuse and neglect central registry. The applicant shall have the burden of providing the panel with the basis for granting the expungement. Evidence in support of or in opposition to the application and a recommendation may be presented by the regional office that conducted the original investigation.

(2) Recommendations of the review panel shall be determined by majority vote. The following factors shall be considered by the panel in making its recommendation:

(A) The nature and severity of the act of abuse or neglect;

(B) the number of findings of abuse or neglect involving the applicant;

(C) specification of whether the applicant was a child at the time of the finding of abuse or neglect for which expungement is requested and the age of the applicant at the time of the incident;

(D) circumstances that no longer exist that contributed to the finding of abuse or neglect by the applicant; and

(E) actions taken by the applicant since the incident to prevent the reoccurrence of abuse or neglect.

(3) The review hearing shall be set within 30 days from the date the application for expungement is received by the department. A written notice shall be sent to the applicant and the regional office that made the finding by the director of prevention and protection services or the director's designee at least 10 days before the hearing. The notice shall state the day, hour, and place of the hearing. Continuances of the hearing may be granted by the secretary or the secretary's designee only for good cause.

(4) A written recommendation to the secretary shall be rendered by the panel within 45 days from the date of the hearing. The recommendation to the secretary shall be submitted in writing and shall specify the reasons for the recommendation.

(c) Expungement.

(1) Based upon the application for expungement, other records in the expungement file, and the findings and recommendations of the panel, a decision to grant or deny the requested expungement shall be made by the secretary and shall be the final agency order. The secretary's decision shall be made within 60 days of the expungement hearing.

(2) The applicant shall be informed in writing of the secretary's decision, the specific reasons for the decision, and the applicant's right to appeal that decision pursuant to the Kansas judicial review act.

(3) Any record may be expunged from the child abuse and neglect central registry by the secretary or the secretary's designee when 18 or more years have passed since the most recent finding of abuse or neglect.

(4) Each record of a perpetrator who was under 18 at the time of abuse or neglect and has not been substantiated for more than a single event or incident while a minor shall be expunged five years after the finding of abuse or neglect is entered in the child

abuse and neglect central registry if the perpetrator has had none of the following after entry in the registry:

(A) A finding of abuse or neglect;

(B) juvenile offender adjudication for any act, other than the event or incident that resulted in the offender's name being placed on the child abuse and neglect central registry, that, if committed by an adult, would be a class A person misdemeanor or any person felony; or

(C) criminal conviction for a class A person misdemeanor or any person felony.

(Authorized by K.S.A. 2018 Supp. 39-708c and K.S.A. 65-516; implementing K.S.A. 65-516; effective Jan. 2, 1989; amended Jan. 1, 1990; amended July 1, 1997; amended July 9, 2004; amended July 6, 2009; amended, T-30-11-15-18; Nov. 15, 2018; amended Feb. 22, 2019.)

\*\*\*\*\* Authenticated Kansas Administrative Regulation \*\*\*\*\*