Division of Children and Family Services **Protection and Safety Procedure Update # 14-2013**	
Regarding:	Expungement
Rescinds & Replaces:	#06-2013 – Expungement Adds language to include Service Area Input
Date Effective:	April 22, 2013
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Issued by:	Thomas D. Pristow

Philosophy:

The Division of Children and Family Services believes that the most important role we have in our work is keeping children safe. The Division wants to fairly and accurately represent information which could protect a child from future harm.

Procedure:

Requests for Expungement

A person whose name has been entered on the Central Register may request that the entry be amended or expunged if they believe the entry is inaccurate or is being maintained in a way that is inconsistent with the Child Protection Act. The Department may amend, expunge, or remove from the Central Register any record upon good cause shown and upon notice to the subject of the report, at any time.

Requests for expungement from the Child Abuse and Neglect Central Register will be processed through the Protection and Safety Unit in Central Office. The Protection and Safety Unit will review the expungement request and may request the case file or other information from the Local Office worker or their supervisor. The Local Office staff will review the file and any related computer information and forward all the information in regard to the expungement request to the Protection and Safety Unit within 2 work days of the request.

Staff in Central Office will review the case record, information on N-FOCUS and any information provided by the individual who is requesting his/her name be removed from the Central Register.

Expungement Review

1. The Central Office reviewer must find documentation of credible evidence that the abuse or neglect occurred, and the named perpetrator was the individual responsible.
2. The reviewer will also consider any information provided as to whether "Good Cause" exists to grant the expungement request.
3. If the expungement request is denied, the individual has the right to request an administrative hearing to have the information reviewed a second time by an administrative hearing officer.
    a. Exhibits are prepared for the hearing using case narratives, photos of injuries, law enforcement reports, medical records and other information in the case file.
    b. These exhibits are provided to the hearing officer, to the individual requesting expungement, and to any attorney representing him or her.
    c. The CFS Specialist and others involved in the case may also be called to testify at the administrative hearing, with cross examination from the other parties. The hearing officer must be provided with credible evidence to show that it is more likely than not (preponderance standard of proof) that abuse or neglect occurred, and the individual whose name is on the Register is the responsible party.

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d. The hearing officer receives exhibits, reviews evidence and hears testimony before making a recommendation to the Director of the Division of Children and Families.
    i. The Director makes the final decision about whether or not the individual's name will be removed from the Register.
    ii. If the Director denies the expungement request, the individual has the right to appeal the decision to District Court.

Expungement "Good Cause" Reasons

There are a number of reasons an entry on Central Register may be expunged for good cause. Some examples of good cause are:

1. No case file information can be located;
2. Documentation is not adequate to support the case status determination;
3. The entry was made when a different definition of abuse or neglect was in use;
4. There is not sufficient evidence to take the request to an administrative appeal hearing; or
5. Circumstances have changed and indicate that the issue that resulted in the Central Register entry has been resolved. Relevant factors may include:
    a. Seriousness of the incident;
    b. Length of time since report;
    c. Subject's willingness to accept responsibility for the incident;
    d. Subject's follow through with recommended services;
    e. Evidence of changes made by the subject;
    f. Extenuating circumstances that may have contributed to the incident;
    g. Recommendation from the Specialist and Supervisor; and
    h. Whether or not the individual is viewed as a continuing danger to others.

    Expungement for reasons #2, #3, #4 will be made after review of the adequacy of the documentation including documentation related to:
    a. The interview and/or observation of the alleged victim;
    b. The interview of the alleged perpetrator;
    c. Information from witnesses and collateral contacts; and
    d. Supporting evidence regarding injuries, such as descriptions, police photos and reports, medical reports, etc.

Service Area Expungement Input

Service Area staff will be asked for input related to an expungement when a preliminary decision by the Central Office Reviewer is made to recommend that a record be expunged. Information that includes the request for expungement and supporting information the individual provided will be shared with the identified Service Area contact. The Service Area Contract person will track and monitor the request for input. The Service Area will have 3 business days to provide input that supports or disagrees with the recommendation to expunge.

Exception to Service Area Input

The Service Area will be notified and asked for input. Expungement requests that involve findings on the archived 'C1' system will not go through the process of obtaining Service Area input.

Internal Expungement Requests

When a CFS Specialist and/or Resource Development staff recommend that an individual be expunged from the Central Register, CFS Staff will follow the protocol developed within each Service Area to submit an approved request to Central Office.

References:

Neb. Rev. Stat. 28-721
Neb. Rev. Stat. 28-723