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Abuse and Neglect Registry

Sec. 17a-247e-1. Definitions

As used in Sections 17a-247e-1 to 17a-247e-9, inclusive, of the Regulations of Connecticut State Agencies, the following definitions shall apply:

(1) “Legal proceeding” means any action or course of action authorized by law.

(2) “Party” means each person (A) whose legal rights, duties or privileges are required by statute to be determined by an agency proceeding and who is named or admitted as a party, (B) who is required by law to be a party in an agency proceeding or (C) who is granted status as a party under subsection 4-177a of the Connecticut General Statutes.

(3) “Separated from employment” means that in lieu of or prior to being terminated from employment for abuse or neglect that is later substantiated, an employee resigns, abandons or otherwise leaves employment.

(4) “Terminated from employment” means discharge from employment for abuse or neglect.

(5) “Neglect” means the failure by an employee, through action or inaction, to provide a department client with the services necessary to maintain such client’s physical and mental health and safety.

(6) “Failure by an employee” means the violation of a duty known to an employee, through action or inaction, which places a department client’s physical and mental health and safety in jeopardy.

(Adopted effective December 7, 1999; amended December 10, 2002)

Sec. 17a-247e-2. Substantiation of abuse or neglect by authorized agencies

For the purposes of Sections 17a-247e-1 to 17a-247e-9, inclusive, of the Regulations of Connecticut State Agencies, the following are authorized to substantiate abuse or neglect:

(a) Office of Protection and Advocacy for Persons with Disabilities pursuant to Sec. 46a-11a through Sec. 46a-13a, inclusive, of the Connecticut General Statutes;

(b) Commissioner of the Department of Mental Retardation pursuant to Sec. 17a-210(a), of the Connecticut General Statutes;

(c) Department of Children and Families pursuant to Sec. 17a-101, of the Connecticut General Statutes;

(d) Department of Social Services pursuant to Sec. 17b-450, of the Connecticut General Statutes; and

(e) Any other agency authorized in accordance with the Connecticut General Statutes to conduct abuse and neglect investigations and responsible for issuing or carrying out protective services for persons with mental retardation.

(f) Substantiation of the allegation(s) of abuse or neglect for purposes of subdivision (11) of Section 17a-247a of the Connecticut General Statutes by an authorized agency requires the following:

(1) that the authorized agency conduct an independent investigation into the allegation(s) of abuse or neglect reported in accordance with Section 46a-11b of the Connecticut General Statutes; or

(2) that the authorized agency independently monitor and evaluate the merits and adequacy of the investigation conducted by or on behalf of the employer or other investigative authority by (A) confirming the accuracy of witness statements, (B) confirming the sources, documentation and evidence relied upon in the investigation, and (C) conducting such supervision and review activities as may be sufficient, in the exercise of professional judgment by an investigator employed by the authorized

agency and trained by the State of Connecticut, to confirm that the finding(s) are supported by a preponderance of the evidence;

(3) Following the completion of the procedures set forth in subdivisions (1) or (2) of this subsection, an authorized agency shall issue a written report or statement articulating: (A) the allegation(s) of abuse or neglect which are substantiated in accordance with the definitions set forth in Section 17a-247a of the Connecticut General Statutes; (B) a description of the procedures, as set forth in this section, used by the authorized agency in determining that the allegation(s) of abuse or neglect are substantiated; and (C) specific reference to the evidence upon which the authorized agency relied in substantiating the allegation(s) of abuse or neglect.

(Adopted effective December 7, 1999; amended December 10, 2002)

Sec. 17a-247e-3. Contents of registry

The registry shall include, but not be limited to the:

(a) names, addresses and Social Security numbers of those individuals terminated or separated from employment as a result of substantiated abuse or neglect;

(b) date of termination or separation;

(c) type of abuse or neglect; and

(d) the name of any employer or authorized agency requesting information from the registry, the reason for the request and the date of the request.

(Adopted effective December 7, 1999; amended December 10, 2002)

Sec. 17a-247e-4. Availability of information on the registry

(a) Inquiries regarding the registry shall be made on forms provided by the department and shall be sent by mail or facsimile.

(b) Information identified in Section 17a-247e-3 of the Regulations of Connecticut State agencies shall be available only to:

(1) authorized agencies for the purpose of protective services determination; or

(2) employers who employ individuals to provide services to a department client for purposes of employment decisions.

(c) The department shall limit responses to requests for identifying information from the registry to:

(1) identification of the individual terminated or separated; and

(2) type of abuse or neglect substantiated.

(d) Information shall be available through an automated response system, including telephone voice mail, developed by the department.

(Adopted effective December 7, 1999; amended December 10, 2002)

Sec. 17a-247e-5. Employer notification responsibilities

(a) Not later than five business days following receipt of written notification by an authorized agency of the substantiation of abuse or neglect by an employee who has been terminated or separated from employment for such abuse or neglect, an employer shall submit to the department the name of such employee and such other information as the department may request.

(b) Notification of the Department of Mental Retardation shall be on forms provided by the department and include:

(1) documentation that the employee was terminated or separated from employment for abuse or neglect; and

(2) documentation of the substantiation of abuse or neglect by an authorized agency.

(c) Employers shall notify the department that an employee has been terminated or separated from employment when:

(1) abuse or neglect has been substantiated pursuant to subdivision (11) of Section 17a-247a of the Connecticut General Statutes; and

(2) the employer has been notified of the substantiation of abuse or neglect by an authorized agency pursuant to Section 17a-247e-2 of the Regulations of Connecticut State Agencies.

(Adopted effective December 7, 1999; amended December 10, 2002)

Sec. 17a-247e-6. Employer hiring and retention practices

(a) Prior to hiring any individual, employers shall inquire as to whether the individual's name appears on the registry. The department shall respond by facsimile or phone to such inquiry within two (2) business days.

(b) No employer shall hire an individual who is listed on the registry.

(c) No employer, after receiving notice that an individual is listed in the registry, shall retain such individual as an employee.

(d) Employers shall notify the department of any employee for whom, as a result of an arbitration or a legal proceeding there is a finding that the employee was unfairly terminated from employment. Such notice shall be made within five (5) business days of the employer's receipt of notification of the final disposition of such proceedings.

(Adopted effective December 7, 1999; amended December 10, 2002)

Sec. 17a-247e-7. Responsibilities of the department

(a) The department shall establish and maintain a registry of employees who have been terminated or separated from employment for substantiated abuse or neglect.

(b) The registry and information contained therein is confidential and not subject to disclosure under the provisions of Section 1-210 of the Connecticut General Statutes. Information in the registry may only be released pursuant to a bona fide registry inquiry or as otherwise authorized by Section 17a-247d of the Connecticut General Statutes.

(c) The department shall make all forms identified in Sections 17a-247e-1 to 17a-247e-9, inclusive, of the Regulations of Connecticut State Agencies available to employers.

(d) The department shall conduct administrative hearings, in accordance with Sections 4-177 to 4-181a, inclusive of the Connecticut General Statutes governing contested cases, before placing any name upon the registry.

(Adopted effective December 7, 1999; amended December 10, 2002)

Sec. 17a-247e-8. Hearing responsibilities and procedures

(a) Within forty-five (45) days following notification by an employer, during which the department will verify necessary information, including the substantiation of abuse or neglect, the department shall notify the employee by certified mail that his name has been submitted by his former employer for placement on the registry following a termination or separation from employment for substantiated abuse or neglect and that a hearing will be convened to determine whether the employee's name should be placed on the registry.

(b) Such notification shall include the date, time and location of the hearing specifying the allegation(s) of abuse or neglect substantiated by the authorized agency. Not less than two weeks prior to the hearing, the department shall make available to the employee, for review, inspection and copying, the investigation

report, all documents included in the investigation file maintained by the employer or authorized agency, including but not limited to any statements by witnesses and interviews, except as otherwise protected by law from disclosure, any report or statement prepared in accordance with subsection (f), subdivision (3) of Section 17a-247e-2 of the Regulations of Connecticut State Agencies, and the contents of the administrative record maintained in accordance with Section 4-177 of the Connecticut General Statutes. Except for disclosure necessary for the identification of witnesses, personally identifying information about department clients, including client records, shall not be disclosed, except upon a determination by the hearing officer, balancing relevant interests, that such disclosure is necessary to the fair conduct of the hearing. Nothing in this section alters the rights of the parties to access to relevant documents in accordance with the Uniform Administrative Procedures Act, nor is any party prohibited from requesting that the hearing officer conduct an in camera review of any relevant document to resolve any issue concerning the privacy, confidentiality, or privileged status of the information contained herein.

(c) Hearing officers for the conduct of hearings concerning the placement of an employee's name on the registry shall be appointed by the commissioner. Hearing officers shall not be employees of the department.

(d) The hearing shall be conducted in accordance with Sections 4-177 to 4-181a, inclusive, of the Connecticut General Statutes. The hearing officer shall consider all relevant evidence within the scope of the hearing, except when properly excluded in accordance with Section 4-178 of the Connecticut General Statutes. The scope of any hearing convened pursuant to Sections 17a-247e-1 to 17a-247e-9, inclusive, of the Regulations of Connecticut State Agencies shall be limited to the following issues for which the department bears the burden of proof:

(1) whether the individual is or was an employee, as defined in Section 17a-247a of the Connecticut General Statutes;

(2) whether the individual was employed by an employer as defined in Section 17a-247a of the Connecticut General Statutes;

(3) whether the individual was terminated or separated from employment due to allegations of abuse or neglect as defined by Section 17a-247a of the Connecticut General Statutes, and Section 17a-247e-1 of the Regulations of Connecticut State Agencies;

(4) whether the allegations of abuse or neglect were substantiated by an authorized agency in accordance with the procedures set forth in Section 17a-247e-2 of the Regulations of Connecticut State Agencies; and

(5) whether the allegations of abuse or neglect, as defined in Section 17a-247a of the Connecticut General Statutes, that were substantiated are supported by a preponderance of evidence.

(e) Within ten (10) business days following the conclusion of the hearing, the hearing officer shall issue a proposed decision to the parties and the commissioner. The hearing officer may have a ten (10) day extension, upon approval of the commissioner, to issue a proposed decision.

(f) The parties shall have ten (10) business days following receipt of the proposed decision to submit written comments to the commissioner in support of or opposition to the proposed decision. Upon request and for good cause shown, the commissioner shall extend this time period for an additional period of time not to exceed thirty days.

(g) The commissioner shall issue a final decision, following the comment period established by subsection (f) of this section, to the parties and to the employer

which provided notification to the department pursuant to Section 17a-247e-5 of the Regulations of Connecticut State Agencies. A party, other than the department, which is aggrieved by the final decision may appeal in accordance with the Uniform Administrative Procedures Act, Chapter 54, of the Connecticut General Statutes.

(h) If the final decision concludes that the employee was terminated or separated from employment for substantiated abuse or neglect, the name, address and social security number of such employee, along with other information set forth in Sections 17a-247e-1 to 17a-247e-9, inclusive, of the Regulations of Connecticut State Agencies, shall be added to the registry.

(Adopted effective December 7, 1999; amended December 10, 2002)

Sec. 17a-247e-9. Removing a name from the registry

(a) The department shall remove an employee's name from the registry upon receipt of notification from an employer that an arbitration or a legal proceeding resulted in a finding that the employee was unfairly terminated from employment.

(b) An employee whose name has been placed on the registry may, not less than five (5) years after the placement of his name on the registry for substantiated abuse, and not less than two (2) years after the placement of his name on the registry for substantiated neglect, and not more than once every two (2) years thereafter, request in writing to the commissioner that his name be removed from the registry for good cause shown.

(1) In determining whether good cause exists for removal of the employee's name from the registry, the commissioner shall consider all relevant factors, including but not limited to: (A) the nature of the substantiated abuse or neglect which resulted in the employee's name being placed on the registry; (B) the length of time since the incident(s) of substantiated abuse or neglect; (C) the rehabilitation of the employee since the incident(s) of substantiated abuse or neglect; and (E) the likelihood that the employee will commit future acts of abuse or neglect of persons with mental retardation.

(2) If the commissioner denies a request for removal of a name from the registry, the employee may request an administrative hearing, conducted in accordance with Sections 4-177 to 4-181a, inclusive, of the Connecticut General Statutes governing contested cases.

(3) At any hearing convened in accordance with this section, the hearing officer shall receive and consider evidence including but not limited to the factors set forth in subdivision (1) of this subsection for determining whether an employee's name should be removed from the registry.

(4) Within ten (10) business days following the conclusion of the hearing, the hearing officer shall issue a proposed decision to the parties and the commissioner. The hearing officer may have a ten (10) day extension, upon approval of the commissioner, to issue the proposed decision.

(5) The parties shall have ten (10) business days following receipt of the proposed decision to submit written comments to the commissioner in support or opposition to the proposed decision. Upon request and for good cause shown, the commissioner shall extend the time period not to exceed thirty (30) days.

(6) The commissioner shall issue a final decision, following the comment period, to the parties. A party, other than the department, which is aggrieved by the final decision may appeal in accordance with the Uniform Administrative Procedures Act, Chapter 54, of the Connecticut General Statutes.

(c) In the event the commissioner's final decision grants removal, the department shall remove the name of the employee from the registry within five (5) business days of such decision.

(d) When an employee's name is removed from the registry, the department shall notify the employee and all employers within five (5) business days of such action.

(Adopted effective December 7, 1999; amended December 10, 2002)