

Georgia Rules and Regulations

Administrative Bulletin for August 2020

OFFICE OF SECRETARY OF STATE ADMINISTRATIVE PROCEDURE DIVISION

5800 Jonesboro Road
Morrow, GA 30260
(678) 364-3785

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375. RULES OF DEPARTMENT OF DRIVER SERVICES	375-1-1-.01 , 375-1-1-.02 , 375-1-1-.05	amended	July 13, 2020	Aug. 2
	375-3-1-.31	amended	July 13, 2020	Aug. 2
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511. RULES OF GEORGIA DEPARTMENT OF PUBLIC HEALTH	511-2-9-.01 --- 511-2-9-.08	adopted	July 27, 2020	Aug. 16
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Department 42. AGRICULTURAL COMMODITY COMMISSION FOR PROPANE

Chapter 42-1. RULES OF COMMISSION

Subject 42-1-1. GENERAL

42-1-1-.01 Administration

All rules regarding the administration of the Agricultural Commodity Commission for Propane will be promulgated by the Georgia Department of Agriculture. The Commissioner will have the authority to exercise supervisory jurisdiction over the administration and enforcement of these Rules.

Cite as Ga. Comp. R. & Regs. R. 42-1-1-.01

AUTHORITY: O.C.G.A. §§ [2-8-12](#), [2-8-219](#).

HISTORY: Original Rule entitled "Administration" adopted. F. Aug. 31, 2020; eff. Sep. 20, 2020.

42-1-1-.02 Definitions

As used in these Rules, the term:

- (1) "Act" means the Georgia Agricultural Commodities Promotion Act.
- (2) "Commission" means the Agricultural Commodity Commission for Propane created under the Act.
- (3) "Commissioner" means the Georgia Commissioner of Agriculture.
- (4) "Dealer" means any person to whom the office of the Commissioner of Insurance issues a liquid propane license. The term will not include any person who offers for retail sale propane in containers of less than 50 pounds water capacity and whose business does not involve the filling or transportation of such containers.
- (5) "Department" means the Georgia Department of Agriculture.
- (6) "Distributor" means any person engaged in the business of selling propane to a dealer in the state.
- (7) "Marketing order" means an order issued pursuant to the Act and these Rules establishing an assessment for financing the programs established under the Act and these Rules.
- (8) "Person" means an individual, sole proprietorship, partnership, limited partnership, firm, corporation, limited liability company, association, or any other business entity, or combination thereof.

Cite as Ga. Comp. R. & Regs. R. 42-1-1-.02

AUTHORITY: O.C.G.A. §§ [2-8-200](#), [2-8-219](#).

HISTORY: Original Rule entitled "Definitions" adopted. F. Aug. 31, 2020; eff. Sep. 20, 2020.

42-1-1-.03 Meetings

Robert's Rules of Order will govern the parliamentary procedures during all Commission meetings.

Cite as Ga. Comp. R. & Regs. R. 42-1-1-.03

AUTHORITY: O.C.G.A. § [2-8-219](#).

HISTORY: Original Rule entitled "Meetings" adopted. F. Aug. 31, 2020; eff. Sep. 20, 2020.

42-1-1-.04 Office of the Commission

The Commission's office is located at 1205 Johnson Ferry Road, Suite 136-435, Marietta, Georgia 30068.

Cite as Ga. Comp. R. & Regs. R. 42-1-1-.04

AUTHORITY: O.C.G.A. § [2-8-219](#).

HISTORY: Original Rule entitled "Office of the Commission" adopted. F. Aug. 31, 2020; eff. Sep. 20, 2020.

Department 42. AGRICULTURAL COMMODITY COMMISSION FOR PROPANE

Chapter 42-1. RULES OF COMMISSION

Subject 42-1-2. ORGANIZATION

42-1-2-.01 Creation and Structure

(1) The Commission will be composed of seven members. Three members will be elected by the House Committee on Agriculture and Consumer Affairs; three members will be elected by the Senate Committee on Agriculture and Consumer Affairs; and one member will be elected by a majority of the members of the Commission. Each member must be a dealer or distributor and must not be a member of the General Assembly.

(2) The Commission will name its chairperson and determine a quorum for conducting business.

(3) A majority of the number of members will constitute a quorum. If less than a majority is present at a meeting, then a majority of the members present may adjourn the meeting without further notice.

(4) The officers of the Commission will be a chairperson, vice-chairperson, secretary, and treasurer. Each officer will hold office until his or her qualified successor is chosen. A vacancy in an office will be filled by a member elected by a majority of the members.

(5) The term of office for members is three years beginning on January 1, 2020. A member may serve a maximum of six continuous years; following which time, the member must vacate office for one year before being reconsidered for office. Initial members will serve one term of office, which will be staggered to provide rotation during each successive year; and these initial members may be considered for a full second term.

(6) Members will be divided into the following three classes: Class A, Class B, and Class C. Class A members will serve one year; Class B members will serve two years; and Class C members will serve three years. The member appointed by the other Commission members will be considered a Class C member, while the six remaining members will be divided evenly between the three classes.

(7) A member may resign at any time by mailing or delivering written notice to the Commission chairperson. Any member who ceases to be eligible will be deemed to resign upon the loss of eligibility.

(8) A member may be removed for good cause by a majority vote of the disinterested members at a meeting for which notice of a vote to remove the member was properly given.

(9) A membership vacancy will be filled in the same manner as that of the original election of the member. Any person selected to fill a vacancy will serve for the remainder of the unexpired term.

(10) A referendum must be held once every five years to vote on the continuation of the Commission. For the results to be valid, at least 50 percent of the eligible dealers in this state must vote, and if more than 50 percent of the dealers voting vote in favor of continuing the Commission, then the Commission will continue for another five years.

Cite as Ga. Comp. R. & Regs. R. 42-1-2-.01

AUTHORITY: O.C.G.A. §§ [2-8-201](#), [2-8-202](#), [2-8-213](#), [2-8-219](#).

HISTORY: Original Rule entitled "Creation and Structure" adopted. F. Aug. 31, 2020; eff. Sep. 20, 2020.

42-1-2-.02 Powers

The Commission may:

- (1) Accept donations, gifts, and other property and use these for Commission purposes;
- (2) Acquire, lease as lessee, purchase, hold, own, and use any franchise or real or personal property, whether tangible or intangible, or any interest therein and, whenever the same is no longer required for purposes of the Commission, to sell, lease as lessor, transfer, or dispose thereof or exchange the same for other property or rights which are useful for its purposes;
- (3) Appoint advisory boards, special committees, and individuals, including technical and clerical personnel, to advise, aid, and assist the Commission in the performance of its duties. Compensation for these services will be fixed by the Commission and must be paid from the funds of the Commission; and
- (4) Issue, administer, and enforce marketing orders whenever it has reason to believe that the issuance of a marketing order will tend to effectuate the declared policy of the Act.

Cite as Ga. Comp. R. & Regs. R. 42-1-2-.02

AUTHORITY: O.C.G.A. §§ [2-8-203](#), [2-8-209](#), [2-8-219](#).

HISTORY: Original Rule entitled "Powers" adopted. F. Aug. 31, 2020; eff. Sep. 20, 2020.

Department 42. AGRICULTURAL COMMODITY COMMISSION FOR PROPANE

Chapter 42-1. RULES OF COMMISSION

Subject 42-1-3. FUNDS AND EXPENSES

42-1-3-.01 Funds

(1) The Commission is authorized, and it will be its duty to receive, collect, and disperse the funds of the Commission.

(2) Funds received by the Commission must be held in trust for the Commission. Such funds must be deposited, accounted for, and disbursed in the same manner as that of the funds of this state but will not be required to be deposited in and appropriated from the state treasury.

(3) Any persons who handle funds on behalf of the Commission must be bonded with good and sufficient surety in an amount determined by the Commission for the accounting of such funds.

(4) All checks, drafts, and negotiable instruments which are drawn on or payable from the funds of the Commission must be signed by the chairperson of the Commission.

Cite as Ga. Comp. R. & Regs. R. 42-1-3-.01

AUTHORITY: O.C.G.A. §§ [2-8-205](#), [2-8-206](#), [2-8-219](#).

HISTORY: Original Rule entitled "Funds" adopted. F. Aug. 31, 2020; eff. Sep. 20, 2020.

42-1-3-.02 Administrative Expense Exclusions

The following are administrative expenses excluded from the percentage restrictions:

- (1) Marketing order program and project costs;
- (2) Referendum costs;
- (3) Costs to compel compliance with an assessment;
- (4) Determination and imposition of late payment charges;
- (5) Management of investment of funds pending disbursement; and
- (6) Start-up costs.

Cite as Ga. Comp. R. & Regs. R. 42-1-3-.02

AUTHORITY: O.C.G.A. §§ [2-8-210](#), [2-8-219](#).

HISTORY: Original Rule entitled "Administrative Expense Exclusions" adopted. F. Aug. 31, 2020; eff. Sep. 20, 2020.

Department 42. AGRICULTURAL COMMODITY COMMISSION FOR PROPANE

Chapter 42-1. RULES OF COMMISSION

Subject 42-1-4. MARKETING ORDERS

42-1-4-.01 Issuance of Marketing Order

(1) If the Commission determines that the issuance of a marketing order will tend to effectuate the intent and purpose of the Act and these Rules, the Commission may recommend the promulgation of a marketing order with respect to the matters specified in the hearing notice and supported by the record.

(2) A marketing order must account for provisions to promote propane education; training; safety compliance; equipment replacement for low-income customers; marketing; advertising; promotion; and customer rebates to encourage energy-efficient appliance and equipment purchases by residential, commercial, industrial, motor fuel, or agricultural customers.

(3) No more than 10 percent of the funds collected and no less than the actual administrative expense incurred pursuant to the Act and these Rules shall be used for administrative expenses relating to the expenditure of the funds.

(4) The Commission may advance costs of conducting referenda pursuant to Georgia law and Rules and reimburse those costs from the assessment funds.

Cite as Ga. Comp. R. & Regs. R. 42-1-4-.01

AUTHORITY: O.C.G.A. §§ [2-8-209](#), [2-8-210](#), [2-8-219](#).

HISTORY: Original Rule entitled "Issuance of Marketing Order" adopted. F. Aug. 31, 2020; eff. Sep. 20, 2020.

42-1-4-.02 Referendum

(1) To issue an effective marketing order pursuant to the Act and these Rules, the Commission must hold a referendum on the issuance of the marketing order.

(2) The Commission will determine:

(a) The amount of the proposed assessment established by the marketing order;

(b) The time and place of the referendum;

(c) Procedures for conducting the referendum and the counting of votes;

(d) The proposed effective date for the imposition of the assessment established by the marketing order, which shall be no less than 90 days from the date the referendum ballot is required to be returned to the Commission in order to be considered on the question presented; and

(e) Any other matters pertaining to the referendum.

(3) The amount of the proposed assessment established by the marketing order must be stated on the referendum ballot. The amount may not exceed four-tenths of one cent for each gallon of propane sold in the state by distributors to dealers.

(4) The Commission must make reasonable efforts to provide all dealers with notice of the referendum and an opportunity to vote.

(5) All dealers may vote in the referendum. Each dealer will have one vote. Any dispute over eligibility to vote or any other matter relating to the referendum will be resolved by the Commission.

(6) A proposed assessment will become effective if more than 50 percent of the eligible dealers in the state vote and more than 50 percent of the eligible votes cast by the dealers are cast in favor of the assessment.

(7) If the assessment is approved by the referendum, then the Commission must notify the Department of the amount and the effective date of the assessment. The Department will notify all dealers of the assessment.

Cite as Ga. Comp. R. & Regs. R. 42-1-4-.02

AUTHORITY: O.C.G.A. §§ [2-8-211](#), [2-8-219](#).

HISTORY: Original Rule entitled "Referendum" adopted. F. Aug. 31, 2020; eff. Sep. 20, 2020.

42-1-4-.03 Opt-Out Provisions

(1) A dealer may opt out of participating with the marketing orders established by the Commission only once per year between September 1 and September 30.

(2) Any dealer who opts out in accordance with the Act and these Rules will not be eligible to receive the benefit of any marketing order for a period of one year following the date of his or her request to opt out and will not be entitled to the payment of any interest by the Commission on the amount refunded.

(3) Any dealer who opts out must notify the Commission in writing during the opt-out window.

(4) A dealer who opts out must submit the Refund Request form provided by the Commission to receive refunds of assessments remitted to the Commission by Distributors. Refunds may be requested quarterly after the 25th of the month following the end of the prior quarter.

Cite as Ga. Comp. R. & Regs. R. 42-1-4-.03

AUTHORITY: O.C.G.A. §§ [2-8-212](#), [2-8-219](#).

HISTORY: Original Rule entitled "Opt-Out Provisions" adopted. F. Aug. 31, 2020; eff. Sep. 20, 2020.

Department 42. AGRICULTURAL COMMODITY COMMISSION FOR PROPANE

Chapter 42-1. RULES OF COMMISSION

Subject 42-1-5. ASSESSMENTS

42-1-5-.01 Responsibilities of Distributors

- (1) Each distributor, as the owner of propane at the time of odorization or at the time of import of odorized propane, must make the assessment based on the volume of odorized propane sold in the state and placed in commerce in the state.
- (2) Each distributor must collect the assessment from the dealer to whom the sale is made and must remit to the Commission the sum of the amount of the assessment multiplied by the number of gallons of propane sold to any dealer during the assessment period.
- (3) Assessments must be remitted to the Commission quarterly no later than the 25th day of the month following the end of the prior quarter.
- (4) A distributor must keep records of the number of gallons of propane sold to dealers. All documents or records regarding purchases and sales must be made available to the Commission upon its request for the purpose of determining the distributor's compliance with the provisions of the Act and these Rules. The Commission will keep the records confidential and will not disclose the records except to its accountants, attorneys, or financial advisors without a court order directing it to do so.

Cite as Ga. Comp. R. & Regs. R. 42-1-5-.01

AUTHORITY: O.C.G.A. §§ [2-8-211](#), [2-8-219](#).

HISTORY: Original Rule entitled "Responsibilities of Distributors" adopted. F. Aug. 31, 2020; eff. Sep. 20, 2020.

42-1-5-.02 Payment and Collection of Assessments

- (1) Any assessment established in accordance with the Act and these Rules will constitute a personal debt of every person so assessed and will be due and payable to the Commission when payment is called for by the Commission. If the person fails to pay the assessment, then the Commission may file an action against the person in a court of competent jurisdiction for collection of the assessment.
- (2) If a person duly assessed fails to pay to the Commission the amount assessed, then the Commission may add to the unpaid assessment an amount not exceeding 10 percent of the unpaid assessment to defray the cost of enforcing the collection of the unpaid assessment.
- (3) These provisions will be cumulative, and any other remedies may be pursued concurrently until satisfaction is obtained.
- (4) Any penalty recovered will become a part of the principal assessment levied and will be for the use of the Commission.

Cite as Ga. Comp. R. & Regs. R. 42-1-5-.02

AUTHORITY: O.C.G.A. §§ [2-8-214](#), [2-8-219](#).

HISTORY: Original Rule entitled "Payment and Collection of Assessments" adopted. F. Aug. 31, 2020; eff. Sep. 20, 2020.

Department 42. AGRICULTURAL COMMODITY COMMISSION FOR PROPANE

Chapter 42-1. RULES OF COMMISSION

Subject 42-1-6. PUBLIC HEARINGS

42-1-6-.01 Notice of Hearing

A notice of any hearing called for such purpose must be given by the Commission by publishing a notice of such hearing for a period of not less than five days in a newspaper of general circulation published in the City of Atlanta and in such other newspapers as the Commission may prescribe. No public hearing shall be held prior to five days after the last day of such period publication. The Commission must also mail or electronically communicate a copy of the notice and a copy of the proposed marketing order or proposed amendments to all dealers and distributors of propane whose names and addresses are on file with the Commission.

Cite as Ga. Comp. R. & Regs. R. 42-1-6-.01

AUTHORITY: O.C.G.A. §§ [2-8-209](#), [2-8-219](#).

HISTORY: Original Rule entitled "Notice of Hearing" adopted. F. Aug. 31, 2020; eff. Sep. 20, 2020.

42-1-6-.02 Hearing

(1) All hearings must be public, and all testimony must be received under oath.

(2) A full and complete record of the proceedings at a hearing must be made and maintained on file in the office of the Commission.

(3) A hearing may be conducted by the Commission or by a member of the Commission, as may be designated by the Commission in each instance; but no decision will be made based on hearings conducted other than by the Commission itself, at which a majority of the Commission members are present, until the Commission members have been afforded an opportunity to review the hearing record.

(4) When the Commission conducts a hearing, its recommendations must be based on findings reached after a review of the record of the hearing.

Cite as Ga. Comp. R. & Regs. R. 42-1-6-.02

AUTHORITY: O.C.G.A. §§ [2-8-209](#), [2-8-219](#).

HISTORY: Original Rule entitled "Hearing" adopted. F. Aug. 31, 2020; eff. Sep. 20, 2020.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-5. FINANCIAL INSTITUTIONS

Subject 80-5-1. SUPERVISION, EXAMINATION, REGISTRATION AND INVESTIGATION FEES ADMINISTRATIVE LATE FEES

80-5-1-.02 License and Supervision Fees for Check Cashers, Payment Instrument Sellers, Money Transmitters, Representative Offices, Mortgage Lenders, Mortgage Brokers, and Installment Lenders; Due Dates

(1) Payment instrument sellers and money transmitters.

(a) The annual license fee is one thousand nine hundred dollars (\$1,900) for payment instrument sellers and nine hundred dollars (\$900) for money transmitters.

(b) The annual renewal license fee is one thousand nine hundred dollars (\$1,900) for payment instrument sellers and nine hundred dollars (\$900) for money transmitters and shall be due and must be received by the Department on or before the first day of December of each year. Where the person or corporation engages in both the sale of payment instruments and money transmission, the higher of the two fees shall be due and payable. A licensee whose renewal application and annual license renewal fee is not received by the Department on or before December 1 may be assessed a late fine of three hundred dollars (\$300) and cannot be assured of renewal of its license prior to January 1.

(c) An additional nonrefundable application investigation fee of two hundred fifty dollars (\$250) will be assessed.

(d) Applicants for Department approval of a change in ownership, change in control, or change in executive officer as set forth in O.C.G.A. § [7-1-688](#) shall pay a nonrefundable investigation, application, and processing fee of five hundred dollars (\$500).

(2) Check Cashers.

(a) The annual license fee is three hundred dollars (\$300).

(b) The annual renewal license fee is three hundred dollars (\$300).

(c) An initial investigation and supervision fee shall be five hundred fifty dollars (\$550) for the first year. It is not refundable, but if the license is granted it shall satisfy the annual fee for the first license period.

(d) Initial and renewal license fees shall also include an additional thirty dollars (\$30) for the second and each additional location, plus a fee in an amount as directed by the Department to cover the cost of the required number of fingerprints for each individual background check.

(e) Annual renewal license fees shall be due and must be received by the Department on or before the first day of December of each year. A licensee whose renewal application and annual renewal license fee is not received by the Department on or before the first day of December of each year may be assessed a late fine of three hundred dollars (\$300) and cannot be assured of renewal of its license prior to January 1.

(f) Applicants for Department approval of a change in ownership, change in control, or change in executive officer as set forth in O.C.G.A. § [7-1-705.1](#) shall pay a nonrefundable investigation, application, and processing fee of five hundred dollars (\$500).

(3) Registrants of representative offices, trust production offices, business production offices, and loan production offices shall file a registration statement, as prescribed by the Department, on or before January 31 of each year. Registrants of international bank representative offices shall pay a registration fee of one thousand dollars (\$1,000).

(4) Mortgage licensees and registrants.

(a) Lenders. The initial and renewal application and license fee for mortgage lenders shall be nine hundred dollars (\$900). The initial fee of nine hundred dollars (\$900) covers the main office. Any branch offices included in the initial application shall be assessed a fee of three hundred thirty dollars (\$330) each. A fee of three hundred thirty dollars (\$330) will be assessed for each additional office not initially registered, if such office is located in Georgia, and if mortgage lending activity is conducted at the office. An initial investigation fee of two hundred fifty dollars (\$250) per applicant shall also apply. Subsequent renewal applications and license fees must be received on or before December 1 of each year or the applicant may be assessed a late fine of three hundred dollars (\$300). A renewal application and license fee not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will expire. Applicants may not conduct a mortgage business without a current license or registration.

(b) Brokers. The initial and renewal application and license fee for mortgage brokers shall be four hundred dollars (\$400). The initial four hundred dollar (\$400) fee covers the main office. Any branch offices located in Georgia shall be assessed a fee of three hundred thirty (\$330) each. Brokers include loan processors. Processors are defined in Rule [80-11-4-.07](#). Such a processor may have a separate main office and other branch offices where mortgage loan processing is done. The offices will be treated the same as brokers' offices. An initial investigation fee of two hundred fifty dollars (\$250) per applicant shall also apply. Subsequent renewal applications and license fees must be received on or before December 1 of each year or the applicant may be assessed a late fine of three hundred dollars (\$300). A renewal application and license fee that is not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will expire. Applicants may not conduct a mortgage business without a current license or registration.

(c) Mortgage Loan Originators. The initial and renewal application and license fee for mortgage loan originators shall be one hundred dollars (\$100). Subsequent renewal application fees must be received by the Department on or before December 1 of each year or the applicant may be assessed a late fine of one hundred dollars (\$100). A renewal application is not deemed received until all required information, including a renewal fee in the appropriate amount and documentation showing that the requisite continuing education hours have been obtained, has been provided by the licensee. A renewal application, containing all of the required information along with the correct fees and proof of required continuing education that is not received by the Department on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will expire. Applicants may not conduct mortgage loan origination activity without a current license.

(d) Lender Registrants. The initial and renewal application and registration fee for mortgage lenders required to register but not be licensed with the Department shall be nine hundred dollars (\$900), due on or before December 1 of each year. An initial investigation fee of two hundred fifty dollars (\$250) per applicant shall also apply. Subsequent renewal applications and registration fees must be received on or before December 1 of each year or the applicant may be assessed a late fine of three hundred dollars (\$300). A renewal application and registration fee not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will expire. Applicants may not conduct a mortgage business without a current license or registration.

(e) Broker Registrants. The initial and renewal application and registration fee for mortgage brokers required to register but not be licensed with the Department shall be four hundred dollars (\$400), due on or before December 1 of each year. An initial investigation fee of two hundred fifty dollars (\$250) per applicant shall also apply. Subsequent renewal applications and registration fees must be received on or before December 1 of each year or the applicant may be assessed a late fine of three hundred dollars (\$300). A renewal application and registration fee not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will expire. Applicants may not conduct a mortgage business without a current license or registration.

(f) All late fees collected by the Department, net of the cost of recovery, which cost shall include any cost of hearing and discovery in preparation for hearing, shall be paid into the state treasury to the credit of the general fund or may be paid as provided in O.C.G.A. § [7-1-1018\(e\)](#).

(g) Applicants for approval to acquire directly or indirectly ten percent (10%) or more of the voting shares of a corporation or ten percent (10%) or more of the ownership of any other entity licensed to conduct business as a mortgage lender and/or a mortgage broker under O.C.G.A. Article 13 (otherwise called change of control) shall pay a nonrefundable investigation, application and processing fee of five hundred dollars (\$500).

(h) Application for an additional office of a licensee shall be accompanied by a nonrefundable fee of three hundred thirty dollar (\$330), as provided in O.C.G.A. § [7-1-1006](#).

(5) Installment Lenders.

(a) The annual license fee is five hundred dollars (\$500).

(b) The annual license renewal fee is five hundred dollars (\$500) and must be received by the Department on or before the first day of December of each year. A licensee whose renewal application and annual license renewal fee is not received by the Department on or before December 1 may be assessed a late fine of three hundred dollars (\$300) and cannot be assured of renewal of its license prior to January 1.

(c) An additional nonrefundable initial application investigation fee of two hundred fifty dollars (\$250) will be assessed.

(d) Applicants for Department approval of a change in ownership, change in control, or change in executive officer as set forth in O.C.G.A. § [7-3-32](#) shall pay a nonrefundable investigation, application, and processing fee of five hundred dollars (\$500).

(e) An application for an additional location of a licensee shall be accompanied by a nonrefundable fee of five hundred dollars (\$500). An annual renewal fee of five hundred dollars (\$500) per each approved additional location shall be due and must be received by the Department on or before the first day of December of each year.

(6) The Department may discount or surcharge all supervision or license fees herein provided to assure funding of annual appropriations by the General Assembly.

(7) Any fees or charges imposed by the Nationwide Multistate Licensing System and Registry ("NMLSR") shall be independent of any fees charged by the Department. Applicants, licensees, and registrants will be responsible for any and all fees or charges imposed by NMLSR.

(8) All license, investigation, and supervision fees, late fees, fines, taxes owed to the Department, and assessed civil penalties must be paid prior to renewal, reinstatement, or reapplication for a license or any other approval from the Department.

Cite as Ga. Comp. R. & Regs. R. 80-5-1-.02

AUTHORITY: O.C.G.A. §§ [7-1-41](#), [7-1-61](#), [7-1-683](#), [7-1-685](#), [7-1-702](#), [7-1-704](#), [7-1-716](#), [7-1-721](#), [7-1-1004](#), [7-1-1005](#), [7-3-20](#), [7-3-32](#).

HISTORY: Original Rule entitled "Supervision Fees" adopted. F. Nov. 4, 1975; eff. Nov. 24, 1975.

Amended: F. June 8, 1976; eff. June 28, 1976.

Repealed: New Rule of the same title adopted. F. June 9, 1980; eff. July 1, 1980, as specified by the Agency.

Repealed: New Rule entitled "License Registration and Supervision Fees" adopted. F. May 24, 1982; eff. June 13, 1982.

Amended: F. June 28, 1984; eff. Aug. 1, 1984, as specified by the Agency.

Amended: F. June 10, 1988; eff. June 30, 1988.

Repealed: New Rule of same title adopted. F. Sept. 4, 1990; eff. Sept. 24, 1990.

Amended: F. Oct. 15, 1993; eff. Nov. 4, 1993.

Amended: F. Sept. 26, 1995; eff. Oct. 16, 1995.

Amended: Rule retitled "License, Registration and Supervision Fees for Check Cashers and Sellers, Representative Offices and Mortgage Lenders and Brokers; Due Dates" adopted. F. July 14, 1998; eff. Aug. 3, 1998.

Amended: F. Dec. 18, 2000; eff. Jan. 7, 2001.

Amended: Rule retitled "License, Registration and Supervision Fees for Check Cashers and Sellers, Money Transmitters, Representative Offices and Mortgage Lenders and Brokers; Due Dates". F. July 28, 2003; eff. Aug. 17, 2003.

Amended: F. Sept. 1, 2004; eff. Sept. 21, 2004.

Amended: F. Aug. 15, 2005; eff. Sept. 4, 2005.

Amended: F. Aug. 22, 2006; eff. Sept. 11, 2006.

Amended: F. Aug. 15, 2007; eff. Sept. 4, 2007.

Amended: F. Aug. 4, 2008; eff. Aug. 24, 2008.

Amended: F. Dec. 15, 2008; eff. Jan. 4, 2009.

Amended: F. Aug. 17, 2009; eff. Sept. 6, 2009.

Amended: F. Aug. 2, 2011; eff. Aug. 22, 2011.

Amended: Title changed to "License and Supervision Fees for Check Cashers, Payment Instrument Sellers, Money Transmitters, Representative Offices and Mortgage Lenders and Brokers; Due Dates." F. June 10, 2014; eff. June 30, 2014.

Amended: F. Aug. 29, 2014; eff. Sep. 18, 2014.

Amended: F. Dec. 5, 2014; eff. Dec. 25, 2014.

Amended: F. June 15, 2015; eff. July 5, 2015.

Amended: F. June 20, 2016; eff. July 10, 2016.

Amended: New title "License and Supervision Fees for Check Cashers, Payment Instrument Sellers, Money Transmitters, Representative Offices, Mortgage Lenders, Mortgage Brokers, and Installment Lenders; Due Dates." F. Aug. 19, 2020; eff. Sep. 8, 2020.

80-5-1-.03 Examination, Supervision, Registration, Application and Other Fees for Financial Institutions and Nonbank Subsidiaries of Banks or Holding Companies

(1) **Examinations.** That portion of annual appropriations allocable to regular examination and supervision activities shall be assessed in accordance with the following scale for depository financial institutions:

(a)

If the amount of Total Assets is:		Assessment will be:		
Over	But Not Over	This Amount	Plus	Of Excess Over
0	1,700,000	0	0.001800	* 0
1,700,000	15,000,000	3,060	0.000230	1,700,000
15,000,000	85,000,000	6,119	0.000190	15,000,000
85,000,000	185,000,000	19,419	0.000100	85,000,000
185,000,000	915,000,000	29,419	0.000095	185,000,000
915,000,000	1,825,000,000	98,769	0.000085	915,000,000
1,825,000,000	5,470,000,000	176,119	0.000072	1,825,000,000
5,470,000,000	18,240,000,000	438,559	0.000056	5,470,000,000
18,240,000,000	36,485,000,000	1,153,679	0.000050	18,240,000,000
36,485,000,000	45,000,000,000	2,065,929	0.000040	36,485,000,000
45,000,000,000	57,000,000,000	2,406,529	0.000035	45,000,000,000
57,000,000,000	92,000,000,000	2,826,529	0.000030	57,000,000,000
92,000,000,000	130,000,000,000	3,876,529	0.000025	92,000,000,000
130,000,000,000	180,000,000,000	4,826,529	0.000023	130,000,000,000
180,000,000,000		5,976,529	0.000020	180,000,000,000

* Minimum assessment is \$350.

Note: Total Assets and resultant assessment may be rounded to the nearest dollar.

(b) All other financial institutions, including credit card banks, bankers banks, central credit unions, and related corporations not covered elsewhere in this Section, licensees under Article 4 (Payment Instrument Sellers and Money Transmitters) and 4A (Check Cashers) of Chapter 1 of Title 7, licensees and registrants under Article 13 of Chapter 1 of Title 7 (Georgia Residential Mortgage Act), licensees under Chapter 3 of Title 7 (Georgia Installment Loan Act), trust Departments, and financial service providers shall pay an examination fee at the rate of \$65 per examiner-hour but not less than \$500 unless such examination is conducted in conjunction with another ongoing examination in which case there shall be no minimum charge. The above per hour charge shall be compensation for the work of Department examiners as well as any necessary, qualified outside assistance. The examination fee shall be due and payable immediately upon receipt of documentation from the Department setting forth the total amount of the fee. The \$500 minimum charge may be waived by the Commissioner or his/her designee when such charge clearly exceeds the hours spent on an examination.

(c) Notwithstanding the provisions of subsection (b) above, licensees under Article 13 of Chapter 1 of Title 7 shall pay the actual cost incurred by the Department in the conduct of an out of state examination, including personnel costs, transportation costs, meals, lodging and other incidental expenses, in addition to \$65 per examiner hour spent on the examination.

(d) The Department may discount or surcharge all examination and supervision fees herein provided to assure that anticipated revenues of the Department will fund the annual appropriation by the General Assembly.

(e) The Department may also require reimbursement for direct expenses, such as transportation costs, meals, lodging, etc. associated with out-of-state examinations or supervisory visits for any regulated entity, including money services businesses.

(2) Banking applications:

(a) Applicants for new branch offices or relocations of financial institutions shall pay an investigation fee of \$1,250 for each application. Simple re-designations of existing bank locations require only prior notification in writing. Branch Offices established under the notice procedure shall pay a fee of \$500.

(b) Applicants for approval of new bank, trust company, state savings or mutual savings bank, or savings and loan associations charters shall pay an investigation fee of \$20,000 for each application. Bank charter applications qualifying for expedited processing will be assessed an investigation fee of \$10,000. Applicants for approval of a new credit card bank or a special purpose bank shall pay an investigation fee of \$25,000. Prior to commencing business, successful applicants shall pay a supervisory and examination fee covering the preopening organizational supervision and initial operating supervision of the new institution in the amount of \$5,000.

(c) Applicants for approval for a company to become a bank holding company, other than for a de novo bank, may receive regular or expedited processing. Regular processing is \$3,500; expedited processing is \$2,500. Formation of a holding company simultaneously with formation of a de novo bank requires a regular processing fee of \$3,500, which, if applicable, is reduced by the fee for a new state charter.

(d) Applicants for a bank holding company to acquire five (5) percent or more but less than twenty-five (25) percent of the outstanding voting stock of a financial institution, or for review of a change of control shall pay an investigation fee of \$3,500 for each such application, provided, however, the Commissioner may waive or reduce such investigation fee in the case of a merger under emergency conditions as determined by the Department or in the case of interstate transactions where a comparable fee has already been paid for an earlier, related transaction among the same entities.

(e) Applicants for a bank holding company to acquire twenty-five (25) percent or more of the outstanding voting stock of a financial institution, shall pay an investigation fee of \$6,000. Expedited processing for these acquisitions is \$4,500. The fee for an intrastate and a covered interstate merger of banks or bank holding companies is \$4,500, reduced by a Department fee for a simultaneous acquisition if it has been paid. The Commissioner, however, may waive or reduce such investigation fee in the case of a merger under emergency conditions as determined by the Department or, in the case of interstate transactions where a comparable fee has already been paid for an earlier, related transaction among the same entities.

(f) Applicants for license to operate an international agency shall pay an investigation fee of \$5,000. In the event the application is denied, \$2,000 representing the applicant's initial license fee shall be refunded. International bank agencies and domestic international banking facilities shall pay an annual license or registration fee of \$2,000, on the first day of April of each year. Renewal licenses shall be issued for a twelve month period.

(g) Depository financial institutions, except credit card banks, bankers banks, and central credit unions shall pay an annual supervision fee as part of the examination fee prescribed in Rule 80-5-1-.03.

(h) All other financial institutions supervised by the Department who are not already covered by this chapter, except international agencies, shall pay an annual supervision fee of \$500, due on or before January 31 of each year.

(i) The investigation fee for conversion to a state bank is \$20,000.

(j) If a bank satisfies the banking factors set out in the Department's Statement of Policies, the fee to exercise a single trust power is \$250 and the processing is expedited to 7 days. A completed letter form application to exercise limited trust powers will be reviewed in 15 days; the fee is \$750. A bank that desires to exercise full trust powers files a regular application including a copy of the FDIC application. A complete application will be reviewed in 30 days; the fee is \$1,250.

(k) Regular applications to establish or acquire a subsidiary of a bank shall require a fee of \$500. Banks qualified to file expedited applications according to the criteria in DBF Rule [80-1-1-.10](#) are not subject to a fee.

(3) General rules for fees; holding companies with subsidiaries in Georgia.

(a) Each bank holding company supervised by the Department shall pay on or before September 15 an annual supervision fee of \$1,000. Each Georgia bank holding company or a holding company that owns a Georgia bank shall pay each year on or before the date the holding company supervision fee is due an additional \$500 for each Georgia non-bank subsidiary corporation of the bank holding company, excluding subsidiaries assessed pursuant to Rule 80-5-1-.03(1)(a) and subsidiaries paying an annual license or registration fee pursuant to Rule [80-5-1-.02\(4\)](#), as of June 30 preceding the supervision fee due date.

(b) Applications covering more than one transaction (branch, acquisition, merger, etc.), which require the Department to separately analyze each application shall pay the applicable fee for each transaction.

(c) The annual assessment rates included in subparagraph (1)(a) above will normally be used in connection with any annual assessment of depository financial institutions having banking offices in more than one state including Georgia. The Commissioner, however, will have the discretion to deviate from the rates included in the assessment schedule and other rates and charges including application fees in order to facilitate or implement interstate efforts to regulate and supervise multi-state banks or for parity reasons.

Cite as Ga. Comp. R. & Regs. R. 80-5-1-.03

AUTHORITY: O.C.G.A. §§ [7-1-41](#); [7-1-61](#).

HISTORY: Original Rule entitled "Examination and Investigation Fees" adopted. F. Nov. 4, 1975; eff. Nov. 24, 1975.

Amended: F. June 8, 1976; eff. June 28, 1976.

Amended: F. June 9, 1980; eff. July 1, 1980, as specified by the Agency.

Amended: F. July 13, 1981; eff. Aug. 2, 1981.

Repealed: New Rule of the same title adopted. F. May 24, 1982; eff. June 13, 1982.

Repealed: New Rule of the same title adopted. F. June 28, 1984; eff. Aug. 1, 1984, as specified by the Agency.

Amended: F. June 10, 1988; eff. June 30, 1988.

Amended: F. Sept. 4, 1990; eff. Sept. 24, 1990.

Amended: F. Oct. 15, 1993; eff. Nov. 4, 1993.

Amended: Rule retitled "Examination, Supervision, Application and Other Fees". F. Aug. 26, 1997; eff. Sept. 15, 1997.

Amended: Rule retitled "Examination, Supervision, Registration, Application and Other Fees for Banking Activities and Nonbank Subsidiaries of Banks or Holding Companies". F. July 14, 1998; eff. Aug. 3, 1998.

Amended: Rule retitled "Examination, Supervision, Registration, Application and Other Fees for Financial Institutions and Nonbank Subsidiaries of Banks or Holding Companies." F. July 12, 1999, eff. Aug. 1, 1999.

Amended: F. Dec. 6, 1999; eff. Dec. 26, 1999.

Amended: F. Dec. 18, 2000; eff. Jan. 7, 2001.

Amended: F. July 28, 2003; eff. Aug. 17, 2003.

Amended: F. Sept. 1, 2004; eff. Sept. 21, 2004.

Amended: F. Aug. 15, 2007; eff. Sept. 4, 2007.

Amended: F. Aug. 4, 2008; eff. Aug. 24, 2008.

Amended: F. June 10, 2014; eff. June 30, 2014.

Amended: F. Dec. 5, 2014; eff. Dec. 25, 2014.

Amended: F. June 15, 2015; eff. July 5, 2015.

Amended: F. June 20, 2016; eff. July 10, 2016.

Amended: F. June 29, 2017; eff. July 19, 2017.

Amended: F. Aug. 19, 2020; eff. Sep. 8, 2020.

80-5-1-.08 Levy, Collection, and Remittance of Tax on Interest Paid to Installment Lenders

(1) A tax shall be paid on a semiannual basis on all interest charged on loans made under Chapter 3 of Title 7 (Georgia Installment Loan Act). A licensee may report such tax on interest either on a "cash basis" or on an "accrual basis" as those terms are defined in subsection (b). However, once a licensee has made such an initial election, such basis shall not be changed without the prior written approval of the Commissioner, with any such approved change becoming effective at the commencement of the next semiannual reporting period.

(2) A licensee shall report this tax by use of one of the following methods:

(a) "Cash Method" is based on actual interest charged during the month as reported in the daily cash report. The charges of interest shall be increased by recoveries of interest on accounts previously written off and the interest may be reduced by interest on accounts to be presently written off and interest being refunded on accounts prepaid by cash, renewal, and refinancing. The net interest is subject to the tax.

(b) "Accrual method" is based principally on collections during the month of accounts under the Act. An accurate percentage comparison of interest charged to the gross loan is obtained by dividing the outstanding loans at the beginning of the month into unearned interest at the beginning of the month. The percent obtained is then multiplied by the collections for the month. The total obtained is subject to be taxed.

(3) The taxes payable under the provisions of subsection (a) shall be payable to the Department by the licensee on a semiannual basis. More specifically, such taxes for the period January 1 through June 30 of each year shall be remitted to the Department no later than the first business day of September of each year and such taxes for the period July 1 through December 31 of each year shall be remitted to the Department no later than the first business day of March of each year. A return indicating the amount of the tax, the method of calculation, and such other information as may be required by the Department shall accompany the taxes remitted. The taxes and the corresponding return shall be remitted to the Department through its online reporting and payment system. In the event that any licensee fails to timely remit taxes along with the corresponding return via the online reporting and payment system, the unpaid tax shall bear interest at the rate of one percent (1%) per month from the date the tax is due until the date the tax is paid, and there shall be added to the tax a penalty equivalent to twenty-five percent (25%) of the tax, or not less than five dollars (\$5). In the event that any licensee fraudulently remits the incorrect tax, there shall be added to the tax a penalty equivalent to fifty percent (50%) of the tax, or not less than five dollars (\$5).

Cite as Ga. Comp. R. & Regs. R. 80-5-1-.08

AUTHORITY: O.C.G.A. §§ [7-3-16](#), [7-3-17](#), [7-3-18](#).

HISTORY: Original Rule entitled "Levy, Collection, and Remittance of Tax on Interest Paid to Installment Lenders" adopted. F. Aug. 19, 2020; eff. Sep. 8, 2020.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-14. INSTALLMENT LOANS

Subject 80-14-1. PLACE OF BUSINESS, ADVERTISING, AND OTHER REQUIREMENTS

80-14-1-.01 Place of Business Requirements; Convenience and Advantage of Community

(1) A licensee shall not engage in the business of installment lending at a location in this state unless the licensee has first received written approval from the Department.

(2) The "main office" is the physical location indicated on the license application or amendments thereto as the principal place of business, where the books and records are kept.

(3) A "branch" shall be any physical location, other than the principal place of business, where a licensee engages in the business of installment lending.

(4) For the main office and each proposed branch office, an applicant or licensee shall provide information establishing that approval of the proposed location will serve the convenience and advantage of the community. Such information shall include but is not limited to the following:

(a) An explanation as to whether the community will benefit from the applicant or licensee operating in the location;

(b) An explanation as to whether the community is presently offered this service and an estimate of the number of people not presently served;

(c) Statistics related to the growth of the community in relation to each of the following: population, retail stores, industry, industry payroll, retail sales, and income per capita;

(d) A projection of the growth of the proposed location for the first three years of operation, including the number of accounts, outstanding amounts, and source of customers;

(e) A diagram of the immediate community indicating the location of any currently operating installment loan licensees, sales finance companies, banks, credit unions, savings and loan institutions, and the proposed office; and,

(f) Other information relevant to the Department's consideration of the proposed location.

(5) Factors to be considered by the Department in making a determination as to whether a proposed location will serve the convenience and advantage of the community include but are not limited to the following:

(a) Whether the service offered will be responsive to the needs and convenience of borrowers and conducive to economic progress;

(b) The current economic condition or growth potential of the market of the proposed location, such that there does or will exist a volume of business for which the installment lender can realistically compete, what portion of that business the installment lender could acquire, and whether that portion is sufficient to generate a profit;

(c) The lending opportunity for the proposed location as indicated by population, employment, residential and commercial construction, sales, company payrolls, businesses established, geographic and environmental restrictions to further development, and other relevant indicators; and

(d) Whether the proposed location will result in a better matching of source and needs of funds, thereby providing the basis for improved customer service.

(6) Notwithstanding Paragraph 4 of this rule, the Department may waive the requirement for information regarding the convenience and advantage of the community if a licensee proposes to relocate an existing approved main office or branch office within the same community; however, the proposed relocation remains subject to prior written approval by the Department.

(7) A location, including a personal residence, shall be considered a branch of a licensee requiring approval for purposes of the Georgia Installment Loan Act ("Act") if any of the following conditions are met:

(a) The location address is printed on or contained in letterheads, business cards, announcements, advertisements, solicitations for business, flyers, brochures, or the like;

(b) Georgia consumers are received at the location or are directed to deliver any information by any means to the location;

(c) Loan files or any other books and records required by the Act or Department rules are located at the location; or

(d) The licensee directly or indirectly reimburses for rent, utility bills or other expenses incurred for use of a location as a branch.

(8) Notwithstanding Paragraph (4) of this rule, a location, including a personal residence, will not be deemed a branch and will be required to have its own license if:

(a) It is a franchise arrangement;

(b) It is a separate entity that may be referred to as a "net branch," and it is an independent business or installment loan operation which is not under the direct control, management, supervision and responsibility of the licensee;

(c) The licensee is not the lessee or owner of the branch and the branch is not under the direct and daily ownership, control, management, and supervision of the licensee;

(d) All employees, including the branch manager, do not meet the requirements for exemption from licensure in O.C.G.A. § [7-3-4\(b\)\(5\)](#) and the rules of the Department;

(e) All assets and liabilities of the branch are not assets and liabilities of the licensee and income and expenses of the branch are not income and expenses of the licensee and are not properly accounted for in the financial records and tax returns of the licensee; or

(f) All practices, policies, and procedures, including but not limited to those relating to employment and operations, are not originated and established by the licensee and are not applied consistently to the main office and all branches.

(9) An unstaffed storage facility shall not constitute a branch.

(10) The mailing address of a licensee may be different from the main office address but shall be the address where the Department is authorized to send all correspondence, official notices and orders. The licensee is responsible for keeping the Department informed of any changes in this mailing address.

(11) Each licensee must keep the Department informed of the name, telephone number, and email address of the current contact person for consumer complaints, who is available and has authority to investigate and resolve questions and complaints from consumers which have come to the Department for resolution.

Cite as Ga. Comp. R. & Regs. R. 80-14-1-.01

AUTHORITY: O.C.G.A. §§ [7-3-22](#), [7-3-32](#).

HISTORY: Original Rule entitled "Place of Business Requirements; Convenience and Advantage of Community" adopted. F. Aug. 19, 2020; eff. Sep. 8, 2020.

80-14-1-.02 Location Managers

(1) A "location manager" shall mean an individual who supervises daily activities in Georgia of a licensee, whether at a main office or branch as defined in Rule 80-14-1-.01, and regardless of job title.

(2) No individual shall be permitted to manage a location in Georgia without being approved by the Department as a location manager. A location manager may be put in place subject to Departmental approval, but the Department must receive a complete application for approval within 15 calendar days of the placement. No individual may serve as the location manager of more than one location of a licensee.

(3) The Department shall conduct a background check, obtain a credit report, and require such other pertinent information to satisfy itself that the location manager will operate the location responsibly and in compliance with the laws and rules of this state.

Cite as Ga. Comp. R. & Regs. R. 80-14-1-.02

AUTHORITY: O.C.G.A. § [7-3-32](#).

HISTORY: Original Rule entitled "Location Managers" adopted. F. Aug. 19, 2020; eff. Sep. 8, 2020.

80-14-1-.03 Employee Background Checks; Covered Employees

(1) As required by O.C.G.A. § [7-3-42\(d\)](#), applicants and licensees must complete background checks on all covered employees, as defined in O.C.G.A. § [7-3-3\(2\)](#). Employees of an applicant or licensee who are not engaged in the installment loan business are not covered employees. Background checks on all covered employees must be completed and found satisfactory by the applicant or licensee prior to the initial date of hire.

(2) For purposes of O.C.G.A. § [7-3-42](#), an employee of a licensee is engaged in the installment loan business if he or she performs any of the following duties for a Georgia consumer:

- (a) taking a loan application or offering or negotiating terms of an installment loan;
- (b) entering, deleting, or verifying any information on an installment loan related document; or,
- (c) communicating with a consumer regarding a specific installment loan, excluding communication by a third party for purposes of debt collection.

(3) Applicants' and licensees' requests for background checks are handled by the Georgia Crime Information Center (GCIC) following their rules and regulations as well as O.C.G.A. § [35-3-34](#). Background checks must be full GCIC checks following that agency's rules and regulations and must not have any time period limitations or restrictions in the search criteria. Any fees charged by GCIC for processing background checks must be paid by the applicant or licensee. The background checks may be arranged for through a local law enforcement office, so long as the background check is done by GCIC.

Cite as Ga. Comp. R. & Regs. R. 80-14-1-.03

AUTHORITY: O.C.G.A. §§ [7-3-3](#), [7-3-42](#).

HISTORY: Original Rule entitled "Employee Background Checks; Covered Employees" adopted. F. Aug. 19, 2020; eff. Sep. 8, 2020.

80-14-1-.04 Advertising Requirements

Any advertisement of an installment loan that is subject to regulation under the Georgia Installment Loan Act ("Act") and that is made, published, disseminated or circulated in this state shall comply with the requirements set forth below.

- (a) Advertisements for installment loans shall not be false, misleading, or deceptive.
- (b) All solicitations or advertisements, including business cards and websites, for installment loans disseminated in this state by persons required to be licensed under the Act shall contain the licensee's name, which shall conform to a name on record with the Department, and unique identifier, which shall clearly indicate that the number was issued by the Nationwide Multistate Licensing System and Registry.
- (c) For purposes of this Rule, "advertisement" means material used or intended to be used to induce the public to apply for an installment loan. Such term shall include any printed or published material, audio or visual material, website, or descriptive literature concerning an installment loan subject to regulation under the Act, whether disseminated by direct mail, newspaper, magazine, radio or television broadcast, electronic, billboard, or similar display. The term advertisement shall not include promotional materials containing fifteen words or fewer relating to the installment loan business of the entity which material does not contain references to a specific rate or product, such as balloons, hats, pencils or pens, and calendars.
- (d) Every installment lender required to be licensed shall maintain a record of samples of all of its advertisements, including commercial scripts of all radio and television broadcasts, for examination by the Department.
- (e) No licensee shall use any advertising in the form of a simulated check or other negotiable instrument. "Simulated check or other negotiable instrument" means any document that resembles but is not a check or other negotiable instrument and is used for the purpose of soliciting a customer for an installment loan.

Cite as Ga. Comp. R. & Regs. R. 80-14-1-.04

AUTHORITY: O.C.G.A. §§ [7-3-10](#), [7-3-30\(a\)\(3\)](#).

HISTORY: Original Rule entitled "Advertising Requirements" adopted. F. Aug. 19, 2020; eff. Sep. 8, 2020.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-14. INSTALLMENT LOANS

Subject 80-14-2. BOOKS AND RECORDS

80-14-2-.01 Location Requirement; Examinations

Each installment lender required to be licensed under the Georgia Installment Loan Act shall maintain a principal place of business on record with the Department at which its books and records are maintained and which is accessible to the Department for examination during normal business hours. Records required to be maintained under this rule may be maintained in a photographic, electronic, or other similar format at a central location within or outside the State of Georgia provided specific records can be transmitted to a location designated by the Department within ten (10) days of the Department's request. The Department may examine any person that purports to satisfy the exemption from licensure set forth in O.C.G.A. § [7-3-4](#) to verify that the person qualifies for the exemption from licensure.

Cite as Ga. Comp. R. & Regs. R. 80-14-2-.01

AUTHORITY: O.C.G.A. §§ [7-3-30](#), [7-3-40](#).

HISTORY: Original Rule entitled "Location Requirement; Examinations" adopted. F. Aug. 19, 2020; eff. Sep. 8, 2020.

80-14-2-.02 Minimum Requirements for Books and Records

Each licensee shall maintain the following books, accounts, and records:

- (a) Copies of all disclosure documents required by Rule Chapter 80-14-5;
- (b) Samples of advertisements as required by Rule 80-14-1-.04;
- (c) Copies of all written complaints by customers and written records of disposition;
- (d) Copies of examination reports prepared by any agency, division or corporate instrumentality of the United States, the State of Georgia or any other state, which reports pertain to the installment lending business of the licensee or registrant and are not prohibited from being disclosed to the Department by state or federal law;
- (e) Copies of reports required to be prepared and/or submitted by the licensee to any agency, division, or corporate instrumentality of the United States, the State of Georgia or any other state, which reports pertain to the installment lending business of the licensee and are not prohibited from being disclosed to the Department by state or federal law;
- (f) Copies of all payroll records, including federal and state withholding tax forms, W-2's, and 1099 forms filed with the Internal Revenue Service by the licensee or its agent on behalf of individuals employed by the licensee in the installment lending business of the licensee;
- (g) A cash book or daily report for each approved location in which all receipts and disbursements of any amount shall be entered. Separate spaces shall be provided for amounts received or charged as interest, fees, insurance premiums, recording fees and any other receipts or disbursements made by the licensee. All such entries shall be made on the exact date on which they occur. This cash book shall be balanced daily. This paragraph shall not

prevent licensees from closing their books in the late afternoon, commonly known as providing for "late drawer" payments, so long as entries of loans and collections are made on their exact date.

(h) A general ledger which shall be posted at least monthly containing all assets, liabilities, capital, and income and expense accounts. If the licensee has a general ledger reserve account for bad debts, all recoveries or collections on accounts previously charged off shall be credited to this account.

(i) All bank statements and bank reconciliations records which pertain to the installment lending business of the licensee;

(j) An audit of its books and records performed at least annually by independent public accountants in accordance with generally accepted auditing standards or, alternatively, a review of its books and records performed at least annually by independent public accountants in accordance with generally accepted accounting principles.

(k) Copies of all credit report bills received from all credit reporting agencies;

(l) Employee file for each employee. The employee file must contain all documents related to hiring the employee, including criminal background check, date employment began, and a print out or screenshot confirming that the Department's public records were reviewed on NMLS Consumer Access to verify eligibility for employment with such review of the Department's public records taking place prior to the date of hire; and

(m) Copies of all reports required to be filed with the Department or the Nationwide Multistate Licensing System and Registry, including any amended reports, for the previous five (5) years and all related work papers and supporting documentation that support the accuracy of the information contained in such reports; and

(n) Copies of any required notifications required to be made to the Department pursuant to O.C.G.A. § 7-3-31(a) and (b) and supporting documentation.

Cite as Ga. Comp. R. & Regs. R. 80-14-2-.02

AUTHORITY: O.C.G.A. §§ [7-3-30](#), [7-3-51](#).

HISTORY: Original Rule entitled "Minimum Requirements for Books and Records" adopted. F. Aug. 19, 2020; eff. Sep. 8, 2020.

80-14-2-.03 Installment Loan Transaction Journal

(1) Each licensee shall maintain a journal of installment loan transactions which shall include, at a minimum, the following information:

(a) Full name of the borrower and any co-borrowers;

(b) Loan Number;

(c) Date of the loan;

(d) Amount of the loan; and

(e) Due date of the loan.

(2) A complete installment loan transaction journal shall be maintained in the principal place of business. The journal shall be kept current. Entries shall be organized by chronological order by date of the loan. Records may be kept at an approved branch office but the principal place of business must have a current journal updated no less frequently than every seven (7) days. The failure to initiate an entry to the journal within seven (7) business days from the date of the occurrence of the event required to be recorded in the journal shall be deemed a failure to keep the journal current.

Cite as Ga. Comp. R. & Regs. R. 80-14-2-.03

AUTHORITY: O.C.G.A. §§ [7-3-30](#), [7-3-51](#).

HISTORY: Original Rule entitled "Installment Loan Transaction Journal" adopted. F. Aug. 19, 2020; eff. Sep. 8, 2020.

80-14-2-.04 Installment Loan Files

(1) Each installment lender shall maintain a loan file for each installment loan borrower. If there are multiple borrowers on one loan, the loan documents shall be maintained in the loan file for the primary borrower. The files shall be maintained in an alphabetical or numerical sequence in the principal place of business or in each approved branch office where installment loans are made.

(2) Each loan file shall contain the following:

(a) Copy of the loan application;

(b) Copy of credit report if the credit report is pulled or ordered by the licensee;

(c) Copy of the signed loan agreement;

(d) Copy of all notes, bills of sale, or other evidence of indebtedness or security;

(e) Copy of the signed acknowledgement of written disclosure statement as required by Rule 80-14-5-.01(6)(f) A separate account record for each installment loan transaction or renewal thereof, which shall include the following information:

(i) Name and address of the licensee;

(ii) Loan number;

(iii) Date of the loan;

(iv) Name and address of each borrower and co-maker or endorser, if any;

(v) Brief description of security, if any;

(vi) Actual amounts of individual charges shall be shown separately for interest and fees.;

(vii) Amount of loan;

(viii) If a renewal, the loan number of the previous loan;

(ix) Terms of repayment;

(x) Payments received showing:

A. Date of payment.

B. Amount paid on account.

C. Remaining balance.

D. Date to which account is paid.

E. Any late charge collected, and date of collection;

(xi) Date of final payment on loan or expiration; and

(xii) Record of the amount, date, and reason for any refunds.

Cite as Ga. Comp. R. & Regs. R. 80-14-2-.04

AUTHORITY: O.C.G.A. §§ [7-3-30](#), [7-3-51](#).

HISTORY: Original Rule entitled "Installment Loan Files" adopted. F. Aug. 19, 2020; eff. Sep. 8, 2020.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-14. INSTALLMENT LOANS

Subject 80-14-3. ADMINISTRATIVE FINES AND PENALTIES

80-14-3-.01 Administrative Fines

(1) The Department establishes the following fines for violation of the Georgia Installment Loan Act ("Act") or its rules. Except as otherwise indicated, these fines apply to any person who is acting as an installment lender and any licensee under the Act. The Department, at its sole discretion, may waive or reduce a fine based upon the financial resources of the person, gravity of the violation, history of previous violations, and such other facts and circumstances deemed appropriate by the Department.

(2) All fines levied by the Department are due within thirty (30) days from the date of assessment and must be paid prior to renewal of the annual license, reapplication for a license, or any other activity requiring Departmental approval.

(3) In addition to any fines levied by the Department, the recipient of the fine may be subject to additional administrative actions for the same underlying activity.

(4) Operating Without Proper License. Any person who acts as an installment lender prior to receiving a current license required under the Act, or who acquires an unlicensed installment loan business, or during the time a suspension, revocation or applicable cease and desist order is in effect, shall be subject to a fine of one thousand dollars (\$1,000) per day.

(5) Failure to Obtain Approval from the Department of Change in Ownership or Change in Control. Any licensee or other person who fails to obtain the Department's prior written approval of a change in ownership through acquisition or other change in control or change in executive officer resulting from such change in ownership or change in control of the licensee in compliance with O.C.G.A. § [7-3-32](#) shall be subject to a fine of one thousand dollars (\$1,000).

(6) Failure to Notify of Change in Executive Officers. Any licensee or other person who fails to timely notify the Department of a change in executive officer not resulting from a change in control or ownership in compliance with O.C.G.A. § [7-3-32](#) and shall be subject to a fine of one thousand dollars (\$1,000).

(7) Unapproved Locations. In addition to the application, fee, and approval requirements of O.C.G.A. § [7-3-32\(a\)](#), any licensee who operates an unapproved branch office shall be subject to a fine of five hundred dollars (\$500) per unapproved branch office operated.

(8) Location Manager Approval. Any licensee shall be subject to a fine of five hundred dollars (\$500) for operation of a location with an unapproved location manager. No such fine shall be levied while Department approval is pending if timely application for approval is made pursuant to Rule 80-14-1-.02.

(9) Felons. Any licensee that hires or retains a covered employee who is a felon as described in O.C.G.A. § [7-3-42\(a\)](#), when such covered employee has not complied with the remedies provided for in O.C.G.A. § [7-3-42\(a\)](#) for each conviction before such employment, shall be subject to a fine of five thousand dollars (\$5,000) for each such covered employee.

(10) GCIC Background Checks on Employees. Any licensee that does not obtain a Georgia Crime Information Center ("GCIC") criminal background check on each covered employee prior to the initial date of hire or retention shall be subject to a fine of one thousand dollars (\$1,000) per occurrence. Proof of the required GCIC criminal

background check must be retained by the licensee until five years after termination of employment by the licensee. Notwithstanding compliance with this requirement to perform a GCIC criminal background check prior to employment, failure to maintain criminal background checks as required will result in a fine of one thousand dollars (\$1,000) for each covered employee for which the licensee is missing this documentation.

(11) Disqualified Persons. Any licensee who employs any person subject to a final cease and desist order or license revocation within five (5) years of the date such person was hired pursuant to O.C.G.A. § 7-3-43(d) and (e) shall be subject to a fine of five thousand dollars (\$5,000) per such employee.

(12) Failure to Review Public Records Prior to Hiring. Any licensee who fails to examine the Department's public records on NMLS Consumer Access to determine if a job applicant is subject to an order set forth in O.C.G.A. § 7-3-43(d) or (e) prior to hiring such individual shall be subject to a fine of one thousand dollars (\$1,000) for each employee on whom the public records were not timely examined.

(13) Prohibited Acts. Any licensee who violates the provisions of O.C.G.A. § [7-3-43](#) shall be subject to a fine of one thousand dollars (\$1,000) per violation or transaction that is in violation of O.C.G.A. § [7-3-43](#).

(14) Failure to Timely Report Certain Events. Any licensee who fails to report any of the events enumerated in O.C.G.A. § [7-3-31\(a\)](#), shall be subject to a fine of one thousand dollars (\$1,000) per act not reported in writing to the Department within 10 days of knowledge of such act.

(15) Failure to Report. Any licensee who fails to provide required reports as established by the Department and file the reports with the Department or the Nationwide Multistate Licensing System and Registry as specified by the Department within the designated time periods shall be subject to a fine of one hundred dollars (\$100) for each such occurrence.

(16) Failure to Timely Disclose Change in Affiliation of Natural Person that Executed Lawful Presence Affidavit and Submission of New Affidavit. Any licensee that fails to disclose that the owner or executive officer that executed the lawful presence affidavit is no longer in that position with the licensee within ten (10) business days of the date of the event necessitating the disclosure, shall be subject to a fine of one thousand dollars (\$1,000). Any licensee that fails to submit a new lawful presence affidavit from a current owner or executive officer within ten (10) business days of the owner or executive officer that executed the previous lawful presence affidavit no longer being in that position with the licensee, shall be subject to a fine of one thousand dollars (\$1,000) per day until the new affidavit is provided.

(17) Failure to Timely Update Information on the Nationwide Multistate Licensing System and Registry. Any licensee that fails to update its information on the Nationwide Multistate Licensing System and Registry ("NMLSR"), including, but not limited to, amendments to any response to disclosure questions, within ten (10) business days of the date of the event necessitating the change, shall be subject to a fine of one thousand dollars (\$1,000) per occurrence. In addition, the failure of a control person of a licensee to update the individual's information on the NMLSR, including, but not limited to, amendments to any response to disclosure questions by the control person, within ten (10) business days of the date of the event necessitating the change, shall subject the licensee to a fine of one thousand dollars (\$1,000) per occurrence.

(18) Failure to Submit to Examination or Investigation. Any licensee that refuses to permit an investigation or examination of books, accounts, and records after a reasonable request by the Department shall be subject to a fine of five thousand dollars (\$5,000). Refusal shall require at least two attempts by the Department to schedule an examination or investigation.

(19) Books and Records. If the Department, in the course of an examination or investigation, finds that a licensee has failed to maintain its books and records according to the requirements of O.C.G.A. § [7-3-30](#) and Rule Chapter 80-14-2, such licensee shall be subject to a fine of one thousand dollars (\$1,000) for each violation of a books and records requirement listed in Rule Chapter 80-14-2.

(20) Maintenance of Loan Files. Any licensee who fails to maintain a loan file for each installment loan borrower as required by Rule 80-14-2-.04 or who fails to have all required documents in such file shall be subject to a fine of one

thousand dollars (\$1,000) per file not maintained or not accessible, or per file not containing required documentation.

(21) Failure to Provide Loan Contract. In the event a licensee does not provide a consumer with a copy of the loan contract or written itemized statement as required by O.C.G.A. [7-3-15](#) and Rule 80-14-5-.01, the licensee shall be subject to a fine of one thousand dollars (\$1,000) per transaction where the loan contract or itemized statement was not provided.

(22) Failure to Provide Receipt. In the event a licensee does not provide a consumer with a written receipt as required in Rule 80-14-5-.01(7), the licensee shall be subject to a fine of one hundred dollars (\$100) per payment for which the receipt was not provided.

(23) Failure to Post Required License. Any licensee that fails to post a copy of its license in each location where an installment loan business is conducted shall be subject to a fine of five hundred dollars (\$500) for each instance of non-compliance.

(24) Advertising. Any licensee who violates the advertising requirements in O.C.G.A. § [7-3-10](#) or Rule 80-14-1-.04 shall be subject to a fine of five hundred dollars (\$500) for each violation of law or rule.

(25) Unsolicited Live Checks. Any licensee who offers an unsolicited live check in a manner that violates any of the conditions of Rule 80-14-5-.04 shall be subject to a fine of one thousand dollars (\$1,000) for each occurrence, which in no event shall exceed fifty thousand dollars (\$50,000).

(26) Debt Collection Practices. In the event any licensee, or employee or agent thereof, willfully uses any unreasonable collection tactics in violation of O.C.G.A. § [7-3-33](#) or Rule 80-14-5-.05(2), such licensee shall be subject to a fine of five hundred dollars (\$500) per occurrence.

(27) Consumer Complaints. Any licensee who fails to respond to a written consumer complaint or fails to respond to the Department regarding a consumer complaint, within the time periods specified in the Department's correspondence to such licensee, shall be subject to a fine of one thousand dollars (\$1,000) for each occurrence.

Cite as Ga. Comp. R. & Regs. R. 80-14-3-.01

AUTHORITY: O.C.G.A. §§ [7-3-45](#), [7-3-46](#).

HISTORY: Original Rule entitled "Administrative Fines" adopted. F. Aug. 19, 2020; eff. Sep. 8, 2020.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-14. INSTALLMENT LOANS

Subject 80-14-4. LICENSING

80-14-4.01 Licensing Requirements and Exemptions

(1) The exemption from licensing provided pursuant to O.C.G.A. § [7-3-4\(5\)](#) to an employee of a licensee or exemptee applies only to natural persons who meet all of the following criteria:

- (a) An employee must be employed by only one licensee or exemptee and work exclusively for that person;
- (b) An employee may not advertise, solicit, offer, or make installment loans for anyone else while claiming the exemption;
- (c) An employee's procedures and activities must be supervised by the licensee or exemptee on a daily basis and the licensee or exemptee is responsible for the actions of such employees. This requirement is intended to make it clear that employers control and are accountable for the actions of their employees; and
- (d) An employee may not be paid or compensated for the performance of installment lending activity as an independent contractor or on a 1099 basis.

(2) A natural person shall not be required to obtain a license under the Georgia Installment Loan Act if such natural person is not in the business of making installment loans or employed by a licensee or exemptee, makes five (5) or fewer installment loans in any one calendar year, and uses his or her own funds to make such loans for his or her own investment. Any unlicensed natural person who makes installment loans without meeting all of the foregoing requirements is in violation of O.C.G.A. § [7-3-4](#) and may be subject to an order to cease and desist.

Cite as Ga. Comp. R. & Regs. R. 80-14-4-.01

AUTHORITY: O.C.G.A. §§ [7-3-4](#), [7-3-45](#).

HISTORY: Original Rule entitled "Licensing Requirements and Exemptions" adopted. F. Aug. 19, 2020; eff. Sep. 8, 2020.

80-14-4.02 Restrictions on Employment and Licensing

(1) No person who has been an owner, director, trustee, or executive officer of a licensee that has had its license revoked, denied, or suspended, may perform any of those roles at another licensee for five years from the date of the final order.

(2) Felony convictions; restrictions on the employee and the licensee:

(a) Licensees are responsible for ensuring that no convicted felons are covered employees or direct the affairs of their business.

(b) O.C.G.A. § [7-3-42](#) provides for remedies to cure a felony conviction. These remedies must be completed and in place prior to employment. Hiring or continuing to employ a covered employee with an unremedied felony conviction subjects a licensee to revocation of its license.

(c) For purposes of O.C.G.A. §§ [7-3-31](#) and [7-3-42](#), "agent" means any person who appears to the public or to a regulatory agency as acting for or on behalf of a licensee to the extent the licensee is engaged in the business of making installment loans.

(d) If a licensee discovers that a covered employee or director/officer is a felon at the time of hire or subsequently becomes a felon and has not satisfactorily cured the conviction, the violation of O.C.G.A. § [7-3-42](#) must be immediately corrected or the license will be subject to revocation. Such individuals with felony convictions are ineligible for an employee exemption and are in violation of O.C.G.A. §§ [7-3-4](#) and [7-3-50](#). The licensee employer is also in violation of O.C.G.A. § [7-3-4](#) in such circumstance.

(e) A cease and desist order to a person for failure to meet the employee exemption due to a violation of the felony provisions of O.C.G.A. § [7-3-42](#) shall become final in 30 days without a hearing pursuant to O.C.G.A. § [7-3-45](#). Such a person must show within those 30 days, by certified court documents that the record is erroneous, or, that the cure provisions in O.C.G.A. § [7-3-42](#) were completed prior to employment, in order to stop the order from becoming final. In the event such proof is provided, the order will be rescinded.

(3) Cease and desist orders may be issued against persons required to be licensed or against employees of those parties. All of the provisions of O.C.G.A. §§ [7-3-45](#) and [7-3-46](#), including injunction, apply to actions against all such persons.

(4) For purposes of O.C.G.A. §§ [7-3-31](#) and [7-3-43\(b\)\(1\)](#), "misrepresentation" means making a false statement of a substantive fact or intentionally engaging in any conduct which leads to a false belief which is material to the transaction.

Cite as Ga. Comp. R. & Regs. R. 80-14-4-.02

AUTHORITY: O.C.G.A. §§ [7-3-4](#), [7-3-42](#), [7-3-43](#), [7-3-45](#), [7-3-46](#), [7-3-47](#).

HISTORY: Original Rule entitled "Restrictions on Employment and Licensing" adopted. F. Aug. 19, 2020; eff. Sep. 8, 2020.

80-14-4-.03 Verification of Lawful Presence Affidavit

(1) Pursuant to O.C.G.A. § [50-36-1](#), the Department is required to obtain an affidavit verifying the lawful presence of every natural person that submits an application for a license as an installment lender on behalf of an individual, business, corporation, partnership, limited liability company, or any other business entity. For businesses, corporations, partnerships, limited liability companies, and other business entities (collectively "company applicant"), only an owner or executive officer that is authorized to act on behalf of the company applicant is authorized to submit the required signed and sworn affidavit.

(2) In the event the individual that executed the lawful presence affidavit on behalf of the company applicant is no longer an owner or executive officer of the licensee, the licensee must notify the Department within ten (10) business days following the date of the occurrence and provide the Department with an affidavit from a current owner or executive officer verifying his or her lawful presence on behalf of the licensee. The failure to disclose within ten (10) business days that the owner or executive officer that executed the lawful presence affidavit is no longer in that position with the licensee or to timely submit a new affidavit from a current owner or executive officer may subject the license to revocation, suspension, and other administrative action.

Cite as Ga. Comp. R. & Regs. R. 80-14-4-.03

AUTHORITY: O.C.G.A. § [50-36-1](#).

HISTORY: Original Rule entitled "Verification of Lawful Presence Affidavit" adopted. F. Aug. 19, 2020; eff. Sep. 8, 2020.

80-14-4-.04 Nationwide Multistate Licensing System and Registry

(1) License issuance and renewals.

(a) All applications for new or renewal licenses must be made through the Nationwide Multistate Licensing System and Registry ("NMLSR"). Fees for new applications include an initial Department investigation fee and the appropriate application fee. Applications for new licenses which are approved between November 1 and December 31 in any year will not be required to file a renewal application for the next calendar year. All fees are nonrefundable.

(b) All licenses issued shall expire on December 31 of each year, and an application for renewal shall be made annually between November 1 and December 31 each year. Subsequent renewal applications and license fees must be received on or before December 1 of each year or the renewal applicant will be assessed a late fee as set forth in Rule [80-5-1-.02](#). A renewal application is not deemed received until all required information and corresponding fees have been provided by the licensee. A proper renewal application not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license will expire. Unless a proper renewal application has been received, any license which is not renewed on or before December 31 will require the renewal applicant to file a new license application in order to conduct business as an installment lender in the State after that date.

(2) The responsibility of applicants and licensees to update information in NMLSR.

(a) It shall be the sole responsibility of each applicant for a license and each licensee to keep current at all times its information on the NMLSR. Amendments to any information on file with the NMLSR must be made by the applicant or licensee within ten (10) business days of the date of the event necessitating the change. The Department shall have no responsibility for any communication not received by an applicant or licensee due to its failure to maintain current contact information on the NMLSR as required.

(b) Amendments to any responses to disclosure questions by an applicant for a license or a licensee must be made within ten (10) business days following the date of the event necessitating the change. Failure by an applicant for a license to timely update the applicant's responses to disclosure questions may be considered a violation of O.C.G.A. § [7-3-43\(6\)](#).

(i) It shall be the responsibility of each applicant for a license and each licensee to ensure that its control persons keep current at all times their information on the NMLSR. Amendments to any information on file with the NMLSR must be made by the control person within ten (10) business days of the date of the event necessitating the change. For purposes of this Rule, control person means any individual that has the power, either directly or indirectly, to direct or cause the direction of management and policies of an applicant or licensee, whether through the ownership of voting or nonvoting securities, by contract, or otherwise.

(ii) Amendments to any responses to disclosure questions by a control person must be made within ten (10) business days following the date of the event necessitating the change. Failure by a control person of an applicant for a license to timely update the control person's responses to disclosure questions may result in the denial of the application. In the case of a licensee, failure by a control person to timely update any disclosure information may result in the revocation of its license.

(3) A licensee may challenge information entered by the Department into the NMLSR. All challenges must be sent to the Department in writing addressed to the attention of the Deputy Commissioner of Non-Depository Financial Institutions. Once received, the Department shall consider the merits of the challenge raised and provide the licensee with a written reply that shall be the Department's final decision regarding the challenge.

(4) Each licensee shall submit to the Department on a quarterly basis, via the NMLSR or other means specified by the Department, an installment loan report in a form and manner prescribed by the Department which shall include, but not be limited to, information regarding installment loan activity. The loan report shall be submitted to the Department forty-five (45) days after the end of each calendar quarter. Licensees submitting quarterly loan reports to the Department are certifying to the material accuracy and validity of the information as submitted.

Cite as Ga. Comp. R. & Regs. R. 80-14-4-.04

AUTHORITY: O.C.G.A. §§ [7-3-20](#), [7-3-22](#), [7-3-30](#).

HISTORY: Original Rule entitled "Nationwide Multistate Licensing System and Registry" adopted. F. Aug. 19, 2020; eff. Sep. 8, 2020.

80-14-4-.05 Transition to Department

(1) Installment Lenders licensed as of July 1, 2020, shall be afforded a transition period through October 15, 2020, to demonstrate compliance with the following requirements:

(a) Restrictions on employment of individuals with unremedied felony convictions pursuant to O.C.G.A. § [7-3-42](#) and Rule 80-14-4-.02. The required cure for any disqualifying felony convictions must be completed prior to the date of initial hire for any director, trustee, agent, owner, executive officer, or covered employee hired or rehired after July 1, 2020.

(b) Department approval of location managers as required by O.C.G.A. § [7-3-32](#) and Rule 80-14-1-.02.

(c) Corporate surety bond as required by O.C.G.A. § [7-3-21](#).

(d) Participation in and submission of required filings through the Nationwide Multistate Licensing System and Registry as required by the Act and the Rules of the Department.

(2) Installment Lenders licensed as of July 1, 2020, shall be afforded a transition period through December 31, 2020, to demonstrate compliance with the following requirements:

(a) Background checks as required by O.C.G.A. § [7-3-42\(d\)](#) and Rule 80-14-1-.03 for covered employees already employed by the licensee as of July 1, 2020. The required background checks shall be completed prior to the date of initial hire for covered employees hired or rehired after July 1, 2020.

(b) The content of business cards as required by Rule 80-14-1-.04(b).

Cite as Ga. Comp. R. & Regs. R. 80-14-4-.05

AUTHORITY: O.C.G.A. §§ [7-3-2](#), [7-3-51](#).

HISTORY: Original Rule entitled "Transition to Department" adopted. F. Aug. 19, 2020; eff. Sep. 8, 2020.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-14. INSTALLMENT LOANS

Subject 80-14-5. DISCLOSURE, CHARGES, AND MISCELLANEOUS

80-14-5-.01 Loan Contract, Disclosures, and Limitations

(1) Loan Contract; Contents.

(a) Every consumer loan transaction shall be pursuant to a written loan contract which may include a loan voucher, itemized statement of loan and charges, and disclosure statement. The loan contract shall be signed by the consumer and delivered to the consumer at the time it is executed by him or her. The loan contract shall be contained in a single document which may contain more than one page. Printed terms shall be printed in at least six-point standard type.

(b) In connection with every consumer loan transaction, the consumer shall be furnished a written itemized statement in clear terms and easily understood language which shall show the following: the transaction date, a description of the subject matter and amount of the transaction, a description of the collateral, if any, securing the consumer's obligations; the identity and address of the consumer and the identity and address of the creditor; a schedule of the payments; the amount of the actual cash advanced to or on behalf of the consumer; the amount of each class of insurance carried and the premium paid thereon, stated separately for each class of insurance; and an itemization of the exact amount of the interest, fees, and other charges, if any, showing each element thereof.

(c) The loan contract shall include immediately above the place for the signature for the parties the following notice:

NOTICE TO CONSUMER

1. Do not sign this agreement if it contains any blank spaces.
2. You are entitled to an exact copy of all papers you signed.
3. You have the right at any time to pay in advance the full amount due under this agreement and under certain conditions to obtain a partial refund of the interest charges.
4. If credit life insurance is required, you have the right to purchase either level term life insurance or reducing term life insurance coverage.
5. You are not required to purchase noncredit insurance as a condition of obtaining this loan.

(d) The creditor shall furnish the consumer with an exact copy of the loan contract including any loan voucher, itemized statement of loan charges, and disclosure statement after the agreement has been signed.

(e) With respect to every installment loan transaction, the creditor shall, at the time of the transaction, furnish to the consumer a written statement of the maximum number of payments required, the amount of such payments, and the exact due dates upon which each payment is due. The maximum number of payments and the amount and date of such payments need not be separately listed if the payments are stated in terms of a series of scheduled amounts.

(2) The following practices are prohibited in the making of an installment loan pursuant to the Georgia Installment Loan Act:

(a) Blank Agreements. Every contract evidencing an installment loan transaction shall be completed as to all essential provisions prior to the signing thereof by the parties. No licensee shall induce, encourage, or otherwise permit the consumer to sign a contract containing blank spaces. Blank spaces inapplicable to a transaction must be completed in a manner which reveals their inapplicability.

(b) Negotiable Instruments. No licensee shall take or otherwise arrange for the consumer to sign an instrument payable "to order" or "to bearer", other than a check, as evidence of the credit obligation of the consumer in an installment loan transaction.

(c) Balloon Payments. No licensee shall enter into a contract which contains or anticipates a schedule of payments under which the final payment exceeds the amount of any other payment by more than \$1.00. All other installment payments shall be scheduled at regular intervals in equal amounts.

(d) Multiple Agreements to the following extent:

(i) No licensee shall engage in any activity in connection with an installment loan by use of multiple agreements or otherwise as a result of which the licensee charges, contracts for, or receives any other or further amount in connection with an installment loan than that authorized by law for a single loan of a comparable amount.

(ii) No licensee shall split a consumer loan into separate agreements by spouses if as a result thereof the licensee charges, contracts for, or receives any other or further amount in connection therewith than as authorized by law for a single loan of a comparable amount; provided, however, that the licensee may make an installment loan to spouses jointly and severally if such loans do not arise out of substantially the same transaction.

(e) Non-Judicial Enforcement. Notwithstanding any other provision of law, no term of an agreement shall constitute authorization for a licensee to take possession of collateral by other than legal process unless such authorization is clearly, prominently and conspicuously disclosed to the consumer immediately above the place for his signature on the loan agreement or as an addition to the "NOTICE TO CONSUMER" specified in subsection (1)(c) of this Rule.

(3) Insurance Permitted.

(a) With respect to any installment loan transaction, the licensee shall not require any insurance other than insurance covering the loss of or damage to any property in which the creditor is given a security interest. Credit life and credit accident and sickness insurance if required by the licensee, may be provided by the licensee through an insurer authorized to issue such insurance in this State.

(b) If a licensee requires any insurance permitted under subsection (1) above in any consumer loan transaction, the consumer shall be given written notice of the option of providing such insurance through an existing policy or a policy independently obtained and paid for by the consumer. If the licensee requires credit life insurance, the licensee shall give the consumer written notice of the consumer's right to choose either level term life insurance or reducing term life insurance coverage. The licensee may for reasonable cause before credit is extended decline the insurance provided by the consumer.

(c) Any insurance offered by an installment lender licensee shall comply with any and all applicable insurance laws and regulations.

(4) Discharge of Security Interests. When the consumer is indebted to a particular licensee for two or more consumer loans, any security interest held by such licensee for any particular loan shall be discharged when the loan for which the security interest is held is paid irrespective of indebtedness to the licensee by the consumer on other outstanding installment loans. As a general rule, security interests in terms of property shall terminate as the debt originally incurred with respect to each item is paid and in the case of the consolidation of two or more installment loans or any circumstances in which the general rule is not followed, the licensee may be required by the Department to show that his conduct with respect to such loan transactions was just, fair and reasonable. For the purposes of this Rule, the renewal of a consumer loan shall not be deemed to be payment thereof.

(5) Electronic Transactions Permitted. The provisions of the Uniform Electronic Transactions Act, O.C.G.A. § [10-12-1](#) *et seq.*, applies to loans made pursuant to the Georgia Installment Loan Act. Nothing in the Act or the Department's rules shall be construed as prohibiting installment loans from being originated or closed remotely by a licensee.

(6) Other Purchases. If any loan within the Act is made in conjunction with the provision of any item, service, or commodity incidental to the advancement of funds, or if any other element is introduced into the transaction at the expense of the consumer, then the licensee shall provide to the consumer a separate written disclosure statement. The disclosure statement shall disclose, in no smaller than twelve-point type, the following:

(a) That the consumer does not have to purchase any such item, service, or commodity, or pay for such element, in order to obtain the loan.

(b) The cost to the consumer of any such purchase or element.

(c) The disclosure statement shall contain the consumer's signed acknowledgement of the consumer's understanding that such purchase or element is not required and of the specific cost to the borrower for each such item, service, commodity, or element.

(d) A copy of the signed document shall be provided to the borrower, and the licensee shall retain the original in the loan file.

(7) Receipt. Each consumer shall be provided with a written receipt for each cash payment made showing the licensee's name on record with the Department, the applicable loan number, the date of the payment, and the dollar amount of the payment.

Cite as Ga. Comp. R. & Regs. R. 80-14-5-.01

AUTHORITY: O.C.G.A. §§ [7-3-11](#), [7-3-12](#), [7-3-15](#), [7-3-51](#).

HISTORY: Original Rule entitled "Loan Contract, Disclosures, and Limitations" adopted. F. Aug. 19, 2020; eff. Sep. 8, 2020.

80-14-5-.02 Maintenance Charges

(1) The following terms shall have the following meaning as used in this Rule unless a different meaning or construction is clearly required by the context:

(a) "Earned maintenance charges" shall mean those maintenance charges which are applicable to those months in the term of the loan contract in which the loan has been maintained by the licensee for a period of time of one (1) or more complete months. Such earned maintenance charges shall be determined by multiplying the total number of months in the term of the loan contract in which the loan has been maintained by the licensee by the amount of the maintenance charge authorized under O.C.G.A. § [7-3-11](#).

(b) "Maintenance charges" shall mean charges by a licensee for maintaining a loan for a period of one or more months in accordance with the provisions of O.C.G.A. § [7-3-11](#) and this Rule.

(c) "Month" shall mean a complete calendar month for all loans whose contract begins as of the first day of the calendar month. For all other loans, the term month shall mean a period of thirty (30) consecutive calendar days and for the purpose of calculation of refunds under the provisions of Paragraph 4 of this Rule, the term "month" shall mean thirty (30) consecutive calendar days.

(d) "Unearned maintenance charges" shall mean those maintenance charges applicable to the partial month in the term of the loan contract in which the loan was maintained by the licensee for one (1) or more days but in which the loan contract was terminated prior to its scheduled maturity date on a day other than the ending day of a month as defined in this Rule.

(2) A licensee may collect from an installment loan borrower a monthly maintenance charge as specified in O.C.G.A. § [7-3-11](#) for each month that such loan is maintained by the licensee and such maintenance charges shall be calculated and collected as follows:

(a) The "total maintenance charges collectible" over the entire term of the consumer loan shall not exceed the amount obtained by multiplying the total number of months in the term of the loan contract by the monthly maintenance charge specified in the GILA except as provided in subsection (c) of this Rule.

(b) The "total maintenance charges collectible per installment" shall not exceed the amount obtained by dividing the "total maintenance charges collectible" as calculated in (a) above by the total number of installments contemplated in the loan contract except as provided in subsection (c) of this Rule.

(c) A borrower shall not be required by a licensee to pay an amount of maintenance charges at any one time which exceeds the "total amount of maintenance charges collectible per installment" as calculated in (b) above; provided that nothing contained herein shall be deemed to prohibit a licensee from collecting any earned but uncollected portion of such maintenance charges due and owed by the borrower to the licensee on previous installments of the same loan contract or from collecting any unearned maintenance charges which are otherwise due and owed by the borrower to the licensee by virtue of the application of the refund method prescribed in Paragraph 4 of this Rule.

(3) In no event shall a licensee charge a maintenance charge to a borrower for any month in the term of the loan contract in which the loan was not maintained by the licensee and in no event shall a licensee charge a maintenance charge for maintaining a loan contract past the scheduled maturity date of the loan, regardless of the number of days such loan is maintained past the scheduled maturity date.

(4) In the event that a discharge, refinancing, prepayment, acceleration, or any other event occurs which causes a consumer loan to terminate prior to its scheduled maturity date, the licensee shall make a refund of the amount of any unearned maintenance charges applicable to the loan contract.

(5) Maintenance charges shall be considered as an additional charge and:

(a) Shall not be considered in the calculation of any interest, fees, or other charges otherwise authorized by law or regulations including charges for any premiums for insurance written in connection with a consumer loan; provided, that such maintenance charges will be subject to the provisions of O.C.G.A. § [7-3-11](#).

(b) A borrower's failure to pay any maintenance charges applicable to the loan when due shall not be considered by a licensee as the occurrence of an event which causes the outstanding unpaid balance of the loan contract to become immediately due and payable by virtue of any acceleration clause or other similar clause or provision contained in the loan contract.

(6) If maintenance charges are to be charged and collected by a licensee on an installment loan contract the licensee shall be required to:

(a) Clearly, prominently, conspicuously and separately itemize in the loan contract:

- i. The face amount of the contract.
- ii. The total amount of maintenance charges collectible under the loan.
- iii. The total amount of each payment including maintenance charges.
- iv. The total of payments including maintenance charges.

(b) Provide space for and record the actual amounts of individual charges on the account record with respect to:

- i. The face amount of the contract.

- ii. The total amount of maintenance charges collectible under the loan.
- iii. The total amount of each payment including maintenance charges.
- iv. The total of payments including maintenance charges.

Cite as Ga. Comp. R. & Regs. R. 80-14-5-.02

AUTHORITY: O.C.G.A. §§ [7-3-11](#), [7-3-14](#), [7-3-51](#).

HISTORY: Original Rule entitled "Maintenance Charges" adopted. F. Aug. 19, 2020; eff. Sep. 8, 2020.

80-14-5-.03 Closing, Convenience, and Other Fees

(1) Closing Fees. In addition to any other charges authorized by the Georgia Installment Loan Act ("Act"), a licensee may collect a closing fee at the time of making a loan to the extent authorized by O.C.G.A. § [13-1-14](#).

(a) No licensee may collect a closing fee unless, prior to the advance of money or the extension of credit, such licensee conducted an investigation or verification of the borrower's credit history, residences, references, employment, or sources of income. Each licensee shall retain on file the procedures that the licensee uses to conduct such investigations and verifications.

(b) The amount of the closing fee shall be listed in the loan agreement after the loan fees authorized by O.C.G.A. § [7-3-11](#) but before the maintenance charge fee.

(2) Convenience Fees. In addition to any other charges authorized by the Act, a licensee may collect convenience fees to offset the cost of receiving payment by electronic means, to the extent authorized by O.C.G.A. § [13-1-15](#). If a licensee elects to calculate convenience fees based on average cost for that specific type of payment over the preceding calendar year rather than the actual cost, the licensee shall maintain documentation supporting the calculation of the average cost.

(3) Unaffiliated Third-Party Fees. Fees charged to a consumer by a third party unaffiliated with a licensee to negotiate a payment instrument, including but not limited to check cashing fees or automated teller machine fees, are not prohibited by the Act.

(4) Late Charges. O.C.G.A. § [7-3-14\(4\)](#) specifically provides that a licensee may charge and collect from the borrower a late or delinquent charge of \$10.00 or an amount equal to 5¢ for each \$1.00 of any installment which is not paid within five days from the date such payment is due, whichever is greater, provided that this late or delinquent charge shall not be collected more than once for the same default. Therefore, a licensee is not authorized to charge and collect a late or delinquent charge from a borrower until such time as that borrower has actually failed to pay an installment within five days after the date such payment was due. Under no circumstances is a licensee authorized to charge or collect and hold any unearned late or delinquent charge in advance, to be refunded if said installment is paid on or within five days from the date such payment is due.

(5) Charges for Refinancing. When any debt is renewed or refinanced by any creditor, the consumer shall be entitled to a refund or credit of that unearned portion of the interest charge computed as of the date of such refinancing or renewal and pursuant to the methodology set forth in O.C.G.A. § [7-3-14](#).

Cite as Ga. Comp. R. & Regs. R. 80-14-5-.03

AUTHORITY: O.C.G.A. §§ [7-3-14](#), [7-3-51](#), [13-1-14](#), [13-1-15](#).

HISTORY: Original Rule entitled "Closing, Convenience, and Other Fees" adopted. F. Aug. 19, 2020; eff. Sep. 8, 2020.

80-14-5-.04 Unsolicited Live Checks

- (1) "Live check" means a negotiable check or other negotiable instrument that may be used by a consumer to activate a loan regulated by the Georgia Installment Loan Act ("Act").
- (2) The licensee must maintain in its office a system for:
 - (a) preventing the offering of an unsolicited live check to an individual who is not credit-worthy; and
 - (b) protecting the intended recipient of an unsolicited live check and the licensee in the event of the fraudulent conversion of the unsolicited live check.
- (3) Any use of an unsolicited live check must contain:
 - (a) the ZIP+4 code and the name of the county of the recipient in the address line of the live check;
 - (b) a check number or other tracking number for the loan offered on the live check;
 - (c) the following statement, printed in 14 point size font boldface type on the face of the live check: **"This is a loan."**;
 - (d) the following statements printed on the face of the live check: "Cashing this check requires repayment of the loan plus potential charges. Read all terms.";
 - (e) the following statement printed clearly and conspicuously in the solicitation or accompanying disclosure statement: "You have the right to file a written complaint with the licensee via [mailing address or email address] and with the Department of Banking and Finance via email at dbfgila@dbf.state.ga.us." and,
 - (f) the name on record with the Department, unique identifier, and telephone number of the licensee.
- (4) The terms of the loan resulting from an unsolicited live check must comply with the Act and the rules and regulations of the Department.
- (5) The licensee may not offer or provide insurance or other ancillary products in conjunction with a loan obtained through an unsolicited live check.
- (6) The licensee may not send an unsolicited live check to an individual who resides beyond the boundaries of a county in which the licensee has an approved location or beyond the boundaries of any contiguous county in which the licensee has an approved location. In the event a live check is negotiated by a consumer that resides outside the county in which the licensee has an approved location or resides more than twenty-five (25) miles from an approved location, the licensee must provide a means for the consumer to submit payments electronically without imposing a convenience fee pursuant to O.C.G.A. § [13-1-15](#).
- (7) The licensee must report to the Department within ten (10) business days of the licensee having any knowledge of any suspected or confirmed fraud related to an unsolicited live check.

Cite as Ga. Comp. R. & Regs. R. 80-14-5-.04

AUTHORITY: O.C.G.A. §§ [7-3-10](#), [7-3-51](#).

HISTORY: Original Rule entitled "Unsolicited Live Checks" adopted. F. Aug. 19, 2020; eff. Sep. 8, 2020.

80-14-5-.05 Debt Collection

(1) In addition to the requirements of O.C.G.A. § [7-3-33](#), each non-employee debt collector utilized by a licensee must comply with the requirements of the Fair Debt Collection Practices Act ("FDCPA"), 18 U.S.C. 1692 *et seq.*

(2) Every licensee shall be presumed to know that any employee or agent of the licensee, which includes non-employee debt collectors utilized by the licensee, will be acting for and on behalf of the licensee in connection with the collection of any debt allegedly owed the licensee. Every licensee shall be responsible for compliance with O.C.G.A. § [7-3-33](#) by the employee or agent in collecting or attempting to collect any debt allegedly owed to the licensee.

Cite as Ga. Comp. R. & Regs. R. 80-14-5-.05

AUTHORITY: O.C.G.A. §§ [7-3-33](#), [7-3-51](#).

HISTORY: Original Rule entitled "Debt Collection" adopted. F. Aug. 19, 2020; eff. Sep. 8, 2020.

Department 120. RULES OF COMPTROLLER GENERAL

Chapter 120-2. RULES OF COMPTROLLER GENERAL OFFICE OF COMMISSIONER OF INSURANCE

Subject 120-2-23. INSURANCE HOLDING COMPANY REGULATIONS

120-2-23-.23 Exemption for Passive Investors

1) Institutional investors, their sponsored investment funds, subsidiaries and affiliates who meet the following criteria will not be presumed to control a domestic insurer under O.C.G.A. § [33-13-1\(3\)](#), and therefore, the Commissioner may exempt such investors, in accordance with O.C.G.A. § [33-13-3\(e\)](#), from Form A filing requirements and being included in Form B requirements in accordance with O.C.G.A. § [33-13-4\(j\)](#) in connection with such passive investments. Investors may seek this exemption are those who:

- a) Only make passive investment directly or indirectly in publicly traded voting securities of insurance holding companies with a domestic insurer;
- b) Whose investments directly or indirectly equal or exceed 10% of the voting securities of such companies; and
- c) Whose passive investment in such companies are not entered into for the purpose of changing or influencing the control of a domestic insurer.

2) The Commissioner may grant the exemption in accordance with O.C.G.A. § [33-13-3\(e\)](#) and O.C.G.A. § [33-13-4\(j\)](#) if an applicant meets the following conditions:

a) The applicant is a "Qualifying Investor"

i) A "Qualifying Investor" is an investor that directly or indirectly purchases voting securities of publicly-traded insurance holding companies held in an investment fund or in order to track a specified reference index; and

ii) Files, or would be eligible to file, a Schedule 13G pursuant to 17 CFR 240.13d-1(b) of the Regulations of the Securities and Exchange Commission with respect to the publicly traded securities of the relevant insurance holding company held by such investor.

b) On an annual basis, each Qualifying Investor will certify to the Commissioner that:

i) It does not seek to exercise "control" within the meaning of O.C.G.A. § [33-13-1\(3\)](#) over any applicable domestic insurer or its holding company; and

ii) As evidence of its passive intent it has filed or would be eligible to file a Schedule 13G under the Exchange Act with respect to the publicly traded securities of the relevant insurance holding company. Provided that:

(1) Qualifying Investors who certify to the Commissioner their mere eligibility to file a Schedule 13G must make a certification to the Commissioner identical to that found in Schedule 13G Item 10 (a).

iii) The Qualifying Investor shall submit to the Department annual reports of its holdings in insurance holding companies with domestic insurer subsidiaries.

iv) The Qualifying Investor shall commit to refrain from seeking or accepting representation on the board of directors of any insurance holding companies with domestic insurer subsidiaries in which it invests. Similarly, the

Qualifying Investor would commit to refrain from proposing a director or slate of directors in opposition to a nominee proposed by the management or board of directors of such companies.

3) Qualifying Investors whose investments exceed 20% of the total voting securities of such relevant companies or who are no longer eligible to file a Schedule 13G and instead must file a 13D pursuant to 17 CFR 240.13d-1(a) of the Regulations of the Securities and Exchange Commission with respect to the publicly traded voting securities of the relevant insurance holding company held by such investor, must notify the Commissioner within 10 of the date the Qualifying Investor became aware of such a change.

4) Any officer, director, representative, or employee of a Qualifying Investor or insurance holding company system who willfully and knowingly subscribes to or makes or causes to be made any false statements or false reports or false filings with the intent to deceive the Commissioner in the performance of his or her duties under this rule shall be subject to the penalties provided for in O.C.G.A. § [33-13-11](#) and any other relevant penalties that may be found in O.C.G.A. Title 33.

Cite as Ga. Comp. R. & Regs. R. 120-2-23-.23

AUTHORITY: O.C.G.A. §§ [33-2-9](#), [33-13-3](#), [33-13-4](#).

HISTORY: Original Rule entitled "Exemption for Passive Investors" adopted. F. Aug. 18, 2020; eff. Aug. 24, 2020, as specified by the Agency.

Department 150. RULES OF GEORGIA BOARD OF DENTISTRY

Chapter 150-7. OTHER LICENSES

150-7-.04 Dental Provisional Licensure by Credentials

(1) For purposes of this rule:

(a) "State" includes Washington D.C. and all U.S. territories.

(b) "Provisional Licensure by Credentials" means a license to practice dentistry in the State of Georgia granted to individuals licensed to practice dentistry in another state who have not met all of the requirements for a dental license by examination but who have met equivalent requirements for the practice of dentistry as set forth in O.C.G.A. § [43-11-41](#) and by board rule.

(c) "Full-Time Clinical Practice" means a minimum of 1,000 hours for each full twelve (12) month period of licensure immediately preceding the date of the application in the hands-on treatment of patients. For the purposes of this rule, each such period shall not be less than a full twelve (12) months. Neither clinical practice through training programs nor during periods of residency qualifies as full-time clinical practice. Whether apart of or separate from the training or residency program, no clinical practice while participating in or enrolled in any training or residency program shall be considered for the purposes of this rule.

(d) "Active Dental License" means a license to practice dentistry held by an individual.

(e) "Full-Time Clinical Faculty Practice" means a minimum of 1,000 hours for each full twelve (12) month period of licensure immediately preceding the date of the application in the teaching of clinical dental skills at an ADA-accredited dental school/program. For the purposes of this rule, each such period shall not be less than a full twelve (12) months. For any time periods during which the applicant is participating in or enrolled in any training or residency program, the teaching of clinical skills shall not be considered for the purposes of this rule.

(2) Only those applicants licensed and currently engaged in full-time clinical practice, as defined in subsection (1)(c) of this rule, in a state that has a credentialing law similar to the licensure by credentials law in Georgia will be considered by the board for a provisional license by credentials. Applicants from states not issuing licenses by credentials are ineligible.

(3) As set forth in O.C.G.A. § [43-11-41](#), an applicant for a provisional license by credentials must also meet the following requirements:

(a) Must have an active dental license in good standing from another state.

(b) Must have received a doctor of dental surgery (D.D.S.) degree or a doctor of dental medicine (D.M.D.) degree from a dental school approved by the board and accredited by the Commission on Dental Accreditation of the American Dental Association (A.D.A.) or its successor agency.

(c) Applicants must have been in full-time clinical practice, as defined in subsection (1)(c) of this rule; full-time faculty as defined in subsection (1)(e) of this rule; or a combination of both for each of the five years immediately preceding the date of the application.

(d) Candidates convicted of a misdemeanor involving moral turpitude or dealing with the administering, dispensing or taking of drugs including, but not limited to controlled substances, are not eligible.

(e) Those applicants who have received a doctoral degree in dentistry from a dental school accredited by the Commission on Dental Accreditation of the American Dental Association, or its successor agency, must provide the following in order to complete their application:

1. Certified copy of the applicant's testing results showing passage of all sections with a score of 75 or higher or its equivalent score on a clinical examination administered by the board or a testing agency designated and approved by the board.

(i) After a fourth failure of one or more sections of any clinical examination, no further attempts will be recognized by the board for licensure by credentials in Georgia.

2. Show passage with a score of 75 or higher on a jurisprudence examination on the laws and rules governing the practice of dentistry in the State of Georgia. Such examination shall be administered in the English language.

3. Proof of current CPR certification;

4. Copies of any and all National Practitioner's Data Bank reports pertaining to the applicant;

5. Official transcripts under seal from a school or university from which the applicant received a doctorate in dentistry;

6. National Board scores showing passage of all sections of the examination with a score of 75 or higher;

7. Verification of licensure from all states where the applicant has ever held or currently holds a license to practice dentistry;

8. Furnish a background check. The applicant shall be responsible for all fees associated with the performance of a background check.

9. In accordance with O.C.G.A. § [50-36-1](#), all applicants applying for licensure must submit an Affidavit Regarding Citizenship and submit a copy of secure and verifiable documentation supporting the Affidavit with an application.

(4) Those applicants who have received a doctoral degree in dentistry from a dental school not accredited by the Commission on Dental Accreditation of the American Dental Association, or its successor agency, in addition to the information required in subsection (3)(a), (c), and (d) of this rule must also provide the following in order to complete their application:

(a) Proof of successful completion at an ADA-accredited dental school approved by the board of the last two years of a pre-doctoral program as a full-time student under the conditions required of other full-time students, except as excused or limited in the manner that any other student's participation would be excused or limited by state and federal law, and receipt of the doctor of dental surgery (D.D.S.) or doctor of dental medicine (D.M.D.) degree; and

(b) Certification by the dean of the accredited dental school where the applicant took the required supplementary program specified in O.C.G.A. § [43-11-41\(a\)](#) setting forth that the applicant has achieved the same level of didactic and clinical competency as expected of a graduate of the school and that the student has completed the last two years of a pre-doctoral program under the conditions required of other full-time students, except as excused or limited in the manner that any other student's participation would be excused or limited by state and federal law.

(5) A certification letter from a dental board or regional testing agency of a passing score of 75 or higher on each section of a clinical licensure examination substantially equivalent to the clinical licensure examination required in Georgia and which was administered by the dental board or its designated testing agency. A certification letter from the applicant's dental school is not acceptable. Sections of clinical licensure examinations that include slot preparations of restorative dentistry shall not be deemed substantially equivalent to the sections of clinical licensure examinations required in Georgia. Such scores shall neither be accepted nor recognized by the Board.

(a) Such certification shall state that the examination included procedures performed on human subjects as part of the assessment of clinical competencies and shall have included evaluations in the following areas:

1. periodontics, human subject clinical abilities testing;

2. endodontics, clinical abilities testing;
 3. posterior class II amalgam or posterior class II composite preparation and restoration, human subject clinical abilities testing;
 4. anterior class III composite preparation and restoration, human subject clinical abilities testing;
 5. crown preparation, clinical abilities testing;
 6. prosthetics, written or clinical abilities testing;
 7. oral diagnosis, written or clinical abilities testing; and
 8. oral surgery, written or clinical abilities testing.
- (b) Evaluations of restorative dentistry from slot preparations shall not meet the requirements of (5)(a).
- (c) The Board, in its discretion, may waive a specific human subject clinical abilities testing requirement if:
1. An applicant represents himself or herself as a specialist and qualifies for such title under Rule [150-11-.01](#),
 2. The applicant's clinical examination did not include human subject clinical abilities testing in the area of his or her specialty, and
 3. The applicant has practiced in that specialty for at least 10 years.
- (d) In addition to the foregoing requirements to be eligible for licensure consideration by credentials, a license examination after January 1, 1998 shall include:
1. anonymity between candidates and examination raters;
 2. standardization and calibration of raters; and
 3. a mechanism for post exam analysis.
- (e) After a fourth failure of one or more sections of any clinical examination, no further attempts will be recognized by the board for licensure by credentials in Georgia.
- (f) All applicants must show passage of a jurisprudence examination on the laws and rules governing the practice of dentistry in the State of Georgia. Such examinations shall be administered in the English language.
- (6) Active duty military dentists on federal installations are exempt from the state of practice requirement as contained in subsection (2) of this rule as long the applicant has an active license in an acceptable state and meets all other requirements as set forth in this rule.
- (7) Contract employees on Georgia federal installations are exempt from the state of practice requirement as contained in subsection (2) of this rule as long the applicant has an active license in state and meets all other requirements as set forth in this rule.
- (8) An active duty military dentist or contract employee on a Georgia federal installation who applies for licensure by credentials must provide a letter from the supervising authority/commanding officer at the federal installation. Such letter must include but not be limited to the applicant's general service record, any complaint or disciplinary action as well as continuing education that the credentialing candidate may have obtained.

(9) For the first five biennial renewal periods, the holder of a dental provisional license by credentials must attest to the fact that he or she has maintained full-time clinical practice in the State of Georgia as defined in subsection (1)(c) of this rule.

(10) The Board shall have the authority to refuse to grant a provisional license by credentials to an applicant, or to revoke the provisional license by credentials to a dentist licensed by the Board, or to discipline a dentist holding a provisional license by credentials in accordance with the provisions of O.C.G.A. §§ [43-1-19](#), [43-11-47](#).

(11) Upon receipt of license, the applicant by credentials must establish active practice in this State within two years of receiving such license or the license shall be automatically revoked. "Active practice" shall mean a minimum of 500 hours for each full twelve (12) month period of licensure in the hands-on treatment of patients.

Cite as Ga. Comp. R. & Regs. R. 150-7-.04

AUTHORITY: O.C.G.A. §§ [43-11-2.1](#), [43-11-7](#), [43-11-40](#), [43-11-41](#), [43-11-42](#), [50-36-1](#).

HISTORY: Original Rule entitled "Dental Provisional Licensure by Credentials" adopted. F. Jan. 28, 2005; eff. Feb. 17, 2005.

Repealed: New Rule of same title adopted. F. May 14, 2007; eff. June 3, 2007.

Repealed: New Rule of same title adopted. F. Sept. 30, 2008; eff. Oct. 20, 2008.

Repealed: New Rule of same title adopted. F. Apr. 20, 2010; eff. May 10, 2010.

Repealed: New Rule of same title adopted. F. June 25, 2010; eff. July 15, 2010.

Amended: F. Jan. 15, 2015; eff. Feb. 4, 2015.

Amended: F. June 29, 2015; eff. July 19, 2015.

Amended: F. May 2, 2018; eff. May 22, 2018.

Amended: F. Aug. 18, 2020; eff. Sep. 7, 2020.

Department 183. RULES OF STATE ELECTION BOARD

Chapter 183-1. GEORGIA ELECTION CODE

Subject 183-1-14. ABSENTEE VOTING

183-1-14-.13 Prompt Notification of Absentee Ballot Rejection

When a timely submitted absentee ballot is rejected, the board of registrars or absentee ballot clerk shall send the elector notice of such rejection and opportunity to cure by mailing written notice, and attempt to notify the elector by telephone and email, if a telephone number or email is on the elector's voter registration record or absentee ballot application, no later than the close of business on the third business day after receiving the absentee ballot. However, for any timely submitted absentee ballot that is rejected within eleven days of Election Day, the board of registrars or absentee ballot clerk shall send the elector notice of such rejection and opportunity to cure by mailing written notice, and attempt to notify the elector by telephone and email, if a telephone number or email is on the elector's voter registration record or absentee ballot application, no later than close of business on the next business day.

Cite as Ga. Comp. R. & Regs. R. 183-1-14-.13

AUTHORITY: O.C.G.A. §§ [21-2-31](#), [21-2-386](#).

HISTORY: Original Rule entitled "Prompt Notification of Absentee Ballot Rejection" adopted. F. Jan. 23, 2020; eff. Feb. 12, 2020.

Amended: F. Mar. 2, 2020; eff. Mar. 22, 2020.

Amended: F. May 1, 2020; eff. May 21, 2020.

Note: Correction of administrative error, "rejecting" corrected to "receiving" (i.e., "... no later than the close of business on the third business day after receiving the absentee ballot."), reflecting the rule as originally promulgated and adopted on April 15, 2020; correction submitted by Agency on August 31, 2020. Effective August 31, 2020.

Department 290. RULES OF DEPARTMENT OF HUMAN SERVICES

Chapter 290-2. FAMILY AND CHILDREN SERVICES

Subject 290-2-3. RULES AND REGULATIONS FOR FAMILY CHILD CARE LEARNING HOMES

290-2-3-.04 Requirements for Applications and Licenses

(1) General

(a) No person shall operate a Family Child Care Learning Home in the State of Georgia unless a License has been obtained from the Department.

(b) A License is nontransferable. A License to operate a Home is not transferable in any way. A change of residence or address or Provider requires a new License. Each License shall become invalid immediately upon the final closure of the Home, or the final suspension, revocation, or restriction of the License in accordance with Georgia law.

(c) Any person that provides care for at least three but not more than six Children for pay under 13 years of age who are not Related to such persons and whose Parent(s) are not residents in the same private residence as the Provider shall make application to the Department for a License to operate a Family Child Care Learning Home.

(d) Any person that provides care for more than six children for pay, related or unrelated, as defined in these rules, shall make application to the Department for a License to operate a Child Care Learning Center, except as provided in [290-2-3-.07\(15\)](#).

(e) No home shall claim to be a licensed Family Child Care Learning Home unless it has been issued a current and valid License by the Department.

(f) License Fees. Every License or Commission issued by the Department to operate a Family Child Care Learning Home shall be subject to an annual fee of \$50.00. If such annual fee is not paid by the date set forth by the Department, the Department may issue a late fee of up to \$250.00 within 30 days of the due date. If such annual fee and any imposed late fees are not paid within 30 days of the due date, the Department shall revoke the License or Commission.

(2) License Applications and Requirements

(a) An application for a License to operate a Family Child Care Learning Home shall be submitted to the Department on the forms provided by the Department.

(b) Pre-Service Training. Prior to the submission of the License application, the applicant who will be responsible for the day-to-day operations shall complete the pre-service training listed below that has been approved by the Department and which will include:

1. Licensure orientation that provides, at a minimum, instruction on the application process and gives an overview of the Department's rules and regulations that relate to the operation of the Family Child Care Learning Home;

2. Pre-licensure training course on Provider competencies that serve as a framework for professional development, which includes, but is not limited to, early learning standards, communication, developmentally appropriate practices, professional and leadership development, business management, and advocacy for the Family Child Care Learning Home, Parents, Children, and Staff;

3. Cardiopulmonary resuscitation (CPR) and first aid training programs offered by certified or licensed health care professionals or trainers and approved by the Department, which include emergency care for infants and children.

(c) Pre-Licensing Visit. Following receipt and review of the complete license application package, the Department shall conduct an on-site inspection of the potential Family Child Care Learning Home to assess compliance with these rules. The Department may deny the application for License if conditions are found during the on-site inspection that pose health and/or safety risks to children.

(d) Criminal Records. Before a License to operate a Home may be issued there shall be on file a valid, current satisfactory Comprehensive Records Check Determination issued by the Department for the Provider and every potential Employee of the Home, including persons age 17 or older who reside at the Home or who, with or without compensation and regardless of age, perform duties at the Home which include personal contact between that person and Children in care.

(e) Qualifications. Before a License to operate a Home may be issued the Provider of the Home and all Employees must be qualified, as defined in these rules, to administer or work in a Home. The Department may require additional reasonable verification of the qualifications of the Provider and Employees at the time of application for a License or at any other time the Department has reason to believe or is shown by credible evidence that a Provider or Employee is not qualified under these rules to administer or work in a Home. Reasonable verification which may be required by the Department may include, but need not be limited to, any or all of the following: statement(s) from an attending physician or other health care professionals attesting to the mental and/or physical health of the Provider or Employee; letters of reference from designated persons in the community where the Provider and/or Employee intends to work or is working; certified copies of court orders and additional records check submissions.

(f) A License will be issued, upon presentation of evidence satisfactory to the Department that the Home is in compliance with applicable statutes and these rules. The License is valid for one year unless voluntarily surrendered, reduced to a restricted License or suspended or revoked by the Department.

(g) Denial of License. The Department may deny a License to an applicant for knowingly making any false statement in connection with the application for a License, for failing to comply with these rules and regulations, for flagrant and continued operation of an unlicensed Home in contravention of the law, for prior denial or revocation of any License within one year of the date of the application, or for failure to provide the Department access to the Home or to information pertinent to the initial License of the Home.

Cite as Ga. Comp. R. & Regs. R. 290-2-3-.04

AUTHORITY: O.C.G.A. § [20-1A-1](#) *et seq.*, [42 U.S.C. § 9857](#) *et seq.*

HISTORY: Original Rule entitled "Records" adopted. F. Feb. 21, 1983; eff. Mar. 23, 1983, as specified by the Agency.

Repealed: New Rule entitled "Registration Requirements and Applications" adopted. F. Feb. 4, 1994; eff. Mar. 1, 1994, as specified by the Agency.

Repealed: New Rule of same title adopted. F. Jan. 12, 2009; eff. Feb. 1, 2009.

Amended: F. Aug. 16, 2013; eff. Sep. 5, 2013.

Amended: F. Dec. 13, 2013; eff. Jan. 2, 2014.

Amended: New title "Requirements for Applications and Licenses." F. Dec. 4, 2015; eff. Dec. 24, 2015.

Amended: F. Sep. 26, 2016; eff. Oct. 16, 2016.

Amended: F. May 26, 2017; eff. June 15, 2017.

Amended: F. Aug. 17, 2018; eff. Sep. 6, 2018.

Amended: F. Aug. 28, 2019; eff. Sep. 17, 2019.

Amended: F. Aug. 31, 2020; eff. Sep. 20, 2020.

290-2-3-.07 Staffing and Supervision

(1) The Provider shall be at least 21 years of age.

(2) Providers must possess and submit valid evidence/documentation of one of the following credentials/degrees issued by either the organizations listed below, an accredited educational institution, or another organization approved/recognized by the Department:

a. Child Development Associate (CDA) credential (issued by the Council for Professional Recognition and kept current); or

b. Technical Certificate of Credit (TCC) in Early Childhood Education; or

c. Technical College Diploma (TCD) in Early Childhood Education; or

d. Associate Degree in Early Childhood Education (AA, AAS, AAT); or

e. Paraprofessional Certificate (issued by the Georgia Professional Standards Commission and kept current); or

f. Bachelor's degree in Early Childhood Education; or

g. Master's degree in Early Childhood Education.

(3) Providers and applicants who have submitted an application for License on or before June 30, 2009 shall be exempt from the requirement stated in (2)(a) through (g) above, except if the Family Child Care Learning Home closes for business and then submits a new application for License on or after July 1, 2009.

Any Provider who submits an application for License on or after July 1, 2009 must meet one of the education requirements listed above. Any Provider who has submitted an application for License on or before June 30, 2009 shall have a high school diploma, General Education Diploma (GED), or similar credentials and shall submit valid evidence/documentation of such credential.

(4) A Home must maintain a personnel file on the Provider, all Employees, Provisional Employees, Personnel, Staff, Students-in-Training, Volunteers, Clerical, Housekeeping, Maintenance and other Support Staff for the duration of the term of employment plus one (1) calendar year, and it shall contain the following: identifying information to include: name, date of birth, social security number, current address and current telephone number; employment history for the past ten years; as applicable to the position held: evidence of education and qualifying work experience, evidence of required program orientation including date and signature of person providing the orientation; evidence of all training required by these rules which shall include: title of training, date of training, trainer's signature, location of training and number of clock hours obtained; a statement completed by the staff member that the information provided is true and accurate; and any other records required by these rules.

(5) Program Orientation. Prior to assignment to children or task, the Provider and all Employees and Provisional Employees must receive initial program orientation.

(6) The initial program orientation must include the following subjects: the Home's policies and procedures; the portions of these rules dealing with the care, health and safety of children; the Staff person's assigned duties and responsibilities; reporting requirements for suspected cases of child abuse, neglect or deprivation; communicable diseases and serious injuries; emergency weather plans; the program's emergency preparedness plan; childhood

injury control; the administration of medicine; reducing the risk of Sudden Infant Death Syndrome (SIDS); hand washing; fire safety; water safety; and prevention of HIV/AIDS and blood borne pathogens.

(7) Health and Safety Orientation. The Provider, Employees and Provisional Employees with direct care responsibilities shall complete health and safety orientation training within the first 90 days of employment. The state-approved training hours obtained will count toward required first year training hours. The training must address the following health and safety topics: prevention and control of infectious diseases (including immunization); prevention of sudden infant death syndrome and use of safe sleeping practices; administration of medication, consistent with standards for parental consent; prevention of and response to emergencies due to food and allergic reactions; building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic; prevention of shaken baby syndrome, abusive head trauma and child maltreatment; emergency preparedness and response planning for emergencies resulting from a natural disaster or a human-caused event (such as violence at a child care facility); handling and storage of hazardous materials and the appropriate disposal of bio contaminants; precautions in transporting children; recognition and reporting of child abuse and neglect; and child development.

(8) First Aid and CPR. Every Provider, Provisional Employee and Employee with direct care responsibilities shall have current evidence of successful completion of a biennial training program in cardiopulmonary resuscitation (CPR) and a triennial training program in first aid which have been offered by certified or licensed health care professionals or trainers and which dealt with emergency care for infants and children. Such training must be completed by the Provider prior to initial licensure. Training must be completed within 90 days from date of hire for Provisional Employees and Employees. The Provider, a Provisional Employee or Employee with current CPR and first aid training must always be on the Home's premises and on any field trip whenever any Child is present.

(9) Annual Training. Every calendar year, after the first year of employment, the Provider, Provisional Employees and Employees shall attend ten (10) clock hours of diverse training which is task-focused in on-going health, safety and early childhood or child development related topics and which is offered by an accredited college, university or vocational program or other Department-approved source. The annual ten (10) clock hours of training shall be chosen from the following fields: child development, including discipline, guidance, nutrition, injury control and safety; health, including sanitation, disease control, cleanliness, detection and disposition of illness; child abuse and neglect, including identification and reporting, and meeting the needs of abused and/or neglected children; and business related topics, including parental communication, recordkeeping, etc.; provided however that such business related training shall be limited to no more than two (2) of the required ten (10) clock hours of training. Records of completion of such training shall be maintained in the Home by the Provider, as required by these rules.

(10) The Provider, Employees and Provisional Employees shall never have been shown by credible evidence, e.g., a court, a department investigation or other reliable evidence to have abused, neglected, sexually exploited, or deprived a child or adult or to have subjected any person to serious injury as a result of intentional or grossly negligent misconduct. The Department may request an oral or written statement to this effect at the time of application or hire or at any other time the Department has reason to believe that a Provider, Employee or Provisional Employee is not qualified under these rules to administer or work in the Home. Upon said request, the Provider, Employee, or Provisional Employee shall provide this statement to the Department.

(11) The Provider, Employees and Provisional Employees must be able to perform adequately the job duties of providing for the care and supervision of the children in the Home in accordance with these rules.

(12) The Provider, Employees and Provisional Employees shall not have made any material false statements concerning qualifications requirements either to the Department or to the Provider.

(13) The Provider, Employees and Provisional Employees must provide additional reasonable verification of the qualifications of the Provider, Employees and Provisional Employees upon request by the Department. Reasonable verification may include, but need not be limited to any or all of the following: statement(s) from an attending physician or other health care professional attesting to the mental and/or physical health of the Provider, Provisional Employee or Employee; letters of reference from designated persons in the community where the Provider, Provisional Employee and/or Employee intend to work or is working; certified copies of court orders; and additional records checks.

(14) The Provider, Employees and Provisional Employees must comply with the background check requirements as outlined in Rule [290-2-3-.21](#) Criminal Records and Comprehensive Background Checks.

(15) The total number of Children not Related to the Provider in the Family Child Care Learning Home, for pay or not for pay, cannot exceed six Children, except that a Provider may care for two additional children who are three years of age or older for two designated one hour periods daily upon approval by the Department.

(16) Whenever Related Children or Children who reside in the Home are present in the Home, the total number of children present under the age of thirteen years may not exceed twelve, and the space requirement of 35 square feet per each child present must be met.

(17) At least one Staff person with a satisfactory Comprehensive Records Check Determination shall supervise Children at all times appropriate to the individual age, needs and capabilities of each child. Such supervision must include, but not be limited to, indoor and outdoor activities, mealtimes, naptime, transportation, field trips, and transitions between activities. "Supervision" means Staff members are providing watchful oversight to the children, volunteers and Students-in-Training. The person(s) supervising in the child care area must be alert, positioned to maximize their ability to hear and see the children at all times, and able to respond promptly to the needs and actions of the children being supervised, as well as the actions of the volunteers and Students-in-Training, and provide timely attention to the children's actions and needs. Staff shall be attentive and participating with all children during mealtimes and shall be seated within an arm's length away from children thirty-six (36) months of age and younger. Plans shall be made to obtain additional Staff help in cases of emergencies.

(18) An Employee or Provisional Employee, who must be at least sixteen (16) years of age, must be present to assist with supervision whenever more than three (3) children under the age of twelve (12) months are present, more than six (6) children under the age of three (3) years are present or more than eight (8) children under the age of five (5) years are present.

(19) If Children are allowed to participate in water activities where the water is over two feet in depth, the Provider or an Adult shall supervise such activities and must have successfully completed a training program in lifeguarding offered by a water-safety instructor certified by the American Red Cross or YMCA or other recognized standard setting agency for water safety instruction.

(a) For water-related activities where water is over two feet in depth, the following Staff: Child ratios shall be maintained:

Ages of Children	Staff: Child Ratio
Under 2 ½	1:2
2 1/2 to 4 years	1:5
4 years & older (who cannot swim a distance of 15 yds. unassisted)	1:6
4 years & older (who can swim a distance of 15 yds. unassisted)	1:8

(b) In lieu of requiring each Child four years and older to take a swimming test, the Provider may accept copies of verifications from a recognized water safety instruction organization stating that the Child has successfully completed a swimming class which required the Child to swim a distance of 15 yards unassisted.

(20) **Employees.** A licensed Home may hire Employees. All Employees:

(a) must comply with the background check requirements as outlined in Rule [290-2-3-.21](#), Criminal Records and Comprehensive Background Checks;

(b) must be informed of the rules for Family Child Care Learning Homes and the Home's policies and procedures for the age group for which they will be providing care;

(c) must be informed of the Home's policies and procedures necessary to the proper performance of their job duties in compliance with the Rules for Family Child Care Learning Homes; and

(d) must participate in the orientation and training required by these rules.

(21) **Provisional Employees.** A licensed Home may hire Provisional Employees. All Provisional Employees:

(a) must comply with the background check requirements as outlined in Rule [290-2-3-.21](#), Criminal Records and Comprehensive Background Checks;

(b) must be informed of the rules for Family Child Care Learning Homes and the Home's policies and procedures for the age group for which they will be providing care;

(c) must be informed of the Home's policies and procedures necessary to the proper performance of their job duties in compliance with the Rules for Family Child Care Learning Homes;

(d) must participate in the orientation and training required by these rules;

(e) must be supervised at all times by the Provider or an Employee with a valid and current satisfactory Comprehensive Records Check Determination; and

(f) may be hired as a permanent Employee by the Home only if the individual receives a satisfactory Comprehensive Records Check Determination by the Department and meets all other qualification requirements in these rules.

(22) **Independent Contractors.** A Home may have an independent contractor to offer supplemental educational or physical activities for Children in care.

(a) Such an independent contractor is considered either an Employee or Provisional Employee of the Home for the purpose of these rules and must comply with the background check requirements as outlined in Rule [290-2-3-.21](#) Criminal Records and Comprehensive Background Checks before being present at the Home while children are present for care or before residing in the Home.

(b) Such an independent contractor is exempted from annual training and first-aid/CPR training requirements.

(23) **Parents.** The Home may have Parents occasionally assist in a classroom, chaperone or accompany a group of Children from the Home on a field trip.

(a) A Parent that is this type of occasional assistant is not required to obtain a Criminal Records Check Determination; however, a Parent that is deemed to be a staff member by the Home or who is age 17 or older and resides at the Home or who is compensated in any way by the Home except through appropriate state or federal funds is considered an Employee or Provisional Employee for purposes of these rules and must comply with the background check requirements as outlined in Rule [290-2-3-.21](#), Criminal Records and Comprehensive Background Checks before being present at the Home while Children other than their own are present for care or before residing in the Home;

(b) No Parent shall be solely responsible for Children other than their own and must be under continuous direct supervision of the Provider or Home Employee with a valid and current satisfactory Comprehensive Records Check Determination while in the presence of Children in care other than their own; and

(c) Such Parent is exempted from annual training and first-aid/CPR training requirements.

(24) **Volunteers.** The Home may have volunteers other than Parents help in a classroom, chaperone or accompany a group of Children from the Home on a field trip.

(a) Volunteers that provide consistent services are considered either Employees or Provisional Employees for the purposes of these rules and must comply with the background check requirements as outlined in Rule [290-2-3-.21](#),

Criminal Records and Comprehensive Background Checks before being present at the Home while children are present for care or before residing in the Home;

(b) No volunteer shall be solely responsible for Children other than their own and must be under continuous direct supervision of the Provider or Home Employee with a valid and current satisfactory Comprehensive Records Check Determination while in the presence of Children other than their own; and

(c) Such volunteer is exempted from annual training and first-aid/CPR training requirements.

(25) **Students-in-Training.** The Home may have Students-in-Training.

(a) Students-in-Training are considered either Employees or Provisional Employees for the purposes of these rules and must comply with the background check requirements as outlined in Rule [290-2-3-.21](#), Criminal Records and Comprehensive Background Checks before being present at the Home while children are present for care or before residing in the Home;

(b) No Student-in-Training shall be solely responsible for Children other than their own and must be under continuous direct supervision of the Provider or a Home Employee with a valid and current satisfactory Comprehensive Records Check Determination while in the presence of Children in care other than their own, and

(c) Such Student-in-Training is exempted from annual training and first-aid/CPR training requirements.

(26) **Clerical, Housekeeping, Maintenance and Other Support Staff.** The Home may have qualified and sufficient direct-care, clerical, housekeeping, maintenance and other support staff to ensure full compliance with these rules without neglecting the supervision of the Children.

(a) **Other Staff That May Have Direct Contact With Children In Care.** A Home may have additional Staff at the Home. Any Staff member that has any personal contact with any Child in care:

1. Is considered either an Employee or Provisional Employee for purposes of these rules and must comply with the background check requirements as outlined in Rule [290-2-3-.21](#), Criminal Records and Comprehensive Background Checks; and

2. may be exempted from annual training and first-aid/CPR training requirements.

(b) **Other Staff That Must Not Have Direct Contact With Children In Care.** The Home may have individuals at the Home to repair and/or maintain the Home while Children are in care. These individuals:

1. must have no contact with Children in care;

2. may not be required to obtain a Fingerprint Records Check Determination, unless they have contact with Children in care; and

3. may be exempted from annual training and first-aid/CPR training requirements.

(27) **Compliance with Applicable Laws and Regulations.** The Provider, Employees and Provisional Employees shall not commit any criminal act, as defined under Georgia law, in the presence of any child enrolled in the Home and shall comply with all applicable laws and regulations.

Cite as Ga. Comp. R. & Regs. R. 290-2-3-.07

AUTHORITY: O.C.G.A. § [20-1A-1](#) *et seq.*, [42 U.S.C. § 9857](#) *et seq.*

HISTORY: Original Rule entitled "Health and Safety" adopted. F. Feb. 21, 1983, eff. Mar. 23, 1983, as specified by the Agency.

Repealed: New Rule entitled "Staffing and Supervision" adopted. F. Feb. 4, 1994; eff. Mar. 1, 1994, as specified by the Agency.

Repealed: New Rule of same title adopted. F. Jan. 12, 2009; eff. Feb. 1, 2009.

Amended: F. Aug. 16, 2013; eff. Sep. 5, 2013.

Amended: F. Dec. 13, 2013; eff. Jan. 2, 2014.

Amended: F. Dec. 4, 2015; eff. Dec. 24, 2015.

Amended: F. June 2, 2016; eff. June 22, 2016.

Amended: F. Sep. 26, 2016; eff. Oct. 16, 2016.

Amended: F. May 26, 2017; eff. June 15, 2017.

Amended: F. Aug. 17, 2018; eff. Sep. 6, 2018.

Amended: F. Aug. 28, 2019; eff. Sep. 17, 2019.

Amended: F. Aug. 31, 2020; eff. Sep. 20, 2020.

290-2-3-.10 Nutrition and Food Services

(1) Compliance with USDA Nutritional Guidelines. Meals and snacks with serving sizes dependent upon the age of the child shall meet nutritional guidelines as established by the United States Department of Agriculture Child and Adult Care Food Program. Meals and snacks shall be varied daily, and additional servings of nutritious food shall be offered to children over and above the required daily minimum, if not contraindicated by special diet.

(2) Non-nutritional Food. Foods and drinks with little or no nutritional value, i.e., sweets, soft drinks, etc. shall be served only on special occasions and only in addition to the required nutritious meals and snacks. Powdered nonfat dry milk shall not be used except for cooking purposes.

(3) Feeding of Infants and Children. A signed written feeding plan for children less than one (1) year of age shall be obtained from Parent(s). Instructions from the Parent(s) shall be updated regularly as new foods are added or other dietary changes are made. The feeding plan shall be posted in the main child care area and must include the child's feeding schedule, the amount of formula or breast milk to be given, instructions for the introduction of solid foods, the amount of food to be given and notation of any type(s) of commercially premixed formula which may not be used in an emergency because of food allergies.

(a) Staff shall hold and feed infants less than six (6) months of age and older children who cannot hold their own bottles or sit alone. Baby bottles shall never be propped; the infant's head shall be elevated while feeding.

(b) Honey shall not be served to children less than one (1) year of age.

(c) Age-appropriate solid foods (including cereal) shall not be given to infants or children less than one (1) year of age until recommended as developmentally appropriate by the child's primary care physician and indicated in writing by the Parent(s). As soon as the feeding plan indicates that a child is ready for solid foods, the child shall be fed from individual spoons and individual containers or dishes. A child shall not be fed directly from the original baby food container if the contents are to be fed to the child at more than one (1) meal or to more than one (1) child.

(d) As soon as the child exhibits a desire to feed him/herself, the child shall be assisted and encouraged to use their fingers for self-feeding, eat with a spoon, and to drink from individual cups.

(e) The Home shall encourage and support breastfeeding. The Home shall have a designated area set aside for breastfeeding mothers to breastfeed.

(f) Food for infants or children less than one (1) year of age shall be cut into pieces one-quarter inch or smaller and food for toddlers shall be cut into pieces one-half inch or smaller to prevent choking.

(g) The Home shall ensure that children do not have excessive amounts of food in their mouths while eating and are chewing their food appropriately to prevent instances of choking. Children shall always be seated when eating and shall not be allowed to lie down or be put to sleep while food is present in their mouths.

(4) Baby Bottles and Formula. All baby bottles shall be clearly labeled with the individual child's name. Formula or breast milk shall be supplied by the Parent daily in bottles. Only the current day's formula or breast milk shall be served. Bottles shall be refrigerated at a temperature of forty (40) degrees Fahrenheit or less. If formula must be provided by the Home, only commercially prepared, ready-to-feed formula shall be used. Refrigerated or frozen breast milk shall only be heated or thawed under warm running water or in a container of warm water.

(5) Feeding Chairs. A feeding chair or similar equipment designed for feeding children shall be provided for the use of each child being fed who is capable of sitting up but who is unable to sit unassisted at a table. The chair or similar equipment must be cleaned with a disinfectant after each use. Such chair or similar equipment shall have a broad base to prevent tipping; a surface that the child cannot raise; a strap or other device which prevents the child from sliding out of the chair; and a feeding surface free of cracks.

(6) Menus. The Home shall provide a menu listing all meals and snacks to be served during the current week. Substitutions shall be recorded on the posted menu. Menus shall be retained at the Home for six (6) months.

(7) Meal Service

(a) Children shall be served all meals and snacks scheduled for the period during which they are present in the Home. This includes breakfast or a morning snack, lunch, an afternoon snack, supper (if the Home offers evening care), and an evening snack prior to bedtime (if the Home offers night time care). In those Homes where the Parent(s) of children enrolled provide the meals and snacks, the Home shall ensure that no child remains at the Home without receiving the scheduled nutritious meals and snacks. There shall be a period of at least two (2) hours between each required meal or snack.

(b) Food and beverages shall be served in individual plates or bowls and with individual glasses or cups, that are not chipped or cracked.

(c) Children shall be encouraged but not forced to eat.

(d) Caregivers shall not use food to punish or reward children.

(e) Children shall be given necessary assistance in feeding and encouraged to develop good nutritional habits.

(f) Hot food shall not be served at a temperature which would cause the children to burn their mouths upon consuming the food.

(g) Drinking water shall be available to all children and shall be offered at least once between meals and snacks.

(8) Restrictions. Food shall be served according to manufacturer's instructions and recommendations. Foods that are associated with young children's choking incidents, such as, but not limited to, peanuts, hot dogs, raw carrots, popcorn, fish with bones, cheese cubes, grapes and any other food that is of similar shape and size of the trachea/windpipe shall not be served to the children less than four (4) years of age. Children older than four (4) years of age may be served these foods provided that the foods are cut in such a way as to minimize choking. Food shall not be accessible or served to children until it has been chopped, diced, cut or mashed and is appropriate for each child's age and individual eating, chewing and swallowing ability.

(9) Modified Diets. When a child requires a modified diet for medical reasons, a written statement from a medical authority shall be on file. When a child requires a modified diet for religious reasons, a written statement to that effect from the child's Parent(s) shall be on file. Staff shall be informed of the diet restriction for the child and only food that complies with the prescribed dietary regimen but still meets the food and nutrition requirements shall be served to the child.

(10) Unconsumed Food. Any portions of food or drink which are served to children or placed on the table for service and are not consumed at that meal or snack by the children to whom the portions are served shall be thrown away. Any formula or breast milk remaining one hour from the beginning of the feeding shall be discarded or returned to Parent(s).

(11) Food. Food shall be in sound condition, free from spoilage and contamination and safe for human consumption. Eggs, pork, pork products, poultry and fish shall be thoroughly cooked. All raw fruits and vegetables shall be washed thoroughly before being cooked or served. Foods not subject to further washing or cooking before serving shall be stored in such a manner as to be protected against contamination. Meats, poultry, fish, dairy products and processed foods shall have been inspected under an official regulatory program. Hot foods shall be maintained at a temperature of one hundred forty (140) degrees Fahrenheit or above except during serving. Food and drinks shall be prepared as close to serving time as possible to protect children and Personnel from foodborne illness.

(12) Food Preparation Areas. The Home shall have a designated space for food preparation and in an area not used for diaper changing. The area shall be kept clean and free of accumulation of dust, dirt, food particles and grease deposits. Food preparation surface areas shall be nonporous with no unsealed cracks or seams.

(13) Refrigeration. All perishable and potentially hazardous foods shall be refrigerated at a temperature of forty (40) degrees Fahrenheit or below and served promptly after cooking. Freezer temperature shall be maintained at zero (0) degrees Fahrenheit or below.

(14) Storage Areas. The Home shall have a designated space for storage of food and kitchen items. The area shall be kept clean and free of accumulation of dust, dirt, food particles and grease deposits.

(15) Containers of food shall be stored above the floor on clean surfaces protected from splash and other contamination. Containers for food storage other than the original container or package in which the food was obtained, shall be impervious and non-absorbent, have tight-fitting lids or covers and labeled as to contents.

(16) Cleaning materials shall be stored separately from food.

(17) Garbage. Garbage shall be stored in trash containers with lids and emptied and cleaned as needed. Areas around outdoor containers shall be kept clean.

(18) Hygiene. The person preparing meals shall wash their hands and arms thoroughly with soap and warm water before starting food service work and as often as necessary during food preparation and serving to remove soil and contamination.

(19) Dishwashing. Non-disposable dishes and silverware shall be properly cleaned by pre-rinsing, or scraping, washing, sanitizing and air drying.

Cite as Ga. Comp. R. & Regs. R. 290-2-3-.10

AUTHORITY: O.C.G.A. § [20-1A-1](#) *et seq.*

HISTORY: Original Rule entitled "Reporting Requirements" adopted. F. Feb. 21, 1983; eff. Mar. 23, 1983, as specified by the Agency.

Repealed: New Rule entitled "Nutrition and Food Services" adopted. F. Feb. 4, 1994; eff. Mar. 1, 1994, as specified by the Agency.

Repealed: New Rule of same title adopted. F. Aug. 7, 2009; eff. Aug. 27, 2009.

Amended: F. Dec. 4, 2015; eff. Dec. 24, 2015.

Amended: F. May 26, 2017; eff. June 15, 2017.

Amended: F. Aug. 31, 2020; eff. Sep. 20, 2020.

290-2-3-.11 Health, Safety, and Discipline

(1) Health.

(a) Children, Parents, Staff, or any other persons being supervised by the Staff, shall not be allowed in the Home who knowingly have or present symptoms of a contagious communicable disease (such as fever, coughing, fatigue, muscle aches, diarrhea, etc.) or any virus or illness (such as COVID-19, etc.) identified during a public health emergency.

(b) Parents of any Child who becomes ill or is injured while in care shall be notified immediately of any illness or injury requiring professional medical attention, or any illness which may not require professional medical attention but which produces symptoms causing moderate discomfort to the Child, such as, but not limited to, any of the following: elevated temperature, vomiting or diarrhea.

(c) The Home shall obtain emergency medical services when required by a child's condition.

(d) Except for first aid and as authorized under Georgia law, personnel shall not dispense prescription or nonprescription medications to a Child without specific written authorization from the Child's physician or Parent. All medications shall be stored as authorized under Georgia law or in accordance with the prescription or label instructions and kept in places that are inaccessible to children. Each dose of medication given to a Child shall be documented showing the Child's name, name of medication, date and time given, and the name of the person giving the medication.

(e) The Home and any vehicle used by the Home for transportation of Children shall have a first aid kit which shall at least contain: scissors, tweezers, gauze pads, thermometer, adhesive tape, band-aids, insect-sting preparation, antiseptic cleaning solution, antibacterial ointment, bandages, disposable rubber gloves, protective eyewear, facemask, and cold pack. The first aid kit, together with a first aid instruction manual which must be kept with the kit at all times, shall be stored in a central location so that it is not accessible to Children but is easily accessible to the Provider and Staff. The Home must also maintain written directions for the use of universal precautions for handling blood and bodily fluids. The directions on the use of universal precautions must be kept with the first aid kit at all times.

(f) Diapers shall be changed in the Child's own crib or on a nonporous surface which is cleaned with a disinfectant and dried with a single use disposable towel after each diaper change.

(g) Soiled diapers and linens shall be disposed of in a closed container.

(h) If used, toilet potty chairs shall after each use be emptied by disposal in a flush toilet, cleaned with a disinfectant, and stored in the bathroom. If a sink is used, it shall be disinfected after each use.

(i) Personnel shall wash their hands with liquid soap and warm running water: immediately before and after each diaper change; immediately upon the first Child's arrival in the Home for care and upon re-entering the Home after outside play; before and after dispensing oral medications and applying topical medications, ointments, creams or lotions, handling and preparing food, eating, drinking, preparing bottles, feeding or assisting children with eating and drinking; after toileting or helping children with toileting, using tobacco products, handling garbage and organic waste, touching animals or pets, handling bodily fluids such as, but not limited to, mucus, saliva, vomit or blood and after contamination by any other means.

(j) Children's hands shall be washed with liquid soap and warm running water: immediately upon arrival for the day and re-entering the child care area after outside play; before and after eating meals and snacks, handling or touching food, and playing in water; after toileting and diapering, playing in sand, touching animals or pets, contact with bodily fluids such as, but not limited to, mucus, saliva, vomit or blood, and after contamination by any other means.

(k) Washcloth handwashing is permitted for infants when the infant is too heavy to hold for handwashing or cannot stand safely to wash hands at a sink and for children with special needs who are not capable of washing their own hands. An individual washcloth shall be used only once for each child before laundering.

(l) Smoking is prohibited on the premises of a Home during the hours of operation and no smoking signs must be posted. Smoking is also prohibited in any vehicle used to transport children during the hours that the Home is in operation.

(m) Children shall be kept clean, dry and comfortable.

(n) Pets in the Home shall be vaccinated in accordance with the requirements of the local county Boards of Health. Unconfined pets shall not be permitted in child care areas when any Child is present except for supervised learning experiences.

(o) Pets and all other animals shall be controlled to assure that proper sanitation of the premises is maintained and animals are not a hazard to the children, personnel or other visitors. No animal, such as but not limited to, pit bull dogs, ferrets, and poisonous snakes, which may have a vicious propensity, shall be permitted on the Family Child Care Learning Home premises at any time there are children on the premises. Horses or other farm animals shall not be quartered on any property over which the Provider exercises any control that is located within five hundred (500) feet of the building in which the Family Child Care Learning Home is located.

(2) Safety.

(a) A Home shall have a written plan for handling emergencies, including but not limited to fire, severe weather, loss of electrical power or water, and death, serious injury or loss of a child, a threatening event, or natural disaster which may occur at the Home. The Home will have in place procedures for evacuation, relocation, shelter-in-place, lock-down, communication and reunification with families, continuity of operations, accommodation of infants and toddlers, children with disabilities, and children with chronic medical conditions. No Home personnel shall impede in any way the delivery of emergency care or services to a child by licensed or certified emergency health care professionals.

(b) An operable telephone shall be readily available in the Home with the following telephone numbers posted in a conspicuous place next to the telephone: a physician or hospital, an ambulance or rescue squad service, the local fire department, the local police department, the county health department and the regional poison control center. In those areas of the state serviced by the 911 emergency number, 911 may be posted in lieu of the phone numbers required for ambulance, fire and police.

(c) Documentation of drills required by these rules shall be maintained in the Home. The Home shall conduct drills for fire, tornado and other emergency situations. The fire drills will be conducted monthly and tornado and other emergency situation drills will be conducted every six months. The Home shall maintain documentation of the dates and times of these drills for two years.

(d) Children shall not have access to hanging cords or other hazardous objects.

(e) Clear glass doors shall be marked to avoid accidental impact.

(f) Poisons, medicines, cleaning agents, razors, aerosol cans and other potential hazardous materials shall be stored out of reach of children or in locked cabinets.

(g) Firearms shall be stored so they are not accessible to children.

(h) At least one UL Approved smoke detector shall be on each floor of the Home and such detectors shall be maintained in working order. At least one 2-A:10-B:C fire extinguisher shall be kept in the child care area to be located no more than thirty feet from the kitchen. The extinguisher shall be maintained in working order and shall be inaccessible to the children.

(i) Flammable liquids, such as gasoline or kerosene, shall not be stored inside the Home.

(j) If children are transported in a vehicle by the Provider or a Home's employee, the driver shall have a current driver's license.

(k) When transported in a vehicle by the Provider or a Home's employee, children shall be restrained by either individual seat belts or appropriate child restraints in accordance with current state and federal laws and regulations.

(l) No child shall be left unattended in a motor vehicle.

(m) If children are transported, written authorization for the Child to receive emergency medical treatment when the Parent is not available, as required by these rules, shall be maintained in the vehicle.

(n) If a Provider does not carry liability insurance coverage sufficient to protect its clients, the Provider shall post that fact in a conspicuous place in the program. Such notice shall be in at least ½ inch letters. A Provider that fails to post may be subject to a civil fine of \$1,000.00.

(3) Discipline. Disciplinary actions used to correct a Child's behavior, guidance techniques and any activities in which the Children participate or observe at the Home shall not be detrimental to the physical or mental health of any child.

(a) A Provider or a Home's Provisional Employees or Employees shall not: physically or sexually abuse a child, or engage in or permit others to engage in sexually overt conduct in the presence of any Child enrolled in the Home; inflict corporal/physical punishment upon a Child; shake, jerk, pinch or handle roughly a Child; verbally abuse or humiliate a Child which includes, but is not limited to, the use of threats, profanity, or belittling remarks about a Child or his family; isolate a Child in a dark room, closet, or unsupervised area; use mechanical or physical restraints or devices to discipline Children; use medication to discipline a Child or to control Children's behavior without written medical authorization issued by a licensed professional and given with the Parent's written consent; or discipline a Child by unreasonably restricting a Child from going to the bathroom; or by punishing toileting accidents; or by force feeding a Child; or by not feeding a Child regularly scheduled meals and/or snacks; or by forcing or withholding naps; or by allowing children to discipline or humiliate other Children; or by confining a Child for disciplinary purposes to a swing, high chair, infant carrier, walker or jump seat.

Cite as Ga. Comp. R. & Regs. R. 290-2-3-.11

AUTHORITY: O.C.G.A. § [20-1A-1](#) *et seq.*

HISTORY: Original Rule entitled "Registration" adopted. F. Feb. 21, 1983; eff. Mar. 23, 1983, as specified by the Agency.

Repealed: New Rule entitled "Health, Safety and Discipline" adopted F. Feb. 4, 1994; eff. Mar. 1, 1994, as specified by the Agency.

Repealed: New Rule of same title adopted. F. Jan. 12, 2009; eff. Feb. 1, 2009.

Repealed: New Rule of same title adopted. F. Dec. 2, 2009; eff. Dec. 22, 2009.

Repealed: New Rule of same title adopted. F. Aug. 5, 2010; eff. Aug. 25, 2010.

Amended: F. Aug. 16, 2013; eff. Sept 5, 2013.

Amended: F. Feb. 24, 2014; eff. Mar. 16, 2014.

Amended: F. Dec. 4, 2015; eff. Dec. 24, 2015.

Amended: F. Sep. 26, 2016; eff. Oct. 16, 2016.

Amended: F. May 26, 2017; eff. June 15, 2017.

Amended: F. Aug. 31, 2020; eff. Sep. 20, 2020.

290-2-3-.14 Reporting

(1) Required Reports. Within twenty-four (24) hours or the next work day, the Home shall report or cause to be reported to the Department: any death of a Child while in the care of the Home; any serious illness or injury requiring hospitalization or professional medical attention other than first aid of a Child while in the care of the Home; any situation when a Child in care becomes missing, such as but not limited to, a Child who is left on a vehicle, a Child who leaves the Home, playground, or property, or a Child who is left behind on any trip; any fire; any structural disaster; any emergency situation that requires temporarily relocating children; and any time the Home's operating status changes (i.e., open to closed or temporarily closed and temporarily closed to open).

(2) Criminal Record. Within twenty-four (24) hours or the next work day, that the Home knows or reasonably should know that there has been an arrest or change in the Comprehensive Records Check Determination of any Provider or Employee (including any resident of the Home age 17 or older), or the Fingerprint Records Check Determination for any Provisional Employee, the Provider or designated person-in-charge shall report or cause to be reported to the Department the incident and the name of any such Provider, Employee or Provisional Employee of the Home.

(3) Child Abuse, Neglect or Deprivation. Within twenty-four (24) hours or the next work day, the Provider or designated person-in-charge shall report or cause to be reported any suspected incident of child abuse, neglect or deprivation to the local County Department of Family and Children Services in accordance with state law and to the Department, notifying that such a report was made.

(4) Communicable Diseases. The Provider or designated person-in-charge shall report or cause to be reported any cases or suspected cases of notifiable communicable diseases (COVID-19, Tuberculosis, Measles, etc.) or any viruses or illnesses identified during a public health emergency, immediately to the Department and to the local County Health Department as required by the rules of the Georgia Department of Public Health, Rule 511-2-1, Notification of Disease.

(5) Annual Reports. The Department may request an annual report from the Provider of a Home. If such a request is made, the Provider shall have up to thirty (30) days to submit the annual report to the Department.

Cite as Ga. Comp. R. & Regs. R. 290-2-3-.14

AUTHORITY: O.C.G.A. § [20-1A-1](#) *et seq.*, [42 U.S.C. § 9857](#) *et seq.*

HISTORY: Original Rule entitled "Denial or Revocation of Certificate" adopted. F. Feb. 21, 1983; eff. Mar. 23, 1983, as specified by the Agency.

Repealed: New Rule entitled "Reporting" adopted. F. Feb. 4, 1994; eff. Mar. 1, 1994, as specified by the Agency.

Repealed: New Rule of same title adopted. F. Aug. 7, 2009; eff. Aug. 27, 2009.

Amended: F. Dec. 13, 2013; eff. Jan. 2, 2014.

Amended: F. Dec. 4, 2015; eff. Dec. 24, 2015.

Amended: F. May 26, 2017; eff. June 15, 2017.

Amended: F. Aug. 17, 2018; eff. Sept. 6, 2018.

Amended: F. Aug. 31, 2020; eff. Sep. 20, 2020.

Department 300. RULES OF GEORGIA DEPARTMENT OF LABOR

Chapter 300-2. EMPLOYMENT SECURITY LAW

Subject 300-2-4. UNEMPLOYMENT INSURANCE BENEFIT PAYMENTS

300-2-4-.08 Overpayments

Waiver of Overpayments.

(a) An individual shall be required to repay an overpayment of unemployment insurance benefits unless a timely application for waiver is filed and such repayment, in the discretion of the Commissioner or the Commissioner's designee, is determined to be inequitable under this rule and fault is not found to be attributable to that individual. Such determination shall not be appealable.

(b) A waiver of an unemployment insurance overpayment may not be granted if the request for such waiver is filed later than fifteen (15) calendar days following the release date of the Notice of Overpayment. Provided, however, that such time limitation may be extended, in the discretion of the Commissioner or the Commissioner's designee, upon a showing of extenuating circumstances which prevented the filing of a timely waiver request by the claimant and such circumstances were beyond the claimant's control.

(c) A waiver of an unemployment insurance overpayment may not be granted to any individual who has been expressly determined to have brought about such overpayment by the presentation of false or misleading statements or representations, whether or not such action has been determined fraudulent, when such individual could have or should have known such information presentation was false or misleading.

(d) A waiver of an unemployment insurance overpayment may be granted to an individual only if:

1. A timely application for waiver is filed;
2. Fault is not attributable to the individual, as outlined in paragraph (c) of this rule;
3. The individual provides, at the time of the individual's request for a waiver, satisfactory evidence of circumstances showing repayment would genuinely work a financial hardship on the individual; and
4. The individual provides, at the time of the individual's request for a waiver, satisfactory evidence that he or she has no reasonable prospect of future employment or ability to repay the overpayment in the future, due to age, disability, or other good cause.

(e) Financial hardship exists if recovery of the overpayment would result directly in the individual's loss of or inability to obtain the minimal necessities of food, medicine, and shelter for a substantial period of time and such circumstances may be expected to endure for the foreseeable future.

(f) A waiver of an unemployment insurance overpayment may be issued by the department in whole or in part upon the finding of a court of law having proper subject matter jurisdiction which rules that error existed in the information utilized to establish such overpayment, whether or not such overpayment was determined to be fraudulent in nature. Additionally, if a court finds repayment of an overpayment should be waived by virtue of discharge in bankruptcy granted under provision of Chapter 7 or Chapter 13 of the Bankruptcy Code, waiver will be granted.

(g) A waiver by the Commissioner of unemployment insurance overpayments cannot be granted when prohibited by federal law or regulation regardless of fault. Federal regulations specifically prohibit the Commissioner from the

waiving of Pandemic Unemployment Assistance (PUA) and Disaster Unemployment Assistance (DUA) overpayments.

Cite as Ga. Comp. R. & Regs. R. 300-2-4-.08

AUTHORITY: O.C.G.A. §§ [34-2-6\(a\)\(4\)](#), [34-8-70](#), [34-8-92](#), [34-8-190](#), [34-8-254](#), [34-8-25](#).

HISTORY: Original Rule entitled "Waiver of Overpayments" adopted F. Aug. 28, 1992; eff. Sept. 17, 1992.

Amended: F. Jun. 25, 1998; eff. Jul. 15, 1998.

Amended: F. Jan. 10, 2012; eff. Jan. 30, 2012.

Repealed: New Rule entitled "Overpayments. Amended" adopted. F. Oct. 1, 2013; eff. Oct. 21, 2013.

Amended: F. Sep. 29, 2014; eff. Oct. 19, 2014.

Amended: F. Aug. 13, 2020; eff. Aug. 13, 2020, as specified by the Agency.

Department 375. RULES OF DEPARTMENT OF DRIVER SERVICES

Chapter 375-1. ADMINISTRATION

Subject 375-1-1. ORGANIZATION

375-1-1-.03 General Administrative Definitions

- (1) "Board" shall mean the Board of Driver Services of the State of Georgia.
- (2) "Commissioner" shall mean the Commissioner of Driver Services of the State of Georgia.
- (3) "Department" shall mean the Department of Driver Services of the State of Georgia.
- (4) "Electronic signature" means an electronic mark or symbol attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.
- (5) "Hearing" shall mean a right of the Department and of parties affected by any action of the Department who have filed an appeal pursuant to Ga. Comp. R. & Regs. R. 375-1-1-.06 to present relevant information, testimony, documents, evidence, and legal arguments as to why such action should or should not be taken.
- (a) "Hearing Examiner" or "Hearing Officer" or "Reviewing Officer" shall mean an officer or employee of the Department or other person so designated by the Commissioner or the Board who shall be employed or appointed by the Department for purpose as needed and shall be authorized to exercise such powers as are given such persons by statute or rule.
- (b) "Administrative Law Judge" or "ALJ" shall mean an employee of the Office of State Administrative Hearings so designated by the Chief State Administrative Law Judge to conduct a hearing and shall be authorized to exercise such powers as are given such persons by statute or rule.
- (6) "Signature" shall mean the hand-written or electronic recording of a person's full legal name, without the use of nicknames or any other verbiage. In the event a customer is unable to write his or her name, he or she may provide a signature by making his or her customary mark.
- (7) "Full legal name" shall mean an individual's first name, middle name(s), and last name or surname, without use of initials or nicknames. In the event a customer's full legal name exceeds the number of characters the Department can capture using its then existing technology, the customer's full legal name shall be recorded using the truncation protocol set forth in International Civil Aviation Organization (ICAO) 9303, "Machine Readable Travel Documents" Part IV Sixth Edition, 2005 or such other standard as required under state or federal law.

Cite as Ga. Comp. R. & Regs. R. 375-1-1-.03

AUTHORITY: O.C.G.A. §§ [10-12-12](#), [10-12-18](#), [40-5-4](#), [40-5-101](#), [40-16-1](#), [40-16-2](#), [40-16-3](#), [40-16-4](#), [40-16-5](#).

HISTORY: Original Rule entitled "General Definitions" adopted. F. Apr. 16, 2003; eff. May 6, 2003.

Amended: F. Dec. 14, 2005; eff. Jan. 3, 2006.

Amended: F. Sept. 9, 2008; eff. Sept. 29, 2008.

Amended: F. Nov. 19, 2018; eff. Dec. 9, 2018.

Amended: New title "General Administrative Definitions." F. Aug. 12, 2020; eff. Sep. 1, 2020.

375-1-1-.04 [Repealed]

Cite as Ga. Comp. R. & Regs. R. 375-1-1-.04

AUTHORITY: O.C.G.A. § [50-13-41](#).

HISTORY: Original Rule entitled "Final Agency Decisions in Administrative Hearings" adopted. F. Sept. 1, 2004; eff. Sept. 21, 2004.

Repealed: F. Aug. 12, 2020; eff. Sep. 1, 2020.

375-1-1-.06 Appeals

(1) Where state law permits appeal of Department decisions or actions, the subject party of such may submit an appeal request for hearing. The purpose of the appeal will be to determine whether the Department acted in accordance with the law in taking such action.

(a) Upon receipt of a timely, properly filed appeal in a contested case which is not presided over by the agency head or board or body which is the ultimate decision maker in accordance with O.C.G.A. § [50-13-41](#), the Department will forward the appeal and all pertinent documents to the Office of State Administrative Hearings in accordance with that agency's rules.

(b) An appeal will not stay agency action except in accordance with O.C.G.A. §§ [40-5-67.1\(g\)\(3\)](#) and [40-9-32\(c\)\(1\)](#).

(2) Cases shall be conducted in accordance with the following procedures:

(a) Initiating a case. Any person who is legally entitled to contest a ruling or order of the Department may do so by filing with the Department a request for hearing within ten (10) days after receipt of the Department's ruling or order, except where additional time is permitted under O.C.G.A. §§ [40-5-35](#) and [40-5-67.1](#). Notice is considered received three (3) days after mailing.

(b) Request for hearing shall be submitted to DDS via postal service to the address included in the notice of agency action or a Customer Service Center, on a form prescribed and furnished by the department which shall be completed in its entirety and must contain the following:

(i) The legal authority under which the appeal is filed, including all code sections;

(ii) A prayer setting forth the relief sought;

(c) All requests for a hearing must be signed by the party requesting the hearing or by the party's counsel, if represented by counsel.

(d) Limitation on right to a hearing. The Department will grant hearings as a matter of right only upon timely receipt of a complete request as described above, but may, in its discretion, allow extensions of time and amendments of requests for good cause shown. Where requests are not submitted in accordance with the above, rights to an appeal and hearing shall be considered waived.

(e) Hearings. All hearings will be held in accordance with all applicable statutes and rules.

(f) Appeals of suspensions imposed pursuant to O.C.G.A. § [40-5-67.1](#).

(i) In addition to the requirements set forth in paragraph (2) (a-d), supra, any person who appeals an administrative license suspension or implied consent suspension arising under O.C.G.A. § [40-5-67.1](#) shall submit a nonrefundable

filing fee of \$150.00. The timeliness provisions of paragraph (3), *supra*, shall apply to the payment of such fees, except that for appeals authorized by O.C.G.A. § [40-5-67.1](#) the appeal shall be timely if received or postmarked within thirty (30) calendar days of the issuance or serve date of the notice of intent to suspend (1205 or 1205s). The hearings unit will not accept hearing requests by fax.

(ii) In hearings conducted pursuant to O.C.G.A. § [40-5-67.1](#), the arresting law enforcement officer may act on behalf of the Department as the complainant.

(iii) Withdrawal of Suspension by Arresting Officer.

1) The arresting officer may at his or her discretion withdraw the administrative license suspension at any time prior to the docketing of the case at OSAH.

2) If the licensee does not timely appeal the suspension, the suspension shall be upheld as the Final Decision of the Department by operation of law, and the arresting officer may not withdraw the administrative license suspension thereafter.

3) If the licensee submits an appeal within the statutorily allotted period for same, the arresting officer may withdraw the administrative license suspension at his or her discretion at any point prior to the issuance of the Final Decision by the Administrative Law Judge. Upon the issuance of the Final Decision, the arresting officer may not withdraw the suspension.

(iv) If the licensee does not timely appeal the suspension as set forth in paragraph (f)(i), the right to a hearing will be deemed waived.

1) The decision as to the timeliness of the hearing shall be a final decision of the Department, unless granted reconsideration.

2) If a hearing request has been deemed untimely, the licensee may request reconsideration by mail, in writing to RM - Hearing Requests, P.O. Box 80447, Conyers, Georgia 30013. The request must be received or postmarked within five (5) calendar days after the date of the decision.

3) The request for reconsideration must be submitted in writing and include:

a) A clear indication of the reasons for failure to timely submit the hearing request

b) Documentation to support the indicated reasons

c) A copy of the 1205 notice

d) Documentation from the U.S. Postal Service, UPS, FedEx, or any other deliver entity indicating dates of delivery.

4) The decision from the request to reconsider shall be a final decision of the Department.

(g) Any decision issued by the Department or by an Administrative Law Judge in a matter referred to the Office of State Administrative Hearings shall be the Department's Final Decision without further agency action and without the expiration of a thirty (30)-day review period unless expressly provided elsewhere in these rules or by statute.

(h) Any appeals to the superior court from a final agency decision under this rule shall be served in accordance with Ga. Comp. R. & Regs. R. [375-1-1-.02](#). Agency action shall not be stayed while such appeal is pending.

Cite as Ga. Comp. R. & Regs. R. 375-1-1-.06

AUTHORITY: O.C.G.A. §§ [40-5-4](#), [40-5-35](#), [40-5-66](#), [40-5-67.1](#), [40-9-32](#), [40-16-2](#), [40-16-3](#), [50-13-11](#) *et seq.*

HISTORY: Original Rule entitled "Appeals" adopted. F. Aug. 12, 2020; eff. Sep. 1, 2020.

Department 375. RULES OF DEPARTMENT OF DRIVER SERVICES

Chapter 375-1. ADMINISTRATION

Subject 375-1-6. [Repealed]

375-1-6-.01 [Repealed]

Cite as Ga. Comp. R. & Regs. R. 375-1-6-.01

AUTHORITY: O.C.G.A. §§ [40-5-80](#) *et seq.*, 50-13-13 *et seq.*, 50-13-41.

HISTORY: Original Rule entitled "Appeals of the Denial, Revocation, Suspension, or Cancellation of Driver Improvement Licenses, or of the Imposition of a Civil Penalty Against an Owner or Instructor of a Driver Improvement Clinic" adopted. F. Sept. 18, 2003; eff. Oct. 8, 2003.

Repealed: F. Aug. 12, 2020; eff. Sep. 1, 2020.

Department 375. RULES OF DEPARTMENT OF DRIVER SERVICES

Chapter 375-3. DRIVER LICENSE SERVICES

Subject 375-3-1. GENERAL PROVISIONS

375-3-1-.04 Licenses Restricted as to Use for Physical Impairment

(1) No person who is incapacitated by reason of disease, mental or physical disability or by addiction to alcohol or drugs shall be issued a license or have their license renewed by the Department. However, the Department, at its discretion, may issue a license to those applicants for issuance or renewal of a license with certain physical disabilities subject to certain restrictions as follows:

(a) Vision.

(i) No license shall be issued to any person who does not have vision of 20/60 or better and a horizontal field of vision of at least 140 degrees. If corrective lenses are necessary to meet these vision standards, the applicant may only be issued licenses restricted to operating vehicles while wearing such corrective lenses.

(ii) Applicants whose vision, even with corrective lenses, is 20/60 or less in one eye may only be issued licenses restricted to operating vehicles with an outside rearview mirror on the left side.

(iii) In any case where the Department has questions concerning a person's vision it may require a statement with respect thereto made by a physician or osteopath licensed under Ga. Code Chap. 43-34 or under Ga. Code Chap. 43-30 (Optometrist).

(b) Musculoskeletal.

(i) Applicants with the following musculoskeletal disabilities may only be issued licenses restricted to operating vehicles equipped with special equipment as follows:

1) Applicants who have either a hand or arm missing or useless may be issued licenses restricted to operating vehicles equipped with directional signals and automatic shift.

2) Applicants who have either one foot or one leg missing or useless may be issued licenses restricted to operating vehicles equipped with automatic shift, hand dimmer, artificial foot pedal extension, manual brake or some combination thereof as the Department may determine is necessary for the individual applicant. If the applicant's right leg is missing or useless, the license may also be restricted to operating vehicles equipped with left foot accelerator and wide brake pedal.

3) Applicants with both legs missing or useless may be issued licenses restricted to operating vehicles equipped with hand dimmer switch, hand throttle and vacuum brake equipment, automatic shift, or any combination thereof as the Department may determine is necessary for the individual applicant.

(c) The Department may add such additional restrictions or combinations of restrictions to a person's license as it may deem necessary for such person to operate a vehicle safely.

(d) Applicants, before being issued a restricted license, may be required to demonstrate their ability to operate a motor vehicle safely upon highways of this state. This driving demonstration shall be as required in Ga. Comp. R. & Regs. R. [375-3-1-.10](#).

(2) Any applicant who is denied a license or any renewal thereof due to a mental or physical incapacity may apply to the Driver License Advisory Board pursuant to Chapter 375-3-5 of these Rules for a review of their capability to operate a motor vehicle safely.

(3) Any person who is issued a restricted license and operates a motor vehicle contrary to the restrictions on such license shall have such license revoked.

Cite as Ga. Comp. R. & Regs. R. 375-3-1-.04

AUTHORITY: O.C.G.A. §§ [40-5-4](#), [40-5-34](#).

HISTORY: Original Rule entitled "Licenses Restricted as to Use for Physical Impairment" adopted. F. Apr. 18, 2006; eff. May 8, 2006.

Amended: F. Aug. 12, 2020; eff. Sep. 1, 2020.

Department 375. RULES OF DEPARTMENT OF DRIVER SERVICES

Chapter 375-3. DRIVER LICENSE SERVICES

Subject 375-3-2. RENEWALS

375-3-2-.02 Alternative Means of Renewal

(1) The Commissioner may authorize, consistent with Georgia law and with these regulations, renewal of a driver's license or identification card by the following means:

- (a) Personal appearance;
- (b) Renewal by mail;
- (c) Renewal by telephone; and/or
- (d) Renewal via electronic means.

(2) Except as otherwise authorized by the Commissioner, licenses, permits and identification cards must be renewed by personal appearance at a Department of Driver Services facility before a driver's license examiner of the Department.

(3) The Commissioner is authorized to waive the requirement of a personal appearance under the following circumstances:

- (a) All such waivers shall be consistent with public safety considerations;
- (b) All such waivers shall be designed so as to promote efficiency of service to the holders of licenses, permits and identification cards;
- (c) No person may be granted a waiver from renewal by personal appearance if that person's license or identification card is currently revoked, suspended, or cancelled. If a license or identification card is revoked, suspended, or cancelled after a waiver has been granted, the waiver shall be deemed to be withdrawn without the necessity of further action by the Department, and the person shall be required to appear in person to reinstate the license or identification card prior to renewal.
- (d) Persons granted a waiver from the requirement of a personal appearance for the renewal of a driver's license shall certify that their vision and physical condition have not significantly changed since the last personal appearance before the Department, and that the person remains mentally and physically capable of the safe operation of a motor vehicle of the class for which the license is being renewed.
- (e) Persons age sixty-four (64) or older granted a waiver from the requirement of personal appearance must submit proof that they have undergone an examination, within twenty-four (24) months immediately preceding the application for the license, that demonstrates that they have met the minimum vision standards established by Ga. Comp. R. & Regs. R. [375-3-5-.08](#). Such examination must have been conducted by a physician, optometrist, or ophthalmologist, licensed by the State of Georgia.
- (f) A person granted a waiver will not be required to surrender the driver's license or identification card being renewed if the waiver is exercised; however, the Department will advise the person of reasons why the license or identification card should be destroyed by the person.
- (g) No person will be granted a waiver unless the person's photograph and signature are on file via digital image.

(h) No temporary license, permit or special identification card issued pursuant to O.C.G.A. § [40-5-21.1](#) shall be issued via any means other than in person.

(i) In order to be eligible for renewal of a license, permit or identification card via alternative means, a customer must have complied with the provisions of Ga. Comp. R. & Regs. R. [375-3-2-.01\(3\)](#) on or after July 1, 2012.

(j) Each customer must conduct at least one (1) in-person transaction every sixteen (16) years.

Cite as Ga. Comp. R. & Regs. R. 375-3-2-.02

AUTHORITY: O.C.G.A. §§ [40-5-21.1](#), [40-5-32](#), [40-5-100](#), [40-5-172](#).

HISTORY: Original Rule entitled "Renewal of License and Identification Card: Alternative Means of Renewal" adopted. F. Sept. 10, 2002; eff. Sept. 30, 2002.

Amended: F. Dec. 14, 2005; eff. Jan. 3, 2006.

Repealed: New Rule of same title adopted. F. Mar. 22, 2007; eff. Apr. 11, 2007.

Repealed: New Rule of same title adopted. F. Mar. 30, 2012; eff. Apr. 19, 2012.

Amended: F. Aug. 12, 2020; eff. Sep. 1, 2020.

Department 375. RULES OF DEPARTMENT OF DRIVER SERVICES

Chapter 375-3. DRIVER LICENSE SERVICES

Subject 375-3-3. REVOCATION AND SUSPENSION

375-3-3-.04 [Repealed]

Cite as Ga. Comp. R. & Regs. R. 375-3-3-.04

AUTHORITY: O.C.G.A. §§ [40-16-2](#), [40-16-3](#), [40-5-4](#), [40-5-101](#), [40-5-22](#), [40-5-67](#), [40-5-67.1](#), [40-9-34](#).

HISTORY: Original Rule entitled "Departmental Hearings" adopted. F. Jan. 9, 2003; eff. Jan. 29, 2003.

Amended: F. Sept. 1, 2004; eff. Sept. 21, 2004.

Amended: F. Jan. 24, 2005; eff. Feb. 13, 2005.

Amended: F. Oct. 24, 2006; eff. Nov. 13, 2006.

Repealed: New Rule entitled "Appeals of Withdrawals" adopted. F. Aug. 24, 2010; eff. Sept. 13, 2010.

Amended: F. Aug. 10, 2017; eff. Aug. 30, 2017.

Note: Correction of typographical error in subparagraph (6)(b)(2)(i), "business" corrected to "calendar," as originally promulgated and adopted on August 9, 2017; submitted by Agency on August 31, 2017. Effective August 31, 2017.

Amended: F. June 14, 2019; eff. July 4, 2019.

Repealed: F. Aug. 12, 2020; eff. Sep. 1, 2020.

375-3-3-.12 Suspension of License for Failure to Appear

(1) The Department shall suspend the driver's license or privilege to operate a motor vehicle in this state of any person who has failed to respond to a citation to appear before a court of competent jurisdiction of this state or of any other state for a traffic violation other than a parking violation. The Department shall forthwith notify such person that his license is to be suspended subject to review as provided for by law. Such suspension shall be effective no more than twenty-eight (28) days from the date on the notice of such suspension sent to such customer. If such customer is not a resident of the State of Georgia, information pertaining to his or her failure to appear shall be sent to his or her state of residence for imposition of the suspension in that jurisdiction as provided in the terms of the Non-Resident Violator Compact or such other interstate agreement or law that applies to such customer.

(2) Any customer who is notified of a pending suspension for failure to appear may request a hearing in accordance with Ga. Comp. R. & Regs. R. 375-1-1-.06.

Cite as Ga. Comp. R. & Regs. R. 375-3-3-.12

AUTHORITY: O.C.G.A. §§ [40-5-4](#), [40-5-56](#).

HISTORY: Original Rule entitled "Suspension of License for Failure to Appear" adopted. F. Apr. 18, 2006; eff. May 8, 2006.

Amended: F. Mar. 30, 2012; eff. Apr 19, 2012.

Amended: F. Aug. 12, 2020; eff. Sep. 1, 2020.

375-3-3-.22 Review of Withdrawals Resulting from Out-of-State Conduct

(1) Any person whose driver's license, permit, or driving privilege has been suspended, revoked, cancelled, denied or disqualified as a result of conduct that occurred in another state shall have a review of such withdrawal once every five (5) years from the date of imposition of such withdrawal. Such review shall result in a determination of whether the withdrawal is still warranted and whether the person is otherwise eligible to operate a motor vehicle in the State of Georgia.

(2) Any person who appealed such withdrawal pursuant to Ga. Comp. R. & Regs. R. 375-1-1-.06 shall be eligible for such review upon the expiration of five (5) years from the date on which the Department entered its Final Decision in such appeal.

(3) In no case shall the Department authorize issuance of a driver's license or permit to any person who has failed to complete the requirements for reinstatement imposed by the state in which such conduct occurred.

Cite as Ga. Comp. R. & Regs. R. 375-3-3-.22

AUTHORITY: O.C.G.A. § [40-5-52](#).

HISTORY: New Rule entitled "Review of Withdrawals Resulting from Out-of-State Conduct" adopted. F. Mar. 30, 2012; eff. Apr. 19, 2012.

Amended: F. Aug. 12, 2020; eff. Sep. 1, 2020.

Department 375. RULES OF DEPARTMENT OF DRIVER SERVICES

Chapter 375-3. DRIVER LICENSE SERVICES

Subject 375-3-5. DRIVER'S LICENSE ADVISORY BOARD

375-3-5-.04 [Repealed]

Cite as Ga. Comp. R. & Regs. R. 375-3-5-.04

AUTHORITY: O.C.G.A. §§ [40-5-4](#), [40-5-34](#).

HISTORY: Original Rule entitled "Hearing" adopted. F. Apr. 18, 2006; eff. May 8, 2006.

Repealed: F. Aug. 12, 2020; eff. Sep. 1, 2020.

375-3-5-.09 Medical Review Procedures for Persons Believed to be Incompetent or Unqualified

(1) No license shall be issued to or retained by any person who is unable to safely operate a motor vehicle due to:

- (a) a disorder characterized by lapses of consciousness;
- (b) a mental or physical disability affecting the ability to drive safely; or
- (c) an addiction to alcohol or drugs to the extent that such person is incompetent to operate a motor vehicle.

(2) Upon receipt of a report that a person with a disability or disorder defined in paragraph (1) (a) through (c) may be unqualified to be licensed, the Department may obtain the advice of the Driver License Advisory Board. Such review by the Driver License Advisory Board may also be requested by the licensee. The Board may base its advice on records and reports provided by the department, an examination and report made by a Board member or other qualified person designated by the Board, or a written report provided by a licensed physician chosen by licensee. The submission of such reports shall be without expense to the State or the Department.

(3) (a) Whenever the Department has good cause to believe a licensee is incompetent or unqualified to safely operate a motor vehicle, the licensee shall be required to submit to an examination at the nearest driver's license facility within ten (10) days of receipt of written notice from the Department. Based upon the results of the examination, the Department may revoke the license or issue a license with the appropriate restrictions. If the licensee does not comply with the Department's request to submit to an examination, then the driver's license shall be revoked.

(b) Whenever the Department receives a Request for Driver Review (form DDS-270), the Department shall conduct an investigation to determine whether the licensee is qualified to be licensed.

(i) After the completion of said investigation, the Department shall determine whether there is evidence to support the allegation that the licensee is unqualified to be licensed. If the investigation does not substantiate the allegations, no further action shall be taken by the Department.

(c) If the Department shall determine that there is evidence to support the allegation that the licensee is unqualified to be licensed, the Department shall send the licensee a notice containing the following information:

- (i) That a licensee unable to drive safely due to a disability and/or disorder as provided in paragraph (1)(a) through (c) may not retain a driver's license under Georgia Law;
 - (ii) That a question has arisen as to the licensee's capacity to drive;
 - (iii) That enclosed medical report forms must be completed by a licensed physician of the licensee's choice and returned by the physician directly to the Department within thirty (30) days of receipt;
 - (iv) That, after review of the medical reports, the Department will make a determination of whether to allow such licensee to retain their driver's license, add restrictions to their driver's license, or impose a revocation of the license;
 - (v) That the letter may be considered that licensee's authority to drive pending subsequent notification from the Department of Driver Services that their driver's license has been retained, retained with restrictions, or revoked;
 - (vi) That, should the licensee fail to submit completed medical reports to the Department within thirty (30) days, their driver's license shall be revoked and they shall be deemed to have waived their right to appeal the revocation of the driver's license.
- (4) If the Department has not received completed medical reports from the licensee within thirty (30) days, their driver's license shall be revoked and they shall be deemed to have waived their right to appeal or otherwise contest the revocation.
- (5) The Department may, upon good cause shown, extend the time periods established above. The Department's decisions in this regard shall be final and not subject to review.
- (6) After receipt of the recommendation of the Driver License Advisory Board, where applicable, and any other pertinent information, the Department shall notify the licensee, by mail, of the retention, retention with restrictions, or revocation of his driver's license. As the Department is authorized by statute to impose any restrictions which it may determine are appropriate to assure the safe operation of any motor vehicle by the licensee, no appeal shall be granted regarding the Department's decision to impose restrictions on a person's driver's license. If the driver's license is revoked, the licensee may appeal that revocation as provided hereinafter.
- (7) The licensee may, within fifteen (15) days of receipt of notice of revocation, request a hearing by a designated hearing officer of the Department. Such request must be made in accordance with the appeal requirements in Ga. Comp. R. & Regs. R. 375-1-1-.06 and received by the Department within the 15-day period specified. If no request for hearing is received within the 15-day time period, the licensee shall be considered to have waived their right to a hearing and to appeal the revocation of their driver's license. The notice of revocation shall advise the driver of this requirement.
- (8) The hearing and appeal procedures shall be as specified in Ga. Comp. R. & Regs. R. 375-1-1-.06.
- (9) The department is authorized to revoke the license of a licensee without a preliminary examination or hearing upon a recommendation by a court or prosecutor, or upon a showing by the records of the department, that the licensee is unable to drive safely due to a disability and/or disorder as provided in paragraph (1)(a) through (c).
- (10) Once a licensee is found to be physically and/or mentally qualified, the Department shall require such person to present an application for a new license and complete the applicable knowledge and/or skills tests for issuance of a driver's license. Any person who fails an applicable skills or knowledge test may make another attempt at such test in the time intervals established in Ga. Comp. R. & Regs. R. [375-3-1-.12](#). Notwithstanding the foregoing, if a person successfully completes the knowledge test(s) but does not take or fails the applicable skills test(s), they may be issued an instructional permit in the applicable license class.

Cite as Ga. Comp. R. & Regs. R. 375-3-5-.09

AUTHORITY: O.C.G.A. §§ [40-5-1\(16\)](#), [40-5-4](#), [40-5-34](#), [40-5-35](#), [40-5-59](#), [40-5-62\(a\)\(4\)](#).

HISTORY: Original Rule entitled "Incapacitated Drivers; Procedure" adopted. F. Apr. 18, 2006; eff. May 8, 2006.

Amended: F. Mar. 30, 2012; eff. Apr. 19, 2012.

Amended: New title "Medical Review Procedures for Persons Believed to be Incompetent or Unqualified." F. Aug. 12, 2020; eff. Sep. 1, 2020.

375-3-5-.10 Applicants-Physical and Mental Conditions

(1) Whenever the Department has reason to believe that an applicant is physically or mentally incompetent to operate a motor vehicle, the applicant shall be given a medical report form which must be completed by a licensed physician of the applicant's choice and returned by the licensed physician directly to the Department before the application will be taken under consideration by the Department. The submission of such reports is to be without expense to the State.

(2) Upon receipt of the completed medical report forms, the Department may send copies of the same to a licensed physician on the Driver License Advisory Board. to the licensed physician shall review each applicant's report and make recommendations to the Department. If necessary to aid in its evaluation, the Board may request that further information be supplied by the applicant, or that the applicant submit to a re-examination by a medical specialist within the applicant's geographical area. If re-examination by a specialist is required, the applicant shall be given a list of approved specialists from which to choose for re-examination and additional medical report forms, which are to be sent directly by the specialist to the Department. The Department will then route the specialist's report as outlined for the original medical reports. Submission of specialists' reports is to be without cost to the State.

(3) If either the original medical reports or any supplemental specialist's reports shall confirm the applicant's failure to meet the State's visual standards, the Department shall not approve the application for driver's license and shall so advise the applicant.

(4) If upon receipt of the Driver License Advisory Board's recommendation or other pertinent information, the Department decides to disapprove the application for driver's license, the applicant shall be advised of this decision and the opportunity for a hearing as provided in Ga. Comp. R. & Regs. R. 375-1-1-.06.

(5) An applicant with a physical impairment that the Department believes requires special consideration for safe driving, may be given the driver's license examination and be issued a driver's license that is restricted in use according to the requirements of Ga. Comp. R. & Regs. R. [375-3-1-.04](#).

Cite as Ga. Comp. R. & Regs. R. 375-3-5-.10

AUTHORITY: O.C.G.A. §§ [40-5-4](#), [40-5-34](#), [40-5-35](#).

HISTORY: Original Rule entitled "Applicants - Physical and Mental Condition" adopted. F. Apr. 18, 2006; eff. May 8, 2006.

Amended: F. Aug. 12, 2020; eff. Sep. 1, 2020.

Department 375. RULES OF DEPARTMENT OF DRIVER SERVICES

Chapter 375-3. DRIVER LICENSE SERVICES

Subject 375-3-6. IGNITION INTERLOCK DEVICES

375-3-6-.07 Denial and Withdrawal of Authority of Provider Centers or Devices

The Department may deny, suspend, cancel or revoke the certification of any provider center or device for any violation of the law, rules or regulations relating to the Ignition Interlock Program:

- (1) The affected provider center shall not operate in any capacity while under any cancellation, suspension or revocation;
- (2) The cancellation, suspension or revocation becomes effective on the date indicated by the Department's order;
- (3) After cancellation, suspension, revocation or voluntary surrender of an approval, a provider center shall remain responsible for the removal of all devices from customers' vehicles. A provider center shall be responsible for any costs connected with the removal of its devices from the customer's vehicle and the installation of a new device from the Department's list of approved devices.
- (4) The provider center may request a hearing as prescribed in Ga. Comp. R. & Regs. R. 375-1-1-.06.

Cite as Ga. Comp. R. & Regs. R. 375-3-6-.07

AUTHORITY: O.C.G.A. §§ [42-8-110](#) *et seq.*, [43-12A-9](#).

HISTORY: Original Rule entitled "Denial and Withdrawal of Authority" adopted. F. Apr. 18, 2006; eff. May 8, 2006.

Amended: New title "Denial and Withdrawal of Authority of Provider Centers or Devices." F. Aug. 12, 2020; eff. Sep. 1, 2020.

375-3-6-.08 Ignition Interlock Provider Appeal

A provider center may request a Departmental hearing pursuant to Ga. Comp. R. & Regs. R. 375-1-1-.06.

Cite as Ga. Comp. R. & Regs. R. 375-3-6-.08

AUTHORITY: O.C.G.A. §§ [42-8-110](#), [43-12A-1](#) *et seq.*

HISTORY: Original Rule entitled "Hearing Procedures" adopted. F. Apr. 18, 2006; eff. May 8, 2006.

Amended: New title "Ignition Interlock Provider Appeal." F. Aug. 12, 2020; eff. Sep. 1, 2020.

Department 375. RULES OF DEPARTMENT OF DRIVER SERVICES

Chapter 375-3. DRIVER LICENSE SERVICES

Subject 375-3-7. SAFETY RESPONSIBILITY

375-3-7-.03 Safety Responsibility Appeals/Hearings

If a hearing is requested on any action taken by the Safety Responsibility Unit, whether or not it is subject to review under the Administrative Procedure Act, the hearing shall be held in accordance with the Ga. Comp. R. & Regs. R. 375-1-1-.06.

Cite as Ga. Comp. R. & Regs. R. 375-3-7-.03

AUTHORITY: O.C.G.A. § [40-9-1](#) *et seq.*

HISTORY: Original Rule entitled "Departmental Hearings" adopted. F. Apr. 18, 2006; eff. May 8, 2006.

Amended: New title "Safety Responsibility Appeals/Hearings." F. Aug. 12, 2020; eff. Sep. 1, 2020.

Department 375. RULES OF DEPARTMENT OF DRIVER SERVICES

Chapter 375-5. DRIVER TRAINING AND DRIVER IMPROVEMENT

Subject 375-5-1. DRIVER IMPROVEMENT

375-5-1-.09 Location of Driver Improvement Clinic

(1) Any clinic that wishes to offer its service other than at the principal place of business must establish a classroom at the new location.

(2) All classrooms shall be licensed in the same manner and subject to the same qualifications as the principal office of the clinic with the exception of telephone, office, films, brochures and other printed materials. Necessary films, brochures and other printed materials shall be used in providing all courses of instruction. Only in the event that duplicate material exists as required will a clinic be authorized to provide more than one class on the same date.

(3) Approval of the office or classroom will be determined after the inspection of said location is made by a representative of the Department and verification that the location complies with all legal requirements.

(4) A Driver Improvement License will not be issued for a location where the distribution of or sale of alcoholic beverages has been approved.

(5) If the office or a classroom location of a Driver Improvement Clinic is to be moved and/or relocated for any reason, the following requirements are necessary prior to this move.

(a) Notify the Department in writing of the change of the office and/or classroom.

(b) Inspection of the new office or classroom must be made by a representative of the Department and approved prior to any instruction of students.

(6) Any school or classroom facility utilized for or approved for the purposes of a Driver Improvement Clinic shall comply with the requirements set forth by the Americans with Disabilities Act of 1990, before a permit is issued. The owner shall certify to the Department that the facility complies with the Act and its implementing regulations.

(7) (a) A licensed driver improvement clinic that provides instruction via distance learning methods in a classroom of a secondary school, technical school, college, or approved driver improvement clinic classroom shall not be required to obtain a separate license for the use of that classroom; provided that prior notice must be given to, and approval granted by, the Department prior to the use of such a facility. Such approval will be considered only if requested by a licensed Driver Improvement Clinic that has held a license in good standing for the preceding five years prior to application.

(b) A classroom used for distance learning must be staffed by a licensed instructor or proctor at all times during the provision of instruction. The clinic must ensure that adequate equipment is provided at the remote site to enable students to view and hear the instructor and to enable the instructor to hear comments and questions from the students at the remote site. In the event the equipment ceases to function at any time, no further instruction may be provided at the remote site unless a licensed instructor is present to continue instruction in person. Certificates of completion may be issued only by a licensed instructor.

(8) If a licensed Driver Improvement Clinic closes a facility, the clinic must furnish 30 days' advance written notice of the closing to the Department. A copy of said notice shall be posted on the exterior door of the facility so as to be visible to the clinic's customers.

Any license for that facility must be surrendered to the Department. Unused Certificates of Completion must be transferred to another clinic facility or returned to the Department. Class rosters must be transferred to another clinic facility or submitted to the Department prior to closure of the facility.

(9) (a) The Department may develop policies and procedures for the delivery of remote classroom instruction for certified Driver Improvement Clinics in the event of a public health state of emergency, natural disaster, or man-made disaster.

(b) A certified Driver Improvement Clinic may utilize remote services for classroom instruction. Such instruction and training may be done via web services, such as, but not limited to, Skype, Zoom, or Web Ex. Instruction must be synchronous instruction allowing for real-time instruction and interaction in a specific virtual place, through a specific online medium, at a specific time.

(c) Schools utilizing such methods must notify and obtain prior approval from the Department and keep rosters and required documents of students enrolled in these programs pursuant to existing rules and regulations of the Department. Such programs shall continue to be subject to all monitoring, training, and auditing pursuant to existing rules and regulations of the Department.

Cite as Ga. Comp. R. & Regs. R. 375-5-1-.09

AUTHORITY: O.C.G.A. §§ [40-5-4](#), [40-5-83](#).

HISTORY: Original Rule entitled "Location of Clinic" adopted. F. June 10, 2002; eff. June 30, 2002.

Amended: F. Feb. 20, 2003; eff. Mar. 12, 2003.

Amended: New title "Location of Driver Improvement Clinic." F. Aug. 12, 2020; eff. Sep. 1, 2020.

375-5-1-.17 Suspension or Revocation of License of Clinic and/or Instructor

(1) The Department may suspend or revoke the license or certificate of any Driver Improvement Clinic or any instructor, employee or agent thereof for any violation of the law, rules or regulations relating to the operation of a Driver Improvement Clinic. All license(s) and/or certificate(s) will be sent to the Department immediately upon demand unless the license or certificate holder seeks to appeal the Department's order pursuant to Ga. Comp. R. & Regs. R. 375-1-1-.06.

(a) The affected clinic will not operate in any capacity while it is under any suspension or revocation.

(b) The revocation or suspension becomes effective on the date indicated by the Department's order, but no time will be credited on the revocation or suspension until the affected license(s) or certificate (s) have been received by the Department.

(2) Actions which may lead to the suspension or revocation of a license or certificate shall include, but shall not be limited to the following:

(a) Any conviction of an instructor or clinic operator of a felony or any crime involving violence, dishonesty, deceit, fraud, indecency or moral turpitude.

(b) Knowingly presenting false or misleading information to the Department.

(c) Addiction or habitual use of alcohol or dangerous or narcotic drugs by an instructor or operator.

(d) The failure of any instructor to teach within the guidelines as prescribed in the rules and regulations or who demonstrates a lack of ability to instruct in the driver improvement program.

- (e) Failure or refusal to permit the Department to inspect a clinic, its class, instruction records or any operation of the facility pertaining to the clinic.
- (f) Failure or refusal to submit to the Department any application for a license or certificate in the manner prescribed by the Department.
- (g) Failure to maintain proper standards in instruction, instructors, equipment or teaching facilities sufficient to operate a clinic.
- (h) Employing an instructor, teacher or agent that is not certified by the Department.
- (i) Any change of ownership or controlling stockholders of a school without immediately notifying the Department.
- (j) Whenever any owner, instructor, employee or agent has aided or assisted any person in obtaining a driver's license and/or reinstatement of a driver's license by dishonest or fraudulent means.
- (k) Failure of the driver improvement clinic or instructor to notify the Department immediately in writing of any reportable accident involving its instructors, any revocation, suspension, or cancellation of the driver's license of any instructor, or any charge made against an instructor of the clinic as a result of a violation of the motor vehicle laws.
- (l) Failure of the Driver Improvement Clinic to maintain a telephone for the exclusive use of the clinic.
- (m) If a person holds one or more licenses as a Driver Improvement Clinic owner(s) and/or instructor and one is suspended or cancelled, this may be grounds in itself for all licenses issued to that person to be suspended or cancelled.
- (n) When a Driver Improvement Clinic and/or instructor operates or instructs while license is expired.
- (3) The Department may impose a monetary fine in addition to, or in lieu of, the suspension or revocation of a license for any violation of Georgia law or the regulations governing driver improvement clinics.

Cite as Ga. Comp. R. & Regs. R. 375-5-1-.17

AUTHORITY: O.C.G.A. §§ [40-5-4](#), [40-5-83](#), [40-5-88](#).

HISTORY: Original Rule entitled "Suspension or Revocation of License of Clinic and/or Instructor" adopted. F. Feb. 20, 2003; eff. Mar. 12, 2003.

Amended: F. Aug. 12, 2020; eff. Sep. 1, 2020.

Department 375. RULES OF DEPARTMENT OF DRIVER SERVICES

Chapter 375-5. DRIVER TRAINING AND DRIVER IMPROVEMENT

Subject 375-5-2. DRIVER TRAINING SCHOOLS

375-5-2-.10 Location of Driver Training School or Limited Driver Training School

(1) A branch office of any driver training school and/or limited driver training school shall be licensed in the same manner and subject to the same qualifications as the principal office of the school. Paragraph (1) through (7) does not apply to a limited driver training school offering a virtual program only.

(a) The fee for a license for a branch office shall be the same as required for any original application.

(b) Any location containing a classroom separate from the licensed facility shall be considered a separate branch office.

(2) No driver training school and/or limited driver training school shall not be located within 500 feet of any building or portion of any building that is used for the purpose of conducting examination for a driver license or for the issuance of a driver license.

(3) No billboard of a driver training school may be displayed within 500 feet of any building or portion of any building that is used by the Department for the purpose of conducting driver examinations or the issuance of driver licenses, unless such sign or advertisement existed prior to the Department establishing a new facility. The Department may approve other advertisements within or nearby a DDS facility.

(4) Any school or classroom facility utilized for or approved for the purposes of a driver training school shall comply with the requirements set forth by the Americans with Disabilities Act of 1990, before a permit is issued. The owner shall certify to the Department that the facility complies with the Act and its implementing regulations.

(5) (a) A licensed driver training school and/or limited driver training school that provides instruction via distance learning methods in a classroom of a secondary school, or approved driver training school classroom shall not be required to obtain a separate license for the use of that classroom; provided that prior notice must be given to, and approval granted by, the Department prior to the use of such a facility. Such approval will be considered only if requested by a licensed driver training school and/or limited driver training school that has held a license in good standing for the preceding five years prior to the application.

(b) A classroom used for distance learning must be staffed by a licensed instructor or proctor at all times during the provision of instruction. The school must ensure that adequate equipment is provided at the remote site to enable students to view and hear the instructor and to enable the instructor to hear comments and questions from the students at the remote site. In the event the equipment ceases to function at any time, no further instruction may be provided at the remote site unless a licensed instructor is present to continue instruction in person. Only a licensed instructor may issue certificates of completion.

(6) If a licensed driver training school and/or limited driver training school closes a facility, the school must furnish thirty (30) days' advance written notice of the closing to the Department. A copy of said notice shall be posted on the exterior door of the facility so as to be visible to the school's customers or students. Any license for that facility must be surrendered to the Department. Unused Certificates of Completion must be transferred to another school facility or returned to the Department. Class rosters must be transferred to another school facility or submitted to the Department prior to the closure of the facility.

(7) All classrooms shall provide the necessary films, brochures and other printed and/or electronic materials to be used in providing all courses of instruction.

- (8) All Virtual Driver Training Programs shall provide a student workbook approved by the Department.
- (9) Driver Training Schools that provide classes of instruction via distance learning methods must also provide at the same location, six (6) hours of behind the wheel instruction by a licensed driver training school instructor.
- (10) Limited Driver Training Schools will not be required to comply with (9) above.
- (11) (a) The Department may develop policies and procedures for the delivery of remote classroom instruction for certified Driver Training programs in the event of a public health state of emergency, natural disaster, or man-made disaster.
- (b) A certified Driver Training program may utilize remote services for classroom instruction. Such instruction and training may be done via web services, such as, but not limited to, Skype, Zoom, or Web Ex. Instruction must be synchronous instruction allowing for real-time instruction and interaction in a specific virtual place, through a specific online medium, at a specific time.
- (c) Schools utilizing such methods must notify and obtain prior approval from the Department and keep rosters and required documents of students enrolled in these programs pursuant to existing rules and regulations of the Department. Such programs shall continue to be subject to all monitoring, training, and auditing pursuant to existing rules and regulations of the Department.

Cite as Ga. Comp. R. & Regs. R. 375-5-2-.10

AUTHORITY: O.C.G.A. §§ [40-16-2](#), [40-16-3](#), [40-5-4](#), [43-13-4](#), [43-13-8](#).

HISTORY: Original Rule entitled "Location of School" adopted. F. Oct. 25, 2004; eff. Nov. 14, 2004.

Amended: F. Sept. 11, 2006; eff. Oct. 1, 2006.

Amended: F. Dec. 21, 2016; eff. Jan. 10, 2017.

Amended: New title "Location of Driver Training School or Limited Driver Training School." F. Aug. 12, 2020; eff. Sep. 1, 2020.

375-5-2-.22 Contributing Factors to the Suspension, Revocation, or Cancellation of Driver Training School and/or Instructor Licenses

(1) Actions which may lead to the suspension, revocation or cancellation of a license, certificate or permit shall include but not be limited to the following:

- (a) Any conviction for a felony or any crime involving violence, or a crime of moral turpitude, or a pattern of misdemeanors that evidences a disregard for the law unless the applicant has received a pardon and can produce evidence of the same. For the purposes of this subparagraph, a plea of nolo contendere shall be considered a conviction. For the purposes of this subparagraph, a conviction for which a person has been free from custody and free from supervision for at least ten (10) years will not be considered, unless the conviction is for an offense which is a dangerous sexual offense as defined in O.C.G.A. § [42-1-12](#) or the criminal offense was committed against a victim who was a minor at the time of the offense.
- (b) Knowingly presenting false or misleading information to the Department.
- (c) Addiction or habitual use of alcohol, dangerous or narcotic drugs.
- (d) The failure of any instructor to teach within the guidelines as prescribed in the rules and regulations or who demonstrates a lack of ability to instruct in a driver training school.

- (e) Failure or refusal to permit the Department to inspect a school, its class of instruction, records, vehicles, or any operation or facility pertaining to the school during normal business hours.
- (f) Failure or refusal to submit to the Department any application for a license or permit in the manner prescribed by the Department.
- (g) Failure or refusal to produce a license or permit on demand of a prospective student, the Department, or any constituted law enforcement official or agency.
- (h) Failure to maintain proper standards of instruction, instructors, or equipment sufficient to operate a driver training school or limited driver training school.
- (i) Employing an instructor, teacher or agent that does not have a license from the Department.
- (j) Any change of ownership or controlling stockholders of a school without immediately notifying the Department.
- (k) Whenever any owner, instructor, employee, or agent has aided or assisted any person in obtaining a driver license by dishonest or fraudulent means.
- (l) Whenever instructions to students are contrary to the restrictions imposed on the student's driver license.
- (m) For unauthorized possession of application forms, questionnaires, tests, or other materials used by the Department for the purpose of conducting driver examinations or issuing driver licenses.
- (n) Whenever any owner, instructor, employee, or agent has issued a certificate of completion or signed a contract stating the number of classroom hours and/or behind the wheel hours when the student did not, in fact, receive the number of hours stated.
- (o) Failure of a driver training school or limited driver training school to maintain a telephone for the exclusive use of the school.
- (p) If a person holds one or more license(s) as a driver training school owner and/or limited driver training school and/or instructor and one is suspended, revoked, or canceled, this will be grounds in itself for all licenses issued to that person to be suspended, revoked, or canceled.
- (2) A suspension, revocation, or cancellation of an instructor's license automatically terminates any employment relationship that the instructor may have established with other driver training schools.
- (3) Any violation, which results in the suspension or revocation of the instructor's motor vehicle operator's license, will constitute grounds for the suspension of the instructor's license or permit.
- (4) The driver training school or limited driver training school shall notify the Department immediately in writing of any reportable accident involving a school vehicle or any of its instructors, or of any charge made against an instructor of the school as a result of a violation of the motor vehicle laws.
- (5) The Department may impose a monetary fine in addition to, or in lieu of, suspension or revocation of a license for any violation of Georgia law or the regulations governing driver training schools and/or limited driver training schools.
- (6) A driver training school and/or instructor may appeal any action taken in accordance with this rule pursuant to Ga. Comp. R. & Regs. R. 375-1-1-.06.

Cite as Ga. Comp. R. & Regs. R. 375-5-2-.22

AUTHORITY: O.C.G.A. §§ [43-13-7](#), [43-13-8](#).

HISTORY: Original Rule entitled "Suspension or Revocation of License" adopted. F. Oct. 25, 2004; eff. Nov. 14, 2004.

Amended: F. Sept. 11, 2006; eff. Oct. 1, 2006.

Amended: F. Sept. 3, 2009; eff. Sept. 23, 2009.

Amended: New title "Contributing Factors to the Suspension, Revocation, or Cancellation of Driver Training School and/or Instructor Licenses." F. Aug. 12, 2020; eff. Sep. 1, 2020.

375-5-2-.26 Driver Training School or Limited Driver Training School Fines

(1) The Commissioner of the Department may impose an administrative fine not to exceed \$1,000 per violation against any driver training school or limited driver training school that fails to comply with the rules and regulations of the Department.

(a) Violations that are minor in nature as determined by the Department shall be punished only by a written reprimand unless the person, firm, or corporation fails to remedy the violation within thirty (30) days.

(b) Failure to remedy violations that are minor in nature within thirty (30) days may result in an administrative fine, not to exceed \$250.00.

(2) The Department shall issue, by U.S. Mail or personal service, a notice including the following information:

(a) A concise statement of violations and applicable statutes and regulations;

(b) A statement of the legal authority and jurisdiction under which the notice has been issued;

(c) A notice of amount claimed and notice of the maximum amount authorized pursuant to applicable statutory provisions;

(d) A statement regarding the driver training school or limited driver training school's right to pay the fine assessed or, within thirty (30) days of receipt of the notice, request a hearing to contest the imposition of the fines.

(e) Such notice shall be deemed received three (3) days after mailing.

(3) In the event that the driver training school or limited driver training school fails to request a hearing within thirty (30) days' receipt of the notice, any rights to an appeal and hearing shall be considered to have been waived; and the assessed fine shall become effective upon the expiration of the thirty (30) day notice period.

(4) A driver training school and/or limited driver training school may appeal the imposition of a fine pursuant to Ga. Comp. R. & Regs. R. 375-1-1-.06.

Cite as Ga. Comp. R. & Regs. R. 375-5-2-.26

AUTHORITY: O.C.G.A. §§ [43-13-8](#), [50-13-17](#), [50-13-19](#).

HISTORY: Original Rule entitled "Fines" adopted. F. Oct. 25, 2004; eff. Nov. 14, 2004.

Amended: F. Sept. 11, 2006; eff. Oct. 1, 2006.

Amended: New title "Driver Training School or Limited Driver Training School Fines." F. Aug. 12, 2020; eff. Sep. 1, 2020.

375-5-2-.32 Denial/Suspension/Revocation/Cancellation of Third Party Testing Program Certification

(1) The Department may deny any application for a Tester or Examiner's certification or cancel certification if the applicant does not qualify for certification under these rules. Misstatements or misrepresentations in the application may be grounds for cancellation.

(2) Any Tester or Examiner may relinquish a certification upon thirty (30) days written notice to the Department. All forms, manuals, or supplies that the Department has furnished, including certification and certification identification cards of Examiners shall be surrendered.

(3) The Department may cancel the Third Party Testing Program provided for in these requirements in its entirety.

(4) The Department may suspend or revoke a Tester or Examiner's certification upon any of the following grounds:

(a) Failure to comply with or satisfy any of the provisions of these requirements, the Department's instructions or the Third Party Tester agreement.

(b) Falsification of any records or information relating to the Third Party Testing Program.

(c) Commission of any act which compromises the integrity of the Third Party Program.

(d) Failure to fully cooperate with the Monitor, including providing the Monitor access to:

(i) All Third Party Tester Program documents and records;

(ii) Any facility where testing is performed; or

(e) For the Examiner: driver's license suspension, revocation, recall, or disqualifications.

(f) If applicable, failure to maintain a copy of the student's OCRA issued thirty (30) hour classroom or online driver training certificate of completion in the student's student file.

(g) Administering a skills test to a student who did not complete the six (6) hour behind-the-wheel portion of driver training at the Tester's Driver Training school.

(h) If the Department determines that grounds for cancellation of certification exists for failure to comply with or satisfy any of these requirements or the Third Party Tester Agreement, the Department may postpone action and allow the Tester or Examiner thirty (30) days to correct the deficiency.

(5) A tester and/or examiner may appeal any action taken in accordance with this rule pursuant to Ga. Comp. R. & Regs. R. 375-1-1-.06.

Cite as Ga. Comp. R. & Regs. R. 375-5-2-.32

AUTHORITY: O.C.G.A. §§ [40-5-4](#), [40-16-2](#), [40-16-3](#), [40-16-4](#), [40-16-5](#), [40-5-27](#), [40-5-101](#).

HISTORY: Original Rule entitled "Denial/Suspension/Revocation/Cancellation of Third Party Testing Program Certification" adopted. F. Oct. 25, 2004; eff. Nov. 14, 2004.

Amended: F. Sept. 11, 2006; eff. Oct. 1, 2006.

Amended: F. Sep. 17, 2019; eff. Oct. 7, 2019.

Amended: F. Aug. 12, 2020; eff. Sep. 1, 2020.

375-5-2-.33 [Repealed]

Cite as Ga. Comp. R. & Regs. R. 375-5-2-.33

AUTHORITY: O.C.G.A. § [40-5-27](#).

HISTORY: Original Rule entitled "Suspension/Revocation and Appeal Procedures" adopted. F. Oct. 25, 2004; eff. Nov. 14, 2004.

Amended: F. Sept. 11, 2006; eff. Oct. 1, 2006.

Repealed: F. Aug. 12, 2020; eff. Sep. 1, 2020.

375-5-2-.34 [Repealed]

Cite as Ga. Comp. R. & Regs. R. 375-5-2-.34

AUTHORITY: O.C.G.A. § [40-5-27](#).

HISTORY: Original Rule entitled "Emergency Order" adopted. F. Oct. 25, 2004; eff. Nov. 14, 2004.

Amended: F. Sept. 11, 2006; eff. Oct. 1, 2006.

Repealed: F. Aug. 12, 2020; eff. Sep. 1, 2020.

Department 375. RULES OF DEPARTMENT OF DRIVER SERVICES

Chapter 375-5. DRIVER TRAINING AND DRIVER IMPROVEMENT

Subject 375-5-3. COMMERCIAL DRIVER TRAINING SCHOOLS

375-5-3-.10 Location of Commercial Driver Training School

(1) A branch office of any commercial driver training school shall be licensed in the same manner and subject to the same qualifications as the principal office of the school.

(a) The fee for a license for a branch office shall be the same as required for any original application.

(b) Any location containing a classroom separate from the licensed facility shall be considered a separate branch office.

(2) No commercial driver training school shall be located within 500 feet of any building or portion of a building that is used for the purpose of conducting examination for a driver license or for the issuance of a driver license.

(3) No billboard or other such public advertisement of a driver training school may be displayed within 500 feet of any building or portion of any building that is used for the purpose of conducting driver examinations or the issuance of driver licenses.

(4) Any school or classroom facility utilized for or approved for the purposes of a driver training school shall comply with the requirements set forth by the Americans with Disabilities Act of 1990, before a permit is issued. The owner shall certify to the Department that the facility complies with the Act and its implementing regulations.

(5) (a) The Department may develop policies and procedures for the delivery of remote classroom instruction for certified Commercial Driver Training programs in the event of a public health state of emergency, natural disaster, or man-made disaster.

(b) A certified Commercial Driver Training program may utilize remote services for classroom instruction and the administration of assessments. Such instruction, training, and assessments may be done via web services, such as, but not limited to, Skype, Zoom, or Web Ex. Instruction must be synchronous instruction allowing for real-time instruction and interaction in a specific virtual place, through a specific online medium, at a specific time.

(c) Schools utilizing such methods must notify and obtain prior approval from the Department and keep rosters and required documents of students enrolled in these programs pursuant to existing rules and regulations of the Department. Such programs shall continue to be subject to all monitoring, training, and auditing pursuant to existing rules and regulations of the Department.

Cite as Ga. Comp. R. & Regs. R. 375-5-3-.10

AUTHORITY: O.C.G.A. § [43-13-8](#).

HISTORY: Original Rule entitled "Location of School" adopted. F. Sept. 1, 2004; eff. Sept. 21, 2004.

Amended: New title "Location of Commercial Driver Training School." F. Aug. 12, 2020; eff. Sep. 1, 2020.

375-5-3-.22 Contributing Factors to the Suspension, Revocation, or Cancellation of Commercial Driver Training School and/or Instructor Licenses

(1) Actions which may lead to the suspension, revocation or cancellation of a license, certificate or permit shall include but not be limited to the following:

- (a) Any conviction for a felony or any crime involving violence, dishonesty, deceit, fraud, indecency or moral turpitude.
 - (b) Knowingly presenting false or misleading information to the Department.
 - (c) Addiction or habitual use of alcohol, dangerous or narcotic drugs.
 - (d) The failure of any instructor to teach within the guidelines as prescribed in the rules and regulations or who demonstrates a lack of ability to instruct in a commercial driver training school.
 - (e) Failure or refusal to permit the Department to inspect a school, its class of instruction, records, vehicles, or any operation of facility pertaining to the school during normal business hours.
 - (f) Failure or refusal to submit to the Department any application for a license, certificate or permit in the manner prescribed by the Department.
 - (g) Failure or refusal to produce a license, certificate or permit on demand of a prospective student, the Department, or any constituted law enforcement official or agency.
 - (h) Failure to maintain proper standards of instruction, instructors, or equipment sufficient to operate a school.
 - (i) Employing an instructor, teacher or agent who is not licensed by the Department.
 - (j) Any change of ownership or controlling stockholders of a school without immediately notifying the Department.
 - (k) Whenever any owner, instructor, employee or agent has aided or assisted any person in obtaining a driver license by dishonest or fraudulent means.
 - (l) Whenever instructions to students are contrary to the restrictions imposed on the student's driver license.
 - (m) For unauthorized possession of application forms, questionnaires, tests, or other materials used by the Department for the purpose of conducting driver examinations or issuing driver licenses.
 - (n) Whenever any owner, instructor, employee, or agent has issued a certificate of completion or signed a contract stating the number of classroom hours and/or behind the wheel hours when the student did not, in fact, receive the number of hours stated.
 - (o) Failure of a driver training school to maintain a telephone for the exclusive use of the school.
 - (p) If a person holds one or more license(s) as a driver training school owner and/or instructor and one is suspended, revoked, or canceled, this will be grounds in itself for all licenses issued to that person to be suspended, revoked, or canceled.
- (2) Any violation which results in the suspension or revocation of the instructor's motor vehicle operator's license will constitute grounds for the suspension of the instructor's permit.
- (3) The commercial driver training school shall notify the Department immediately in writing of any reportable accident involving a school vehicle or any of its instructors, or of any charge made against an instructor of the school as a result of a violation of the motor vehicle laws.
- (4) The Department may impose a monetary fine in addition to, or in lieu of, suspension or revocation of a license for any violation of Georgia law or the regulations governing commercial driver training schools.

(5) A commercial driver training school and/or instructor may appeal any action taken in accordance with this rule pursuant to Ga. Comp. R. & Regs. R. 375-1-1-.06.

Cite as Ga. Comp. R. & Regs. R. 375-5-3-.22

AUTHORITY: O.C.G.A. §§ [43-13-7](#), [43-13-8](#).

HISTORY: Original Rule entitled "Suspension or Revocation of License" adopted. F. Sept. 1, 2004; eff. Sept. 21, 2004.

Amended: New title "Contributing Factors to the Suspension, Revocation, or Cancellation of Commercial Driver Training School and/or Instructor Licenses." F. Aug. 12, 2020; eff. Sep. 1, 2020.

Department 375. RULES OF DEPARTMENT OF DRIVER SERVICES

Chapter 375-5. DRIVER TRAINING AND DRIVER IMPROVEMENT

Subject 375-5-6. DUI ALCOHOL OR DRUG USE RISK REDUCTION PROGRAM

375-5-6-.18 DUI Alcohol or Drug Use Risk Reduction Program Location and Facilities

- (1) Programs shall only operate in locations that have been certified by the Department.
- (2) Programs shall only hold Courses in classrooms that have been certified by the Department.
- (3) No Program applying for Certification shall share the same entrance with, or be immediately adjacent to, a facility where alcoholic beverages are sold or distributed.
- (4) No Program office or classroom shall be located within a retail business establishment or a private residence.
- (5) Except as provided in subsection (17) below, Program offices and classrooms shall be located on the same premises.
- (6) All Program facilities shall include the following:
 - (a) Clean working restrooms;
 - (b) Blinds, shades or curtains for windows or glass doors for Student privacy;
 - (c) Adequate lighting, heating and air conditioning;
- (7) Programs shall maintain the following equipment in working order:
 - (a) A television or projector and projection screen that can be suitably viewed by all course participants;
 - (b) Media equipment and visual displays for presenting required portions of the curriculum that meets Department specifications;
 - (c) Secure file storage; and
 - (d) Other equipment as designated by the Department.
- (8) Program offices cannot be open during class time, unless Program office activities can be conducted without disrupting a class.
- (9) The full Program name and business hours shall be displayed and clearly visible from the outside of the premises.
- (10) Program classrooms must have a minimum of 300 square feet of useable space. Program classrooms shall be certified to offer services at twenty (20) square feet per person, up to a maximum of forty (40) Students. Programs licensed prior to the enactment of the 300 square foot minimum may continue to utilize existing classrooms that satisfied the prior requirement of 250 square feet. Such programs may not add new classrooms that are less than 300 square feet in size.

- (11) The Program's Certification shall be displayed in a conspicuous location on the premises of the Program.
- (12) Programs that are in compliance with the Rules and Regulations of the Department may apply to operate satellite locations.
- (13) No satellite program shall operate without first being certified by the Department.
- (14) Applications for satellite programs shall be submitted on forms prepared by the Department, following the procedure prescribed by the Department; shall include all information and fees; and shall be truthful, accurate, and complete.
- (15) Satellite programs shall be located within fifty (50) miles of the Program that is operating the satellite program.
- (16) Multiple satellite programs may operate in the same county.
- (17) Satellite locations shall meet all location and facility requirements as outlined in these rules and regulations, except as follows:
- (a) Student or Offender records may be maintained at the Program location;
 - (b) Programs may use the telephone number of the Program location; and,
 - (c) Programs may perform administrative duties at Program location.
- (18) Any school or classroom facility utilized for or approved for the purposes of a DUI Alcohol or Drug Use Risk Reduction program shall comply with the requirements set forth by the Americans with Disabilities Act of 1990, before a permit is issued. The owner shall certify to the Department that the facility complies with the Act and its implementing regulations.
- (19) (a) The Department may develop policies and procedures for the delivery of remote classroom instruction for certified DUI Alcohol or Drug Use Risk Reduction programs in the event of a public health state of emergency, natural disaster, or man-made disaster.
- (b) A certified DUI Alcohol or Drug Use Risk Reduction program may utilize remote services for classroom instruction and the administration of assessments. Such instruction, training, and assessments may be done via web services, such as, but not limited to, Skype, Zoom, or Web Ex. Instruction must be synchronous instruction allowing for real-time instruction and interaction in a specific virtual place, through a specific online medium, at a specific time.
- (c) Schools utilizing such methods must notify and obtain prior approval from the Department and keep rosters and required documents of students enrolled in these programs pursuant to existing rules and regulations of the Department.

Cite as Ga. Comp. R. & Regs. R. 375-5-6-.18

AUTHORITY: O.C.G.A. §§ [40-5-82](#), [40-5-83](#).

HISTORY: Original Rule entitled "Program Location and Facilities" adopted. F. July 24, 2009; eff. Aug. 13, 2009.

Amended: F. Mar. 25, 2014; eff. Apr. 14, 2014.

Amended: New title "DUI Alcohol or Drug Use Risk Reduction Program Location and Facilities." F. Aug. 12, 2020; eff. Sep. 1, 2020.

Department 375. RULES OF DEPARTMENT OF DRIVER SERVICES

Chapter 375-7. MOTORCYCLE SAFETY

Subject 375-7-4. SAFETY PROGRAM

375-7-4-.05 Coach Trainer Qualifications

(1) Coach Trainers shall meet the following minimum qualifications:

- (a) Maintain all qualifications that pertain to Coaches;
- (b) successfully complete an approved Coach Trainer course; and
- (c) be available to conduct Coach Preparation courses, technical functions, teach both approved courses and maintain certification;
- (d) have an acceptable conclusion to the results obtained by the Department's standard background check, and;
- (e) maintain a satisfactory driving record.

(2) The Coach Trainer's certificate will expire three (3) years from the date of issuance.

(3) Applications for renewal must be submitted thirty (30) days prior to the date of expiration.

(4) Coach Trainers allowing their certificate to expire will not be permitted to instruct in the Motorcycle Safety Program and shall have to requalify and retrain for a new certificate under the then current requirements for an initial applicant.

(5) The Department may revoke or suspend a Coach Trainer's certification if it becomes aware of violations of any qualifications, laws, rules and regulations or falsification of documents.

(6) A Coach Trainer whose certificate has been revoked or suspended may request a hearing in accordance with Ga. Comp. R. & Regs. R. 375-1-1-.06.

(7) A revoked or suspended Coach Trainer certificate must be returned to the Department.

(8) All Coach Trainer candidates shall meet the following minimum qualifications:

- (a) possess, for at least four (4) years prior to making application, a Georgia Class M License/Endorsement or other state's equivalent to same license;
- (b) be a certified Coach for at least two (2) years and have taught a minimum of six (6) basic rider courses, and;
- (c) make application and be accepted an approved Coach Trainer course.
- (d) successfully complete a Department background check.

Cite as Ga. Comp. R. & Regs. R. 375-7-4-.05

AUTHORITY: O.C.G.A. § [40-15-3](#).

HISTORY: Original Rule entitled "Chief Instructor Qualifications" adopted. F. Sept. 18, 2003; eff. Oct. 8, 2003.

Amended: F. Aug. 24, 2010; eff. Sept. 13, 2010.

Amended: F. Aug. 12, 2020; eff. Sep. 1, 2020.

375-7-4-.07 MSP- Certified Private Sponsor Requirements

(1) All Sponsors shall meet the following minimum requirements:

(a) any individual or organization seeking approval to teach or offer instruction in motorcycle rider education and training on behalf of the Department shall make application at least thirty (30) days prior to course offering and shall not commence the course until receiving certification;

(b) sponsor certification will expire two (2) years from the date of issuance;

(c) sponsor must apply for recertification within ninety (90) days of expiration date of certification period;

(d) only Motorcycle Safety Program-certified Coach Trainers and Coaches will be used to conduct motorcycle rider education and training courses;

(e) use only approved curricula in accordance with GMSP Operations Manual and/or Sponsor Specifications;

(f) maintain accurate records student participation, accident and incident reports and make available same for inspection at all times;

(g) make sure that all students, Coaches and training motorcycles are covered by insurance during all training sessions;

(h) submit all required documentation as set out in the Sponsor Specifications;

(i) shall designate an individual as site manager who shall be responsible for, but not limited to: ensuring all persons enrolling meet eligibility requirements and are properly registered; recordkeeping; managing site; reporting, supervising all instructional personnel and overseeing the operation of the program;

(j) monitoring will be conducted by Program Administrator and other persons authorized by the Motorcycle Safety Program to make audits and visits; and

(k) Coach and student course evaluations will be provided and submitted after each course to the Motorcycle Safety Program without alteration or abridgement.

(2) Sponsor applications will be considered on the basis of the ability to train sufficient numbers of students and prevention of the unnecessary duplication of the provision of rider education courses.

(3) A Sponsor found in violation of any requirements, laws, rules and regulations or falsification of documents will be subject to suspension.

(4) A suspended Sponsor may appeal to the Department for a hearing in accordance with Ga. Comp. R. & Regs. R. 375-1-1-.06.

(5) Adequate insurance must be obtained by Sponsors to protect both the State, the Sponsor, all instructional personnel, students and training motorcycles.

(6) Each registered student must complete a Release, Waiver and Indemnification form approved by the Motorcycle Safety Program which releases the State, the Sponsor and all persons and organizations involved in the training program from any loss, costs, claim and/or damage arising out of participation in any course.

(7) The Sponsor will, to the satisfaction of the Motorcycle Safety Program, carry insurance for all phases of training in the following categories, but not limited to:

- (a) medical;
- (b) comprehensive and collision; and
- (c) bodily injury and property damage liability.

(8) The insurance supplier and coverage limits must be approved by the Department.

(9) The Sponsor must file with the Motorcycle Safety Program, prior to the start of any classes, a certificate of insurance or letter verifying insurance fully executed by the insurance company.

(10) It must be understood by the insurance company that the Motorcycle Safety Program must be given written notification of policy cancellation at least thirty (30) days prior to any such action.

(11) The insurance provided by the Sponsor will be the primary coverage and the insurance company so notified.

(12) Reporting by the Sponsor shall include but not be limited to:

- (a) class schedules;
- (b) registration information;
- (c) accident/incident report forms; and
- (d) other reports as set in the Sponsor Specifications.

(13) The Sponsor is responsible for completing and submitting any reports required by other public or private sector agencies or any individuals as a result of accident or incident of theft, vandalism, damage or injury to training personnel, students and equipment. Copies of any such reports shall be forwarded to the Motorcycle Safety Program Office immediately.

(14) Sponsors who wish to provide motorcycle safety training in addition to courses approved by the Motorcycle Safety Program must comply with all statutory and regulatory requirements for licensure as a driver training school.

(15) Any items provided the Sponsor are property of the State of Georgia and will be returned to the Motorcycle Safety Program in the event the Sponsor discontinues course offerings or is suspended.

(16) All materials and equipment supplied to Sponsors will be maintained on inventory and a copy provided and kept on file in the Motorcycle Safety Program Office.

(17) Supply of materials and equipment shall lie in the sound discretion of the Department and shall further be contingent upon the availability of funding for this purpose.

(18) Certified Sponsors must enter into a contractual agreement with the Department.

Cite as Ga. Comp. R. & Regs. R. 375-7-4-.07

AUTHORITY: O.C.G.A. § [40-15-3](#).

HISTORY: Original Rule entitled "Sponsor Requirements" adopted. F. Sept. 18, 2003; eff. Oct. 8, 2003.

Repealed: New Rule entitled "MSP-Certified Private Sponsor Requirements" adopted. F. Aug. 24, 2010; eff. Sept. 13, 2010.

Amended: F. Aug. 12, 2020; eff. Sep. 1, 2020.

Department 391. RULES OF GEORGIA DEPARTMENT OF NATURAL RESOURCES

Chapter 391-2. ENVIRONMENTAL PROTECTION

Subject 391-2-5. AIR QUALITY CONTROL

391-2-5-.01 Coastal Incentive Grant Program, Match, Term and Reimbursement

The Georgia Department of Natural Resources (DNR), Coastal Resources Division (CRD), solicits proposals for Coastal Incentive Grants (CIG) awarded under the Georgia Coastal Management Program (GCMP). The following announcement provides background and describes funding priorities, selection criteria, and application procedures.

This Request for Proposals solicits projects that are related to the themes identified by the Coastal Advisory Council (CAC) for the FY 2021-2022 Cycle 24 awards. Projects that are acceptable but for which there are no available funds may be awarded a CIG at a later date if funds become available.

All CIG applications must be matched annually \$1.00 federal to \$1.00 local (1:1). Match may be either cash from local, state or private sources or "in-kind" service(s).

If selected, CIG Cycle 24 contracts will run for one year beginning October 1, 2021 through September 30, 2022. Applications will be accepted for two-year sub-grant requests with the second year of support contingent upon approval and receipt of federal funds. Year 1 funding is not transferable to Year 2, if applicant submits a two (2) year project.

CIGs are reimbursable sub-grants. A Request for Reimbursement of federal project costs, along with a report of applicable non-federal match, is to be submitted with the Final Report, using the format provided by the DNR. Reimbursement will be made following completion of the terms of the sub-grant contract and receipt and performance of all deliverables for each sub-grant year.

Cite as Ga. Comp. R. & Regs. R. 391-2-5-.01

AUTHORITY: O.C.G.A. §§ [12-5-323](#), [28-5-122](#).

HISTORY: Original grant description entitled "Coastal Incentive Program" submitted Oct. 1, 1997.

Submitted: Sept. 14, 1998.

Submitted: Oct. 9, 2003.

Submitted: Oct. 24, 2005.

Submitted: Dec. 11, 2006.

Submitted: Oct. 31, 2007.

Submitted: Oct. 30, 2008.

Submitted: Grant description entitled "Coastal Incentive Grant Program, Match, Term and Reimbursement" received Sept. 23, 2009.

Submitted: Aug. 27, 2010.

Submitted: Aug. 25, 2011.

Amended: F. Sep. 4, 2012; eff. Sep. 24, 2012.

Amended: F. Aug. 27, 2013; eff. Sep. 16, 2013.

Amended: F. Sep. 3, 2014; eff. Sep. 23, 2014.

Submitted: Aug. 26, 2015.

Submitted: Sep. 6, 2016.

Submitted: Sep. 19, 2017.

Submitted: Sep. 4, 2018.

Submitted: Mar. 9, 2020.

Submitted: Aug. 27, 2020.

391-2-5-.06 Funding Themes

The themes of the FY 2021-2022 Cycle 24 CIG Program as adopted by the CAC are *(bulleted items are provided only as examples)*:

Oceans and Wetlands

- * Maintaining or improving the quality of wetlands
- * Conservation and restoration of wetland habitats
- * Improved understanding of ocean and wetland habitats and functions

Public Access and Land Conservation

- * Add or enhance physical access for the public to coastal water resources (i.e. rivers, wetlands, beaches)
- * Public access planning
- * Conservation of riparian habitats through acquisition
- * Land conservation, preservation, and/or management, especially for sea level rise retreat
- * Analysis of land conservation needs and opportunities for habitat protection

Sustainable Communities

- * Strengthen local capacity to implement sustainable approaches in planning and development
- * Increase understanding of costs and benefits associated with sustainable approaches to coastal development
- * Identification and preservation of unique community qualities, historical and cultural features, including public education of the above

Disaster Resiliency and Coastal Hazards

- * Improve understanding of coastal hazards and potential impacts
- * Develop, implement or incorporate adaptation and mitigation strategies/plans or policies
- * Strengthen local capacity to implement FEMA's Community Rating System

Non-Point Source Pollution

- * Improvements to existing urban runoff control structures in coastal watersheds
- * Projects that address stormwater quantity and quality improvements utilizing BMPs recommended by the Georgia Coastal Stormwater Supplement
- * No construction projects are eligible under this theme

Cite as Ga. Comp. R. & Regs. R. 391-2-5-.06

AUTHORITY: O.C.G.A. §§ [12-5-323](#), [28-5-122](#).

HISTORY: Original grant description entitled "Minimum Eligibility Requirements" submitted Oct. 1, 1997.

Submitted: Sept. 14, 1998.

Terminated: Oct. 9, 2003.

Submitted: Grant description entitled "Funding Themes" received Dec. 11, 2006.

Submitted: Oct. 31, 2007.

Submitted: Oct. 30, 2008.

Submitted: Sept. 23, 2009.

Submitted: Aug. 27, 2010.

Submitted: Aug. 25, 2011.

Amended: F. Sep. 4, 2012; eff. Sep. 24, 2012.

Amended: F. Aug. 27, 2013; eff. Sep. 16, 2013.

Amended: F. Sep. 3, 2014; eff. Sep. 23, 2014.

Submitted: Aug. 26, 2015.

Submitted: Sep. 6, 2016.

Submitted: Sep. 19, 2017.

Submitted: Sep. 4, 2018.

Submitted: Mar. 9, 2020.

Submitted: Aug. 27, 2020.

391-2-5-.12 RFP Application Submittal

The FY2021-2022 Cycle 24 CIG opportunity will involve a competitive pre-application process followed by an invitation only competitive full application process. The detailed CIG pre- and full application instructions, format, and standard required forms are available on the DNR-CRD website.

Pre-Application Process: Pre-applications must be submitted online by **4:30pm on Friday, December 4, 2020**.

Applicants must submit a completed profile form (as provided by DNR-CRD) and succinctly summarize the project goals, relevance to coastal management, tasks to be performed, and an overall estimated budget as outlined in the pre-application instructions found on the aforementioned DNR-CRD website. Pre-applications must be submitted online by the due date and time. A notice of receipt will be sent via email. Pre-applications will be competitively reviewed and only those selected will be invited to submit a full application. Applicants will be notified by January 11, 2021 if they have been selected, or not.

Full Application Process: Applicants with selected pre-applications will be invited to submit a full application. Full applications must be submitted online by **4:30pm on Friday, February 12, 2021**. In addition to the pre-application information, the full application should also include specific and detailed task descriptions by year, a project timeline with major milestones, project management information, a detailed yearly budget breakdown with narrative, and all supporting documentation as outlined in the full application instructions found on the aforementioned DNR-CRD website. Facsimiles and email submissions of the full application will not be accepted. The full application packet must be submitted online by the due date and time.

Applications received after the deadline will not be accepted.

Cite as Ga. Comp. R. & Regs. R. 391-2-5-.12

AUTHORITY: O.C.G.A. §§ [12-5-323](#), [28-5-122](#).

HISTORY: Original grant description entitled "RFP Application Submittal" submitted Dec. 11, 2006.

Submitted: Oct. 31, 2007.

Submitted: Oct. 30, 2008.

Submitted: Sept. 23, 2009.

Submitted: Aug. 27, 2010.

Submitted: Aug. 25, 2011.

Amended: F. Sep. 4, 2012; eff. Sep. 24, 2012.

Amended: F. Aug. 27, 2013; eff. Sep. 16, 2013.

Amended: Title changed to "RFP Application Submittal and Letter of Intent." F. Sep. 3, 2014; eff. Sep. 23, 2014.

Submitted: Aug. 26, 2015.

Submitted: Grant description entitled "RFP Application Submittal," Sep. 6, 2016.

Submitted: Sep. 19, 2017.

Submitted: Sep. 4, 2018.

Submitted: Mar. 9, 2020.

Submitted: Aug. 27, 2020.

391-2-5-.13 Application Review Process

Applications must be submitted with a profile form, proposal, other required forms, and supporting documentation as described in the detailed CIG application instructions located on the DNR-CRD website.

Pre-Application Process: Following the submittal of the pre-application, the CZM Grants Coordinator will schedule the Pre-Application Review Team, which may be comprised of Coastal Zone Management (CZM) Technical Assistance staff; the CZM Program Manager; and CRD Habitat, Fisheries, Shellfish, and/or Education and Outreach staff. The Team will review and competitively rank the pre-applications based on 1) applicability to the GCMP mission, goals, and policies, 2) a demonstrated coastal management need, 3) clear project goals, 4) budget soundness, 5) an applicant's past performance, and 6) relationship to other federal funding. Selected applicants will be invited to submit a full application.

Full Application Process: Upon selection of the pre-applications, the CZM Grants Coordinator will schedule the CIG Technical Review Committee, which is comprised of five (5) coastal community professionals from the following fields: state resource management, local government, non-governmental organization, academia, and citizen-at-large. The Committee will review and preliminarily score the applications based on the criteria provided in Sections 391-2-5-.17 and [391-2-5-.18](#). The Committee will consider the applications in a roundtable forum from highest to lowest preliminary score. After careful consideration, final ranking will be determined by consensus. Full applications that are recommended for funding by the Committee will be included in the DNR application for annual funding from the National Oceanic and Atmospheric Administration (NOAA) GCMP CZM Grant. NOAA makes the final review and approval of all CIG sub-grants. All applicants will be notified of the Committee's recommendation by April 30, 2021. All applicants will be notified of final NOAA approval by August 31, 2021.

Late, incomplete, and ineligible pre- and full applications will be returned to the applicant. Unsuccessful applicants may contact the CZM Grants Coordinator within 30 days of pre- or full application notification to discuss reason(s) for denial.

Cite as Ga. Comp. R. & Regs. R. 391-2-5-.13

AUTHORITY: O.C.G.A. §§ [12-5-323](#), [28-5-122](#).

HISTORY: Original grant description entitled "Application Review Process" submitted Dec. 11, 2006.

Submitted: Oct. 31, 2007.

Submitted: Oct. 30, 2008.

Submitted: Sept. 23, 2009.

Submitted: Aug. 27, 2010.

Submitted: Aug. 25, 2011.

Amended: F. Sep. 4, 2012; eff. Sep. 24, 2012.

Amended: F. Aug. 27, 2013; eff. Sep. 16, 2013.

Amended: F. Sep. 3, 2014; eff. Sep. 23, 2014.

Submitted: Aug. 26, 2015.

Submitted: Sep. 6, 2016.

Submitted: Sep. 19, 2017.

Submitted: Sep. 4, 2018.

Submitted: Mar. 9, 2020.

Submitted: Aug. 27, 2020.

391-2-5-.15 Timeline

December 4, 2020, 4:30pm

February 12, 2021, 4:30pm

August 31, 2021

October 1, 2021

Pre-application deadline

Full Application deadline

NOAA approval (anticipated)

Project start date

Cite as Ga. Comp. R. & Regs. R. 391-2-5-.15

AUTHORITY: O.C.G.A. §§ [12-5-323](#), [28-5-122](#).

HISTORY: Original grant description entitled "Timeline" submitted Dec. 11, 2006.

Submitted: Oct. 31, 2007.

Submitted: Oct. 30, 2008.

Submitted: Sept. 23, 2009.

Submitted: Aug. 27, 2010.

Submitted: Aug. 25, 2011.

Amended: F. Sep. 4, 2012; eff. Sep. 24, 2012.

Amended: F. Aug. 27, 2013; eff. Sep. 16, 2013.

Amended: F. Sep. 3, 2014; eff. Sep. 23, 2014.

Submitted: Aug. 26, 2015.

Submitted: Sep. 6, 2016.

Submitted: Sep. 19, 2017.

Submitted: Sep. 4, 2018.

Submitted: Mar. 9, 2020.

Submitted: Aug. 27, 2020.

Department 478. RULES OF THE STATE PERSONNEL BOARD

Chapter 478-1. RULES OF THE STATE PERSONNEL BOARD

478-1-.10 Classification Plan

(1) Introduction:

Under state law, the Department of Administrative Services (DOAS) is required to define job classes, establish associated minimum qualifications, and assign classes to appropriate pay ranges. This Rule sets forth the procedures by which the statewide classification plan is established and maintained.

(2) Applicability:

This Rule applies to all agencies of the executive branch, local departments of public health, and community service boards. This Rule does not apply to other public corporations, authorities, the Board of Regents of the University System of Georgia, the legislative branch, or the judicial branch.

(3) Definitions:

(a) "Entry qualifications" mean the competencies, experience and education necessary to perform job responsibilities satisfactorily.

(b) "Job description" means information applicable to a grouping of job duties and responsibilities, to include job title, job code, job summary, list of primary duties and responsibilities, and entry qualifications. Job descriptions provide broad illustrations of the types of work performed by incumbents and should not be construed as limiting an agency's authority to modify the duties and responsibilities of its employees or to direct or control their work.

(c) "Position description" means a detailed written statement of the duties and responsibilities assigned to an individual employee. If appropriate, a position description will contain preferred qualifications.

(4) Preparation and Adoption of the Plan:

(a) After consulting with the Office of Planning and Budget (OPB), the Commissioner will have the authority to prepare and recommend a new comprehensive statewide classification plan to the State Personnel Board. The new plan will be based on position data analysis provided by the agencies and will include information for each job, including job title, job summary, responsibilities, and entry qualifications. DOAS, in partnership with the agencies, will develop entry qualifications for each job in the classification plan.

(b) A public comment period of 30 calendar days will commence following plan publication. Notice of plan publication will include instructions for submitting written comments during the public comment period, as well as the starting and ending dates of the public comment period.

(c) Comments received during the 30-calendar-day period will be thoroughly reviewed, considered, and, if determined appropriate, incorporated into the plan as recommended by the Commissioner and presented to the Board. The Board may modify the plan in any way it deems appropriate and formally adopt the plan at a public hearing. The Commissioner will submit the approved plan to the Governor. The plan will be effective at the time agreed upon by the Commissioner and the Office of Planning and Budget.

(5) Amendments to the Plan:

(a) Following consultation with agencies directly affected, the Commissioner may make the following material amendments to the classification plan:

1. establishing or abolishing a job or job series;
2. activating or deactivating a job code;
3. merging or dividing jobs;
4. modifying a job description; or
5. reassignment of a job or job series.

(b) The Commissioner may make the following non-material amendments to the classification plan without consultation with agencies:

1. correcting a published error or inaccuracy; or
2. correcting grammar, spelling, typographical errors, formatting, or references.

(c) Amendments will take effect in accordance with the following guidelines:

1. Material amendments without significant budgetary impact will take effect on the date agreed upon by the Commissioner and agencies directly affected.
2. Material amendments with significant budgetary impact will take effect upon approval by the Office of Planning and Budget.
3. Non-material amendments will take effect when processed.

(d) The Commissioner will report material amendments to the Board and will publish all amendments in a manner accessible to the agencies.

(6) Reconsideration of Amendments to the Plan:

Any agency affected by an amendment to the classification plan may submit a written request for reconsideration by the Commissioner. The Commissioner must review the request and issue a decision no later than 30 business days following receipt of the request.

(7) Allocation and Reallocation of Positions:

(a) Positions that are substantially similar with respect to the type and level of work to be performed, responsibilities assigned, level of supervision received, qualifications necessary for successful job performance, and external market value (where relevant) will be assigned to the same job.

(b) Agencies must allocate every position to the appropriate job and may submit requests for technical assistance to DOAS. Allocations and reallocations should be reported in a manner prescribed by the Commissioner.

(c) When a filled position is reallocated due to a reevaluation of the position or a change in job responsibilities, the incumbent, if determined as eligible for promotion, transfer, or demotion to the new job, may remain in the position at the discretion of the agency. The employment status of an incumbent who does not remain in a reallocated position will be determined in accordance with other applicable provisions of these Rules.

(d) Except as provided in Rule [478-1-.27](#), Appeals and Hearings for Classified Employees, an employee does not have the right to appeal decisions relating to the allocation or reallocation of positions.

(e) Periodically, the Commissioner will assess the classification of positions for consistency in application across agencies and with the classification plan.

Cite as Ga. Comp. R. & Regs. R. 478-1-.10

AUTHORITY: O.C.G.A. §§ [45-20-3](#), [45-20-3.1](#), [45-20-4](#); § [45-20-1](#).

HISTORY: Original Rule entitled "Promotions, Transfers, Demotions, Relocations" adopted. F. July 31, 1985; eff. July 1, 1985, as specified by the Board.

Amended: F. Jan. 15, 1987; eff. Dec. 29, 1986, as specified by the Board.

Amended: F. Jan. 22, 1988; eff. Nov. 12, 1987, as specified by the Board.

Amended: F. Nov. 8, 1989; eff. June 28, 1989, as specified by the Board.

Amended: F. June 20, 1990; eff. July 1, 1990, as specified by the Board.

Amended: F. Sept. 3, 1992; eff. Aug. 6, 1992, as specified by the Board.

Amended: F. Nov. 16, 1992; eff. Sept. 21, 1992, as specified by the Board.

Amended: F. Apr. 9, 1993; eff. Mar. 8, 1993, as specified by the Board.

Amended: F. June 30, 1994; eff. July 1, 1994, as specified by the Board.

Amended: F. Nov. 15, 1994; eff. Nov. 3, 1994, as specified by the Board.

Amended: F. July 11, 1995; eff. June 30, 1995, as specified by the Board.

Amended: F. Dec. 31, 1996; eff. Sept. 20, 1996, as specified by the Board.

Amended: F. Feb. 7, 1997; eff. Jan. 29, 1997, as specified by the Board.

Amended: F. Oct. 8, 1997; eff. Sept. 25, 1997, as specified by the Board.

Amended: F. Nov. 4, 1997; eff. Oct. 27, 1997, as specified by the Board.

Amended: F. Sept. 21, 1998; eff. Sept. 9, 1998, as specified by the Board.

Repealed: New Rule entitled "Classification Plan" adopted. F. Dec. 23, 2008; eff. Dec. 17, 2008, as specified by the Board.

Amended: F. Oct. 28, 2009; eff. Aug. 27, 2009, as specified by the Board.

Amended: F. Aug. 25, 2020; eff. Mar. 16, 2020, as specified by the Board.

478-1-.11 Compensation Plan

(1) Introduction:

Under state law, the Department of Administrative Services (DOAS) is required to establish and maintain a statewide system of pay ranges for all job classes, assign classes to appropriate pay ranges, and develop compensation rules and policies. The Rule sets forth the procedures by which the statewide compensation plan is established and maintained.

(2) Applicability:

This Rule applies to all agencies of the executive branch, local departments of public health, and community service boards. This Rule does not apply to other public corporations, authorities, the Board of Regents of the University System of Georgia, the legislative branch, or the judicial branch.

(3) Preparation and Adoption of the Plan:

(a) After consulting with agencies and the State's fiscal officers, the Commissioner will have the authority to prepare and recommend a new statewide compensation plan to the State Personnel Board. The new plan will include salary schedules, including minimum, midpoint, and maximum rates of pay by grade for the jobs outlined in the classification plan, and pay addenda. In establishing salary schedules, the Commissioner will consider:

1. the intent and appropriations of the General Assembly;
2. rates of pay in effect in the agencies;
3. rates of pay for similar services among public and private employers with whom the State competes for employees;
4. other benefits received by employees;
5. cost of living;
6. the State's financial condition and policies; and
7. any other relevant factors.

(b) A public comment period of 30 calendar days will commence following plan publication. Notice of plan publication will include instructions for submitting written comments during the public comment period, as well as the starting and ending dates of the public comment period.

(c) Comments received during the 30-calendar-day period will be thoroughly reviewed, considered, and, if determined appropriate, incorporated into the plan as recommended by the Commissioner in consultation with the Governor's Office of Planning and Budget. The compensation plan will be presented to the State Personnel Board for adoption and will take effect upon approval of the Director of the Office of Planning and Budget.

(4) Amendments to the Plan:

(a) Agencies may request that the Commissioner review the pay grade(s) assigned to a job or job series to determine whether recommendation for amendment is appropriate. Following consultation with agencies directly affected, the Commissioner may make such recommendations to the Office of Planning and Budget.

(b) The Commissioner will submit to the Office of Planning and Budget recommendations for amendments to the compensation plan on an annual basis. These recommendations should include relevant information for adjustments to the entire plan and to specific jobs, including economic and labor market conditions or other pertinent data.

(c) Amendments to the compensation plan will take effect in accordance with the date(s) provided by the Office of Planning and Budget through its approval process.

(d) The Commissioner will report amendments to the Board and publish amendments in a manner accessible to the agencies.

(5) Reconsideration of Amendments to the Plan:

Any agency affected by an amendment to the compensation plan may submit a written request for reconsideration to the Commissioner. The Commissioner must review the request and issue a decision no later than 30 business days following receipt of the request.

Cite as Ga. Comp. R. & Regs. R. 478-1-.11

AUTHORITY: O.C.G.A. §§ [45-20-3](#), [45-20-3.1](#), [45-20-4](#); § [45-20-1](#).

HISTORY: Original Rule entitled "Working Test and Permanent Status" adopted. F. July 31, 1985; eff. July 1, 1985, as specified by the Board.

Amended: F. Jan. 15, 1987; eff. Dec. 29, 1986, as specified by the Board.

Amended: F. Jan. 22, 1988; eff. Nov. 12, 1987, as specified by the Board.

Amended: F. Aug. 11, 1992; eff. July 2, 1992, as specified by the Board.

Amended: F. Mar. 9, 1994; eff. Mar. 3, 1994, as specified by the Board.

Amended: F. Nov. 15, 1994; eff. Nov. 3, 1994, as specified by the Board.

Amended: F. July 11, 1995; eff. June 30, 1995, as specified by the Board.

Amended: F. Dec. 31, 1996; eff. Sept. 20, 1996, as specified by the Board.

Amended: F. Oct. 8, 1997; eff. Sept. 25, 1997, as specified by the Board.

Repealed: New Rule entitled "Compensation Plan" adopted. F. Dec. 23, 2008; eff. Dec. 17, 2008, as specified by the Board.

Amended: F. Oct. 28, 2009; eff. Aug. 27, 2009, as specified by the Board.

Amended: F. Aug. 25, 2020; eff. Mar. 16, 2020, as specified by the Board.

478-1-.14 Performance Management

(1) Introduction:

The State has implemented a performance management program through which agency supervisors and managers set performance expectations, conduct interim performance reviews, and annually evaluate and rate the work performed by employees. Performance management can serve as an effective retention tool, and the State's performance management program provides supervisors and employees with the opportunity to align work with agency goals and plans, discuss performance expectations, identify and correct areas for improvement, encourage and recognize strengths, and discuss positive, purposeful approaches for meeting goals. Performance discussions should ideally occur throughout the year during interim reviews and coaching, but must occur in conjunction with performance planning and end-of-year performance evaluation.

(2) Applicability:

This Rule is applicable to all full-time and part-time regular employees in executive branch agencies except the Board of Regents of the University System of Georgia. Agencies have the discretion to include their hourly and temporary employees in their performance management program.

(3) Definitions:

For the purposes of this Rule, the following terms and definitions apply in addition to those in Rule [478-1-.02](#), Terms and Definitions:

(a) "Coaching" refers to periodic meetings between the supervisor and employee to discuss how effectively the employee is performing and applying competencies to meet job responsibilities and/or goals.

(b) "Competencies" mean observable and measurable behaviors, knowledge, skills, abilities, and other characteristics that are necessary to perform successfully in the position.

(c) "Goal" means a measurable outcome or result to be achieved as defined in a performance plan.

(d) "Individual Development Plan" or "IDP" means an action plan that identifies an employee's short-term and long-term goals as well as projects, activities, and support that contribute to the employee's continual learning and development in the organization. IDPs should be a collaborative effort between the supervisor and employee.

(e) "Job Responsibilities" include job tasks that are necessary for successful performance in the employee's current position.

(f) "Performance Plan" is the document shared with and acknowledged by the employee that identifies the competencies, goals, job responsibilities, and/or expectations upon which an employee will be evaluated. The performance plan should also include unrated employee development activities in an Individual Development Plan.

(4) Performance Management Process:

The performance management process involves four components: performance planning, performance coaching, performance evaluation, and performance recognition.

(a) Performance Planning:

1. The performance management program requires that supervisors develop a performance plan for each employee upon the employee's hire into a new job and then annually thereafter. The performance plan identifies performance standards and expectations on which the employee will be evaluated. Supervisors are to present performance plans to their employees within 45 calendar days of an employee being placed in a new job and annually within 45 calendar days of the start of a new performance period.

2. Performance planning is intended to be a collaborative effort between the supervisor and employee. The agency head, or designee, however, has sole discretion to make the final determination of individual competencies, goals, job responsibilities, and expectations to be included in the performance plan.

3. A performance plan may be modified at any time during a performance period and shall be modified when new or different responsibilities and/or expectations are added to a position. Employees should be immediately notified of such modifications to their performance plan, and the written performance plan must be updated within 15 calendar days of the modification.

4. Given the importance of Individual Development Plans in improving and/or expanding employees' knowledge, skills, and abilities, all agencies are encouraged to include IDPs in their employees' performance plans. The focus of the IDP may be development in the current role, building new skill sets or knowledge, and/or preparation for a future role.

(b) Performance Coaching:

1. The performance management program requires that supervisors monitor and document their employees' performance and provide coaching throughout the performance period.

2. At least once during the performance period, supervisors are encouraged to conduct an interim performance review with each supervised employee. Interim reviews need not be as formal as annual performance evaluations but have the option of including detailed assessments and ratings. At a minimum, interim reviews must offer sufficient feedback to employees to reinforce successful performance and redirect less than successful performance.

(c) Performance Evaluation:

1. At the conclusion of each annual performance period, supervisors are responsible for documenting, evaluating, and rating the performance of each employee who has been in the current position for five months or more. If there has been a change in supervision during the performance period, agencies should develop a process for ensuring that all documentation maintained on an employee is considered in the evaluation.
2. An employee who has been in the current position for less than five months may receive a "no-rating" at the discretion of the employing agency. The summary rating should be based on the rating scale currently supported by the State and reflect the employee's overall level of performance.
3. Performance evaluations are to be conducted in a fair, unbiased, and equitable manner. When practicable, the performance evaluation should include a one-on-one, in-person meeting between the supervisor and the employee.
4. Employees are encouraged to actively participate in the evaluation process by completing and submitting a self-evaluation. The agency head, or designee, however, has sole discretion to make the final determination on employees' overall summary performance ratings.

(d) Performance Recognition:

1. Performance recognition may be monetary or non-monetary and includes any activity designed to acknowledge individual or collective performance results.
2. When monetary performance rewards based on employee overall summary ratings are appropriated statewide, such rewards are implemented as approved by the State Personnel Board.

(5) Review of Performance Plans or Evaluations:

- (a) Employees may request a review of their performance plan if they consider the expectations to be non-job-related or unachievable.
- (b) Employees may request a review of their annual performance evaluation if the overall summary rating is "Unsatisfactory Performer," or its equivalent, and they disagree with such rating.
- (c) Each agency shall designate at least one official to serve as an "Agency Review Official" to review performance plans, evaluations, and supporting documentation, and to render a decision to either uphold or direct the responsible supervisor to revise the performance plan or rating. The Agency Review Official reviewing a particular plan or evaluation should be familiar with the work described and must not be a first- or second-level supervisor of the employee requesting the review.
- (d) The agency may define procedures and timeframes for requesting reviews and require such to be followed as a condition of granting a review.
 1. Agencies are responsible for ensuring their employees are aware of the procedure for requesting a review of a performance plan or evaluation and any applicable timeframes.
 2. The identity of an Agency Review Official must be provided to each employee upon presentation of an overall summary rating of "Unsatisfactory Performer," or its equivalent.

(6) Recordkeeping:

- (a) Performance evaluations must be dated and acknowledged by the employee and supervisor. Electronic acknowledgement meets these criteria. Once the employee has acknowledged the document, no changes can be made or comments added to the performance evaluation without the employee's knowledge.

(b) Agencies must determine an alternate method of documenting that the evaluation has been discussed with the employee when the employee refuses to acknowledge the performance evaluation.

(c) Completed performance evaluations are maintained in the Human Resources Information System (HRIS) or as otherwise designated by the agency in accordance with the State's official retention schedule.

(d) Overall summary evaluation ratings are to be entered into the HRIS, as communicated to agencies.

(7) Performance Management Program Evaluation:

The DOAS Commissioner, or designee, shall conduct an annual review and evaluation of the statewide application of the performance management program. Such review and evaluation shall be undertaken with the goal of assuring, to the extent possible, consistency of employee evaluation throughout the State.

(8) Coordination with Other Personnel Policies:

(a) Overall summary performance ratings are considered when implementing performance-based salary increases and Reductions in Force, as appropriate within these Rules.

(b) Typically, employment actions resulting from an employee's performance, such as promotions or demotions, should be consistent with the most recent annual overall summary performance rating. Significant accomplishments or deficiencies occurring after the most recent annual evaluation could support an exception.

Cite as Ga. Comp. R. & Regs. R. 478-1-.14

AUTHORITY: O.C.G.A. §§ [45-20-3](#), [45-20-3.1](#), [45-20-4](#); §§ [45-20-1](#), [45-20-21](#).

HISTORY: Original Rule entitled "Appeals and Hearings" adopted. F. July 31, 1985; eff. July 1, 1985, as specified by the Board.

Amended: F. Jan. 15, 1987; eff. Dec. 29, 1986, as specified by the Board.

Amended: F. Jan. 22, 1988; eff. Nov. 12, 1987, as specified by the Board.

Amended: F. June 20, 1990; eff. May 30, 1990, as specified by the Board.

Amended: F. Aug. 11, 1992; eff. July 2, 1992, as specified by the Board.

Amended: F. Sept. 3, 1992; eff. Aug. 6, 1992, as specified by the Board.

Amended: F. Nov. 16, 1992; eff. Sept. 21, 1992, as specified by the Board.

Amended: F. Aug. 10, 1993; eff. July 30, 1993, as specified by the Board.

Amended: F. July 20, 1994; eff. July 7, 1994, as specified by the Board.

Amended: F. Apr. 11, 1995; eff. Apr. 5, 1995, as specified by the Board.

Amended: F. Apr. 22, 1997; eff. Apr. 9, 1997, as specified by the Board.

Repealed: New Rule of same title adopted. F. Aug. 18, 1997; eff. June 30, 1997, as specified by the Board.

Amended: F. July 22, 1998; eff. July 7, 1998, as specified by the Board.

Amended: F. July 15, 1999; eff. June 24, 1999, as specified by the Board.

Amended: F. Dec. 8, 2003; eff. Oct. 24, 2003, as specified by the Board.

Repealed: New Rule entitled "Performance Management" adopted. F. Dec. 23, 2008; eff. Dec. 17, 2008.

Amended: F. Jul. 2, 2014; eff. Jun. 20, 2014, as specified by the Board.

Amended: F. Aug. 25, 2020; eff. Mar. 16, 2020, as specified by the Board.

478-1-.31 Families First Coronavirus Response Leave

(1) Introduction:

This temporary State Personnel Board Rule shall be read in conjunction with the provisions of State Personnel Board Rule [478-1-.23](#), Family and Medical Leave, (Rule 23) and State Personnel Board Rule [478-1-.16](#), Absence from Work, (Rule 16) and shall provide for compliance with the federal Families First Coronavirus Response Act (FFCRA) enacted on March 18, 2020.

(a) The Emergency Family Medical Leave Expansion Act of the FFCRA provides a job-protected leave entitlement for eligible employees who are incapable of teleworking due to a need for leave to care for the employee's son or daughter under 18 years of age if the school or place of care has been closed, or the childcare provider of the son or daughter is unavailable due to a public health emergency. State agencies shall administer the Emergency Family and Medical Leave in accordance with the FFCRA and any related regulations.

(b) The Emergency Paid Sick Leave Act of the FFCRA provides an administrative leave benefit which provides for 80 hours of paid leave for six qualifying reasons (see Section (5)(b)). State agencies shall administer the Emergency Paid Sick Leave Act in accordance with the FFCRA and any related regulations.

(c) Each state employer should establish procedures for employees to request and receive approval for absences from work that meet the eligibility requirements for Emergency Family and Medical Leave or Emergency Paid Sick Leave. An employee is expected to return to work and/or telework as scheduled at the expiration of the approved absence. If an extension is necessary, the employee must follow the agency's established procedures for requesting an extension prior to the leave expiration or adhere to other agency procedures for requesting an extension of leave.

(d) Prior to engaging in other employment, including self-employment, while on leave employees must comply with the notice and other requirements set forth in State Personnel Board Rule [478-1-.07](#), Outside Employment.

(e) State employers shall not discriminate or retaliate against an individual for exercising any right to Emergency Family and Medical Leave or Emergency Paid Sick Leave.

(f) To the extent that the U.S. Department of Labor or any other federal administration authority issues regulations that conflict with this Rule, the federally issued regulations shall control.

(2) Applicability:

The policies and procedures described in this Rule apply to all agencies of the Executive Branch, excluding the Board of Regents of the University System of Georgia.

(3) Definitions:

For the purposes of this Rule, the following terms and definitions apply in addition to those in [478-1-.02](#), Terms and Definitions:

(a) "Administrative leave" means paid time off for specified reasons defined in state or federal law. This paid time off is not charged to accrued leave and the duration is defined in the applicable statute.

(b) "Childcare provider" means a provider who receives compensation for providing childcare services on a regular basis.

(c) "Public health emergency" means an emergency with respect to COVID-19 as declared by the Governor of Georgia, the federal government, or a local authority.

(d) "Rolling 12-month Period" or "Rolling Year" is the 12-month period measured backward from the date an employee uses any Family and Medical Leave. Under the "rolling year," each time an employee takes Family and Medical Leave, the remaining leave entitlement would be the balance of the 12 weeks which has not been using during the immediately preceding 12 months.

(e) "School" means an elementary school, including nonprofit institutional day or residential schools and public elementary charter schools that provide elementary education, as determined under state law. School also means secondary school, including nonprofit institutional day or residential schools and public secondary charter schools that provide secondary education, as determined under state law.

(f) "Workday" means a day an employee is regularly scheduled to work.

(4) Emergency Expansion of Family and Medical Leave:

(a) Employee Eligibility:

1. For purposes of determining an employee's eligibility for Emergency Family and Medical Leave, the state is considered one employer.

2. To be eligible an employee must have been employed for at least thirty (30) calendar days.

3. Time worked for the State of Georgia in any employment capacity will count toward meeting the eligibility criteria in Section (4)(a)2 above. Such employment includes full-time, part-time, temporary, and seasonal employment, whether paid on a salaried or hourly basis. Time worked for a state employer as a worker assigned from a temporary staffing agency shall also be counted if the same worker is subsequently hired by the state employer.

(b) Qualifying Need Related to a Public Health Emergency:

The only qualifying need under which an eligible employee may request Emergency Family and Medical Leave is when the employee is unable to work or telework due to a need for leave to care for the employee's son or daughter under 18 years of age if the school or place of care has been closed, or the childcare provider of the son or daughter is unavailable to due to a public health emergency.

(c) Leave Entitlement:

1. An eligible employee is entitled to take up to 12 workweeks of Family and Medical Leave during a rolling 12-month period, measured backward from the date an employee uses any Family and Medical Leave, for any qualifying reason provided in State Personnel Board Rule 23, Family and Medical Leave, or for the qualifying need related to a public health emergency as described in Section (4)(b) above.

2. Intermittent Leave:

(i) Eligible employees may take Emergency Family and Medical Leave on an intermittent or reduced schedule basis, upon approval by the state employer, provided intermittent leave is granted in a consistent manner to all staff.

(ii) Any employee requesting to take Emergency Family and Medical Leave on an intermittent basis must have the schedule of the leave approved by the state employer and must receive prior approval for any adjustments to the schedule.

(d) Paid Leave Provisions:

State employers shall provide compensation for each workday of Emergency Family and Medical Leave an employee takes after the first ten (10) workdays of such leave as follows:

1. For full-time, salaried employees, the amount of compensation provided for Emergency Family and Medical Leave shall be no less than two-thirds (2/3) of the employee's regular rate of pay provided such pay shall never exceed \$200.00 per day or \$10,000.00 in the aggregate.
2. For part-time and/or hourly employees, the amount of compensation provided for Emergency Family and Medical Leave shall be based upon the number of hours the employee would otherwise normally be scheduled to work at no less than two-thirds (2/3) the regular rate of pay per hour. Such pay shall never exceed \$200.00 per day or \$10,000.00 in the aggregate.

If the employee's hours normally vary from week to week, to the extent that the state employer is unable to determine the number of hours the employee would have worked with certainty, then the state employer shall calculate the number of hours as follows:

- (i) The average number of hours the employee was scheduled to work each day over the 6-month period ending on the date on which the employee is to begin the Emergency Family and Medical Leave.
 - (ii) If the employee did not work over a 6-month period, then the number of hours shall be based on the reasonable expectation of the employee at the time of hire of the average number of hours per day the employee would normally be scheduled to work.
3. An employee may elect to use accrued annual leave, personal leave, holiday deferral leave, compensatory time, or emergency paid sick leave (see Section (5) below) during the first ten (10) workdays of Emergency Family Medical Leave.

(e) Employee Notice Requirements:

1. Where the need for Emergency Family and Medical Leave is foreseeable, the employee is expected to provide the state employer the maximum notice practicable. Where the need arises unexpectedly, the state employer may require the employee to follow customary call-in procedures.
2. A state employer may require that an employee's notice of leave include the anticipated start date and the anticipated duration but must consider the employee's potential inability to know when a school or childcare provider may reopen or become available again.

(f) Reinstatement Requirements:

At the expiration of Emergency Family Medical Leave, an employee is entitled to reinstatement to the same or an equivalent position held prior to the leave.

1. An equivalent position is one which has substantially similar duties and responsibilities and equivalent benefits, pay, and other terms and conditions of employment.
2. There is no greater right to reinstatement than if the employee had remained at work, rather than take the leave. For example, if the position or equivalent position held by the employee when the leave began does not exist due to economic conditions or other changes in the operation of the agency that affect employment and were caused by the public health emergency during the period of leave, then the employee is not entitled to reinstatement. See Section (4)(f)3 below regarding the FFCRA requirement to contact the employee regarding future equivalent opportunities.
3. Period of Required Contact:

If the position or an equivalent position does not exist when the leave expires, the state employers with fewer than twenty-five (25) employees must make reasonable efforts to contact the employee if such an equivalent position becomes available for a period of one (1) year. The one (1) year must begin on the date the qualifying need related to the public health emergency ends or the date that is 12 weeks after the date on which the employee's leave commences, whichever is earlier.

(5) Emergency Paid Sick Leave:

(a) Employee Eligibility:

1. All employees are eligible, regardless of tenure, to receive administrative Emergency Paid Sick Leave if the employee is unable to work or telework due to an approved use for leave listed below in Section (5)(b).
2. No employee shall be required to use other accrued leave or compensatory time prior to Emergency Paid Sick Leave.
3. No employee shall be required to identify a replacement for his or her absence while taking Emergency Paid Sick Leave.

(b) Approved Uses of Emergency Paid Sick Leave:

1. The employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19.
2. The employee has been advised by a healthcare provider to self-quarantine due to concerns related to COVID-19.
3. The employee is experiencing symptoms of COVID-19 and is seeking medical diagnosis.
4. The employee is caring for an individual who is subject to a federal, state, or local quarantine or isolation order or has been advised by a healthcare provider to self-quarantine.
5. The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed or the childcare provider of such son or daughter is unavailable due to COVID-19 precautions.
6. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

(c) Amount of Leave:

1. Full-time employees are entitled to 80 hours of leave.
2. Part-time employees are entitled to the number of hours such employee works, on average, over a two-week period.
3. The amount of leave for employees on irregular schedules shall be based on the average number of hours over a two-week period the employee worked the six (6) months prior to taking Emergency Paid Sick Leave. Employees who have been employed for less than six (6) months prior to taking Emergency Paid Sick Leave shall receive the average number of hours the employee reasonably expected to work over a two-week period upon hire.
4. Emergency Paid Sick Leave shall not carry over to the following year.

(d) Amount of Compensation Due:

1. For approved uses of Emergency Paid Sick Leave under Sections (5)(b) 1 - 3 above, the employee's leave is calculated at the regular rate of pay capped at \$511.00 per day and \$5,110.00 in the aggregate.

2. For approved uses of Emergency Paid Sick Leave under Sections (5)(b) 4 - 6 above, the employee's leave is calculated at two-thirds (2/3) the regular rate of pay capped at \$200.00 per day and \$2,000.00 in the aggregate.

(e) Employee Notice Requirements:

1. Where the need for Emergency Paid Sick Leave is foreseeable, the employee is expected to provide the state employer the maximum notice practicable. Where the need arises unexpectedly, the state employer may require the employee to follow customary call-in procedures.

2. A state employer may require that an employee's notice of leave include the anticipated start date and the anticipated duration, but must take into account the employee's potential inability to know when a school or childcare provider may reopen or become available again, or when a quarantine or isolation order or recommendation may end.

(f) Interaction with Emergency Expansion of Family and Medical Leave:

1. At the request of an employee, Emergency Paid Sick Leave shall be approved to be used during the first ten (10) unpaid workdays of Emergency Family and Medical Leave.

2. Employees may request to use accrued annual leave, personal leave, holiday deferral leave, or compensatory time, rather than Emergency Paid Sick Leave, to compensate the first ten (10) unpaid workdays of Emergency Family and Medical Leave.

(6) Employer Notice Requirement:

Each state employer shall post and keep posted, in conspicuous locations on agency premises where notices to employees are customarily placed, the FFCRA notice prepared by and approved by the US Secretary of Labor. State employers may satisfy this requirement by emailing or direct mailing the model notice to employees or posting the model notice on an employee information internal or external website until such time the state employer can post the notice on agency premises.

(7) Effective Date and Sunset Provision:

This Board Rule shall become effective on April 1, 2020, upon the Governor's signature, and shall expire on December 31, 2020.

Cite as Ga. Comp. R. & Regs. R. 478-1-.31

AUTHORITY: O.C.G.A. §§ [45-20-3](#), [45-20-3.1](#), [45-20-4](#); § [45-20-16](#). Federal Law References: Pub. L. No. 116-127 - Families First Coronavirus Response Act, 29 U.S.C. § 2601, et. seq. - Family and Medical Leave Act, 29 C.F.R. Part 825 - US DOL Family and Medical Leave Regulations.

HISTORY: Original Rule entitled "Temporary Special Rule for Implementation of the Classification and Compensation Plans Based on the Job Analyses, Compensation Factors, Labor Market Studies, and Other Analyses Conducted as a part of the GeorgiaGain Project" adopted. F. Dec. 31, 1996; eff. Oct. 1, 1996, as specified by the Board.

Amended: F. Oct. 8, 1997; eff. Sept. 25, 1997, as specified by the Board.

Repealed: Rule Reserved. F. July 31, 2000; eff. July 14, 2000, as specified by the Board.

Adopted: New Rule entitled "Families First Coronavirus Response Leave." F. Aug. 25, 2020; eff. July 28, 2020, as specified by the Board.

Department 560. RULES OF DEPARTMENT OF REVENUE

Chapter 560-2. ALCOHOL AND TOBACCO TAX UNIT

Subject 560-2-16. ADMINISTRATIVE HEARINGS

560-2-16-.02 Nature of the Proceeding; Hearing Procedure; Burden of Proof

The hearings held under these Regulations shall only be as formal as is necessary to preserve order and be compatible with the principles of justice.

- (1) Parties shall have the right to be represented by legal counsel and to obtain the appearance of witnesses and documentary evidence.
- (2) The parties shall also have the right to respond and present evidence on all issues involved and to cross examine all witnesses.
- (3) The standard of proof on all issues in the hearing shall be a preponderance of the evidence.
- (4) In cases commenced by the issuance of citations by the Department, the Department shall have the burden of proof and shall present its case first.
- (5) In cases involving the preliminary denial of license applications or the seizure of alcoholic beverages, the applicant or licensee shall have the burden of proof and shall present its case first.
- (6) In all other cases the commencing party shall have the burden of proof and shall present its case first.
- (7) A hearing, or a portion thereof, may be conducted by alternate means if the record reflects that all parties have consented and that such procedure will not jeopardize the rights of any party to the hearing. Alternate means, as used here, includes remote telephonic communication methods such as two-way video-conferencing applications.

Cite as Ga. Comp. R. & Regs. R. 560-2-16-.02

AUTHORITY: O.C.G.A. §§ [3-2-2](#), [3-2-3](#).

HISTORY: Original Rule entitled "Nature of the Proceeding; Burden of Proof" adopted. F. Oct. 1, 2010; eff. Oct. 21, 2010.

Amended: F. Aug. 17, 2020; eff. Sep. 6, 2020.

Department 560. RULES OF DEPARTMENT OF REVENUE
Chapter 560-8. ALCOHOL AND TOBACCO DIVISION (TOBACCO)
Subject 560-8-6. ADMINISTRATIVE HEARINGS

560-8-6-.05 Nature of the Proceeding; Hearing Procedure; Burden of Proof - Administrative Hearings

(1) Administrative hearings held under these rules shall be only as formal as is necessary to preserve order and be compatible with the principles of justice.

(2) All parties shall have the right to be represented by legal counsel and to obtain the appearance of witnesses and documentary evidence. The parties shall have the right to respond and present evidence on all issues involved and to cross-examine all witnesses.

(3) The standard of proof concerning all issues presented in the administrative hearing shall be a preponderance of the evidence.

(4) In cases commenced by the issuance of citations by the Department, the Department shall have the burden of proof and shall present its case first. In cases involving the preliminary denial of license applications or the seizure of tobacco products, the applicant or licensee shall have the burden of proof and shall present its case first. In all other cases the party commencing the case shall have the burden of proof and shall present its case first.

(5) A hearing, or a portion thereof, may be conducted by alternate means if the record reflects that all parties have consented and that such procedure will not jeopardize the rights of any party to the hearing. Alternate means, as used here, includes remote telephonic communication methods such as two-way video-conferencing applications.

Cite as Ga. Comp. R. & Regs. R. 560-8-6-.05

AUTHORITY: O.C.G.A. §§ [48-2-12](#), [48-11-4](#), [48-11-18](#).

HISTORY: Original Rule entitled "Cigar or Cigarette Vending Machines" adopted. F. and eff. June 30, 1965.

Amended: F. July 27, 1967; eff. Aug. 15, 1967.

Repealed: New Rule of same title adopted. F. Feb. 12, 1973; eff. Mar. 4, 1973.

Amended: F. July 19, 1976; eff. Aug. 8, 1976.

Repealed: New Rule of same title adopted. F. June 11, 1984; eff. July 1, 1984.

Repealed: New Rule of same title adopted. F. Feb. 8, 2005; eff. Feb. 28, 2005.

Repealed: New Rule of same title adopted. F. Mar. 29, 2005; eff. Apr. 18, 2005.

Repealed: New Rule entitled "Nature of the Proceeding; Hearing Procedure; Burden of Proof - Administrative Hearings" adopted. F. Sept. 26, 2007; eff. Oct. 16, 2007.

Amended: F. Mar. 10, 2008; eff. Mar. 30, 2008.

Amended: F. Aug. 17, 2020; eff. Sep. 6, 2020.

Department 591. RULES OF BRIGHT FROM THE START GEORGIA DEPARTMENT OF EARLY CARE AND LEARNING

Chapter 591-1.

Subject 591-1-1. CHILD CARE LEARNING CENTERS

591-1-1.15 Food Service and Nutrition

(1) Compliance with USDA Nutritional Guidelines. Meals and snacks with serving sizes dependent upon the age of the child shall meet nutritional guidelines as established by the United States Department of Agriculture Child and Adult Care Food Program. Meals and snacks shall be varied daily, and additional servings of nutritious food shall be offered to children over and above the required daily minimum, if not contraindicated by special diet.

(2) Feeding of Infants and Children. A signed written feeding plan for children less than one (1) year of age shall be obtained from Parent(s). Instructions from the Parent(s) shall be updated regularly as new foods are added or other dietary changes are made. The feeding plan shall be posted in the child's assigned room and must include the child's feeding schedule, the amount of formula or breast milk to be given, instructions for the introduction of solid foods, the amount of food to be given and notation of any type(s) of commercially premixed formula which may not be used in an emergency because of food allergies.

(a) Center Personnel shall hold and feed infants less than six (6) months of age and older children who cannot hold their own bottles or sit alone. Baby bottles shall never be propped; the infant's head shall be elevated while feeding.

(b) Honey shall not be served to children less than one (1) year of age.

(c) Age-appropriate solid foods (including cereal) shall not be given to infants or children less than one (1) year of age until recommended as developmentally appropriate by the child's primary care physician and indicated in writing by the Parent(s). As soon as the feeding plan indicates that a child is ready for solid foods, the child shall be fed from individual spoons and individual containers or dishes. A child shall not be fed directly from the original baby food container if the contents are to be fed to the child at more than one (1) meal or to more than one (1) child.

(d) As soon as the child exhibits a desire to feed him/herself, the child shall be assisted and encouraged to use their fingers for self-feeding, eat with a spoon, and to drink from individual cups.

(e) The Center shall encourage and support breastfeeding. Centers shall have a designated area set aside for breastfeeding mothers to breastfeed.

(f) Food for infants or children less than one (1) year of age shall be cut into pieces one-quarter inch or smaller and food for toddlers shall be cut into pieces one-half inch or smaller to prevent choking.

(g) Center Personnel shall ensure that children do not have excessive amounts of food in their mouths while eating and are chewing their food appropriately to prevent instances of choking. Children shall always be seated when eating and shall not be allowed to lie down or be put to sleep while food is present in their mouths.

(3) Baby Bottles and Formula. All baby bottles shall be clearly labeled with the individual child's name. Formula or breast milk shall be supplied by the Parent daily in bottles. Only the current day's formula or breast milk shall be served. Bottles shall be refrigerated at a temperature of forty (40) degrees Fahrenheit or less. If formula must be provided by the Center, only commercially prepared, ready-to-feed formula shall be used. Refrigerated or frozen breast milk shall only be heated or thawed under warm running water or in a container of warm water.

(4) Feeding Chairs. A feeding chair or similar equipment designed for feeding children shall be provided for the use of each child being fed who is capable of sitting up but who is unable to sit unassisted at a table. The chair or similar

equipment must be cleaned with a disinfectant after each use. Such chair or similar equipment shall have a broad base to prevent tipping; a surface that the child cannot raise; a strap or other device which prevents the child from sliding out of the chair; and a feeding surface free of cracks.

(5) Menus. The Center shall provide a menu listing all meals and snacks to be served during the current week except for School-age Centers where the food may be provided by the Parent(s) by agreement between the School-age Center and the Parent(s). Substitutions shall be recorded on the posted menu. Menus shall be retained at the Center for six (6) months.

(6) Meal Service.

(a) Children shall be served all meals and snacks scheduled for the period during which they are present. In those Centers where the Parent(s) of children enrolled provide the meals and snacks, the Center shall ensure that no child remains at the Center without receiving the scheduled nutritious meals and snacks. There shall be a period of at least two (2) hours between each required meal or snack. The following meals and snacks shall be scheduled and served by the Center when appropriate: breakfast or a morning snack, lunch, an afternoon snack, supper if a Center operates evening care and an evening snack prior to bed time if a Center operates night time care.

(b) Food and beverages shall be served in individual plates or bowls and with individual glasses or cups.

(c) Children shall be encouraged but not forced to eat.

(d) Caregivers shall not use food to punish or reward children.

(e) Children shall be given necessary assistance in feeding and encouraged to develop good nutritional habits.

(f) Hot food shall not be served at a temperature which would cause the children to burn their mouths upon consuming the food.

(g) Drinking water shall be available to all children and shall be offered at least once between meals and snacks.

(7) Restrictions. Food shall be served according to manufacturer's instructions and recommendations. Foods that are associated with young children's choking incidents, such as, but not limited to, peanuts, hot dogs, raw carrots, popcorn, fish with bones, cheese cubes, grapes and any other food that is of similar shape and size of the trachea/windpipe shall not be served to the children less than four (4) years of age. Children older than four (4) years of age may be served these foods provided that the foods are cut in such a way as to minimize choking. Food shall not be accessible or served to children until it has been chopped, diced, cut or mashed and is appropriate for each child's age and individual eating, chewing and swallowing ability.

(8) Foods and drinks with little or no nutritional value, i.e., sweets, soft drinks, etc. shall be served only on special occasions and only in addition to the required nutritious meals and snacks. Powdered nonfat dry milk shall only be used for cooking purposes.

(9) Modified Diets. When a child requires a modified diet for medical reasons, a written statement from a medical authority shall be on file. When a child requires a modified diet for religious reasons, a written statement to that effect from the child's Parent(s) shall be on file. All caregiver Personnel shall be informed of the diet restriction for the child and only food that complies with the prescribed dietary regimen but still meets the food and nutrition requirements shall be served to the child.

(10) Unconsumed Food. Any portions of food or drink which are served to children or placed on the table for service and are not consumed at that meal or snack by the children to whom the portions are served shall be thrown away. Any formula or breast milk remaining one hour from the beginning of the feeding shall be discarded or returned to Parent(s).

(11) Catered Food. Food purchased from a caterer shall be prepared in a facility with a current food service permit and shall be maintained at a safe temperature [forty (40) degrees Fahrenheit or below for foods requiring

refrigeration or one hundred forty (140) degrees Fahrenheit for foods which must be heated prior to serving] until served.

(12) Vending Machines. Soft drink vending machines and other food dispensers shall not be maintained on Center premises for children's use. Vending machines and dispensers for Staff shall be outside of the children's areas.

Cite as Ga. Comp. R. & Regs. R. 591-1-1-.15

AUTHORITY: O.C.G.A. § [20-1A-1](#) *et seq.*

HISTORY: Original Rule entitled "Food Service and Nutrition" adopted. F. Dec. 23, 1997; eff. Mar. 1, 1998, as specified by the Agency.

Repealed: New Rule of same title adopted. F. Aug. 7, 2009; eff. Aug. 27, 2009.

Amended: F. Dec. 4, 2015; eff. Dec. 24, 2015.

Amended: F. May 26, 2017; eff. June 15, 2017

Amended: F. Aug. 31, 2020; eff. Sep. 20, 2020.

591-1-1-.16 Governing Body and Licenses

Each Center shall have a clearly identified governing body which shall be empowered and responsible for determining all policies and procedures and ensuring compliance with these rules and regulations. The chairperson or chief executive officer of the governing body shall complete a statement of responsibility on behalf of the governing body acknowledging the same in connection with any application for License or Permit on a form provided by the Department. If the Center is individually owned, then the owner(s) will complete the statement of responsibility.

(a) Application for License. Prior to filing for licensure, an applicant shall attend an orientation of no more than 16 hours that has been approved by the Department. This orientation shall, at a minimum, provide instruction on the application process and give an overview of the Department's regulations that relate to the operation of early child care learning centers.

1. Orientation. An existing License Holder applying for another Child Care Learning Center License is not required to attend another orientation within two years following the successful completion of a prior orientation.

2. An applicant applying for multiple Child Care Learning Center Licenses at one time is only required to attend one orientation.

(b) Director's Training. Prior to the issuance of an initial License, the Director of a Center responsible for its day-to-day operations shall have completed a 40-hour director's training course that has been approved by the Department. At a minimum, the subject matter taught at a Director's training course shall cover the areas of administrator competencies that serve as a framework for professional development, which include, but are not limited to, early learning standards, business management, communication, developmentally appropriate practices, professional and leadership development, and advocacy for the Center, Parents, children and Staff.

(c) No person shall operate a Center without a License or Permit. A separate License or Permit is required for each address or location at which a Center is proposed to be operated even when all of the proposed Centers are owned by the same person or entity. A separate License or Permit is also required for each Center operated at a single location by the same governing body.

1. Temporary License. The Department may at its discretion issue a temporary License if the health and safety of the children to be served by the Center will not be endangered. A temporary License will be valid for a specified period not to exceed one (1) year and may be issued when the Center is not in full compliance with these rules but has

demonstrated satisfactory evidence that it is making progress toward meeting these rules and has submitted an acceptable Plan of Correction.

2. **Restricted License.** The Department may at its discretion issue a restricted License in lieu of a temporary or regular License. The restricted License may be granted either in connection with the initial application process for a License or Permit or as a result of a subsequent determination made by the Department concerning compliance with these rules. The restriction shall appear on the face of the License and shall restrict a Center from providing care or services which are beyond the capability of the License Holder to provide. The restriction may also limit the number and/or age of the children served by the Center.

3. **Regular License.** A License will be issued upon presentation of evidence satisfactory to the Department that the Center is in compliance with applicable statutes and these rules. The License is valid for one year unless voluntarily surrendered by the holder, reduced to a restricted or temporary License or suspended or revoked by the Department.

4. **Qualification Requirement.** In order to obtain or retain a License or Permit, the Director of the Center and its Employees must be qualified as defined in these rules to administer or work in a Center. The Department may presume that the Director and Employees are qualified subject to a satisfactory Comprehensive Records Check Determination. However, the Department may require additional reasonable verification of the qualifications of the Director and Employees either at the time of application for a License or Permit or at any time during the License or Permit period whenever the Department has reason to believe that a Director or Center Employee is not qualified under these rules to administer or work in a Child Care Learning Center. Reasonable verification which may be required by the Department may include, but need not be limited to, any or all of the following: statement(s) from an attending physician or other health care professionals attesting to the mental and/or physical health of the applicant and/or staff member; letters of reference from designated persons in the community where the applicant and/or staff member intends to work or is working; certified copies of court orders and additional criminal records checks.

(d) **License or Permit is Non-transferable.** A License or Permit to operate a Child Care Learning Center is not transferable in any way. Each License and Permit shall be returned to the Department immediately upon the expiration, suspension, revocation, restriction of the License or Permit or closure or termination of the operation.

(e) **License Fees.** Every License or Commission issued by the Department to operate a Child Care Learning Center shall be subject to an annual fee. Such annual fee shall be determined by the following:

1. Capacity of one to 25 children	\$50.00
2. Capacity of 26 to 50 children	\$100.00
3. Capacity of 51 to 100 children	\$150.00
4. Capacity of 101 to 200 children	\$200.00
5. Capacity of more than 200 children	\$250.00

If such annual fee is not paid by the date set forth by the Department, the Department may issue a late fee of up to \$250.00 within 30 days of the due date. If such annual fee and any imposed late fees are not paid within 30 days of the due date, the Department shall revoke the License or Commission.

(f) **Amended License.** If there is a change in the name of the program or Center, changes in the ages of the children to be served, an increase in the regular hours of operation such that the Center would be providing evening or night-time care in addition to day-time care, changes in the services provided, additions to or changes in the use of the building by the licensed Center, an application for an amended License shall be submitted at least thirty (30) days prior to the change, except in the case of an emergency. If an emergency situation arises which makes it impossible to give thirty (30) days' notice, the management of the Center shall notify the Department by telephone and shall submit an application for an amended License as soon as management becomes aware of the change that will be necessitated by the emergency situation. In no case, however, shall a new owner operate the Center without first securing a new License or Permit from the Department.

(g) False or Misleading Information. The application for a License or Permit, including the Records Check Application, must be truthfully and fully completed. In the event that the Department has reason to believe that the application has not been completed truthfully, it may require additional verification of the facts alleged. The Department may refuse to issue a License or Permit where false statements have been made in connection with the application or any other documents required by the Department.

(h) E-mail Contact Information. Each Center issued or applying for a License or Permit in the state of Georgia shall provide the Department e-mail contact information ("Contact Information") so that this agency may contact the Center and send information to the Center via e-mail. It shall be the Center's responsibility to maintain correct contact information, to update the Department if contact information changes, and to respond timely to information requests from the Department transmitted to the provided e-mail address. Delivery of any such information, including but not limited to directives, bulletins, data requests, notices of proposed amendments to rules and regulations, and any other matters affecting Centers, to said e-mail address shall be considered valid so long as the Department does not receive a failure to deliver message.

(i) Permit. The Department may issue a Permit for a program to operate without a License for a limited term in situations, such as but not limited to, a change of ownership.

1. An application for a Permit to operate a Child Care Learning Center shall be submitted to the Department on the forms provided by the Department.
2. A Permit Applicant or Permit Holder must provide evidence of a satisfactory Comprehensive Records Check Determination for the Director and every Employee and a satisfactory Fingerprint Records Check Determination for every Provisional Employee of the program.
3. A Permit Applicant or Permit Holder may continue to employ an individual from the prior ownership, if applicable. During the Permitting process, such individual may be present at the Center while any child is present for care based on the prior satisfactory Comprehensive Records Check Determination so long as that determination is valid and current, no more than 5 years old and the individual has not had a lapse of employment from the child care industry that lasted for 180 days (6 months) or longer.
4. The Permit Applicant or Permit Holder shall not allow any individual to reside at the Center or be present at the Center while any child is present for care if the Center knows or reasonably should know that the individual has a Criminal Record, an unsatisfactory Fingerprint Records Check Determination or an unsatisfactory Comprehensive Records Check Determination.
5. Each Director and Employee must receive a satisfactory Comprehensive Records Check Determination and each Provisional Employee must receive a satisfactory Fingerprint Records Check Determination issued by the Department before that individual can be present at the Center while any Child is present for care or reside in the Center and prior to issuance of a License.
6. Issuance of a Permit. A Permit will be issued, upon presentation of evidence satisfactory to the Department that a Center is in compliance with applicable statutes and these rules. The Permit shall be valid for 21 calendar days unless voluntarily surrendered by the Holder or suspended or revoked by the Department.
7. Renewal of a Permit. A Permit may be renewed only if every resident and member of the Center's Staff has both submitted a Records Check Application to the Department and submitted to a fingerprint scan within 21 calendar days of the issuance of the initial Permit.

Cite as Ga. Comp. R. & Regs. R. 591-1-1-.16

AUTHORITY: O.C.G.A. § [20-1A-1](#) *et seq.*, [42 U.S.C. §9857](#) *et seq.*

HISTORY: Original Rule entitled "Governing Body" adopted. F. Dec. 23, 1997; eff. Mar. 1, 1998, as specified by the Agency.

Amended: ER. 591-1-1-0.2-.16 adopted. F. Jan. 31, 2005; eff. Feb. 1, 2005, as specified by the Agency.

Amended: Permanent Rule adopted. F. May 23, 2005; eff. June 12, 2005.

Amended: F. Apr. 17, 2009; eff. May 7, 2009.

Amended: F. Dec. 4, 2015; eff. Dec. 24, 2015.

Amended: F. May 26, 2017; eff. June 15, 2017.

Amended: F. Aug. 17, 2018; eff. Sep. 6, 2018.

Amended: F. Aug. 28, 2019; eff. Sep. 17, 2019.

Amended: F. Aug. 31, 2020; eff. Sep. 20, 2020.

591-1-1.17 Hygiene

(1) Bathtubs and Showers. If used, bathtubs and showers shall be cleaned with a disinfectant after each use.

(2) Children's Hygiene. To the extent possible, Personnel shall keep children clean, dry and comfortable.

(3) Children's Personal Items. Children's combs, toothbrushes and cloth towels shall be kept clean.

(4) Contagious Diseases. Children, Parents, Staff, or any other persons being supervised by the Staff, shall not be allowed in the Center who knowingly have or present symptoms of a contagious communicable disease (such as fever, coughing, fatigue, muscle aches, diarrhea, etc.) or any virus or illness (such as COVID-19, etc.) identified during a public health emergency.

(5) Drinking Fountains and Cups. Drinking fountains, if available, shall be safe and kept clean, have regulated pressure, not be mounted on sinks used for diaper changing activities and have an angle jet with an orifice guard above the rim. Single-service drinking cups shall be provided when appropriate drinking fountains are not available, and cups shall be discarded after each use unless the cups are sanitized in a dishwasher between each use.

(6) Garbage. Garbage and organic waste shall be stored in containers that are lined with plastic liners and have tight-fitting covers. Trash and garbage shall be removed from the building daily or as often as necessary to maintain the premises in a clean condition.

(7) Handwashing, Children. Children's hands shall be washed with liquid soap and warm running water: immediately upon arrival for care, when moving from one child care group to another and upon re-entering the child care area after outside play; before and after eating meals and snacks, handling or touching food, or playing in water; after toileting and diapering, playing in sand, touching animals or pets, contact with bodily fluids such as, but not limited to, mucus, saliva, vomit or blood and after contamination by any other means.

(a) Washcloth handwashing is permitted for infants when the infant is too heavy to hold for handwashing or cannot stand safely to wash hands at a sink and for children with special needs who are not capable of washing their own hands. An individual washcloth shall be used only once for each child before laundering.

(8) Handwashing, Staff. Personnel shall wash their hands with liquid soap and warm running water: immediately upon arrival for the day, when moving from one child care group to another, and upon re-entering the child care area after outside play; before and after diapering each child, dispensing medication, applying topical medications, ointments, creams or lotions, handling and preparing food, eating, drinking, preparing bottles, feeding each child, and assisting children with eating and drinking; after toileting or assisting children with toileting, using tobacco products, handling garbage and organic waste, touching animals or pets, handling bodily fluids, such as, but not limited to, mucus, saliva, vomit or blood and after contamination by any other means.

(9) Laundry. If laundry is done on Center premises, the laundry area shall be located outside the children's activity rooms or areas and not used as a passageway by children to travel from one area to another whenever any soiled or clean laundry is exposed.

(10) Potty Chairs. If used, toilet potty chairs shall after each use be emptied by disposal in a flush toilet, cleaned with a disinfectant, and stored in the bathroom. If a sink is used, the sink shall also be disinfected.

(11) Soiled Containers and Items. Separate containers shall be used for storing soiled disposable items, such as disposable diapers, disposable washcloths and soiled nondisposable items, such as cloth diapers, washcloths and bed linens. Such containers shall be waterproof or equipped with a leakproof disposable liner, covered, easily cleaned and maintained in such a manner so as the contents of the container are never accessible to the children.

(12) Wet Clothing. Children's wet or soiled clothing shall be stored in individual plastic bags immediately after being removed from the child.

Cite as Ga. Comp. R. & Regs. R. 591-1-1-.17

AUTHORITY: O.C.G.A. § [20-1A-1](#) et seq.

HISTORY: Original Rule entitled "Hygiene" adopted. F. Dec. 23, 1997; eff. Mar. 1, 1998, as specified by the Agency.

Amended: F. Jan. 12, 2005; eff. Feb. 1, 2005.

Repealed: New Rule of same title adopted. F. Dec. 2, 2009; eff. Dec. 22, 2009.

Repealed: New Rule of the same title adopted. F. Aug. 5, 2010; eff. Aug. 25, 2010.

Amended: F. Dec. 4, 2015; eff. Dec. 24, 2015.

Amended: F. May 26, 2017; eff. June 15, 2017.

Amended: F. Aug. 31, 2020; eff. Sep. 20, 2020.

591-1-1-.29 Required Reporting

(1) Child Abuse, Neglect or Deprivation. Within twenty-four (24) hours or the next work day, the Director or designated person-in-charge shall report or cause to be reported any suspected incidents of child abuse, neglect or deprivation to the local County Department of Family and Children Services in accordance with state law and to the Department, notifying that such a report was made.

(2) Communicable Diseases. The Director or designated person-in-charge shall report or cause to be reported any cases or suspected cases of notifiable communicable diseases (COVID-19, Tuberculosis, Measles, etc.) or any viruses or illnesses identified during a public health emergency, immediately to the Department and to the local County Health Department as required by the rules of the Georgia Department of Public Health, Rule 511-2-1, Notification of Disease.

(3) Required Reports. The Director or designated person-in-charge shall report or cause to be reported to the Department within twenty-four (24) hours or the next work day: any death of a child while in the care of the Center; any serious illness or injury requiring hospitalization or professional medical attention other than first aid of a child while in the care of the Center; any situation when a child in care becomes missing, such as, but not limited to, a child who is left on a vehicle, a child who leaves the building, playground, or property, or a child who is left behind on any trip; any fire; any structural disaster; any emergency situation that requires temporarily relocating children; and any time the program's operating status changes (i.e., open to closed or temporarily closed and temporarily closed to open).

(4) Criminal Record. Within twenty-four (24) hours or on the next work day that the Center knows or reasonably should know that there has been an arrest or change in the Comprehensive Records Check Determination of any Director or Employee or the Fingerprint Records Check Determination for any Provisional Employee, the Director or designated person-in-charge shall report or cause to be reported to the Department the incident and the name of any such Director, Employee or Provisional Employee.

(5) Annual Reports. The Department may request an annual report from an administrator of a Center. If such a request is made, the administrator shall have up to thirty (30) days to submit the annual report to the Department.

Cite as Ga. Comp. R. & Regs. R. 591-1-1-.29

AUTHORITY: O.C.G.A. § [20-1A-1](#) *et seq.*, [42 U.S.C. §9857](#) *et seq.*

HISTORY: Original Rule entitled "Required Reporting" adopted. F. Dec. 23, 1997; eff. Mar. 1, 1998, as specified by the Agency.

Amended: F. Jan. 12, 2005; eff. Feb. 1, 2005.

Repealed: New Rule of same title adopted. F. Aug. 7, 2009; eff. Aug. 27, 2009.

Amended: F. Dec. 4, 2015; eff. Dec. 24, 2015.

Amended: F. May 26, 2017; eff. June 15, 2017.

Amended: F. Aug. 17, 2018; eff. Sep. 6, 2018.

Amended: F. Aug. 31, 2020; eff. Sep. 20, 2020.

591-1-1-.32 Staff: Child Ratios and Supervision

(1) A Center must establish groupings of children for care and maintain Staff: child ratios as follows:

Ages of Children	Staff: Child Ratio*	Maximum Group Size**
Infants less than one (1) year old or children under eighteen (18) months who are not walking	1:6	12
One (1) year olds who are walking	1:8	16
Two (2) year olds	1:10	20
Three (3) year olds	1:15	30
Four (4) year olds	1:18	36
Five (5) year olds	1:20	40
Six (6) years and older	1:25	50

* Staff, such as the Director or service workers (food, maintenance and clerical staff, etc.), shall be counted in the Staff: child ratio only during the time that they are giving full attention to the direct supervision of the children. Service staff routinely acting as child care workers shall meet the qualifications of the respective caregivers.

** Maximum group size does not apply to outdoor play on the playground routinely used by the Center or for special activities in the Center lasting no more than two (2) hours. Maximum group size does not apply to Centers with a licensed capacity of 18 or fewer. However, required Staff: child ratios must be maintained.

(2) Mixed-Age Groups for Centers with a licensed capacity of 19 or more children. The Staff: child ratios for a mixed-age group shall be based on the age of the youngest group of children that includes more than twenty percent (20%) of the total number of children in the mixed-age group.

(3) Mixed-Age Groups for Centers with a licensed capacity of 18 or fewer children. The Staff: child ratios for a mixed-age group shall be based on the following: the age of the youngest child under three (3) years of age shall determine the Staff: child ratio for the group in which the child(ren) under three (3) years of age are cared for; and where all of the children in any one group are three (3) years of age or older, the age of the majority of the children in the group shall determine the Staff: child ratios.

(4) For Centers with a licensed capacity of 19 or more, children under three (3) years of age shall be housed in separate physical areas from older children and cannot be mixed with older children except at the following times and circumstances:

(a) During early morning times of arrival and late afternoon times of departure, infants and children younger than three (3) years may be grouped with older children so long as Staff: child ratios and group size are met based upon the age of the youngest child in the group.

(b) Children who turn three (3) years of age during the regular school year may remain grouped with other two (2) year olds for the remainder of the school year provided that the continued placement in the younger group is with the agreement of the older child's Parent(s) and is developmentally appropriate for the child.

(5) Staff: Child Ratios During Day-time Scheduled Rest or Sleeping Periods. During those periods, the Staff: child ratios may be doubled for children three (3) years and older provided that: at least one (1) Staff person is in each room providing direct supervision of the children; and all Staff required by paragraph (1) above relating to Staff: child ratios are in the Center and available to assure safe evacuation in an emergency.

(6) Staff: Child Ratios During Evening and Night-time Care. The Staff: child ratios required by paragraph (1) above shall be maintained except when a majority of the children are sleeping. When a majority of the children are sleeping, then the required ratios may be doubled. However, all Staff required by paragraph (1) above must be available on the premises of the Center to resume supervision of the children whenever a majority of the children in care in an area are no longer asleep or an emergency situation arises.

(7) Supervision. Children shall be supervised at all times appropriate to the individual age, needs and capabilities of each child. Such supervision must include, but not be limited to, indoor and outdoor activities, mealtimes, naptime, transportation, field trips, and transitions between activities. "Supervision" means that the appropriate number of Staff members are physically present in the area where children are being cared for and are providing watchful oversight to the children, volunteers and Students-in-Training. The persons supervising in the child care area must be alert, positioned to maximize their ability to hear and see the children at all times, and able to respond promptly to the needs and actions of the children being supervised, as well as the actions of the volunteers and Students-in-Training, and provide timely attention to the children's actions and needs. Staff shall be attentive and participating with all children during mealtimes and shall be seated within an arm's length away from children thirty-six (36) months of age and younger.

(8) Assignment of Caregiving Staff. Employees shall be assigned so that in so far as possible children receive care from the same Employee each day.

(9) Immediately prior to the Center closing and being locked at the end of the business day, the Staff member charged with the responsibility of locking the Center shall make a physical inspection of the entire premises to verify that no child is left on the Center's premises.

Cite as Ga. Comp. R. & Regs. R. 591-1-1-.32

AUTHORITY: O.C.G.A. § [20-1A-1](#) *et seq.*

HISTORY: Original Rule entitled "Staff: child Ratios and Supervision" adopted. F. Dec. 23, 1997; eff. Mar. 1, 1998, as specified by the Agency.

Amended: F. Dec. 4, 2015; eff. Dec. 24, 2015.

Amended: F. May 26, 2017; eff. June 15, 2017.

Amended: F. Aug. 31, 2020; eff. Sep. 20, 2020.