

## FINAL PROPOSED REGULATORY LANGUAGE

PLEASE NOTE: The final proposed regulatory language is illustrated for greater accessibility. Adopted regulatory language is shown as a single underlined and the following bracketed text, [begin underline] and [end underline], to show the beginning and end of the underline where new text was added. Repealed regulatory language is shown in ~~strikethrough~~ with the bracketed language, [begin strikethrough] and [end strikethrough], to denote the beginning and end of stricken text.

In some instances, changes are described in brackets where indicating changes by identifying the beginning and end of the underline and/or strikeout in brackets would be confusing.

Title 22. Social Security

Division 13 California Department of Child Support Services

Chapter 1, Subchapter 1, Program Administration

Article 1 Definitions

§ 110160. Complaint.

"Complaint" means the complainant's oral or written statement of an unresolved dispute and a request for resolution regarding any action or inaction of a local child support agency, or the [begin underline] Department [end underline] [begin strikethrough] Franchise Tax Board [end strikethrough], concerning [begin underline] their [end underline] [begin strikethrough] his/her [end strikethrough] child support case.

Note: Authority cited: Sections 17306, 17310 and 17312, Family Code, Reference: Sections 17800-, [repealed comma after the word sections] [begin underline] and [end underline] 17801 [begin strikethrough] ~~and 17802~~ [end strikethrough], Family Code.

[begin underline] § 110242. Case Participant.

A "case participant" is a custodial party or noncustodial parent.

Note: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17306, Family Code.

§ 110250. Dispute.

A "dispute," for purposes of Article 6 in Subchapter 1 of Chapter 1 and Article 2 of Chapter 10, is a verbal or written communication from a case participant

describing an action or inaction by the Department or the local child support agency in their child support case which requires resolution by the local child support agency and is a basis for a complaint if unresolved by the local child support agency.

Note: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17306, Family Code.

§ 110251. Inquiry.

An “inquiry,” for purposes of Article 6 in Subchapter 1 of Chapter 1, is a verbal or written communication from a case participant that seeks information, assistance or clarification of an action or inaction by the Department or the local child support agency in their child support case(s), which requires a response by the local child support agency.

Note: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17306, Family Code.

§ 110252. Response.

The term “response,” for purposes of Article 6 in Subchapter 1 of Chapter 1, includes face-to-face conversations, telephone calls, letters, email or other forms of electronic communication with customers.

Note: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17306, Family Code. [end underline]

§ 110778. State Hearing.

“State hearing” means an administrative hearing mandated by state law whereby a complainant may obtain an impartial review of a local child support agency or [begin strikethrough] Franchise Tax Board [end strikethrough] [begin underline] Department [end underline] action or inaction regarding a child support case.

Note: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17801 [begin strikethrough] ,17802 [end strikethrough] and 17804, Family Code.

§ 110602. Ombudsperson Program.

“Ombudsperson Program” means the person, persons, or office so designated within each local child support agency to provide a means to resolve customer

issues related to child support services. Issues may include [begin underline] , but are not limited to, providing assistance with any of the activities identified in Section 111542. [end underline] ~~[begin strikethrough] inquiries, questions, or requests for assistance or facilitation in navigating the local complaint resolution and state hearing process. [end strikethrough]~~

Note: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: ~~[change Sections to Section] Sections 17306 [begin strikethrough] 17310 and 17312 [end strikethrough]~~, Family Code.

§ 111542. Ombudsperson Responsibilities.

(a) [begin underline] The Ombudsperson Program shall:

(1) Respond to customer questions about the child support program, local complaint resolution process and state hearings.

(2) Provide to any customer Department-approved informational materials related to the Ombudsperson Program, the local complaint resolution process, the state hearing process, and/or other child support related information.

(3) Assist case participants to navigate the complaint resolution and state hearing processes.

(4) Respond to case participant inquiries as defined in Section 110251.

(5) Review and attempt to resolve case participant disputes as defined in Section 110250 or make recommendations to resolve them prior to a complaint being filed.

(6) Refer case participants to the Family Law Facilitator, or local legal aid office, as appropriate or on request. [end underline] ~~[begin strikethrough] The ombudsperson program shall provide, as appropriate, assistance to custodial parties, noncustodial parents, employers and the public:~~

~~(1) On inquiries about the child support program, local complaint resolution process and state hearings.~~

~~(2) On issues regarding actions taken by the local child support agency and/or Franchise Tax Board.~~

~~(3) By reviewing inquiries and issues and resolving them or making recommendations to resolve them prior to a complaint being filed.~~

~~(4) By assisting custodial parties and noncustodial parents in navigating the local complaint resolution and state hearing processes.~~

~~(5) By providing written, Department approved informational materials, related to the ombudsperson program, the local complaint resolution process, the state hearing process, and/or other child support related information.~~

~~(6) By referring customers to the Family Law Facilitator, or local legal aid office, as appropriate or upon request. [end strikethrough]~~

(b) The Ombudsperson shall be the liaison with the State Hearing Office to arrange for a hearing facility in the county.

Note: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections [changed the word Sections to Section] 17306, [begin strikethrough] 17310 and 17312, [end strikethrough] Family Code.

[begin strikethrough] § 111543. Data Collection and Information Reporting. The ombudsperson program shall:

~~(a) Assess customer satisfaction with the local child support agency's actions regarding his/her inquiry, issue, dispute, or complaint with the local child support agency.~~

~~(b) Compile, maintain and report to the Department within 15 business days after the end of the calendar quarter the number and type of inquiries, issues, disputes and/or complaints received by the ombudsperson.~~

~~(c) Analyze the data required by subsection (b) and the complaint resolution information required by Section 120108, and identify and report systemic issues to the Department within 30 business days after the end of the calendar quarter.~~

~~(d) Compile and maintain other information required by the Department upon request.~~

NOTE: Authority cited: Sections, 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code. [end strikethrough]

[begin underline] § 111544. Time Frames for Customer Service Responses.

(a) The local child support agency shall respond verbally, electronically, or in writing to any question, inquiry, dispute, or request for assistance from a case participant within three business days of being contacted. Additionally, the local child support agency must attempt to respond immediately to case participants who are on site.

(b) If the local child support agency is not able to respond to a dispute within three business days after receiving the contact, the local child support agency shall:

(1) Provide the case participant with an acknowledgment of their dispute, describe what action is being taken to address the dispute, and provide a date when they may expect a response or resolution; and

(2) Provide a "Request for Complaint Resolution," LCR001, dated (12/09), incorporated by reference herein, together with information describing the Complaint Resolution Process to the case participant, no later than five business days from the date of the contact.

(c) If a case participant expresses dissatisfaction with the resolution or response to their inquiry or dispute, the local child support agency must also explain that the case participant may file a written or verbal complaint pursuant to Section 120101 and verify whether they want to file a complaint.

(1) If they want to file a verbal complaint, the local child support agency shall take all the actions required by Section 120101(b)(2)(B).

(2) If they do not want to file a verbal complaint, the local child support agency shall provide them with a "Request for Complaint Resolution," LCR001, dated (12/09), within one business day of the date of contact.

(d) Any inquiries or disputes received from a case participant on the same subject within 90 days of each other shall be deemed an unresolved dispute and a written request for resolution by the local child support agency subject to acknowledgment pursuant to Section 120102 and investigated and resolved in accordance with Sections 120103 and 120105.

(e) All other customer contacts shall, at a minimum, be acknowledged by the local child support agency within three business days and a response provided to the customer as promptly as possible.

Note: Authority cited: Sections 17306, 17310 and 17312, Family Code.

Reference: Section 17306, Family Code. [end underline]

§ 120100. General Provisions.

(a) Each local child support agency shall:

- (1) Adopt and maintain the complaint resolution process specified in this Article.
- (2) Not discourage a complainant from filing a complaint or requesting a state hearing.
- (3) Not refuse to assist a complainant in requesting a state hearing.
- (4) Track and report complaints in the Department's complaint resolution tracking system.

(b) This Article shall:

- (1) Be interpreted in a manner that complies with Chapter 1, Program Administration, Article 5, Records Management regulations.
- (2) Be interpreted in a manner that protects a complainant's right to complaint resolution.
- (3) Not be interpreted in a manner that alters other statutory or regulatory time frames or requirements for taking other child support actions.
- (c) If the last date for the performance of any act required within a time frame specified by this Article or the provisions of Chapter 5 of Division 17 of the Family Code (commencing with Section 17800) is not a business day, then such period shall be extended to the next business day.

Note: authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17800, 17801, [begin strikethrough] 17802 [end strikethrough]-and 17804, Family Code.

§ 120101. Right to Complaint Resolution.

(a) A complainant shall have the right to make a request for complaint resolution subject to the requirements of this Article. The subject of a complaint may pertain to any local child support agency [begin strikethrough] or Franchise Tax Board [end strikethrough] or [begin underline] Department [end underline] child support action or inaction, except the following:

- (1) Complaints arising from a child support matter which must, by law, be addressed by motion, order to show cause, or appeal, in a court of law, unless an administrative review is provided for by statute.

(2) A review of any of the following:

(A) A court order for child support or child support arrears.

(B) A court order or equivalent determination of paternity.

(C) A court order for spousal support.

(3) Child custody determinations.

(4) Child visitation determinations.

(b) All requests for complaint resolution shall:

(1) Be made within 90 days after a complainant knew, or should have known of the complained of child support action or inaction. A complainant shall be presumed to have known of a complained of action or inaction under the following circumstances:

(A) Five [begin strikethrough] ~~(5)~~ [end strikethrough] business days after the postmark date of the written notice regarding an action or inaction which is the basis of a complaint.

(B) In the absence of any evidence to the contrary, the date a complainant alleges knowledge for the basis of a complaint, or the date a complainant notified a local child support agency of the subject of the complaint.

(2) Be directed to a local child support agency.

(A) Each local child support agency shall encourage, but not require, a complainant to make a written complaint on the "Request for Complaint Resolution," LCR001, dated [begin strikethrough] ~~(12/01)~~ [end strikethrough] [begin underline] (12/09) [end underline], incorporated by reference herein.

(B) Each local child support agency shall document a complainant's oral complaint on the "Request for Complaint Resolution," LCR001, dated [begin strikethrough] ~~(12/01)~~ [end strikethrough] [begin underline] (12/09) [end underline], and mail a copy of the completed LCR001 to the complainant no later than five [begin strikethrough] ~~(5)~~ [end strikethrough] business days after receiving an oral complaint. The local child support agency shall mail to the complainant the forms required by Section 120102.

(3) Include the following information:

(A) A complainant's name and address, and if available, phone number, FAX number, and e-mail address.

(B) The local child support agency case number.

(C) A description of the local child support agency or [begin strikethrough] Franchise Tax Board [end strikethrough] [begin underline] Department [end underline] action or inaction a complainant requests to have resolved.

(c) A request for complaint resolution shall not be deemed invalid for failure to include the information required by subsection (b)(3)(B).

Note: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections [amended the word Sections to Section] 17800 [begin strikethrough] and 17802 [end strikethrough], Family Code.

§ 120102. Written Complaint Acknowledgment.

Within five [begin strikethrough] ~~5~~ [end strikethrough] business days after the complaint receipt date, a local child support agency shall mail a "Request for Complaint Resolution Acknowledgement," LCR002, dated (10/01), incorporated by reference herein, and a "Request for State Hearing," SH001, dated [begin strikethrough] ~~(10/01)~~ [end strikethrough] [begin underline] (06/09) [end underline], incorporated by reference herein to the complainant. The written complaint acknowledgement shall include an explanation of both of the following:

(a) The complaint resolution process and time frames specified in this Article.

(b) The state hearing process and time frames specified in Article 3.

Note: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17800, Family Code

§ 120103. Complaint Investigation.

(a) Each local child support agency shall assign a complaint investigator to investigate the complaint. A complaint investigator shall not be the individual whose action or inaction is the subject of a complaint [begin strikethrough] ~~or an Ombudsman~~ [end strikethrough].

(b) The complaint investigator shall within five [begin strikethrough] ~~5~~ [end strikethrough] business days of the complaint receipt date, determine the jurisdictional authority of the local child support agency to resolve the complaint. The local child support agency that [begin strikethrough] ~~took the~~

~~action,~~ [end strikethrough] [begin underline] acted or [end underline] failed to [begin underline] act [end underline] [begin strikethrough] ~~take action, or~~ [end strikethrough] requested the Franchise Tax Board to take action, [end strikethrough] shall have jurisdictional authority.

(1) If the subject of the complaint is outside the jurisdiction of the child support program or is one of the issues enumerated in Section 120101(a), the local child support agency shall notify the complainant by mailing the notice required by Section 120105 immediately, but in no event more than 30 days after the complaint receipt date. To the extent possible, the local child support agency shall refer the complainant to the appropriate agency for complaint resolution.

(2) If the proper jurisdiction for the complaint is a local child support agency in another county, the local child support agency shall transfer the complaint pursuant to Section 120104, and notify the complainant by mailing the notice required by Section 120104 within five [begin strikethrough] ~~5~~ [end strikethrough] business days of transferring the complaint.

(3) If the subject of the complaint is within the jurisdiction of the child support program and the local child support agency, but the local child support agency believes the complaint is not eligible for complaint resolution because it was filed untimely pursuant to Section 120101(b), the local child support agency shall notify the complainant by mailing the notice required by Section 120105 within 30 days of the complaint receipt date. This subparagraph shall not be interpreted to prohibit the local child support agency from trying to assist the complainant to resolve the complaint or other outstanding issues that are not subject to the local complaint resolution process.

(c) The complaint investigator shall discuss and clarify the basis of the complaint with the complainant. The complaint investigator shall attempt to resolve the complaint to the satisfaction of the complainant.

(1) If the nature of the complaint is substantively modified based on the complaint investigator's discussion with the complainant, the local child support agency shall document the new complaint information on a "Complaint Amendment," LCR003, dated (10/01), incorporated by reference herein, and mail the "Complaint Amendment," LCR003, to the complainant no later than five [begin strikethrough] ~~5~~ [end strikethrough] business days after the complaint investigator's discussion with the complainant. The requirements of Section 120105 shall continue to apply based on the original complaint receipt date.

(2) If the complaint is resolved to the satisfaction of the complainant, the local child support agency shall mail a written notice of complaint resolution pursuant to Section 120105.

(3) If the complaint is not resolved to the satisfaction of the complainant after the discussion between the complaint investigator and the complainant, and further investigation is necessary, the complaint investigator shall do the following, as appropriate:

(A) Obtain pertinent case information regarding the subject of the complaint from the case worker(s) responsible for the action or inaction complained of, the ~~[begin strikethrough] Franchise Tax Board [end strikethrough]~~ Department [end underline], and/or other agency.

(B) Obtain additional information or documents from any appropriate source necessary for prompt resolution of the complaint.

(C) Determine the local child support agency and/or ~~[begin strikethrough] Franchise Tax Board [end strikethrough]~~ Department [end underline] action required to resolve the complaint, if any. The local child support agency and/or ~~[begin strikethrough] Franchise Tax Board [end strikethrough]~~ Department [end underline] shall complete the required action within statutory time frames. In the absence of statutory time frames, the local child support agency and/or ~~[begin strikethrough] Franchise Tax Board [end strikethrough]~~ Department [end underline] shall complete the required action within 30 days after the complaint receipt date.

(D) Determine the action required by a third party or other agency, if any, to resolve the complaint.

1. The local child support agency shall inform such third party or other agency in writing of the action required to resolve the complaint, and facilitate the resolution of the complaint with such third party or other agency until the requested action is completed.

2. The local child support agency shall inform the complainant pursuant to Section 120105 of the action(s) required by the complainant to resolve the complaint.

(E) Prepare the written notice of complaint resolution pursuant to Section 120105.

Note: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections [amended the word Sections to Section] 17800 [begin strikethrough] and ~~17802~~ [end strikethrough], Family Code.

§ 120105. Notice of Complaint Resolution/Complaint Extension.

(a) The local child support agency shall mail a "Notice of Complaint Resolution," LCR006, dated (10/01), incorporated by reference herein, and a "Request for State Hearing," SH001, dated [begin strikethrough] ~~(10/01)~~ [end strikethrough] [begin underline] (06/09) [end underline], to the complainant no later than 30 days after the complaint receipt date. The LCR006, shall be signed by the director of the local child support agency, or [begin strikethrough] ~~his/her~~ [end strikethrough] [begin underline] their [end underline] designee, and shall include a brief description or explanation of all of the following:

- (1) The complaint and the complaint receipt date.
- (2) The local child support agency's decision regarding the complaint, including the reason the local child support agency believes the complaint is not eligible for complaint resolution, if applicable, or the reason complaint resolution cannot be completed by the local child support agency. Citations to applicable laws, regulations, or Department policy letters shall be referenced in the explanation.
- (3) The actions taken or that will be taken by the local child support agency to resolve the complaint.
- (4) The complainant's right to file a request for a state hearing, the process and time frames for filing a request for state hearing, and the issues within the jurisdiction of a state hearing, if the complainant is dissatisfied with the resolution of the complaint by the local child support agency.

(b) The director of the local child support agency, or in the director's absence, [begin strikethrough] ~~his or her~~ [end strikethrough] [begin underline] their [end underline] designee, shall be permitted to grant a one-time extension of the complaint resolution period for a specified complaint up to maximum of 30 days, if the director of the local child support agency, or in the director's absence, his or her designee, determines more time is needed to resolve the complaint. The local child support agency shall exercise due diligence in attempting to resolve all complaints within 30 days of the complaint receipt date, and shall only take an extension under extraordinary circumstances. The local child support agency shall do both of the following for each complaint resolution extension:

(1) Mail a "Notice of Complaint Resolution Extension," LCR005, dated (10/01), incorporated by reference herein, to a complainant [~~begin strikethrough] and the State Hearing Office [end strikethrough]~~ no later than 30 days after the complaint receipt date. The LCR005 shall be signed by the director of the local child support agency, or in the director's absence, [~~begin strikethrough] his or her [end strikethrough]~~ [~~begin strikethrough] their [end strikethrough]~~ [begin underline] their [end underline]] designee, and shall explain the local child support agency's need to extend the complaint resolution period to resolve the complaint, and the time frames to file a state hearing will be extended based on the date of the local child support agency's written resolution response provided pursuant to subparagraph (2).

(2) Mail a "Notice of Complaint Resolution," LCR006, dated (10/01), to the complainant no later than 60 days from the complaint receipt date.

(c) If the local child support agency is unable to initiate or complete a complaint investigation due to lack of information from the complainant, and the complaint investigator was unable to obtain the required information during discussion with the complainant as specified in Section 120103(c), the local child support agency shall attempt at least one additional verbal contact with the complainant to obtain the required information. If the results of the contact are unsuccessful, the local child support agency shall notify the complainant in writing of the required information, and that failure of the complainant to provide the information will result in the local child support agency closing the complaint. If the local child support agency does not receive the information required to resolve the complaint, the local child support agency shall mail a "Notice of Complaint Resolution," LCR006, dated (10/01), to the complainant no later than 30 days after the complaint receipt date, that explains the reason for closing the complaint.

Note: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17800, Family Code.

§ 120106. Complaint Resolution Process Closure.

(a) The local child support agency shall close the complaint after completing the following actions:

(1) Acknowledge the complaint pursuant to Section 120102.

(2) Investigate the complaint as specified in Section 120103.

(3) Issue a notice of complaint resolution pursuant to Section 120105.

(4) Complete the required action to resolve the complaint pursuant to Section 120105.

(b) If the local child support agency transfers the complaint pursuant to Section 120104, and the complaint is not returned to the local child support agency pursuant to Section 120104(c), the local child support agency may close the complaint.

Note: Authority cited: Section 17306, 17310 and 17312, Family Code. Reference: Sections [amended the word Sections to Section] 17800 [begin strikethrough] and 17802 [end strikethrough], Family Code.

[begin strikethrough] § 120108. Complaint Information Reporting.

~~Each local child support agency shall provide a written report with the following information to the Department within 15 business days after the end of each calendar quarter:~~

~~(a) The number and nature of the complaints received.~~

~~(b) The number and percentage of complaints closed pursuant to Section 120106 within 30 days of the complaint receipt date.~~

~~(c) The number and percentage of complaints closed pursuant to Section 120106(a) within 60 days of the complaint receipt date, if the complaint resolution period was extended pursuant to Section 120105.~~

~~(d) The number and percentage of complaints that have not been closed pursuant to Section 120106(a) within 30 days of the complaint receipt date, or within 60 days of the complaint receipt date if the complaint resolution period was extended pursuant to Section 120105.~~

~~(e) The number of complaints transferred to other local child support agencies.~~

~~(f) The number of referrals to other agencies.~~

Note: Authority cited: ~~Sections 17306, 17310 and 17312, Family Code.~~

Reference: ~~Sections 17800 and 17802, Family Code. [end strikethrough]~~

Division 13. Department of Child Support Services  
Chapter 10. Complaint Resolution  
Article 3. State Hearing

§ 120201. Right to a State Hearing.

(a) A complainant who is dissatisfied with the resolution of a complaint made with a local child support agency, pursuant to Article 2, shall have the right to request a state hearing pursuant to the requirements of this Article. The subject of the request for a state hearing shall be limited to any one or more of the following actions or ~~failures to take action~~ inactions by a local child support agency or the ~~Franchise Tax Board~~ Department:

(1) An application for child support services has been denied or has not been acted upon within the required time frame.

(2) The child support services case has been acted upon in violation of federal or state law, regulation, or Department policy letter, or has not been acted upon within the required time frame, including services for the establishment, modification, and enforcement of child support orders and child support accountings.

(3) Child support collections have not been distributed or have been distributed or disbursed incorrectly, or the amount of child support arrears, as calculated by the local child support agency, is inaccurate.

(A) State hearing jurisdiction shall not extend to arrears issues if there is no dispute as to the accounting of the amount owed, but the complainant is seeking relief from enforcement of the order or judgment, or if the complainant is seeking credit for payments that were made to someone other than the Department's State Disbursement Unit or the local child support agency.

(B) The complainant shall not be entitled to request a state hearing and a court review at the same time. If the complainant or the other party files for a court determination of arrears either before or after a state hearing is requested, the local child support agency shall notify the State Hearing Office, and any state hearing that has been requested on the same issues shall be dismissed.

(C) The local child support agency shall not be required to give notice to the non-complaining party of a state hearing request that concerns the calculation

of the arrears. However, in order to protect the property rights of the parties, the local child support agency shall send the non-complaining party a copy of any hearing decision, in which the calculation of arrears is at issue, and provide notice of the right to have the arrears issue heard in court. The local child support agency shall redact all confidential information, including the complaining party's address, prior to sending the hearing decision to the non-complaining party.

(4) The local child support agency's decision to close a child support case.

(b) The following issues shall not be heard at a state hearing:

(1) Complaints arising from a child support matter which must, by law, be addressed by motion, order to show cause, or appeal, in a court.

(2) A review of any of the following:

(A) A court order for child support or child support arrears.

(B) A court order or equivalent determination of paternity.

(C) A court order for spousal support.

(3) Child custody determinations.

(4) Child visitation determinations.

(5) Complaints of alleged discourteous treatment by a local child support agency employee unless such conduct resulted in one of the actions or inactions enumerated in subsection (a)(1) through (4).

(c) Prior to requesting a hearing, the complainant shall exhaust the local complaint resolution process specified in Article 2, unless a local child support agency has not, within the time frames specified in Section 120105, submitted a written resolution of the complaint. Only a complaint that was raised in the local complaint resolution process can be raised in a state hearing.

(d) All requests for a state hearing shall:

(1) Be made orally or in writing to the State Hearing Office. Complainants shall be encouraged, but not be required, to complete a "Request for State Hearing," SH001, dated (06/09), incorporated by reference herein.

(2) Be made within 90 days after any of the following:

(A) The date the complainant received the local child support agency's "Notice of Complaint Resolution," LCR006, dated (10/01). There shall be a rebuttable presumption that the complainant received a "Notice of Complaint Resolution," LCR006, dated (10/01), five [begin strikethrough] ~~5~~ [end strikethrough] business days after the postmark date of the LCR006.

(B) The date the complainant made the complaint with the local child support agency, if the local child support agency failed to issue a "Notice of Complaint Resolution," LCR006, dated (10/01).

(C) The date the complainant received the "Complaint Transfer," LCR004, dated (10/01), from the local child support agency that transferred the complaint pursuant to Section 120104, if the local child support agency to which the complaint was transferred has not issued a "Notice of Complaint Resolution," LCR006, dated (10/01) within the time frame specified in Section 120105.

(D) The date the complainant received the "Notice of Complaint Resolution Extension," LCR005, dated (10/01) [insert a comma], from the local child support agency that took an extension pursuant to Section 120105, if the local child support agency has not issued a "Notice of Complaint Resolution," LCR006, dated (10/01) [insert a comma], within 60 days from the complaint receipt date.

(3) Include, at a minimum, the information specified in Section 120101(b)(3). A request for a state hearing shall not be deemed invalid for failure to include the information specified in Section 120101(b)(3)(B).

(e) If a local child support agency receives a "Request for State Hearing," SH001, dated (06/09), directly from a complainant, the local child support agency shall [begin strikethrough] ~~fax~~ [end strikethrough] [begin underline] transmit by electronic means [end underline] the SH001 to the State Hearing Office by the close of business of the following business day.

Note: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code.

§ 120202. Scheduling the State Hearing.

The state hearing shall:

(a) Be set to commence within [begin strikethrough] ~~30~~ [end strikethrough] [begin underline] 45 [end underline] days after the hearing request is received by the State Hearing Office.

(b) Be held by telephone or in person within the complainant's county of residence, if the complainant resides in California, unless the complainant requests the hearing be held in another California county.

(1) Hearings for complainants residing outside California shall be conducted by telephone unless the complainant voluntarily offers to return to California for the hearing, or authorizes a representative in California to attend the hearing.

(2) Hearings for complainants who are inmates of penal institutions, or residents of other institutions, shall be conducted by telephone unless the complainant authorizes a representative to attend the hearing.

Note: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code.

#### § 120203. Notice of State Hearing.

The State Hearing Office shall notify all interested parties at least [begin strikethrough] ~~ten~~ [end strikethrough] ~~(10)~~ [removed parentheses around the number ten] days prior to the scheduled hearing, of the date, time, and location of the hearing. The hearing notice shall be mailed to the last known address of the complainant. The time frame of the notice shall be permitted to be shortened with the consent of the parties. Any party shall be permitted to waive notice.

Note: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code.

#### § 120204. Local Child Support Agency Responsibilities.

(a) A local child support agency shall:

(1) Attempt to resolve a complaint to the satisfaction of the complainant during the local complaint resolution process and prior to the state hearing.

(2) Provide the complainant with Department-approved informational materials regarding the state hearing process.

(3) Assist the complainant in requesting a state hearing.

(4) Provide the complainant with relevant information pertaining to the subject of the complaint to help the complainant prepare for the state hearing.

(5) Notify the State Hearing Office of the complainant's need for an interpreter and/or reasonable disability accommodation at the state hearing, if known.

(6) Report to the State Hearing Office, any changes in the complainant's address or other circumstances that might affect the conduct of the state hearing, if known.

(7) Prepare a typewritten position statement that includes all of the following:

(A) A short statement of the facts of the case.

(B) Statutory and regulatory citations, or Department policy, applicable to the local child support agency's and/or ~~Franchise Tax Board's~~ the Department's action or inaction.

(C) All relevant information in the local child support agency's possession regarding the subject of the complaint.

(D) Copies of documentary evidence itemized as exhibits, including copies of any forms prepared or submitted as part of the complaint resolution process, and a list of witnesses the local child support agency intends to use during the hearing.

(E) A complete fiscal accounting of the case, if the complaint pertains to child support collections that have not been distributed or have been distributed or disbursed incorrectly, or the amount of child support arrears calculated by the local child support agency.

(8) Mail the position statement specified in subsection (7) above, and pertinent documents to the complainant and the State Hearing Office at least five ~~(5)~~ business days prior to the scheduled hearing.

(9) Assign a local child support agency representative to each child support case for which a state hearing has been scheduled, who shall provide a copy of the position statement at the state hearing, and have the full responsibility to present the case at the state hearing in accordance with the requirements of this Article. The representative shall not be the individual whose action or inaction is the subject of the complaint, or the Ombudsperson.

(10) Provide the State Hearing Office with the name of the local child support agency representative, specified in (9) above.

(11) Review any state hearing request to make a preliminary determination of whether the non-complaining party needs to be notified of the state hearing to protect his or her rights or interests.

(A) If the local child support agency believes the non-complaining party should receive notice and be given the opportunity to appear at the hearing, the local child support agency shall notify the State Hearing Office of its determination and request a subpoena be issued pursuant to Section 120208.

(B) The local child support agency shall notify the State Hearing Office in advance of any case in which the local child support agency knows that the non-complaining party may appear at the hearing.

(C) If the local child support agency is aware of a history of domestic violence or a potential for violent behavior, the local child support agency shall notify the State Hearing Office of that history.

(D) Whenever possible, the State Hearing Office shall arrange to have one of the parties appear by telephone.

(b) The local child support agency representative shall perform the following case presentation activities at the state hearing as necessary:

(1) Orally summarize the written position statement that supports the local child support agency's and/or [begin strikethrough] ~~Franchise Tax Board's~~ [end strikethrough] [begin underline] the Department's [end underline] action(s) or inaction(s).

(2) Examine local child support agency and/or [begin strikethrough] ~~Franchise Tax Board~~ [end strikethrough] [begin underline] Department [end underline] witness(es).

(3) Cross-examine the complainant or the complainant's authorized representative, and the complainant's witnesses.

(4) Respond to any questions from the complainant or authorized representative, or Administrative Law Judge concerning the case.

(5) Make available at the hearing, the local child support agency case record documents that are not confidential, or for which disclosure is authorized under Section 111440, and are relevant to the complaint.

(6) Make binding agreements and stipulations on behalf of the local child support agency during the hearing.

(c) If the hearing is to be held in a county other than the county responsible for the case, the responsible local child support agency shall ensure a copy of the position statement specified in subsection (a)(7) is available at the other county's office at least two [begin strikethrough] ~~(2)~~ [end strikethrough] business days before the hearing, and shall choose one of the following actions:

(1) Send a local child support agency representative to the county in which the hearing is held to ensure the requirements specified in subsection (b) have been met.

(2) Have a local child support agency representative appear by telephone during the hearing. A local child support agency representative who appears by telephone has the same responsibilities as a local child support agency representative who appears in person, including making binding agreements and stipulations on behalf of the local child support agency.

(3) Send the original case record information relative to the complaint, or a certified copy thereof pursuant to Evidence Code Sections 1530 through 1532, containing all relevant information in the local child support agency's possession and the position statement required by subsection (a)(7), to the local child support agency in the county where the hearing is to be held with the request that the other county represent the responsible local child support agency at the hearing.

(A) The responsible local child support agency shall declare under penalty of perjury that the information submitted is from the case record of the complainant.

(B) If certified copies pursuant to Evidence Code, Sections 1530 through 1532, of the record are sent instead of the original, the responsible local child support agency shall attest that the copies are true copies of the original records.

(C) The request shall be made no later than five [begin strikethrough] ~~(5)~~ [end strikethrough] business days prior to the hearing to allow the local child support agency in the county in which the state hearing is held to arrange for representation or to notify the responsible local child support agency of its inability to provide such representation.

Note: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code.

§ 120205. [~~begin strikethrough~~] ~~Franchise Tax Board Responsibility.~~ [~~end strikethrough~~] [~~begin underline~~] Department Responsibility.

When the local child support agency obtains pertinent case information during the course of its investigation of a complaint from a Department source other than Department computer records, the local child support agency may request that a Department representative be made available to provide testimony or other evidence at a state hearing. [~~end underline~~] [~~begin strikethrough~~] ~~The Franchise Tax Board shall send an agency representative to all state hearings if requested by the local child support agency, to assist in resolving a complaint.~~ [~~end strikethrough~~]

Note: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections [~~amended the word Sections to Section~~] 17801[~~begin strikethrough~~] and ~~17802~~ [~~end strikethrough~~], Family Code.

§ 120206. State Hearing - General Rules.

(a) Attendance at the hearing shall be limited to the complainant, the authorized representative, the local child support agency representative, [~~begin strikethrough~~] ~~Franchise Tax Board~~ [~~end strikethrough~~] [~~begin underline~~] Department [~~end underline~~] representative, a certified interpreter, and witnesses relevant to the issue.

(1) Other persons may attend the hearing only if their attendance is permitted by the complainant, and the Administrative Law Judge determines their presence will not be adverse to the hearing.

(2) The Administrative Law Judge shall be permitted to exclude a witness during the testimony of other witnesses, or exclude persons who are disruptive to the hearing.

(b) Personal or telephonic appearance by the complainant or authorized representative, if any, shall be required at the hearing, unless the hearing is a rehearing or further hearing, and the State Hearing Office determines the appearance of the complainant or authorized representative is not necessary.

(c) The hearing shall be conducted in an impartial manner.

(d) All testimony shall be submitted under oath, affirmation, or penalty of perjury.

(e) The proceedings at the hearing shall be reported by tape recorder or otherwise perpetuated by mechanical, electronic, or other means capable of reproduction or transcription.

(f) The issues at the hearing shall be limited to those issues previously identified in the "Request for State Hearing," SH001, [begin underline] dated (06/09), [end underline] by the complainant, or documented by the State Hearing Office from a verbal request for a state hearing by the complainant, [begin underline] that have not been dismissed by the State Hearing Office pursuant to Section 120211(c), [end underline] and that are issues specified in Section 120201(a). Only a complaint that was raised in the local complaint resolution process can be raised in a state hearing.

(1) If a jurisdictional issue is raised at the hearing, either by the local child support agency representative, the complainant, the authorized representative, if any, or the Administrative Law Judge, the parties shall submit evidence on the substantive issues except as provided in subparagraph (3) below, or Sections 120211(a)(1), (2), or (5).

(2) No determination of the timeliness of the hearing request or other jurisdictional issue shall be made at the hearing. The request shall be dismissed by a written decision if the Administrative Law Judge determines that jurisdiction does not exist, the request is untimely, or there is no subject matter jurisdiction.

(3) If prior to or at the state hearing, the parties agree to discuss only the jurisdictional issue, or the Administrative Law Judge on [begin underline] their [end underline] [begin strikethrough] ~~his/her~~ [end strikethrough] own motion determines that only the jurisdictional issue will be discussed, the parties need not submit evidence on the substantive issues, and the Administrative Law Judge shall take evidence only on the jurisdictional issue. The Administrative Law Judge shall do one of the following:

(A) Inform the parties orally at the hearing or in writing within [begin strikethrough] ~~ten~~ [end strikethrough; parentheses around the number ten are removed] (10) days after the close of the record, that [begin underline] they [end underline] [begin strikethrough] ~~he/she~~ [end strikethrough] will not proceed on the substantive issues and a decision will be prepared on the jurisdictional issue.

(B) Inform the parties orally at the hearing or in writing [begin strikethrough] ~~ten~~ [end strikethrough; parentheses around ten are removed] (10) days after the close of the record, that an additional hearing will be held on the substantive issues and provide the parties a minimum of [begin strikethrough] ~~ten~~ [end strikethrough; parentheses around number ten are removed] (10) days in which to prepare on the substantive issues.

(g) An interpreter shall be provided by the State Hearing Office if one is requested by the complainant, or authorized representative, if any, prior to the hearing, or if at the hearing, the Administrative Law Judge determines that an interpreter is necessary. The Administrative Law Judge shall:

(1) Determine if the interpreter has been certified.

(2) If the interpreter is not certified, examine the qualifications and competency of the interpreter.

(3) Assure objective interpretation and disqualify interpreters who are:

(A) The complainant's relatives, friends, or authorized representative.

(B) Local child support agency staff responsible for the action or inaction that is the basis of the complaint.

(C) The local child support agency's state hearing representative.

(D) Determined by the Administrative Law Judge to be detrimental to the hearing process, or appear to have an interest in the outcome of the case.

(4) Administer a separate oath or affirmation to the interpreter to interpret accurately and maintain confidentiality.

(h) Both the complainant and the local child support agency shall have the right to:

(1) Bring witnesses.

(2) Examine parties and witnesses.

(3) Conduct cross-examination for a full disclosure of the facts.

(4) Introduce exhibits.

(5) Examine all documents that will be introduced as evidence prior to and during the hearing.

(6) Question opposing witnesses and parties on any matter relevant to the issues even though the matter was not covered in the direct examination.

(7) Make oral or written argument.

(8) Rebut the evidence.

(i) Written communications submitted by either the complainant or the local child support agency concerning the hearing shall be made available to both parties. Copies of all such documents shall be provided to the complainant free of charge.

(j) The merits of a pending state hearing shall not be discussed between the Administrative Law Judge and a local child support agency representative, [~~begin strikethrough~~ Franchise Tax Board ~~end strikethrough~~] [begin underline Department end underline] representative, a complainant, or authorized representative, outside the presence of the other party.

Note: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections [~~amended the word Sections to Section~~] 17801 [~~begin strikethrough~~ and 17802 ~~end strikethrough~~], Family Code.

§ 120207. Evidence.

(a) The Administrative Law Judge shall identify the issue(s) and shall state the order in which evidence shall be received. The taking of evidence in a hearing shall be conducted by the Administrative Law Judge in a manner best suited to ascertain the facts and to control the conduct of the hearing.

(b) Except as specified in (1) through (3) below, evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs.

(1) The rules of evidence as applicable in judicial proceedings shall not be applicable in state hearings.

(2) The Administrative Law Judge shall be permitted to exclude evidence that is irrelevant, cumulative or unduly repetitious.

(3) The Administrative Law Judge shall exclude evidence that is privileged under the Evidence Code if the privilege is claimed in accordance with law.

(c) The Administrative Law Judge shall consider the nature of the evidence admissible pursuant to subsection (b) in assessing its probative value.

(d) The Administrative Law Judge shall recognize the existence and truth of certain facts, such as a proposition of law or fact, that have a bearing on the issue in the case through official notice, without requiring the actual production of evidence to prove such facts.

(1) The Administrative Law Judge shall take official notice of those matters that must be judicially noticed by a court under Section 451 of the Evidence Code.

(2) The Administrative Law Judge may take official notice of those matters set forth in Section 452 of the Evidence Code.

(3) The Administrative Law Judge may take official notice of any generally accepted fact relating to the enforcement of child support.

(4) With respect to matters under subparagraph (3) above, and subdivision (f) of Section 451 and subdivision (g) of Section 452 of the Evidence Code that are of substantial consequence to the determination of the action, each party shall be given reasonable opportunity, subject to Section 120210(c) before the decision is submitted, to present information relevant to:

(A) The propriety of taking official notice; and

(B) The tenor of the matter to be noticed.

(e) The standard of proof to be used by the Administrative Law Judge in reaching [begin underline] their [end underline] [begin strikethrough] ~~his/her~~ [end strikethrough] decision in the matter shall be by a preponderance of the evidence.

(f) In determining whether a local child support agency acted properly, where the action or inaction that is the subject of the complaint is discretionary, the standard of review shall be whether the local child support agency's exercise of discretion was arbitrary and capricious.

Note: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code.

§ 120210. Postponements and Continuances.

(a) The State Hearing Office or the Administrative Law Judge shall have the authority to postpone the hearing for good cause. Good cause for a postponement is any of the following:

(1) Death in the family.

(2) Personal illness of or injury to the complainant or authorized representative.

(3) Sudden and unexpected emergencies including, but not limited to, traffic accidents on the day of the hearing and illness of or injury to a household or family member who requires immediate care.

(4) A conflicting court appearance that cannot be postponed.

(5) The local child support agency does not make a position statement required by Section 120204 available to the complainant at least two [begin strikethrough] ~~(2)~~ [end strikethrough] business days prior to the date of the scheduled hearing, or the local child support agency has substantively revised the position statement required by Section 120204 subsequent to providing the statement to the complainant and the complainant requests a postponement.

(6) The complainant did not receive notice of the time and place of the hearing. Failure by the complainant to notify the local child support agency or the State Hearing Office of a change of address while a request for state hearing is pending, shall not constitute a reason for postponement under this section.

(7) Any other reason the State Hearing Office or Administrative Law Judge deems appropriate.

(b) The Administrative Law Judge shall have the authority to grant a continuance of the hearing for a stated period not to exceed 30 days, for additional evidence or close the hearing and hold the record open for a stated period not to exceed 30 days, in order to permit the submission of additional documentary evidence.

(c) When a hearing is postponed, continued, or reopened, the State Hearing Office shall mail or give written notice to the parties that explains the hearing date may be put off for a period not to exceed 30 days.

Note: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code.

§ 120211. Dismissals.

(a) The State Hearing Office shall dismiss a hearing request prior to the hearing when:

(1) The hearing request has been withdrawn pursuant to Section 120212.

(2) The issue is not within the jurisdiction of a state hearing as specified in Section 120201(a).

(3) The request for state hearing is filed beyond the time limit set forth in Section 120201(d)(2).

(4) The request for hearing raises a compliance issue, such as an allegation that the local child support agency and/or [begin underline] Department [end

underline] [begin strikethrough] Franchise Tax Board [end strikethrough] failed to comply with a previously adopted state hearing decision.

(5) The issue is moot.

(b) Prior to dismissing a hearing for the reasons specified in subsection (a)(2) through (5), the State Hearing Office shall notify the complainant by mail of the reason(s) for the dismissal and that a dismissal shall occur 15 days after the notice is sent, unless the complainant sets forth further facts and/or arguments, orally or in writing, that would indicate the matter should not be dismissed. The procedure for dismissing a case prior to hearing based upon the complainant's withdrawal is set forth in Section 120212.

(1) If the complainant presents information that may indicate the hearing request should not be dismissed [begin underline] in its entirety [end underline], a hearing shall be scheduled pursuant to Section 120203 [begin underline] after copies of the communications received have been mailed to the other party unless a partial dismissal is appropriate pursuant to subsection (c). [end underline]

(2) If the complainant presents information that fails to establish the hearing request should not be dismissed [begin underline] in its entirety [end underline], the State Hearing Office shall dismiss the hearing request and provide written notice to the complainant within [begin strikethrough] ~~ten~~ [end strikethrough; parentheses around number ten are removed]-(10) days of dismissing the hearing request. If the complainant fails to respond to notification sent by the State Hearing Office within 15 days, the State Hearing Office notice sent pursuant to subsection (b) shall serve as notice of dismissal.

[begin underline](c) Notwithstanding subsection (b), if the hearing request includes more than one issue and some of the issues are not subject to dismissal, the State Hearing Office may issue a partial dismissal, toll the period to challenge the issues subject to its partial dismissal pending issuance of final decision by the Department in accordance with Sections 120217 and 120218, and cause a hearing to be scheduled pursuant to Section 120203 as to the remaining issue(s). When issuing a partial dismissal, the State Hearing Office shall:

(1) Issue a written notice by mail that identifies which issue(s) are being dismissed, the reason(s) for dismissal, and that the period to challenge the dismissal of those issue(s) is tolled pending issuance of a final decision by the

Department in accordance with Sections 120217 and 120218 as to the other issue(s) set for hearing;

(2) Make communications submitted by either complainant or the local child support agency concerning the request for state hearing available to both parties with its partial dismissal notice; and

(3) Require any such communications to be included in the administrative record subject to reconsideration by the Department pursuant to Section 120220.

(e d) [subsection (c) was amended to become subsection (d)] The Administrative Law Judge, in addition to the authority set forth in subsection (a), shall dismiss by proposed decision, a hearing request, or portion thereof, when:

(1) The Administrative Law Judge determines the complainant or authorized representative is unwilling to present the complainant's case at the state hearing. This paragraph shall not apply to abandonments. Dismissal of hearing requests based upon abandonment by the complainant is set forth in Section 120213.

(2) The Administrative Law Judge determines the issue(s) has/have been the subject of a previous state hearing involving the complainant.

(3) The Administrative Law Judge determines the person who requests the state hearing does not have standing to request the state hearing.

(4) The Administrative Law Judge fails to receive a written authorization following the hearing pursuant to Section 120222(b)(1).

Note: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections [changed the word Sections to Section] 17801 [begin strikethrough] and ~~17802~~ [end strikethrough], Family Code.

§ 120213. Abandonment.

(a) If a complainant or authorized representative fails to appear at the scheduled hearing without good cause as specified in Section 120210(a)(1) through (6), the hearing request shall be considered abandoned.

(b) Prior to dismissing a hearing request based on the complainant's abandonment, the State Hearing Office shall notify the complainant by mail that the matter shall be dismissed on the failure of the complainant or authorized representative to appear, and that a dismissal shall occur 15 days

after the notice is sent, unless the complainant requests the hearing request be reinstated and establishes good cause as specified in Section 120210(a)(1) through (6) for failing to appear at the hearing.

(1) The State Hearing Office shall have authority to request a written declaration or other verification from the complainant to support the reason(s) for the nonappearance.

(2) If the complainant presents information to explain the failure to appear, but the information fails to establish good cause for the nonappearance, the State Hearing Office shall dismiss the hearing request and provide written notice to the complainant within [begin strikethrough] ten [end strikethrough; parentheses around the number ten are removed] ~~(10)~~ days of the dismissal.

(3) If the complainant fails to respond to the notification sent by the State Hearing Office within the time allotted, the notice sent pursuant to subsection (b) shall serve as notice of dismissal.

Note: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code.

§ 120216. Submission of Proposed Decision.

(a) The Administrative Law Judge shall submit a proposed decision to the Director or Director's designee within [begin strikethrough] 10 [end strikethrough] [begin underline] 30 [end underline] [begin strikethrough] business [end strikethrough] days of the close of the record. The proposed decision shall be based exclusively on the evidence and other material admitted at the state hearing, or after the hearing, but while the record is open. The proposed decision shall specify the reasons for the decision and identify the supporting evidence and applicable statutes or regulations.

(b) If the Administrative Law Judge who heard the case is unavailable to prepare the proposed decision, the State Hearing Office shall assign another Administrative Law Judge to prepare the proposed decision on the record and notify the complainant of the right to request a new hearing, provided the complainant agrees to waive the time frame to render a decision required in Section 120217. The Administrative Law Judge shall be considered unavailable within the meaning of this section if the Administrative Law Judge:

(1) Is incapacitated.

(2) Has ceased employment as an Administrative Law Judge.

(3) Is disqualified under Section 120214.

(4) Is unable to write a proposed decision due to circumstances beyond [begin strikethrough] his/her [end strikethrough] [begin underline] their [end underline] control.

Note: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code.

§ 120217. Action by the Director or Director's Designee.

(a) The Director or Director's designee shall review the proposed decision submitted pursuant to Section 120216 and take one of the following actions

(1) Adopt the proposed decision in its entirety.

[begin underline] (2) Make technical or other minor changes in the proposed decision and adopt it as the decision. Action under this paragraph is limited to correcting clerical errors or making a change of a similar nature that does not affect the factual or legal basis of the proposed decision. [end underline]

(~~2~~ 3) [amended the number two to number three in the parentheses] Issue an alternate decision based on the case record, including the transcript, with or without taking additional evidence. If the Director or Director's designee renders an alternate decision, the decision shall be in writing and include a statement of the facts, reference to the applicable statutes and regulations, and the reasoning to support the decision. The decision shall be based on only those circumstances and issues existing at the time of the local child support agency and/or [begin strikethrough] Franchise Tax Board [end strikethrough] [begin underline] Department [end underline] action or inaction in dispute that were the subject of the unresolved dispute and the request for state hearing.

(~~3~~ 4) [amended the number three to number four in the parentheses] Order a further hearing to be conducted.

(b) A final decision shall be rendered by the Director or Director's designee for all state hearings within [begin strikethrough] 20 [end strikethrough] [begin underline] 15 [end underline] [begin strikethrough] business [end strikethrough] days from the date [begin strikethrough] of the close of the record [end strikethrough] [begin underline] the proposed decision is submitted [end underline].

(c) If the Director or Director's designee fails to act in the manner specified in subsection (a) within [begin strikethrough] 20 business days of the date of the close of the record, [end strikethrough] [begin underline] 15 days from the date the proposed decision is submitted, [end underline] the proposed decision shall be deemed adopted by operation of law.

[begin underline] (d) In the event that the Director or the Director's designee intends to exercise their authority under Subsection (a)(2), they may obtain an electronic copy of the proposed decision from the Presiding Administrative Law Judge and shall send, upon its issuance, a copy of the decision, as corrected, to the department or office conducting hearings on behalf of the department. [end underline]

Note: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code.

§ 120218. Issuance of the Decision.

(a) The State Hearing Office shall mail the decision to the complainant and the local child support agency within 10 business days after the decision is adopted by the Director or the Director's designee, as specified in Section 120217. The decision shall include a statement concerning the complainant's right to request [begin underline] correction of a clerical error contained in the decision, [end underline] a rehearing or judicial review, and shall advise the complainant that if a judicial review results in a decision in the complainant's favor, the complainant shall be entitled to reasonable attorney's fees and the cost of the suit.

(b) If the Director or Director's designee renders an alternate decision, or orders a further hearing, a copy of the Administrative Law Judge's proposed decision shall be included and mailed with the final decision within the time frame specified in subsection (a).

(c) [begin underline] Notwithstanding Subsection(a)(2) of Section 120217, the [end underline] [begin strikethrough] The [end strikethrough] Director or Director's designee shall retain authority to rectify clerical errors contained in the decision after the decision has been issued [period repealed and begin underline] - on their own motion under this Section or as otherwise provided by Section 120223. [end underline]

Note: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801 and 17803, Family Code.

§ 120220. Rehearing.

(a) The complainant or the local child support agency shall have the right to file a written request for rehearing with the State Hearing Office no later than 30 days after receipt of the adopted decision. The rehearing request shall contain a statement regarding the date the adopted decision was received. In the absence of such statement, the date of receipt shall be either three [begin strikethrough] ~~3~~ [end strikethrough] business days after the date of the postmark on the envelope containing the decision, or three [begin strikethrough] ~~3~~ [end strikethrough] business days after the date the decision was released by the Department or the State Hearing Office, whichever is later.

(b) The filing date of the rehearing request shall be the postmark on the envelope containing the rehearing request. If the postmark on the envelope is unreadable, the filing date shall be the date the request for rehearing is signed. If the postmark is unreadable, and the request for rehearing is undated, the filing date shall be three [begin strikethrough] ~~3~~ [end strikethrough] business days prior to the date the rehearing request is stamped "received" by the State Hearing Office.

(c) If the rehearing request is to permit presentation of additional evidence, the request shall:

(1) Describe the additional evidence.

(2) State why it was not previously introduced.

(3) Explain its materiality.

(4) Explain how the additional evidence will change the outcome of the hearing decision.

(d) Upon receipt of a rehearing request filed within the time frame specified in subsection (a), the State Hearing Office shall mail a copy of the request to the other party to the hearing. The other party shall be permitted to file a statement supporting or opposing the rehearing request. Such statement from the other party shall be in writing and shall be filed with the State Hearing Office no later than [begin strikethrough] ~~ten~~ [end strikethrough; parentheses around the number ten are removed] ~~{10}~~ business days after the mailing.

(e) The Director or Director's designee shall grant or deny the rehearing request no earlier than [begin strikethrough] ~~ten~~ [end strikethrough; parentheses around the number ten are removed] ~~{10}~~, nor later than 20, business days after it is

received by the State Hearing Office. If the Director or Director's designee does not act within this time frame, the rehearing request shall be deemed denied.

(f) The criteria for granting a rehearing shall be one or more of the following:

(1) Newly discovered evidence is now available but was not available to the requesting party at the time of the hearing, and the new evidence, if it had been introduced, could have changed the result of the decision.

(2) The adopted decision is inconsistent with the law.

(3) The adopted decision is not supported by the evidence of record.

(g) If a rehearing request is granted, the Director or Director's designee shall do one of the following:

(1) Order reconsideration of one, several, or all issues decided in the adopted decision on the basis of the evidence in the record, and any additional evidence submitted by the complainant or the local child support agency. Such additional evidence shall be submitted to the opposing party for rebuttal.

(2) Order a new oral hearing on one or more of the issues presented at the original state hearing.

(h) If a rehearing request is denied, the Director or Director's designee shall mail a written notice of denial to the complainant no later than 20 business days after the rehearing request is received by the State Hearing Office. The notice of denial shall contain a statement concerning the complainant's right to judicial review and shall advise the complainant that, if the court decides the case in the complainant's favor, the complainant shall be entitled to reasonable attorney's fees and the cost of the suit.

(i) A rehearing request shall be permitted to be withdrawn by the requesting party any time.

(j) A rehearing decision shall not be subject to another rehearing. Any further appeal must be by petition to the Superior Court under Section 1094.5 of the Code of Civil Procedure.

Note: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17801 and 17803, Family Code.

§ 120221. Compliance with Adopted State Hearing Decision.

(a) Immediately upon receipt of the adopted decision, the local child support agency shall:

(1) Initiate action to comply with such decision.

(2) Comply with the adopted decision even if a rehearing is requested and/or granted, unless a request to stay compliance pending rehearing has been requested concurrently with the request for rehearing, and has been granted by the Department.

(3) Comply with a rehearing decision subsequently rendered, to the extent the decision differs from the original adopted decision.

(b) If the adopted decision is wholly or partially in favor of the complainant, the local child support agency shall, within 30 days of receipt of the adopted decision, submit a compliance report to the Department. The local child support agency shall be presumed to have received the adopted decision 15 business days after the decision is adopted by the Director or the Director's designee. Such compliance report shall set forth the specific manner in which the local child support agency has complied and/or is complying with the order in the adopted decision. The Department shall review the compliance report and notify the complainant and the local child support agency that the plan for compliance has been approved, or the action that must be taken to ensure proper compliance with the adopted decision.

(c) The complainant shall have the right to contact the Department, orally or in writing, to express dissatisfaction with the local child support agency's compliance with the adopted decision. There shall be no right to another state hearing concerning noncompliance with the adopted decision. The Department shall determine the local child support agency's compliance with the adopted decision and provide notice to the complainant. If the Department determines the local child support agency is not complying with the adopted decision, the Department shall take any action necessary to ensure compliance, and provide notice to the complainant of the action taken by the Department.

Note: Authority cited: Sections 17306, 17310 and 17312, Family Code Reference: Sections [the word Sections was changed to Section] 17801 [begin strikethrough] and 17802 [end strikethrough], Family Code.

[begin underline] § 120223. Correction of Mistake or Clerical Error in the Decision.

(a) Within 15 days after service of a copy of the decision on the parties, the complainant or the local child support agency may apply to the Director or the Director's designee for the correction of a clerical error contained in the decision by submitting a writing to the State Hearing Office that states the specific ground on which the application is made.

(b) Upon receipt of the application, the State Hearing Office shall serve a Notice of Application to the other party to the proceeding. The other party shall be permitted to file a statement supporting or opposing the application. Such a statement shall be in writing and shall be filed with the State Hearing Office no later than 10 days after service of the Notice of Application.

(c) The Director or the Director's designee may:

(1) Deny the application;

(2) Grant the application and modify the decision; or

(3) Grant the application and set the matter for a telephonic hearing before the Director or the Director's designee.

(d) If the Director or the Director's designee does not act within 15 days after the date of service of the Notice of Application on the other party, it is deemed denied.

(e) An application under this Section is not a prerequisite for seeking judicial review and does not toll the period for seeking a rehearing under Section 120220 or for filing a writ under Section 1094.5 of the Code of Civil Procedure.

Note: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801 and 17803, Family Code. [end underline]



## **RIGHT TO COMPLAINT RESOLUTION:**

- If you have a complaint against a local child support agency for any action or inaction regarding your child support case, you have the right to request complaint resolution from the local child support agency.
- You can make a complaint in writing by completing the reverse side of this form, or you can call the local child support agency.
- **IMPORTANT: Your request for complaint resolution must be made within 90 days from the date you knew, or should have known, about the subject of your complaint.**
- The local child support agency has 30 days from the date it receives your complaint to give you a written resolution of your complaint, unless the local child support agency needs more information or time to resolve your complaint. The local child support agency will contact you if it needs more information or time to resolve your complaint.

## **RIGHT TO A STATE HEARING:**

- If the local child support agency **does not** respond to you within 30 days from receiving your complaint, you have the right to request a State Hearing before an Administrative Law Judge. **IMPORTANT: Your request for a State Hearing must be made within 90 days after you complained to the local child support agency.**
- If the local child support agency **does** respond to you within 30 days of making your complaint, and you are not satisfied with the local child support agency's complaint resolution or response, you have the right to request a State Hearing before an Administrative Law Judge. **IMPORTANT: Your request for State Hearing must be made within 90 days after you received the local child support agency's written response to your complaint.**
- You can request a State Hearing in writing by sending a Request for State Hearing form (SH001) to the State Hearing Office, or you can call the State Hearing Office toll free at 1-866-289-4714.
- The State Hearing Office will let you know the date, time, and place of your State Hearing.
- The State Hearing Office will provide an interpreter or disability accommodation for you at the hearing if you need one.
- **IMPORTANT: Not all complaints can be heard at a State Hearing.**

## **State Hearings will only be granted for the following issues:**

- An application for child support has been denied or has not been acted upon within the required time frame.
- The child support services case has been acted upon in violation of federal or state law or regulation, or California Department of Child Support Services policy letter, including services for the establishment, modification, and enforcement of child support orders and child support accountings.
- Child support collections have not been distributed, or have been distributed or disbursed incorrectly, or the amount of child support arrears, as calculated by the local child support agency is inaccurate.
- The local child support agency's decision to close a child support case.

## **IMPORTANT: The following issues cannot be heard at a State Hearing:**

- Child support issues that must be addressed by motion, order to show cause, or appeal in a court.
- A review of any court order for child support or child support arrears.
- A court order or equivalent determination of paternity.
- A court order for spousal support.
- Child custody determinations.
- Child visitation determinations.
- Complaints of alleged discourteous treatment by a local child support agency employee, unless such conduct resulted in a hearable action or inaction.

## **OMBUDSPERSON SERVICES:**

- Every local child support agency has an Ombudsperson available to help you through the complaint resolution and/or State Hearing process.
- The Ombudsperson can help you obtain information regarding your complaint to help you prepare for your State Hearing.
- **IMPORTANT: The Ombudsperson cannot represent you at the State Hearing or give you legal advice.**

# REQUEST FOR COMPLAINT RESOLUTION

FOR AGENCY USE ONLY

LCSA DATE OF RECEIPT

LCSA CASE NUMBER

To request complaint resolution, you can either mail or deliver this form to the local child support agency you are complaining about, or call the local child support agency to file your complaint verbally.

COUNTY YOU ARE COMPLAINING ABOUT

COMPLAINANT'S NAME (Last) (First) (M.I.) TELEPHONE NUMBER

COMPLAINANT'S MAILING ADDRESS E-MAIL ADDRESS FAX NUMBER

CITY STATE ZIP CODE

DESCRIBE YOUR COMPLAINT: (If you need more space, you may continue on another page and attach it to this form.)

COMPLAINANT'S SIGNATURE

DATE

--THIS SECTION TO BE COMPLETED BY LCSA REPRESENTATIVE--

This request was taken (check one):  in person  by telephone  by letter

LCSA REPRESENTATIVE'S NAME (Print)

LCSA REPRESENTATIVE'S SIGNATURE

DATE

## COMPLAINT RESOLUTION - STATE HEARING INFORMATION

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California Department of Child Support Services  
R-2016-02

Complaint Resolutions and State Hearing

FINAL STATEMENT OF REASONS

SUBJECT MATTER OF PROPOSED REGULATIONS: Complaint Resolution and State Hearing Amendment

SECTIONS AFFECTED: Amend Sections 110160, 110602, 110778, 111542, 120100, 120101, 120102, 120103, 120105, 120106, 120201, 120202, 120203, 120204, 120205, 120206, 120207, 120210, 120211, 120213, 120216, 120217, 120218, 120220, and 120221; repeal Sections 111543 and 120108; and adopt Sections 110242, 110250, 110251, 110252, 111544 and 120223 of Division 13 of Title 22 of the California Code of Regulations (CCR).

UPDATE OF INITIAL STATEMENT OF REASONS

The Initial Statement of Reasons is included in the file. The information contained therein is updated as follows:

Section 111542(c)-Ombudsperson Responsibilities. Originally in the proposed regulatory text noticed to the public, California Department of Child Support Services (CA DCSS) had proposed that the Ombudsperson could not simultaneously act as a **local child support agency's** (LCSA) Public Information Officer. In response to a public comment, CA DCSS repealed the Ombudsperson could not simultaneously act as the Public information Officer in subsection (c).

Section 111544(a)- Time Frames for Customer Service Response. Originally CA DCSS included policy language directly taken from Child Support Services (CSS) Letter 01-20, "**Customer Service Inquiry**" dated July 25, 2001. In response to a public comment, CA DCSS amended the language to a general applicable requirement of responding within three business days. CA DCSS, in consultation with LCSAs, came to an agreement that the originally proposed regulatory language noticed to the public was complex and confusing to a reader. The proposed regulatory language created confusion for the LCSAs on which timeframe (three days, one day, or immediately) they needed to follow. CA DCSS collaborated with the LCSAs to make the modified policy language on

timeframes more clear and direct. CA DCSS maintained LCSAs must attempt to respond immediately to case participants who are on site to remain consistent with policy from CSS Letter 01-20.

Section 111544(b)(2)- Time Frames for Customer Service Response. The initial regulatory text noticed to the public contained the requirement for the LCSAs to “mail or transmit by electronic means” the “Request for Complaint Resolution,” LCR001, dated (12/09). In response to a public comment, CA DCSS amended the proposed regulatory text to “provide” the form. The proposed amendment made will clarify and simplify the regulatory language. “Provide” allows for additional options to send the “Request for Complaint Resolution” and information on Complaint Resolution Process to a case participant and provides the LCSAs with the flexibility to use more efficient and secure technology options in the future that case participants may prefer that otherwise could not be used promptly if the options within the regulation adopted are limited to sending by mailing or transmitting by electronic means.

Section 111544(c)- Time Frames for Customer Service Response. The original proposed regulatory text had the LCSA verifying if the issue has been resolved to **the case participant's satisfaction**. If the case participant was not satisfied with the resolution, the LCSA must then inform the case participant they may file a verbal or written complaint. The LCSA also needed to verify if the case participant wishes to file a complaint. In response to a public comment, CA DCSS amended the proposed regulatory language to rely on the case participant expressing their dissatisfaction with the resolution or response to start the process of taking a verbal or written complaint. It is not necessary for the LCSA to verify with the case participant they wish to file a verbal or written complaint as the case participant's dissatisfied reaction to the resolution is enough evidence by itself to start the process of taking a written or verbal complaint.

Section 120101(a)-Right to Complaint Resolution. When CA DCSS published the proposed regulatory text on June 19, 2020, the word “or” appeared in the second sentence of Section 120101(a) as part of the original CCR text. After the 45-day public comment period had concluded, CA DCSS identified the stray “or” and it was determined to not be part of the original regulatory text found in the existing CCR. CA DCSS proposed a deletion of the word “or” during its Notice of Modifications published on July 26, 2021, to conform with the existing

regulation text. This was a non-substantive change to the proposed regulatory text.

Section 120105(b)(1)-Notice of Complaint Resolution/Complaint Extension. Originally in the proposed regulatory text noticed to the public, CA DCSS did not propose to repeal the requirement that the Local Child Support Agency (LCSA) mail a copy of the "Notice of Complaint Resolution Extension," LCR005, dated (10/01), to the State Hearing Office. After the 45-day comment period had concluded, CA DCSS proposed to repeal the requirement that a copy be mailed to the State Hearing Office by the LCSA. The State Hearing Office now has and will continue to have access to information and records maintained by the LCSAs through electronic means that were unavailable to it at the time the Complaint Resolution and State Hearing regulations were first adopted.

Section 120105(b) and Section 120105(b)(1)-Notice of Complaint Resolution/Complaint Extension. Originally in the proposed regulatory text, in these two sections the wording "his or her" was not amended with "their" as it was in other sections where "his or her" occurred. CA DCSS amended the proposed regulatory text with the gender-neutral language "their" in response to a public comment.

Section 120216(a)- Submission of Proposed Decision. The 30-day time frame in Title 22, CCR, section 120216, as originally noticed to the public on June 19, 2020, is consistent with Family Code (FC) section 17801. As explained to the Office of Administrative Law (OAL) staff seeking clarification, under FC section 17801(d)(1), the entity holding the hearing for CA DCSS must do two things:

1. Set the hearing to commence within 45-days receipt of request for hearing; and
2. Deliver a proposed decision to CA DCSS after a hearing is held within 75 days receipt of request for hearing.

Once the proposed decision is submitted to CA DCSS, it must be acted on by the Director or Director's designee within 15 days of receipt.

Under these rules, the time frame from Title 22, CCR, section 120202 [hearing set to commence within 45 days from the request for state hearing] and the proposed 30-day timeframe from Title 22, CCR, section 120216 [submission of proposed decision], when added together cannot be more than 75 days. When a hearing is set 45 days from the request, only 30 days are left under

FC section 17801 for an Administrative Law Judge to submit a proposed decision to CA DCSS.

The proposed amended 30-day timeframe in Title 22, CCR, section 120216 is specifically tied to the close of the record as in practice situations arise when matters need to be postponed, continued, or reopened in a manner that conforms with limitations imposed by FC section 17801. FC section 17801(d)(1) specifically provides that “. . . [w]hen a hearing is postponed, continued, or reopened with the consent of the complainant, the time for issuance of the decision, and action on the decision by the department, shall be extended for a period of time consistent with the postponement, continuance, or reopening.”

By using the close of the record, Title 22, CCR, section 120216 ensures the State Hearing Office does not submit a decision beyond the maximum outside timeframe for submitting a proposed decision to CA DCSS based on the consent of the complainant whether the need for a continuance or postponement is identified on the day of hearing or prior to the hearing. In the situation where a hearing is scheduled 45 days out and it becomes apparent on the first day of hearing that further investigation is needed to resolve the complainant's concerns, the parties will identify a mutually agreeable date that works for the complainant, the LCSA, and the hearing officer. Under Title 22, CCR, section 120210, the extension date cannot exceed 30 days. If the parties agree to a 30-day extension, the hearing period agreed to by the parties is 75 days (original 45 days out + 30 day extension parties agreed to) plus the 30 days for a proposed decision from Title 22, CCR, section 120216. The original 75 day timeframe becomes 105 days, as contemplated under FC section 17801.

In a scenario where the need for an extension is identified prior to the first day of hearing, the State Hearing Office solicits information from both parties in writing to identify a mutually agreeable date that works for the hearing officer, the complainant, and the LCSA. The extension cannot exceed 30 days. Typically, the complainant is either the party asking for an extension or is otherwise agreeable to an extension because the state hearing processes is designed to facilitate an informal resolution to get a case back into conformity with governing law and regulations without need for a hearing.

The LCR 001 “Request for Complaint Resolution” (12/09) was non-substantively updated from the LCR 001 (12/01). The LCR 001 (12/09) appears as two separate forms because CA DCSS had identified 34 forms in 2008 that also

needed "Complaint Resolution-State Hearing Information" attached to them. CA DCSS decided to make the information on page two on the LCR 001 (12/01) a standalone form that could be inserted into various form sets to ensure statewide uniformity.

#### LOCAL MANDATE DETERMINATION

The proposed regulations do not impose any mandate on local agencies or school districts.

#### SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF JUNE 19, 2020, THROUGH AUGUST 4, 2020

The proposed regulatory text was made available to the public for comment from June 19, 2020, to August 4, 2020. CA DCSS received comments from three members of the public. The following recommendations and/or objections were made regarding the proposed rulemaking action:

*Public Commenter Number 1:* C. Tinney states they asked several times for necessary paperwork to file a complaint and states CA DCSS is "delaying my ability to do what is necessary for me to address the issue that I have in the time frame provided for complaints to be addressed." C. Tinney then states "email (Notice of DCSS Rulemaking: Amendment of Complaint Resolution and State Hearing Regulations) you sent me does nothing to assist me with filing a complaint so that the mistake that has occurred can be corrected and the money that is due me can be distributed properly." C. Tinney asks for paperwork to be sent so they can resolve their complaint as soon as possible.

*CA DCSS Response:* No change is needed as the comment is not directed towards proposed rulemaking activities. C. Tinney is asking for complaint resolution paperwork in their comment. CA DCSS' Public Inquiry and Response Team responded on June 23, 2020, to C. Tinney's email request for paperwork by sending the requested complaint forms and providing a link to the forms on the public website.

*Public Commenter Number 2:* Kathleen Ayers states this section "is not referencing a *formal acknowledgment* like that described in section 120102, rather it seems to be referencing some other form of correspondence, such as a letter." Kathleen Ayers states if reference is to a letter, a suggestion is made use the word correspondence. Kathleen Ayers also states: "If a formal

acknowledgment is intended for that part, then a reference to section 120102 would be helpful, and would be consistent with the way that is done in other areas of the proposed changes.”

*DCSS Response:* This regulation is intended to provide LCSAs with the same flexibility they have to respond to customer service issues that exists under CSS Letter 01-20. CSS Letter 01-20 does not require the LCSAs to send a formal notice as contemplated in Section 120102. The acknowledgment can be in the form of a face-to-face conversation, telephone, text, email, customer connect response, letter, fax, or other means LCSAs regularly use for communicating with case participants. In situations where the LCSAs' form of acknowledgment does not permit them to transmit the forms at the same time as their contact with the case participant, the forms may be transmitted by mail or other electronic means at any time after acknowledgment, provided they are sent within the five-day period imposed by regulation. This is not a change to existing CA DCSS policy.

In the interest of using clear and concise language and remaining consistent with CSS Letter 01-20, “mail or transmit by electronic means” under subparagraph (b)(2) has been revised to “Provide” because the reference to the “Request for Complaint Resolution,” LCR001, dated (12/09), form already makes it clear that either a hard, faxed, or electronic copy must be provided.

*Public Commenter Number 3.01:* Child Support Directors Association (CSDA) states the addition of these 2 amendments (sections 110250-Dispute and 110251-Inquiry) may be unnecessary and recommends they not be included. CSDA cites that per CSS Letter No. 01-20 “Inquiries and Disputes are defined as contacts made by either the custodial parent and/or non-custodial parent before they become complaints and fall under the formal complaint resolution process.” LCSAs “shall attempt to resolve all inquiries or disputes, even if the issues are not eligible for the complaint resolution process.” CSDA is concerned that the addition of these terms “can blur the lines between informal and formal contacts made by customers and can potentially create a significant burden on LCSA staffing resources if inquiries and disputes require similar formal tracking and reporting as complaints.”

*CA DCSS Response:* This recommendation was rejected. One of the goals of this rulemaking is to adopt directives published by CA DCSS as CSS Letters as regulation. Sections 110250, 110251, and 111544 will obsolete CSS Letter 01-20.

CA DCSS is not adding separate tracking and reporting requirements with adoption of these regulations. This is not a change to existing CA DCSS policy. Case specific contacts addressed in this regulation will continue to be entered in the statewide computer system. CA DCSS is not expanding the criteria that would be subject to formal compliance monitoring, reporting, and audits by adopting this regulation. Such activities continue to be limited to those in Title 22, CCR, Chapter 10. Complaint Resolution. Rather, they are added to improve uniformity as to when a verbal or written statement if left unresolved for 30 days will be deemed a complaint by the State Hearing Office and subject to its jurisdiction.

*Public Commenter Number 3.02:* CSDA recommends not including this proposed amendment and continue to allow LCSAs flexibility on the assignment of Ombudsperson and Public Information Officer roles based upon their **organizational circumstances**. CSDA notes that “the role of the Ombudsman, as defined in CCR §111542 may be incompatible with the role of the Public Information Officer.” CSDA cites “policy per CSS Letter 02-19, Ombudsperson Serving as Public Information Officer, released October 1, 2002, allowed small LCSAs (those with less than 10,000 case caseloads) to have the same individual act in the capacity of Ombudsperson and Public Information Officer. The proposed amendment poses a challenge for small counties with limited staffing resources. CSDA views that “the roles and responsibilities of the Ombudsperson and the Public Information Officer, though potentially performed by the same individual are separate and distinct and the subject matter for either position would not intersect with the other.”

*CA DCSS Response:* This recommendation was accepted. CA DCSS recognizes the resource issue CSDA described now applies to most counties as caseload sizes have decreased since CSS Letter 02-19 was issued. CA DCSS appreciates that it may not always be feasible for LCSAs to request assistance from another LCSA and that there may be disruptions in service as other LCSAs’ **ability to accept referrals** may be impacted by unanticipated fluctuations in fiscal and staffing resources. CA DCSS is not changing the regulatory prohibition that the Public Information Officer cannot be the state hearing representative charged where **the parties’ interests are known to conflict and be adversarial to each other** by nature of the proceeding.

*Public Commenter Number 3.03:* CSDA recommends “proposed additional or different language that may serve the public and the LCSAs better to provide in

the regulations that the LCSA 'may' offer information about the formal complaint process rather than 'must' and may send the Complaint Resolution forms to case participants who request it themselves or who have confirmed that they wish to enter that process." CSDA states that "the strict response timeframes will hinder the LCSAs' ability to effectively resolve inquiries and disputes due to the pressure created from having to provide a quick resolution or else move the issue through to the formal complaint process."

In addition, CSDA states that some participants do not want to do not want to be labeled as a "complainant" when they are simply making an inquiry, nor do they wish to enter the formal complaint process simply because they don't receive an answer right away." CSDA notes that "CSS 01-20, an inquiry or dispute are considered pre-complaint resolution actions and can involve any child support topic, even topics not eligible for the complaint resolution process. This, coupled with the expanded definitions of 'Inquiry' and 'Dispute' in proposed sections 110250 and 110251, would have a serious impact on LCSA resources." CSDA states "it seems more appropriate to allow the LCSAs the flexibility to work together with case participants to resolve issues during an informal pre-complaint phase, with entry into the formal complaint process to be offered, not required, when all other options have been exhausted."

*DCSS Response:* This recommendation was accommodated. As noted in the response to Public Commenter Number 2, the proposed regulation does not impose a new workload as this is not a change to existing CA DCSS policy. However, taking CSDA's concerns into consideration CA DCSS has made the following changes to the proposed regulations:

1) Under paragraph (a) of Section 111544, the different response times required for inquiries made by telephone or electronic means have been removed and replaced by the generally applicable requirement of three business days. In order to remain consistent with the requirements of CSS Letter 01-20, the last sentence of revised paragraph (a) still provides that LCSAs must attempt to respond immediately to case participants who are on site.

2) Similarly, under paragraph (c) of Section 111544, CA DCSS has made the regulation consistent with CSS Letter 01-20 by requiring the LCSAs to rely on the case participant's expressed dissatisfaction to start the process of taking a verbal or written complaint.

*Public Commenter Number 3.04:* CSDA supports this proposed amendment, Section 120103(a)-Complaint Investigation. CA DCSS “acknowledges the role of the Ombudsperson and Investigator are similar and that allowing this would create less of a hardship on smaller counties that lack the staffing resources to segregate the duties.”

*CA DCSS Response:* This comment is in support of the proposed regulation as originally drafted. No changes are needed to the proposed regulatory text.

*Public Commenter Number 3.05:* CSDA “recommends reviewing these two sections [Sections 120105(b) and 120105(b)(1)] to determine if the current pronouns of ‘his or her’ are intentional and therefore appropriate or if they should be replaced with a gender-neutral pronoun. Effective January 1, 2019, Senate Bill (SB) 179 (Atkins, Chapter 853, Statutes of 2017), pronouns associated to gender identity are to be replaced with gender-neutral pronouns.”

*CA DCSS Response:* This recommendation was accepted. CA DCSS had intended to bring all pronouns associated to gender identity, including those in Section 120105(b) and Section 120105(b)(1) into conformity with SB 179 (Atkins, Chapter 853, Statutes of 2017) as part of this regulatory effort. CA DCSS reviewed Section 120105(b) and Section 120105(b)(1) and made changes to the proposed regulatory text to conform with this comment.

*Public Commenter Number 3.06:* CSDA supports the proposed amendment, section 120211(c)-Dismissals. It “creates greater judicial efficiency, flexibility in resolving issues, ease the burden on LCSA staff addressing in the initial hearing request, and improves customer service to participants in the complaint resolution process.”

*CA DCSS Response:* No change is needed. No recommendations or objections were made on this section of the proposed regulatory text. The comment is in support of the proposed regulation.

COMMENTS RECEIVED DURING THE PERIOD THE MODIFIED TEXT WAS AVAILABLE TO THE PUBLIC July 26, 2021, THROUGH August 10, 2021

The modified text was made available to the public for comment from July 26, 2021, to August 10, 2021. CA DCSS received no comments from members of the public.

## ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESS

No alternatives were proposed to CA DCSS that would lessen any adverse economic impact on small business were rejected by CA DCSS.

## ALTERNATIVES DETERMINATION

CA DCSS has determined that no alternative it considered or that was otherwise identified and brought to its attention, except as discussed above in the response to comments no other alternatives, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The proposed regulations are the only regulatory provisions identified by CA DCSS that accomplish the goal of updating obsolete regulations. No other alternatives have been proposed or otherwise brought to the attention of CA DCSS.