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**CHILD SUPPORT PROGRAM
STATE IV-D AGENCY**

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DIVISION 12 ADMINISTRATIVE STANDARDS FOR STATE IV-D AGENCY

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Repealed by regulation package R-10-02, effective 5/2/02.

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Repealed by regulation package R-10-02, effective 5/2/02.

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CHAPTER 12-100

CHILD SUPPORT ENFORCEMENT PROGRAM
COMPONENTS AND STANDARDS

12-101 GENERAL

12-101

- .1 The specific program components of the Child Support Enforcement Program shall be:
- .11 Location of absent parents.
 - .12 Establishment of paternity for children born out of wedlock or for whom paternity is contested.
 - .13 Establishment and modification of court orders for the support of children, including medical support.
 - .14 Enforcement of support orders for children and their custodial parents.
 - .15 Collection and distribution of support payments.
- .2 Definitions of terms used in these regulations, which are common to the Child Support Enforcement Program, are found in MPP Sections 12-301, 12-405, 12-501, 12-601, and 12-701.
- .3 Definitions of terms specific to these regulations are:
- (a) (1) "Aid" -- means assistance payments to former recipients of Aid to Families with Dependent Children (AFDC); current and former recipients of California Work Opportunity and Responsibility to Kids (CalWORKs), which includes legal immigrant cases; Foster Care; and Medi-Cal.
 - (2) "Alleged absent parent" -- means the person identified by the custodial parent as the child's other parent for which there is sufficient supporting evidence to legally proceed with the case.
 - (3) "Application" -- means a written document provided by the local child support agency in which an individual requests support services and which is signed by the individual.
 - (4) "Arrearage" -- means the unpaid support payments for past periods owed by a parent who is obligated to pay by court order.
 - (5) "Assigned collection" -- means a collection which is used to recoup aid paid to the family.
 - (6) "Automated locate source" -- means any locate source in which data is maintained in an automated fashion, regardless of how it is accessed, and the data is updated constantly, i.e., daily, weekly, monthly, or quarterly.

12-101 GENERAL (Continued)**12-101**

- (b) "Business Day" -- means the day that the local child support agency's office is open for business.
- (c) (1) "California Central Registry" -- means the California Central Registry within the State Department of Justice which operates as a clearinghouse for incoming interstate child support cases.
- (2) "Case action" -- means any documented activity taken or initiated by the local child support agency to further case processing.
- (3) "Case status" -- means that the case is either currently receiving assistance, formerly received assistance, or never received assistance.
- (4) "Collection month" -- means the month in which the support payment is received by the local child support agency.
- (5) "Compliance" -- means the local child support agency has attained either marginal compliance or substantial compliance as defined in these regulations.
- (6) "County welfare department" -- means the county department or departments which administer aid programs.
- (7) "Current support payment" -- means the amount of support collected which meets the court-ordered support obligation for the current month.
- (d) (1) "Date of collection" -- means the date that the support payment is initially received by a Title IV-D agency or employer depending upon the payment source for the purpose of determining entitlement to any payments to families.

(A) The date of collection for each payment source is as follows:

Payment Source	Collection Date
1. Bankruptcy Trustee	The date that the payment is received by the local child support agency initially making the collection.
2. Board of Equalization	The date the payment is identified in the title of the transfer report.

12-101 GENERAL (Continued)

12-101

- | | |
|--|---|
| 3. Bond | The date the payment is received by the local child support agency initially making the collection, if bond is deposited in a non-county fund. If money is deposited in a county fund, the date the payment is drawn for application. |
| 4. Debtor Exam | The date received by the county. |
| 5. Financial Management Services Offset | The date identified in the title of the transfer report. |
| 6. FTB Child Support Collection Program | The date provided by the Franchise Tax Board. |
| 7. Intercept payments [Internal Revenue Service (IRS)/ Franchise Tax Board (FTB)/Lottery Commission] | The date the payment is identified in the title of the transfer report. |
| 8. IRS Full Collection | The date initially received by the Attorney General, which is provided to counties. |
| 9. Liens | The date that the payment is received by the local child support agency initially making the collection. |
| 10. Military Allotment | The date the payment is received by the local child support agency initially making the collection. |

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12-101 GENERAL (Continued)**12-101**

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|--|--|
| 11. Noncustodial parent payments | The date that the payment is received by the local child support agency initially making the collection. |
| 12. Wage withholding | <p>For purposes of determining entitlement to any payments to families, the date of collection is the date that the payment is withheld from the absent parent's wages by the employer. This date is provided by the employer.</p> <p>If the employer does not provide this date, the local child support agency shall either contact the employer to obtain the date; or reconstruct the date by comparing the actual amounts collected with the pay schedule specified in the court order.</p> |
| 13. Writs/till taps | For purposes of determining entitlement to any payments to families, the date of collection is the date that the payment is received by the local child support agency after the period for appealing the action has expired. |
| 14. Unemployment Insurance Disability Benefits | The date the benefit is issued payments to the absent parent which is identified on the transfer report, and labeled as the issue date. |

12-101 GENERAL (Continued)

12-101

- (B) The date of collection for each multi-jurisdictional payment source is as follows:

Payment Source

Collection Date

- | | | |
|----|----------------------|--|
| 1. | Intercounty payments | The date of collection is contingent upon the payment source in the California county initially making the collection [see Section 12-101.3d.(1)(A)]. |
| 2. | Interstate payments | For purposes of determining entitlement to any payments to families, the date of collection is contingent upon the payment source in the state initially making the collection. |
| | (i) Initiating | For initiating jurisdictions (the other state Title IV-D agency initially makes the collection) the date of collection for purposes of determining entitlement to any payments to families, is the date of collection provided by the other state. |
| | (ii) Responding | For responding jurisdictions (the California county initially makes the collection) the date of collection is contingent upon the payment source in the county initially making the collection [see Section 12-101.3d.(1)(A)]. |

CHILD SUPPORT ENFORCEMENT PROGRAM COMPONENTS AND STANDARDS

12-101 GENERAL (Continued)

12-101

(C) The date of collection for postdated checks and unidentified payments is as follows:

Payment Source

Collection Date

- | | | |
|----|-----------------------|---|
| 1. | Postdated checks | For purposes of determining entitlement to any payments to families, the date of collection is the date the payment is posted by the local child support agency initially making the collection. |
| 2. | Unidentified payments | For purposes of determining entitlement to any payments to families, the date of collection is contingent upon the payment source by the local child support agency initially making the collection [see Section 12-101.3d.(1)(A)]. |

- (2) "Date of receipt" -- means the date that the county receives the support payment.
- (3) "Department" -- means the California Department of Social Services.
- (4) "Diligent effort" -- For service of process, diligent effort means the local child support agency shall attempt all appropriate statutory mechanisms for serving process and shall repeat such attempts as soon as new information becomes available or yearly, whichever occurs first.
- (5) "Direct payment" -- means a payment which was sent directly to the custodial parent rather than to the local child support agency.
- (6) "Director" -- means the Director of the California Department of Social Services.
- (7) ADisposition \cong -- means the date on which a support order is officially established, recorded, or the action is dismissed. For purposes of expedited process time frames, a case disposition can occur when: The judge, commissioner, or referee announces the disposition in open court; or, the judge, commissioner, or referee signs the disposition after taking the case under consideration; or, the judge signs the disposition recommended by a commissioner or referee, or signs the disposition modified by the court, according to Code of Civil Procedure Sections 259 or 640.1.
- (8) "Disregard" -- means up to the first \$50 of a current support collection made on behalf of a current assistance case receiving CalWORKs aid.

12-101 GENERAL (Continued)**12-101**

- (e) (1) "Excess" -- means the amount of support that exceeds the Unreimbursed Assistance Pool.
- (2) AExpedited process \cong -- means a quasi-judicial child support hearing process established under a Plan of Cooperation or established by operation of law that meets specified processing times.
- (3) AExpedited process time frames \cong -- means the time frames specified in Section 12-109.3 in which actions to establish a support order or a medical support order and, if necessary, paternity must reach a disposition.
- (4) AExpedited processes \cong -- means expedited judicial or quasi-judicial processes or both which increase effectiveness and meet specified processing times.
- (f) (Reserved)
- (g) (Reserved)
- (h) (Reserved)
- (i) "Interstate case" - means any case involving California and any other jurisdiction which has adopted the Uniform Reciprocal Enforcement of Support Act provisions.
- (j) (Reserved)
- (k) (Reserved)
- (l) (1) "Local Child Support Agency" -- means the district attorney until transition to the local child support agency, or the local child support agency after full transition from the district attorney, pursuant to Family Code Section 17305.
- (2) "Location" -- means information concerning the physical whereabouts of the absent parent or his/her employer, sources of income, or assets which is sufficient to initiate the next appropriate action in a case.
- (m) (1) "Marginal compliance" -- For the purpose of passing on federal sanctions, marginal compliance means a county achieves compliance with each program performance standard in at least 75 percent but not more than 80 percent of the cases reviewed.
- (n) (1) "Noncompliance" -- For the purposes of paying incentives and passing on federal sanctions, noncompliance means a county fails to achieve compliance with each program performance standard in 75 percent of the cases reviewed, and as otherwise specified in these regulations.

CHILD SUPPORT ENFORCEMENT PROGRAM COMPONENTS AND STANDARDS

12-101 GENERAL (Continued)**12-101**

- (o) (Reserved)
- (p) (1) "Pass-on Payments" -- means the amount by which the current support collection exceeds the assistance paid during the collection month in a federal foster care case.
- (2) "Payments to Families" -- means [from the support payment collected] the amount of support that belongs to the family or on behalf of the foster care child (i.e., disregard, pass-on, excess, and/or non-assistance payments).
- (3) "Plan of Cooperation" -- means the contractual agreement between the Department and each county's local child support agency for administering the Child Support Enforcement Program.
- (q) (1) "Quick Locate" -- means a direct informal request for locate services from one state parent locator service to another state's parent locator service, rather than an official request for locate services from one state parent locator service to another state's Central Registry using interstate referral Form FSA 200, Child Support Enforcement Transmittal (Rev. 1/91).
- (r) (Reserved)
- (s) (1) "Self-review counties" -- means the 36 largest counties based on child support caseload which will perform their own compliance reviews as directed by the Department.
- (2) AService of process \cong -- means the delivery or other communication of writs, summonses, etc., required by law for the particular proceeding.
- (3) "State IV-D Director" -- means the Chief of the Child Support Program Branch within the Department who manages the Child Support Enforcement Program.
- (4) "State-review counties" -- means the 22 smallest counties based on child support caseload whose compliance reviews will be conducted by the Department.
- (5) "Submit" -- For the purpose of determining the date of submission, items shall be considered submitted to the Department on the date they are postmarked.
- (6) "Substantial compliance" -- For the purposes of paying incentives and passing on federal sanctions, substantial compliance means the county achieves compliance with each program performance standard in more than 80 percent of the cases reviewed.
- (7) ASupport order \cong -- means a judgment or order of support, including medical support, whether temporary, final, or subject to modification, termination, or remission, regardless of the kind of action or proceeding in which it is entered.

12-101 GENERAL (Continued)**12-101**

- (t) (Reserved)
- (u) (Reserved)
- (v) (Reserved)
- (w) "Working relationship" -- For locating absent parents, working relationship means an agreement between the local child support agency and a locate source regarding how and what location information will be exchanged.
- (x) (Reserved)
- (y) (Reserved)
- (z) (Reserved)

.4 Forms Definitions

The following forms are incorporated by reference:

- (a) CS 356.2 (1/99), IV-D Child Support Expenditure Schedule and Certification, Page 2
- (b) CS 800 (11/98), Child/Family and Spousal Support Payments - Assistance Related Distribution/Disbursement Summary
- (c) CS 801 (11/98), Child/Family and Spousal Support - Assistance Distribution/Disbursement Detail
- (d) CS 802 (11/98), CS 800 Reconciliation and Worksheet
- (e) CS 803 (11/98), CS 800 Intercounty Collections - Assistance Related Disbursements
- (f) CS 820 (10/98), Child/Family/Spousal and Medical Support Collections and Non-Assistance Distributions and Disbursements Summary
- (g) CS 821 (10/98), Child/Family/Spousal and Medical Support Collections Detail

NOTE: Authority cited: Sections 17310 and 17312, Family Code. Reference: Section 11457, Welfare and Institutions Code; Sections 259 and 640.1, Code of Civil Procedures; Sections 155, 17310, and 17312, Family Code; 45 CFR 302.51(a); 45 CFR 303.7(a)(7)(iv); 45 CFR 303.101(a) and (b)(2)(i) and (iv); 45 CFR 302.51 and .52; 45 CFR 232.11; Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193), Sections 454B(c)(1) and (d) [42 U.S.C. 654B(c)(1) and (d)] and Sections 457(a) and (f) [42 U.S.C. 657(a) and (f)]; Office of Child Support Enforcement Action Transmittal 97-13, Section K - Question 70; and Office of Child Support Action Transmittal 97-17, Sections III and VIII, and Questions 9 and 21.

12-102 PROGRAM REQUIREMENTS**12-102**

- .1 The district attorney shall:
 - .11 Accept all cases which are referred from the county welfare department.
 - .12 Accept all cases for which an application for services is filed.
 - .13 Provide all appropriate services to all cases, as needed.
- .2 Nothing in this section shall preclude the district attorney from the following:
 - .21 Prioritizing the caseload.
 - .22 Closing cases.
 - .221 Case closure shall be done in accordance with Chapter 12-300.
- .3 The district attorney shall meet all time standards for case processing for all cases regardless of their priority.
- .4 The district attorney shall make diligent effort to serve process at any point during case processing at which service of process becomes necessary.
- .5 The district attorney shall provide sufficient staffing and resources to meet all time standards contained in these regulations.

NOTE: Authority cited: Sections 10553, 10554, 11475, and 11479.5, Welfare and Institutions Code. Reference: Sections 11479.5 and 15200.8 et seq., Welfare and Institutions Code; and 45 CFR 302.33 and 303.10.

12-103 TIME STANDARDS - CASE INTAKE AND RECORDS**12-103**

.1 Through .24 Repealed by regulation package R-4-01E, effective 9/10/01.

12-104 TIME STANDARDS - LOCATION OF ABSENT PARENTS**12-104**

.1 Through .432 Repealed by regulation package R-3-01E, effective 9/4/01.

.433 Through .5 Repealed by regulation package R-5-01E, effective 9/24/01.

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12-105 TIME STANDARDS - ESTABLISHMENT OF PATERNITY**12-105**

Repealed by Manual Letter No. CS-96-01, effective 7/18/96.

12-106 TIME STANDARDS - ESTABLISHMENT OF SUPPORT ORDERS**12-106**

- .1 Within 90 calendar days of locating the alleged father or noncustodial parent, the district attorney shall do at least one of the following:
 - .11 Establish a support order and, if necessary, paternity; or,
 - .12 Complete service of process necessary to establish a support order and, if necessary, paternity; or,
 - .13 Document unsuccessful attempts to serve process.
- .2 If service of process is completed, then the action to establish a support order and, if necessary, paternity must be disposed of within expedited process time frames under Section 12-109.3.
- .3 If the court dismisses a petition for a support order without prejudice, the district attorney shall:
 - .31 Examine the reasons for dismissal.
 - .32 Determine the appropriate time to seek a support order in the future.
 - .33 Petition the court for an order at the appropriate time.

NOTE: Authority cited: Sections 10553, 10554, 11475, 11475.1, and 11479.5, Welfare and Institutions Code. Reference: Section 11479.5, Welfare and Institutions Code and 45 CFR 303.4, .4(d), and 303.101.

12-107 TIME STANDARDS - ENFORCEMENT OF SUPPORT ORDERS**12-107**

- .1 The district attorney shall establish and utilize a system for monitoring compliance with support order.
 - .11 This system shall identify cases in which there is failure to comply with the support order on the date the absent parent fails to make payment(s) equal to one month's support obligation.
- .2 Upon identifying a delinquency, identifying any other support related noncompliance with the order, or locating the absent parent when that person's location was unknown, the district attorney shall:
 - .21 Initiate wage withholding immediately.
 - .22 Initiate any other appropriate enforcement techniques within 30 days if service of process is not necessary.

12-107 TIME STANDARDS - ENFORCEMENT OF SUPPORT ORDERS 12-107
(Continued)

- .23 Do one of the following within 60 calendar days if service of process is necessary to initiate any other enforcement techniques:
 - .231 Complete service of process necessary to enforce the support order and initiate the appropriate enforcement technique.
 - .232 Document unsuccessful attempts to serve process.

.3 - .33 Repealed by regulations package R-09-02-E, Effective 10/21/02.

- .4 The district attorney shall submit once a year to the Department all cases eligible for federal or state tax refund offset pursuant to Chapter 11-700.
- .5 For cases in which enforcement efforts are unsuccessful, the district attorney shall:
 - .51 Examine the reasons for failure of the enforcement effort.
 - .52 Determine when it would be appropriate to seek enforcement in the future.
 - .53 Initiate future enforcement activities when appropriate.

NOTE: Authority cited: Sections 10553, 10554 and 11475, Welfare and Institutions Code. Reference: Section 11479.5, Welfare and Institutions Code; and 45 CFR 303.6, 303.72, 303.100, (b), (f)(2), and 303.102.

12-108 TIME STANDARDS - DISBURSEMENT OF COLLECTIONS 12-108

- .1 The local child support agency shall notify the county welfare department of the amount of any collection which represents payment on a current support order on behalf of cases receiving CalWORKs or Foster Care within 10 working days of the end of the month in which support is received by the local child support agency for final distribution of the collection.

CHILD SUPPORT ENFORCEMENT PROGRAM COMPONENTS AND STANDARDS

12-108 TIME STANDARDS - DISBURSEMENT OF COLLECTIONS (Continued) 12-108

- .2 For interstate cases, the local child support agency shall disburse collections on behalf of other states to the initiating state within two business days from the date of receipt by the county.
- .3 The local child support agency shall disburse collections received from a child support enforcement agency in another state within the time standards set forth in this section.
- .4 For intercounty cases, the local child support agency shall forward collections made on behalf of another California county to the initiating county as soon as possible so that payments can be made to the family within the time standards set forth in this section.
- .5 When the local child support agency issues the \$50 disregard payments for the county welfare department, the local child support agency shall:
 - .51 Disburse the first of \$50 of current support payments collected on behalf of families receiving CalWORKs within two business days from the date that the payment was received by the county.
 - .511 If the amount collected is less than \$50, the CalWORKs family shall be paid the entire amount within two business days from the date that the payment was received by the county.
- .6 When the local child support agency distributes collections made on behalf of cases receiving CalWORKs, any excess payments due to the family shall be paid within 15 calendar days from the end of the collection month as defined in Section 12-101.3(c)(4), except as provided in Section 12-108.9.
- .7 Pass-on and excess payments in federal foster care cases, and excess payments in nonfederal foster care cases shall be forwarded to the county welfare department, (i.e., the designated agency responsible for placement and care of the child) within 15 calendar days from the end of the collection month as defined in Section 12-101.3(c)(4).
- .8 When the local child support agency disburses collections made on behalf of cases not currently receiving CalWORKs or foster care, any payments due to the former assistance and never assistance family shall be paid within two business days from the date of receipt by the county.
- .9 Any payments due to the family from Internal Revenue Service (IRS) and Franchise Tax Board (FTB) tax intercept collections shall be paid within 30 calendar days from the date of collection for meeting the time standards as defined in Section 12-101.3d.(1).

NOTE: Authority cited: Sections 17310 and 17312, Family Code. Reference: Section 17310, Family Code; 45 CFR 302.32, 302.52, 303.7(a)(4), 303.72(h)(5) and 303.102; Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193), Section 454B(c)(1) [42 U.S.C. 654B(c)(1)] and Sections 457(a) and (f) [42 U.S.C. 657(a) and (f)]; and Office of Child Support Enforcement Action Transmittal 97-13, Section K - Question 70, Office of Child Support Enforcement Action Transmittal 97-17, Section III, and Question 21, and Office of Child Support Enforcement Action Transmittal 99-01.

12-109 EXPEDITED PROCESS**12-109**

- .1 All actions filed by the district attorney to establish a child support order and, if necessary, paternity, shall reach a disposition within the expedited process time frames prescribed under Section 12-109.3.
 - .11 All actions filed by the district attorney to establish only a medical support order when it is inappropriate to also establish a support order shall reach a disposition within expedited process time frames.
 - .2 Time frames for disposition of actions shall apply whether the hearing process is presided over by a judge, commissioner, or referee.
 - .3 Time frames for disposition of all monthly actions to establish a child support order and, if necessary, paternity are as follows:
 - .31 Seventy-five percent of the actions must reach disposition within six months of service of process;
 - .32 Ninety percent of the actions must reach disposition within 12 months of service of process.
-

HANDBOOK BEGINS HERE

- .321 For example: if there are 100 cases with actions to establish a support order in the monthly expedited process caseload, then 75 of those actions (75 percent) must reach a disposition within six months; and, 15 more of those actions comprising 90 actions (90 percent) must reach a disposition within 12 months of service of process. These time frames apply whether or not an action to establish paternity is also in the complaint.
- .322 Time frames are measured in months. For example: if service of process was completed on March 31, the expedited process time clock starts on April 1; hence, the action must reach a disposition by midnight October 1st to meet the six-month time frame; or by midnight April 1st of the following year to meet the 12-month time frame.
- .33 In accordance with Code of Civil Procedure (CCP) Section 12 et seq., an expedited process time frame is extended to and includes the next day which is not a holiday when the last day of a time frame is a holiday.
- .34 Service of process is considered completed according to all applicable state laws.
 - .341 According to CCP Section 12, the actual day of service is not counted under California law.

HANDBOOK CONTINUES

12-109 EXPEDITED PROCESS (Continued)

12-

HANDBOOK CONTINUES

- .342 See CCP Sections 1013 et seq., when substituted service is the method by which the Summons and Complaints were served. For example, an additional 10 days from the date the Summons and Complaints are mailed after they are left at the home of the defendant must be added to determine the legal date of service. This means that if the process server leaves the documents at the home of the defendant on the first day of the month, and mails a copy on the second day of the month (and complies with all other provisions of California law) service is legally completed on the twelfth day of the month.
- .343 See CCP Section 1013, when serving a Notice of Motion by mail to an address in California. For example, if the agency mails a Notice of Motion on the first day of the month then the legal day that service was completed is really the sixth day of the month. Ten days must be added to determine the legal date of service if the address is outside of California; twenty days if the address is outside the U.S.

HANDBOOK ENDS HERE

- .4 Time frames for disposition of an action subject to expedited process requirements begin when service of process is completed, regardless of the age of the child(ren) in question, and end on the day that the judge, commissioner, or referee, renders a disposition for the action.
- .41 If the court dismisses a petition for a support order without prejudice, then the requirements under Section 12-106.3 shall apply.
- .42 If the court orders support and the order is made retroactive to an earlier date, the date on which support was ordered is the disposition date for expedited process purposes and not the date to which the order is made retroactive.
- .43 If the district attorney uses long-arm jurisdiction in a case, and a disposition occurs within 12 months of service of process upon the alleged father or noncustodial parent, the action may be considered disposed of within the 6-month time frame instead of the 12-month time frame regardless of when disposition occurred in the 12 months following service of process.
- .44 If the court determines, based on the child support guidelines or based upon specific circumstances, that the obligor has no present ability to pay support or - that establishing a support order would be inappropriate, then a finding on record of the determination counts as a disposition for expedited process time frames.

12-109 EXPEDITED PROCESS (Continued)

12-

HANDBOOK BEGINS HERE

- .441 For example: It may be inappropriate to establish a support order in cases wherein the noncustodial parent is a minor, incapacitated, or incarcerated; or, the case requires only the establishment of paternity.

HANDBOOK ENDS HERE

- .45 If the court establishes a support order but reserves the amount of child support, then the reserved order counts as a disposition for expedited process time frames.
- .46 If a temporary support order is established according to the guidelines for setting child support awards, or established on a finding on the record that application of the guidelines would be inappropriate, then the temporary order counts as a disposition for expedited process time frames.
- .47 If, in a responding interstate case, the court takes the case off-calendar or discharged the action to preserve the underlying Interstate Petition, then such action by the court is the equivalent of a dismissal and counts as a disposition for expedited processes.
- .48 If an action to establish a support order is amended, the date that service of the amended action is completed is both the disposition date for the initial action and the start date of the expedited process time frames for the amended action.

HANDBOOK BEGINS HERE

- .481 Amending the initial action is the same as dismissing the first pleading. The first action is substituted in all respects by the second pleading, including the defendant=s right to answer the initial action.

For example: service of process is completed for purposes of establishing a support order on behalf of two children. Subsequently, the district attorney determines that the pleading needs correcting or that a third child needs to be included in the pleading. The initial action is amended to include the third child and service of that second action is completed. By law upon completing service of the amended action, the initial action is deemed dismissed and is superseded by the amended action.

HANDBOOK ENDS HERE

- .5 Any legal instrument containing an action initiated by the district attorney to establish a support order and, if necessary, paternity that requires service of process and requires the court to make a disposition is subject to expedited process time frames, e.g., Notice of Motion, Order to Show Cause, or Summons and Complaint, etc.

12-109 EXPEDITED PROCESS (Continued)

12-

HANDBOOK BEGINS HERE

- .51 Specific types of establishment actions subject to expedited process time frames upon service of process include, but are not limited to:
- .511 Welfare and Institutions Code Sections 11350(a)(1) and (a)(2) actions;
 - .512 Welfare and Institutions Code Section 11350.1 actions;
 - .513 Family Code Section 4002 non-welfare actions;
 - .514 Responding Interstate Petitions, but not Initiated Interstate Petitions;
 - .515 CCP Section 464, Supplemental Pleadings.

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- .52 The following actions are not subject to expedited process time frames:
- .521 An action to review and modify a child support order, including an action to insert a medical support provision in an existing order, is subject to review and modification time frames within Division 12.
 - .522 An action to enforce a child support order is subject to enforcement requirements under Section 12-107.
- .53 All cases with actions subject to expedited process time frames shall, at a minimum, be identified by the following information:
- .531 Title IV-D case name/number;
 - .532 Date that service of process was completed;
 - .533 Date of disposition.
- .6 Repealed by Manual Letter No. CS 98-02, effective 7-1-98.
- .7 Repealed by Manual Letter No. CS 98-02, effective 7-1-98.

NOTE: Authority cited: Sections 10554, 11475, 11475.1, and 11479.5, Welfare and Institutions Code. Reference: Sections 11475, 11475.1, and 11479.5, Welfare and Institutions Code; Sections 4251 and 4252, Family Code; Sections 12, 259, 639.5, 640.1, and 1013, Code of Civil Procedures; 45 CFR 302.10, 302.12, and 302.34; and 45 CFR 303.3(a)(ii) and .101.

12-110 CHILD SUPPORT COOPERATION

12-110

Repealed by regulation package R-4-01E, effective 9/10/01.

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**CHILD SUPPORT PROGRAM
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.2 through .22 repealed by R-16-03-E, effective 5/5/03.

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.1 through .2.23 repealed by regulation package 2016-0218-01N, effective 3/30/16.

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.1 through .2.21 repealed by regulation package 2016-0218-01N, effective 3/30/16.

.3 through .323 repealed by R-19-02-E, effective 12/03/02.

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.1 through .6.64 repealed by regulation package 2016-0218-01N, effective 3/30/16.

.7 through .81 repealed by regulation package R-09-02-E, effective 10/21/02.

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Repealed by regulation package R-2-02-E, effective 3/25/02.

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CHILD SUPPORT COLLECTIONS AND DISTRIBUTION**

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12-405 DEFINITIONS (Continued)

12-405

- (b) Reserved
- (c) (1) "CalWORKs" -- means the California Work Opportunity and Responsibility to Kids program, established pursuant to Welfare and Institutions Code, Chapter 2, commencing with Section 11200.
- (2) "Conditionally Assigned Arrearages" -- means the arrearages that were temporarily assigned while the family received aid, but the temporary assignment has ended because the family is no longer receiving aid. These arrears are normally unassigned and paid to the family if collected from a source other than IRS tax intercept. However, when collections are received from the IRS tax intercept these arrears are conditionally assigned and will be used to reimburse aid paid.
- (3) "Collection" -- means the amount of support payment received from a noncustodial parent or other person or agency on behalf of an obligor who is ordered by the court to pay support on behalf of the children or spouse.
- (4) "Current Assistance Case" -- means a Title IV-D case that is currently receiving aid under CalWORKs (which includes the legal immigrant program) or foster care.
- (d) (1) "Disbursement" -- means the actual dispensing or paying out of the collection.
- (2) "Distribution" -- means the application of monies to specific accounts to determine the appropriate disbursement of monies.
- (e) Reserved
- (f) (1) "Former Assistance Case" -- means a Title IV-D case that has in the past received aid under AFDC, TANF/CalWORKs (which includes the legal immigrant program), or foster care.
- (2) "Foster Care" -- means the federal foster care aid program under Title IV-E of the Social Security Act which is funded with federal, state, and county funds, and the non-federal aid program funded with state and county funds.

12-405 **DEFINITIONS (Continued)** **12-405**

- (3) "Futures" -- means collections received from the noncustodial parent that are in excess of the current support obligations and no arrearages exist.

- (g) Reserved

- (h) Reserved

- (i) Reserved

- (j) Reserved

- (k) Reserved

- (l) Reserved

- (m) "Mixed Status Cases" -- means a Title IV-D case where one or more of the children in the case have a different aid or non-aid status, either currently or in the past.

- (n) (1) "Never Assigned Arrearages" -- means arrearages that have never been assigned to the state in never assistance cases. Never assigned arrears are also the arrearages in former assistance cases that accrued after the family's most recent period of aid ends.

- (2) "Never Assistance Case" -- means a Title IV-D case that is not currently and has never in the past received aid under AFDC, CalWORKs (which includes the legal immigrant program), or foster care.

- (o) (Reserved)

- (p) (1) "Payment Source" -- means the origin (e.g., person, other county or state child support enforcement agency) or the enforcement method used to obtain the support payment received (e.g., wage assignment, writs, till taps, tax intercept, etc.).

- (2) "Permanently Assigned Arrearages" -- means unpaid support that is assigned to the state as of September 30, 1998 and the unpaid support that accrues on or after October 1, 1998 while the family is receiving aid.

- (q) Reserved

- (r) (1) "Recoupment" -- means the amount of support that was collected that has been applied to reimburse in whole or in part the unreimbursed assistance pool which is used to reimburse the federal, state and county governments for aid paid to the family.

- (2) "Regular Payments" -- means all collections received, regardless of payment sources, except IRS tax intercept.

12-410 **ASSIGNMENT OF SUPPORT RIGHTS (Continued)** **12-410**

- .124 When the family is no longer receiving aid, the assignment of rights to current support terminates.
- .125 When the family is no longer receiving aid, the permanently assigned arrearages remain permanently assigned until repaid from child, family and spousal support payments collected.
 - (a) Medical support permanently assigned arrearages remain permanently assigned until repaid from medical support payments collected.
 - (b) The permanently assigned arrearages in a former assistance case shall not exceed the total amount of the unreimbursed assistance pool, unless interest has accrued on the permanently assigned arrearages after the calculation has been made in Section 12-410.131(a), if applicable.
 - (1) Any support payments that are applied to permanently assigned arrearages, interest or principal, which are in excess of the unreimbursed assistance pool will be paid to the family as an excess payment.
- .126 When the family is no longer receiving aid, the temporarily assigned arrearages shall be conditionally assigned, up to the total amount of the unreimbursed assistance pool.
 - (a) The conditionally assigned arrearages in a former assistance case shall not exceed the total amount of unreimbursed assistance, unless interest has accrued on the conditionally assigned arrearages after the calculation has been made in Section 12-410.132(a), if applicable.
 - (1) Any support payments that are applied to conditionally assigned arrearages, interest or principal, which are in excess of the unreimbursed assistance pool will be paid to the family as an excess payment.
- .13 Unassigned Arrearages
 - .131 When the family or child is no longer receiving CalWORKs or foster care, the permanently assigned arrearages that exceed the unreimbursed assistance pool must be unassigned.
 - (a) Unassigned During Assistance Arrearages
 - (1) Permanently assigned arrearages that exceed the unreimbursed assistance pool are considered "unassigned during assistance arrearages."

12-410 **ASSIGNMENT OF SUPPORT RIGHTS (Continued)** **12-410**

- (2) To determine the amount of the permanently assigned arrearages that must be unassigned, the local child support agency must first compare the amount of the permanently assigned arrearages against the unreimbursed assistance pool.

- .132 After the comparison contained in Section 12-410.131, the local child support agency must then determine if any conditionally assigned arrearages must be unassigned.
 - (a) Unassigned Pre-Assistance Arrearages
 - (1) When the family or child is no longer receiving CalWORKs or foster care, after the calculation in Section 12-410.131, the amount of conditionally assigned arrearages in excess of the remaining unreimbursed assistance pool shall be "unassigned pre-assistance arrearages."
 - (A) To compute the unassigned pre-assistance arrearages, the local child support agency must next compare the amount of the conditionally assigned arrearages against the remaining unreimbursed assistance pool after the calculation in Section 12-410.131.

NOTE: Authority Cited: Sections 10553, 10554, 11457, 11475, and 11479.5, Welfare and Institutions Code. Reference: Sections 11477 and 14008, Welfare and Institutions Code; Section 695.221, Code of Civil Procedure; 42 CFR 433.145 and .146; Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193), Section 408(a)(3)(A) [42 U.S.C. 608(a)(3)(A)] and Sections 457(a)(1), (2), (6), and (b) [42 U.S.C. 657(a)(1), (2), (6), and (b)]; Balanced Budget Act of 1997 (P.L. 105-33), Sections 5532(a) and (b) and (conforming amendments in PRWORA Section 408(a)(3)(A)) [42 U.S.C. 608(a)(3)(A)]; and Office of Child Support Enforcement Action Transmittal 97-17, Sections I(h), III(h), (j), (l), and (m), IV(a) through (b)(2), and VI(c)(3)(E), and Questions 14 through 17.

12-415 **ALLOCATION OF PAYMENTS IN MULTIPLE CASES** **12-415**

.1 Allocation by Payment Source

When the local child support agency receives a collection from or on behalf of a noncustodial parent (NCP) with more than one case in the county, the payment shall be either applied to one specific case and distributed within the case based on the case status, or allocated between multiple cases depending upon the payment source and distributed within the case based on the case status.

.11 The payment sources and allocation rules are as follows:

.111	Payment Source	Allocation Rule
(a)	Bankruptcy Trustee	To the specific case
(b)	Board of Equalization	To all NCP's cases
(c)	Bond	To the specific case with order
(d)	Debtor Exam	To the specific case
(e)	Direct Payment	To the specific case
(f)	Disability Insurance Benefits	To all NCP's cases
(g)	Earnings Withholding Order	To the specific case with the order
(h)	Financial Management Services Offset	To all NCP's cases submitted to the Department of Treasury with certified arrears
(i)	FTB Child Support Collection Program	To the specific case
(j)	FTB Tax Intercept	To all NCP's cases with certified arrears
(k)	Interstate Collection	To the specific case
(l)	IRS Full Collection	To the specific case submitted to the IRS for full collection services
(m)	IRS Tax Intercept	To all NCP's cases submitted to IRS with certified assigned arrearages first and the unassigned arrears

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- (b) Example: If Case 1 had a current child support obligation of \$100, and Case 2 has a current child support obligation of \$400 and a medical support obligation of \$50, a collection received in the amount of \$150 on behalf of a noncustodial parent with multiple cases in the county would be prorated and Case 1 would receive 20 percent or \$30, and Case 2 would receive 80 percent or \$120. Because the priority is first to current child support, each case received a proportionate share based on the total child support obligations. The current medical support obligation was not included because there was not sufficient collections to satisfy the total current child support obligations in both cases.

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.122 Prorate the remaining collections to satisfy arrearages.

- (a) If the collection is not sufficient to satisfy all of the arrearages owed, prorate to each case based on each case's proportionate share of the total arrearages owed.

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For example, if Case 1 has \$1000 total arrearages owed, Case 2 has \$2,000 total arrearages owed, a collection received in the amount of \$1000 would be prorated with Case 1 receiving 33 percent of the collection, or \$330, and Case 2 would receive 67 percent, or \$670.

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.2 (Reserved)

.3 Allocation of IRS Tax Intercept Collections

Internal Revenue Service tax intercept collections shall be allocated to a noncustodial parent's multiple cases that have been certified to IRS for the tax intercept program with "assigned arrearages" based on each case's proportion of the total certified "assigned" arrearages owed (i.e., permanently, conditionally or temporarily assigned arrearages, principal plus interest). Any remaining arrearage collections would then be allocated to the cases that have been submitted to IRS with certified "unassigned" arrearages based on each case's proportion of the total certified unassigned arrearages owed (i.e., never assigned, unassigned pre-assistance, and unassigned during assistance arrearages, principal plus interest).

.31 Internal Revenue Service tax intercept collections cannot be allocated to cases that are not certified to the IRS.

12-415 **ALLOCATION OF PAYMENTS IN MULTIPLE CASES (Continued)** **12-415**

.4 Allocation of FTB Tax Intercept Collections

Franchise Tax Board tax intercept collections shall be allocated to a noncustodial parent's multiple cases that have been certified to FTB for the tax intercept program based on the proration formula specified in Section 12-415.12.

.41 Franchise Tax Board tax intercept collections cannot be applied to cases that are not certified to FTB.

.5 Allocation of Wage Assignment Collections

Wage assignment collections from employers shall be allocated to a noncustodial parent's multiple cases that have an active wage assignment for the same employer using the proration formula specified in Section 12-415.12.

NOTE: Authority Cited: Sections 10553, 10554, 11457, 11475, and 11479.5, Welfare and Institutions Code. Reference: Sections 11350, 11350.1, 11475.1, and 11478.6, Welfare and Institutions Code; Sections 697.320, 697.330, 697.510, 699.010 et seq., 703.030, 704.130, 704.160, 706.030, 708.010, 708.303, and 708.740, Code of Civil Procedures; Sections 12419.5 and .8, Government Code; Sections 4012, 4560, 4570, 4610, and 4900 et seq., Family Code; Sections 19271 through 19274, Revenue and Taxation Code; 42 U.S.C. 657(a)(2)(B)(iv); 45 CFR 202.6; 45 CFR 303.71, .80, and .100(a)(5); Office of Child Support Enforcement Action Transmittal 97-13, Question 6; and Office of Child Support Enforcement Action Transmittal 97-17, Case Scenario 7.

12-420 **DISTRIBUTION HIERARCHY** **12-420**

(a) Distribution Priorities of Single Status Current Assistance Cases - Regular Collections

(1) Regular collections received on behalf of single status current assistance cases shall be distributed by the local child support agency in the following distribution priority order:

- (A) Current child support or family support
- (B) Current medical support
- (C) Current spousal support
- (D) Permanently assigned child or family support interest
- (E) Permanently assigned medical support interest
- (F) Permanently assigned spousal support interest
- (G) Permanently assigned child or family support arrears principal
- (H) Permanently assigned medical support arrears principal

12-420	DISTRIBUTION HIERARCHY (Continued)	12-420
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- (I) Permanently assigned spousal support arrears principal
 - (J) Temporarily assigned child or family support interest
 - (K) Temporarily assigned medical support interest
 - (L) Temporarily assigned spousal support interest
 - (M) Temporarily assigned child or family support arrears principal
 - (N) Temporarily assigned medical support arrears principal
 - (O) Temporarily assigned spousal support arrears principal
 - (P) Fees and costs interest
 - (Q) Fees and costs principal
 - (R) Futures
- (b) Distribution Priorities of Single Status Current Assistance Cases - IRS Tax Intercept Collections
- (1) Internal Revenue Service tax intercept collections received on behalf of single status current assistance cases, shall be distributed by the local child support agency in the priority order in Section 12-420(a), except that these collections cannot be applied to current support, fees and costs, or futures.
- (c) Distribution Priorities of Single Status Former Assistance Cases - Regular Collections
- (1) Regular collections received on behalf of single status former assistance cases shall be distributed by the local child support agency in the following distribution priority order:
 - (A) Current child and family support
 - (B) Current medical support
 - (C) Current spousal support
 - (D) Never assigned child or family support interest
 - (E) Never assigned medical support interest
 - (F) Never assigned spousal support interest
 - (G) Never assigned child or family support arrears principal
 - (H) Never assigned medical support arrears principal
 - (I) Never assigned spousal support arrears principal
 - (J) Conditionally assigned child or family support interest
 - (K) Conditionally assigned medical support interest
 - (L) Conditionally assigned spousal support interest

12-420	DISTRIBUTION HIERARCHY (Continued)	12-420
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- (M) Conditionally assigned child or family support arrears principal
 - (N) Conditionally assigned medical support arrears principal
 - (O) Conditionally assigned spousal support arrears principal
 - (P) Unassigned pre-assistance child or family support interest
 - (Q) Unassigned pre-assistance medical support interest
 - (R) Unassigned pre-assistance spousal support interest
 - (S) Unassigned pre-assistance child or family support arrears principal
 - (T) Unassigned pre-assistance medical support arrears principal
 - (U) Unassigned pre-assistance spousal support arrears principal
 - (V) Permanently assigned child or family support interest
 - (W) Permanently assigned medical support interest
 - (X) Permanently assigned spousal support interest
 - (Y) Permanently assigned child or family support arrears principal
 - (Z) Permanently assigned medical support arrears principal
 - (AA) Permanently assigned spousal support arrears principal
 - (BB) Unassigned during assistance child or family support interest
 - (CC) Unassigned during assistance medical interest
 - (DD) Unassigned during assistance spousal support interest
 - (EE) Unassigned during assistance child or family support arrears principal
 - (FF) Unassigned during assistance medical support arrears principal
 - (GG) Unassigned during assistance spousal support arrears principal
 - (HH) Fees and costs interest
 - (II) Fees and costs principal
 - (JJ) Futures
- (d) Distribution Priorities of Single Status Former Assistance Cases - IRS Tax Intercept Collections
- (1) Internal Revenue Service tax intercept collections made on behalf of single status former assistance cases shall be distributed by the local child support agency in the following distribution priority order:
 - (A) Permanently assigned child or family support interest
 - (B) Permanently assigned medical support interest

12-420	DISTRIBUTION HIERARCHY (Continued)	12-420
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- (C) Permanently assigned spousal support interest
- (D) Permanently assigned child or family support arrears principal
- (E) Permanently assigned medical support arrears principal
- (F) Permanently assigned spousal support arrears principal
- (G) Conditionally assigned child or family support interest
- (H) Conditionally assigned medical support interest
- (I) Conditionally assigned spousal support interest
- (J) Conditionally assigned child or family support arrears principal
- (K) Conditionally assigned medical support arrears principal
- (L) Conditionally assigned spousal support arrears principal
- (M) Unassigned pre-assistance child or family support interest
- (N) Unassigned pre-assistance medical support interest
- (O) Unassigned pre-assistance spousal support interest
- (P) Unassigned pre-assistance child or family support arrears principal
- (Q) Unassigned pre-assistance medical support arrears principal
- (R) Unassigned pre-assistance spousal support arrears principal
- (S) Unassigned during assistance child or family support interest
- (T) Unassigned during assistance medical support interest
- (U) Unassigned during assistance spousal support interest
- (V) Unassigned during assistance child or family support arrears principal
- (W) Unassigned during assistance medical support arrears principal
- (X) Unassigned during assistance spousal support arrears principal
- (Y) Never assigned child or family support interest
- (Z) Never assigned medical support interest
- (AA) Never assigned spousal support interest
- (BB) Never assigned child or family support arrears principal
- (CC) Never assigned medical support arrears principal
- (DD) Never assigned spousal support arrears principal

12-420 **DISTRIBUTION HIERARCHY (Continued)** **12-420**

(e) Distribution Priorities of Single Status Never Assistance Cases - Regular Collections

- (1) Regular collections received on behalf of never assistance cases shall be distributed by the local child support agency in the following priority order:
 - (A) Current child and family support
 - (B) Current medical support
 - (C) Current spousal support
 - (D) Never assigned child or family support interest
 - (E) Never assigned medical support interest
 - (F) Never assigned spousal support interest
 - (G) Never assigned child or family support arrears principal
 - (H) Never assigned medical support arrears principal
 - (I) Never assigned spousal support arrears principal
 - (J) Fees and costs interest
 - (K) Fees and costs principal
 - (L) Futures

(f) Distribution Priorities of Never Assistance Cases - IRS Tax Intercept Collections

- (1) Internal Revenue Service tax intercept collections received on behalf of never assistance cases shall be distributed by the local child support agency in the following priority order:
 - (A) Never assigned child or family support interest
 - (B) Never assigned medical support interest
 - (C) Never assigned spousal support interest
 - (D) Never assigned child or family support arrears principal
 - (E) Never assigned medical support arrears principal
 - (F) Never assigned spousal support arrears principal

(g) Distribution Priorities of Mixed Status Cases - Regular Collections

- (1) Regular collections received on behalf of mixed status cases shall be distributed by the local child support agency in the following priority order:

12-420 **DISTRIBUTION HIERARCHY (Continued)** **12-420**

- (A) Child and Family Support
- (B) Medical Support
- (C) Spousal Support
- (D) Never assigned child or family support interest
- (E) Never assigned medical support interest
- (F) Never assigned spousal support interest
- (G) Never assigned child or family support arrears principal
- (H) Never assigned medical support arrears principal
- (I) Never assigned spousal support arrears principal
- (J) Conditionally assigned child or family support interest
- (K) Conditionally assigned medical support interest
- (L) Conditionally assigned spousal support interest
- (M) Conditionally assigned child or family support arrears principal
- (N) Conditionally assigned medical support arrears principal
- (O) Conditionally assigned spousal support arrears principal
- (P) Unassigned pre-assistance arrearages child or family support interest
- (Q) Unassigned pre-assistance medical support interest
- (R) Unassigned pre-assistance spousal support interest
- (S) Unassigned pre-assistance child or family support arrears principal
- (T) Unassigned pre-assistance medical support arrears principal
- (U) Unassigned pre-assistance spousal support arrearages principal
- (V) Permanently assigned child or family support interest
- (W) Permanently assigned medical support interest
- (X) Permanently assigned spousal support interest
- (Y) Permanently assigned child or family support arrears principal
- (Z) Permanently assigned medical support arrears principal
- (AA) Permanently assigned spousal support arrears principal
- (BB) Temporarily assigned child or family support interest
- (CC) Temporarily assigned medical support interest
- (DD) Temporarily assigned spousal support interest

12-420 **DISTRIBUTION HIERARCHY (Continued)** **12-420**

- (EE) Temporarily assigned child or family support arrears principal
- (FF) Temporarily assigned medical support arrears principal
- (GG) Temporarily assigned spousal support arrears principal
- (HH) Unassigned during assistance child or family support interest
- (II) Unassigned during assistance medical support interest
- (JJ) Unassigned during assistance spousal support interest
- (KK) Unassigned during assistance child or family support arrears principal
- (LL) Unassigned during assistance medical support arrears principal
- (MM) Unassigned during assistance spousal support arrears principal
- (NN) Fees and costs interest
- (OO) Fees and costs principal
- (PP) Futures

(h) Distribution Priorities of Mixed Status Cases - IRS Tax Intercept Collections

- (1) Internal Revenue Service tax intercept collections made on behalf of mixed status cases shall be distributed by the local child support agency in the following priority order:
 - (A) Permanently assigned child or family support interest
 - (B) Permanently assigned medical support interest
 - (C) Permanently assigned spousal support interest
 - (D) Permanently assigned child or family support arrears principal
 - (E) Permanently assigned medical support arrears principal
 - (F) Permanently assigned spousal support arrears principal
 - (G) Temporarily assigned child or family support interest
 - (H) Temporarily assigned medical support interest
 - (I) Temporarily assigned spousal support interest
 - (J) Temporarily assigned child or family support arrears principal
 - (K) Temporarily assigned medical support arrears principal
 - (L) Temporarily assigned spousal support arrears principal
 - (M) Conditionally assigned child or family support interest

12-420	DISTRIBUTION HIERARCHY (Continued)	12-420
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- (N) Conditionally assigned medical support interest
 - (O) Conditionally assigned spousal support interest
 - (P) Conditionally assigned child or family support arrears principal
 - (Q) Conditionally assigned medical support arrears principal
 - (R) Conditionally assigned spousal support arrears principal
 - (S) Unassigned pre-assistance child or family support interest
 - (T) Unassigned pre-assistance medical support interest
 - (U) Unassigned pre-assistance spousal support interest
 - (V) Unassigned pre-assistance child or family support arrears principal
 - (W) Unassigned pre-assistance medical support arrears principal
 - (X) Unassigned pre-assistance spousal support arrears principal
 - (Y) Unassigned during assistance child or family support interest
 - (Z) Unassigned during assistance medical support interest
 - (AA) Unassigned during assistance spousal support interest
 - (BB) Unassigned during assistance child or family support arrears principal
 - (CC) Unassigned during assistance medical support arrears principal
 - (DD) Unassigned during assistance spousal support arrears principal
 - (EE) Never assigned child or family support interest
 - (FF) Never assigned medical support interest
 - (GG) Never assigned spousal support interest
 - (HH) Never assigned child or family support arrears principal
 - (II) Never assigned medical support arrears principal
 - (JJ) Never assigned spousal support arrears principal
- (i) Franchise Tax Board tax intercept collections and federal financial management services offset collections received, shall be distributed by the local child support agency in the distribution priority as a regular payment, except that these payments cannot be applied to futures.
- (j) Never Assistance Case - Medically Needy Only - Regular Collections
- (1) Current child and family support
 - (2) Current medical support

12-420 **DISTRIBUTION HIERARCHY (Continued)** **12-420**

- (3) Current spousal support
 - (4) Never assigned child or family support interest
 - (5) Never assigned medical support interest
 - (6) Never assigned spousal support interest
 - (7) Never assigned child or family support arrears principal
 - (8) Never assigned medical support arrears principal
 - (9) Never assigned spousal support arrears principal
 - (10) Conditionally assigned medical support interest
 - (11) Conditionally assigned medical support principal
 - (12) Permanently assigned medical support interest
 - (13) Permanently assigned medical support principal
 - (14) Fees and costs interest
 - (15) Fees and costs principal
 - (16) Futures
- (k) Never Assistance Case - Medically Needy Only - IRS Tax Intercept Collections
- (1) Permanently assigned medical support interest
 - (2) Permanently assigned medical support principal
 - (3) Conditionally assigned medical support interest
 - (4) Conditionally assigned medical support principal
 - (5) Never assigned child or family support interest
 - (6) Never assigned medical support interest
 - (7) Never assigned spousal support interest
 - (8) Never assigned child or family support arrears principal
 - (9) Never assigned medical support arrears principal
 - (10) Never assigned spousal support arrears principal

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12-420 DISTRIBUTION HIERARCHY (Continued) 12-420

NOTE: Authority Cited: Section 10553, 10554, 11475, and 11479.5, Welfare and Institutions Code. Reference: Section 11477, Welfare and Institutions Code; Section 695.221, Code of Civil Procedure; Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193), Sections 457(a)(1) and (2) [42 U.S.C. 657(a)(1) and (2)]; Office of Child Support Enforcement Action Transmittal 97-17, Sections V, VI, and VIII, Questions 13, 15, 27, 28, 29, 30, 33, 42, and 45; and 45 CFR 302.52.

12-425 WELFARE DISTRIBUTION PROCESS 12-425

(a) Time Frame

- (1) The welfare distribution process shall be completed within 13 calendar days after the end of the aid and collection month.

(b) Designated Agency

- (1) The local child support agency may delegate another county agency to perform the welfare distribution process via a plan of cooperation.
 - (A) The local child support agency shall be responsible for ensuring that all distribution amounts are proper and the time frames are met for completing the welfare distribution process and disbursing disregards, pass-on, and excess payments to the family or to the foster care placement agency.
 - (B) The county welfare department is responsible for disbursing the disregard payments to the CalWORKs family.

(c) Disregard Payment

- (1) If a current support payment is received on behalf of a current assistance CalWORKs case (court ordered or voluntary), the local child support agency shall authorize up to the first \$50 of a collection as a "disregard payment."
 - (A) This payment shall be made to the assistance unit within the time frames set forth in Sections 12-108.51 and .511.
 - (B) The unreimbursed assistance pool must be reduced by any disregard amount authorized.

12-425 **WELFARE DISTRIBUTION PROCESS** (Continued) **12-425**

- (C) If the amount is less than \$50, the local child support agency shall authorize the entire amount as a disregard payment.
 - (D) When current support is received from more than one noncustodial parent for the collection month, only one disregard of up to \$50 shall be authorized as a payment to the family for the given month.
 - (E) When current support is received from one noncustodial on behalf of multiple current assistance cases, a disregard of up to \$50 for each assistance unit shall be authorized.
 - (F) Disregard payments shall be authorized in CalWORKs cases only. No disregard shall be authorized for a foster care case.
 - (G) When a direct payment is received, and the local child support agency has been notified that the maximum disregard has been authorized, no additional disregard shall be authorized for the collection month.
 - (H) If no current support payment is received during the collection month, a disregard cannot be authorized.
 - (I) This payment is a state-optional payment.
- (d) Current Recoupment
- (1) In a current assistance CalWORKs case, any amount of current child, family, or spousal support collected that remains after the amount distributed under Section 12-425(c) shall be retained by the county to reimburse, in whole or in part, the aid payment for that month, and any past aid payments made to the family which have not been otherwise reimbursed.
 - (2) In a current assistance federal foster care case, any amount of current child support collected shall be retained by the county to reimburse in whole or in part the aid payment for that month.
 - (3) In a current assistance nonfederal foster care case, any amount of current child support collected shall be retained by the county to reimburse, in whole or in part, the aid payment for that month and any past aid payments made to the child which have not been otherwise reimbursed.
 - (4) Of the amount retained in Section 12-425(d)(1), (2), or (3), the local child support agency shall reimburse the state and federal governments according to the repayment sharing rates provided annually by the Department.

12-425 **WELFARE DISTRIBUTION PROCESS** (Continued) **12-425**

(e) **Pass-On**

(1) **Federal Foster Care**

- (A) In a federal foster care case, the amount of current support collected that is in excess of the amount required to be distributed under Section 12-425(d) and which represents payment on the required support obligation for the month of collection up to the difference between the aid payment in the month of collection and the court ordered amount for the same month shall be paid to the county welfare department to be placed in trust for the child or used in the best interest of the child, as determined by the county welfare department.
- (B) If the court order amount is less than such aid payment or there is no court order, no amount shall be paid to the county welfare department on behalf of the federal foster care child.
- (C) Pass-on is not a state optional payment and does not reduce the unreimbursed assistance pool.
- (D) This payment must be paid within the disbursement time frames specified in Section 12-108.

(2) **All Other Aid Programs**

- (A) No pass-on payments shall be authorized for a CalWORKs case.
- (B) No pass-on payments shall be authorized for a nonfederal foster care case.

(f) **Current Excess**

- (1) In CalWORKs cases, the amount of current support that is in excess of the amount required to be distributed under Sections 12-425(c) and (d) and which is in excess of the total unreimbursed assistance pool amount, shall be paid to the family as an excess payment.
- (2) In nonfederal foster care cases, the amount of current support that is in excess of the amount required to be distributed under Section 12-425(d) and which is in excess of the total unreimbursed assistance pool amount, shall be paid to the county welfare department to be placed in trust for the child or used in the best interest of the child, as determined by the county welfare department.

(g) **Unreimbursed Assistance Pool Adjustment**

- (1) Any state optional payments, as determined by the Department, paid to the CalWORKs family shall reduce the remaining unreimbursed assistance pool balance after the distribution of the current support payment.

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12-425 **WELFARE DISTRIBUTION PROCESS** (Continued) **12-425**

- (A) The adjustment to the unreimbursed assistance pool cannot reduce the unreimbursed assistance pool balance less than zero.

- (h) Arrears Recoupment
 - (1) Any amount of child, family, or spousal support collected that represents payment on arrearages shall be retained by the county as reimbursement of the adjusted unreimbursed assistance pool amount specified in Section 12-425(g).
 - (A) Of the amount retained, the county shall reimburse the state and federal governments according to the repayment sharing rates provided annually by the Department.

- (i) Excess
 - (1) Any amounts collected which remain after the amounts distributed under Section 12-425(h) shall be paid to the family in a current assistance CalWORKs case or sent to the county welfare department to be placed in trust for the foster care child or used for the benefit of the foster care child, as determined by the county welfare department based on the child's best interests.
 - (A) Excess payments must be made within the time frames specified in Section 12-108.

- (j) Maximum Reimbursement
 - (1) The maximum amount the county may retain as reimbursement of aid is the amount of the total support obligation owed for the period(s) in which the family was on CalWORKs that has been permanently assigned, plus any payments on the required support obligation for months prior to the period in which the family was on CalWORKs that is temporarily or conditionally assigned.
 - (A) Reimbursement with conditionally assigned arrearages shall be made only with IRS tax intercept collections.
 - (B) In no instance shall reimbursement exceed the unreimbursed assistance pool.
 - (C) The county shall reimburse the state and federal governments according to the repayment sharing rates provided annually by the Department.

- (k) Futures
 - (1) Any amounts collected as support which represent payment on the required support obligation for future months shall be held from distribution/disbursement and treated as if it were collected in such future months.

- (A) No such amount shall be applied to future months unless amounts have been collected which fully satisfy the support obligation assigned pursuant to Section 12-410 for the current month and all past months.
 - (B) If a future obligation does not exist or is expected not to exist, this excess is an invalid payment and shall be returned to the noncustodial parent.
- (l) Futures Returned to Payor
- (1) Any amounts remaining in the account of the payor at the time aid is terminated shall be returned to the payor when the custodial parent cannot be located and the requirements in Section 12-430(k)(1)(A) have been satisfied.
- (m) Identification of Payments
- (1) Any amounts paid to the family pursuant to Sections 12-425(c) and (i) shall be identified as a child support payment and not as an aid payment. Amounts paid under Section 12-425(c) must be identified and paid pursuant to instructions in Section 25-370.
 - (A) All support payments made to a CalWORKs assistance unit under this section shall be made to the resident parent, caretaker relative, or legal guardian having legal custody of or responsibility for the child for whom the support was received.
 - (B) No payments shall be made to the family in foster care cases. Any payments made on behalf of a foster care child, pursuant to Section 12-425(i), shall be made to the county welfare department to be held in trust for the foster care child or used for the benefit of the foster care child, as determined by the county welfare department based on the child's best interest.
- (n) Unpaid Support Obligations
- (1) After discontinuance of CalWORKs or foster care, the local child support agency will continue to attempt to collect on any unpaid support obligation that occurred under an assignment pursuant to Section 12-410.
 - (A) Any child, family and spousal support collections applied to the permanently assigned arrearages and IRS tax intercept collections applied to the conditionally assigned arrearages shall be used to reimburse any amounts of past aid which have not been reimbursed under Section 12-425(h).
 - 1. These collections shall be reimbursement to the county, state, and federal governments according to the repayment sharing rates provided annually by the Department.
- (o) Information to the County Welfare Department

12-425 **WELFARE DISTRIBUTION PROCESS** (Continued) **12-425**

- (1) The local child support agency is responsible for ensuring that all distribution amounts are proper and the time frames are met for disbursing payments to families and on behalf of foster care cases.
- (2) The county welfare department is responsible for disbursing the disregard payments to the family within the required time frames.
- (3) The local child support agency shall notify the county welfare department each month of the current support collection amount and the date the payment was received within 10 working days from the end of the collection month.
- (4) When the county welfare department is the designated agency for distributing collections made on behalf of current and former aid cases, the local child support agency shall provide the county welfare department with sufficient information to properly distribute the support payment received with sufficient time for the county to process payments to CalWORKs families, and payments on behalf of foster care cases within the time frame requirements in Section 12-108.
- (5) When the county welfare department disburses disregard payments, the local child support agency shall provide the amount of disregard authorized in sufficient time for the county welfare department to make appropriate disregard payments in accordance with the time frame requirements specified in Section 12-108.

NOTE: Authority Cited: Sections 17310 and 17312, Family Code. Reference: Section 17504, Family Code; Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193), Sections 457(a)(1) and (2) [42 U.S.C. 657(a)(1) and (2)]; Balanced Budget Act of 1996 Sections 5532(c) and 5547; Office of Child Support Enforcement Action Transmittal 97-13, Question and Answer 70; Office of Child Support Enforcement Action Transmittal 97-17, Sections I(f), II(a), III(b)(2), IV(a) and (b), V, VI, VI(b) and (c), and VIII, Questions 2 through 7, 10, 14, 15, 20, 22, 23, 24, and 30; 45 CFR 302.33(a)(2) and .52; and 45 CFR 304.21 and .22.

12-430 **CHILD/FAMILY/MEDICAL/SPOUSAL SUPPORT** **12-430**
DISBURSEMENT REQUIREMENTS

- (a) Disbursement Time Frames
- (1) Disbursements of support payments made to the family must be made within the disbursement time frame requirements specified in Section 12-108.

12-430 **CHILD/FAMILY/MEDICAL/SPOUSAL SUPPORT** **12-430**
DISBURSEMENT REQUIREMENTS (Continued)

- (b) Child, Family, and Spousal Support Collections in Current Assistance Cases
 - (1) In current assistance cases, collections that are applied to current child/family and spousal support obligations, permanently and temporarily assigned child/family and spousal support arrears interest and principal must go through the welfare distribution process pursuant to Section 12-425.
 - (A) Payments to the CalWORKs family and payments made on behalf of foster care case, pursuant to Section 12-425, must be paid within the time frames specified in Section 12-108.
 - (B) Any medical support collections on the permanently, temporarily assigned arrearages, and IRS collections applied to the conditionally assigned arrearages shall be paid to the Department of Health Services.
 - (C) No payments shall be made to the family in current assistance foster care cases. Payments to the foster care case shall be transmitted to the county welfare department to be placed in trust for the child or used in the best interest of the child, as determined by the county welfare department.
- (c) Medical Support Collections in Current Assistance Cases
 - (1) In current assistance cases, collections that are applied to current medical support obligations, permanently assigned medical support arrears interest and principal, temporarily assigned medical support arrearages interest and principal, and conditionally assigned medical support arrearages interest and principal from an IRS tax intercept collection, shall be paid to the Department of Health Services.
- (d) Futures In Current Assistance Cases
 - (1) In current assistance cases, collections that are applied to futures shall be held by the local child support agency for distribution when the noncustodial parent does not make current support payments when due.
 - (A) The noncustodial parent will be credited for any future payments held for distribution and disbursement in a future month.

12-430 **CHILD/FAMILY/MEDICAL/SPOUSAL SUPPORT** **12-430**
DISBURSEMENT REQUIREMENTS (Continued)

2. No interest shall accrue on any past due support for which the payor has made payment to the local child support agency for the six month period, or on any amounts due thereafter until the family is located as long as the local child support agency has returned the funds due to the inability to locate the family.
- (2) When a warrant which is sent to the family pursuant to Sections 12-425(c) and (i) and Sections 12-430(e), (f)(1), (g), and (h) is uncashed, the local child support agency shall take the following actions:
- (A) Declare the check void six months after issuance, and
 - (B) Hold the funds in stewardship for two years after the warrant is declared void. Government Code Section 29802 gives the payee this period of time to seek payment from the issuing agency. At the end of the two-year period, if no payment has been claimed, the funds revert to the county general fund.
 - (C) Funds that revert to the county general fund, pursuant to Section 12-430(k)(2)(B), shall be reported on the CS 820, and as an abatement on the CS 356.2 of the local child support agency's quarterly administrative expenditure claim.

HANDBOOK BEGINS HERE

- (3) Returning Excess Intercepts

Excess intercept collections shall be treated in accordance with Section 12-713.

HANDBOOK ENDS HERE

NOTE: Authority Cited: Sections 17310 and 17312, Family Code. Reference: Section 14008.6, Welfare and Institutions Code; Section 29802, Government Code; 42 CFR 433.146; Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193), Section 454B(c)(1) [42 U.S.C. 654B(c)(1)], Section 455(d) [42 U.S.C. 655(d)], and Sections 457(a)(1) and (2) [42 U.S.C. 657(a)(1) and (2)]; Balanced Budget Act of 1997 (P.L. 105-33), Section 5532(b) (conforming amendments in Section 457(a)(6)) [42 U.S.C. 657(a)(6)]; Office of Child Support Enforcement Action Transmittal 97-13, Question 70; and Office of Child Support Enforcement Action Transmittal 97-17, Sections I, V, VI, and VII, and Questions 22 and 41.

12-435 **CHILD/FAMILY AND SPOUSAL SUPPORT MONTHLY REPORTS** **12-435**

Repealed by regulation package R-6-01E, effective 9/6/01.

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CHAPTER 12-700 FRANCHISE TAX BOARD (FTB) AND FINANCIAL MANAGEMENT SERVICES (FMS) TAX REFUND INTERCEPT REGULATIONS

12-701 DEFINITIONS

12-701

When used in these regulations, unless the context otherwise indicates:

- (a) (1) Adult disabled children -- means while a minor, was determined to be disabled under Title II or Title XVI of the Social Security Act.
- (2) Affidavit -- means a sworn statement in writing made under oath or an affirmation before an authorized officer.
- (3) Arrearages -- means unpaid child support payments for past periods owed by a parent who is obligated by court order to pay.
- (4) Assignment of Support Rights -- means an assistance eligibility requirement whereby all applicants/recipients must assign to the state all rights to support paid in their behalf or in behalf of a dependent child for whom assistance is sought or paid.
- (5) Assistance -- means recipient of California Work Opportunity and Responsibility to Kids (CalWORKs), Foster Care, former recipient of Aid to Families with Dependent Children (AFDC), and any federally funded program paid under Title IV-A of the Social Security Act.
- (b) Reserved
- (c) (1) Certify -- means to vouch formally under penalty of perjury for the accuracy of facts by a signed writing.
- (2) Child Support -- means a legally enforceable obligation assessed against an individual for the support of a dependent child.
- (3) Custodial Parent -- means the person with legal custody under a court order.
- (d) (1) Disability -- means the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.
- (2) District Attorney -- means the single organization unit located in the office of the district attorney (County Family Support Division) in each California county charged with the responsibility for enforcement of support orders.
- (e) Reserved

- (f) (1) Federal Aid Categories -- means those aid programs established under CalWORKs in which there is an assignment of support rights: CalWORKs Family Group, CalWORKs Legal Immigrants Family Group, CalWORKs Unemployed, CalWORKs Legal Immigrants Unemployed, Foster Care, Federal/Foster Care Voluntary, Emergency Assistance, Unemployed, and Emergency Assistance Foster Care.
- (2) Financial Management Services (FMS) -- means the federal government agency responsible for collecting federal income taxes and administering the federal administration offset program. On January 1, 1999, the federal income tax refund offset program was transferred from the Internal Revenue Service (IRS) to the federal Department of the Treasury's FMS.
- (3) Franchise Tax Board (FTB) -- means the state government agency in California responsible for collecting state income taxes.

- (g) Reserved

- (h) Reserved

- (i) (1) Initiating State -- means the state in which a Uniform Interstate Family Support Act (UIFSA) proceeding is commenced and where the noncustodial (NCP) or custodial parent is located.
- (2) Intercept -- means an amount of money taken from an obligated parent's state or federal income tax refund to satisfy a child support debt.
- (3) Intercounty Cases -- means those cases in which another California county is involved in the tax intercept either as the submitting county or the county where the child support order was issued.
- (4) Interstate Cases -- means those cases in which another state is involved in the tax intercept either as the submitting state or the state where the child support order was issued.

- (j) Reserved

- (k) Reserved

- (l) Reserved

- (m) (1) Medical needy only -- means any individual who has been determined eligible for or is receiving Medi-Cal under Title XIX of the Social Security Act, but is not receiving, nor deemed to be receiving aid under Title IV-A or IV-E of the Act.

- (n) (1) Non-assistance -- means a Title IV-D case that is not currently receiving assistance under CalWORKs (which includes the legal immigrant program), Foster Care, and any federally funded program paid under Title IV-A of the Social Security Act.

12-701 DEFINITIONS (Continued)

12-701

- (2) Noncustodial parent (NCP) -- means any individual who does not have primary physical custody of the child(ren) and who is legally responsible for providing financial support for the dependent child(ren).
- (3) Non-Federal Aid Categories -- means those non-assistance programs established under CalWORKs in which there is an assignment of support rights: CalWORKs Family Group, Non-Federal; CalWORKs Legal Immigrants Family Group, Non-Federal; CalWORKs Unemployed, Non-Federal; CalWORKs Legal Immigrants Unemployed, Non-Federal; and Foster Care, Non-Foster.
- (o) (1) Obligation -- means the amount of money to be paid as support by the absent or custodial parent pursuant to the terms of the court order.
- (2) Order -- means a direction of a magistrate, judge, or properly empowered administrative officer to a person, made or entered in writing.
- (p) Reserved
- (q) Reserved
- (r) (1) Registration -- means a procedure set up by state law to adopt a judgment of a foreign jurisdiction as if it were from a California court. This procedure is used to enforce the foreign judgment in California.
- (2) Responding State -- means a state receiving and acting on an interstate child support case.
- (s) (1) Spousal Support -- means a legally enforceable obligation assessed against an individual for the support of a spouse or former spouse who is living with a child or children for whom the individual also owes support.
- (t) (1) Temporary Assistance for Needy Families (TANF) -- means the federal aid program which replaces the Aid to Families with Dependent Children (AFDC). The California aid program is California Work Opportunity and Responsibility to Kids (CalWORKs). The federal income tax refund and administrative offset programs require states to submit files as TANF or non-TANF.
- (2) Title II of the Social Security Act (Sections 202, 205, 216, 221, 222, 223, and 1102) - - means that portion of federal law establishing and prescribing the Old Age, Survivors, and Disability Insurance Benefits Program.
- (3) Title IV-D or IV-D -- of the Social Security Act (Sections 451, 452, 453, 454, 457, and 460) means that portion of the federal law establishing and prescribing the Child Support Enforcement Program.

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	(4) Title XVI of the Social Security Act (Sections 202, 205, 216, 222, 223, 225, and 1102) -- means that portion of federal law establishing and prescribing the Supplemental Security Income for the Aged, Blind, and Disabled Program.	
	(u) (1) Uniform Interstate Family Support Act (UIFSA) -- means a uniform law that permits establishment and enforcement of support orders when the child lives in one jurisdiction and the noncustodial parent lives in another.	
	(v) Reserved	
	(w) Reserved	
	(x) Reserved	
	(y) Reserved	
	(z) Reserved	
	NOTE: Authority cited: Sections 17302 and 17400, Family Code. Reference: Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) Sections 103 [42 U.S.C. 401(a)] and 321 [42 U.S.C. 666]; Section 17400, Family Code; Section 4900 et seq., Family Code; Office of Child Support Enforcement Action Transmittal 98-17, Sections I. and II.; and 20 CFR 404.1505.	
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CHAPTER 12-800 COMPLIANCE AND SANCTIONS**12-801 GENERAL****12-801**

- .1 Pursuant to the provisions of Welfare and Institutions Code Section 10605, as described in the handbook material in this chapter, and to the provisions of this chapter, the Director shall have the authority to take specified administrative and/or judicial actions if he/she believes that a county is substantially failing to comply with any provision of the Welfare and Institutions Code or any regulation pertaining to any program administered by the Department, and he/she determines that formal action may be necessary to secure compliance.

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- .2 The compliance proceedings described in this chapter are in addition to the Director's power to bring an action for writ of mandamus or such other judicial action as may insure that there is no interruption in the provision of benefits to any eligible person under the provisions of the Welfare and Institutions Code or the regulations of the Department.

HANDBOOK ENDS HERE

12-802 NOTICE OF NONCOMPLIANCE**12-802**

- .1 Upon determination of the necessity for formal action to secure compliance, the Director shall provide notice of the noncompliance to the county.
 - .11 The notice shall conform to the requirements of Welfare and Institutions Code Section 10605.

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- .111 The following portion of Welfare and Institutions Code Section 10605 relates to noncompliance notices:

"If the director believes that a county is substantially failing to comply with any provisions of this code or any regulation pertaining to any program administered by the Department, and the director determines that formal action may be necessary to secure compliance, he or she shall inform the county welfare director and the board of supervisors of that failure. The notice to the county welfare director and board of supervisors shall be in writing and shall allow the county a specified period of time, not less than 30 days, to correct its failure to comply with the law or regulations."

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- .12 The notice shall contain the following information in addition to that specified in Section 12-802.11:
- .121 A citation of the statute or regulation with which the Director has determined the county is not in compliance.
- .122 A statement of facts which supports such determination.

12-803 COUNTY ACTION UPON RECEIPT OF NOTICE OF NONCOMPLIANCE 12-803

- .1 If, upon receipt of the notice, corrective action regarding the noncompliance has been taken, the county shall provide such evidence as may be requested in writing by the Director in order to establish that it has come into compliance as directed by the notice.
- .11 In making such a request, the Director shall allow the county a reasonable period of time, not less than the remainder of the period specified in the notice of noncompliance, in which to provide such evidence.
- .2 If the county chooses to provide written reasonable assurances that it will be in compliance in accordance with Welfare and Institutions Code Section 10605 it shall meet the requirements specified in Sections 12-803.211 and .221.

12-803	NOTICE OF NONCOMPLIANCE (Continued)	12-803
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- .21 With regard to reasonable assurances, Welfare and Institutions Code Section 10605 states, in pertinent part, that the county may within the specified time for correction, "...provide reasonable assurances in writing that it will comply within the additional time as the director may allow...".

HANDBOOK ENDS HERE

- .211 Such assurances shall be:
- (A) Signed by the county welfare director.
 - (B) Approved by the county board of supervisors.
- .221 If the county cannot comply within the period specified in the notice, it shall provide the Director with the following information:
- (A) The basis for such inability.
 - (B) The additional time necessary to enable compliance.
- .3 If the county fails to comply with the provisions of Sections 12-803.1 or .2, it shall be subject to the provisions of Section 12-804.

12-804	ACTION UPON CONTINUED NONCOMPLIANCE BY A COUNTY	12-804
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- .1 If the provisions of Sections 12-803.1 or .2 are not met within the specified time period, the Director shall have the authority to take one or both of the following actions:
- .11 Seek injunctive relief, as specified in Welfare and Institutions Code Section 10605.

12-804	ACTION UPON CONTINUED NONCOMPLIANCE BY A COUNTY	12-804
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(Continued)

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.111 On the subject of injunctive relief, Welfare and Institutions Code Section 10605 states that:

"Any county which is found to be failing in a substantial manner to comply with the law or regulations pertaining to any program administered by the department may be enjoined by any court of competent jurisdiction. The court may make orders or judgments as may be necessary to secure county compliance."

HANDBOOK ENDS HERE

.12 Conduct a compliance hearing, in accordance with Welfare and Institutions Code 10605(b).

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.121 With regard to conduct of compliance hearings, Welfare and Institutions Code Section 10605(b) states, in pertinent part, that the Director may "Order the county to appear at a hearing before the director with the State Social Services Advisory Board Committee on Welfare and Social Services to show cause why the director should not take administrative action to secure compliance. The county hearings shall be conducted pursuant to the rules and regulations of the department."

HANDBOOK ENDS HERE

12-805	ORDER TO APPEAR	12-805
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- .1 The Order to Appear shall contain information including but not limited to the following:
- .11 The hearing date, which shall be not less than 30 days after the date of the order.
 - .12 The hearing location, which shall be in the city in which the principal office of the county welfare department is located, or in such other place as is designated by the Director when necessary for the convenience of the parties or their representatives.

ORDER TO APPEAR (Continued)

- .2 A copy of the order shall be sent to the county board of supervisors.
- .3 The order shall be published in at least one newspaper of general circulation in the county.

12-806	REQUESTS TO PARTICIPATE IN THE COMPLIANCE HEARING	12-806
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- .1 The county and the Department shall be considered to be parties to the hearing and need not make a specific request to participate.
- .2 The Director shall have the authority to recognize other individuals or groups as parties, if the county noncompliance to be considered has caused them injury and their interest is among those to be protected by the law or regulation in issue.
 - .21 Any individual or group wishing to participate as a party shall file a petition with the Director within ten days after notice of the hearing has been published in accordance with Section 12-805.3, and shall send a copy to the county welfare director and the county board of supervisors.
 - .22 The petition shall concisely state the following:
 - .221 The petitioner's interest in the proceeding.
 - .222 The person who will appear for the petitioner.
 - .223 The issues upon which the petitioner wishes to participate.
 - .224 Whether the petitioner intends to present witnesses.
 - .23 The county shall be permitted to file comments with the Director regarding the petition to participate provided that such comments are submitted within five days of receipt, in accordance with Section 12-806.21, of a copy of the petition.
 - .24 The Director, or the presiding officer, shall promptly determine whether each petitioner has the requisite interest in the proceedings and shall permit or deny participation accordingly.
 - .241 The Director or presiding officer shall give each petitioner written notice of the decision on his or her petition at least ten days prior to the hearing.
 - .242 If the petition is denied, the notice shall briefly state the grounds for denial.

12-806	REQUESTS TO PARTICIPATE IN THE COMPLIANCE HEARING	12-806
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(Continued)

- .25 Where petitions to participate as parties are made by individuals or groups with common interests, the Director or presiding officer shall have the authority to request all such petitioners to designate a single representative, or to recognize one or more of such petitioners to represent all such petitioners.

12-807	COMPLIANCE HEARING	12-807
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- .1 All parties shall have the following rights during conduct of the hearing:
- .11 To appear by counsel or other authorized representative in all hearing procedures.
 - .12 To make opening statements at the hearing.
 - .13 To present relevant evidence on the issues at the hearing.
 - .14 To present witnesses who then shall be available for cross-examination by the other parties.
 - .15 To present oral and/or written arguments at the hearing.
- .2 The presiding officer at the hearing shall be the Director or his designee.
- .21 The presiding officer shall have the following duties:
- .211 To conduct a fair and equitable hearing.
 - .212 To avoid delay.
 - .213 To maintain order.
 - .214 To make a record of the proceedings.
- .22 The presiding officer shall have the following powers:
- .221 To settle or simplify the issues in the proceeding, or to consider other matters that may aid in an expeditious disposition of the proceeding.
 - .222 To administer oaths and affirmations.
 - .223 To regulate the course of the proceeding and conduct of counsel therein.
 - .224 To examine witnesses.

12-807	COMPLIANCE HEARING (Continued)	12-807
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- .3 The members of the State Social Services Advisory Board Committee on Welfare and Social Services shall have the following rights at any time during the proceeding:
 - .31 To request that testimony be presented on any issue in dispute.
 - .32 To request that a party explain or clarify any argument, evidence, or other matter which is relevant to the issues in dispute.
 - .33 To examine witnesses.
- .4 The rules of the Evidence Code shall not apply to hearings held pursuant to this chapter, with the exception that the presiding officer shall have the authority to exclude irrelevant, immaterial, or unduly repetitious evidence, and shall exclude evidence which is privileged under the Evidence Code if the privilege is claimed in accordance with law.
 - .41 All documents and other evidence offered for or taken for the record shall be open to examination by the parties.
 - .42 Opportunity shall be given to refute facts and arguments advanced on either side of the issues.
- .5 If the department and the county agree to stipulations of fact, such stipulations shall be made part of the record.
- .6 Oral testimony by witnesses at the hearing shall be given under oath or affirmation.
- .7 The issues considered at the hearing shall be limited to those issues of which the county was notified pursuant to Section 12-802.1, unless both the Department and the county agree to consideration of a new issue.

12-808	DIRECTOR'S FINDINGS AND DECISION, AND SANCTIONS	12-808
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- .1 No later than 30 days following the hearing, the Director shall render in writing his/her findings and decision on the county noncompliance issues.

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12-808 DIRECTOR'S FINDINGS AND DECISION, AND SANCTIONS (Continued) 12-808

- .2 The Director's written decision shall contain information including but not limited to the following:
 - .21 Whether the county has been found to be in compliance, or to be in noncompliance as cited.
 - .22 If the county has been found in noncompliance, whether a sanction is to be invoked, and relevant information regarding the sanction.
 - .221 If the Director finds that the original citation of noncompliance is valid, he/she shall have the authority to decide that one of the sanctions specified in Welfare and Institutions Code Section 10605 shall be invoked.

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- (a) Regarding sanctions, Welfare and Institutions Code Section 10605 states, in pertinent part:

"If the director determines, based on the record established at the hearing and the advice of the State Social Services Advisory Board Committee on Welfare and Social Services, that the county is failing to comply with the provisions of this code or the regulations of the department, ...the director may invoke either of the following sanctions:

"(1) Withhold all or part of state and federal funds from the county until the county demonstrates to the director that it has complied.

"(2) Assume, temporarily, direct responsibility for the administration of all or part of any or all programs administered by the department in the county until the time as the county provides reasonable assurances to the director of its intention and ability to comply. During the period of direct state administrative responsibility, the director or his or her authorized representative shall have all of the powers and responsibilities of the county director, except that he or she shall not be subject to the authority of the board of supervisors."

- (b) It should be further noted that this section requires the county to provide sufficient funds for the continued operation of all programs administered by the Department.

HANDBOOK ENDS HERE

12-808 DIRECTOR'S FINDINGS AND DECISION, AND SANCTIONS (Continued) 12-808

- .23 Reference to the county's right to judicial review of the Director's decision, as specified in Welfare and Institutions Code Section 10605 shall be invoked.

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- .231 This code section allows the county to seek judicial review of the Director's decision under Code of Civil Procedure Section 1094.5. This method of review is the exclusive remedy available to review the Director's decision.

HANDBOOK ENDS HERE

- .3 Copies of the decision shall be sent to the following:
- .31 The county welfare director.
 - .32 The county board of supervisors.
 - .33 Other parties to the hearing, if any.

**CHILD SUPPORT PROGRAM
COMPLIANCE WITH STATE PLAN**

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**CHAPTER 12-900 COMPLIANCE WITH STATE PLAN FOR DETERMINING
PATERNITY, SECURING CHILD SUPPORT, AND ENFORCING SPOUSAL
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**CHAPTER 12-900 COMPLIANCE WITH STATE PLAN FOR DETERMINING
PATERNITY, SECURING CHILD SUPPORT, AND ENFORCING
SPOUSAL SUPPORT ORDERS**

12-901 SCOPE 12-901

This chapter governs the procedure that shall be followed when the Director determines pursuant to Welfare and Institutions Code Section 11475.2 that a public agency, as defined in Section 12-902, is failing to comply with the provisions of the State Plan relating to determining paternity, securing child support, and enforcing existing spousal support orders when enforced in conjunction with a child support obligation. All compliance matters relating to determining paternity, child support, and enforcing spousal support orders shall be subject to the provisions of this chapter rather than the provisions of Chapter 12-800.

12-902 DEFINITION 12-902

A public agency for the purposes of this chapter is the county district attorney who is required by law, by delegation of the Department, or by cooperative agreement to perform functions relating to the State Plan for determining paternity, securing child support and enforcing spousal support orders when enforced in conjunction with the child support obligation.

12-903 VOLUNTARY CORRECTIVE PROCEDURES 12-903

When the Director becomes aware of a potential compliance problem under the State Plan for determining paternity, securing child support, and enforcing spousal support, the Director shall initially proceed as follows:

- .1 Where the potential for a compliance problem may exist in a county welfare department, the Director shall contact the county director regarding the potential problem to determine the extent of the problem and what steps the county is taking to avoid or correct it. If there is reasonable cause to believe that a potential compliance problem may exist, the Director shall assign Department staff to work with the county director to achieve a voluntary correction of the potential problem.

- .11 If the potential compliance problem relates to county functions carried out under a plan of cooperation with the county district attorney's office, the Director shall also contact the district attorney and request his/her assistance in correcting the problem.

12-903	VOLUNTARY CORRECTIVE PROCEDURES (Continued)	12-903
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- .2 Where the potential for a compliance problem may exist in regard to State Plan functions carried out by a district attorney's office pursuant to a plan of cooperation, the Director may contact the district attorney to determine the extent of the problem, if any. If there is reasonable cause to believe that a potential compliance problem may exist, the Director shall contact the Attorney General's Office in working with the district attorney to achieve a voluntary correction of the potential compliance problem.

12-904	NOTICE OF INTENT TO ENFORCE COMPLIANCE	12-904
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- .1 If the procedures described in Section 12-903 do not result in a voluntary correction of a compliance problem and the Director thereafter finds that the public agency is failing in a substantial manner to comply with any provision of the State Plan for determining paternity, securing child support, and enforcing spousal support, and that sanctions are necessary to secure compliance, the Director shall put such agency on written notice to that effect.
- .2 The notice shall contain:
 - .21 A reference to each provision of the State Plan with which the Director considers the public agency to be failing to comply;
 - .22 A brief explanation of the Director's reasons for believing that such noncompliance exists;
 - .23 A statement regarding which of the sanctions provided in Section 12-906 the Director intends to invoke; and
 - .24 The date for which the compliance conference provided for in Section 12-905 is scheduled.
- .3 The notice shall be sent to the public agency at least 30 days before the date of the compliance conference.
 - .31 When the notice of intent to enforce compliance is sent to a county welfare department, copies of the notice shall be sent to the county district attorney and the county board of supervisors.
 - .32 When the notice of intent to enforce compliance is sent to a district attorney, copies of the notice shall be sent to the Attorney General, the county welfare department and the county board of supervisors.

12-905	COMPLIANCE CONFERENCE	12-905
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- .1 Any of the persons or agencies who received a copy of the notice of intent to enforce compliance pursuant to Section 12-904.3 may attend the compliance conference.
 - .11 If the compliance conference involves State Plan functions carried out by a district attorney, the Director shall request the Office of the Attorney General to send a representative to the compliance conference.
 - .12 If a district attorney who wishes to attend the compliance conference pursuant to the provisions of Section 12-905.1 requests that a representative from the Office of the Attorney General be present, the Director shall request the Office of the Attorney General to send a representative to the conference.
- .2 At the compliance conference, the public agency may:
 - .21 Present evidence of full compliance; or
 - .22 Present a plan for achieving compliance in an expeditious manner.
- .3 If, at the compliance conference, the public agency makes a showing to the Director of full compliance or sets forth a compliance plan which the Director finds to be satisfactory, the Director shall rescind the notice of intent to enforce compliance.
- .4 If, at the compliance conference, the public agency fails to establish that it is in compliance, or fails to present a satisfactory plan for noncompliance, the Director may proceed to invoke the proposed sanction(s) after notifying the public agency of his/her decision pursuant to Section 12-905.5.
- .5 The Director shall notify the public agency of his/her decision within ten days of the conference.
 - .51 If the public agency is a district attorney's office, the Director shall consult with the Office of the Attorney General before making his/her final decision.
- .6 If the public agency chooses not to attend the scheduled compliance conference, the Director may proceed to invoke the proposed sanction(s) after the date of the compliance conference has passed.

12-906	SANCTIONS	12-906
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The Director may, at any time after giving the public agency notice in accordance with Section 12-904 and subject to the provisions of Section 12-905, invoke either or both of the following sanctions:

- .1 The Director may withhold part or all of state and federal funds, including incentive funds, from the public agency until the public agency makes a showing to the Director of full compliance; or
- .2 The Director may notify the Attorney General that there has been a failure to comply with the State Plan. The Attorney General shall then take appropriate action to secure compliance.
- .21 The Director shall, upon request, cooperate with the Attorney General in developing and carrying out any compliance action which the Attorney General deems appropriate to compel compliance.

12-907	COMPLIANCE WITH MERIT SYSTEM REQUIREMENTS	12-907
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- .1 If the State Personnel Board certifies to the Director that a public agency which is subject to merit system standards is not in conformity with applicable merit system standards under Part 2.5 (commencing with Section 19800) of Division 5 of Title 2 of the Government Code, the notice and conference provisions of this chapter shall not apply.
- .2 Upon receipt of a certification from the State Personnel Board, the Director may immediately proceed to invoke either or both of the sanctions provided in Section 12-906.

12-908	RESPONSIBILITY FOR FUNDING	12-908
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Nothing in this chapter shall be construed as relieving the board of supervisors of the responsibility to provide funds necessary for the continued operation of the State Plan as required by law.

**CHILD SUPPORT PROGRAM
TITLE IV-D COMPLAINT RESOLUTION PROCEDURES**

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