

CALIFORNIA DEPARTMENT OF CHILD SUPPORT SERVICES

P.O. Box 419064, Rancho Cordova, CA 95741-9064

January 25, 2001

CSS LETTER NO. 01-03

TO: ALL IV-D DIRECTORS
ALL DISTRICT ATTORNEYS
ALL COUNTY ADMINISTRATIVE OFFICERS

SUBJECT: Additional Forms and Questions and Answers Regarding Family Violence Indicator Policy

REFERENCE: FSD Letter 99-06, CSS Letters 00-04 and 00-09

This letter provides answers to questions submitted to the Department regarding the family violence indicator (FVI) policy provided in Child Support Services (CSS) Letter 00-04, dated August 22, 2000 and CSS Letter 00-09, dated December 8, 2000. This letter also transmits a form and a letter for use in FVI cases.

As you are aware, subsequent to the issuance of CSS Letter 00-04, dated August 22, 2000, which required local child support agencies (LCSAs) to screen their members and seek nondisclosure orders (NDOs) for those members claiming family violence, legislation was enacted (Chapter 808, Statutes of 2000) which eliminated the need for a nondisclosure order. This letter transmits a form LCSAs must send to members who requested a nondisclosure order. This form explains that a nondisclosure order is no longer necessary and will not be sought by the LCSA. This form is also available in JetFORM.

The Department received the following questions regarding the FVI policy:

Question 1: What is the timeframe for the LCSA to send a new Domestic Violence Questionnaire in situations where the custodial party/noncustodial parent (CP/NCP) previously could not be located but new locate information has since been discovered?

Answer: The LCSA should send out the Domestic Violence Questionnaire no later than five business days after new locate information is discovered.

Question 2: When a child is in foster care, should the LCSA send the Domestic Violence Questionnaire to the foster care parents?

Reason for this Transmittal

- State Law or Regulation Change
- Federal Law or Regulation Change
- Court Order or Settlement Change
- Clarification requested by One or More Counties
- Initiated by DCSS

Answer: When a child is in foster care, both noncustodial parents must be sent the Domestic Violence Questionnaire to complete for themselves. It is not necessary to screen children in foster care for family violence because their foster care address and other locate information, with the exception of Social Security number, is not available on the Federal Case Registry (FCR) and consequently, cannot be disclosed.

Question 3: Are LCSAs required to send a Domestic Violence Questionnaire to every CP and NCP in every case? For example, if a CP has five cases with five different NCPs, is the CP sent the questionnaire five times or only one time?

Answer: A Domestic Violence Questionnaire must be sent to every CP and NCP in every case. If the CP has five cases, the LCSA must send the CP five separate questionnaires with a different NCP named by the LCSA on each questionnaire. Similarly, if this same CP is an NCP in a different case, she/he will be mailed a questionnaire for her/his NCP role in that case as well.

Question 4: Must the LCSA resubmit the FVI to the FCR if a case has been closed and is reopened?

Answer: If a case is closed under case closure criteria, and is subsequently reopened, both the CP and NCP must be given the Domestic Violence Questionnaire again upon application for services and the LCSA must resubmit responses to the FCR.

Question 5: When is it appropriate to flag children in other cases for family violence?

Answer: This issue has caused confusion as the wording between Family Support Division (FSD) Letter 99-06 and CSS Letter 00-04 are slightly different. LCSAs should follow the language used in CSS Letter 00-04 and flag children in other cases if the CP requests it, or if the LCSA determines a FVI is appropriate for other children. Please remember that a FVI prevents the automatic release of information on the FCR to the other parent (via a private request made to the California Parent Locator Service (CPLS)), and child support or other authorized agencies, without a court order. For additional information regarding access to information on the FCR, please see Sections 463 (d)(2) and 454 (26)(A-E) of the Social Security Act.

Question 6: If a CP or NCP returns the Domestic Violence Questionnaire indicating the FVI should be set for them, how far should this information be broadcast?

ANSWER: The NCP can only fill in the Domestic Violence Questionnaire on his/her own behalf. If a CP claims family violence, the indicator must be set for her/him and the children that are a part of the same case with the parent against whom she/he is claiming violence. If there are other children in the house that are part of a different child support case, the LCSA should apply the family violence indicator for them if the CP requests it or if the LCSA has

reason to believe it is warranted. As a result, a CP's children from a different NCP than the NCP against whom she/he is claiming violence, do not automatically receive a FVI.

Further, if the CP's child (Jane) with a FVI subsequently has her own child (Jill), the new child Jill will not automatically receive a FVI. The new mother Jane will continue to have the FVI attached to her name at the FCR (if it hasn't been removed) but Jane will need to fill out a new Domestic Violence Questionnaire on behalf of her child Jill. In other words, the FVI is not broadcast farther than the CP and her/his immediate children.

Question 7: Are counties required to send a letter to the initiating jurisdiction to obtain FVI information on the CP or NCP when California is the responding state in a UIFSA case?

Answer: No, the initiating state will screen both the CP and NCP for family violence.

Question 8: Are counties required to send a letter to the responding jurisdiction to obtain FVI information on the CP or NCP when California is the initiating state in a UIFSA case?

Answer: Yes, if California is the initiating state we are required to screen the CP and NCP.

Question 9: CSS Letter 00-09 states that a UIFSA nondisclosure order is still required in interstate pleadings. Does this mean that if we are the responding state and receive a questionnaire back from the initiating state, that we must obtain the nondisclosure order?

Answer: No, the responding state should not be soliciting information from the initiating state regarding family violence. It is the responsibility of the initiating state to obtain the nondisclosure order.

Question 10: The cover letter sent to case members states that by completing the questionnaire, information will not be disclosed, but in an interstate case the UIFSA nondisclosure order must be granted first. What if the order is denied? The interstate participant is still under the impression that just by completing the questionnaire that they have the nondisclosure order.

Answer: A nondisclosure order should not be sought unless adequate documentation is provided to substantiate the CP's claim of family violence. In the event that a court denies the nondisclosure order, the LCSA must notify the CP as soon as possible.

Question 11: Under Section I, question three on the Domestic Violence Questionnaire, the form offers custodial parties in aided cases the opportunity to claim good cause and request CalWORKS authorize the closure of their child support case. What should LCSAs do if this box is checked?

Answer: If a form is returned with this box checked, the LCSA should contact IV-A to request that the good cause claim be examined due to the information presented on this form. It will be IV-A's responsibility to make the good cause determination and notify the LCSA if the

case should be closed. If a good cause determination is pending with IV-A, the LCSA must suspend child support services until a determination is made.

Question 12: How is a LCSA supposed to decide if information included on the Domestic Violence Questionnaire is sufficient to warrant a FVI?

Answer: LCSAs should refer to requirements in FSD Letter 99-06, page 3, for the minimum requirements in which LCSAs must activate the FVI. A FVI must be activated when: good cause has been requested; a party or custodial parent's child possesses a protective order against another person in his/her case or order; or, a party has indicated to the LCSA (via the Domestic Violence Questionnaire Section II) that they have reason to believe that they, or their children, are at increased risk of harm if information is released on their case.

If Section II is not completed with a detailed account of circumstances (dates, witnesses, etc.), the LCSA should send the CP/NCP a new questionnaire and letter explaining that not enough information was provided to merit a FVI and that more details must be provided. A copy of this letter is enclosed and available in JetFORM. Local child support agencies should not automatically mark the member with a FVI if no accompanying information is provided under Section II because it is in the child's best interest to have all available information on the FCR released for child support services.

If you have additional questions regarding the family violence indicator policy, please contact Audrey King at (916) 464-5231. To receive the attached forms in JetFORM, please contact Kristy Johnson at (916) 464-5219.

Sincerely,

EDWINA YOUNG
Deputy Director
Child Support Services Division