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**Office of Child  
Support  
POLICY  
MANUAL**

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**DRAFT**

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# Chapter 1

## INTRODUCTION

### BACKGROUND INFORMATION

On January 4, 1975, Congress enacted Public Law 93-647. The law amended Title IV of the Social Security Act by creating a new Part D, “Child Support and Establishment of Paternity.” Part D imposes obligations on the states in order for their federal grants under Title IV to continue at an unreduced level, and it establishes conditions of eligibility for Transitional Employment Assistance (TEA) recipients. Title IV-D, as amended, authorizes the enforcement of child support obligations owed by noncustodial ~~parties~~ parents to their children, locating parents, establishing paternity, and obtaining child support and medical support. These objectives are based on the belief that all children are entitled to have their parents identified and to receive support from both parents.

### AUDIENCE

The Office of Child Support Enforcement Policy Manual is the official statement of policy used by staff in implementing the Child Support Enforcement Program in Arkansas.

### PURPOSE

The purpose of the Child Support Enforcement Policy Manual is to set forth agency policy ~~necessary to~~ utilized in the implementation of the Child Support Enforcement program.

### PREPARATION OF THE MANUAL

Policy for the Child Support Enforcement Policy Manual ~~will be~~ is developed and ~~approved~~ promulgated pursuant to State law ACA § 25-15-201 et seq. ~~according to agency policy with the Department of Finance and Administration.~~

**NOTE: The codification of general and permanent rules, as published in the Code of Federal Regulations by the executive departments and agencies of the Federal Government, as well as Federal and State Law, supersedes policy ~~and procedures~~ set forth in the Arkansas Office of Child Support Enforcement’s Policy Manual.**

## **ISSUANCE OF THE MANUAL**

~~Materials issued for inclusion in the Office of Child Support Enforcement Policy Manual will be accompanied by a cover memo explaining the filing of material. Issuances will be coded 'OCSE' and numerically ordered by calendar year and issue number. At the bottom of the cover memo there will be an inquiry line, which will give the name of the person who is responsible for answering questions regarding the issuance.~~

~~Cover memos will be filed at the front of the manual in numerical order with the most recent memo filed at the front. At least once a year, or as appropriate, a checklist will be issued containing a complete list of material that should be included in the manual and the order in which it should be filed. This checklist will enable each person maintaining an Office of Child Support Enforcement Policy Manual to check the manual to insure ensure that all materials are filed in the proper order. After a manual has been checked against the checklist, cover memos for all issuances prior to the checklist may be removed from the manual.~~

~~Cover memos for manuals maintained in the Library of Master Manuals shall be retained for a period of one year from the date of the memo for reference. Policy materials will be organized in chapters with titles that correspond to program functions and subtitles that correspond to the activities necessary to complete the functions. Form material will be filed in numerical order by form number in the Forms Appendix at the back of the manual.~~

~~The manual will have a table of contents to be filed at the front of the manual to assist in locating policy by topic. The table of contents will be updated at least once a year or as appropriate.~~

~~The OCSE policy manual will be available on the OCSE website at [www.childsupport.arkansas.gov](http://www.childsupport.arkansas.gov) until it is superseded. The superseded manual will be retained in agency files for three years as required by Arkansas State law.~~

## **REVISIONS TO THE MANUAL**

~~As material becomes obsolete, the policy manual will be assigned for revision. Revisions will be handled in the same manner described under "Issuance of the Manual." The cover memo accompanying revised material will list pages to be deleted or substituted.~~

## **STRUCTURE OF THE PROGRAM**

~~Office of Child Support Enforcement (OCSE) is state-administered and state-operated within the Division of Revenue, Department of Finance and Administration (DFA). Other sections of DFA that provide support services for OCSE include Administrative Services, Information Services, Personnel Management, Driver Services, Motor Vehicle Administration, Revenue Legal~~



Counsel, State Income Tax ~~Unit Administration~~, State Procurement, Accounting, Budget, Intergovernmental Services, and Employee Benefits and ~~Quick Copy~~.

OCSE is the single and separate organizational unit responsible for administering the IV-D Program under the State Plan. The ~~Unit~~, supervised by the Administrator of OCSE, consists of ~~administrative program~~ Central Office support staff, field staff, and Arkansas Child Support Clearinghouse staff.

## OCSE CENTRAL OFFICE

The Central Office for OCSE includes the Administrator and Management Staff who are charged with responsibility for specified areas. Operational functions ~~include development and maintenance of computer systems, program/policy development, collections, training, parent locate services, finance, central registry, personnel, purchasing, quality control, administrative support, customer service, appeals and hearings, and general counsel.~~ are performed by Finance and Administration, Information Systems, Policy, Program Review, Communication and Outreach, General Counsel, Customer Service, Collections, and Program Support. The function of Central Office Staff staff is to provide the necessary support services for field staff and to administer the program at the state level.

## FIELD STAFF

Under direction of the Operations Manager, Field Managers are responsible for supervising the ~~Regional Office Managers~~ and Extension Office Supervisors. ~~Regional Office Managers~~ and Extension Office Supervisors are responsible, under the direction of the Field Managers, for supervising the ~~F~~field Sstaff. The ~~F~~field Sstaff are responsible for locating noncustodial ~~parties~~ parents and obtaining the information necessary to initiate administrative procedures to enforce orders or support legal action pursuant and limited to the purpose of the IV-D Program. The ~~F~~field Sstaff work closely with the legal staff to ~~insure~~ ensure appropriate information is available to support the necessary legal action to collect child and medical support or establish paternity. OCSE attorneys do not represent either the custodial party or noncustodial parent, but rather the State's interest in seeing that children are provided for financially.

~~Attorneys under the administrative supervision of the Field Operations~~ Regional Managers are responsible for legal activities within their assigned area. ~~Attorney Specialists are responsible for providing oversight and supervision to attorneys in their legal function. Attorneys will receive investigative reports and case files from the caseworker, assess the information available, determine an appropriate course of action for each case, prepare cases for court, and proceed with all necessary establishment or enforcement processes. Attorneys must maintain the OCSE case files with relevant legal records until the case is closed or legal action is completed and the case is returned to the caseworker for payment monitoring. The attorney will rely on the caseworker~~

~~to obtain and provide locate information or documents as may be necessary to support court actions.~~

~~OCSE attorneys represent the State of Arkansas, which is the real party of interest in OCSE cases.~~

## **THE ARKANSAS CHILD SUPPORT CLEARINGHOUSE**

~~Pursuant to Public Law 104 193 and Ark. Code Ann. § 9-14-801 et. seq.,~~ OCSE operates a centralized state disbursement unit for processing all child support payments for Title IV-D cases and payments remitted through income withholding in non-Title IV-D cases. The unit operates under the supervision of the ~~State Disbursement Unit~~ Arkansas Child Support Clearinghouse Manager.

Services provided by the Arkansas Child Support Clearinghouse are limited by federal regulation. Persons who are not customers of OCSE will receive the following services: Persons who do not have an open enforcement case, (i.e., those who have a payment processing case, ) will receive the following services:

- Update the custodial ~~parent's~~ party's address upon written request.
- Respond to inquiries regarding lost, stolen or destroyed checks issued by the Clearinghouse.
- Provide payment histories upon the request of either party.
- Respond to calls regarding payments received and disbursed.

## Chapter 2 ADMINISTRATION

### PROGRAM GOAL

The purpose of the Child Support Enforcement Program is as follows:

- Locate the noncustodial parent-
- Establish paternity of children born out-of-wedlock-
- Establish the legal obligation of the noncustodial parent for child/and medical support-
- Enforce child/and medical support obligations-
- Collect, distribute, and disburse child support payments-

Child/and medical support services are available to any individual, without regard to the person's state of residence, who has physical custody of a child and who applies for enforcement services. Recipients of Transitional Employment Assistance (TEA), IV-E Foster Care, and certain mandatory Medicaid categories are automatically referred to OCSE for services from the Department of Human Services. ~~Individuals who do not receive TEA or IV-E Foster Care may apply on behalf of a child directly to OCSE for services.~~

### FUNDING

The Child Support Enforcement Program is supported by State General Revenue, fees collected from custodial parties and noncustodial parents, and federal funds.

### PERSONNEL

~~All personnel employed by OCSE must meet the minimum qualifications for the position they occupy. Personnel services for OCSE are provided by the Office of Administrative Services, DFA. The affirmative action plan approved for the Department of Finance and Administration is applicable to OCSE.~~

### CONFIDENTIALITY

OCSE will not release information regarding members in an OCSE case except as permitted by State law. ~~(Ark. Code Ann. § 9-14-210)~~

Release of information on the whereabouts of a party is permissible only if it is in connection with the administration of the Child Support Program, other limited purposes, or as specifically

authorized by law (~~exception: Ark. Code Ann. § 9-14-210 (h)~~). A violation of confidentiality shall constitute a Class B Misdemeanor.

It is unlawful to disclose to any committee or legislative body any information that identifies by name or address any applicant or recipient of OCSE child support enforcement services, except under limited circumstances.

~~(Ark. Code Ann. § 9-14-210 (j))~~

## Release Of Information Upon Request Of The Parties

A custodial ~~parent party, physical custodian,~~ or noncustodial parent is entitled to his or her own personal information contained in a case file. Court orders and pay records may be released to either requesting party.

When releasing court orders, the non-requesting party's ~~s~~ Social ~~s~~ Security number will be blocked out, ~~even though the information is a matter of public record.~~ Should a protective order be obtained after the date on which a court order was entered, ~~then~~ OCSE will, ~~additionally,~~ block out any address information, even though the information may still be available on public record.

All requests for copies of information must be made in writing. Information may not be released over the phone. If a copy of an entire file is requested, then all information, including pay records and notes, will be released. However, the non-requesting party's address, work information, and ~~s~~ Social ~~s~~ Security number will be redacted. ~~blocked out with a black marker and copied again to avoid seeing the information when held up to the light. A verbal request will not constitute a request for information. A request may be sent by mail or be made in person. If the request is made in person, a form supplied by the local office must be signed.~~

Release forms and request letters will be maintained in the ~~party's~~ case file for documentation. Requested information will be mailed within five business days from date of receipt of the written request. No fee for copies will be charged. OCSE may release information on the whereabouts of a party if the party requesting the information is the noncustodial parent or the ~~physical custodian~~ custodial party. The noncustodial ~~parent party parent~~ or ~~physical custodian~~ custodial party must submit the request by an affidavit that clearly states the reason the information is requested, ~~and describes the unsuccessful attempts to acquire the information from other sources.~~ The affidavit requesting release of information may be sent by first class mail to OCSE. ~~(Ark. Code Ann. § 9-14-210(h))~~

Within seven calendar days of receiving the request, OCSE will notify the party whose whereabouts are subject to disclosure that a request for location information has been made and that information will be provided within ~~20~~ twenty calendar days of the date of the notice unless OCSE receives a copy of a court order prohibiting the disclosure or otherwise restricting the requesting party's rights to the information, or a request for an administrative hearing to contest the disclosure.

~~(Ark. Code Ann. § 9-14-210(h)(3))~~

When an administrative hearing to contest the release of information is requested, OCSE will not disclose the whereabouts of a party until the administrative hearing is held or completed. If any reasonable evidence of domestic violence or child abuse is presented at the administrative hearing or by affidavit, and the disclosure of the last known address or any identifying information could be harmful to a party or the child, OCSE ~~shall~~ will not release the information. ~~(OCSE Policy, Chapter 3)~~

## Safeguarding Information

Case records will be stored in electronic files or in file cabinets accessible only to authorized OCSE personnel. These file cabinets will be maintained in a secure area, and locked ~~area~~ when not in use.

### *Private Collection Agencies*

OCSE will not accept change requests forms or requests for information from a private collection agency; ~~nor will a~~ A “power of attorney” provided by a private collection agency will not be accepted. ~~Custodial parents~~ Custodial parties may seek optional remedies for the collection of obligated past due support. A custodial parent party may keep ~~his/her~~ his or her OCSE child support case open while under contract with a private collection agency.

The ~~non-TEA~~ custodial parent party may request a change of address in writing and have child support payments sent to ~~his/her~~ his or her address of choice including that of a private collection agency. However, it should be explained to the custodial parent party that all money and documents for all cases will be sent to the address provided.

## FEDERAL RESOURCES AVAILABLE

The following federal resources are made available by Title IV-D of the Social Security Act:

- **United States District Courts:** The United States District Courts may be used to enforce the court order of an Arkansas court of competent jurisdiction against a noncustodial parent in another state. An application for using the U.S. District Court must be submitted to the OCSE Regional Office by the Arkansas OCSE Central Office. ~~(45 C.F.R. § 303.73)~~
- **Federal Criminal Nonsupport:** Cases meeting the criteria for prosecution under the Child Support Recovery Act (CSRA) will be forwarded to the appropriate U.S. Attorney’s office by OCSE. To be eligible for prosecution under CSRA, the noncustodial parent must live in a different state than the child and be \$5,000 behind or have made no payment for one year, have the ability to pay, and nonpayment must be willful. It is

within the U.S. Attorney's discretion to accept or reject a case referred by OCSE for federal criminal nonsupport.

~~(Public Law 102-521; Public Law 105-187; OCSE Policy, Chapter 5)~~

- **Federal Administrative Offset Program:** Federal law authorizes Tax Refund Intercept, administrative offset of recurring and nonrecurring payments, and passport denial for delinquent court-ordered support obligations owed to families receiving child/and medical support services. Collections made by intercepting federal income tax refunds due the noncustodial parent are to be applied ~~only~~ against past due child support and State debt. The process includes collection of delinquent support obligations owed to (1) reimburse the state for amounts paid to families receiving TEA, and (2) pay arrears to non-TEA families who receive full OCSE services. (For additional information, see Chapter 8.)  
~~(45 C.F.R. § 303.72; Public Law 98-378; OBRA 1981)~~
- **IRS Full Collection Service:** Past due child/and medical support for TEA, Medicaid and non-TEA full OCSE services cases can be referred to the IRS to be collected as if unpaid child support were a delinquent tax debt. To be eligible for the IRS full collection service, a court order must exist and arrears must be at least \$750. Request for use of full collection services must be approved by the Administrator of Arkansas OCSE and reviewed by the Regional Office of Child Support Enforcement. Referrals to the IRS Full Collection Service are made by the state to which an assignment of support rights or a non-TEA application for child support services has been made. The applicant for services must pay a fee of \$122.50 at the time of the referral.  
~~(45 C.F.R. § 303.71)~~
- **Garnishment Of Salaries Of Federal Employees:** Federal income, including military pay, certain types of Social Security payments (e.g., SSA), income tax refunds, and disability benefits are subject to garnishment. The Office of Child Support Enforcement can obtain an order of garnishment against the noncustodial parent's salary or income when other methods of collection have failed. ~~(Public Law 104-193)~~

## PUBLICIZING SUPPORT ENFORCEMENT SERVICES

The availability of child/and medical support enforcement services is publicized on a regular basis. This is accomplished through radio announcements, brochures, presentations and participation by OCSE in various community events, and on the OCSE website. ~~The announcements include the fact that application fees are charged for non-TEA OCSE information promotes the availability of our services and a list of telephone numbers or addresses where additional information may be obtained.~~ ~~(45 C.F.R. § 302.30)~~

## ASSIGNED COUNTY

The county responsible for working a case is the "assigned county." The following factors determine the county where the case should be assigned, listed in the order of priority:

1. Location of the Arkansas court that issued the order for child/medical support
2. Location of the ~~custodian~~ custodial party
3. Location of the noncustodial parent-

## Transferring Cases

Prior to the establishment of a court order, unless a case is already pending in court, if facts indicate a case has been assigned to the wrong county, the ~~investigator~~ caseworker shall take immediate action to transfer the case to the correct county.

## Transferring Cases From One Judicial District To Another Judicial District After The Establishment Of An Order

The OCSE Field Operations Manager or designee must approve all actions by OCSE to request transfer of a case from the jurisdiction of one court to another.

The court that originally issued the order will retain jurisdiction for six months from the effective date of the order. If one party has moved from the county that issued the order and the other party has moved out of Arkansas, the court on its own motion or either party may petition the court that granted the final decree to transfer the case to the county where at least one party resides. The court that issued the final decree of divorce or judgment of paternity will make the final decision regarding the transfer.

~~(Ark. Code Ann. §§ 9-10-102(f), 9-12-320, 9-14-108)~~

## PROGRAM REVIEW

Cases will be reviewed at regular intervals to ensure that case activities meet the program standards for completeness and timeliness as outlined in the Code of Federal Regulations; that fees are monitored to ensure that they are charged appropriately; that corrections and deletions are reviewed and approved; and; that all case activities are properly narrated.

Reviews will be scheduled for each office on an annual basis. The review period will be the preceding 12 months. If the office fails to meet the standard for any criteria, a review will be scheduled after 6 months and only the criteria that failed will be reviewed. The Federal Self-Assessment review will be scheduled in October and includes sample cases from all OCSE offices. The review period for the Federal Self-Assessment review is the preceding 12 months from October through September.

Reviews are conducted using Arkansas Child Support Information Systems (ARCSIS) case screens including all imaged documents.

~~Program Reviewers are assigned to the OCSE Central Office to conduct examinations and evaluations of the quality, efficiency, effectiveness, and scope of services provided under the approved Arkansas Title IV-D State Plan through regularly planned examinations of local office operations. Once each year, program review staff will conduct a statewide self-assessment review. In March of each year, a report will be completed and forwarded to OCSE in Washington, D.C. in accordance with federal regulations.~~

~~Program Reviewers are responsible for developing monitoring procedures to ensure adherence to policies and procedures established by OCSE in the following areas:~~

- ~~• processing cases,~~
- ~~• locating noncustodial parents,~~
- ~~• establishing paternity,~~
- ~~• establishing support obligations,~~
- ~~• enforcing delinquent obligations,~~
- ~~• complying with applicable federal audit criteria, and~~
- ~~• enforcing medical support.~~

~~Program Reviewers identify program deficiencies or inadequacies and submit reports of findings to appropriate management staff for corrective action.  
(AT 98-12)~~

## **Scope And Method**

~~Standardized criteria have been developed based on program standards and federal audit criteria. A Program Review Questionnaire is used to compile a descriptive report of practices and procedures used in local OCSE offices.~~

~~Program Review is a result-oriented compliance review. Beginning in July of every year, the program review staff will conduct a Primary Review for each of the Regional and Extension Offices. The audit period will be the preceding six months, January through June. A random sample of cases will be pulled from across all counties served by a regional office and the extension offices assigned to it with a comprehensive report prepared for those offices. This will be a full review. The report will be issued in draft form. Offices are encouraged to review the draft report thoroughly and question any negative findings in writing, with supporting documentation attached, within three weeks of the date of the draft report. A final report will be issued 30 days from the date of the draft report. Rebuttals will not be considered if received after the final report is issued. Requests for additional time to review the draft report and submit rebuttals must be made in writing to the Quality Assurance Manager for approval.~~



Beginning in January of every year, the program review staff will conduct an Interim Review for each of the Regional and Extension Offices. The audit period will be the preceding six months, June through December. This will be a regular review of program compliance based on the criteria outlined in the Program Review Questionnaire. Only one report will be issued containing a list of all offices and their scores. Offices will be allowed three weeks from the date of the draft report to rebut any negative findings in writing with supporting documentation attached. A final comprehensive report will be issued 30 days after the date of the draft report. Rebuttals received after the final report is issued will not be considered. Requests for additional time to review the draft report and submit must be made in writing to the Quality Assurance Manager for approval.

There are two ways to get credit for successful completion of casework: 1) take all appropriate actions within the time frames; or 2) obtain an order in establishment cases or a collection in enforcement cases within the audit period. Caseworkers must strive to meet the time frames.

Audit standards have been established. Field offices must be in compliance with regulations regarding case maintenance and closure in 90% of the cases reviewed. A 75% standard has been established for all other activities.

If an audit reveals the local OCSE office has not complied substantially with the audit standards listed below, the Field Operations Manager will notify the local office in writing of such findings. The notice will list the unmet audit criteria and give the reasons for the finding(s). The office must submit a corrective action plan to the Central Office that contains a corrective action period, not to exceed one year, and steps necessary to achieve substantial compliance with the audit standards listed below.

Program Reviewers will review service-related criteria and administrative criteria, such as statewide operations, reports and maintenance of records, separation of cash handling and accounting functions, and notice of collection of assigned support. Examples of service-related criteria include case opening and closure, collection and distribution of support payments, and all other casework activities. See Casework Standards at the end of this chapter.

Casework activities have been grouped together to evaluate related requirements and allow audit results to be reported in a more timely manner. Offices must still meet the requirements of each specific regulation cited.

## **Audit Criteria**

1. ***Case Closure*** (90% standard)
  - a. Closure met one or more of the Federal Closure Criteria (See Chapter 7).
  - b. A 60-day notice was sent to the applicant for services prior to closure.
  
2. ***Establishment of Paternity and Child Support Orders*** (75% standard)

Was a child support order established during the review period?

- a. If yes, the standard was met.
- b. If no, was service of process accomplished within 90 calendar days of locate? If service of process is not accomplished, all available locate resources must be checked.

3. ~~***Expedited Process***~~ (75% standard)

If expedited process was an issue during the review period:

- a. Actions to establish support orders, and paternity if needed, from the date of service to the time of disposition should be completed within six months in order to meet the standard. In interstate cases, credit is given for the six-month standard if long-arm jurisdiction applies and the actions are completed in twelve months.
- b. If actions were taken to establish support, and paternity if needed, from the date of service to the time of disposition, the case meets the standard.
- c. A. and b. are not applicable if there is insufficient time to complete the actions.

4. ~~***Enforcement of Support Obligations***~~ (75% standard)

If enforcement of the support obligation was an issue during the review period, the case will meet the standard if:

- a. A wage withholding collection was received in the last quarter of the review period.
- b. Wage withholding actions were initiated within the required timeframes.
- c. A collection was received as a result of an enforcement action.
- d. Other appropriate enforcement actions were initiated within the required timeframes.
- e. If the noncustodial parent's whereabouts are unknown, all available locate sources must be checked.

5. ~~***Disbursement of Collections***~~ (75% standard)

To meet the standard, the state must disburse amounts payable under § 457(a) of the Act within two business days after receipt from the employer or other source of income if the payment is properly identified upon receipt at the State Disbursement Unit.

6. ~~***Securing and Enforcing Medical Support Orders***~~ (75% standard)

To meet the standard, medical support must be petitioned for when a support order is being established or modified. If medical support is ordered, the Medicaid agency must be informed, the custodial parent must be informed, and the caseworker must request that the insurance provider inform OCSE of lapses in coverage. If the noncustodial parent is providing health insurance and changes jobs, the new employer must be notified to enroll the child(ren) in the noncustodial parent's health plan.

7. ~~***Review and Adjustment of Orders***~~ (75% standard)

For a case to be eligible for review under this standard, one or both parents must have

~~requested review and adjustment of an existing support order and the case must otherwise be eligible for review and adjustment. The eligible case will meet the standard if:~~

- ~~a. The case was reviewed and adjusted.~~
- ~~b. It was determined that an adjustment was not appropriate at this time and both parties were notified of the determination.~~
- ~~c. The review was completed within 180 days of determining that a review should be conducted or locating the non-requesting parent, whichever occurs later.~~
- ~~d. If the noncustodial parent's whereabouts are unknown, all available locate sources must be checked.~~

~~8. *Interstate Services* (75% standard)~~

~~Interstate services are review for this standard when two states are involved in providing child support services for the family. The "initiating state" is usually the home state of the custodial parent who is the applicant for services, while the "responding state" is usually the home state of the noncustodial parent. To meet the standard for this audit standard, all timeframes outlined in 45 CFR 303.7 must be met.~~

~~Location of the noncustodial parent is included in the criteria that the reviewers will rate in each casework group. If the noncustodial parent's whereabouts are unknown, all attempts to locate must be made within existing time frames for locate. If the office fails to make the appropriate attempts to locate, the case will be counted as an error for that casework group.  
(AT 98-12)~~

## ~~Corrective Action Plan~~

~~Each office is required to submit a Corrective Action Plan (CAP) addressing each criterion that scored below the standard for each casework group. The plan should state the problem, probable causes for the failure, actions that are planned to bring the office into compliance, a statement regarding how the office plans to monitor the effectiveness of the planned action, and who will be responsible for monitoring the planned action.~~

~~The next primary review report issued after the approval of a CAP will contain a section that compares previous scores to current scores and addresses the effectiveness of the plan.~~

## ~~CASE STATUS ADMINISTRATIVE REVIEW REQUEST~~

~~Individuals may request a review of the status of their child support case or non-IV-D case, if they believe an error has occurred or an action should have been taken on the case. A brochure entitled "Request A Review Of The Status Of Your Child Support Case" is available in each child support office and on the child support website. The brochure is provided for the~~

convenience of OCSE customers. However, an administrative review may also be requested in writing or verbally. The brochure is addressed to the Office Manager and requires the person requesting the review to provide essential information to identify the case, a brief explanation of the problem with the case, and contact information. A section of the brochure is to be completed by the Office Manager and includes a brief statement regarding the results of the review and a description of the next action to be taken on the case or a statement that no further action is required. The response may be made on the brochure or by a separate letter. Responses must be made to the person requesting case status within 10 working days. Copies of all requests and responses must be maintained in the case file.

A customer may ask for an administrative review to address any concern regarding his or her case. This informal process is useful in providing an explanation concerning various actions taken in his or her case or its status. Once a request for an administrative review is received, the appropriate office will review the case to determine if the action taken was appropriate and will respond to the customer.

An administrative review does not take the place of a formal administrative hearing that may be available under certain qualifying circumstances. It is not necessary for a customer to request an administrative review prior to requesting an administrative hearing. However, if the informal administrative process does not resolve an issue that qualifies for an administrative hearing, the customer's written request for an administrative review must also be treated as a request for an administrative hearing. In this instance, the date that the administrative review was first requested in writing will also be used as the date of the administrative hearing request. The customer must provide the information required in Chapter 9, Administrative Hearings, and meet all other requirements.

## **INTRASTATE ACTIVITY REQUESTS**

When completion of a case investigation requires that an activity be performed in a ~~distant~~ different county, the caseworkers in both counties will work together to ensure that the necessary actions are completed. ~~to whom the case is assigned may request that the activity be completed by the caseworker responsible for that county. Before requesting such activity, the caseworker to whom the case is assigned will exhaust all appropriate methods of completing the activity.~~ The original case documents will always remain with the caseworker to whom the case is was initially assigned.

## **FEDERAL CASE REGISTRY**

The Federal Case Registry (FCR) is a federal database within the Federal Parent Locate Service that contains identifying information on all ~~individuals~~ members listed ~~involved in full~~ OCSE ~~services~~ child support cases and in private child support cases established or modified after

October 1, 1998. ~~The FCR contains abstracts of support orders and other information. The purpose of the FCR is to assist states in administering the child support enforcement program. Information in the database is used for the purpose of locating parents, establishing paternity, and establishing or enforcing support orders, and is used for no other purpose. (Public Law 104-193)~~

## **ARKANSAS REGISTRY OF CHILD SUPPORT ORDERS**

OCSE maintains an automated registry of child support orders known as the Arkansas Registry of Child Support Orders. The registry contains abstracts of child support orders and other information on each child support order in the state established or modified on or after October 1, 1998. The registry also contains abstracts of all child support orders for cases in which services are being provided by OCSE pursuant to Title IV-D of the Social Security Act.

Abstracts of child support orders and other information on each child support case includes information as required by the United States Department of Health and Human Services and as specified in federal regulations, including but not limited to the following: names; social security numbers or other uniform identification numbers; and case identification numbers that will identify individuals who owe or are owed child support, or on whose behalf the establishment of support obligations are sought. Information will also consist of the name of the county in which the case is filed.

For each order in which services are being provided under Title IV-D of the Social Security Act, the registry will also include the following:

- Amount of monthly or other periodic support owed under the order;
- Other amounts owed under the order, including arrearages, interest, late penalties and fees that are due or overdue;
- Information on monies collected and distributed on each case;
- The birth date of any child for whom the order required support; ~~and~~
- The amount of any lien imposed with respect to the support order.

OCSE will provide payment history information on ~~full OCSE services~~ child support cases maintained in the registry.

~~When necessary, OCSE will consult with the Administrative Office of the Courts (AOC) to appropriately revise the statistical case data reporting system of AOC to meet requirements of the registry. AOC will advise all clerks of court or other court personnel responsible for completion of the case data reporting of any revised statistical reporting requirements.~~

~~Following the Arkansas General Assembly's directives, the registry is established and maintained by modification to the case information reporting system currently administered through AOC without imposing duplicate reporting requirements on the clerks of court. OCSE has access to statistical case information compiled by AOC to administer the registry.~~

~~(Public Law 104-193)~~

## IRS INFORMATION SAFEGUARD

~~IRC § 6103(p)(4)~~ Federal law requires that safeguard measures be in place to secure federal tax return information and other information received from the IRS (FTI). ~~The following is a list of safeguards that are required to be in place in every OCSE office:~~

- ~~• Only employees who have a need to know will have access to FTI. Those who have access to FTI are restricted to viewing information for official business only. It is a violation for an employee to access, share or possess his/her own information, as well as that of an associate, friend, relative, or even viewing information randomly selected.~~
- ~~• Employees who have access to FTI will sign a Confidentiality Agreement.~~
- ~~• FTI must be secured by a two barrier system to prevent unauthorized access/inspection to FTI by persons who are not authorized and do not have a need to know.~~
- ~~• Visitors will wear badges in every office at all times.~~
- ~~• Designated OCSE personnel will sign in and identify visitors/vendors. A visitor log will be maintained in every OCSE office and will be retained for two years.~~
- ~~• All documents containing FTI that are no longer needed will be shredded.~~
- ~~• A log will be maintained to record destruction of FTI and other confidential information. The log will be retained in a designated, secure area for five years.~~
- ~~• A Key Inventory Log will be maintained. Internal Affairs will perform a key inventory at least once a year.~~
- ~~• OCSE cannot disclose nor can OCSE receive consent from the custodial parent or noncustodial parent to disclose FTI in open court.~~
- ~~• A custodial/noncustodial parent is entitled to information regarding a collection resulting from a tax intercept. A custodial/noncustodial parent may be told that a tax intercept is being held, the amount of the tax intercept, that the intercept is a joint return, when the intercept is expected to be released, and the conditions required for early release.~~
- ~~• Printed pay histories will not reveal the source of payments.~~
- ~~• Documents containing FTI will be mailed in such a way as to indicate there is confidential information enclosed and to ensure the proper person receives the documents.~~
- ~~• Upon access of ARCSIS, the user is informed that he/she may have access to IRS information. Printouts containing FTI will be identified and secured accordingly.~~
- ~~• The system will not generate a source code when printing postal tracers.~~
- ~~• Each OCSE office will be assessed according to what measures will need to be taken in order to prevent unauthorized access to FTI.~~
- ~~• Each field office will conduct self-inspections with respect to FTI security. Designated personnel will conduct physical site inspections in each office within a three-year inspection cycle.~~
- ~~• Before new employees have access to FTI, training will be required. Present employees are required to attend training as soon as time permits. Each employee will be certified as~~

~~understanding the agency's security policy and procedures for safeguarding IRS information. Employees will be required to maintain their authorization to access FTI through annual recertification.~~

- ~~• A warning banner advising of safeguarding requirements will be displayed on the screen of any computer accessing a system that stores, processes, or transmits FTI.~~
- ~~• Back-up tapes for the OCSE system are stored in a fire-safe vault.~~
- ~~• Locks will be on all doors containing telecommunication equipment. A sign will be kept on the door indicating that unauthorized personnel are not allowed in the closets.~~
- ~~• OCSE Information Systems will utilize an audit service. The Network Manager is responsible for monitoring and reviewing audit logs. Audit logs will be retained in the Safety Deposit Box in Bank of America.~~

Upon discovery of a possible improper inspection or disclosure of FTI by a Federal employee, a State employee, or any other person, the individual making the observation or receiving information should contact the Treasury Inspector General For Tax Administration, P.O. Box 589, Ben Franklin Station, Washington, D.C. 20044-0589, Phone 800-366-4484.

## Chapter 3

# CASE INITIATION AND LOCATE

## CASE CATEGORIES

OCSE has established the following as child support case categories:

~~OCSE Enforcement Case~~ – A case open with OCSE for full child support services, or a case for medical support services only, received either by application or by referral from the Department of Human Services (DHS) (Temporary Employment Assistance [TEA], Foster Care, or Medicaid) ~~or by application~~. Includes interstate cases referred for full child support services by child support agencies in other states. ~~Examples of OCSE cases are:~~

- ~~• A TEA OCSE case is one in which the custodian receives TEA in the form of a monetary grant.~~
- ~~• A non TEA case is one in which any individual who does not receive TEA, Medicaid, or IV-E Foster Care service has applied for child support services.~~
- ~~• A Medicaid case is one in which the custodian and/or the child(ren) receives Medicaid. OCSE will provide full child support services in all cases referred by DHS, unless the custodian elects in writing to receive medical support services only. The custodian must cooperate with child support enforcement to establish and or enforce a medical support order.~~
- ~~• A IV-E Foster Care case is one in which the child, who is in foster care, is eligible for TEA or would have been eligible had an application been made.~~
- ~~• Non IV-E Foster Care cases are state funded when the child(ren) is (are) not eligible or would not have been eligible for TEA at the time of placement. By agreement with DHS, a Foster Care Referral for Child Support Services is completed by a DHS attorney and forwarded, with a copy of the court order, to the IV-A/IV-D Interface Unit for case initiation and assignment to the appropriate local county office.~~
- ~~• A former TEA, former Medicaid, and former IV-E Foster Care case is one in which the custodian no longer receives TEA, Medicaid or IV-E Foster Care assistance, but continues to receive child support services.~~



- ~~OCSE recovery cases are those cases where OCSE is providing enforcement services to collect arrears owed to the family, to the State, or to both. These cases are those where current support has ended due to emancipation of the children or where the support was abated by court order.~~

**Payment Processing Case** – A private case referred to the Arkansas Child Support Clearinghouse for payment processing or a former OCSE enforcement case in which payments continue to be processed through the Arkansas Child Support Clearinghouse or a private case referred to the Arkansas Child Support Clearinghouse for payment processing because payments are being paid through income withholding. OCSE is not actively involved in collecting money owed to the eustodian custodial party, but merely records and passes on any payments received.

**Split-Debt Case** – ~~A former OCSE enforcement case where in which current support and/or arrears are is owed to the eustodian custodial party and/or permanently assigned arrears are owed to the state. OCSE is not actively involved in collecting money owed to the eustodian custodial party. Child support payments received by the Arkansas Child Support Clearinghouse are disbursed to the family. OCSE will certify the amount owed to the state to the Federal Tax Offset program and retain any collection to offset the amount owed to the state. The amount owed to the family is not eligible for certification under current federal regulations. No other enforcement remedies will be utilized to collect state debt until the debt owed to the family is recovered. (AT 99-14)~~

## **APPLICATION FOR SERVICES**

### **Custodial Party Request**

Child support services are available to custodial parties who file an application with OCSE for services. OCSE charges a nonrefundable application fee of \$25.00 to any person who files an application with OCSE for services under Title IV-D of the Social Security Act. The applicant for services does not have to be a resident of Arkansas.

- OCSE will provide child/and medical support services to any custodial party who applies on behalf of a child and will enforce any support obligation established for a child/or the custodial party of a child receiving services. This applies to interstate and intrastate cases.
- In an interstate case, only the initiating state may require an application. OCSE will accept referrals from another state on behalf of a child, regardless of age, and provide services available under state law.
- OCSE will not accept interstate transmittals from any organization that does not have an approved State Plan as required by Title IV-D of the Social Security Act or from custodial parties without a completed application for services.

- Services are provided, without an application, to those custodial parties who are no longer eligible for assistance under the TEA, IV-E foster care, and Medicaid programs. DHS notifies OCSE when a family stops receiving assistance. OCSE notifies the family within five business days of the notification of ineligibility that child support services will be continued, and of the consequences of continuing to receive services, unless OCSE is notified by the family to discontinue services.
- Children listed in the application for services must be under the age of 18 if no court order exists. Custodial parties may also apply to recover unpaid child support if the youngest child is between the ages of 18 and 23 and the amount to be recovered is based on a court order. The custodial party of a child over the age of 23 may apply for services; however, the case may be eligible only for federal tax offset if there is no judgment on arrears.
- The applicant for services cannot be the child. OCSE does not have the authority to establish or enforce an obligation on behalf of the child if the “child” is 18 or older, whether or not a state requesting services has legislation allowing same. Additionally, for Arkansas residents or persons requesting services directly from Arkansas OCSE, cases will not be accepted for establishment or enforcement from the child, as the statute does not allow OCSE to bring an action for the “child over 18” - that right is reserved to the “child” only.
- OCSE will not provide services if the noncustodial parent is deceased.
- With the exception of mandatory Medicaid cases, applicants cannot choose among services to be provided. For example, the applicant cannot request paternity but no support order, or a support order but no income withholding. Mandatory Medicaid applicants may elect to receive medical support services only. OCSE will address the medical support needs of the child unless the ~~eustodian~~ custodial party indicates in writing that medical support services are not needed and provides proof that the child(ren) have adequate insurance coverage other than Medicaid.

Applications for child support services are available on the OCSE website at [www.childsupport.arkansas.gov](http://www.childsupport.arkansas.gov), or interested parties may contact the local child support office.

When the request is made in person, the application for services is to be provided on the date of request. When a request is made in writing or by telephone, OCSE is required to send the application within five business days. The local child support office is assigned the responsibility for accepting completed applications for child support enforcement services. The office receiving the completed application for new or reopened cases must process the application locally. OCSE must address the medical support needs of the child in every case. The court will determine which ~~parent~~ party will be responsible for providing medical support.

The applicant must complete a separate application for each noncustodial parent named in the request for child support enforcement services and pay a separate application fee for each noncustodial parent.

It is the applicant's responsibility to complete the application and contract for child support services and return the forms to the OCSE local office along with supporting documents: divorce decrees, orders for child/and medical support, and all modifications to original orders.

Completed application packets may also be mailed to the OCSE Central Registry, P.O. Box 8133, Little Rock, AR 72203. Upon receipt, the application packet and all supporting documents will be forwarded to the local child support office for processing. A letter of acceptance will be sent to the applicant. If the application is incomplete to the extent that work on the case cannot begin (e.g., the contract is not signed or the noncustodial parent or child is not listed), the application and fee will be returned to the applicant for completion. Otherwise, the application will be accepted, entered in the data system, and sent to the appropriate caseworker. The OCSE caseworker should contact the custodial party for any additional information needed. If the applicant requests services that cannot be provided, the application packet will be returned to the applicant with a cover letter stating the reason(s) why the application was rejected.

## **Social Security Number Requirement**

Federal law requires the recording of a Social Security number for any individual who is subject to a divorce decree, support order, or paternity determination or acknowledgement to be recorded in certain family matters. Each recipient of services is asked to provide a Social Security number (SSN).

Federal law requires that any Federal, State, or local government agency which requests an individual to disclose his or her Social Security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it. Accordingly, for purposes of implementing federal law, individuals must be informed that disclosure is mandatory, (BMW) ~~that it is based on~~ pursuant to section 466(a)(13) of the Social Security Act, and that it will be used under the child support enforcement program to locate individuals for purposes of establishing paternity and establishing, modifying, and enforcing support obligations.

## **ASSIGNMENT OF RIGHTS IN TEA CASES**

As a condition of eligibility for TEA, each applicant is required to cooperate with the State in establishing paternity if necessary, establishing a child/ and medical support order, and enforcing

that order. By accepting a monetary grant provided by DHS for or on behalf of a non-SSI dependent child, the ~~eustodian~~ custodial party assigns to the State any rights to child support. ~~For assignments made prior to 10/1/98, any support that has accrued at the time the applicant applies for services becomes permanently assigned to the State. If the assignment is made after 10/1/98, any support that has accrued at the time the applicant applies for services is temporarily assigned to the State. Arrears that accrued prior to the most recent period of assistance revert back to the family when the family leaves assistance. Arrears that were previously assigned and exceed the amount of assistance paid to the family become “unassigned arrears” and are paid to the family. The assignment is limited to the total accumulated unreimbursed assistance or the total unpaid child support, whichever is less. DHS is responsible for notifying each applicant in writing that acceptance of assistance will result in an automatic assignment of support rights. The TEA~~ eustodian custodial party receiving TEA is not charged a fee for any services provided by OCSE. TEA referrals may originate from one of the following:

- The DHS County Office certifying the TEA case which includes an assignment of support.
- The child support enforcement agency of another state in which the ~~eustodian~~ custodial party is receiving public assistance and has made an assignment of support.

~~The Arkansas Client Eligibility System (ACES)~~ Arkansas Networked System for Welfare, Eligibility, & Reporting (ANSWER) is the source of all referrals to OCSE for Arkansas TEA cases. Foster care (IV-E) cases are referred to OCSE from the Department for Children and Families (DCFS) through the Children’s Information Reporting System (CHRIS) interface with the Arkansas Child Support Information System (ARCSIS.) (45 C.F.R. § 232.11; Ark. Code Ann. § 9-14-211)

## MEDICAID REFERRALS

### Mandatory Medicaid Referrals

Cooperation is required for certain categories of Medicaid cases referred to OCSE. In these cases, the full range of child support services are provided, unless the custodial ~~parent~~ party elects in writing to receive medical support services only. ~~If the custodian fails to cooperate, please refer to OCSE Policy (Chapter 3).~~ These categories are as follows:

- Child under 18, Categories 51, 56, and 57. These cases involve a child who has been placed in a treatment facility. OCSE provides services in these cases if there was a parent absent from the home at the time of placement and an OCSE case is open against that absent parent - not against both parents. If both parents are in the home at the time of placement and the placement was not due to abuse or neglect on the part of the parents,

OCSE is not required to provide services. DHS makes the determination and refers cases as appropriate.

- Foster Care cases, categories 91, 92, 96, and 97.
- Medicaid cases with a ~~parent~~ custodial party who is also a recipient of benefits. Note that children may receive services under one Medicaid number and the ~~parent~~ custodial party may receive services under a different number.

## **Child-Only Medicaid Cases**

The custodial party may apply for free child support services if the child(ren) are the only recipients of Medicaid, ARKids Part A, or ARKids Part B. An application and contract must be completed and signed. However, the application fee is waived; no fees will be charged, and no recovery of previously charged fee balances will be made as long as the child(ren) are receiving Medicaid.

## **CASES WITH BOTH PARENTS IN THE HOME**

DHS will refer cases to OCSE when both parents are living in the home if **paternity is an issue**. OCSE will assist the parents to acknowledge paternity by administrative process, including DNA testing if requested by one of the parents. **Once paternity is established, the case will be closed. A 60 day closure notice is required.**

## **~~APPLICATION FOR NON-TEA SERVICES~~**

### **~~Custodial Parent Request~~**

~~Child support services are available to individuals who file an application with OCSE for services. OCSE charges a nonrefundable application fee of \$25.00 to any person who files an application with OCSE for services under Title IV-D of the Social Security Act. The applicant for services does not have to be a resident of Arkansas.~~

- ~~• OCSE will provide child/ medical support services to any individual who applies on behalf of a child and will enforce any support obligation established for a child receiving services or the custodian of a child receiving services. This applies to interstate and intrastate cases.~~
- ~~• In an interstate case, only the initiating state may require an application. OCSE will accept referrals from another state on behalf of a child, regardless of age, and provide services available under state law.~~

- ~~OCSE will not accept interstate transmittals from any organization that does not have an approved State Plan as required by Title IV-D of the Social Security Act or from individuals without a completed application for services.~~
- ~~The State Parent Locator Service (SPLS) shall only accept requests to use the Federal Parent Locator Service (FPLS) from any State or local agency or any parent, attorney, or agent for a child seeking to collect child, spousal, and/or medical support obligation(s) under the State Plan, or from those stated above who are seeking information regarding an individual involved in a child custody or parental kidnapping case. (AT 02-04)~~
- ~~Services are provided, without an application, to those individuals who are no longer eligible for assistance under the TEA, IV-E foster care and Medicaid programs. DHS notifies OCSE when a family stops receiving assistance. OCSE notifies the family within five working days of the notification of ineligibility that child support services will be continued, and of the consequences of continuing to receive services, unless OCSE is notified by the family to discontinue services.~~
- ~~Children listed in the application for services must be under the age of 18 if no court order exists. Parents may also apply to recover unpaid child support if the youngest child is between the ages of 18 and 23 and the amount to be recovered is based on a court order.~~
- ~~The applicant for services cannot be the child. OCSE does not have the authority to establish or enforce an obligation on behalf of the child if the "child" is 18 or older, whether or not a the UIFSA state has legislation allowing same. Additionally, for Arkansas residents or persons requesting services directly from Arkansas OCSE, cases will not be accepted for establishment or enforcement from the child, as the statute does not allow OCSE to bring an action for the "child over 18" that right is reserved to the "child" only.~~
- ~~OCSE will not provide services if the noncustodial parent is deceased.~~
- ~~With the exception of mandatory Medicaid cases, applicants cannot choose among services to be provided. For example, the applicant cannot request paternity but no support order, or a support order but no income withholding. Mandatory Medicaid applicants may elect to receive medical support services only. OCSE will address the medical support needs of the child unless the custodian indicates in writing that medical support services are not needed.~~

Applications for child support services are available on the Child Support Website [http://www.accessarkansas.org/dfa/childsupport/cs\\_forms.html](http://www.accessarkansas.org/dfa/childsupport/cs_forms.html), or interested parties may contact the child support office nearest them.

~~OCSE is required to provide an application to any individual on the date of request. When the request is made in person, the application is to be provided on the date of request. When a request is made in writing or by telephone, OCSE is required to send the application within five working days. All offices must maintain a log of applications requested/sent. The local child support office is assigned responsibility for accepting completed non-TEA applications for child support enforcement services. The office receiving the completed non-TEA application for new or reopened cases must process the application locally. OCSE must address the medical support needs of the child unless the custodian proves that he/she has adequate medical coverage other than Medicaid.~~

~~The applicant must complete a separate application for each noncustodial parent named in the request for child support enforcement services and pay a separate application fee for each noncustodial parent.~~

~~It is the applicant's responsibility to complete the Application and Contract for non-TEA child support services and return the forms to the OCSE local office along with supporting documents: divorce decrees, orders for child/ medical support, and all modifications to original orders.~~

~~Completed application packets may also be mailed to the OCSE Central Registry, P.O. Box 8133, Little Rock, AR 72203. Upon receipt, the application packet and all supporting documents will be forwarded to the local child support office for processing. A letter of acceptance will be sent to the applicant. If the application is incomplete to the extent that work on the case cannot begin (e.g., the contract is not signed or the noncustodial parent or child is not listed), the application and fee will be returned to the applicant for completion. Otherwise, the application will be accepted, entered in the data system, and sent to the appropriate caseworker. The OCSE caseworker should contact the custodian for any additional information needed. If the applicant requests services that cannot be provided, the application packet will be returned to the applicant with a cover letter stating the reason(s) why the application was rejected.~~

~~(45 C.F.R. § 302.33; Ark. Code Ann. §§ 9-14-105(b)(4), 9-14-105(c))~~

## **~~Noncustodial Parent Request~~**

~~Noncustodial parents may apply for child support services in order to request review and adjustment of an existing support order. As the applicant for services, the noncustodial parent must pay the \$25 application fee. Noncustodial parents sign a contract for services agreeing that, when the requested services have been provided, the case will close. The noncustodial parent also agrees to be responsible for all costs associated with providing the requested services.~~

## **~~Social Security Number Requirement~~**

~~OCSE requires a Social Security number for every person receiving services. Each applicant for non-TEA OCSE services must either have a social security number or show proof that one has been applied for through the Social Security Office. A non-TEA application will not be delayed. When a number is assigned, the Social Security Administration notifies the agency through the enumeration system. It will not be necessary for the custodian to hand-deliver or mail the sSocial sSecurity card.~~

~~(Public Law 104-193, 42 USC 666(a)(13))~~

## **COOPERATION REQUIRED BY THE CUSTODIAN CUSTODIAL PARTY**

Custodial parties who apply for services must assist in establishment or enforcement efforts as their case requires. Cooperation by custodial parties includes adhering to all provisions of the application and contract for child support services. If a custodial party moves or changes his or her address, a forwarding address must be provided to OCSE.

Additionally, As as a condition of eligibility, each TEA, Medicaid, and IV-E Foster Care applicant or recipient is required to cooperate with OCSE to locate the noncustodial parent, establish and enforce child support and/or medical support orders including appearing at the local child support office or court as needed, keep OCSE informed regarding a change of address and phone number, and turn in any payments received directly from the noncustodial parent. obtain child support including, but not limited to, the following requirements:

- ~~• Identifying and locating the noncustodial parent of children for whom assistance is requested.~~
- ~~• Establishing paternity of children born out of wedlock for whom assistance is requested.~~
- ~~• Obtaining support payments due children for whom assistance is requested.~~
- ~~• Consent to the release of children's sSocial sSecurity number for enrollment in a Health Care Plan.~~
- ~~• Obtaining any other payment or property due children for whom assistance is requested.~~
- ~~• Appearing at the office of this agency as necessary to provide verbal or written information or documentary evidence known to, possessed by, or reasonably expected to be obtained by the applicant or recipient.~~
- ~~• Appearing as a witness at court or other hearings or proceedings as necessary, such as submitting self and child for genetic testing for paternity establishment.~~



- ~~Providing information, or attesting to the lack of information, under penalty of perjury.~~
- ~~Paying to the Office of Child Support Enforcement or the Arkansas Child Support Clearinghouse any child/medical support payments received directly from the noncustodial parent covered by the assignment of child/medical support.~~
- ~~Any other act or omission deemed to constitute noncooperation. Facts constituting noncooperation must be summarized in detail by the caseworker.~~

~~In a like manner, non-TEA custodians must assist in establishment or enforcement efforts as their cases require. Cooperation by non-TEA custodians includes adhering to all provisions of the Application and Contract for Child Support Services. If a non-TEA custodian moves or changes his/her address, a forwarding address must be provided to OCSE.~~

~~(45 C.F.R. § 232.12)~~

When the custodial party is ordered to provide medical support, he or she will be given 30-days to provide proof that the child is enrolled in either a employer sponsored insurance (ESI) policy or a private insurance policy. Failure to provide notice within the timeframe will be considered non-cooperation. If ESI is available, the National Medical Support Notice (NMSN) will be sent to the employer. If ESI is not available a notice will be sent to the custodial party advising that the case will be closed after 60 days due to non-cooperation if the proof of insurance is not provided. If the child(ren) is enrolled and the policy terminates for any reason, a notice will be sent to the custodial party requesting new insurance information. Failure to respond will be considered non-cooperation. If ESI is available, a NMSN will be sent. If ESI is not available, a notice will be sent to the custodial party advising that the case will be closed after 60 days due to non-cooperation if the proof of insurance is not provided.

## **Contact With the Custodian**

~~Assistance from the custodian may be necessary at the beginning of the case investigation and/or later as individual case circumstances require. In those cases where assistance from a custodian is required, the caseworker or attorney will contact the custodian to request the necessary assistance. When contacting the custodian for assistance, the caseworker will use the most appropriate methods, which may vary depending on resources available and time limitations involved.~~

## **Reporting Non-Cooperation Of TEA Custodians Custodial Parties**

~~If a TEA custodian a custodial party who receives TEA, Medicaid, or Foster Care willfully fails to comply with any of the cooperation requirements, he or she will be considered non-cooperative unless a “Good Cause” finding has been determined by DHS. The OCSE caseworker will assess the circumstances surrounding the custodian’s failure to cooperate, and will determine~~

~~whether he or she has willfully failed to comply.~~ If the OCSE caseworker concludes that the eustodian custodial party has willfully failed to comply, ~~he or she will notify the eustodian of his or her noncompliance,~~ a notice will be sent by certified mail and will summarize the facts constituting the finding of non-cooperation. ~~The notice will be sent by certified mail and will allow~~ The eustodian custodial party is allowed 10 business days from the date the notice was sent to cooperate or request an administrative hearing before OCSE notifies DHS of the non-cooperation finding.

If the eustodian custodial party fails to comply or fails to request an Administrative Hhearing within 10 business days from the date the non-cooperation notice was sent, OCSE will notify DHS through the IV-A – IV-D interface ~~the local DHS county office~~ of the non-cooperation finding. DHS will apply appropriate sanctions. ~~An administrative hearing must be requested~~ OCSE must receive a request for an administrative hearing within the ~~ten~~ 10 business day time frame in order to preserve cash assistance payments while the hearing is pending.

Administrative Hhearings must be requested within 30 calendar days of the date the non-cooperation notice was sent. However, when the request is received after the 10 business day time frame, sanctions, if applicable, will remain in place pending the outcome of the Aadministrative Hhearing.

The eustodian custodial party may contact OCSE at any time to furnish the requested information, as stipulated by ~~F~~federal ~~L~~law and ~~T~~ransitional ~~E~~mployment ~~A~~ssistance ~~(TEA)~~ ~~P~~policy. If the eustodian custodial party contacts OCSE after 10 business days from the date the non-cooperation notice was mailed and provides the caseworker with the necessary information needed for working his or her child support case, a subsequent notice will be sent to DHS informing them of that the eustodian's custodial party has eoperation cooperated. ~~and requesting them to remove any sanctions previously applied.~~

~~When the custodial parent has fully complied with the cooperation requirements, the caseworker will notify DHS to remove the sanctions.~~

The caseworker or attorney will continue to pursue child support efforts to the extent possible after the Notice of ~~Failure to Cooperate~~ Non-Cooperation has been sent.

~~(Public Law 104-193)~~

## **Administrative Hearing Request**

A eustodian custodial party may request an Administrative Hhearing by submitting a request in writing to the ~~OCSE Appeals and Hearings Office~~ local office responsible for the case no later than 30 calendar days from the date on the notification of the adverse action. ~~Requests must be forwarded to Appeals and Hearings, OCSE, P. O. Box 8133, 400 East Capitol, Little Rock, AR 72203.~~

## Good Cause Claims

When the child support office is notified of a Good Cause Claim, the caseworker or attorney working the establishment case will immediately discontinue activity on the case and place a family violence indicator on the file for the victims in the case. If the Good Cause Claim is approved, the OCSE case is closed and no further action is taken. If the claim is denied, then appropriate child support activities will resume.

## Mandatory Address Updates

Upon the entry of an order, the noncustodial parent and ~~custodian~~ custodial party must keep OCSE updated with their current residential and mailing address, ~~s~~Social ~~s~~Security number, telephone number, driver's license number, and their employer's name and address if child support payments are paid through the registry of court or the Arkansas Child Support Clearinghouse. (~~Public Law 104-193; Ark. Code Ann. § 9-14-205~~)

## SOCIAL SECURITY NUMBER REQUIREMENTS FOR MARRIAGE, OCCUPATIONAL, PROFESSIONAL, OR BUSINESS LICENSE APPLICATIONS

~~Arkansas State Code law~~ mandates that ~~on and after August 1, 1997~~, all persons, agencies, boards, commissions, or other licensing entities issuing marriage or any occupational, professional, or business license must record the name, address, and ~~s~~Social ~~s~~Security number of each person applying for such licenses on the license application. Those persons, agencies, boards, departments, commissions, or other licensing entities that issue 500 or more licenses each year, or that have a membership of 500 or more, are required to implement an automated data system capable of transmitting licensee information to OCSE. The license database may be transmitted or made available to OCSE quarterly. The information will be used for the purpose of enforcing child support obligations.

The name of any member or representative of a licensing entity who refuses to provide license information to OCSE shall be certified by OCSE to the Office of the Governor and to the Arkansas Legislative Council.

Member and applicant ~~s~~ Social ~~s~~ Security number information shall not be released publicly, and shall be excluded from the open public record requirements of the Arkansas Freedom of Information Act, ~~codified at § 15-15-101 et seq.~~ Disclosure of ~~s~~Social ~~s~~Security information without the consent of the individual or without court authorization shall be a ~~e~~Class B ~~M~~isdemeanor. Confidentiality requirements associated with the collection and maintenance of ~~s~~Social ~~s~~Security numbers by the licensing entity shall be appropriately disseminated and posted in the licensing entity's offices.

~~(Public Law 104-193; Ark. Code Ann. §§ 9-11-201, 17-1-104)~~

## CENTRAL REGISTRY

The Central Registry is a separate section within OCSE Central Office that receives all incoming interstate OCSE cases. The cases are reviewed for completeness and assigned to the appropriate local office. ~~and State Parent Locator Services (SPLS) requests.~~ The Central Registry also ~~reviews all interstate cases for completeness and makes assignments to appropriate local offices~~ receives State Parent Locator Services (SPLS) and Federal Parent Locate Services (FPLS) requests.

### Central Registry Responsibilities

Within 10 business days of receiving the interstate referral, the Central Registry will take the following action:

- Review the case for completeness.
- Forward the case to SPLS or the appropriate county office.
- Request any missing documentation from the initiating state.
- Inform the initiating state of the assigned office and the name and address of the contact person.
- Forward the case to the appropriate office for any action that can be taken pending receipt of requested documents omitted from the original packet, if applicable.

The Central Registry will answer requests from other states regarding the status of cases referred to Arkansas but not yet assigned to a local office within five business days. Field staff will answer status requests from the initiating state if the case has been assigned to a local office.

~~(45 C.F.R. § 303.7(a))~~

### State Parent Locate Service (SPLS)

SPLS is a function of the Program Support Section in the Central Office. The Program Support Section has the responsibility of receiving requests for locate information from ~~local units, OCSE caseworkers and~~ other state OCSE child support agencies. Such requests will be accepted only for establishing paternity and/or securing child/medical support for dependant children. Once all local resources have been exhausted, the caseworker will request an SPLS search using the data system.

~~If an out-of-state search has been requested, SPLS will initiate the search to each appropriate state. SPLS personnel will update information regarding any additional requirements of other states as necessary.~~

~~(45 C.F.R. § 303.70)~~

## Federal Parent Locate Services (FPLS)

In those cases in which the noncustodial parent cannot be located through the local or state locate efforts, an FPLS search will be initiated by the caseworker. FPLS interfaces with Internal Revenue Service, Social Security Administration, Veteran's Administration, National Personnel Records Center, and the Department of Defense. FPLS can also be used to obtain locate information in parental kidnapping, pending adoption cases, and child custody cases.

OCSE may request and receive information from the following sources: Federal Parent Locator Service; available records in other states, territories, and the District of Columbia; the records of all state agencies; and businesses and financial entities for locating and determining resources of noncustodial parents. State and local government agencies, businesses, and financial entities shall provide information, if known or chronicled in their business records, notwithstanding any other provision of law making the information confidential.

~~(45 C.F.R. § 303.70)~~

## Requests for Information from the Federal Parent Locate Services (FPLS)

The Social Security Act (the Act) specifies the parameters for FPLS location requests: ~~As set forth in the Act:~~

- Information may be requested only for an authorized purpose; ~~;~~
- The requestor must be an authorized person; ~~;~~
- Only specified information may be provided for a particular purpose; ~~;~~
- Information shall be used or disclosed only as expressly permitted in the Act.

Federal regulations require state IV-D agencies to honor authorized requests for FPLS location information and submit them to the FPLS using the State Parent Locator Service (SPLS). ~~(45 C.F.R. § 302.35)~~ Authorized Federal agents or attorneys may request FPLS information directly from OCSE.

Each of these parameters is addressed in more detail below with respect to use of the FPLS in cases of parental kidnapping or for custody and visitation purposes.

- **Authorized Purpose:** Title IV-D of the Act authorizes use of the FPLS for enforcing a ~~F~~federal or state law with respect to the unlawful taking or restraint of a child by a

biological parent, often referred to as parental kidnapping, or for determining the whereabouts of a parent or child for the purpose of making or enforcing a child custody or visitation determination. ~~(Sections 453(a)(3) and 463(a) of the Act; 42 U.S.C. 653(a)(3) and 663(a).)~~ In this context, “custody or visitation determination” means a judgment, decree, or other order of a court providing for the custody or visitation of a child. The term includes permanent and temporary orders, and initial orders and modifications. ~~(Section 463(d)(1) of the Act; 42 U.S.C. 663(d)(1).)~~

- **Authorized Person:** Title IV-D of the Act permits only specified authorized persons to obtain FPLS information in the case of an unlawful taking or restraint of a child or for making or enforcing a custody or visitation order. For these purposes, the term “authorized person” means the following:
  - Any agent or attorney of any state... who has the duty or authority under the law of that state to make or enforce a child custody or visitation determination;
  - Any court having jurisdiction to make or enforce a child custody or visitation determination, or any agent of such court; ~~and~~
  - Any agent or attorney of the United States, or of a state having an agreement under this section, who has the duty or authority to investigate, enforce, or bring a prosecution with respect to the unlawful taking or restraint of a child. ~~(Section 463(d)(2)(A)-(C) of the Act; 42 U.S.C. 663(d)(2)(A)-(C).)~~

Under the Act, a parent seeking to locate another parent or a child in a case of parental kidnapping or for custody or visitation purposes is not an “authorized person” and may not receive FPLS information. Nor is a private attorney considered an authorized person for purposes of requesting FPLS information in such cases. The information provided to the authorized person is for his or her own use to enable him or her to proceed with making or enforcing a custody or visitation determination or investigating or prosecuting the unlawful taking or restraint of a child.

- **Authorized Information:** Information that may be obtained from the FPLS includes only the most recent address and place of employment of the parent or child whose location is sought.

Upon receipt of any response from the FPLS, OCSE is required to send the information directly to the court or other authorized person that requested it. Afterwards, OCSE must destroy any confidential records and information related to the request.

- **OCSE Responsibilities:** When OCSE receives a request to use the FPLS for parental kidnapping, child custody, or visitation purposes, OCSE must ensure the requestor is the proper entity in the state for making such a request and, further, that the authorized requestor understands that no re-disclosure is permissible, except to another authorized court or agent or attorney of the state.

The Act also prohibits the disclosure of FPLS information to an authorized person if a state has notified the FPLS that the state has reasonable evidence of domestic violence or child abuse and that disclosure of such information could be harmful to the custodial ~~parent~~-party or the child of such parent. (~~Sections 453(b)(2) of the Act; 42 U.S.C. 653(b)(2).~~)

- **Requesting FPLS Information:** Except for requests from authorized ~~F~~federal agents or attorneys, which come directly to OCSE, the SPLS is the mechanism for submitting requests to the FPLS.  
(~~AT 03-06~~)

### ***Safeguards When Using Federal Parent Locate Service (FPLS)***

All information obtained from the use of FPLS will be treated as confidential and safeguarded as required by the provisions of OCSE Policy, Chapter 2. States submitting requests for information via remote terminal on preprinted FPLS forms or by letter must have on file a signed certification with the FPLS that affirms the following:

- The request is being made to locate an individual for the purpose of establishing paternity or securing child/medical support and for no other purpose.
- The Program Support Section has made diligent and reasonable efforts to find the noncustodial parent and cannot locate the person.
- The Program Support Section has taken protective measures to safeguard the personal information being transferred and received through FPLS.

OCSE maintains, and will continue to maintain, such a certification with FPLS. This certification will be renewed semiannually or upon change of the Administrator of OCSE or appropriate designee.

Access to information obtained from FPLS for use in parental kidnapping and child custody cases ~~are~~ is restricted to Program Support personnel. The OCSE Central Office Program Support Section is responsible for storing data collected and otherwise ensuring confidentiality. The Program Support Section will forward any information obtained directly to the applicant, make no other use of the information, and destroy any records related to the request that are confidential in nature.

### ***Documents***

All documents associated with FPLS that contain confidential information concerning noncustodial ~~parties~~-parents will be accessible only to authorized OCSE personnel. All such documents will be maintained in a secure, locked area when not in use.

Computer files and documents will be protected by security measures in place in Data Processing and Administrative Services Sections. Printouts and other computer documents generated for use by OCSE will be disposed of in such a manner that none of the contents come into the possession of unauthorized persons.

~~(45 C.F.R. § 303.21)~~

## ESTABLISHING A CASE

Within 20 calendar days of receiving an application or the referral of a ~~new or reopened case or filing of an application~~, the local office must establish a case record and assess the information provided to determine the next appropriate action, which may include any of the following:

- Interviewing the ~~eustodian~~ custodial party;
- Initiating verification of information; ~~or~~
- If location information is inadequate, initiating locate efforts.

~~(45 C.F.R. § 303.2)~~

## Maintenance Of Case Records

The caseworker is responsible for the maintenance of a case record for each individual case in an assigned caseload. The record must contain all documents related to the case from the time of referral until closure. A written narrative containing a history of all contacts with the ~~eustodian~~ custodial party and noncustodial parent, all attempts to locate the noncustodial parent, all legal activity, any activity related to an adjustment of a disbursement of child support collections, and any other activity related to the case must be maintained in the data system. ~~(45 C.F.R. § 303.11(d))~~

## Retention Of Case Records

Local office staff must retain records for closed cases for a minimum of three years.

Field Managers or their designees may determine that a case record should be retained for a longer period.

The Field Manager, or a designee, will review case records selected for destruction and will arrange to have the case records destroyed by burning or shredding. The method of destruction must ensure the confidentiality of the contents of the case record. ~~(45 C.F.R. part 74)~~



## Suspense

Cases may be suspended for a specific date in the future if one or more of the following conditions exist:

- The noncustodial parent is incarcerated and the parole eligibility or release date is known;
- The noncustodial parent is a student and a support obligation is undetermined;
- ~~Any circumstance in which child support may be uncollectible for a definite period of time;~~
- ~~The court temporarily abates support;~~
- There is a direct order by a court to cease all collection action for a limited period of time

## LOCATE

### Locate Resources

~~OCSE~~ Any IV-D child support agency may request information regarding the assets or whereabouts of a noncustodial parent from any individual, financial entity, business or corporation, as defined in State law. The information requested or a statement that no information is available must be sent to OCSE within 30 days of the receipt of the request. A business or financial entity shall be liable for civil penalties of up to \$100 for each day after the 30-day period in which it fails to provide the information. Any business, financial entity, officer, agent, or employee of such entity participating in good faith and providing information requested ~~shall be~~ is immune from liability and suit for damages that might otherwise result from the release of the information to OCSE. ~~(45 C.F.R. § 303.3; Ark. Code Ann. § 9-14-208)~~

### Locate Efforts

Location is defined as obtaining information concerning the physical whereabouts and verifying information regarding the address, employment, and financial ability of a noncustodial parent to provide support.

The caseworker is required to access all appropriate locate resources, including FPLS, and evaluate the responses within 75 calendar days of determining that location is necessary. Repeated attempts must be made quarterly, or immediately upon receipt of new information. These attempts may be automated but must include accessing ~~Employment Security Department~~ Department of Workforce Services screens. FPLS must be accessed at least annually. Within 20 calendar days of determining the noncustodial parent is in another state, the caseworker must send a Locate Data Sheet to the Central Registry in that state. Location efforts outlined above must continue for a three-year period, provided there is sufficient information for automated locate activities. If after three years the noncustodial parent has not been located, the case may be closed after proper notice to the custodial ~~parent~~ party.

If sufficient information for automated locate is not available, the case may be closed after one year. At the end of one year, if location attempts have been unsuccessful, the case may be closed upon notice to the ~~eustodian~~ custodial party. The case must be reopened at no charge if the ~~eustodian~~ custodial party or initiating state can provide new information.

## **NEW HIRE REGISTRY REPORTING**

The ~~Employment Security Division~~ Department of Workforce Services operates the Arkansas New Hire ~~Registry Reporting Center~~. OCSE will interface with the ~~new hire registry~~ New Hire Reporting Center data file for the purpose of obtaining employment data on noncustodial parents in the OCSE caseload. Caseworkers will receive an electronic notice when a match occurs. Information gained from the match will be used for the sole purpose of establishing or enforcing child support obligations. When a match occurs for an obligated case, a an income withholding notice and a National Medical Support Notice (NMSN), if appropriate, must be sent to the new employer within two business days.  
**(Public Law 104-193)**

## **SPECIFIC REQUESTS FOR A CREDIT REPORT**

If requested by the Administrator of OCSE ~~head of a state or local child support enforcement agency or its agent~~, the Consumer Reporting Agency must provide a copy of a credit report if the report is needed to establish an individual's ability to pay child support or to determine the appropriate level of payments. The reports are kept confidential and used for that purpose only. The report may not be used for any civil, administrative or criminal proceeding, or any purpose other than determining the ability to pay or the appropriate amount of child support payments. OCSE must notify the noncustodial parent in writing, by certified mail, 10 calendar days prior to requesting a Consumer Report. **(Public Law 104-193)**

## INTERSTATE REFERRALS

### Arkansas As The Initiating State

If paternity/ or support ~~has~~ have not been established, the local office should attempt use of long arm jurisdiction as outlined in Chapter 4, Long Arm Paternity, to establish paternity/ and support whenever appropriate. Within 20 calendar days of locating the noncustodial parent in another state, interstate cases must be referred to the appropriate state child support enforcement agency if long arm jurisdiction does not exist.

The case must contain accurate and sufficient information to proceed with the case. A Child Support Enforcement Transmittal must be included.

When the responding state requests information, the local Arkansas OCSE office must provide that information within 30 calendar days or must notify the responding state when the information can be provided.

When new information has been verified, the responding state must be notified within 10 working business days of the receipt of the information.

A request for status of a nonpaying case will be sent to the responding state every 90 calendar days until payments have been obligated or restored.

~~A status request must be sent to the responding state on all nonpaying cases every 30 calendar days until the payments have been obligated or restored.~~

~~(45 C.F.R. § 303.7(b))~~

### Arkansas As The Responding State

The Central Registry will refer interstate cases to the appropriate caseworker. The caseworker must provide location services if the information provided is inadequate or at the request of the initiating state within 75 calendar days of the referral of the case. ~~(45 C.F.R. § 303.7(e)(4))~~

Within 10 working business days of receipt of a case from the initiating state, the Central Registry must ensure that documentation submitted with the case has been reviewed to determine completeness, forward the case for necessary action either to the State Parent Locate Service for location service or to the appropriate agency for processing, acknowledge receipt of the case, and ensure that any missing documentation has been requested from the initiating state. The Central Registry must respond to inquiries from other states within five working business days of receipt of the request for a case status review of cases that have not yet been forwarded to the local office.

~~(45 C.F.R. § 303.7(e)(6))~~

If the noncustodial parent is located in a county other than where initially located and there is no Arkansas court order, the case must be transferred to the appropriate county within 10 ~~working~~ business days of verifying the noncustodial parent's location. If an Arkansas court order already exists, the case will be ~~submitted~~ assigned to the county that issued the order. New information acquired while working the case must be transferred to the appropriate county within 10 ~~working~~ business days of verification.

If the noncustodial parent is located in another state, Arkansas OCSE must notify the initiating state within 10 ~~working~~ business days of the verification of the noncustodial parent's location. Arkansas OCSE, as the responding state agency, must return the form and documentation, including the new location, to the initiating state. Or, if directed by the initiating state, Arkansas OCSE must forward the form and documentation to the Central Registry in the state where the noncustodial parent has been located and notify the initiating state where the case has been sent.

The caseworker will provide all services necessary to locate noncustodial parents, establish paternity and child/ and medical support orders, and enforce existing child/ ~~and~~ medical support orders. OCSE will recognize and extend full faith and credit to court orders and affidavits acknowledging paternity issued in another state unless and until a court of competent jurisdiction directs otherwise. The caseworker will employ all remedies available under State law and OCSE policy to ensure compliance in interstate cases. The caseworker must provide location services if the information provided is inadequate or at the request of the initiating state within 75 calendar days of the referral of the case.

~~(45 C.F.R. § 303.7(e)(4)) (Ark. Code Ann. § 9-17-313)~~

Arkansas OCSE, as the responding state agency, must pay the costs of processing interstate cases, except that the initiating state must pay for costs of paternity testing in actions to establish paternity. If paternity is established in Arkansas, an attempt to obtain a judgment for costs of paternity testing from the putative father will be made. If costs are recovered, Arkansas must reimburse the initiating state.

~~(45 C.F.R. § 303.7(d)(2)(3))~~

Arkansas OCSE will recover the cost of providing services in interstate ~~non-TEA~~ cases, when applicable. Any fees deducted will be identified when payments are forwarded to the initiating state. However, the court may assess fees and costs against the noncustodial parent. Fees, cost, or expenses may not be assessed against the ~~eustodian~~ custodial party or the support enforcement agency of either the initiating or the responding state except as provided by other law. ~~(Ark. Code Ann. §§ 9-14-215, 9-17-313)~~

If an order of support exists in any other state and the order cannot be enforced without court action, the caseworker will forward the case to the legal section so the existing order can be registered.

In an interstate case, the state that initiated the case is our OCSE's customer. ~~As the responding state, Arkansas OCSE is not responsible for direct contact with the custodial parent in the~~

initiating state. It is not the responding State's responsibility to be in direct contact with the custodial party in the initiating state. However, it is the caseworker's responsibility to keep the initiating state informed of significant actions taken in the case so that the initiating state can keep the custodial party informed as to the status of the case.

## Chapter 4 ESTABLISHMENT

### OVERVIEW

In this chapter we discuss our responsibility to establish a child and medical support obligation. If the parents are not married when the child is born, paternity must be established before a child and medical support obligation can be established.

### ESTABLISHMENT OF PATERNITY BY ACKNOWLEDGMENT

~~States must have~~ Arkansas has laws and procedures that allow for a simple administrative process for acknowledging paternity. ~~States must ensure that~~ The rights and responsibilities of acknowledging paternity are explained, that due process is safeguarded, and that opportunities are provided at the hospital to acknowledge paternity when the baby is born. ~~are provided, in addition to providing opportunities outside the hospital.~~ If paternity has not been established, the opportunity to acknowledge is provided in all local child support offices, at Vital Records, and in Health Department offices throughout the State. ~~OCSE is required to provide an alleged father the opportunity to acknowledge paternity in all cases referred to the agency or in connection with an application for child support services.~~ Paternity must be established before or in connection with any other action to establish child and medical support. OCSE is not required to take additional action to establish paternity if, under sState law, the acknowledgment itself establishes paternity.

~~(45 C.F.R. §§ 302.70(a)(5)(iii), 303.5(a))~~

### Hospital-Based Paternity Acknowledgment Program

~~The Acknowledgment of Paternity (AOP) form is available in all birthing centers in the State, Arkansas Dept. of Health (DOH), Vital Records, and local child support offices. DOH offers voluntary paternity establishment services in all of its offices throughout the state in coordination with OCSE offices. OCSE must provide written materials about paternity establishment to all public and private birthing hospitals in the State, written materials about paternity establishment, forms necessary to voluntarily acknowledge paternity, and copies of a written description of the rights and responsibilities of acknowledging paternity. OCSE must also provide training, guidance, and written instructions regarding voluntary acknowledgment of paternity as necessary to operate the hospital-based program and must assess each birthing hospital's program on an annual basis.~~

~~(45 C.F.R. § 303.5(g))~~

The OCSE Administrator and the hospital birthing center, certified nurse practitioner, or licensed ~~midwives~~ midwife shall enter into cooperative agreements for compensation at a rate not to exceed \$20 for each valid Acknowledgment of Paternity (AOP) forwarded by the hospital, birthing center, certified nurse practitioner, or licensed midwife to OCSE.

A valid AOP must contain the signatures of both parents, and a notary must authenticate the parents' signatures. For children born in Arkansas after April 10, 1995, an AOP, properly executed during the child's minority, conclusively establishes the man as the father of the child, subject to modification pursuant to State law. For children born prior to April 10, 1995, paternity must be established by court order.

## **Effect Of Signing The Acknowledgment of Paternity**

~~A valid Acknowledgment of Paternity must contain the signatures of both parents, and a notary must authenticate the parents' signatures. For children born in Arkansas after April 10, 1995, an affidavit, properly executed during the child's minority, conclusively establishes the man as the father of the child, subject to modification pursuant to Ark. Code Ann. § 9-10-115.~~

The ~~Affidavit~~ AOP forms the basis for establishment and enforcement of a child support or visitation order without a further proceeding to establish paternity. If the ~~Affidavit~~ AOP is completed within 10 days after the birth of the child, the father's name will appear on the birth certificate. If the ~~Affidavit~~ AOP is completed after 10 days, the ~~eustodian~~ mother may request an amended birth certificate showing the father's name. If the mother is married to someone other than the biological father at the time of birth, the mother, husband/~~ex-husband~~, and the biological father may use the ~~Affidavit~~ AOP to establish paternity of the child and the biological father's name will appear on the birth certificate if completed within 10 days of the child's birth. If the ~~Affidavit~~ AOP is completed later than 10 days after the birth and the husband's name appears on the birth certificate, a court order must be entered to allow the name of the father to be corrected. There is a space on the ~~Affidavit~~ AOP that allows for change of the child's last name. ~~The child's last name can be changed by completing an Acknowledgement of Paternity (AOP).~~

## **Rescinding The ~~Affidavit Acknowledging~~ Acknowledgment of Paternity**

Any person who has signed an ~~Acknowledgment of Paternity~~ AOP may rescind the document within the earlier of 60 calendar days from the date of signing or prior to the date that an administrative or judicial proceeding, including a proceeding to establish a support order, is held relating to the child and the person executing the voluntary acknowledgment of paternity. Forms for this purpose are available at Department of Health, Division of Vital Records. Beyond the 60 calendar day period, the acknowledged father must file a motion in court to set aside a paternity establishment pursuant to a voluntary acknowledgment of paternity ~~must be~~ based on an

allegation that the acknowledgment was obtained by fraud, duress, or material mistake of fact. OCSE does not have the authority to assist the acknowledged father in the filing of such motions. The court may, after making such finding, direct the mother, the child, and the presumed father to submit to scientific genetic testing for paternity. The burden of proof shall be upon the person challenging the establishment of paternity.

The duty to pay child support and other legal obligations shall not be suspended while the motion is pending, except for good cause shown. The specific basis supporting the good cause findings shall be recited in the court's order.

~~(Ark. Code Ann. §§ 9-10-120, 9-10-115)~~

## **PATERNITY TESTING AFTER THE SUPPORT ORDER IS ENTERED**

~~While Ark. Code Ann. § 9-10-115(e)(1)(A) State law~~ allows a noncustodial parent who has not had a genetic test previously to have one paternity test at anytime during the time in which he is ordered to pay support. OCSE will not initiate this action on behalf of the noncustodial parent. OCSE will not suspend the collection of support while any action pursuant to this code section is pending, unless otherwise ordered by the court. ~~(Ark. Code Ann. § 9-10-115)~~

## **Disestablishment of Paternity**

The noncustodial parent may petition the court asking for paternity testing if paternity and support were established without testing. OCSE cannot assist the noncustodial parent in the filing of such petitions and will not enter into an agreed order for paternity testing in such circumstances. If the court determines, based upon the results of scientific genetic testing, that the adjudicated or presumed father is not the biological father, the court shall will set aside a previous finding or establishment of paternity; ~~and relieve the adjudicated or presumed father of any future obligation of support as of the filing date of the motion for modification. find that~~ there is no future obligation of support; order that any unpaid support owed under the previous order is vacated; and order that any support previously paid is not subject to refund.

If the name of the adjudicated or presumed father appears on the birth certificate of the child, the court shall will issue an order requiring the birth certificate be amended to delete the name of the father. It is the parent's responsibility to contact Vital Records to have the birth certificate corrected. ~~(Ark. Code Ann. §§ 9-10-115, 9-10-120, 20-18-401, 20-18-408, 20-18-409)~~

## **ADMINISTRATIVE PATERNITY TESTING**

If the parentage of a child has not been established, OCSE shall send a notice to the alleged putative father stating it is alleged that he is a biological parent of the child. The notice shall



inform the party that he, the ~~alleged~~ putative father, and the mother of the child may sign an affidavit acknowledging paternity, and that either party may request scientifically-accepted paternity testing to assist in determining the identity of the child's father.

In all OCSE cases where paternity is an issue, upon a sworn statement by the mother or ~~alleged~~ putative father, alleging or denying paternity, OCSE ~~shall~~ will issue an administrative order for paternity testing that will require the mother, ~~alleged~~ putative father, and minor child to submit themselves for paternity testing. OCSE ~~shall~~ will cause a copy of the administrative order for paternity testing to be served by certified mail on the mother and ~~alleged~~ putative father.

Any party to an administrative order for paternity testing may object to the order and request an administrative hearing within 20 days of receiving the order. The purpose of the administrative hearing ~~shall~~ will be limited to whether the paternity testing under the administrative order should be conducted.

OCSE ~~shall~~ will initially pay the costs of administrative paternity testing in open enforcement cases. Those costs ~~shall~~ will be assessed against the ~~alleged~~ putative father if paternity is established. If the ~~alleged~~ putative father is excluded as the biological father, the mother is responsible for the cost of testing (does not apply in TEA or Medicaid cases). Recovery of the costs of paternity testing by OCSE through all available processes ~~shall~~ will be initiated, including income withholding when appropriate.

~~(Ark. Code Ann. § 9-10-108)~~

Any party who objects to the results of such paternity testing may request additional testing upon proper notice and advance payment for retesting. OCSE will assist the objecting party in obtaining such additional testing, if requested.

If the results of paternity testing establishes a ~~95% or more~~ probability of inclusion that the ~~alleged~~ putative father is the biological father of the child, then OCSE may file a complaint for paternity and child support in the circuit court.

## SUIT TO DETERMINE PATERNITY

OCSE is authorized by ~~s~~State law to initiate a court action to establish paternity.

~~(Ark. Code Ann. § 9-10-104)~~

OCSE is not required to attempt to establish paternity in any case involving incest, forcible rape, or any case in which a legal proceeding for adoption is pending, if, in the opinion of an OCSE Field Manager, it would not be in the best interest of the child.

OCSE will not initiate court action to establish paternity or support while the ~~alleged~~ putative father is incarcerated. The caseworker will contact the ~~alleged~~ putative father and provide an opportunity for ~~the alleged father~~ him to voluntarily acknowledge paternity by signing the

~~Affidavit AOP if he so desires. OCSE will arrange for genetic testing at the request of the mother or the incarcerated putative father. However, no other action to establish paternity or support may proceed while the alleged putative father is incarcerated.~~

## **Long-Arm Paternity Jurisdiction**

~~Arkansas courts may exercise jurisdiction over an alleged a putative father or a legal father who resides in another state when any of the following conditions, provided in state law are met; if one or more of the following circumstances exist:~~

- The individual is personally served with a summons within Arkansas; \_
- The individual submits to the jurisdiction of this state by entering a general appearance or by filing a responsive document having the effect of waiving any consent to personal jurisdiction; \_
- The individual resided with the child in Arkansas; \_
- The individual resided in Arkansas and provided prenatal expenses or support for the child; \_
- The child resides in Arkansas because of the acts or directives of the individual; \_
- The individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse; \_
- The individual asserted parentage in the Putative Father Registry maintained in Arkansas by the Department of Health; or \_
- There is any other basis consistent with the constitutions of Arkansas and the United States for the exercise of personal jurisdiction.

~~The Long-Arm long-arm provision should be used before any other interstate action when it is confirmed that the alleged putative father lives in another state when permitted under state law. and one of the above circumstances exists. When the above conditions exist, a Action to establish paternity will be filed in the child's county of residence.~~

~~The Long-Arm long-arm provision applies to the establishment of paternity and/or the establishment of a support order.~~

**Note: Uniform Interstate Family Support Act recognizes that an intrastate case is preferable to an interstate case. Therefore, only pursue interstate remedies when all avenues for intrastate relief have been exhausted.**

~~(Ark. Code Ann. §§ 9-17-201, 9-14-101)~~

## **Establishing Paternity When The Mother Is A Parent is Deceased or Unavailable**

~~Arkansas State law authorizes genetic testing to establish paternity if the biological mother is deceased or unavailable (whereabouts are unknown). If the mother is deceased or unavailable, A~~ a relative of the ~~deceased or unavailable parent~~ who is willing to submit to genetic testing may be included in the testing process. The testing lab will advise OCSE regarding the participation of the relative. ~~(Ark. Code Ann. § 9-10-108)~~

OCSE will open a case and attempt to establish paternity and a support order in the case if the mother is the deceased parent and the child is living with a caretaker relative such as an aunt or grandmother.

If the ~~alleged putative~~ father is deceased, OCSE will not accept referrals or an application to establish paternity.

## **TIME FRAMES FOR ESTABLISHING PATERNITY/SUPPORT**

Federal regulations require states to implement an expedited process for paternity establishment. OCSE is required to establish paternity, when necessary, and establish a child-~~and~~ medical support order ~~and, if necessary, establish paternity~~ within 90 calendar days of locating the ~~alleged putative~~ father, or complete the service of process necessary to commence proceedings to establish a support order. Unsuccessful attempts to serve process must be documented.

## **PETITION FOR SUPPORT**

OCSE will initiate actions to establish paternity (when necessary) and support in the appropriate ~~Circuit Court~~ on behalf of customers of OCSE with an open enforcement case. ~~OCSE, w~~When the ~~physical custodian~~ custodial party receives assistance or has contracted with OCSE for support services, ~~may file~~ a petition may be filed to require the noncustodial parent or both parents, if the child has been placed in Foster Care, to provide support. If the noncustodial parent is incarcerated, an order for support will be ~~only~~ sought only after the individual has been released. The most recent Family Support Chart must be used to determine the amount of support.

~~(Ark. Code Ann. §§ 9-14-105(a), 9-14-105(b)(4))~~

## **Supplemental Security Income Benefits**

The Arkansas Supreme Court has held that an order for child support payments may not be based upon income from Supplemental Security Income benefits.

## **Social Security Disability Benefits**

When establishing support when disability benefits are being paid, the spouse and dependant benefit will be taken into account in determining the noncustodial parent's income. For example, the noncustodial parent's benefit amount plus any separate awards made to the disability recipient's spouse and children equals the total income for the noncustodial parent as defined by the Arkansas Supreme Court's guidelines for setting support.

~~(Davis v Child Support Enforcement, 341 Ark. 349, (2000).)~~

## **Proof Of Income**

OCSE will include in all petitions for an order for child support that the custodial ~~parent party~~ be entitled to request proof of income annually, in writing by certified mail from the noncustodial parent and that the noncustodial parent must respond by certified mail to the request within 15 calendar days of receipt. If new income information is provided by the custodial ~~party~~ or the noncustodial parent, OCSE will take legal action to modify the order, if appropriate

**NOTE: For more information on proof of income, see Ark. Code Ann. § 9-14-107.**

## **BANKRUPTCY**

Paternity and child support may be established ~~if even though~~ the noncustodial parent has filed bankruptcy without having to seeking relief from the automatic stay. Enforcement activity on any current child support or child support arrears included in the bankruptcy plan must cease pending receipt of relief from stay from the bankruptcy court. If OCSE receives a notice of bankruptcy, the attorney must review the case to determine the next appropriate action.

## **MEDICAL SUPPORT**

### **~~Securing Medical Support Information For Medicaid~~**

~~Individuals must be informed that medical support will be addressed in every court order. The required information listed below must be secured and provided to the Medicaid agency if the individual is a Medicaid applicant or recipient or with the consent of the individual who is not receiving or applying for Medicaid benefits. Information is automatically provided to the Medicaid agency when insurance information is properly entered into the OCSE data system. (45 C.F.R. § 303.30)~~

~~OCSE is required by federal regulation to obtain and provide the following information to the Medicaid Agency if such information is available or can be obtained in an OCSE case and if the information was not provided to Medicaid by TEA or Foster Care agencies:~~

- ~~• TEA case number, title IV-E foster care case number, Medicaid number or the individual recipient's social security number;~~
- ~~• Name of the noncustodial parent;~~
- ~~• Social security number of the noncustodial parent;~~
- ~~• Name and social security number of child(ren);~~
- ~~• Home address of the noncustodial parent;~~
- ~~• Name and address of the noncustodial parent's place of employment;~~
- ~~• Whether the noncustodial parent has a health insurance policy and, if so, the policy name(s) and number(s) and verification that the children are covered.~~

~~Federal law protects the individual's right to privacy with regard to their his or her medical histories and medical insurance coverage (45 C.F.R. 164.501). For the purposes of preparing for court, OCSE can ask employers if medical support is available to a noncustodial parent or putative father. OCSE can also ask employers if children listed in the order case being enforced are covered, but not about other children the employee may have covered. Additionally, OCSE cannot ask for medical support information unless the noncustodial parent has been determined to be the legal father of the children and is ordered to provide medical support.~~

## **Securing Medical Support**

~~Every court order must address the medical insurance needs of the child unless the custodian and children have satisfactory health care insurance other than Medicaid. (45 C.F.R. § 303.30) OCSE will determine the availability of health insurance for both parents-parties through interview and verification of employer records and present that information to the court so that a determination can be made as to which parent party is in the best position to provide coverage. Each order will address who should provide coverage and whether the other parent party should contribute to the cost of the premium, or that neither parent party has health care coverage available that is reasonable in cost and accessible to the child. OCSE will verify that insurance is provided. "Reasonable cost" as it pertains to insurance premiums and/or cash medical support and "accessible coverage" are defined in the Arkansas Supreme Court Guidelines for Setting Child Support Obligations (Administrative Order #10)~~

~~OCSE will provide information to the custodian custodial party and the Medicaid agency (if the custodian and/or child(ren) are receiving Medicaid benefits) regarding the health insurance policy including, but not limited to, the name, address and phone number of the health insurance organization, benefits covered under the plan, the policy number, claim forms, membership card, and any other information needed to file a claim.~~

Arkansas Code authorizes certain protections for children to ensure they are afforded adequate health care coverage:

- ~~The child cannot be denied coverage because he or she is receiving Medicaid.~~
- ~~The child cannot be denied coverage because he or she lives outside the service area.~~
- ~~The minor child shall be enrolled immediately in the noncustodial parent's health care plan without regard to enrollment season restrictions.~~
- ~~Except for nonpayment of the premium, health care coverage cannot be canceled unless the insurer has received notice in writing that another insurance plan covers the child, or unless the court order is no longer in effect.~~
- ~~Coverage cannot be denied because the child was born out of wedlock, is not claimed as a dependant on the parent's federal income tax return, or does not reside with the parent purchasing the policy.~~

(Ark. Code Ann. § 9-14-503)

## EXPEDITED PROCESS FOR ESTABLISHMENT CASES

Federal regulations and Arkansas State law require that action to establish child support obligations be taken within certain time frames. OCSE must, within 90 calendar days of locating the ~~alleged~~ putative father or noncustodial parent and regardless of whether paternity has been established, establish an order for support, complete service of process necessary to commence proceedings, or document unsuccessful attempts to serve process despite diligent efforts to obtain service of process. If the court dismisses a petition for a support order without prejudice, OCSE must, at the time of dismissal, examine the reasons for dismissal and determine when it would be appropriate to seek an order in the future.

Additionally, in all cases in which an order of support needs to be established and regardless of whether or not paternity has been established, action to obtain the order of support must be completed within ~~six~~ 6 months of the date of service in 75% of such cases and within ~~twelve~~ 12 months from the date of service in 90% of such cases.

If long-arm jurisdiction rules to establish paternity and support are used, ~~credit will be given as though the order was established within six months if it was~~ paternity establishment and/or support order establishment should be completed within twelve 12 months of service of process. Paternity establishment and support order establishment should be completed as one action when appropriate.

~~(Ark. Code Ann. § 9-14-204; 45-C.F.R. § 303.4)~~

## SERVICE OF PROCESS

### Guidelines For Diligent Efforts To Obtain Service Of Process

Attorneys representing OCSE are responsible for selecting the appropriate method of service. The method must be selected and action taken to obtain service within three working business days of the date on which the Summons or Contempt Citation was issued.

The sheriff may elect to serve legal papers in some counties. If the sheriff is unable to obtain service, the papers may be forwarded to the process server contracted to provide service of process in the county. If the sheriff elects NOT to serve legal papers, the process server who has contracted with OCSE to provide service of process may be used.

~~In the case of the use of Long Arm Jurisdiction, if service by an out-of-state sheriff or process server has been selected, and advance payment for service of process is required, the Summons and Complaint or the Citation must be mailed to the appropriate Sheriff or Process Server within three working days of receipt of an advance payment check from OCSE. Request for advance payment of fees must be made within two working days of the determination that advance payment is required.~~

## **Monitoring The Request For Service Of Process**

### ***Service by Sheriff or Process Server***

- If proof of service has not been returned within 14 calendar days of mailing, the sheriff or process server must be contacted to determine whether service has been obtained and, if not, whether the address provided has been determined to be inaccurate.
- If the address is inaccurate the attorney must immediately refer the case to the caseworker for relocate. The caseworker shall attempt to relocate the noncustodial parent and provide the attorney with a new address for service of process.
- If service is still being attempted using the address provided, follow up shall be made again 14 calendar days afterwards.

### ***Service by Restricted Delivery Mail***

- If the return receipt is not received within 30 calendar days, it shall be assumed that the service is unsuccessful, and request for service must be sent to the sheriff or process server within 35 calendar days after the restricted delivery was mailed.
- If the restricted delivery service is returned unclaimed, but with the appearance that the address is still good, request for service shall be sent to the sheriff or process server within two working business days.
- According to applicable Rules of Civil Procedure, if the restricted delivery service is returned marked "Refused" by the Post Office, it shall be re-mailed by first class mail

within two ~~working~~ business days of the return and along with a notice that despite such refusal the case will proceed and that judgment by default may be entered against the defendant unless he or she appears at the hearing. according to applicable Rules of Civil Procedure.

- If the restricted delivery service is returned with an indication that the address is no longer good, the file shall be referred to the caseworker for relocate immediately.

All efforts of service of process must be documented in the case file and ARCSIS note screens.



## Chapter 5 ENFORCEMENT

### ENFORCEMENT OF SUPPORT OBLIGATIONS

OCSE will pursue collection of child and medical support obligations and utilize all appropriate administrative and judicial remedies available under State law. Once an order is established, the noncustodial parent is responsible for making payments by the date set in the order. Enforcement of support obligations will be initiated on the date the noncustodial parent fails to make payments in an amount equal to one month of support. ~~(45 C.F.R. § 303.6)~~

Upon completion of legal activity necessary to establish an obligation for support and the amount of the support obligation, the case will be returned to the caseworker, who will be responsible for monitoring payments made by the noncustodial parent to ensure that ~~he/she~~ he or she complies with the support obligation. A child support obligation commences on the date specified in the order. If no start date is set out in the order, the first payment falls due on the date the order was filed ~~on record~~ with the clerk of court.

Enforcement through income withholding, intercept of unemployment benefits or workers' compensation benefits, income tax intercept, additional payments ordered to be paid on the child support arrearage or judgment, contempt proceedings, or any other means of collection shall be available for the collection of a child support arrearage or judgment until such is satisfied.

~~In counties where the court grants at least 2,500 divorces each year, the OCSE Administrator is authorized to appoint child support officers to assist in the service of civil and criminal process and to enforce child support orders in this state. Such officers shall be duly certified law enforcement officers and shall be appointed by the appropriate courts to service process. (Ark. Code Ann. § 9-14-206)~~

### Administrative Remedies

Caseworkers must use all ~~available~~ appropriate administrative methods as described in this chapter to enforce orders as the remedy of first choice. If administrative remedies have failed or are unavailable, court action to enforce orders should then be used as a last resort.

### Administrative Subpoenas

The Administrator or ~~his~~ a designee is authorized to issue an administrative subpoena for any financial or other information needed to establish, modify, or enforce a child support order to any individual or organization reasonably believed to have information on the financial resources of a

noncustodial parent or alleged putative father (~~Public Law 104-193; Ark. Code Ann. § 9-14-207~~)

A court may compel compliance with an administrative subpoena, impose penalties of up to \$100 for each day after 60 days of receipt of a request, and may award attorney fees and costs to OCSE upon proof that an individual or organization failed to comply with the subpoena without cause.

Subpoenas are served in the manner provided by law. OCSE will make and keep a record of all subpoenas issued. (~~Ark. Code Ann. § 9-14-208~~)

## Delinquency Notices

OCSE may send a delinquency notice to the ~~obligor~~ noncustodial parent when the unpaid support equals 30 days' obligation.

## Interest

~~OCSE or the obligee~~ The owner of the judgment or the counsel of record of the owner of the judgment may request in writing, prior to the entry of a judgment on arrears, that interest not accrue on past due support. (~~Ark. Code Ann. § 9-14-233(a)~~)

If interest is reduced to a judgment by the court or the amount of interest owed is received as a sum certain from another state, OCSE will include the sum certain amount as child support debt owed and collect by all appropriate enforcement means ~~available~~.

In a case where no sum certain is designated by the court and the custodial party wishes to collect interest, the custodial parent party may obtain, at his/her his or her own expense, ~~and the question of interest arises, then OCSE will advise the custodial parent that he/she should obtain a~~ certified calculation of the total amount of interest owed from a licensed accountant or other reliable financial source. The calculation must be accompanied by a professional opinion on official letterhead that states the calculation is reasonable based on the information provided for the calculation, ~~and is calculated in accordance with the State State~~ State law pertaining to child support interest. Documentation supporting the calculation must be attached in order for ~~a worker~~ OCSE to include the interest amount as a child support debt.

## Income Withholding

Income withholding ~~must always~~ is generally be used as an initial enforcement effort if the noncustodial parent is employed or if there is another source of periodic income subject to withholding.

OCSE will include a provision for income withholding in every child support order. In those cases where income withholding is not in effect, OCSE will take all necessary and ~~proper~~ appropriate actions to implement income withholding when the arrears are equal to or exceed 30 days' obligation. Income withholding has priority over any other legal process under State law against the same wages.

The law requires that all support orders or decrees ~~entered after August 1, 1985~~, include a provision directing the employer to deduct sufficient amounts to meet both the periodic support obligations plus an additional payment to apply against any accrued arrearage. The amount to be applied against the arrearage shall be the amount stated in the order expressed as a dollar amount or percentage, or 20% of the periodic payment if not specified by the order. The order of income withholding will be effective immediately unless there is a finding of good cause not to begin immediate income withholding or the order reflects the parties' agreement to other arrangements.

The income withholding law applies to existing orders as well as those entered after the enactment of applicable statutes.

~~(Ark. Code Ann. § 9-14-208 218; 45 C.F.R. § 303.100)~~

### ***Initiated Income Withholding***

~~Arkansas State Code~~ law provides for payment of child support obligations by mandatory initiated income withholding. Once a child support obligation is established under a court order authorizing income withholding, no further court action is required to implement the procedure to collect support from the noncustodial parent's wages or other income. Initiated income withholding must take effect when the amount of the delinquency is equal to the total court-ordered support payable for 30 calendar days and upon proper notice to the noncustodial parent. The provision will also apply when partial payments have been made but total arrears are equal to the obligation due for one month's obligation.

~~(Ark. Code Ann. § 9-14-208 218(a)(1))~~

### ***Immediate Income Withholding***

Orders, judgments, and decrees ~~entered in OCSE cases after October 1, 1989~~, should contain a provision for immediate income withholding. There are two exceptions: (1) ~~¶~~the court finds that there is good cause not to implement withholding; or (2) ~~¶~~the parties enter into an alternative agreement regarding withholding which is incorporated into the court order. However, if the noncustodial parent accrues arrearages, income withholding may be initiated without further court action, ~~as outlined in the immediately preceding section~~.

~~Arkansas Code effective October 1, 1989, requires immediate income withholding for payment of child support on all cases effective January 1, 1994. OCSE, an attorney representing the~~ eustodian custodial party, or the eustodian custodial party may initiate the income withholding implementation process ~~through the appropriate court clerk~~. An additional amount equal to 20% of the periodic payment must be deducted to apply against any accrued arrearage unless the court orders a specific amount or a set percentage to be paid on arrears.

OCSE must issue a wage withholding notice to the employer within two business days of the date the support order is entered if the employer's address is known on that date or, if the address is unknown, within two business days of locating the employer's address.

By law, the employer must begin the withholding no later than the first pay period that occurs after 14 calendar days following the date the notice was mailed.

~~(Ark. Code Ann. §§ 9-14-218(a)(2), 9-14-218(a)(3); Public Law 104-193)~~

### **Withholding of Lump Sum Payments**

State law requires that orders for payment of money for the support and care of any children include a provision for the withholding of the full amount of past due support owed by the noncustodial parent not to exceed 50% of the net lump-sum payment (entire amount of lump-sum less any amount required by law to be withheld) paid to the noncustodial parent. Lump sum payments are defined as a form of income paid to an individual at other than regular or periodic intervals; payment regardless of frequency that is dependent upon meeting a condition precedent, including the performance of a contract; a job performance standard or quota; the liquidation of unused sick or vacation pay or leave; the settlement of a claim; or an award for length of service.

~~(Ark. Code Ann. §§ 9-14-201(5)(6), 9-14-218(a)(1)(A)(i)(ii))~~

### **Notice**

~~Arkansas Code provides for specific items of information to be included in the Notice of Income Withholding for Support and Income Withholding Hearing Notice that are sent to the noncustodial parent and in the Implementation Notice that is sent to the employer. These forms contain the mandatory information.~~

~~(Ark. Code Ann. §§ 9-14-201(3), 9-14-221, 9-14-222)~~

### **Contested Withholding**

~~The only grounds available to an Obligor to contest wage withholding are that the person who received the notice was not the person obligated to pay the support, the arrears are incorrect, or the current support amount is incorrect. The noncustodial parent will receive an Income Withholding Claim Form to complete and return within 10 calendar days if he or she wishes to contest withholding.~~ OCSE will conduct an informal review of the income withholding order issued by the agency, upon the request of the noncustodial party, to confirm that he or she is the person identified as the person who owes the support and that the amount of current and past-due support is correct. However, if the noncustodial parent wants to request a hearing with the court he or she must do so within 10 calendar days of the date of the notice of income withholding. Once implemented, income withholding remains in effect, following the noncustodial parent from one employer to another until the support obligation is terminated or is set aside by the court.

~~(Ark. Code Ann. § 9-14-221)~~

If withholding is contested within 10 calendar days, the ~~investigator~~ caseworker will immediately forward the case to the Supervisor/Field Manager for administrative review, ~~and an initial determination on whether the withholding should commence/continue pending further review.~~ The noncustodial parent will be afforded an opportunity to present his or her case to the court ~~within 30 days of receipt of the notice.~~

### ***Termination Of Income Withholding***

If there are no child support arrearages, the noncustodial parent may terminate income withholding for child support without petitioning the court by giving written notice, in person or by certified mail, to the noncustodial parent's employer, the ~~physical custodian~~ custodial party, OCSE, the ~~clearinghouse~~ Clearinghouse, and the clerk of the court. The notice must be given no earlier than 30 calendar days before the termination of the duty to pay support, and must contain the name and address of the noncustodial parent, the name and address of the noncustodial parent's employer, a statement that income withholding for child support will be terminated, the date of termination, and the basis for termination of income withholding. (~~Ark. Code Ann. § 9-14-240~~)

The ~~custodian~~ custodial party, OCSE, or the clerk of the court may file a written objection to the termination. The written objection to the termination must be made by certified mail to the noncustodial parent and to his or her employer within 10 calendar days after receipt of the notice of intent to terminate income withholding for child support. It must state that the noncustodial parent's duty to pay child support has not been fulfilled as required by court order, and it must set forth the reasons for nonfulfillment. If a written objection is filed as provided in this section, income withholding for child support shall continue until such time as an order is entered which terminates, alters, or amends income withholding for child support.

**NOTE: For information on automatic modification of the support amount when one child emancipates, see Chapter 6. For information on termination of support for the oldest child, see Chapter 6.**

### ***Computing Amount For Withholding***

The Consumer Credit Protection Act (CCPA) and State law limits the amount of wages that are subject to withholding for support. The maximum amounts are expressed in percentages and depend on two variables:

1. Whether the ~~obligated parent~~ noncustodial parent has remarried and is supporting a new spouse or dependant child(ren); ~~and,~~
2. Whether the arrearage owed equals or exceeds 12 weeks of support. (~~15 USC 1673(b)~~)

Below is the breakdown of which percentage applies.

- A. 50% of the disposable earnings if the noncustodial parent is supporting a spouse or dependant child other than the spouse or child for whose support the court order was issued. ~~(Ark. Code Ann. § 9-17-222)~~
- B. 55% of the disposable earnings if the conditions of (A) above exist and the amount of arrears are equal to 12 weeks support or greater-
- C. 60% of the disposable earnings if the noncustodial parent is not supporting a spouse or dependant child other than the spouse or child with respect to whose support the court order was issued-
- D. 65% of the disposable earnings if the conditions of C above exist and there is an amount of arrearage of 12 weeks support or greater-

If the total to be withheld for current and past-due support exceeds CCPA limits and if all notices and orders for current support have been satisfied, the employer shall make prorated disbursements of the remaining amount available for disbursement toward arrears. *Prorated* means the proportionate amount each notice or order for payment of past due support bears to the total amount due for payment of past due support under all notices and orders.

#### **EXAMPLE**

Family A	\$150 current support
Family B	<u>\$200</u> current support
	\$350 total support

The employer has determined that the noncustodial parent has \$300 available for withholding based on CCPA limits.  
Withholding would be computed as follows:

$$\$150 \div \$350 = 43\% \text{ to family A or } \$129$$

$$\$200 \div \$350 = 57\% \text{ to family B or } \$171$$

The OCSE will, as far as practical, provide information and assistance to the employer in delineating the prorated disbursement amounts.  
~~(15 USC 1673(b); Ark. Code Ann. § 9-14-228)~~

#### ***Bankruptcy and Income Withholding***

If income withholding is in place when a noncustodial parent (employee) files bankruptcy, the caseworker will refer the case to the OCSE attorney for review and ~~instruction~~ advice on how to proceed.

### **Noncustodial Parents Receiving SSI Benefits Noncustodial Parents Receiving Social Security Benefits**

Income withholding can be used to offset payments from Social Security Disability Benefits. ~~However, income withholding is not available against Supplemental Security Income (SSI) payments. However, Cases should be reviewed by an attorney since legal action may be necessary to address current support and the amount to be paid on arrears.~~ OCSE may use appropriate enforcement remedies to collect any obligation owed by a noncustodial parent who receives SSI.

The noncustodial parent will receive credit against a child support obligation for benefits paid contemporaneous with the support accruals. A retroactive benefit should be credited against support accruing during the period covered by the retroactive benefit but will not be credited against arrears that may have accrued prior to the date on which the NCP's disability was determined to have commenced.

In disability situations in which there is a gap between the disability and the period for which benefits are paid, any excess of benefits over the child support for the period do not carry back for application to any arrearage that accrued between the disability and the benefit period.

### ***Expedited Process For Enforcement Cases***

OCSE must take an enforcement action from the date of delinquency or locate, whichever is later, within the following time frames:

- 30 calendar days, if **no** service of process is required
- 60 calendar days, if service of process is required

~~(45 C.F.R. § 303.6(e)(2))~~

The Federal regulations require that action to enforce must be commenced and completed within the appropriate time frame. If contempt is the appropriate enforcement action, the motion must be filed, served, and a hearing must be held to reach a final disposition within 60 calendar days of the delinquency or locate, whichever is later. Disposition is defined as the date on which a support order is officially established and/or recorded or the action is dismissed.

## **INTERSTATE INCOME WITHHOLDING**

### **Interstate Enforcement**

When a support order or income withholding order issued in another state is registered, the registering tribunal (Arkansas) must notify the nonregistering party. The notice must be accompanied by a copy of the registered order, along with other documents and relevant information. The notice must inform the nonregistering party that a registered order is

enforceable as of the date of registration in the same manner as an order issued by a ~~tribunal of~~ Arkansas court. A hearing to contest the validity for enforcement of the registered order must be requested within 20 calendar days after notice. Failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation and enforcement of the order and alleged arrearages, and will preclude further contest of that order with respect to any matter that could have been asserted.

~~(Ark. Code Ann. §§ 9-17-601 to 603)~~

### ***Direct Income Withholding***

OCSE will initiate income withholding by sending an income withholding notice to an employer in any state where the noncustodial parent is located and employment is verified. If the employer fails to implement withholding, OCSE will forward a request to the other state's child support agency to enforce the income withholding order.

### ***Contest By The Noncustodial Parent Of An Income Withholding Order Issued In Another State***

A noncustodial parent may contest the validity or enforcement of an income withholding order issued in another state and received directly by an employer in Arkansas, by giving notice to the following individuals/or entities:

- The support enforcement agency providing services to the custodian-
- Each employer that has directly received an income withholding order-
- The person or agency designated to receive payments in the income withholding order-
- To the custodian if no person or agency is designated to receive payments-

~~If a notice contesting the income withholding order of another state is received in Arkansas, If a noncustodial parent contests an income withholding notice that was issued in another state, the caseworker must will~~ contact the other state to advise that the noncustodial parent has contested the direct income withholding. If the other state initiates interstate enforcement pursuant to UIFSA, the order will be registered ~~as directed by Ark. Code Ann. § 9-17-501.~~

## **UNEMPLOYMENT BENEFITS**

~~Arkansas Code State law~~ provides for an information exchange with ~~the Employment Security Division (ESD)~~ the Department of Workforce Services (DWS) and the withholding of Unemployment Insurance Benefits (UIB) to apply against a court-ordered child support obligation. Intercept of UIB is subject to income withholding for the amount of the obligation.



The amount withheld cannot exceed Consumer Credit Protection Act (CCPA) limits as discussed above in Chapter 5, “Computing Amount for Withholding.”  
(~~Ark. Code Ann. §§ 11-10-109, 11-10-110~~)

## Case Selection Criteria

Cases to be considered for withholding of UIB must meet the following criteria:

- There must be a valid court order for child support;
- The court order must direct ~~ESD DWS~~ to withhold from UIB, or the noncustodial parent must agree that ~~ESD DWS~~ will withhold from UIB;
- ~~There must be a delinquency resulting from nonpayment of the court ordered support obligation; and~~
- There must be an open ~~OCSE~~ enforcement case.

## Intercept Agreement

There should be a provision in a court order for income withholding that permits withholding from UIB. If the income withholding provision is not in the order, a Notice Regarding Unemployment Compensation with the Agreement to Withhold from Unemployment Insurance Benefits will be sent to the noncustodial parent. This signed form is sufficient to begin income withholding from UIB. If the noncustodial parent fails to sign and return the agreement, court action will be necessary to change the order and permit withholding from UIB.

The amount to be deducted will be the amount stated in the order or current support amount plus an additional 20% for arrears or the amount ordered paid on arrears. The amount to be paid on arrears must be either in the court order or in the agreement that the noncustodial parent signs. ~~As stated above, †~~The total amount to be withheld is subject to CCPA limits.

## FEDERAL OFFSET PROGRAM

~~The Omnibus Budget Reconciliation Act of 1981 and the~~ The Internal Revenue Code authorizes the collection of delinquent child support through the interception of federal income tax refunds. ~~Public Law 98-378 expands this collection process to non-TEA cases and authorizes collection of past due support owed to adult disabled children if there is a support order in effect for the child and the child, while a minor, was determined to be disabled. OCSE may certify arrears owed to the custodial parent party regardless of the age of the dependants listed in the case.~~

Financial Management Service (FMS), a bureau of the Department of Treasury (DoT), operates the Treasury Offset Program (TOP), which maintains a centralized TOP Master Debtor File. This file contains a list of taxpayers owing debts to various agencies, including child support debts.

~~On January 1, 1999, FMS began operating the Federal Income Tax Refund Offset Program and Administrative Offset Program as part of TOP. Funds offset through these programs are sent by FMS to the Program Support Center (PSC), which then, on behalf of OCSE, forwards the funds to the state or states that submitted the obligor noncustodial parent to OCSE for offset.~~

For cases that meet the criteria for a tax refund offset, arrears will automatically be certified to Financial Management Services (FMS) for federal tax offset and administrative offset. Eligible cases will be extracted and sent to the State Department for passport denial. OCSE will not certify a case in which the noncustodial parent or his or her spouse has filed for bankruptcy prior to October 17, 2005, under Chapters 7, 11, or 13 of Title 11 of the U.S. Code unless the automatic stay has been lifted or is no longer in effect. However, if bankruptcy was filed after October 17, 2005, the case meeting the criteria may be certified for federal tax offset.

~~(AT 98-17)~~

## Criteria For Certification

- Only those cases in which child support enforcement services are provided are eligible.
- Past-due support:
  - May include medical support only if a specific dollar amount is included in the order.
  - May not include fees or court costs or any other non-child support debts owed to the State or to the family.
- OCSE must:
  - Verify the accuracy of the arrears.
  - Have a copy of the order and payment records or signed affidavit from the custodial parent party attesting to the arrears.
  - Verify the noncustodial parent's name and SSN.
  - Have the noncustodial parent's current address.
  - Certify that the information is accurate and that the State has afforded the noncustodial parent all due process rights.
- Certifications in TEA cases may include an amount for support and maintenance of a child, or support of a child and the parent with whom the child is living.
- Spousal support is eligible for certification in ~~Non~~-TEA and Medicaid-only cases in which the parent is living with the child and spousal support and child support obligations are included in the same order.
- When certifying an interstate case, the request may be made only by a state ~~which~~ that has taken an assignment or application for child support enforcement services.

## ~~Time Frames For Certification~~

- The amount of arrears certified is modified ~~monthly~~ bi-weekly to show the increase or decrease in the arrears amount.
- New cases are submitted on a continuing basis. A new case is one that has not been previously submitted to the combined offset program, or a case that was deleted because the

debt was satisfied but in which subsequent arrears have accrued and the case is being certified for offset again.

- If more than one state certifies a noncustodial parent, the state that submits its certification to FMS first will receive the offset.

## Federal Income Tax Offset

Case selection for Federal Income Tax Offset is as follows and is mandatory for all cases that meet the criteria:

- ~~Arrears must not be less than \$150 and must be delinquent for at least three months for IV-E foster care cases. For TEA cases, the arrears must be at least \$150~~
- ~~Arrears must not be less than \$500 and must be delinquent for at least three months for non-TEA and Medicaid only cases. For non-TEA cases, the arrears must be at least \$500~~
- ~~The child must be a minor at time of offset. (Federal Offset User's Guide 1.2.1)~~
- ~~Adult disabled persons with an ongoing support order may be certified if they were determined to be disabled while they were minors.~~
- ~~Federal income tax refund offset is mandatory for all cases that meet the criteria.~~

## Administrative Offset

All case types eligible for Federal income tax offset are eligible for administrative offset.

- Recurring and nonrecurring payments can be offset, such as:
  - ~~Federal Retirement payments~~
  - Vendor and miscellaneous payments
  - Expense reimbursement payments
  - Travel payments.
- The debt must be at least ~~\$25~~ \$150 in TEA cases and \$500 in Non-TEA cases ~~and 30 days past due.~~
- There is no age restriction for the child.

The cost of each offset will be passed on to the custodial ~~parent~~ party in non-TEA cases. If cases are submitted for administrative offset, federal wages and retirement payments will be excluded and income withholding will be used to collect from these sources.

## ***U.S. Passport Denial***

U.S. ~~P~~passport ~~D~~denial is part of the federal offset program. Cases submitted for the federal tax offset program with arrears that exceed ~~\$5,000~~ \$2,500 will be extracted from the electronic file and forwarded to the U.S. State Department. The ~~obligor~~ noncustodial parent is “flagged” and a passport is denied at application. The ~~obligor~~ noncustodial parent is told to contact the child

support office that certified the debt. Only the state that certified the debt can withdraw or remove the obligor noncustodial parent from the denial process. Participation in the passport denial process is mandatory. ~~When~~ If arrears fall below the ~~\$5,000~~ \$2,500 threshold, the case will remain “flagged” until the noncustodial parent pays the amount owed in full. There is no age restriction for the child. Passport ~~Denial~~ is mandatory for all cases that meet the criteria.

~~Currently, only passport denial is operational.~~ If more than one state certified the obligor noncustodial parent, all states must remove the obligor noncustodial parent from the process before a passport can be issued.

## **Release of the Passport Flag**

Generally, arrears should be paid in full before OCSE will notify The Department of State (DOS) to release the passport flag. However, if the noncustodial parent requires a passport for work-related travel, the caseworker should 1) verify the employment information, 2) issue a Notice of Income Withholding to the employer for current support plus an amount to be applied on arrears of not less than 20% of the current support amount, and 3) the noncustodial parent must make a payment of the current support amount for the month and not less than 25% of the total amount of the arrearages.

~~The Department of State (DOS) will not be notified to remove the denial flag unless: 1) the noncustodial parent pays the full amount owed, 2) the denial is an error, or 3) there is a life or death situation as described below and the noncustodial parent makes a good faith payment of the current support amount for the month plus at least 25% of the amount of arrears, and establishes income withholding for continued payments. An erroneous submittal is for an individual who has never owed child support and does not include someone who owed child support at the time of submittal/denial and has since made payments.~~

DOS will be notified to release the passport when any of the following is true:

- OCSE submitted the individual in error (the individual submitted has never owed child support)
- The noncustodial parent pays the arrears in full
- There is a life or death situation as described below, the noncustodial parent makes a payment of the current support amount for the month plus at least 25% of the amount of arrears, the noncustodial parent provides a note from a doctor or the Red Cross stating there is a life or death situation, and OCSE establishes income withholding for continued payments
- The passport is required for military deployment verified by a letter from the Commanding Officer

~~Once the flag has been removed and the passport is issued, the passport does not expire for 10 years. All cases will be carefully reviewed before sending notice for removal from the denial process.~~

An emergency Notice of Passport Withdrawal letter will be submitted to Federal OCSE to remove the ~~obligor~~ noncustodial parent from the denial process **only** for life or death situations involving an immediate family member or an erroneous submission. In life or death situations, verification of the death or medical emergency is mandatory. Verification must be from a medical doctor or a Red Cross notification.

Immediate family is defined as:

- Parent or guardian of obligor
- Child (natural or adopted)
- Grandparent
- Sibling
- Aunt
- Uncle
- Step-child
- Step-parent
- Step-sibling
- Spouse

## Priority

Financial Management Services (FMS) will pay certified debts in the following priority:

- ~~IRS tax debts have first priority over all other offsets.~~
- ~~TEA and foster care arrearages.~~
- ~~All other federal debts.~~
- ~~Non-TEA child support arrearages including Medicaid only cases.~~

1. Federal tax debts (i.e., IRS)
2. Past-due child support in TEA, IV-E Foster Care, and non- TEA cases
3. Other Federal debts (i.e., education debts)
4. State tax debts.

## Pre-Offset Notices

OCSE will send pre-offset notices to ~~an obligor~~ a noncustodial parent when the case meets the criteria for certification to the Federal Offset Program. Certified arrearages may be modified higher or lower without further notice to ~~the obligor~~ a noncustodial parent. If an arrearage is paid to a zero balance or modified to a zero balance and then accrues an arrearage at a later date, a new pre-offset notice will be sent to ~~the obligor~~ a noncustodial parent prior to re-certification for the new arrearage.

### ***Federal Tax Offset Complaint Resolution***

Upon receipt of the pre-offset notice, the noncustodial parent may contact the local OCSE office to contest the debt. At this time, the case record should be reviewed to determine whether the case was certified correctly. If reduction or deletion of the certified amount is required, the local OCSE office ~~takes~~ will take the necessary action. If a request for a hearing has been received, ~~but~~ the issue is resolved without a hearing, a letter must be sent to the noncustodial parent explaining how the issue was resolved and confirming that an ~~Administrative H~~earing will not be held.

If the complaint concerns a joint tax refund, the noncustodial parent should be advised to file an amended tax return with the Internal Revenue Service (IRS). IRS will process the spouse's portion directly to the taxpayer.

### **Federal Tax Offset Administrative Review/Hearing**

OCSE will follow policies outlined in Chapter 9, Administrative Hearings, for conducting reviews on federal tax offset complaints.

If the complaint is on an intrastate case (both the noncustodial parent and ~~eustodian~~ custodial party are in Arkansas) the hearing will be conducted following procedures outlined in Chapter 9, Administrative Hearings. In an interstate case, ~~at upon~~ the request of the noncustodial parent, the ~~review hearing must be is~~ will be conducted by the state that issued the support order.

When an ~~Administrative Rreview~~ or ~~Administrative H~~earing is conducted in the state with the order, the certifying state will comply with the decision made by that state.

## **STATE INCOME TAX REFUND OFFSET**

~~Arkansas Code~~ State law authorizes collection of current support and past due child ~~and~~ medical support, as defined by ~~Arkansas code~~ State law, through the interception of State income tax refunds.

A listing of delinquent obligors and the amount of past due child ~~and~~ medical support certified for collection is combined with other debts ~~due~~ owed to Arkansas by custodial parties or noncustodial parents and submitted to the Revenue Department ~~by December 1 of each tax year~~. This list is matched against the Revenue Department taxpayer file. ~~The Revenue Department then flags the matches~~. When a tax refund becomes available for an individual whose debt has been certified, the Revenue Set-Off Unit forwards the funds to OCSE and the refund is applied against the amount of the debt. The Revenue Department pays any excess directly to the taxpayer. Medical support, overpayments, cost and fees are subject to tax intercept. ~~The amount certified for State Tax Offset shall not include instant debt amounts entered as judgments at the time the court issues a support order, so long as regular payments have been made on this debt type~~.

Collections from a noncustodial parent as a result of State income tax refund offset are treated as a regular child support payment and disbursed accordingly ~~paid to the family or distributed to title IV-A and IV-E foster care cases, must be sent to the family or IV-A/IV-E agency as appropriate.~~

## Cases Eligible For Offset

In addition to the legislative requirements, OCSE has established the following criteria for cases to be submitted for State intercept:

- There must be a court order for support.
- Arrearage must be at least \$50, for TEA or Foster Care cases; and \$100.00 for non-TEA cases. Instant debt balances will be included in the certified amount; however, cases with orders less than 30 days old from the effective date will not be certified regardless of the arrearage amount.
- The fees of the noncustodial parent must total at least \$100.00 50.00 for those cases with TEA arrears only. For cases with non-TEA arrears, the arrears and fees combined must total at least \$100 before they are certified. Fees and TEA arrears may be combined to reach the \$50 threshold for TEA certification.
- The fees of the custodial party must total at least \$50.00. Non-IV-D cases and closed cases will be certified; open IV-D cases will not be certified.
- There must be an assignment of child support rights to the State of Arkansas for TEA, Medicaid, and IV-E Foster Care cases or a contract for child/ and/or medical support for non-TEA cases.
- Arkansas must be the responding ease state in interstate cases (i.e., the noncustodial parent must reside in Arkansas).
- OCSE must not submit a case in which the noncustodial parent or the noncustodial parent's spouse has filed bankruptcy under Chapters 7, 11, 12, or 13 of the United States Code prior to October 17, 2005. If bankruptcy is filed after certification and a collection is made, refer the case to legal for amended proof of claim.
- The custodial ~~parent~~ party will be certified for offset if there is an overpayment balance in excess of \$25, ~~the debt is at least 90 days old, and no payment has been applied to the overpayment balance within the preceding 90 days. (Custodial parent fees will not be certified.)~~ if the custodial party did not respond to the notices regarding the overpayment or failed to make arrangements to repay the overpayment.

## State Tax Pre-Offset Notices

The individual who is being certified to the Revenue Department will be given written notice in advance of the agency's intent to intercept his or her tax refund.

## State Tax Offset Informal Complaint Resolution

The local office will attempt to resolve complaints or questions regarding State Tax Offset informally and is responsible for making adjustments to or deletion of the state tax offset certification. The customer should be informed that they must submit a written request in order to contest the offset through an Administrative Hearing within the timeframes indicated in the pre-offset notice.

~~Typically, a noncustodial parent will contact the local OCSE office with questions regarding the certification process or challenging the validity of a debt. Many complaints can be resolved without a formal Administrative Hearing. It is important to listen carefully to the nature of the complaint and to research the facts of the case thoroughly. If adjustment or deletion of the certification is required, the local OCSE office must take appropriate action.~~

~~If the noncustodial parent requests the release of a spouse's portion of a joint tax refund, he or she should be advised to contact Central Office, Special Collections Section.~~

## LICENSE SUSPENSION

~~Arkansas State law authorizes and establishes procedures for the suspension of specified state-issued licenses, including commercial driver's and regular driver's licenses, including motorcycles; permanent license plates; recreational licenses; and occupational, professional and business licenses of an obligor a noncustodial parent, if certain conditions exist on a case. When interviewing the obligor noncustodial parent, the local OCSE office should request that the obligor noncustodial parent allow the office to copy the obligor's noncustodial parent's driver's (or commercial driver's) license and Social Security card for identification purposes and for future reference. This information is to be maintained in the file at the local OCSE office. All licensing authorities affected may not be capable of interface automation with the OCSE database. Periodically, staff should make inquiries with eustodians custodial parties or other knowledgeable sources to determine if an obligor a noncustodial parent holds a State-issued license subject to suspension.~~

~~(Ark. Code Ann. § 9-14-239)~~

**NOTE: There are two classes of driver's licenses state ID cards which that do not fall within the definition of "license": Class ID (issued for identification only) and Class X (issued for persons who have been ticketed for a traffic violation in Arkansas but have not been licensed**



to drive in Arkansas). ~~These two types of licenses~~ Class ID and Class X will not be suspended.

One of the following two conditions must be met in order to suspend ~~an obligor~~ a noncustodial parent's driver's license:

Condition 1: The ~~obligor~~ noncustodial parent is delinquent on a court-ordered child support payment in an amount equal to three months' obligation or more, or the ~~obligor~~ noncustodial parent is delinquent on payments toward an adjudicated arrearage in an amount equal to a three months' obligation or more; ~~or~~

Condition 2. The ~~obligor~~ noncustodial parent is the subject of an outstanding failure to appear, body attachment, or bench warrant related to a child support proceeding.

**NOTE: If the ~~obligor~~ noncustodial parent has filed bankruptcy, no action to suspend or revoke a license should be taken ~~unless an order granting relief from the automatic stay has been obtained from Bankruptcy Court.~~ until the Consult with the responsible OCSE attorney has reviewed the case and provided instructions on how to proceed. Suspensions made prior to a filing of bankruptcy will not be reinstated.**

The following are ~~E~~exceptions to the above conditions:

1. If the ~~obligor~~ noncustodial parent was assessed retroactive support, the ~~obligor~~ noncustodial parent is not "delinquent" in ~~his~~ child support payments for those retroactive support payments. For example, if the ~~obligor~~ noncustodial parent is the putative father and the court finds him to be the legal father and invokes the law authorizing the setting of support retroactively, then the ~~obligor~~ noncustodial parent is not delinquent because there was never an obligation to pay anything before the court date. "Instant debt" will not be considered an "adjudicated arrearage" for the purpose of this policy. However, if the ~~obligor~~ noncustodial parent fails to pay on a retroactive support order for three months or in a total amount equal to at least three months' obligation, license suspension may be appropriate. ~~(Ark. Code Ann. § 9-14-239)~~
2. The ~~obligor~~ noncustodial parent pays the delinquency below an amount equal to three months' obligation.
3. ~~Obligor~~ Noncustodial parents who are currently in compliance with a written agreement with OCSE requiring periodic installment payments for liquidation of a child support delinquency or adjudicated arrearage, ~~obligor~~ noncustodial parents

currently in compliance with their most recent court order reducing a child support arrearage to proper judgment and requiring periodic payments for liquidation of the judgment, or ~~obligor noncustodial parents~~ who are currently making regular and periodic payments on a child support delinquency or adjudicated arrearage through income withholding.

4. The ~~obligor noncustodial parent~~ enters an ~~Agreed Order~~ or written installment agreement with OCSE with instructions to pay current support plus an additional specified amount to be applied to the arrearage/delinquency. The ~~Agreed Order~~ or written installment agreement should contain a provision that stipulates that if the ~~obligor noncustodial parent~~ becomes 30 days delinquent on the ~~Agreed Order~~ or written agreement, the license(s) affected will be suspended immediately, and the ~~obligor noncustodial parent~~ specifically waives all rights to an administrative hearing or further notice prior to the suspension(s).
5. ~~Obligor Noncustodial parents~~ who are periodically making regular payments voluntarily in an amount equal to current support plus at least ~~10%~~ 20% toward liquidation of the arrearage/delinquency, or are paying to the extent permitted under Consumer Credit Protection Act guidelines.

OCSE can place a suspension against an expired license, which will prevent the noncustodial parent from receiving a new license until arrangements have been made with OCSE to pay current support and an amount toward arrears.

## Notice Of Intent To Suspend License

If either Condition 1 or Condition 2 noted above exists and none of the five Exceptions apply, ~~the responsible local OCSE office will mail~~ a Notice of Intent to Suspend License will be mailed to the ~~obligor noncustodial parent~~. Notices should be sent certified mail to the most current address as provided by the licensing authorities, or to the address provided to the court by the noncustodial parent, unless a verified address has been obtained. In the event a notice sent by certified mail is rejected or unclaimed, a subsequent mailing of the ~~Notice~~ notice by regular first class mail shall be considered sufficient (must be narrated/documented). The notice will specifically identify all known licenses and permanent license plates held by the ~~obligor noncustodial parent~~ and will inform the ~~obligor noncustodial parent~~ that the specified licenses or license plates will be suspended in 60 days of the opportunity to request unless the noncustodial parent requests an Administrative Hearing within 30 calendar days following receipt of the 60 Day Notice. The notice shall advise the ~~obligor noncustodial parent~~ that identified licenses will be suspended unless the request for a hearing is received within 30 calendar days of the notice. ~~(Ark. Code Ann. § 9-14-239)~~

If the 60 days ~~have~~ has expired and no appeal is pending, ~~notify Central Office to suspend the license will be suspended~~. The ~~obligor noncustodial parent~~ must enter into an installment

agreement before the license will be reinstated. Additionally, the ~~obligor~~ noncustodial parent may avoid suspension or obtain reinstatement by paying the delinquency to an amount below three months' obligation.

### ***License Suspension Informal Complaint Resolution***

Following issuance of the Notice of Intent to Suspend License, ~~an obligor~~ the noncustodial parent may avoid license suspension by contacting the local OCSE office and entering into an ~~Agreed Order~~ or written installment agreement with OCSE as described in Exception 4 listed above. ~~Agreed Orders and W~~ritten I~~n~~st~~allment A~~g~~reements~~ made after issuance of a License Suspension Notice should include a condition that requires that some payment be made by the ~~obligor~~ noncustodial parent before expiration of the notice of intent to suspend. In the event the ~~obligor~~ noncustodial parent contests the accuracy of the arrearage information or the duration of the delinquency, he or she can schedule an appointment with the local OCSE office to resolve the issue. ~~The local OCSE office must promptly attempt to resolve the complaint.~~ Issues that cannot be resolved by the local OCSE office ~~should~~ will be forwarded to Central Office for an ~~A~~administrative H~~e~~aring if requested by the ~~obligor~~ noncustodial parent.

### ***Licensing Suspension Hearing Notice And Packet***

Referral packets for administrative hearings ~~must contain copies of the following:~~

- ~~• Notice of Intent to Suspend License.~~
- ~~• Obligor's request for a hearing.~~
- ~~• Hearing statement completed by the local office.~~
- ~~• Copies of all child support orders.~~
- ~~• An arrears summary.~~
- ~~• Copies of any relevant correspondence between the obligor (or representative) and the Office of Child Support Enforcement.~~

~~The packet should be routed to the Central Office, Attention: Appeals and Hearings. The Appeals and Hearings Section will notify the obligor and the responsible local OCSE office of the date, time and location of the hearing. The hearing scheduling notice will provide that the obligor's failure to appear for the scheduled hearing will be considered a waiver of the administrative hearing process. The Appeals and Hearings Section will notify the initiating local OCSE office that the hearing packet has been received and advise whether any additional information or documents are needed.~~

~~(Ark. Code Ann. § 9-14-239; OCSE Policy Chapter 9)~~

### ***License Suspension And Reinstatements***

Central Office staff will have access to Driver Control files and will be responsible for keying any suspensions or reinstatements of driver's and commercial driver's license. ~~All suspensions and reinstatements must be submitted in writing to Central Office, Attention: License Suspension/Reinstatement Section. To ensure that the obligor is allowed 60 calendar days from the receipt by mail of the Notice of Intent to Suspend License, a copy of this notice must be retained in the case file.~~ If an ~~obligor~~ the noncustodial parent pays the arrearage below an amount equal to three months' obligation, or the court enters a judgment on arrears, the license ~~must will~~ be reinstated. Following license suspension, ~~an obligor~~ the noncustodial parent may obtain license reinstatement by entering into an agreed order or written installment agreement with OCSE as described in OCSE policy. The ~~Agreed Order~~ or written installment agreement should contain a provision requiring a lump sum payment in addition to requiring the periodic payment of current support and regular periodic payments on the arrearage/delinquency. It is imperative that Central Office be notified to immediately take necessary actions to restore the license or permanent license plate of the obligor when the condition warranting suspension has been removed. ~~(Ark. Code Ann. § 9-14-239)~~

In some instances, ~~obligors~~ noncustodial parents may initiate action on their own accord resulting in a court order eliminating the presence of Condition 1 or 2. If the ~~obligor~~ noncustodial parent takes such action eliminating the threshold condition for license suspension prior to the effective date of the intended suspension, the responsible local OCSE office must immediately upon notification notify the ~~Appeals and Hearings Office~~ Central Office Program Support section to take action to set aside suspension activity on the case and to notify the ~~obligor~~ noncustodial parent accordingly.

In the event of fraud or mistake resulting in a wrongful suspension, OCSE shall immediately notify the licensing authority involved to restore the license or permanent license plate of the ~~obligor~~ noncustodial parent as appropriate. When an ~~OCSE enforcement~~ case closes, OCSE loses its authority to enforce the child support order. Although the case may remain open for payment processing, ~~OCSE does not expend any efforts~~ cannot take any action on the case to enforce or collect child support. Therefore, when an ~~OCSE enforcement~~ case is closed, OCSE cannot continue a license suspension action against the ~~obligor~~ noncustodial parent, and his or her licenses should be reinstated.

~~When a case closes or is changed to the status of "payment processing only," the caseworker responsible for that case should check to see if OCSE has suspended any of the obligor's licenses for failure to pay child support. If any of the obligor's licenses are suspended for failure to pay child support, the caseworker must immediately contact the license suspension section in Central Office and ask that the license(s) be reinstated. The request should be made in writing and a copy of the request placed in the OCSE case file.~~

~~When properly requested,~~ The Central Office License Suspension Section will reinstate the obligor's noncustodial parent's driver's license and, if necessary, notify the appropriate licensing agency to reinstate any other license(s) licenses. Central Office will ~~also~~ notify the ~~obligor~~

~~noncustodial parent that the licensing authorities have been notified. his or her driver's license has been reinstated, and that a notice has been sent to the other licensing agencies to reinstate any other suspended licenses. Unless otherwise requested, no further action concerning the obligor's licenses will be taken by Central Office. Any file kept on the obligor by Central Office will be closed and placed in storage.~~

### ***Referrals And Injunctions For Suspended License***

~~Whenever OCSE or any of its local offices determines that an obligor the noncustodial parent has engaged in an activity despite suspension of the license to engage in that activity, a referral should be made to the licensing authority and/or to law enforcement, as appropriate. In some cases the local OCSE office may consider seeking a court injunction from the appropriate Circuit Court restraining the noncustodial parent from any activity not permitted during license suspension. The responsible assigned OCSE attorney should be consulted if the local OCSE office believes that injunctive relief should be pursued.~~

### ***Law License Review***

~~Semiannually, the Clerk of the Arkansas Supreme Court is requested to furnish OCSE with a list of persons who possess an Arkansas Law License. Obligors Noncustodial parents on the list who meet one of the Conditions and none of the Exceptions listed previously will be referred to the Clerk of Supreme Court for review of their law license.~~

## **LIENS ON ASSETS HELD BY FINANCIAL ENTITIES**

~~Arkansas State law requires each financial entity (defined as any bank, trust company, savings and loan association, credit union, insurance company, or any corporation association, partnership, or individual receiving or accepting money or its equivalent on deposit) to cooperate with OCSE to develop, implement, and operate an electronic automated data match system using automated data exchanges to provide OCSE, each calendar quarter, with the following information: the name, record address, sSocial sSecurity number, or other taxpayer identification number and other identifying information for each noncustodial parent who maintains an account at their respective financial institution.~~

~~OCSE may also impose a lien, seize assets, or freeze an account based on verification of an account held by an individual at any time information becomes available to the caseworker. The caseworker shall notify the Lien/Levy Section when such information becomes available. The process to seize the asset will be completed by the Lien/Levy section staff.~~

~~The following criteria must be met to qualify for a lien on assets held by financial entities:~~

- ~~• The case must be an open full-service enforcement case.~~
- ~~• Arrears must be at least \$500 or equal to three months' obligation, whichever is greater.~~
- ~~• No payment made received within the last 45 days.~~
- ~~• The noncustodial parent is not currently a TEA recipient.~~
- ~~• The noncustodial parent is not in does not have an active bankruptcy case that was filed~~

prior to October 17, 2005.

- A Family Violence Indicator is not attached to the noncustodial parent.

An account is defined as any of the following:

- ~~D~~demand ~~D~~deposit ~~A~~account
- ~~C~~checking or ~~N~~negotiable ~~W~~withdrawal ~~O~~orders ~~A~~account
- ~~S~~savings ~~A~~account
- ~~M~~money-~~M~~market ~~M~~mutual ~~F~~fund ~~A~~account
- ~~T~~time ~~D~~deposit ~~A~~account

Withholdings, intercepts, and seizures may be initiated by OCSE without obtaining a prior order from any court. OCSE shall provide written notice to the ~~custodian and~~ noncustodial parent or alternate account holder informing ~~them~~ him or her that withholding, intercept, or seizure has commenced; of ~~their~~ the right to an administrative hearing; and the procedures to follow if ~~either of them~~ he or she desires to contest the action(s). The notice to the ~~custodian and~~ noncustodial parent or alternate account holder shall include the information provided to the employer, agency, or financial institution.

OCSE enters into cooperative agreements with financial entities to provide for automatic data exchanges to the maximum extent feasible in order to locate account assets of noncustodial parents. Any financial entity, officer, agent, or employee of such establishment, participating in good faith and providing information requested for the purpose of carrying out a child support order, shall be immune from liability and suit for damages that might otherwise result from the release of the information. Any information obtained from any financial entity shall become a business record of OCSE and be subject to privacy safeguards.

~~OCSE shall enter into cooperative agreements with financial entities to provide for automatic data exchanges to the maximum extent feasible in order to locate account assets of noncustodial parents.~~

~~OCSE is authorized to pay a reasonable fee to financial entities for conducting an automated data match, not to exceed the actual cost incurred by the financial entity.~~

OCSE may also impose a lien against the real and personal property of a noncustodial parent who owes overdue support and who resides or owns property in the State. Arkansas State law provides for relief from the fraudulent transfer of property and assets by ~~an obligor~~ a noncustodial parent in an attempt to avoid liens, and provides a creditor provisions needed to obtain avoidance of the transfer to the extent necessary to satisfy a claim subject to the limitations in Arkansas State law. A settlement agreement between the ~~obligor noncustodial parent~~, a child support creditor, and/or OCSE may be obtained.

Financial entities shall, in response to a notice of lien or levy, surrender assets held by such financial entities on behalf of any noncustodial parent who is subject to a child support lien pursuant to a judgment or by operation of law.

In cases in which there is overdue child support, and in an effort to secure assets to satisfy any current support obligation and any arrearage, OCSE is authorized to take any of the following actions:

- (1) ● ~~I~~ntercept or seize periodic or lump-sum payments from:
  - (A) ~~A~~ state or local agency, including unemployment compensation, worker's compensation, certain veteran's benefits; ~~and~~
  - (B) ~~J~~udgments, settlements, prizes, and lotteries.
  
- (2) ● ~~A~~ttach and seize assets of the obligated parent held in financial institutions;
  
- (3) ● ~~A~~ttach public and private retirement funds, including any union retirement fund and railroad retirement; ~~and~~
  
- (4) ● ~~I~~mpose liens and, in appropriate cases, force the sale of property and distribute proceeds.

~~(Public Law 104-193; AT 98-07; Ark. Code Ann. § 9-14-208)~~

## **Liens Against Insurance Claims**

Cases meeting the following criteria are matched with insurance carriers through the Child Support Lien Network (CSLN) and Federal Insurance Match program to identify any claim payments due to the noncustodial parent.

- Case is open for enforcement.
- Arrears are at least \$500.
- The noncustodial parent does not have an active bankruptcy case that was filed prior to October 17, 2005.
- The noncustodial parent is not receiving TEA in Arkansas or TANF in another state.

Upon receipt of the match, a Notice to Withhold Insurance Assets is sent to the insurance company, the obligor, OCSE, and the noncustodial parent's attorney. The noncustodial parent has 15 calendar days from the date on the notice to request an administrative hearing. If no hearing is requested, the insurance company is notified to remit to OCSE, the amount of the arrears or the amount of the noncustodial parent's share of the settlement whichever is less.

## **Administrative Review and Administrative Hearings**

Upon receipt of the Notice of Lien and Levy, the noncustodial parent, or alternate account holder, may contact OCSE Central Office, Lien & Levy Section, to contest the validity of the freeze and

seize, and ask for an Administrative Hearing review. ~~At this time, the~~ Lien & Levy caseworker must review the record to determine whether the case was certified correctly, or whether the issues raised by the noncustodial parent, or alternate account owner, are valid. ~~The Lien & Levy caseworker will review the case and financial institution account and determine whether the account is single or joint ownership, whether there has been a mistake of fact (i.e., the person who was FIDM certified does not owe child support), and to try and determine whether any money in the account is the property of the obligated parent.~~ If the issues raised by the noncustodial parent, or alternate account owner, are resolved by the Lien & Levy caseworker, then necessary action will be taken in accordance with the resolution, and a letter outlining the resolution will be sent to the noncustodial parent, or alternate account owner.

Should the Lien & Levy caseworker be unable to resolve the issues or if the noncustodial parent, or alternate account owner, remain dissatisfied, then the ~~FIDM case should be prepared for referral to the Appeals and Hearings section for an Administrative Hearing~~ noncustodial parent or alternate account owner may request an administrative review in writing. Please ~~see~~ See Chapter 9, "Financial Institution Data Match (FIDM) Hearing" concerning proper Administrative Hearing policy and procedure.

## **Worker's Compensation Withholding**

~~Arkansas State~~ State law authorizes the withholding of Workers' Compensation benefits for child support. Up to 25% of periodic payments or up to 50% of lump sum payments may be withheld. ~~(Ark. Code Ann. §§ 9-14-208, 11-9-10(e)(1))~~

~~Arkansas Code~~ State law also authorizes a data match between Worker's Compensation Commission files and OCSE files on a monthly basis.

~~(Ark. Code Ann. § 11-9-115)~~

Custodial parties and other state child support agencies are not required to open a child support case with OCSE to offset Worker's Compensation benefits paid to the noncustodial parent. The Commission will accept a lien, a notice to withhold, a court order or a divorce decree directly from the custodial party, the other state agency, or private attorneys representing the parties.

## **LOTTERY COMMISSION REFERRALS**

All open enforcement cases with arrears in excess of \$500 will be referred to the Lottery Commission for offset of any winnings claimed by the noncustodial parent. Referrals will be deleted when the case is closed. Payment processing cases will not be referred.

## **GARNISHMENT OF SALARIES, WAGES, AND OTHER**



## INCOME SOURCES

Unpaid child support constitutes a judgment by operation of law and is subject to garnishment even in the absence of a court-ordered judgment on arrears. Arkansas State law allows for the garnishment of wages until the total amount of child support judgment and costs are paid. Other sources of income, such as bank accounts, may also be garnished. The portion of VA benefits received in lieu of retired/retainer pay is subject to garnishment. The caseworker shall make a diligent effort to locate all sources of money belonging to the noncustodial parent and keep an accurate record of all attempts to locate money sources. Should the caseworker locate a money source belonging to the noncustodial parent and an arrearage exists, the caseworker should consult with the appropriate OCSE attorney. All necessary, proper, and reasonable steps to garnish said money source will be taken.

~~(Ark. Code Ann. § 9-14-234; IM 98-03)~~

## NEW HIRE REPORTING

Arkansas State law established the Office of New Hire Registry within the Arkansas Employment Security Department (ESD) Department of Workforce Services (DWS). ~~Since~~ October 1, 1997, eEmployers ~~have been~~ are required to report information on newly-hired and returning employees to the New Hire Registry. OCSE will receive New Hire records of noncustodial parents in the child support caseload. A Notice of Income Withholding and a National Medical Support Notice (NMSN) will be sent to the new employer, if appropriate, within two business days of the receipt of the New Hire information.

## ~~WORK ACTIVITY REQUEST~~

~~In cases in which the custodian or children receive Transitional Employment Assistance (TEA) cash benefits and the noncustodial parent owes overdue child support, Arkansas law requires the court to order the noncustodial parent to pay the overdue amount according to a plan approved by the court. If the noncustodial parent is not incapacitated, the court may order him or her to participate in work activities including, but not limited to, unsubsidized employment, subsidized private sector employment, subsidized public sector employment, or work activities (i.e., work associated with refurbishing publicly assisted housing when sufficient private sector employment is not available).~~

~~(Ark. Code Ann. § 9-14-233)~~

~~Noncustodial parents will be referred to Welfare to Work programs as appropriate and when such programs are available. Because not all noncustodial parents are eligible, participation in these programs is dependent upon approval from the Department of Human Services.~~

## **Automated Credit Reporting AUTOMATED CREDIT REPORTING**

Child support debt information may be reported to Consumer Reporting Agencies (Credit Bureau). To be reported, the amount owed must exceed \$1,000 and may not include instant debt amounts entered as judgments at the time the court issues a support order, so long as regular payments have been made ~~on this debt type~~ as ordered by the court. (~~Ark. Code Ann. § 9-14-209~~)

~~Prior to disclosure of information to a consumer reporting agency,~~ OCSE must send the noncustodial parent a notice by regular mail to his or her last known address prior to the disclosure of information to a consumer reporting agency. The notice must inform the noncustodial parent of the amount of overdue support to be released, the procedures for contesting the accuracy of the information, and a statement that if he or she fails to contest the disclosure within seven calendar days of the mailing date on the notice, the information will be released.

## **Legal Actions To Enforce Support Orders REFERRALS FOR REVIEW FOR CRIMINAL PROSECUTION**

### **State Criminal Nonsupport**

### **State Criminal Nonsupport**

A noncustodial parent commits the offense of nonsupport if ~~he/she~~ he or she fails to provide support to any of the following:

- ~~His/her~~ his or her spouse who is physically or mentally infirm or financially dependant; ~~or~~
- ~~His/her~~ his or her legitimate child who is less than 18 years old; ~~or~~
- ~~His/her~~ his or her illegitimate child who is less than 18 years old and whose parentage has been determined in a previous judgment; ~~or~~
- ~~His/her~~ his or her dependant child who is physically or mentally infirm.

~~(Ark. Code Ann. § 5-26-401)~~

Nonsupport is a Class A misdemeanor.

If the following conditions are present, nonsupport may be charged as a Class D felony:

- The noncustodial parent leaves Arkansas for 30 days while a current duty of support is unpaid, if the reason for leaving was to avoid payment of support-
- The noncustodial parent has previously been convicted of nonsupport; ~~or~~ the noncustodial parent owes more than \$2,500 in past due child support, pursuant to a court order or by operation of law and the amount represents at least four months of past due child support-

Nonsupport is a Class C felony if the noncustodial parent owes more than \$10,000 but less than \$25,000 in past due child support, pursuant to a court order or by operation of law.

Nonsupport is a Class B felony if the noncustodial parent owes more than \$25,000 in past due child support, pursuant to a court order or by operation of law.

~~(Ark. Code Ann. § 5-26-401)~~

The court may impose a fine upon conviction of nonsupport. The court may also direct that a bond, if posted, be forfeited upon conviction of nonsupport and the money forwarded to the person entitled to support. The district courts in counties having a population greater than 200,000 inhabitants may issue a warrant for arrest upon the affidavit of a spouse or any person who is responsible for maintenance of a dependant child(ren) when nonsupport is alleged.

~~The OCSE attorney may seek appointment as a “Special Deputy Prosecuting Attorney” by the prosecuting attorney for the judicial district for the limited purpose of prosecuting State criminal nonsupport charges.~~

OCSE shall refer cases for state criminal nonsupport if OCSE has had enforcement responsibility for at least 12 consecutive months; the child support arrears total more than \$10,000; and regular child support payments are not being paid. The custodial party must complete and sign an affidavit requesting that the noncustodial parent be prosecuted for the criminal offense of nonsupport. OCSE may refer cases with less than \$10,000 in arrears if the case meets the conditions outlined in State law for referral.

### ***Federal Criminal Nonsupport***

## **Federal Criminal Nonsupport**

Failure to pay child support is also a federal crime and may be prosecuted as such pursuant to the Child Support Recovery Act and the Dead Beat Parents Punishment Act, ~~codified at 18 U.S.C. § 228.~~

To be eligible for prosecution under ~~18 U.S.C. § 228~~ federal law, the following elements must be present:

- The willful failure to pay;
- A known child support obligation;
  - ■ Which has remained unpaid for longer than one year; ~~(or, in the case of a felony prosecution, 2 years~~ **or** the amount of the past due obligation is greater than \$5,000 or in the case of a felony prosecution, \$10,000);
  - ■ For a child who resides in another state;
  - ■ An additional basis exists for the prosecution of the failure to pay child support as a felony if the noncustodial parent has traveled in interstate or foreign commerce with the intent to evade the support obligation and the obligation has remained unpaid for a period of one year or longer or is greater than \$5,000.

Cases meeting the criteria for this type of prosecution may be forwarded to designated OCSE staff for review and referral, if appropriate, to the U.S. Attorney's Office for the federal district in which the custodial party resides. The U.S. Attorney's Office will exercise its prosecutorial discretion in determining whether to accept or decline a case for prosecution and the level at which an accepted case will be prosecuted.

## **Posting Security, Bond, Or Guarantee To Secure Payment Of Overdue Support**

OCSE must petition, and the court may require, noncustodial parents to post security, bond or give some other guarantee to secure payment of overdue support. Advance notice must be provided to the noncustodial parent regarding the delinquency of the support payment and the requirements for posting the security, bond or guarantee. OCSE ~~must~~ will also inform the noncustodial parent of his or her rights and the methods available for contesting the action. ~~(45 C.F.R. § 303.104)~~

## **ENFORCING MEDICAL SUPPORT**

OCSE must enforce medical support following the same program standards outlined in this chapter for enforcing child support. If the ~~noncustodial~~ obligated parent does not secure health insurance within 30 calendar days of the file mark date on the court order, the caseworker must take enforcement action to secure medical support. The caseworker must request employers and other groups offering health insurance coverage that is being enforced by OCSE, as well as the Medicaid agency where appropriate, to notify OCSE of lapses in coverage.

If the obligated parent changes employers, OCSE will send a National Medical Support Notice to the new employer within two business days of identifying the new employer unless medical support is provided by a third party.

The custodial party can choose to be the person responsible for providing medical support by indicating his or her choice on the application for services. If no choice is indicated, the court will determine which parent will provide coverage. A custodial party who chooses to provide medical support must provide proof of coverage or a National Medical Support Notice (NMSN) will be sent to his or her employer if employer-sponsored health insurance is available.

~~If medical support is ordered to be paid by the noncustodial parent but the custodial parent does not wish to pursue medical coverage by the noncustodial parent and the custodial parent can prove that the dependant has adequate medical coverage, OCSE will not pursue medical support to be provided by the noncustodial parent.~~

OCSE will not initiate or pursue legal action to obtain judgment for medical bills not covered by medical insurance.

## Income Withholding For Health Care Coverage

In all cases where either ~~parent party~~ is ordered to provide medical support and child support enforcement services are provided by OCSE, the National Medical Support Notice (NMSN) will be used as required by federal regulations ~~45 C.F.R. § 303.32 and 29 C.F.R. § 2590.609-2~~ as they existed on March 27, 2001.

The NMSN must be sent to the employer within two business days of receiving employment information or matching with employer information contained in the New Hire Directory.

The Consumer Credit Protection Act (CCPA) limits must apply to the combined total withheld for both child support and medical coverage. (See Chapter 5, Computing Amount for Withholding for a discussion of CCPA limits.) Income withholding for child support must take priority over the deduction for health care premiums.

OCSE will notify the employer when there is no longer a current order for medical support in ~~effect~~ effect for which the agency is responsible.

The employer and the health care administrator must follow state law to implement income withholding for health care coverage premiums, enrolling the child(ren), and providing information regarding the policy to the family.

## CONTINUATION OF PAYMENTS AFTER CHILD'S EMANCIPATION

OCSE will continue to ~~pursue collection of unpaid child support on non-TEA and TEA cases after the child reaches majority, marries, dies, or is otherwise emancipated if a judgment or child support arrearage exists, until such time as the judgment or arrearage has been satisfied. OCSE will continue collection efforts~~ after the emancipation of a child until a written request is made by the applicant for services to close the case, ~~or~~ until all arrears are paid, ~~or~~ there is an administrative determination that the debt is un-collectible, or the case meets other federal case closure criteria. If there are arrears that have been assigned to the State, OCSE will continue collection efforts until all child support judgments owed to the State are paid in full.

~~The courts may provide for the payment of support beyond the 18<sup>th</sup> birthday of a child to address educational needs when the child's birthday falls prior to graduation from high school, so long as such support is conditional on the child remaining in school. The court may also provide for the continuation of support for a person suffering from a handicapping condition which affects the ability of the person to live independently from the custodial parent.~~  
~~(Ark. Code Ann. §§ 9-14-109(a)(2)(3), 9-12-312(a)(4))~~

All enforcement techniques apply to collection of the past due amount of support, including adjudication of arrears, garnishment, execution, wage withholding, contempt, or liens on property. Federal income taxes may be intercepted if the case is TEA and the arrears are owed to the State. State income tax refunds may be intercepted to recover TEA and non-TEA arrears. (~~Ark. Code Ann. §§ 9-14-235, 9-14-236~~)

The OCSE agency will accept ~~R~~recovery cases from another OCSE agency or by application from the custodial party on behalf of a child age 22 or younger who was the subject of a child support order. If the child is age 23 or older, OCSE can accept the case ~~only~~ if there is a court-ordered judgment **and** arrears accrued after March 29, 1986.

**NOTE: A change in federal law allows for offset of federal income tax refunds, denial of passports, and administrative offset of payments to individuals from the federal government regardless of the age of the child. OCSE will accept cases when the child is over the age of 23 for the purpose of certification to the federal tax offset program. Certification is an administrative enforcement remedy and may be the only remedy available to a family if the child is over the age of 23 and no judgment has been entered.**

## REDIRECTING CHILD SUPPORT TO THE PHYSICAL CUSTODIAN

The natural or adoptive parent, a guardian, person other than the party to the child support order, or an agency who has custody of a child for eight consecutive weeks or longer, other than court-ordered visitation, may seek to redirect child support. In situations such as this, the physical custodian has the responsibility for giving notice to the clerk of the court to redirect the child support and become the payee of the obligation. When a case such as this is initially opened with OCSE, the customer must be notified of the requirement and referred to Ark. Code Ann. § 9-14-234(d)-(g). A copy of Act 1180 of 1995, which includes the relevant requirement, may be provided to the customer for his or her convenience.

The physical custodian is responsible for giving written notice to the clerk of court, any parent, guardian, or other caretaker, and to OCSE. Any objection to the notice of redirection must be filed with the clerk of court within 10 days of the objecting party's receipt of the notice. Notice must be given by personal service or by certified mail, restricted delivery, return receipt requested. The physical custodian should be directed to contact OCSE to advise the caseworker of the date on which the notice was delivered to each person.

If OCSE receives notice of redirection, and after the 10-day objection period expires, it is the responsibility of the OCSE caseworker to confirm with the appropriate clerk of court whether an objection to the redirection notice has been filed.

**If there is ~~not an~~ no objection** by any party within 10 days of receipt of notice, the caseworker may redirect the ordered support to the physical custodian.

**If there is an objection** by any party within 10 days of receipt of notice, the case should be referred to the assigned attorney so that appropriate pleadings may be filed to request redirection of child support payments to the physical custodian.

**In ~~non-IV-D~~ payment processing cases**, the SDU will inform ~~the callers~~ that they need to contact private legal counsel for advice and service or apply for OCSE services.

~~It will be encouraged that the physical custodian follow the above steps to redirect child support in order to save the cost of going to court. However, if all parties can be served, OCSE may take the case to court to redirect the child support.~~

## **RECOVERY OF CHILD SUPPORT AFTER THE LAST CHILD REACHES AGE 23**

If all arrears have been reduced to judgment by a court on or before the date on which the youngest child attains the age of 23, OCSE will continue collection efforts until a written request is made by the applicant for services to close the case, ~~or~~ until all arrears are paid, ~~or~~ there is an administrative determination that the debt is un-collectible, or the case meets other federal case closure criteria. If there are arrears that have been assigned to the state, OCSE will continue collection efforts until all child support judgments owed to the state are paid in full.

Any arrears that have not been reduced to judgment by the time the youngest child attains the age of 23 are subject to the statute of limitations regarding collection of child support. OCSE will not take enforcement action to collect support arrears ~~that may be barred by the~~ for which an affirmative defense of statute of limitations exists.

**See note at the end of subsection “Continuation of Payments After Child’s Emancipation.”**

### **Recovery of Child Support in Interstate Cases**

In cases in which the order was entered in another state, the statute of limitations of the state that issued the order or the Arkansas statute of limitations, whichever is longer, will apply and control how long arrears may be collected.

In cases in which the Arkansas statute of limitation would ~~be a bar to~~ be a bar to collection of the arrears, the law of the issuing state must be reviewed to determine if collection may continue.

If collection of the child support arrears is not possible under Arkansas law or the law of the issuing state, the caseworker will send a 60-day closure notice to the applicant for services or the initiating state, as appropriate, and the case will be closed.





## Chapter 6 MODIFICATION

### REVIEW AND ADJUSTMENT

Child support obligations may be reviewed and adjusted, if appropriate, once every 36 months at the request of either ~~parent party~~ or a state, if an assignment of rights exist. There must be a change in the noncustodial parent's gross income in an amount equal to or more than 20% or more than \$100 per month in order to petition the court for modification of the obligated child support amount based on the Family Support Chart. The order must be an Arkansas order or an order that Arkansas can assume continuing exclusive jurisdiction (CEJ) to modify.

Transitional Employment Assistance (TEA) cases will be reviewed and adjusted, if necessary, once every 36 months. A request from a party is not required. Each TEA case will be reviewed at the time of referral to determine if review and adjustment is appropriate.

~~If an assignment of rights exists,~~ Either party or a state child support agency, if an assignment of rights exists, may request review of a child support order more often than once every 36 months if a significant change in circumstances exists. The burden of proof is on the requesting party. A review more often than once every 36 months may be appropriate if one or more of the following circumstances exist:

- Support was set at the chart minimum because the noncustodial parent was unemployed or under-employed at the time, and new evidence shows that he or she is employed or more gainfully employed.
- The noncustodial parent is unemployed through no fault of ~~his~~ his or her own ~~for the preceding six months~~ and unemployment is likely to continue for an extended period of time.
- The noncustodial parent becomes permanently disabled which is medically verified by a doctor's statement and/or ~~Supplemental Security Income (SSI)~~ Social Security Disability benefits claim forms.
- The noncustodial parent has provided income information to OCSE at the request of the custodial ~~parent party~~ and otherwise meets the criteria for a review as outlined in ~~Ark. Code Ann. § 9-14-107~~ State law.
- The oldest child will turn 18 or otherwise emancipates and one of the parties requests review of the support amount for the remaining children.

~~Noncustodial parents may apply for OCSE services only to request review and adjustment. The noncustodial parent will then make all payments through the Clearinghouse. (Public Law 104-193; Ark. Code Ann. § 9-14-107)~~

## Notices

Notice of the right to request review and adjustment will be provided to both ~~parents~~ parties not less than once every three years. ~~Parents~~ Parties requesting a review must sign the Request for Review and Adjustment form. The non-requesting ~~parent~~ party will receive notification that a review will be conducted. Both ~~parents~~ parties will receive a Notice of Review Determination upon completion of the review. OCSE will follow ~~State~~ Arkansas law with regard to the notice required to modify an order. If OCSE determines there is no adjustment needed and the ~~parent(s)~~ parties wish to pursue the issue in court, they may do so on their own or with the help of a private attorney.

## Review And Adjustment Of Interstate Cases

Interstate cases will be reviewed and adjusted upon the request of another state or either ~~parent~~ party in another state only if the order is an Arkansas order, or if Arkansas can assume continuing exclusive jurisdiction. (~~Ark. Code Ann. § 9-17-205~~)

## Adjustment Of Child Support Obligations Remaining When The Obligation For One Child Expires

The child support amount shall be automatically reduced for the remaining children in a support order when the support amount for one child ends. The support amount must be recalculated based on the most recent version of the Family Support Chart. Administrative Rule 10 requires that net income be applied to the chart when determining the support amount. If the income amount is not listed in the current support order, ~~the new support amount must be determined by the court~~ the court must determine the new support amount. If the most recent order was entered prior to the adoption of the chart or if the court deviated from the chart when setting the amount of support, the new support amount will be decided by a court. (~~Ark. Code Ann. § 9-14-237~~)

The three-year limit on requests for review and adjustment does not apply in these cases unless the support amount was reviewed within the last three years and the issue of adjusting the support amount for the remaining minor children was addressed at that time.

## Termination Of Support for Home Schooled Children

Parents who wish to home school their children are required to file a Notice of Intent to Home School (~~Ark. Code Ann. § 6-15-503~~) with the local school district at the beginning of each school

year. The notice will indicate the grade level completed the last school year and the grade level the student is in for the current school year. Parents determine the grade level of the home-schooled child. The State Department of Education (DOE) does not monitor the home school setting or the progress of the child. Home schooling is unaccredited work and does not lead to a high school diploma but is a legally recognized equivalent for school attendance.

The child support obligation for the home-schooled child will continue until the child's eighteenth 18<sup>th</sup> birthday ~~or the date the child should have graduated from high school if enrolled in a traditional school setting~~ unless the custodial party can produce a copy of the Notice of Intent to Home School. Upon proof that the child is home schooled, support will continue until the end of the school year after the child reaches 19 years of age or receives a GED certificate, whichever is earlier.

~~(Ark. Code Ann. § 9-14-237)~~

## Termination of a Support Obligation

~~An obligor's~~ A noncustodial parent's duty to pay child support for a child shall automatically terminate by operation of law when the child reaches 18 years of age ~~or should have graduated from high school, whichever is later,~~ unless the child is still attending high school. If the child is still attending high school, the support obligation ends upon the child's high school graduation or the end of the school year after the child reaches 19 years of age, whichever is earlier, or when the child is emancipated by a court of competent jurisdiction, marries, or dies unless the court order for child support specifically extends child support after such circumstances. It is the policy of OCSE to cease wage withholding for child support when one of the above conditions is met, unless an arrearage exists. The obligation ceases when the ~~eustodian~~ custodial party dies or the parents marry each other. The obligation will terminate when a final decree of adoption or an interlocutory decree of adoption that has become final. If the parental rights were terminated under the provisions of Ark. Code Ann., § 9-27-341 , support ends when parental rights are terminated.~~(Ark. Code Ann. § 9-14-237(a)(1))~~

## ~~VISITATION AND THE ADJUSTMENT OF SUPPORT~~

### Visitation

~~State~~ Arkansas law provides that the noncustodial parent is to provide written notification to the clerk of court within 10 calendar days when abatement or reduction of child support should occur due to extended visitation. ~~(Ark. Code Ann. § 9-14-106(a)(1)(D).)~~ The noncustodial parent is to provide copies of this notice to ~~his/her~~ his or her employer, if income withholding is in effect, and the Office of Child Support Enforcement, if applicable. The law specifically provides that it is the responsibility of the noncustodial parent to provide this notification.

It is the responsibility of the noncustodial parent to inform the employer to abate or reduce child support in accordance with the court order and when to resume the payment of child support. OCSE is not responsible for contacting the employer to instruct that the changes be made or to send a wage withholding.

~~The~~ Arkansas law does not require that the noncustodial parent is responsible to notify the custodial ~~parent~~ party of abatement or reduction of child support due to the visitation. However, in order to ~~insure~~ ensure that arrearage balances remain accurate, if a notice is received indicating that the child support obligation should be reduced for the period of the visitation, the caseworker should verify with the custodial ~~parent-party~~ that the noncustodial parent has had custody of the dependant(s) for the time specified. Any necessary adjustments to the system should then be made in accordance with the court order. If it is revealed that the noncustodial parent did not have the dependant(s) for the time reported, any failure to pay the correct amount of support may be considered in a future contempt action.

## **Social Security Disability Benefits**

When modifying support when disability benefits are being paid, the spouse and dependant benefit will be taken into account in determining the noncustodial parent's income. For example, the noncustodial parent's benefit amount plus any separate awards made to the disability recipient's spouse and children equals the total income for the noncustodial parent as defined by the guidelines for setting support.

## **INCREASE IN SUPPORT**

As required by ~~Ark. Code Ann. § 9-14-107~~ State law and if provided by the court order, OCSE will, upon receipt of notice of proof of income, review and petition for modification of child support, if appropriate, within 30 days or receipt of the information evidencing an increase in the noncustodial parent's income of 20% or \$100 per month.

The custodial ~~parent~~ party must initiate the request for information. Any other request from either party for a review or modification of the support amount is subject to OCSE procedures for ~~R~~review and Aadjustment.

~~(Ark. Code Ann. § 9-14-107)~~

## Chapter 7 CASE CLOSURE

### CASE CLOSURE CRITERIA

Federal regulations and State policy outline strict guidelines for determining when it is appropriate to close a child support case. Arkansas Child Support Information System (ARCSIS) closure codes are tied to each of the federal criteria. ~~If the circumstances of the case do not match one of the closure criteria, the~~ The case must remain open if the circumstances of the case do not match one of the closure criteria. The following are the only acceptable reasons for closing a case:

- The non-TEA applicant for child support services requests closure in writing and there is no assignment to the State of medical support or of arrearages that accrued under a support order. ~~Use closure code WQ.~~
- ~~No current support order exists~~ continuing current support is owed under an existing order and either no arrears are owed to the State or such arrears are less than \$500 and there has been no payment in the preceding 90 days. OCSE may close a case meeting this ~~criteria~~ criterion, but closure is not required. The case will remain open if a wage assignment is in place or the case qualifies for certification to State or Federal income tax offset programs. The caseworker will consider the combined balance of all debt types still outstanding in each case when deciding if the case meets the criteria for automatic certification to the income tax offset programs. ~~When closing, use closure code CE.~~
- Child support has been abated and arrears are less than \$500 or the order is unenforceable under State law. ~~Use closure code AC.~~
- The noncustodial parent or putative father is deceased and there is no estate, verified by probate court records. ~~Use closure code EZ.~~
- The putative father has been excluded by genetic testing, and the court has determined that paternity should not be established or support should not be paid. In TEA cases, if the putative father has been excluded, the case will remain open until ~~the Department of Human Services (DHS) sends a new referral for a different putative father.~~ a new referral has been received from the Department of Human Services (DHS) or non-cooperation procedures have been completed. ~~When closing, use closure code EP.~~

- The putative father is unknown and cannot be identified. If the putative father is unknown, ~~the caseworker must interview~~ the custodial parent party must be interviewed in person or by phone in an effort to identify him. ~~Use closure code UN.~~
- Case closure is in the best interest of the child. The ~~IV-D agency~~ OCSE had has determined that to establish paternity would not be in the best interest of the child in a case involving incest, forcible rape, or in any case where adoption proceedings are pending. ~~Use closure code BI.~~
- Cases with lost noncustodial ~~parties~~ parents can be closed if all methods of locating the noncustodial parent have been exhausted for **three** consecutive years when **sufficient information for automated locate is known**. Attempts to locate must be repeated at least quarterly including interviewing the ~~custodian~~ custodial party. The case must be reopened if new information becomes available. ~~Use closure code LX.~~
- Cases with lost noncustodial ~~parties~~ parents can be closed if all methods of locating the noncustodial parent have been exhausted for **one** year when **sufficient information for automated locate is not known**. Attempts to locate must be repeated at least quarterly including interviewing the ~~custodian~~ custodial party. The case must be reopened if new information becomes available. ~~Use closure code LZ.~~
- ~~The N~~noncustodial parent will be institutionalized or incarcerated for the duration of the child's minority. ~~Use closure code XJ.~~
- ~~The N~~noncustodial parent has medically verified total and permanent disability and has no income or assets with which to pay support. ~~Use closure code XI.~~
- ~~The N~~noncustodial parent is a citizen of a foreign country with which Arkansas has no reciprocity, and the noncustodial parent does not work for the U. S. government or a company whose headquarters are in the United States. ~~Use closure code WF.~~
- The case was open for State Parent Locate Services only and the ~~location~~ locate services have been provided. ~~Use closure code LY.~~
- **Non-TEA and former TEA cases** may be closed if ~~the~~ OCSE agency is unable to contact the ~~applicant for services~~ custodial party within a 60 calendar day period despite an attempt by at least one letter sent by first class mail to the ~~service recipient's~~ custodial party's last known address. If efforts to locate the ~~service recipient~~ custodial party have failed after 60 calendar days, send a 60-day closure notice to the last known address (120 days total). Medicaid, TEA, and Food-Stamp screens must be checked prior to closing the case. ~~When closing, use closure code WT.~~

- **Non-TEA cases** can be closed for non-cooperation upon proper notice to the ~~recipient of services~~ custodial party, provided OCSE has done everything possible and, due to the non-cooperation, legal action is not possible. (TEA, mandatory Medicaid, and foster care cases cannot be closed due to non-cooperation.) ~~When closing, use closure code N9.~~
- There has been a finding of “Good Cause,” and the State or local IV-A, IV-E, or Medicaid agency has determined that support enforcement may not proceed without risk of harm to the child or ~~custodian~~ custodial party. ~~Use closure code GG.~~
- OCSE documents failure by the initiating state to take an action that is essential for the next step in providing service. ~~Use closure code IX.~~

~~(45 C.F.R. § 303.11)~~

## Notice Of Case Closure

The caseworker must notify the ~~applicant for services~~ custodial party in writing 60 days prior to the closure date of the intent to close a case. There are three exceptions:

- The ~~Non~~-TEA recipient of child support services requests closure in writing and there is no assignment of ~~M~~medical support.
- The case was opened for State Parent Locator ~~S~~ Services only and the location services have been provided; .
- The IV-A, IV-E, or Medicaid worker has made a “Good Cause” determination.

If the custodial party is deceased, the 60-day closure notice should be sent to the person in charge of closing out the custodial party’s business affairs or to the custodial party’s last known address.

## Case Closure May Be Prohibited Under Certain Circumstances

A case cannot be closed if the ~~applicant for services~~ custodial party can provide information that would aid in establishing or enforcing a court order. Cases that are closed after diligent efforts to locate prove to be unsuccessful must be reopened at no cost any time the ~~applicant for services~~ custodial party can provide new information or when circumstances change that would allow for successful resolution of the case.

A case cannot be closed because the OCSE agency has attempted all legal remedies available without success. When enforcement attempts fail, the caseworker must review the file to determine the reason enforcement has failed and when taking the next action will be appropriate. The attorney should review the case to determine when the next appropriate legal action may be taken. ~~(45 C.F.R. § 303.11)~~

~~The contract signed by the non-TEA applicant for services gives OCSE the authority to keep a case open until the fee balance is paid. The fee balance must be paid before the case closes. The applicant can either write a check for the balance or leave the case open until the balance is paid.~~

## Closing Cases When Legal Action Is Pending

If legal action is pending at the time the applicant requests closure, OCSE has two options dependent on direction from the applicant for services:

- Dismiss all action without prejudice.
- Substitute the applicant as Plaintiff or moving party and withdraw.

Both parties must be advised by the attorney of their rights and responsibilities in writing at the time of closure with regard to where their case stands in the legal process and the ramifications of stopping the legal action at that point. OCSE will withdraw from the case so that the parties can continue on their own if they so desire.

## Closure For Interstate Cases

Federal regulations authorize the responding state to close an interstate case when it documents a failure on the part of the initiating state to take an action that is essential for the next step in providing services. One exception involves income withholding. If a state using authority under its UIFSA statute sends a withholding notice directly to an employer in another state, it cannot be considered non-cooperation and a rationale for case closure by the employer's state ~~which that is~~ otherwise processing an interstate case for the state that sends the direct withholding.

When making a decision regarding whether or not an initiating state has failed to take an action that is essential to the next step in providing services, take into consideration the requirements and time frames outlined in federal regulations.

A 60-day closure notice must be sent to the initiating state before a case can be closed. OCSE is not required to send a closure notice to the custodial ~~parent party~~. It is not the responding state's responsibility to be in direct contact with the custodial ~~parent party~~ in the initiating state.

The initiating state must be notified within 10 working days of locating the noncustodial parent in another state. The case may not be closed until the initiating state has directed the responding state to either return the forms or forward the case to the noncustodial parent's new location. The case may be closed only after notification that receipt of the transferred case has been acknowledged.



Interstate cases cannot be closed unless one of the criteria for closure is met. The caseworker is responsible for ensuring that the address for future payments is correct when closing an interstate case. If the order is from another state, two attempts to obtain the address must be made. The second attempt should be in writing advising the initiating state that money may be returned to the noncustodial parent if a good address is not provided. Collections based on Arkansas orders will be retained until a good address is provided.

## **~~Closing Interstate Cases When The Applicant For Services' Address Is Unknown~~**

### **~~Arkansas As The Initiating State~~**

~~Federal regulations allow OCSE to close non-TEA and former TEA cases if OCSE is unable to contact the recipient of services within 60 calendar days, despite an attempt of at least one letter sent by first class mail to the last known address. If efforts to locate the service recipient have failed after 60 calendar days, a 60-day closure notice must be sent to the last known address (120 days total). Medicaid, TEA and Food Stamp screens must be checked for a new address prior to closing the case. The caseworker must notify the responding state of the closure and request the responding state to close its case. The case will remain open if contact is reestablished with the recipient of services within the 60-day time frame.~~

### **~~Arkansas As The Responding State~~**

~~If Arkansas is the responding state and is unable to take further action in the case because the initiating state has failed to take an action essential for the next step in providing services, the case can be closed in accordance with federal regulations (45 CFR § 303.11(b)(12)). The failure by the initiating state to take the essential action must be narrated in the case file. A 60-day closure notice is sent to the initiating state informing them of the intent to close the case. Within 30 calendar days, the initiating state must provide OCSE with any requested information or notify OCSE when information will be provided in order for the case to remain open. These two time periods run concurrently. If the initiating state responds that it has closed its case due to an inability to locate the custodial parent, OCSE will close its case immediately. (45 C.F.R. § 303.11)~~

## Chapter 8 FINANCIAL

The Arkansas ~~Office of Child Support Enforcement (OCSE)~~ Clearinghouse receives, posts, and ~~distributes~~ uploads daily payment files to the data system which automatically distributes ~~child/medical~~ child and medical support payments for ~~the following cases: enforcement, payment processing, and split-debt cases.~~

- ~~Transitional Employment Assistance (TEA)~~
- ~~Non TEA~~
- ~~IV-E Foster Care~~
- ~~Non IV-E Foster Care~~
- ~~Medicaid~~
- ~~OCSE Interstate~~
- ~~Non IV-D (Payment Processing)~~

In all cases brought pursuant to Title IV-D of the Social Security Act, the court must direct that all payments be made through the Arkansas Child Support Clearinghouse. ~~The Clearinghouse also processes payments received on behalf of former OCSE customers and payments withheld from the wages of noncustodial parents in cases not being enforced under Title IV-D of the Social Security Act.~~

### **COST/FEES FOR SERVICE**

All orders, ~~entered or modified after January 1, 1998, directing payments through the registry of the court or through the Arkansas Child Support Clearinghouse must set a fee to be paid by the noncustodial parent or obligated spouse in the amount as set forth by Arkansas State law, until no children remain minor and the support obligation is extinguished and any arrears are completely satisfied.~~

Payments made for this fee may be made on an annual or quarterly basis online through the OCSE website, in the form of a check or money order payable to OCSE, or such other legal tender ~~which that~~ OCSE may accept. This fee payment is separate and apart from the support payment, and under no circumstances will the support payment be reduced to fulfill the payment of this fee.

~~If the noncustodial parent fails to pay the annual fee within 90 days, OCSE may notify the employer under the order of income withholding for child support to withhold the fee in addition to any child support. If the noncustodial parent is self- or unemployed and has failed to pay the annual fee, the case may be referred for other legal action.~~

In all ~~non-TEA-OCSE~~ enforcement cases, costs are charged to ~~an applicant~~ the custodial party who applies for OCSE services except when the custodial party or child receives Medicaid. Costs and fees are not charged in enforcement cases that are open because of a referral from DHS. ~~The current rate of deduction is the lesser of the actual costs assessed or 13% of the amount collected each month.~~

**NOTE: Pursuant to federal regulations, no fees may be charged in any Title XIX (Medicaid) cases. This includes all Medicaid categories, regardless of whether OCSE receives a referral from DHS. If the child is the only recipient of Medicaid or the child receives SSI and Medicaid, OCSE will provide child support services upon the request application of the eustodian custodial party, free of any charges. An application fee cannot be charged. Cost previously charged may not be recovered while the family receives TEA or Medicaid.**

Fees or costs for services including but not limited to legal fees noted below, generated because of a breach by the noncustodial parent of an agreement or a court order, will be incorporated into the request for relief and reduced to judgment in favor of OCSE against the noncustodial parent. (~~Ark. Code Ann. § 9-14-212(d)~~). See below for the cost schedule.

**Application Fee** – ~~The A~~Application fee per noncustodial parent is \$25. This is a flat fee that is paid by the applicant at the time the application ~~of~~ for assistance is submitted. The application fee is nonrefundable and nonreimbursable.

**Base Cost** - Base cost is charged the first of each month if a payment was received during the previous month. ~~The B~~base cost is \$18 per month and includes overhead costs and activities other than legal services. This cost is for full OCSE services cases 13% of the amount disbursed to the family for the previous month up to a maximum of \$18 per month.

**NOTE: ~~If a noncustodial parent opens a child support case only for the purpose of making payments to the Clearinghouse, the case will be set up as a payment processing case. The \$18 base cost will not be assessed against the eustodian.~~**

### **Legal Action**

- Initiation of Legal Action, \$80. Assessed when complaint, motion or petition with summons, order and citation, affidavit and arrest warrant or notice/order of hearing is prepared and forwarded to the clerk for processing.

- Out-of-Court Settlement, \$100. Assessed when court action is resolved prior to court appearance in all cases.
- In-Court Settlement, \$150. Assessed when court action is resolved at the court appearance without trial.
- Trial \$250. Assessed when court action is resolved by the court after hearing.

**Paternity Testing** – The cost of paternity testing will be paid by the applicant for services if the putative father is excluded.

(Ark. Code Ann. § ~~9-10-103(b)(4)~~)

### Other

- ~~Miscellaneous, \$100 per hour. Assessed to reflect legal preparation such as research, interviewing witnesses, preparation of extraordinary pleadings or legal briefs, preliminary appearances (pre trial conference, arraignment) or pre trial discovery (interrogatories, requests, depositions)~~
- Actual Costs will be assessed based on actual costs incurred by the agency for monies expended for transcripts of trials or depositions, HLA chemical tests, DNA Genetic Tests, IRS full collection process, filing fees, and all other court costs. Also included is federal offset program fees, not to exceed \$25, if the offset is over \$100. Service of process fees will be charged to the noncustodial parent in an amount equal to the actual cost or \$50, whichever is less.
- Financial Institution Levy Fee, \$35. This fee will be charged for each levy that results in a monetary recovery from a participating financial institution.
- Insurance Claim Levy Fee, ~~\$100~~ 35. This fee will be charged for each levy that results in a monetary recovery from an insurance claim.

Costs assessed while the case is an open enforcement case are recovered from child support payments collected by withholding 13% from any payment received through the Arkansas Child Support Clearinghouse. If unrecouped costs exist at the time a request for case closure is submitted, OCSE may continue to collect and distribute support on the applicant's behalf and recover costs from collections required at the rate specified by the fee schedule. when the case becomes a payment processing case (non-IV-D case), OCSE will collect the unrecouped costs by withholding 13% from any payment received through the Arkansas Child Support Clearinghouse, by offsetting the state income tax refund due the custodial party, or both.

OCSE may petition the court for recovery of any existing costs for child support services and court costs from the noncustodial parent.

~~Costs recovered from the noncustodial parent will be credited to the costs assessed on the case. Amounts recovered from the noncustodial parent will be paid to the applicant if costs have been deducted from child support payments disbursed to the custodian.~~  
(Ark. Code Ann. § 9-14-212(d))

## Cost Recovery

OCSE will use quarterly billing statements in an effort to increase the collection of court costs and other fees charged to the custodial party and noncustodial parents. ~~The noncustodial parent may make quarterly payments on the total fee balance.~~ Quarterly payments may be made on the total fee balance.

The statements will include the balance owed for fees previously assessed, including court costs and genetic testing fees that have not been paid, an itemized list of all fees assessed during the quarter, and payments received during the previous three months. Fee billings will be sent in the following cases:

- The case must be an open ~~OCSE enforcement~~ or active payment processing case.
- The case must have a positive fee balance due.
- ~~• The member must be the noncustodial parent or putative father.~~
- For ~~full OCSE services open enforcement~~ cases, the member cannot be in bankruptcy. Payment processing cases where the noncustodial parent is in bankruptcy will still be billed for fees.
- For payment processing cases, the administrative fee will not be assessed in the year that the case is entered in the system.

## Debt Collection Recovery

The OCSE Debt ~~Collection~~ Recovery Section concentrates on the collection of administrative fees and costs that have ~~been remained~~ unpaid for 90 days or more after the case is closed.

OCSE will make collection efforts in situations where wage income withholding is not possible. Those efforts may include, but are not limited to the following:

- Seeking judgment for past due amounts
- Garnishing wages or bank accounts
- State income tax refund offset
- Reporting to the Credit Bureau

## DISTRIBUTION

~~All child support orders paid by income withholding or directly to the Clearinghouse by the obligor are disbursed through the Arkansas Child Support Clearinghouse. The Clearinghouse is responsible for receipting, recording, and promptly disbursing amounts collected. The Clearinghouse staff responds to requests for information on the status of support payments, will update the payee's address as appropriate, and provides a payment history upon request to either party, their attorneys or the court.~~

~~Payments received by OCSE are disbursed to the resident parent, legal guardian, or caretaker relative having custody of or responsibility for the child.~~  
~~(AT 97-17)~~

~~Payments are processed nightly and disbursed the next day. Checks are printed, verified, signed, and mailed within two business days of the receipt and identification of a payment.~~

Amounts collected in OCSE open enforcement cases, with the exception of Federal income tax refund offsets, are distributed first to the support obligation due in the month in which the payment was collected. ~~If~~ Amounts are collected ~~that are~~ in excess of the monthly support amount ~~due that month, the excess amount is~~ are treated as a payment on the required support obligation for previous months, otherwise referred to as arrears.

IRS collections will be retained by the sState to satisfy assigned arrears, if any. Collections applied to state arrears that are in excess of the unreimbursed grant will not be retained but will be paid to the custodial party. ~~However, IRS collections intercepted from that are filed as joint returns arrearages owed to the family will have a six-month disbursement hold placed on any disbursements to allow the noncustodial parent's spouse to file an "Amended Spouse Return Form" so as to receive his/her part of the joint tax return. Collections in excess of the unreimbursed grant will be paid to the custodial parent if arrears are owed to the family.~~

Any payment that is collected for a child receiving IV-E fFoster eCare that is a payment on the required support obligation for the current month, ~~will be retained by the State to reimburse~~ fFoster eCare maintenance payments. ~~OCSE will determine the amount of, and reimburse the federal government its share of the cost of foster care maintenance.~~

~~If the amount collected is in excess of the monthly amount of the foster care maintenance payment, but not more than the monthly support obligation, OCSE will pay the excess to the State agency responsible for supervising the child's placement and care.~~

In TEA and title IV-E fFoster eCare cases in which conversion to a monthly amount is necessary because support is ordered to be paid other than monthly, OCSE may round off the converted amount to whole dollar amounts for the purpose of distribution.

The date of collection is the date the payment was received at the Arkansas Child Support Clearinghouse.

Payments received by the Arkansas Child Support Clearinghouse are disbursed to the custodial party.

~~(45 C.F.R. § 302.51(a)(1)(2))~~

## **Separation Of Cash Handling And Accounting Functions**

Federal regulations require that individuals who have the responsibility of handling and issuing receipts may not participate in accounting or record keeping functions. Therefore, the person who accepts payments and makes receipts must not be the same person who transmits and deposits monies.

~~(45 C.F.R. § 302.20)~~

## **Office Security**

It is OCSE's policy to handle all payments received, including checks to be disbursed, in a secure environment. Procedures and internal controls are in place for handling payments and checks. When payments and checks are not being processed for distribution, they are locked in a secure file cabinet.

~~(45 C.F.R. § 302.19)~~

OCSE will ensure that every person who has access to or control over funds collected under the Child Support Enforcement Program is covered by a bond against loss resulting from employee dishonesty.

## **Payments Received from Noncustodial Parents**

Money orders or checks made payable to Department of Finance and Administration are acceptable forms of payments, as well as payments made through the OCSE website or by Western Union. Cash payments are discouraged. When possible, money is deposited in the bank the same day it is received. If the bank returns a personal check unpaid because of insufficient funds, OCSE will pursue payment in the manner required by law.

Payments collected on behalf of a TEA recipient must be paid to OCSE, and may not be paid directly to the family. If a TEA recipient receives money, whether cash or check, directly from a noncustodial parent, the ~~custodian~~ custodial party must forward the money to the Arkansas Child Support Clearinghouse. Failure to do so could result in a loss of TEA benefits. OCSE must notify the IV-A agency of the amount of the collection, which represents payments on the required support obligation for the month, within ten ~~working~~ business days of the end of the month in which the support is received.

If a parent custodial party who receives OCSE services to collect child support payments who has an open enforcement case receives payment directly from a noncustodial parent, the money must be forwarded to the Arkansas Child Support Clearinghouse to insure ensure that credit for the payment is properly recorded given. Failure to do so may result in OCSE closing the case. If a recipient of TEA or Medicaid fails to report a payment made directly from the noncustodial parent, the result may be a reduction in or a loss of benefits. OCSE must notify the IV-A agency of the amount of the collection, which represents payments on the required support obligation for the month, within 10 business days of the end of the month in which the support is received.

~~Payments received through the mail or transferred from a court clerk and made payable to the custodial parent, Medicaid, or non-TEA custodian are endorsed as follows: "Credited to the Account of the within named payee – Endorsement Guaranteed Department of Finance and Administration Office of Child Support Enforcement, Account # (Local Bank)."~~

## **Federal/State Tax Intercept**

OCSE will certify noncustodial parents who have child support arrears for Federal and State Tax Offset, according to ~~the Federal~~ regulations found in Federal and OCSE policy, ~~Chapter 5~~. Amounts collected through Federal income tax refund offset must be paid to arrearages. State Tax intercepts are distributed to current support, arrears, and fees, respectively. IRS offsets received by OCSE may be distributed to reflect payment on the case(s) but the actual disbursement of the payment may be held for up to six months if the refund is based on a joint tax return.

**(45 C.F.R. § 303.72)**

In non-TEA cases, if the case is certified and the custodial ~~parent~~ party notifies OCSE in writing subsequent to the certification that the case is to be closed, OCSE will delete the certification, notify the Department of State to release any resulting passport flag, and return any funds that may be intercepted after the effective date of the closure to the noncustodial parent. If TEA arrears are owed to the State, the amount certified will be reduced to that amount and a tax intercept up to the certified amount will be retained for arrears owed.

**~~NOTE: If the noncustodial parent files bankruptcy after certification, the OCSE attorney must file a proof of claim or amended proof of claim, as necessary, to reflect the updated child support arrears. The money collected through tax intercept will then be distributed in accordance with federal regulations.~~**

## **Spousal Share of Tax Intercepts**



Federal regulations allow states to delay the disbursement of collections from IRS income tax refunds when a noncustodial parent files a joint return with his or her current spouse. The custodial parent's disbursements, resulting from the offset collection based on a joint return will be held for six months to allow the IRS time to process any Injured Spouse claim.

To prevent the spousal share of the tax refund from being offset, the current spouse must file IRS Form 8379, Injured Spouse Claim and Allocation. If Form 8379 is filed at the same time the tax return is filed, IRS will determine if any portion of the refund is owed to the injured spouse based on the person's income and tax debt. IRS will only offset the noncustodial parent's share of the tax refund and forward that amount to OCSE. The information we receive from IRS will indicate that the injured spouse claim has been resolved. The offset amount to be disbursed to the custodial party will not be held for six months

## **DISBURSEMENT**

State and federal law requires OCSE to make payment directly to the ~~custodial parent, physical custodian or the caregiver~~ custodial party. There are three exceptions: 1) the family receives Transitional Employment Assistance (TEA), 2) child support is paid to Department of Human Services (DHS) if the children are in ~~Foster e~~Care, and 3) the case originated in another state and OCSE is sending child support payments to that state for the family. ~~(45 C.F.R. § 302.38)~~

## **Stop Payments**

~~If check reissuance is requested due to lost or stolen warrants, a "stop payment" order will be placed on the original warrant, if outstanding. The "stop payment" status protects the agency against duplicate payment to the payee.~~

## **Stale-Dated and Lost/Stolen Checks**

~~Before action can be taken on a lost or stolen check, t~~ There is a waiting period of 14 calendar days from the date the check was mailed before action can be taken on a lost or stolen check. However, if it is determined that the check was mailed to an incorrect address, the waiting period is only seven days. The intended recipient of the check must complete an affidavit and/or surety bond, as appropriate. After the waiting period and the necessary paperwork has been signed, a new check may be issued. A check is considered stale-dated 180 calendar days after it was issued. If a payee is in possession of a stale-dated check, the check should be returned to OCSE and a replacement check will be issued. When a stale dated check becomes one year old and the payee cannot be located, the funds are redistributed and applied to arrears and/or fees, refunded to the noncustodial parent or payor, or sent to the state treasurer.

## Non-Sufficient Funds

When a payor bank or financial institution returns a check due to either a lack of funds to pay the demand or due to the absence of a valid account, that check may be subject to civil collection procedures, and referral to the Office of the Prosecuting Attorney for criminal process. An attempt will be made to notify the maker of the check to allow for redemption. ~~If the maker of the check does not redeem that check in full plus the \$25 service charge and any bank charges incurred, a sworn affidavit for an arrest warrant will be completed. All inquiries regarding returned or insufficient checks must be made to the Non-Sufficient Funds Collection Department at the State Disbursement Unit. This procedure is also applicable to payments made by electronic funds transfer (EFT). There is a \$25 service charge for all returned checks.~~

~~When a check is found to be insufficient, a notice to the address shown on the check or a known current address will be sent by regular mail and will include an affidavit of mailing. The notice will inform the recipient:~~

- ~~• That the check(s) submitted to OCSE was dishonored,~~
- ~~• The sender of the check has 10 days from receipt of the notice to make payment for the check(s), plus all fees/charges incurred, by money order or cashier's check,~~
- ~~• If payment is not made, the dishonored check(s) will be submitted to the prosecuting attorney for criminal prosecution,~~
- ~~• A list of the check number(s), check amount(s), a \$25 service charge per check, any fees charged by the financial institution, and the total amount due.~~

~~If the payor responds to the notice and makes payment and within the 10-day limit business days, the matter is not referred to the prosecuting attorney.~~

~~(Ark. Code Ann. § 5-37-301 to 306)~~

## SPECIAL COLLECTIONS

~~Payments from the following sources are processed by the Central Office Collections Department: application fees, FIDM, overpayments, Federal and State tax intercepts, ESD checks, and payments to purge contempt of court.~~

## Overpayments

OCSE will make every effort to ensure that payments are posted and disbursed correctly. However, ~~in the event of~~ if OCSE made an error, if payments were made by a check on which a stop payment order was placed, or if an adjustment was made by the IRS to a collection previously disbursed, OCSE will seek reimbursement for the overpayment.

OCSE will attempt to recover overpayments by requesting instruction from ~~its customers~~ custodial parties regarding how they wish to repay an overpayment. ~~Customers~~ Custodial parties will be given the option to choose to permit the overpayment to be repaid by recoupment or by repaying the overpayment directly. Instruction will be solicited from a custodial parent party in writing and those instructions must be given to OCSE in writing.

~~This policy will apply to any payment of funds to a custodial parent that is found to not belong to that parent and to payments received through income tax refund intercept that must be later returned to the noncustodial parents' spouse. (Payments that are received disbursed and later found to have been made by a check returned for insufficient funds or on which a stop payment order was placed will be recovered from the maker of the check through other available processes.)~~

### ***Refunds to the Noncustodial Parent***

Refunds to the noncustodial parent will be made only if OCSE made an error that resulted in the overpayment. The noncustodial parent must initiate the request for a refund. The request must be in writing and indicate that the noncustodial parent understands that refunding money will create an overpayment for the custodial parent party.

## **RESEARCH**

### **Unidentified Checks**

~~Checks that cannot be credited to a case because of insufficient identifying information will be processed and scanned into the OCSE system. Unidentified checks will be sent to a research team within the Clearinghouse. The team will make phone calls, write letters to employers and noncustodial parents, and use any information on the check to identify to whom the check belongs as soon as possible. Funds that remain unidentified after three business days of research and investigation will be returned to the sender if possible. If the sender is unknown, the Clearinghouse research team will send the payment information to a special research database, and the payment will be recorded as an Unidentified payment. The Collection Department in Central Office will perform further investigation in an attempt to identify or locate the sender or recipient of the check. Viewing of the unidentified payment file is available to child support staff statewide. Designated staff statewide are authorized to remove payments from the unidentified file and post funds to the proper cases.~~

~~Checks mailed to OCSE that should have been sent to a different entity, sometimes referred to as misdirected checks, will be returned to the sender. If a misdirected check is deposited into the OCSE account in error, after contact has been made with the sender, a check will be written by the Collections Department and mailed to the party who sent it. OCSE will not forward a check to the intended recipient.~~

### **Checks on Hold**

## RECEIPTS ON HOLD

~~Checks are disbursed to custodial parents within two business days from the date on which the payment was received and identified in the State Disbursement Unit. However, there will be times when a child support payment has to be held in the OCSE office. Using manual distribution hold is appropriate when:~~

Disbursements are made to custodial parties within two business days from the date on which the payment was received and identified in the Arkansas Child Support Clearinghouse. However, there will be times when a child support disbursement will have a manual “distribution on hold” placed on it:

- The court has specifically ordered payments held in escrow pending the outcome of a judicial review.
- There is an error that has occurred and the worker is correcting the problem. The worker **must** monitor the case **daily** to ensure that any money that should be disbursed to the custodial parent party is released promptly in order to meet the two-business day timeframe required by the regulation and then remove the distribution hold as soon as the problem is corrected.

~~A weekly report is sent out to the appropriate field offices for OCSE cases and to SDU Customer Service for payment processing cases listing all undisbursed payments. Each caseworker is responsible for getting payments to the custodial parent through researching and correcting any problems as soon as possible.~~

## Chapter 9

# ADMINISTRATIVE HEARINGS

### PURPOSE

~~The purpose of the Administrative Hearing process is to provide a mechanism by which a party who is the subject of an administrative action taken under the OCSE program, which they believe to be adverse, may appeal the agency action. For the purpose of an Administrative Hearing, a party is defined as a noncustodial parent; a custodial parent, in the event of a non-cooperation finding; an account holder, in the event of a Financial Institute Data Match (FIDM) seizure, or intercept of an insurance claim payment from a Child Support Lien Network (CSLN) data match. Complaints, which solely assert an objection to federal or State laws or regulations or which dispute the amount of child support arrears as calculated by the OCSE investigator, are not subject to appeal under this procedure.~~

The purpose of an OCSE administrative hearing is to provide an opportunity for the review of an administrative action, before that action is taken, that a party believes will be adverse to their interest. For the purpose of an administrative hearing, a party is an account holder, custodial party, or noncustodial parent.

Administrative hearings are conducted by attorneys within the General Counsel section. Administrative hearings cannot be held for issues that solely assert an objection to federal or State laws or regulations or that dispute the amount of child support arrears as calculated by the OCSE caseworker. Additionally, complaints regarding visitation, paternity determinations, wage withholding or the amount of court ordered child support can only be reviewed by the court. If the basis for the hearing request involves any of the following issues that can be resolved by an agency decision, a hearing may be held:

- Federal tax offset
- State tax offset
- Financial Institution Data Match (FIDM)
- Insurance settlements or accounts
- Suspension of driver's license, permanent license plates, recreational, or professional licenses
- Custodial party noncooperation
- Release of address information

OCSE does not have the authority to address complaints regarding denied visitation, paternity determinations, or amount of court-ordered child support. These complaints must be addressed by the court.

## INITIATING AN ADMINISTRATIVE HEARING

~~When a party wishes to request an Administrative Hearing, he/she may do so by submitting a request in writing to the Appeals and Hearings Office. The request must be received by the Appeals and Hearings Office within the time specified in the notice of the adverse action.~~

~~The notice of appeal **must** contain sufficient information in order to allow the following items to be identified:~~

- ~~• A statement of the specific action which is being appealed;~~
- ~~• The reason the party believes the action was incorrect; and~~
- ~~• The specific relief requested.~~

~~A notice of appeal request form may be obtained from an OCSE local office or the request may be submitted in any written form that meets the minimum information content indicated below. All submissions must be legible, though they need not be type written.~~

~~When a request for an Administrative Hearing is received, the Appeals and Hearings Office will request a copy of the appeal file from the OCSE office initiating the adverse action (the initiating office) that is the subject of the appeal. The Appeals and Hearings Office will furnish that office a copy of the appeal request.~~

~~The appeal file must contain all records that constitute the documentary evidence to support the action taken, and any correspondence, or other information supplied by a party that is relevant to the action under review. The file must also contain a Hearing Statement prepared by the initiating office that accurately re-states the issue indicated by the appealing party.~~

~~Additionally, it must summarize the basis for the adverse action and the position of the office. The Hearing Statement is not original evidence; complete documentation must be in the file to support the Hearing Statement. The Hearing Statement shall also contain the name of the office representative for the Administrative Hearing. The appeal file must be submitted to the Appeals and Hearings office within seven days of the request.~~

A party, or their attorney, may request an administrative hearing by submitting a written request to the office specified on the notice of the intended administrative action. That request must be received within the timeframe specified on the notice. As a convenience, an Administrative Hearing Request form is available in all local OCSE offices and on the OCSE website at [www.childsupport.arkansas.gov](http://www.childsupport.arkansas.gov).

The request for an administrative hearing **must** contain information sufficient to determine the following:

- A statement of the specific action for which a hearing is requested
- The reason the party believes the action should not occur
- The relief or other action the requesting party is seeking.

## **Timeframes in Which to Request an Administrative Hearing**

The party against whom the proposed action is to be taken must submit a written request for an administrative hearing to the local child support office within the following timeframes from the mailing date of the notice of intent/pre-offset notice.

- Federal tax offset – 30 days from the date of the notice
- State tax offset – 30 days from the date of the notice
- Financial Institution Data Match (FIDM) – 10 days from the date of the notice
- Insurance settlements or accounts (CSLN) – 15 days from the date of the notice
- Suspension of driver’s license; permanent license plates; recreational or professional licenses – 30 days from the date of the notice.
- Custodial party noncooperation – 30 days from the date of the notice
- Release of address information – 20 days from the date of the notice

## **SCHEDULING HEARINGS**

~~After the time frame has expired for requesting witnesses, the hearing officer will schedule the hearing to afford the parties, and their attorneys, if any, notice of the date, place, and time of the hearing. The hearing may be rescheduled at the discretion of the Hearing Officer upon the request of any party and a showing of good cause.~~

The hearing officer will schedule the hearing to afford the parties, and their attorneys, if any, notice of the date, place, and time of the hearing. The hearing may be rescheduled at the discretion of the Hearing Officer or at the request of any party upon a showing of good cause. The hearing scheduling notice shall recite that the obligor’s failure to appear for the scheduled hearing will be considered a waiver of the administrative hearing process.

General Counsel section will mail the party a notice setting the time, location, and date of the hearing and advising that he or she has 15 days from the date of the notice to inform the hearing officer of the identity of any OCSE employees they may wish to question during the administrative hearing.

## WITNESSES

The party and/or ~~his/her~~ his or her representative will be notified by ~~the Appeals and Hearings Office~~ the General Counsel section that 15 days are allowed from the date of the notice to review the ~~H~~hearing ~~F~~file at the office indicated in the notice. The notice will also advise the party and/or their representative that they may identify OCSE employees who they wish to question during the ~~A~~administrative ~~H~~hearing.

The initiating office should submit the names of any witnesses the office wishes to testify regarding the adverse action taken to the ~~Appeals and Hearings Office~~ General Counsel section at the time the ~~H~~hearing ~~F~~file is submitted. OCSE employees are required to testify in the ~~A~~administrative ~~H~~hearings upon notification by the ~~Appeals and Hearings Office~~ General Counsel section. The initiating office representative will be notified by the ~~Appeals and Hearings Office~~ General Counsel section of any witnesses the party has requested and will have five days from receipt of this notice to identify rebuttal witnesses.

## PLACE OF HEARINGS

The hearing will normally be held at the OCSE Central Office, Little Rock, Arkansas. At the request of a party, and/or at the discretion of the ~~H~~hearing ~~O~~fficer, the hearing may be held at an OCSE ~~F~~field ~~O~~ffice or by telephone conference call.

## ABANDONING THE ADMINISTRATIVE APPEAL HEARING REQUEST

If a ~~party or his/her representative~~ the requesting party fails to appear for the hearing and has not received the consent of the ~~H~~hearing ~~O~~fficer to a postponement, the administrative appeal will be considered abandoned.

## INITIATING OFFICE

~~It is the responsibility of the initiating office's representative to be familiar with the case and to be able to provide pertinent information relating to the issues of the case. The office representative should be prepared to question the party who requested the hearing and any witnesses who are presented.~~



The initiating office will provide pertinent information relating to the issues of the case and be prepared to question any witnesses who are presented as well as the party requesting the hearing. In hearing requests relating to state or federal tax offset, the local office must attempt to contact the requesting party to attempt to resolve the complaint prior to the hearing.

## CONDUCT OF HEARING

The hearing will be conducted by a ~~H~~hearing ~~O~~fficer who is an attorney ~~within~~, or assigned by, the General Counsel ~~S~~section of ~~OCSE~~. No person who participated in the decision that is being appealed may serve as the ~~H~~hearing ~~O~~fficer. The ~~A~~administrative ~~H~~hearing will be electronically recorded by the ~~H~~hearing ~~O~~fficer or ~~his/her~~ his or her designee. The party who requested the ~~A~~administrative ~~H~~hearing may have a designated representative present at the hearing.

The ~~Administrative Hearing~~ will follow this general procedure:

- ~~• The hearing will be conducted in an informal but orderly manner;~~
- ~~• The Hearing Officer will explain the hearing procedure to the parties;~~
- ~~• Each witness will be administered an oath/affirmation by the Hearing Officer;~~
- ~~• The hearing statement will be read by the initiation office representative;~~
- ~~• The parties or their representatives may make an opening statement;~~
- ~~• The initiating office will present its case first and specifically describe the reasons for the adverse action taken in the case. The initiating office will introduce documentary evidence pertaining to the adverse action, present oral testimony, and question any witnesses called by the initiating office;~~
- ~~• After the initiating office has presented its case, the party against whom the adverse action was taken may proceed;~~
- ~~• The party may present documentary evidence, oral testimony, cross-examine the initiating office representative or witnesses, or present statement from their representative;~~
- ~~• The Hearing Officer will ensure that the hearing proceeds accordingly, and will limit the questions to the issues relating to the adverse action which is being appealed;~~
- ~~• The Hearing Officer shall determine what evidence is relevant and can be presented at the Administrative Hearing;~~
- ~~• The Hearing Officer may question the initiating office representative, witnesses, and the adverse party;~~
- ~~• The party initiating the appeal has the burden of proving facts necessary to sustain its position (either through testimony or documents) by a preponderance of the evidence;~~
- ~~• The Hearing Officer may request closing statements.~~

## HEARING DECISION

The ~~H~~earing ~~O~~fficer will prepare and sign a Final Order based on testimony of the parties, documents presented, and statements of party representatives. ~~The Final Order will be completed within 15 days after conclusion of the Administrative Hearing. This time frame may be altered by the Hearing Officer when appropriate.~~ A copy of the Final Order will be mailed to the party appealing the adverse action with proof of delivery, (i.e., certified or registered mail, restricted delivery, return receipt requested). A copy will also be provided to the representative of the initiating office.

## Judicial Appeals to the Circuit Court

~~Should the party against whom the adverse action was taken~~ If a party who received an administrative hearing disagrees with the Final Order hearing officer's decision, they have he or she has 30 calendar days after receipt of the final order to commence their file an appeal with the appropriate Ccircuit Ccourt, as provided by the Arkansas Administrative Procedures Act for a judicial review.

In noncooperation cases, the custodial party must appeal to the Arkansas Department of Human Services, should they so desire.

## INTERSTATE CASES INVOLVING FEDERAL TAX OFFSET

If an administrative hearing is requested in an interstate case, the hearing will be conducted by the state that issued the child support order. When an administrative review is conducted by the issuing state, the decision made by that state is binding. (45 CFR 303.72(g))

## ~~INSTRUCTIONS FOR ADMINISTRATIVE HEARINGS~~ ~~Federal Tax Offset Administrative Hearing~~

~~If the request for an Administrative Hearing is in an intrastate case where both the noncustodial parent and the custodian are in Arkansas, the hearing will be conducted pursuant to the procedures outlined below.~~

~~In interstate cases, if requested by the noncustodial parent, the review and/or hearing will be conducted by the state that issued the child support order. When an Administrative Review is conducted by the issuing state, the decision made by that state is binding on OCSE.~~

### **~~Federal Tax Offset Hearing Referral~~**

~~When the local office receives an administrative hearing request, the request must be researched. An attempt must first be made to resolve the tax offset issue by the local OCSE office. Each request should be researched and a written response sent to the noncustodial parent addressing the issues raised in their request. If the local OCSE office is able to resolve the issues, the withdrawal of the noncustodial parent's request for further action should be verified. If the local OCSE office is unable to resolve the issues addressed through the Administrative Review, then an Administrative Hearing will be conducted.~~

~~The Appeals and Hearings Section will conduct an administrative hearing if the complaint involves an issue that can be resolved by an agency decision. Complaints regarding denied visitation, paternity determinations, or amount of court ordered child support must be addressed by the court and the noncustodial parent should be informed of that limitation. Complaints that concern the validity of the arrearage amount should be referred for an Administrative Hearing.~~

~~The hearing scheduling notice shall recite that the obligor's failure to appear for the scheduled hearing will be considered a waiver of the administrative hearing process.~~

~~Referral packets for an Administrative Hearing must contain the following:~~

- ~~• Completed Hearing Statement.~~
- ~~• Copy of Federal Tax Pre-Offset Notice that was mailed to the noncustodial parent.~~
- ~~• Copy of all Child Support Order currently in effect.~~
- ~~• Breakdown of arrearage calculation showing arrears and accumulated child support judgments, and affidavit of child support arrears.~~
- ~~• All correspondence relating to the offset and the issues raised by the noncustodial parent.~~

~~Referral packets for Administrative Hearings will be reviewed by the local OCSE office supervisor to determine if all the necessary information is attached before being sent to the Appeals and Hearings Section.~~

~~The Appeals and Hearings Section may request supplemental or additional information from the local OCSE office. The Appeals and Hearings Section will notify the noncustodial parent, and the caseworker, of the time, date, and place of the administrative hearing.~~

### **~~Judicial Review~~**

~~Should the noncustodial parent disagree with the decision of the Appeals and Hearing Section, in either a state or federal tax offset hearing, he or she has the right to judicial review under the Administrative Procedure Act, Ark. Code Ann. § 25-15-201 *et seq.* Proceedings for judicial review shall be instituted by filing a petition within 30 days after service upon petitioner of the agency's final decision with:~~

- ~~• The circuit court of any county in which the petitioner resides or does business; or~~
- ~~• The Circuit Court of Pulaski County.~~

## **~~State Tax Offset Administrative Hearing~~**

~~The noncustodial parent has 30 calendar days from the mailing date of the pre-offset notice to file a written request for an administrative hearing. An attempt must be made to resolve the complaint by the local OCSE office as the first step of the administrative hearing process. Each complaint should be researched and a written response sent to the noncustodial parent. If the local OCSE office is able to resolve the issues, the withdrawal of the noncustodial parent's request for further action should be verified. Should the local OCSE office be unable to resolve the complaint, then the matter should be referred to the Appeals and Hearings Section.~~

~~The Appeals and Hearings Section will only conduct an administrative hearing if the complaint involves an issue that an agency decision can resolve, e.g., validity of arrears. The noncustodial parent should be informed to seek legal advice regarding other avenues of resolution for disputes not involving the validity of the arrears.~~

~~The hearing scheduling notice shall recite that the obligor's failure to appear for the scheduled hearing will be considered a waiver of the administrative hearing process.~~

### ~~**State Tax Offset Hearing Referral**~~

~~Referral packets for an Administrative Hearing must contain the following:~~

- ~~• Completed Hearing Statement.~~
- ~~• Copy of State Tax Pre-Offset Notice that was mailed to the noncustodial parent.~~
- ~~• Copy of Child Support Order currently in effect.~~
- ~~• Breakdown of arrearage calculation showing arrears and accumulated child support judgments, and affidavit of child support arrears.~~
- ~~• All correspondence relating to the offset or the issues raised by the noncustodial parent.~~

~~Referral packets for Administrative Hearings will be reviewed by the local OCSE office supervisor to determine if all the necessary information is attached before being sent to the Appeals and Hearings Section.~~

~~The Appeals and Hearings Section may request supplemental or additional information from the local OCSE office. The Appeals and Hearings Section will notify the noncustodial parent, and the caseworker, of the time, date, and place of the administrative hearing.~~

### ~~**Judicial Review**~~

~~Should the noncustodial parent disagree with the decision of the Appeals and Hearing Section, in either a state or federal tax offset hearing, he or she has the right to judicial review under the Administrative Procedure Act, Ark. Code Ann. § 25-15-201 *et seq.* Proceedings for judicial review shall be instituted by filing a petition within 30 days after service upon petitioner of the agency's final decision with:~~

- ~~• The circuit court of any county in which the petitioner resides or does business; or~~
- ~~• The Circuit Court of Pulaski County.~~

## ~~**Financial Institution Data Match (FIDM) Hearing**~~

~~Should a noncustodial parent or account holder request an Administrative Hearing on a Lien/Levy against an account in a Financial Institution based on a match with the institution's data, the request must be submitted no later than 10 days from the date of the notice of such action.~~

~~The hearing scheduling notice shall recite that the obligor's failure to appear for the scheduled hearing will be considered a waiver of the administrative hearing process.~~

~~In the case of request for an Administrative Hearing on a Lien/Levy against an insurance settlement or account based on a match with the insurance company's data, the request must be submitted no later than 15 days from the date of the notice of such action.~~

### ***FIDM Hearing Referral***

~~Referral packets for Administrative Hearings must contain the following:~~

- ~~• Completed Hearing Statement.~~
- ~~• Copy of Notice of Levy, Financial Institution Copy, which includes the "Amount of Levy," "Account Number," "Amount of money frozen in the account," and "Date the account was frozen."~~
- ~~• Copy of Notice of Levy and Right to Request an Administrative Hearing for each account owner.~~
- ~~• Breakdown of arrearage calculation showing arrears and accumulated child support judgments, and affidavit of child support arrears.~~
- ~~• All correspondence relating to the Levy or insurance precedes seizure, or the issues raised by the noncustodial parent, or joint account owner.~~
- ~~• Copy of Child Support Order currently in effect~~

~~Referral packets for Administrative Hearings will be reviewed by the local OCSE office supervisor to determine if all the necessary information is attached before being sent to the Appeals and Hearings Section.~~

~~The Appeals and Hearings Section may request supplemental or additional information from the local OCSE office. The Appeals and Hearings Section will notify the noncustodial parent, and the caseworker, of the time, date, and place of the administrative hearing.~~

### ***Judicial Review***

~~Should the noncustodial parent disagree with the decision of the Appeals and Hearing Section, in a FIDM hearing, he or she has the right to judicial review under the Administrative Procedure Act, Ark. Code Ann. § 25-15-201 *et seq.* Proceedings for judicial review shall be instituted by filing a petition within 30 days after service upon petitioner of the agency's final decision with:~~

- ~~• The circuit court of any county in which the petitioner resides or does business; or~~
- ~~• The Circuit Court of Pulaski County.~~

# **SUSPENSION OF DRIVER'S AND PROFESSIONAL LICENSE**

## **Legal Issues**

An Administrative Hearing cannot clear an outstanding Failure to Appear, Body Attachment, or Bench Warrant. These issues may only be address by the court issuing the order. The noncustodial parent should be informed that legal action is required for a determination on any of these issues. The existence of an outstanding Failure to Appear, Body Attachment, or Bench Warrant does not stay the license suspension process.

In an interstate case, the foreign order **must** be registered for enforcement or modification before the administrative process to suspend a license can begin. There will be no exceptions to this requirement.

The hearing scheduling notice shall recite that the obligor's failure to appear for the scheduled hearing will be considered a waiver of the administrative hearing process.

## **Licensing Suspension Hearing Notice and Packet**

Referral packets for administrative hearings must contain copies of the following:

- Notice of Intent to Suspend License(s)
- Obligor's request for an administrative hearing.
- Hearing Statement completed by local OCSE office.
- Copy of all child support order in effect at the time the Notice of Intend to Suspend License was mailed.
- Breakdown of arrearage calculation showing arrears and accumulated child support judgments, and affidavit of child support arrears.
- Copies of any correspondence between the obligor (or representative) and the Office of Child Support Enforcement.

Referral packets for Administrative Hearings will be reviewed by the local OCSE office supervisor to determine if all the necessary information is attached before being sent to the Appeals and Hearings Section.

The Appeals and Hearings Section may request supplemental or additional information from the local OCSE office. The Appeals and Hearings Section will notify the noncustodial parent, and the caseworker, of the time, date, and place of the administrative hearing.

The packet should be routed to the Central Office, Attention: Appeals and Hearings. The Appeals and Hearings Section will notify the initiating local OCSE office that the hearing packet has been received and advise whether any additional information or documents are needed.

The Appeals and Hearings Section will notify the noncustodial parent and the caseworker of the date, time and location of the administrative hearing. The hearing scheduling notice shall recite that the obligor's failure to appear for the scheduled hearing will be considered a waiver of the administrative hearing process.

## **License Suspension Hearing**

Administrative hearings on license suspension will be conducted according to OCSE Policy Manual Chapter 9, Rules of Order for Administrative Hearings, with the exception that 30 calendar days are allowed to request an administrative hearing following receipt of the Notice of Intent to Suspend.

Administrative hearings on license suspension are limited to a determination whether either of the two Conditions are present, and whether any of the five Exceptions are satisfied.

- **Condition #1:** The obligor is delinquent on a court ordered child support payment in an amount equal to three months obligation or more, or the obligor is delinquent on payments toward an adjudicated arrearage in an amount equal to three months obligation or more; or
- **Condition #2:** The obligor is the subject of an outstanding failure to appear, body attachment, or bench warrant related to a child support proceeding.
  
- **Exception #1:** If the obligor was assessed retroactive support, the obligor is not "delinquent" in his child support payments for those retroactive support payments. For example, if the obligor is the putative father and the court finds him to be the legal father and invokes the law authorizing the setting of support retroactively, then the obligor is not delinquent because there was never an obligation to pay before the court date. "Instant debt" will not be considered an "adjudicated arrearage" for the purpose of this policy. The obligor must fail to pay a retroactive support order in an amount equal to at least three months obligation before being subject to license suspension. (Ark. Code Ann. § 9-14-239)
- **Exception #2:** The obligor pays the delinquency below an amount equal to three months obligation.
- **Exception #3:** Obligors who are currently in compliance with a written agreement with OCSE requiring periodic installment payments for liquidation of a child support

~~delinquency or adjudicated arrearage, obligors currently in compliance with their most recent court order reducing a child support arrearage to proper judgment and requiring periodic payments for liquidation of the judgment, or obligors who are currently making regular and periodic payments on a child support delinquency or adjudicated arrearage through income withholding.~~

- ~~● **Exception #4:** The obligor enters an Agreed Order or written installment agreement with OCSE with instructions to pay current support plus an additional specified amount to be applied to the arrearage/delinquency. The Agreed Order or written installment agreement should contain a provision that stipulates that if the obligor becomes 30 days delinquent on the Agreed Order or written agreement, the license(s) affected will be suspended immediately, and the obligor specifically waives all rights to an administrative hearing or further notice prior to the suspension(s).~~
- ~~● **Exception #5:** Obligor who are periodically making regular payments voluntarily, in an amount equal to current support, plus at least 10% toward liquidation of the arrearage/delinquency, or are paying to the extent permitted under Consumer Credit Protection Act guidelines.~~

## ~~License Suspension Right of Appeal to Circuit Court~~

### ~~Judicial Review~~

~~Should the noncustodial parent disagree with the decision of the Appeals and Hearing Section, in a License Suspension hearing, he or she has the right to judicial review under the Administrative Procedure Act, Ark. Code Ann. § 25-15-201 *et seq.* Proceedings for judicial review shall be instituted by filing a petition within 30 days after service upon petitioner of the agency's final decision with:~~

- ~~1. The circuit court of any county in which the petitioner resides or does business; or~~
- ~~2. The Circuit Court of Pulaski County.~~

## ~~CUSTODIAL PARENT NONCOOPERATION WITH OCSE~~

~~If a custodial parent makes a timely request for an Administrative Hearing based on a notice of noncooperation that they have received, the investigator shall follow the criteria set out in Chapter 3. Should this matter not be resolved, and the request for an Administrative Hearing withdrawn, the matter should be referred to the Appeals and Hearings section.~~



~~The Appeals and Hearings section will conduct an administrative hearing if the request involves an issue that can be resolved by an agency decision. Hearing requests that contest the validity of the noncooperation notice should be referred to the Appeals and Hearings section.~~

## **Noncooperation Referral**

~~Referral packets for administrative hearings must contain copies of the following:~~

- ~~• Copy of Noncooperation Notice sent to the custodial parent;~~
- ~~• The custodial parent's request for an administrative hearing;~~
- ~~• Hearing Statement completed by local OCSE office that sets out completely and accurately the custodial parent's noncooperation;~~
- ~~• Copy of any child support orders in effect at the time the noncooperation notice was mailed;~~
- ~~• Copies of any correspondence between the custodial parent (or representative) and the Office of Child Support Enforcement concerning the noncooperation issue.~~

~~Referrals for Administrative Hearings will be reviewed by the local OCSE office supervisor to determine if all the necessary information is attached before being sent to the Appeals and Hearings Section.~~

~~The Appeals and Hearings Section will review all referrals for accuracy and information, and may request supplemental or additional information from the local OCSE office. The Appeals and Hearings Section will notify the custodial parent, and the caseworker, of the time, date, and place of the administrative hearing.~~

## **Administrative Review of Agency Decision**

~~Should the custodial parent in a TEA or Medicaid case be dissatisfied with the final agency order, they have the right to appeal the decision to the Arkansas Department of Human Services. The TEA or Medicaid customer must contact their ADHS caseworker to start the administrative appeal process. The ADHS will conduct a review and make a determination whether or not good cause exists for the custodial parent's noncooperation. The ADHS determination is final and binding on OCSE.~~

~~The Administrative Hearing conducted by OCSE is final and binding on non-TEA or non-Medicaid customers. The hearing scheduling notice shall recite that the obligor's failure to appear for the scheduled hearing will be considered a waiver of the administrative hearing process.~~

## GLOSSARY

### **ACCOUNT HOLDER**

An entity whose name appears on an account or has an interest in or otherwise has the legal authority to affect that account including signatories.

### **ADMISSION**

A voluntary or implied acknowledgment, confession, or concession of the existence of a fact, or of the truth of an allegation made by a party to the case.

### **ADJUDICATION**

~~The entry of a judgment or decree by a judge after all claims of the parties have been heard and a verdict returned.~~ A legal process that decides a dispute.

### **ADMINISTRATIVE OFFSET**

Part of the Federal Offset Program in which the recurring or nonrecurring payments to an individual from the federal government are intercepted and sent to the certifying state for payment of child support arrears.

### **AFFIDAVIT**

A written statement of facts confirmed or sworn to by the party making this statement, taken before an officer having legal authority to administer an oath, such as a notary public.

### **~~ALIMONY~~**

~~Spousal support paid to a divorced spouse.~~

### **ALLEGED FATHER**

~~A person who has been named as the father of a child born out of wedlock, but for whom paternity has not been legally established. Also referred to as putative father.~~

### **ALLOTMENT**

A portion of a ~~serviceman's~~ military personnel's pay deducted for ~~€~~child or ~~§~~spousal ~~§~~support.

### **ANSWER**

A pleading by the defendant in a civil case that contests or admits the plaintiff's allegations of facts set forth in the complaint.

### **APPEAL**

The request of a party to a higher authority to review the rulings made by a lower authority for possible errors that would justify overruling the lower authority's judgment.

### **APPLICATION**

The act of requesting child support services.

**ARCSIS**

Arkansas Child Support Information System

**ARKANSAS CHILD SUPPORT CLEARINGHOUSE**

The branch of the Office of Child Support that processes all child support payments for the State of Arkansas. Also known as the Clearinghouse and or the State Disbursement Unit.

**ARREARAGE**

The amount of past due support.

**BENCH WARRANT**

An order of a court which authorizes an arrest.

**BIOLOGICAL MOTHER**

Birth mother.

**BOND**

A sum of money paid by an individual or on ~~his/her~~ his or her behalf to ensure ~~his/her~~ his or her appearance in court or compliance with the court order.

**BURDEN OF PROOF**

The necessity or duty of affirmatively proving a fact in dispute on an issue raised between the parties.

**~~CARETAKER RELATIVE~~**

~~The relative who lives in the home with and cares for the minor child.~~

**~~CASE CLOSING CRITERIA~~**

~~Conditions that must be met to close a child support case.~~

**CENTRAL OFFICE**

The ~~State Headquarters~~ administrative offices of the Office of Child Support Enforcement.

**CENTRAL REGISTRY**

A single unit within the state IV-D agency which receives, disseminates, and has oversight responsibility for incoming interstate OCSE cases, including ~~URES~~ URES/UIFSA petitions and requests for wage withholding.

**CHILD SUPPORT GUIDELINES**

A set of principles approved by the Arkansas Supreme Court by which a recommended child support order amount may be determined

## **CHILD SUPPORT ORDER**

A judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing state, or of the parent with whom the child is living, which provides for monetary support, health care, arrearages or reimbursement, and which may include related costs and fees, interest and penalties, income withholding, attorney's fees, and other relief.

## **CITATION**

- (1) A court-issued writ that commands a person to appear at a certain time and place to do something demanded in the court, or to show cause for not doing something.
- (2) A reference to a statute, ordinance, or judicial opinion.

## **CLEARINGHOUSE**

See ~~State Disbursement Unit~~ Arkansas Child Support Clearinghouse

## **CODE OF FEDERAL REGULATIONS (CFR)**

Publication of federal rules, standards, and regulations published by the National Archives of the United States.

## **COLLECTION**

Money ~~obtained~~ received by a child support enforcement agency from an obligor.

## **COLLECTION DATE**

The day a payment is received at the Arkansas Child Support Clearinghouse.

## **COMPLAINT**

A written document filed in court which initiates an action for relief.

## **CONFIDENTIALITY**

The keeping and safeguarding of information obtained while performing official duties from unauthorized disclosure.

## **CONSENT DECREE**

A voluntary agreement to establish paternity support, or payment on arrearage, which upon approval by a judge, becomes a court order.

## **CONTEMPT**

Willful disobedience of the authority of a court of law.

## **COOPERATION**

Assistance provided by the ~~eustodian~~ custodial party (~~Ffor~~ **OCSE Ppurposes**) to the ~~investigator~~ caseworker in establishing paternity by identifying the noncustodial parent, helping in location efforts, appearing at the office to provide written or verbal information, appearing in court if

required, and turning in any direct child support payments made after the assignment of support rights became effective.

### **COST RECOVERY**

Amounts which are recovered from the noncustodial parent or deducted from collections paid to the customer to reimburse the cost of providing child support services. Costs which are recovered are deducted from amounts submitted for federal reimbursement.

### **CRIMINAL NONSUPPORT**

Nonsupport is the failure to support a person for whom one is legally obligated to provide ~~for~~. ~~Nonsupport is considered a crime when it meets the criteria set forth in the Arkansas Criminal Code.~~

### **CUSTODIAL PARENT (CP) PARTY**

The natural or adoptive parent who resides with his or her dependant child.

The person who has physical custody of a child – defined in this manual as the custodial party or physical custodian.

### **CUSTOMER**

~~A parent, payee, or caretaker relative who is the applicant/recipient of Transitional Employment Assistance (TEA), or the non-TEA applicant of OCSE services.~~

A custodial party or noncustodial parent who is a party in an enforcement or payment processing case.

### **DECREE**

“Judgment” and “~~D~~ecree” are often used synonymously. Relief granted upon an original complaint.

### **DEFENDANT**

The person defending or denying; the party against whom relief or recovery is sought in an action or suit.

### **DEMAND DEPOSIT ACCOUNT**

Checking account; certified, cashier’s/teller’s/officer’s checks; traveler’s checks; money orders; checks or drafts drawn by or on behalf of, letters of credit, withheld taxes, withheld insurance, and other withheld funds; time deposits that have matured or time deposits which the notice period has expired and which have not been renewed.

### **DEPENDANT MINOR CHILD**

Unless the support order states otherwise, a child under the age of 18 years ~~to~~ for whom an obligation of support is owed.

**DEPOSITION**

The testimony of a witness taken before trial, reduced to writing and duly authenticated, and intended to be used at the trial or for the purpose of discovery.

**DHS**

Department of Human Services

**DIRECT PAYMENT**

An assigned support payment from a noncustodial parent which is received directly by a TEA, Medicaid, or non-TEA recipient.

**DISMISSED WITH PREJUDICE**

A ruling that a case be discharged and barred from future action.

***DISMISSED WITHOUT PREJUDICE***

A ruling that a case can be discharged, ~~h~~However, it is not barred from future action.

**DOCKET**

~~(1) Court Calendar~~

~~(2) A brief record of court proceedings.~~

A court calendar or a brief record of court proceedings.

~~**DOR**~~

~~Division of Revenue~~

**DUE PROCESS**

Notice and an opportunity for a hearing to present objections to an action that affects private rights.

~~The conduct of legal proceedings according to those rules and principles which have been established in our system of law for the enforcement and protection of private rights. Its most essential elements are a court with proper jurisdiction over the subject matter and the defendant, notice to each party, the opportunity for each party to present evidence and challenge the opposing party's evidence, orderly procedures, and a neutral and unbiased trier of fact who determined the facts and decides the issues only on the basis of the persuasiveness of relevant evidence properly admitted. Due process is a safeguard against unreasonable, arbitrary, and capricious decisions.~~

**EMANCIPATION**

A term principally used with reference to the emancipation of a minor child by its parents, which involves an entire surrender of the right of care, custody, and earnings of the child as well as a renunciation of parental duties.

## **ENFORCEMENT**

An action taken to compel payment of child support.

### **ENFORCEMENT CASE**

~~The Office of Child Support provides services related to the location of noncustodial parents and putative fathers, establishes and enforces child support and medical support orders, and establishes paternity if needed. Cases that are opened by the custodial party submitting an application requesting enforcement services or cases that are referred by DHS. OCSE~~  
Enforcement cases include **TEA cases** defined as cases where the custodial ~~parent~~ party is receiving Title IV-A cash benefits; **former TEA cases** defined as cases where the ~~eustodian~~ custodial party no longer receives services from Title IV-A; **Medicaid cases** defined as cases where the custodial ~~parent~~ party and/or the child receive Medicaid assistance; **IV-E Foster Care cases** defined as cases where the child, who is in foster care, is eligible for TEA or would have been eligible for TEA at the time of placement; and, **recovery cases** defined as a case where there is an unrecovered, support amount due to Arkansas, another state, or the non-TEA ~~eustodian~~ custodial party.

## **ESTABLISHMENT**

The act of securing a court order determining paternity and/or a support obligation.

## **EXECUTION**

A group of remedies that put final civil judgments into effect by the court, thereby commanding a sheriff to take certain actions such as seizing money from a defendant's bank account to pay a judgment won by the plaintiff in a trial.

## **EXPERT WITNESS**

A person who ~~has~~ is qualified by special knowledge and skills in a certain field that would enable him or her to testify give a specialized opinion about evidence or a fact in court.

## **FAMILY SUPPORT CHART**

~~A set of principles approved by the Arkansas Supreme Court by which a recommended child support order amount may be determined.~~

## **FEDERAL PARENT LOCATE SERVICE (FPLS)**

The parent locator service that is operated by the federal Office of Child Support Enforcement. FPLS has access to records of the Internal Revenue Service, Social Security Administration, Dept. of Defense, Dept. of Transportation, and National Personnel Registry.

## **FINANCIAL INSTITUTION DATA MATCH**

A proactive match of child support case members to the account information of financial institutions for the purpose of identifying assets of delinquent obligors.

**FIPS CODE**

Federal Information Processing Standards (FIPS) code; a code scheme identifying each county in each state and territory of the United States.

**FOREIGN ORDER**

Another state's order.

**FRAUD**

The act of deceiving or misrepresenting for the purpose of wrongfully receiving benefits, services, or a favorable court ruling as it pertains to OCSE.

**GARNISHEE**

Person, such as an employer, upon whom a garnishment is served to institute garnishment proceedings against an obligor.

**GARNISHMENT**

A legal proceeding whereby an obligor's property, money, or credit in the possession of or under control of a third party, such as an employer, (garnishee), is withheld from the obligor and applied to the payment of his or her debt to the obligee.

**GOOD CAUSE**

Justification of a TEA or Medicaid recipient's refusal to cooperate in child support enforcement activities.

**GRANT AMOUNT**

The monthly amount of Transitional Employment Assistance (TEA) paid to a specific family.

**IMPUTED INCOME**

Income not actually received but attributed to a parent based on his or her employment potential or standard of living.

**INCENTIVE**

Money which is credited to a local OCSE unit or the state for their assistance in processing a case. Incentive is paid at a variable percentage rate set by Congress for collection on a TEA or non-TEA case.

**INCOME**

Any periodic form of payment due to an individual, regardless of source including wage, salaries, commissions, bonuses, workers compensation, disability payments pursuant to a pension or retirement program, and interest. The definition of income may be expanded by the Arkansas Supreme Court from time to time in the guidelines for child support awards.

**INITIATING STATE**



The state in which interstate support activities are commenced and where the obligee is located.

### **INSTANT DEBT**

Instant Debt is created when the court orders child support for a period of time from the date of birth of the child up to the date the first order is filed. A judgment for the amount is included in the order and the court sets an amount to be paid toward the obligation. Generally, enforcement actions are not taken against the NCP with instant debt if the NCP is paying according to the court's instruction.

### **INTERCEPT**

Tax - Federal – Internal Revenue Code Authorize the collection of delinquent child support through the interception of federal income tax refunds.

Revenue - Act 372 of 1983 and Act 987 of 1985 authorizes and establishes procedures for the collection of past due child support through the interception of state income tax refunds.

### **INTERFACE**

The place at which independent systems meet and communicate with each other, e.g., IV-A/OCSE interface and CHRIS interface.

### **INTERROGATORIES**

A legal means of discovering information needed in a trial by which questions are submitted to the opposing party that must be answered under oath.

### **INTERSTATE CASE**

Any support case in which one of the parties resides outside Arkansas and avails themselves of the protection and rights of the Uniform Interstate Family Support Act (UIFSA).

### **IV-A**

Title IV-A of the Social Security Act is that portion of the Ffederal law covering the Temporary Assistance for Needy Families (TANF) program. Each state develops its program. In Arkansas, the Pprogram is Transitional Employment Assistance (TEA).

### **IV-D**

See Title IV-D.

### **IV-E**

Title IV-E of the Social Security Act is that portion of the Ffederal law covering the foster care program.

### **JUDGMENT**

A court's final determination of the rights and obligations of the parties in a case.

**JURISDICTION**

Legal authority which a court has over particular persons or types of cases, or a defined geographical area.

**LEGAL FATHER**

A man who is recognized by law as the male parent of another person.

**LEVY**

To confiscate property.

**LIEN**

A legal right or interest that a creditor has on another's property until a debt or duty that it secures has been satisfied.

**LOCATION**

The act of obtaining the whereabouts of a noncustodial parent and verifying that the address is correct.

**LONG ARM STATUTE**

A law providing for jurisdiction over a defendant who lives in another state who has had contacts with the state where the law is in effect.

**LUMP-SUM PAYMENT**

Any form of income paid to an individual at other than regular or periodic intervals, or payment regardless of frequency that is dependent upon meeting a condition precedent, including without limitation, the performance of a contract, a job performance standard or quota, the liquidation of unused sick or vacation pay or leave, the settlement of a claim, or an award for length of service.

**MEDICAID**

Medical assistance provided under a State plan approved under Title XIX of the Social Security Act.

**MEDICAL SUPPORT**

Federal Regulations require OCSE to petition the court for provisions that the noncustodial parent acquire and maintain medical insurance for his or her dependent children when coverage is available.

**MODIFICATION**

~~The act of changing a court order.~~

A change to a duty or obligation imposed by a court, such as the amount or frequency of a support obligation

**MONEY-MARKET MUTUAL FUND ACCOUNT**

Treasury bills, commercial paper, and negotiable certificates of deposit. ~~They are also funds~~ that are managed by investment companies registered with the Securities and Exchange Commission.

### **MONITORING**

A system for identifying cases in which there is a failure to meet the support obligation, ~~and following enforcement guidelines.~~

### **MOTION**

A request to a judge for an order or ruling.

### **NET LUMP-SUM PAYMENT**

The entire lump-sum payment less any amount required by law to be withheld.

### **~~NON-TEA OCSE CASE~~**

~~An OCSE case in which the children who are entitled to support are not receiving TEA.~~

### **NONCOOPERATION**

The failure of the customer to meet the requirement of the contract and/or assignment.

### **NONCUSTODIAL PARENT (NCP)**

The natural or adoptive parent who is absent from the home but has a duty to support dependent children. ~~Also known as obligor, or payor.~~

### **NOTARIZE**

The administration of an oath to a person by a public officer who then attests and certifies, by his or her signature and official seal on the document, that the person who signed the document was, in fact, the person whose name appeared thereon.

### **OBLIGATED AMOUNT**

The amount of support established by court order. The total amount of support due for a designated period of time.

### **~~OCSE CASE~~**

~~Those cases that are enforced by the Office of Child Support.~~

~~The Office of Child Support provides services related to the location of noncustodial parents and putative fathers, establishes and enforces child support and medical support orders, and establishes paternity if needed. OCSE cases include **TEA cases** defined as cases where the custodial parent is receiving Title IV-A cash benefits; **former TEA cases** defined as cases where the custodian no longer receives services from Title IV-A; **Medicaid cases** defined as cases where the custodial parent and/or the child receive Medicaid assistance; **IV-E Foster Care cases** defined as cases where the child, who is in foster care, is eligible for TEA or would have been~~

~~eligible for TEA at the time of placement; and, recovery cases defined as a case where there is an unrecovered, support amount due to Arkansas, another state, or the non-TEA custodian.~~

**OFFICE OF CHILD SUPPORT ENFORCEMENT (OCSE, Federal)**

A part of the U.S. Department of Health and Human Services, Administration for Children and Families, which oversees the state child support programs through regional representation.

**OFFICE OF CHILD SUPPORT ENFORCEMENT (OCSE, State)**

A part of the ~~Dept.~~ Department of Finance and Administration, Revenue Division. OCSE administers OCSE child support enforcement services in Arkansas.

**OBLIGEE**

Someone to whom a duty of support is owed; ~~as~~ used in ~~the~~ this Policy Manual, the term includes obligees who have assigned their right to support to the State.

**OBLIGOR**

Someone who owes a duty of support.

**ORDER**

A written directional command delivered by a court or judge.

**ORDER TO SHOW CAUSE**

An order served on an obligor in a contempt action requiring an appearance in court to explain ~~his/her~~ his or her failure to pay ordered support.

**OVERDUE SUPPORT**

A delinquency pursuant to an obligation determined under a court order, or an order of an administrative process established under State law, for support and maintenance of a minor child, which is owed to or on behalf of the child, or for the noncustodial parent's spouse (or former spouse) with whom the child is living, but only if a support obligation, established with respect to the child, is being enforced under the State's OCSE plan.

**PAST-DUE SUPPORT**

The amount of support determined under a court order or an order of an administrative process established under State law for support and maintenance of a child, or of a child and the parent with whom the child is living, that has not been paid. This term is used to refer most commonly to a judgment obtained when the child support obligation is initially set.

**PATERNITY SUIT**

An action to determine the parentage of a child born out of wedlock.

**PAYEE**

The parent/caretaker relative who receives the child support payment or the case head on a TEA/Medicaid case.

**PAYMENT**

Money paid by an obligor for child support.

**PAYMENT PROCESSING CASE**

A case that is not enforced by OCSE but the child support payment is received and disbursed by the Arkansas Child Support Clearinghouse pursuant to Ark. Code Ann. § 9-14-805.

**PAYOR/OBLIGOR**

An employer, person, general contractor, independent contractor, subcontractor, or legal entity which has or may have in the future in its possession moneys, income, or periodic earnings due the noncustodial parent. Payor shall include all agencies, boards, commissions, institutions and other instrumentalities, and school districts.

**PETITION**

A formal written request submitted to the court asking that a certain thing be done. It states facts and circumstances relied upon as a cause for judicial action and contains a formal request (prayer) for relief.

**PLEADING**

Written allegation filed with the court of what is affirmed on one side and denied on the other, disclosing to the court or jury the issue between the parties.

**PLAINTIFF**

One who initiates a personal action or lawsuit to obtain a remedy for an injury to his or her right; the complaining person in a litigation.

~~**POTENTIAL INCOME**~~

~~Income not actually received but attributed to a parent based on his or her employment potential.~~

**PROBATION**

Allowing a person convicted of an offense to go free, under a suspension of sentence and supervision.

**PROSECUTOR**

The ~~A~~ttorney responsible for prosecuting child support criminal matters; ~~includes State's A~~ttorneys, ~~assistant State's A~~ttorneys, and ~~contract A~~ttorneys.

**PROTECTIVE PAYEE**

Persons who receive TEA on behalf of children when the caretaker is ineligible to receive TEA due to non-cooperation or incapacity.

**PUBLIC ASSISTANCE**

Programs which provide financial, medical, or other assistance to qualified persons.

**PUTATIVE FATHER**

~~The alleged father of a child who was born out of wedlock.~~

A person who has been named as the father of a child born out of wedlock, but for whom paternity has not been legally established.

**RECEIPT DATE**

The date in which a payment was received at the Arkansas Child Support Clearinghouse.

**RECIPIENT**

A person who receives public assistance.

~~**RECOVERY CASE**~~

~~A case where there is an unrecovered, support amount due to Arkansas, another state, or the non-TEA custodian.~~

**REGULATION**

A rule or order promulgated by a governmental administrative agency having the effect of law.

**REMITTANCE PROCESSING**

The processing of a payment, from ~~receiving payment~~ its receipt in ~~SDU~~ the Arkansas Child Support Clearinghouse to its disbursement.

**RESPONDING STATE**

A state receiving and acting on an interstate child support case.

**RESTITUTION**

Court ordered reimbursement for expenses which are determined to be the obligor's responsibility.

**RFP**

Request for Proposal

**SERVICE OF PROCESS**

~~The act of delivering a copy of a legal paper to a person when that person must be notified of a court action, and the court must know that the person has received it.~~

The formal delivery of a summons or other legal process.

**SOCIAL SECURITY ACT**

An act of Congress originally enacted in 1936 which provides for retirement and survivor's benefits, disability insurance, unemployment insurance, and certain other welfare programs.

**SPOUSAL SUPPORT**

A legally enforceable obligation for the support of a spouse or former spouse ~~who is living with the children.~~

**STATE DISBURSEMENT UNIT (SDU)**

~~The branch of the Office of Child Support that processes all child support payments for the State of Arkansas. Also known as the Clearinghouse.~~

See Arkansas Child Support Clearinghouse

**STATE PLAN**

A comprehensive statement submitted by the OCSE agency describing the nature and scope of its program, and giving assurance that it will be administered in conformity with the specific requirements stipulated in Title IV-D and other applicable issuances. The State Plan must be submitted to the Governor for his review and comments.

**STATE PARENT LOCATOR SERVICES (SPLS)**

The service established by the state OCSE agency to locate noncustodial parents. Sources checked include ~~Employment Security Department~~ Department of Workforce Services, Food Stamp records, Credit Bureau Services, and Driver Control.

**SSA**

U.S. Social Security Administration.

**SSI**

Supplemental Security Income.

**SSN**

Social Security Nunumber

**STATUTE OF LIMITATIONS**

A legislative enactment that prescribes the period of time within which a civil ~~suit~~ action must be brought upon a certain claim or that a criminal prosecution of a crime must occur.

**STATUTE**

A law enacted by a legislature.

**STAY**

An order by a magistrate or judge stopping court proceedings or the implementation of a court order.

**STIPULATION**

An agreement between the parties covering business before the court.

**SUBPOENA**

A writ requiring appearance in court to give testimony.

**SUMMONS**

The official notification of the filing of a lawsuit notifying a defendant of ~~his/her~~ his or her responsibility to act within specified time frames in order to preserve his/her his or her defenses to the suit filed.

**SUPPORT ORDER**

See definition of CHILD SUPPORT ORDER.

**SURETY**

A person who incurs an obligation to pay money on behalf of another person in the event of the occurrence of a specified contingency.

**TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)**

A state program to provide assistance to needy families with children so they can be cared for in their own home, and to reduce dependency by promoting job preparation, work, and marriage. States may also use funds on efforts to prevent out-of-wedlock pregnancies and encourage the formation and maintenance of two-parent families. TANF is a federal term. In Arkansas, TANF is known as Temporary Employment Assistance (TEA).

**TIME DEPOSIT ACCOUNT**

The depositor does not have a right and is not permitted to make withdrawals for a certain period unless it is subject to early withdrawal penalty; club accounts; share certificates and certificates of indebtedness; certifiable accounts and notice accounts; and savings accounts.

**TITLE IV-D**

Title IV-D of the Social Security Act is that portion of the ~~F~~Federal law covering the child support enforcement program.

~~**TPL**~~

~~Third Party Liability~~

**UNEMPLOYMENT INSURANCE (UI)**

~~Unemployment Insurance~~, a A fund from which eligible ~~unemployed~~ unemployed persons are paid benefits.

**UNIFORM INTERSTATE FAMILY SUPPORT ACT (UIFSA)**

The statutory authority for courts to establish and enforce an obligation for child support arising in another state. ~~Referred to in some states as Uniform Reciprocal Enforcement of Support Act (URESAs).~~



## **VERIFICATION**

The process of confirming that information is true.

## **WAGE INCOME WITHHOLDING – INITIATED**

~~Ark. Code Ann. § 9-14-218 (a) (1) became effective August 1, 1985, and Arkansas Law law~~ provides for payment of child support obligations by mandatory initiated income withholding. If not court ordered, initiated income withholding must take effect when the amount of the delinquency is equal to the total court ordered support payable for 30 days. The provision will also apply when partial payments have been made but total arrears are equal to one month's obligation.

## **WAGE INCOME WITHHOLDING – IMMEDIATE**

Orders, judgments, and decrees entered in OCSE cases after October 1, 1989, should contain a provision for immediate income withholding, unless the court finds there is good cause not to implement withholding, or the parties enter into an alternative agreement regarding withholding. If there is no order, wage withholding can only be implemented upon proper notice to the noncustodial parent after he has accumulated an arrearage equal to 30 days support.

## **~~WAGE WITHHOLDING – MEDICAL~~**

~~Orders effective after March 6, 1991, must contain a provision allowing for income withholding for medical support. Orders for health insurance effective after March 6, 1991, that do not contain a provision allowing income withholding for medical support are not subject to withholding. The next step for these cases would be referral to legal for contempt.~~

## **WARRANT**

A writ issued by a judicial officer commanding a law enforcement officer to perform and arrest or search.

## **WAIVER**

The intentional and voluntary relinquishment of a known legal right.

## **WRIT**

An order issued from a court which requires the performance of a specified act.

## **WRIT OF ATTACHMENT**

A court order instructing the sheriff to seize a person or property.

