

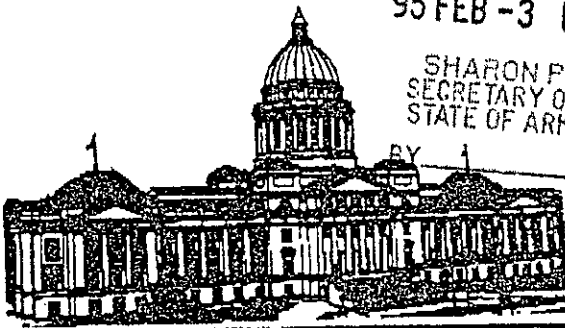
ARKANSAS REGISTER

FILED
AR. REGISTER DIV.

95 FEB -3 PM 4:39

FILED
AR. REGISTER DIV.

Transmittal Sheet
95 FEB -3 PM 4:39



SHARON PRIEST
SECRETARY OF STATE
STATE OF ARKANSAS

SHARON PRIEST
SECRETARY OF STATE
STATE OF ARKANSAS

BY W. J. "Bill" McCuen

Secretary of State
State Capitol Rm. 010
Little Rock, Arkansas 72201-1094

For Office Use Only: Effective Date 2/23/95 Code Number 006.25.95--001

Name of Agency Office of Child Support Enforcement

Department Dept. of Finance & Administration

Contact Person Jim Barnhill

Statutory Authority for Promulgating Rules Act 1241 of 1993 ACA 25-15-203

Suspension of Commercial Driver's License for Non-payment of Child Support \$4805-4808 and Rules of Order for Administrative Hearings \$7000-7008
Intended Effective Date _____ Date _____
☐ Emergency Legal Notice Published 10-27-94

☒ 20 Days After Filing Final Date for Public Comment 11-18-94

☐ Other Filed With Legislative Council 11-18-94

Reviewed by Legislative Council 12-1-94

Adopted by State Agency 2-23-95

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with Act 434 of 1967 As Amended.

Judy Jones Jordan
Signature

Administrator
Title

2-3-95
Date

7000

SERIES

DATE

Subject **Administrative Hearings**

The following Rules of Order shall apply to all Administrative Hearings conducted by OCSE.

7000**PURPOSE**

The purpose of the Administrative Hearing process is to provide a mechanism by which an aggrieved party may appeal adverse action taken under the IV-D program. Complaints which solely assert an objection to federal or State laws or regulations are not subject to appeal under this procedure.

7001**INITIATING AN
ADMINIS-
TRATIVE
HEARING**

When a party wishes to request an Administrative Hearing, he/she may do so by submitting a request in writing to the OCSE Appeals and Hearings Office. The request must be received by the Appeals and Hearings Office no later than 30 days from the date of receipt of notification of the adverse action by the party.

The notice of appeal request must contain:

1. A statement of the specific action which is being appealed.
2. The reason the party believes the action was incorrect.
3. The specific relief requested.

When a request for a formal hearing is received, the Appeals and Hearings Office will request a copy of the appeal file from the responsible program office initiating the adverse action which is the subject of the appeal. At this time the Appeals and Hearings office will furnish the responsible program office a copy of the appeal request. This file will contain relevant records which constitute the documentary evidence to support the action taken, any relevant correspondence, and any relevant information supplied by a party. The file must also contain a Hearing Statement prepared by the initiating office which summarizes the basis for the adverse action and the position of the office. The Hearing Statement, however, is not original evidence, so complete documentation will be required in the file to support the Hearing Statement. The Hearing Statement will contain the issue as stated by appealing party. The Hearing Statement shall also list the name of the office representative for the Administrative Hearing. The appeal file must be submitted to the Appeals and Hearings

7000

SERIES

DATE

SUBJECT

Administrative Hearing

office within 7 days of the request.

**7002
WITNESSES**

The party and/or his/her representative will be advised by the Appeals and Hearings Office that he/she has fifteen days from the date of the notice to review the Hearing File at a specified office location and to notify the Appeals and Hearings Office of any individuals he/she wishes to subpoena for the Administrative Hearing.

The responsible program office must advise the Appeals and Hearings Office at the time the Hearing File is sent of any witnesses the office wishes to present to document the adverse action taken. OCSE and Contract employees will be expected to attend Administrative Hearings upon notification by the Appeals and Hearings Office. The office representative will be notified by the Appeals and Hearings Office of any witnesses the party has requested. The office representative will have five days from receipt of this notice to request rebuttal witnesses.

**7003
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, at least 10 days notice of the date, place, and time of the hearing. The scheduling letter shall also contain the name of the hearing officer who will conduct the hearing. In the event any party suffers from illness or cannot attend the hearing due to unavoidable scheduling conflicts, the party may request that the hearing be continued. The hearing may be rescheduled by the hearing officer upon a showing of good cause.

**7004
PLACE OF
HEARINGS**

The hearing will normally be held at OCSE Appeals and Hearings Office in Little Rock. At the request of a party and at the discretion of the Hearing Officer, the hearing may be held at an OCSE Field Office.

**7005
ABANDONING
THE APPEAL**

If a party or his/her representative fails to appear for the hearing and does not contact the Appeals and Hearings Office prior to the date of the hearing of his/her inability to attend, the appeal will be considered abandoned.

**7006
INITIATING
OFFICE**

It is the responsibility of the initiating office's representative to be familiar with the case, and to be able to answer pertinent questions relating to the issue

7000

SERIES

DATE

SUBJECT

Administrative Hearing

at hand asked by a party or the hearing officer. The office representative should be prepared to cross-examine adverse witnesses.

**7007
CONDUCT OF
THE HEARING**

The hearing will be conducted by a hearing officer or attorney assigned to the OCSE Appeals and Hearings Office. No person who had any part in the decision which is being appealed may serve as the hearing officer. The hearing will be recorded by the Appeals and Hearings office.

A party may have representation by a friend, attorney, or other designated representative.

The hearing will be conducted in an informal but orderly manner by the hearing officer who will control the conduct of the proceeding. Each witness will be administered an oath/affirmation by the hearing officer. The party initiating the appeal has the burden of proving whatever facts it must establish to sustain its position by a preponderance of the evidence. The hearing officer will explain the hearing procedure to the parties. The hearing statement will be read by the initiating office representative. An opening statement may also be presented by the appealing party or his/her representative. The initiating office will present its case first, which includes presenting evidence and questioning of witnesses. The appealing party will then be allowed to present his/her case. He/she may do so with the aid of others. The appealing party will be allowed to question the office representative and to confront and cross-examine any adverse witnesses. Questioning of parties and witnesses will be confined to the issue(s) involved. All relevant evidence may be presented as permitted by the hearing officer. The hearing officer may question any party or witness.

**7008
HEARING
DECISION**

The hearing officer will prepare and sign a Final Order based on a comprehensive report of the proceedings. The format will consist of an Introduction, Findings of Fact, Conclusions of Law and a Decision. Final administrative action should be completed within 90 days from the receipt of the appeal. This time frame may be altered by the hearing officer when appropriate upon good cause demonstrated by a party to the proceeding. The Appeals and Hearings Office shall furnish each party a copy of

7000

SERIES

DATE

SUBJECT

Administrative Hearing

the final order, with proof of delivery to the appealing party, i.e., certified mail or other signed acknowledgment of receipt.

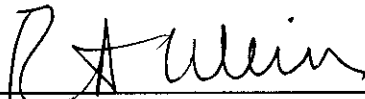
APPROVED BY:



Tim Leathers, Commissioner of Revenue

DATE:

11/18/94



Richard A. Weiss, Acting Director
Department of Finance and Administration

DATE:

11-21-94

FILED

FEB 3 1995

4000

SERIES

DATE

**SHARON PRIEST
SECRETARY OF STATE****SUBJECT****Investigator Responsibilities****4805
SUSPENSION
OF COMMERCIAL
DRIVER'S
LICENSE**

Act 1241 of 1993 authorizes and establishes procedures for the suspension of a Commercial Driver's License if certain conditions exist on a case.

Quarterly, field staff will receive a printout by social security number of Commercial Driver's License holders for which IV-D has an active case. The IV-D office will review the case for the following conditions:

Condition 1. NCP is delinquent on a court-ordered child support payment in an amount equal to six (6) months obligation or more, or the NCP has an adjudicated arrearage in an amount equal to a six (6) months obligation or more; or

Condition 2. NCP is the subject of an outstanding failure to appear, a body attachment, or bench warrant related to a child support proceeding.

Note: If the NCP has filed Bankruptcy, no action to suspend or revoke the Commercial Driver's License may be taken unless an Order granting relief from the Automatic Stay has been obtained from Bankruptcy Court.

Exceptions:

1) If the NCP was assessed retroactive support, the NCP may not be delinquent in his child support payments. For example, if the NCP 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 NCP is not delinquent because there was never an obligation to pay anything before the court date. Likewise, the "instant debt" will not be considered an adjudicated arrearage for the purpose of this policy. The NCP must fail to pay on a retroactive support order for six (6) months or in a total amount equal to six (6) months obligation before being subject to Commercial Driver's License suspension.

2) The NCP pays the delinquency below an amount equal to six (6) months obligation.

4000

SERIES

DATE

SUBJECT **Investigator Responsibilities**

3) The NCP is presently making child support payments which represent payment on the current support obligation, if any, and payment reducing a child support delinquency of six months or more, either through income withholding or by agreement with OCSE.

4) The NCP enters an Agreed Order or an agreement with OCSE with instructions to pay current support plus an additional specified amount to be applied to the arrearage. The Agreed Order or agreement should contain a provision which stipulates that if the NCP becomes 30 days delinquent on the Agreed Order or agreement, the Commercial Driver's License will be suspended immediately and that the NCP waives the right to an administrative hearing or further notice prior to CDL suspension.

4805.1
INTENT TO
SUSPEND NOTICE

If either Condition 1 or Condition 2 noted above exists and none of the Exceptions apply, an Intent to Suspend Commercial Driver's License Notice (OCSE-1695, the "90 day Notice") will be mailed to the NCP by the responsible field office. Notices should be sent certified mail to the address provided on the printout as reflected on the Commercial Driver's License or to the address provided to the court by the NCP, unless a verified address has been obtained. In the event the Notice by certified mail is rejected or unclaimed, the Notice shall be considered sufficient if sent by regular first class mail. The Notice will inform the NCP that the Commercial Driver's License will be suspended in 90 days and will provide an opportunity to request an Administrative Hearing.

4805.2
INFORMAL
COMPLAINT
RESOLUTION

Following issuance of the 90-day notice (OCSE-1695), a NCP may avoid CDL suspension by contacting the local IV-D office and entering into an Agreed Order or an agreement with OCSE as described in Exception 4 of Section 4805. Agreed Orders and agreements made after issuance of a 90-day notice must include a condition which requires that some payment be made by the NCP before expiration of the 90-day time frame following issuance of the OCSE-1695. In the event the NCP contests the accuracy of the arrearage information or the duration of the delinquency, an appointment must be scheduled with the local IV-D office to resolve the issue. The local IV-D office must attempt to resolve

SUBJECT**Investigator Responsibilities**

the complaint. Issues that can not be resolved by the local IV-D office should be forwarded to Central Office for an Administrative Hearing if the NCP requests.

**4805.3
LEGAL
ISSUES**

An Administrative Hearing can not clear an outstanding failure to appear, body attachment, or bench warrant. These issues must be dealt with by the court. The NCP should be advised that legal action would be required for a determination on any of these issues. So long as the outstanding failure to appear, body attachment, or bench warrant remains, adverse action to suspend the Commercial Driver's License must proceed under this policy.

**4805.4
HEARING
NOTICE
AND
PACKET**

Referrals for Administrative Hearings must contain the following:

- Noncustodial Party's request for a hearing
- Hearing statement completed by local office
- Copies of all child support orders
- Arrears summary
- Copies of any relevant correspondence between the NCP (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 NCP of the date, time and location of the hearing. Also, the hearing scheduling notice shall recite that the NCP's failure to appear for the scheduled hearing will be considered a choice to waive the administrative hearing.

**4805.5
SUSPENSION
HEARING**

Administrative Hearings on the suspension of Commercial Drivers Licenses will be conducted in accordance with Section 7000, Rules of Order for Administrative Hearings, and are limited to a determination whether either of the two (2) Conditions under Section 4805 are present and whether any of the four (4) exceptions are satisfied.

Subject **Investigator Responsibilities**

**4805.6
JUDICIAL
REVIEW**

NCP's not satisfied with the decision have the right to judicial review under the Administrative Procedure Act. Within thirty (30) days from the date the NCP receives the Administrative Hearing decision, the NCP must file a petition in the Circuit Court of the county of the NCP's residence or in the Circuit Court of Pulaski County. A certified copy of the complete Administrative Hearing record and transcript will be submitted to the Court by OCSE within 30 days from the date of service on the agency. Judicial reviews are conducted by the Court without a jury.

**4805.7
SUSPENSION
AND
REINSTATEMENTS**

Central Office staff will have access to Driver Control files and will be responsible for keying any suspensions or reinstatements. All suspensions and reinstatements must be submitted in writing to Central Office, Attention: Appeals and Hearings Section. To ensure that the NCP is allowed 90 days from the receipt by mail of the Notice of Intent to Suspend Commercial Driver's License (OCSE-1695), a copy of this Notice must be retained in the case file with the signed certified mail receipt attached, whenever available. NCP's who pay their arrearage below an amount equal to six (6) months obligation must have their Commercial Driver's License reinstated. It is imperative that the license is reinstated by Central Office immediately. If the license has expired, do not return the license to the NCP. In this event the NCP should be advised to contact their local Revenue Office to obtain a new license.

In some instances, NCP's may initiate action on their own accord resulting in a court order eliminating the presence of Condition 1 or 2 listed above. If the NCP takes such action eliminating the threshold condition for Commercial Driver's License suspension prior to the effective date of the intended suspension, the responsible field office must immediately notify the Appeals and Hearings Office to take action to set aside suspension activity on the case and to notify the NCP accordingly.

**4806
BUSINESS
LICENSES
SUSPENSION**

Arkansas Chancery Courts are authorized to revoke or suspend the occupational, professional or business license of Noncustodial Parties who are delinquent on a court ordered child support obligation in an

4000

SERIES

DATE

Subject

amount equal to six (6) months obligation or more or who are the subject of an outstanding child support warrant according to Act 1240 of 1993. Retroactive support is not an automatic arrearage.

**4806.1
LEGAL
PROCEEDING**

Cases that meet either of the conditions in OCSE Policy 4806 shall be routed to the responsible field legal office for contempt of court, requesting enforcement and revocation or suspension of the occupational, professional or business license. This is an additional enforcement remedy that may be imposed at the discretion of the Court.

**4806.2
SUSPENSION
PROCESS**


Upon receipt of a court-ordered suspension or revocation, the state agency, licensing board, or professional organization responsible for issuance of an occupational, professional or business license shall note the suspension or revocation on their records and take all necessary steps to implement and enforce the suspension or revocation. The suspension or revocation shall remain in full force and effect for the period of time so noted in the court order or until further order of the court.

**4807
LAW LICENSE
REVIEW**

Semiannually, the Clerk of the Arkansas Supreme Court is requested to furnish the Office of Child Support Enforcement with a list of persons that possess an Arkansas Law License. NCP's on the list that meet one of the following conditions will be referred to the Clerk of Supreme Court for review of their license:


1. Six months or more delinquent on payments on a court ordered child support or under an adjudicated arrearage.
2. Subject of an outstanding child support warrant.

APPROVED:


Tim Leathers, Commissioner of Revenue

DATE:

11/22/94


Richard A. Weiss, Acting Director
Department of Finance and Administration

DATE:

11-21-94

INSTALLMENT AGREEMENT
FOR
UNPAID CHILD SUPPORT

THIS AGREEMENT is entered between _____,
hereafter referred to as "Obligor", and Judy Jones Jordan,
Administrator, Office of Child Support Enforcement, hereafter
referred to as Administrator.

WHEREAS, Obligor is over six (6) months delinquent on child
support payments established under Court order dated _____,
19____, Case or Docket No. _____,
_____ vs. _____, IV-D No. _____,
thereby subjecting Obligor to Commercial Driver's License (CDL)
suspension under Act 1241 of 1993.

To date, unadjudicated arrearages on this case total \$_____.
Adjudicated arrearages established under previous orders, including
the above order, total \$_____. Obligor's obligation for
current support is \$_____ per _____.

NOW THEREFORE, for and in consideration of the terms and
conditions herein, the parties agree as follows:

1. On or before _____, 19____, Obligor shall make a
lump-sum child support payment in the amount of \$_____. This
payment shall be made as follows: _____

2. Obligor shall make periodic child support payments in the
amount of \$_____ per _____, which amount includes
current support plus an additional amount of \$_____ per
_____ to be applied to the arrearage, said payments starting
_____. Until further notice, payments are to be made by

Obligor as follows:_____

3. Administrator agrees to forestall any further action to suspend Obligor's CDL, however if Obligor defaults by failing to make payment in full on any lump sum or installment payment specified under this agreement within 30 days of the due date, Obligor acknowledges and consents that Obligor's CDL will be immediately suspended by OCSE under the authority of Act 1241 of 1993, without further notice.

4. Obligor agrees that in the event of a 30 day default under paragraph 3 above, by Obligor on any payment due under this Installment Agreement that Obligor waives all notice of intent to suspend Obligor's CDL and any right to an administrative hearing prior to suspension.

5. The remedies provided by this Installment Agreement For Unpaid Child Support are cumulative and do not affect the availability of remedies under other laws which are intended to facilitate the collection of child support.

Signature of Obligor

Date

Investigator, OCSE

Date

JUDY JONES JORDAN, Administrator, OCSE
By: Authorized Designee

Field Manager, OCSE

Date

OFFICE OF CHILD SUPPORT ENFORCEMENT

State of Arkansas

Division of Revenue Services

Department of Finance & Administration

Notice of Intent to Suspend Commercial Driver's License

DATE:

TO:

Commercial Driver's License # : _____

Child Support Case Number: _____ SSN: _____

In accordance with Act 1241 of 1993, Ark. Code Ann. § 27-23-125, the Office of Child Support Enforcement can suspend a commercial driver's license of a non-custodial parent who is :

1. Delinquent on a court-ordered child support payment in an amount equal to six (6) months obligation or more; or has an adjudicated arrearage in an amount equal to six (6) months obligation or more.
2. The subject of outstanding failure to appear, a body attachment, or bench warrant related to a child support proceeding.

Our records indicate that you are either behind in your court ordered child support payment or the subject of a matter relating to child support proceedings:

- _____ delinquent in court ordered child support payments or adjudicated arrears which equals six (6) months or more obligation.
- _____ the subject of an outstanding failure to appear warrant
- _____ the subject of a body attachment
- _____ the subject of a bench warrant

Your commercial driver's license will be suspended in ninety (90) days from the date of your receipt of this notice, unless a written request for a administrative hearing is received within thirty (30) days to determine whether the condition for suspension does not exist. A written request for an administrative hearing should be directed to the attention of the OCSE Appeals and Hearings Office, P.O. Box 8133, Little Rock, AR 72203.

If you have any question or if you would like to discuss this matter with a child support investigator please call _____,
County Office of Child Support Enforcement, (501) _____ - _____.