

CHAPTER 110

CHILD SUPPORT PROGRAM

Authority

N.J.S.A. 44:10-3; Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA); Public Law 105-34, The Taxpayer Relief Act of 1997; Public Law 105-149, The Balanced Budget Act of 1997; the Work First New Jersey Act, Public Law 1997, c.13, c.14, c.37 and c.38; and the New Jersey Child Support Program Improvement Act (NJCSPIA), P.L. 1998, c.1 and the Uniform Interstate Family Support Act, P.L. 1998, c.2.

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SUBCHAPTER 1. GENERAL PROVISIONS OF THE CHILD SUPPORT PROGRAM

10:110-1.1 Purpose and scope of the Child Support Program

Title IV-D of the Social Security Act, known as the Program for Child Support Enforcement and Establishment of Paternity, was established by Part B of P.L. 93-647 in 1975. Title IV-D charges the Child Support Program with locating alleged fathers and noncustodial parents, establishing paternity, and obtaining and enforcing support obligations (both monetary and health care coverage) owed by noncustodial parents to their children. As used herein, the terms "child support" and "IV-D" are interchangeable.

10:110-1.2 Child Support Program administration

(a) Title IV-D of the Social Security Act delegates responsibility for the operation of the Child Support Program to state IV-D agencies. In New Jersey, the state IV-D agency is the Department of Human Services, Division of Family Development, Office of Child Support and Paternity Programs (OCSPP).

(b) The OCSPP, located in the Division of Family Development (Division), shall be the single organizational unit responsible for the supervision of the Child Support Program.

(c) The OCSPP shall coordinate child support services involving:

1. County welfare agencies (CWA);
2. County child support units (CWA/CSP units);
3. The Administrative Office of the Courts;
4. County prosecutor's offices;
5. County sheriff's offices; and
6. The State Attorney General's Office.

(d) The OCSPP shall supervise and monitor the child support program.

10:110-1.3 Child support services

(a) Child support services shall be provided to the populations described in this chapter.

(b) Child support services shall include, but not be limited to, the following services:

1. Location of noncustodial parents or alleged fathers, their employers, or their sources of income;
2. Establishment of paternity or filiation proceedings;
3. Establishment or modification of child support obligations, including health care coverage support;
4. Enforcement of child support and health care coverage support obligations; and
5. Collection and disbursement of child support payments.

10:110-1.4 Eligibility for services

(a) Individuals residing in New Jersey who receive WFNJ/TANF, WFNJ/GA, Title XIX Medicaid only assistance or who are referred as Title IV-E foster care cases are eligible for child support services.

1. WFNJ/TANF and WFNJ/GA applicants and recipients, Title XIX Medicaid only applicants and recipients, and Title IV-E and DYFS referrals shall accept child support services, including health care coverage support, as a condition of eligibility for public assistance, unless good cause exists in accordance with N.J.A.C. 10:90-16.2 through 16.5 for not providing these services.

2. WFNJ/TANF, WFNJ/GA, or Medicaid assistance shall be denied or terminated for non-cooperation with child support, unless good cause exists in accordance with N.J.A.C. 10:90-16.2 through 16.5.

3. Child support services shall continue to be provided to a custodial parent when the WFNJ/TANF, Title IV-E foster care, or Title XIX Medicaid only case closes, unless the closure is due to non-cooperation with child support services.

4. Child support services shall be provided without requiring a formal application for services.

(b) Individuals residing in New Jersey or having a legal residence in New Jersey, who do not receive public assistance benefits described in (a) above, must make an application for child support services as a condition of eligibility for those services in accordance with N.J.A.C. 10:110-7.1(b).

(c) Individuals residing outside of New Jersey shall be eligible for child support services. Nonresidents must apply for services directly with the IV-D agency in the state of their residence.

10:110-1.5 Attorney representation

Attorney services provided by the county agency child support units to WFNJ applicants/recipients also shall be provided to nonpublic assistance applicants/recipients in both intrastate and interstate cases.

10:110-1.6 Disclaimer of waiver

(a) The absence of a reference in this chapter to a power of or a remedy available to the child support program under Federal or State statute, regulation, or rule shall not operate as a waiver of any such power or the use of any such remedy, procedure, or mechanism.

(b) The failure to adhere to any time frames specified in this chapter shall not act as a waiver of the right to provide such child support service.

10:110-1.7 Confidentiality and privacy

(a) The use or disclosure of information concerning applicants or recipients of support enforcement services shall be limited to purposes directly connected with:

1. The administration of the State plan or program approved under parts A, B, D, E, or F of Title IV or under Titles I, X, XIV, XVI, XIX or XX of the Federal Social Security Act (42 U.S.C. §§ 301 et seq.) or the Supplemental Security Income program established under Title XVI of the Federal Social Security Act (42 U.S.C. §§ 301 et seq.);

2. Any investigations, prosecution or criminal or civil proceeding conducted in connection with the administration of any such plan or program;

3. The administration of any other Federal or Federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of needs; and

4. Reporting to an appropriate agency or official, information on known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child who is the subject of a child support enforcement activity under circumstances which indicate that the child's health or welfare is threatened.

(b) The Department is prohibited from disclosing to any committee or Federal, State or local legislative body any information that identifies by name or address any such applicant or recipient.

10:110-1.8 Requests for information

(a) Nothing in this subchapter shall be construed as superseding or conflicting with the rule on safeguarding information at N.J.A.C. 10:110-1.7.

(b) Information concerning the noncustodial parent shall be released to consumer credit agencies upon their request in accordance with N.J.A.C. 10:110-15.2(a)8.

(c) Requests for general information from the public shall be answered within the time frames established by Federal and State law. The New Jersey Child Support Hotline shall provide case specific and general information about child support services 24 hours a day, seven days a week, in English and Spanish. Case specific information shall only be available to persons authorized by law to receive such information.

(d) Requests for information from custodial and noncustodial parents shall be handled as follows:

1. Copies of court orders, enforcement actions, fiscal records, and financial information used to calculate the obligation shall be released upon request by either the custodial or noncustodial parent.

2. Information on the whereabouts of one party or the child shall not be released to another party against whom a protective order has been entered.

SUBCHAPTER 1A. DEFINITIONS**10:110-1A.1 Definitions**

The following words and terms, used within this chapter, shall have the following meanings unless the context clearly indicates otherwise:

“Account” means a demand deposit account, checking or negotiable order of withdrawal account, savings account, time deposit account, equity securities account or money market mutual fund account, as permitted under Federal law.

“Administrative enforcement” means the use of high volume automated data processing to search various State data bases, including, but not limited to, license records, employment service data and State new hire registries, to determine whether information is available in response to a request made by another jurisdiction to enforce a support order.

“Appropriate enforcement methods” means mechanisms such as income withholding, withholding of civil lawsuits, and execution of the assets of the obligor which can result in immediate payment of the child support arrearage when available. In appropriate cases, the license revocation process may be used as an alternative to Rule 5:7-5 of the Court Rules.

“Arrearage” means the amount of unpaid support as determined by a court order or an administrative order from a state, for support of a child or of a child and the custodial parent.

“Child” means a person, whether over or under the age of majority, who is or is alleged to be owed a duty of child support by that person’s parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

“Child support” means the amount required to be paid under a judgment, decree, or order, whether temporary, final or subject to modification, issued by the Superior Court, Chancery Division, Family Part or a court or administrative agency of competent jurisdiction of another state, for the support and maintenance of a child, or the support and maintenance of a child and the parent with whom the child is living, which provides monetary support, health care coverage, any arrearage or reimbursement, and which may include other related costs and fees, interest and penalties, income withholding, attorney’s fees and other relief.

“Child support order” means a support order for a child, including a child who has attained the age of majority under the law of the issuing state.

“Child support related warrant” means an outstanding warrant for the arrest of a child support obligor or putative father issued by the court for failure to pay child support as ordered, failure to appear at a hearing to establish paternity or child support, or failure to appear at a hearing to enforce a child support order.

“Commissioner” means the Commissioner of Human Services.

“Court” means the Superior Court, Chancery Division, Family Part.

“Court order” means an order of the court or an order from an administrative or judicial tribunal in another state that is competent to enter or modify orders for paternity or child support.

“Court rules” means the Rules Governing the Court of the State of New Jersey.

“Credit reporting agency” means a nationally recognized credit reporting agency as approved by the commissioner and defined in the Federal Fair Credit Reporting Act (15 U.S.C. § 1681a(f)) as any entity which for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing reports to third parties and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

“Custodial parent” means the parent or other person who has legal and physical custody of a child for the majority of the time. The custodial parent is responsible for day-to-day decisions related to the child and for providing the basic needs of the child on a daily basis. The custodial parent is the person to whom child support is payable. In shared parenting situations, the custodial parent is known as the parent of primary residence.

“Default order” means a court order entered due to a party’s failure to answer a complaint or motion or to appear at a court proceeding as required, after being properly served with notice.

“Department” means the Department of Human Services.

“Employee” means an individual who is an employee within the meaning of chapter 24 of the Internal Revenue Code of 1986. Employee does not include an employee of a Federal or State agency performing intelligence or counter-intelligence functions, if the head of such agency has determined that reporting could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

“Employer” has the meaning given the term in section 3401(d) of the Internal Revenue Code of 1986 and includes any governmental entity or labor organization.

“Financial institution” means:

1. A depository institution as defined in 12 U.S.C. § 1813(c);
2. An institution affiliated party as defined in 12 U.S.C. § 1813(u);
3. A Federal or State credit union as defined in 12 U.S.C. § 1752, including an institution affiliated party of a credit union as defined in 12 U.S.C. § 1786(r); and
4. A benefit association, insurance company, safe deposit company, money market mutual fund, investment and loan corporation or similar entity authorized to do business in this State, as permitted under Federal law.

“Health care coverage” means cash medical support, health insurance, dental insurance, eye care, pharmaceutical assistance and other types of medical support which are ordered by the court to maintain the health coverage of a child.

“Income,” for the purposes of enforcing a support order, means, but is not limited to, commissions, salaries, earnings, wages, rent monies, unemployment compensation, workers’ compensation, any legal or equitable interest or entitlement owed that was acquired by a cause of action, suit, claim or counterclaim, insurance benefits, claims, accounts, assets of estates, inheritances, trusts, Federal or State income tax refunds, homestead rebates, State lottery prizes, casino and racetrack winnings, annuities, retirement benefits, veteran’s benefits, union benefits, or earnings or other periodic entitlements to money from any source and any other property subject to withholding for child support pursuant to State law. For the purposes of establishing a support order, income is defined pursuant to the child support guidelines in Appendix IX of the Court Rules.

“Income withholding order” means an order or other legal process directed to an obligor’s employer as defined by the “New Jersey Child Support Improvement Act,” P.L. 1998, c.1, to withhold support from the income of the obligor.

“Labor organization” means a labor organization as defined in paragraph (5) of section 2 of the Federal “National Labor Relations Act” (29 U.S.C. § 152) and includes any entity used by the organization and an employer to carry out the requirements of paragraph (3) of the subsection (f) of section 8 of that Act (29 U.S.C. § 158(f)(3)) or an agreement between the organization and the employer.

“Law” includes decisional and statutory law, and rules and regulations having the force of law.

“License” means any license, registration or certificate issued by the State or its agencies or boards that is directly necessary to provide a product or service for compensation, to operate a motor vehicle, or for recreational or sporting purposes.

“Licensing authority” means any department, division, board, agency or other instrumentality of State government that issues a license, registration, certificate or other authorization to provide goods or services for compensation, to operate a motor vehicle, or for recreational or sporting purposes.

“Noncustodial parent” means the parent who does not have physical custody of the child on a day-to-day basis. In shared parenting situations, the noncustodial parent is known as the parent of alternate residence.

“Obligee” means:

1. An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered;
2. A State or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee; or
3. An individual seeking a judgment determining parentage of the individual’s child or providing for the support of a child.

“Obligor” means an individual, or the estate of a decedent:

1. Who owes or is alleged to owe a duty of support;
2. Who is alleged but has not been adjudicated to be a parent of a child; or
3. Who is liable under a support order.

“Payor” means an employer or individual or entity that disburses or is in possession of income or assets payable to an obligor.

“Probation Division” means the Probation Division of the Superior Court, Chancery Division, Family Part.

“RURESA” means the “Revised Uniform Reciprocal Enforcement of Support Act (1968),” adopted in New Jersey as P.L. 1981, c.243 (N.J.S.A. 2A:4-30.24 et seq.).

“Spousal support” means a legally enforceable obligation assessed against a person for the support of a spouse or a former spouse.

“Spousal support order” means a support order for a spouse or former spouse of the obligor.

“State” means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States. State includes:

1. An Indian tribe; and
2. A foreign jurisdiction that has enacted a law or established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under UIFSA or the procedures under the “Uniform Reciprocal Enforcement of Support Act” or the “Revised Uniform Reciprocal Enforcement of Support Act.”

“State case registry” means the automated system maintained by the Division that contains Federally required information on child support cases.

“State IV-D agency” means the Division of Family Development in the Department of Human Services.

“Support guidelines” means the set of presumptive standards for determining the amount of child support as established by the Court in Appendix IX of the Court Rules.

“Support order” means a judgment, decree or order, whether temporary, final, or subject to modification, for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care coverage, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney’s fees, and other relief. A support order shall be issued by the court or a court or administrative agency of another state.

“TANF” means the “Temporary Assistance to Needy Families” program established pursuant to Title IV-A of the Federal Social Security Act (42 U.S.C. §§ 601 et seq.). TANF includes the Work First New Jersey program for dependent children and their parents established pursuant to P.L. 1997, c.38 (N.J.S.A. 44:10-55 et seq.).

“Title IV-D” means Title IV-D of the Federal Social Security Act (42 U.S.C. §§ 651 et seq.).

“Title IV-D case” means a case under Title IV-A or Title XIX of the Federal Social Security Act (42 U.S.C. §§ 601 et seq.), that involves an assignment of support rights, an appropriate referral under Title IV-E of the Federal Social Security Act (42 U.S.C. §§ 601 et seq.), or a nonpublic assistance case, in which an application for Title IV-D services has been filed and a fee paid, as appropriate, with the division, or an interstate case referred to the division by another jurisdiction.

“UIFSA” means the “Uniform Interstate Family Support Act” to be adopted by each state to replace RURESAs pursuant to P.L. 104-193.

SUBCHAPTER 2. CHILD SUPPORT ADMINISTRATION

10:110-2.1 Cooperative agreements and contracts for IV-D services

The OCSPP may enter into cooperative agreements with public entities in accordance with 45 C.F.R. 302.34 and contracts with private entities for the purpose of carrying out the responsibilities granted to the Division.

10:110-2.2 Reciprocal agreements

A request for IV-D services by a foreign reciprocating country or a foreign country with which the State has an agreement as described in 42 U.S.C. § 459A(d) shall be treated as a request by another state.

10:110-2.3 Full faith and credit

Full faith and credit shall be given to orders, either administrative or court, of this State or other states that comply with the laws of that jurisdiction and shall be fully enforceable and entitled as a judgment to full faith and credit and shall be a judgment by operation of law on or after the date it is due.

10:110-2.4 Uniform Interstate Family Support Act (UIFSA), P.L. 1998, c.2

Interstate cases shall be processed in accordance with the Uniform Interstate Family Support Act (UIFSA), P.L. 1998, c.2.

10:110-2.5 Publicizing child support services

The OCSPP shall regularly and frequently publicize the availability of child support services in accordance with 45 C.F.R. 302.30, including the availability of procedures for the voluntary establishment of paternity.

SUBCHAPTER 3. RESPONSIBILITIES IN THE DELIVERY OF SERVICES

10:110-3.1 OCSPP's responsibilities

(a) The OCSPP shall transmit regulatory and procedural information to the various child support entities as necessary for implementation.

(b) The OCSPP shall provide technical assistance to the CWA/CSP units.

(c) The OCSPP shall respond to requests for information from any person or entity.

(d) The OCSPP shall operate the Automated Child Support Enforcement System (ACES).

(e) The OCSPP shall act in a manner consistent with the best interests of the child.

(f) The OCSPP shall operate the State Parent Locator Service (SPLS).

(g) The OCSPP shall be responsible for monitoring and self-assessment activities.

(h) The OCSPP shall be responsible for coordinating activities with the Office of Child Support Enforcement in the U.S. Department of Health and Human Services.

(i) The OCSPP shall establish, in a manner consistent with Federal and State laws, a system, that shall include procedures, for providing services in a timely manner. Procedures issued shall be consistent with the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq.

(j) In the administration of child support services, there shall be no discrimination on grounds of: race; color; religious affiliation; sex; national origin; ethnic background; marital, parental, or birth status; or disability or handicap by the Division or any other entity under contract or agreement with the Division involved in the provision of child support services, in accordance with Title VI of the Federal Civil Rights Act of 1964 (P.L. 88-352) and Section 504 of the Federal Rehabilitation Act of 1973 (P.L. 95-602), and the Americans with Disabilities Act (P.L. 101-336), and N.J.S.A. 10:5-1 et seq.

10:110-3.2 County welfare agency's responsibilities

(a) Each CWA shall maintain a CWA/CSP unit.

(b) The CWA shall allocate and/or hire staff for the CWA/CSP unit.

(c) Staffing for the CWA/CSP unit shall be in accordance with child support staffing standards, issued by the Division, to effectively and efficiently deliver child support services.

1. The CWA/CSP unit functions shall not be performed by staff who also perform income maintenance or social service functions.

(d) The CWA shall maintain a separate line of authority for CWA/CSP unit staff.

1. Exceptions shall be granted by the Director of the Division and the U.S. Department of Health and Human Services where it can be documented that such separation is not administratively feasible in sparsely populated counties.

(e) The CWA shall have attorneys on staff or under contract, sufficient to represent child support matters in court as necessary.

(f) The CWA shall be billed quarterly, according to its usage for the service provided by the New Jersey Child Support Hotline.

(g) The CWA shall be billed for submitting the following types of cases to the Federal Parent Locator Service (FPLS):

1. Child support cases in which an assignment of support rights to the State is not required;
2. Non-IV-D locate only cases;
3. Parental kidnapping cases; or
4. Child custody cases.

(h) The CWA shall be billed quarterly for FPLS services, per case, at a rate determined by the U.S. Department of Health and Human Services. FPLS fees paid by the counties will be used to reimburse the Federal government for the expense of operating the FPLS.

10:110-3.3 CWA/CSP Unit's responsibilities

(a) The CWA/CSP unit, in a manner consistent with State and Federal requirements, shall organize in a way that effectively and efficiently handles child support cases.

(b) The CWA/CSP unit shall make the determination as to whether the applicant/recipient is cooperating with the child support requirements for receipt of WFNJ/TANF cash benefits and Medicaid benefits.

(c) The CWA/CSP unit shall provide child support services as described in this chapter.

(d) The CWA/CSP unit shall notify on a quarterly basis individuals who have assigned rights of support of the amount of support payments collected.

(e) The CWA/CSP unit shall notify the WFNJ/TANF custodial parent within five working days, when public assistance is terminated, that child support services shall contin-

ue unless the client requests in writing that such services be terminated.

(f) The CWA/CSP units shall cooperate on inter-county cases.

(g) The CWA/CSP unit shall direct the obligor or payor to change the payee in cases where support is subject to an assignment or an application for Title IV-D services has been filed.

10:110-3.4 Administrative Office of the Courts' responsibilities

(a) A Cooperative Agreement between the Department and AOC shall include provisions that the AOC shall be responsible for, but not limited to, the following activities:

1. Developing standard operating procedures, practices and forms, which shall be reviewed by the Division prior to adoption and implementation;
2. Enforcement and collection of support payments in all Title IV-D cases and collection of income withholding payments in non-IV-D cases;
3. Providing technical assistance and training to AOC staff;
4. Monitoring procedures to evaluate staff performance;
5. Reviewing and maintaining financial and other necessary data as Federally required relating to performance of Title IV-D activities and submitting data to the Division upon request or as Federally required;
6. Taking appropriate action on any case referred by the Division;
7. Receiving, distributing and responding to all incoming interstate IV-D cases;
8. Developing procedures for cash handling and accounting functions as Federally required;
9. Distributing collections, with the exception of Federal tax offset collections, within two business days of receipt, if sufficient identifying information is provided; and
10. Providing copies of any order establishing or modifying a child support obligation, or notice of determination that there should be no change in the child support amount within time frames contained in the Cooperative Agreement.

SUBCHAPTER 4. CUSTODIAL PARENT'S RIGHTS AND RESPONSIBILITIES

10:110-4.1 Custodial parent's rights

(a) The custodial parent shall be provided with appropriate notice of any action that significantly impacts the status of their child support case.

(b) If support is collected during a quarter, the WFNJ/TANF custodial parent shall be provided with a quarterly notice of child support collected. The notice shall include:

1. The amount of current support collected;
2. The amount paid toward arrearages; and
3. The amount paid to the family.

(c) The nonpublic assistance custodial parent has the right to receive payments in a timely manner.

1. Payments, except Federal tax offset collections, shall be distributed within two calendar days of receipt, if sufficient identifying information is available.

(d) The following information shall be made available through the New Jersey Child Support Hotline in accordance with N.J.A.C. 10:110-1.8(c):

1. The amount of current support collected;
2. The amount paid toward arrearages; and
3. The amount paid to the family.

10:110-4.2 Custodial parent's responsibilities

(a) Custodial parents shall promptly:

1. Inform the CWA/CSP unit of any divorce actions or court actions to establish a child support order;
2. Provide the CWA/CSP unit copies of any legal documents pertaining to divorce, support, or custody;
3. Inform the CWA/CSP unit of any changes in custody; and
4. Notify the CWA/CSP unit in writing of any change of name or address.

(b) Custodial parents shall notify the CWA/CSP unit if an attorney is retained to handle a child support matter.

(c) Custodial parents shall notify the CWA/CSP unit immediately of any change in their financial circumstances.

(d) Custodial parents in a WFNJ/TANF case shall remit immediately any child support payment received from any person or entity to the CWA/CSP unit in accordance with N.J.A.C. 10:90-2.2(a)6.

SUBCHAPTER 5. DELIVERY OF CHILD SUPPORT SERVICES

10:110-5.1 Providing child support services

Child support services shall be provided as described in this chapter.

10:110-5.2 Administrative subpoena

(a) The Department may compel, by administrative subpoena, the production of books, papers, accounts, records, and documents, any financial or other information needed for the establishment, modification or enforcement of a support order.

(b) The subpoena shall be served by certified and regular mail on the person or entity in possession of the information or record that is sought.

(c) Rules concerning civil penalties for lack of response to administrative subpoena are as follows:

1. A civil penalty of \$25.00 per violation shall be imposed for failure to respond to an administrative subpoena.

2. A civil penalty of \$500.00 shall be imposed for:
 - i. Conspiracy between the noncustodial parent and the entity not to supply the information; or
 - ii. Conspiracy between the noncustodial parent and the entity to supply inaccurate or incomplete information.

3. Payment of the penalty shall be waived if, in response to the notice of the imposition of the penalty, the person or entity complies with the administrative subpoena.

4. All penalties assessed under this section shall be payable to the State Treasurer and may be recovered in a summary proceeding pursuant to N.J.S.A. 2A:58-1 et seq.

10:110-5.3 Administrative enforcement

(a) Wherever possible, compliance with established child support orders shall be administratively enforced through methods described in this chapter.

(b) Administrative enforcement shall be used, to the same extent as used for intrastate cases, in response to a request made by another state to enforce a support order.

1. Neither state shall consider the case to be transferred to the caseload of the other state.

2. Records shall be maintained of:
 - i. The number of requests for assistance received by the State;
 - ii. The number of cases for which the State collected support in response to the administrative enforcement request; and
 - iii. The amount of support collected.

(c) A request for assistance in enforcing a support order through the use of administrative enforcement shall be transmitted to another state via the Federally mandated forms.

(d) Electronic means shall be utilized whenever feasible.

10:110-5.4 Work activities

(a) In cases where an obligor owes past due support for a child receiving assistance under a State program funded under TANF, the Division is authorized to petition the court to issue an order that requires the obligor to:

1. Pay the support in accordance with a plan approved by the court; or

2. Participate in work activities as ordered by the court, if the obligor is subject to such a plan and is not incapacitated.

i. A petition for participation in a work activity shall include a request to adjust the child support amount of the support order to conform with the Child Support Guidelines of New Jersey Supreme Court Rule 5:6A, incorporated herein by reference.

SUBCHAPTER 6. CWA AS PAYEE

10:110-6.1 Assignment of rights

(a) An application for or receipt of WFNJ/TANF shall operate as an assignment of support rights to the State pursuant to P.L. 104-193.

1. Child support services shall not terminate when the WFNJ/TANF case closes unless the termination is requested by the recipient.

(b) Assignment of support rights applies to any DYFS case referred for child support services.

1. Child support services shall not terminate when the DYFS case closes unless the termination is requested by the recipient, except where the DYFS case closes because the child returns to the home.

(c) Assignment of medical support rights to the CWA is automatic upon application for or receipt of Medicaid only assistance.

1. Child support services shall not terminate when the Medicaid case closes unless the termination is requested by the recipient.

10:110-6.2 Support payments

All support rights due the WFNJ/TANF applicant/recipient, which are assigned to the State, shall be paid through the probation division as ordered by the court. The first \$50.00 of any payments for a month received in that month which were made by the absent parent in the month when due, shall be paid to the family.

10:110-6.3 (Reserved)

10:110-6.4 Authorization to seek or enforce a child support obligation

An application for services by a nonpublic assistance recipient of child support services shall operate as authorization to seek, modify, or enforce child support.

SUBCHAPTER 7. APPLICATION

10:110-7.1 Application fees

(a) For public assistance recipients, there is no application fee for child support services.

1. If public assistance and child support services are terminated by the applicant/recipient, the CWA/CSP shall require that a IV-D application be filed and that the \$6.00 application fee be paid if it is requested that services be reinstated.

(b) For nonpublic assistance recipients, the application fee for child support services is \$6.00.

1. Where the custodial parent requests only payment disbursement and monitoring services, a \$25.00 annual fee shall be assessed.

10:110-7.2 Application process

(a) Applications shall be made accessible to the public. There shall be included with each application information describing child support services, the custodial and noncustodial parent's rights and responsibilities, fees, and payment distribution policies.

1. An application shall be provided on the day a request is made in person.

2. An application shall be sent within five working days of the date a written or telephone request for an application is received.

(b) An application shall not be required from a foreign reciprocating country or foreign obligee.

SUBCHAPTER 8. INTAKE AND CASE RECORD MAINTENANCE

10:110-8.1 Investigate interview/case action

(a) An investigative interview shall be scheduled with the applicant/ recipient to obtain sufficient information to determine cooperation with child support requirements, in accordance with N.J.A.C. 10:90-16.2 through 16.5, for the receipt

of WFNJ/TANF cash assistance and health care coverage and to assist in the provision of child support services.

(b) Case action procedures are as follows:

1. For a WFNJ/TANF applicant/recipient, if sufficient information is provided, action to establish paternity and/or support shall be taken.

i. If it is determined that the WFNJ/TANF applicant/recipient has not cooperated in accordance with N.J.A.C. 10:90-16.2 through 16.5:

(1) The applicant/recipient and the children in the assistance unit shall not be eligible for cash benefits under WFNJ.

(2) The applicant/recipient shall be ineligible for Medicaid. However, if an applicant/recipient is pregnant at denial or termination of WFNJ/TANF, Medicaid eligibility shall continue until pregnancy and the 60 day post-partum eligibility period are concluded.

(3) The children in the WFNJ/TANF unit shall continue to receive Medicaid, subject to the notice requirements pertaining to adverse action notices pursuant to N.J.A.C. 10:90-9.

2. For a nonpublic assistance applicant/recipient, if sufficient information is provided, assistance in filing a complaint for paternity and/or support shall be provided.

10:110-8.2 Case records

(a) Automated case records shall be maintained for all cases receiving child support services.

(b) The case record shall be established within 20 calendar days of the filing of a IV-D application.

(c) New information shall be added to the case record within five working days of receipt.

SUBCHAPTER 9. COOPERATION

10:110-9.1 Cooperation with child support for WFNJ and Medicaid eligibility

Cooperation requirements with child support for WFNJ/TANF, WFNJ/GA and Medicaid eligibility are contained at N.J.A.C. 10:90-16.2 through 16.5.

SUBCHAPTER 10. SERVICE OF PROCESS

10:110-10.1 General statement

Service of process shall be required to establish child support obligations and, in some instances, when actions to enforce obligations are taken.

10:110-10.2 Methods of service

(a) The methods of service of process required by law shall vary with the action being taken.

1. When establishing or modifying the child support provision of a court order or judgment, service of process shall be consistent with court rules or applicable statutes.

2. When enforcing a support provision in an order or judgment, procedural due process requirements shall be deemed to have been met with respect to the party upon delivery of written notice to that party's most recent residential or employer address on file with the probation division, if there is a sufficient showing that diligent efforts as defined in N.J.A.C. 10:110-10.3 have been made to locate the party.

i. A certification documenting unsuccessful efforts to locate a party shall be provided to the court before any adverse action is taken based on failure of the party to respond to a notice.

10:110-10.3 Diligent efforts to serve process in enforcement actions

Diligent efforts to serve process in enforcement actions means making inquiries that may include, but are not limited to, the U.S. Postal Service, the Division of Motor Vehicles in the Department of Transportation, the Department of Labor, the Department of Corrections, and the Division of Taxation in the Department of Treasury.

SUBCHAPTER 11. LOCATION

10:110-11.1 General location statement

(a) Within no more than 75 calendar days of the determination that location is necessary, investigations shall be conducted to locate noncustodial parents or alleged fathers and/or their assets.

1. In these location investigations:

i. All appropriate level, State and Federal resources available shall be utilized;

ii. Location efforts in interstate cases (cases in which one party does not live in New Jersey) shall be coordinated; and

iii. Cases, when appropriate, shall be referred to the Federal Parent Locator Service (FPLS).

2. Where adequate identifying information exists but location attempts have failed, repeat location attempts shall be made quarterly, shall be limited to automated sources, and shall include State employment security files.

10:110-11.2 Location sources

(a) A New Hires Directory shall be maintained, and all employers and labor organizations doing business in the State shall report to the Department or its designee:

1. The hiring of, or contracting with, any person who works in this State and to whom the employer anticipates paying earnings; and

2. The rehiring or return to work of any employee who is laid off, furloughed, separated, granted a leave without pay, or terminated from employment in this State.

(b) Information in (a) above shall be reported within 15 days of the hiring, rehiring, or return to work of the employee if the employer reports electronically or magnetically, and 20 days if the employer utilizes another form of reporting.

(c) The report in (a) above shall contain:

1. The employee's name, address, Social Security number and date of birth; and

2. The employer's name, address and Federal tax identification number.

(d) An employer who fails to report as required, shall be given a written warning of noncompliance by the Department for the first violation and shall be subject to a civil penalty:

1. Which shall not exceed \$25.00 per violation; or

2. If the failure to report is the result of a conspiracy between the employer and employee to not supply the required report or to supply a false and incomplete report, the employer shall be subject to a civil penalty which shall not exceed \$500.00.

(e) Payment of the penalty shall be waived if, in response to the imposition of the penalty, the person or entity complies with the reporting requirement.

(f) No civil penalty shall be imposed upon an employer or labor organization who reports the hiring of, or contracting with, the rehiring or return to work of any employee consistent with the Federal requirements which include, the employee's name, address and Social Security number and the employer's name, address and Federal tax identification number, when the employee's date of birth is unavailable to the employer or labor organization.

(g) All penalties assessed under this section shall be paid to the State Treasurer and may be recovered in a summary proceeding pursuant to N.J.S.A. 2A:58-1 et seq.

(h) New hire information may be disclosed to any Federal or State agency as deemed appropriate by the Commissioner.

(i) Any employer or labor organization doing business in this State who has employees who are employed in two or more states and has designated a state other than this State for reporting new hire information in accordance with 42 U.S.C. § 453A shall be deemed in compliance with P.L. 1998, c.1.

(j) State Parent Locator Service (SPLS) shall be established to perform parent locator services.

(k) Through the SPLS, location referrals to the Federal Parent Locator Service (FPLS) shall be submitted electronically.

1. Submission of the FPLS referrals, and the distribution, security and use of the returned information shall be in accordance with Federal requirements contained in 45 C.F.R. 303.70 and with instructions issued by the Federal Office of Child Support Enforcement.

(l) In accordance with N.J.A.C. 10:110-1.7, the OCSPP shall have access, including automated access when feasible, to the following resources, if appropriate, for child support enforcement purposes:

1. Records of other state and local government agencies including, but not limited to:

i. Bureau of Vital Statistics in the Department of Health and Senior Services;

ii. Division of Taxation in the Department of Treasury;

iii. Records concerning real and titled property;

iv. Records of occupational, professional, recreational and sporting licenses;

v. Records concerning the ownership and control of corporations, partnerships, and other business entities;

vi. Records of the Department of Labor;

vii. Records of agencies administering public assistance programs;

viii. Records of the Division of Motor Vehicles in the Department of Transportation;

ix. Records of the Department of Corrections, including records relating to State-sentenced inmates and parolees; and

2. Records held by private entities, including information on the assets and liabilities of individuals held by financial institutions and the names and addresses of individuals and the names and addresses of the employers of the individual appearing in customer records of public utilities and cable television companies in accordance with N.J.A.C. 10:110-5.2.

(m) Personal sources, such as the relatives, friends, employers and landlords, may be contacted in order to obtain location information.

SUBCHAPTER 12. PATERNITY ESTABLISHMENT

10:110-12.1 Identification of the alleged father

(a) Provided that an allegation of paternity is made as provided in this subchapter, a paternity establishment action shall be commenced within 90 calendar days of locating the alleged father.

(b) Before initiating proceedings to establish paternity, an allegation of paternity shall be obtained. Provided that the child's age is no more than five years past the age of majority, the allegation may be made by:

1. The child's mother;
2. The custodial parent, if the custodial parent is not the mother;
3. A man alleging himself to be the child's biological father; or
4. The child.

(c) In cases where there are multiple alleged fathers, the CWA/CSP unit shall:

1. Ask the person making the allegation to designate which man is the most likely father; and
2. Initiate paternity establishment proceedings against the most likely father. If that man is excluded through genetic testing or if the court rules that he is not the father, proceedings shall be initiated against the next most likely father.

10:110-12.2 Voluntary acknowledgment of paternity

(a) In all cases in which sufficient information is available to initiate paternity establishment proceedings, the parties, including an unemancipated minor, shall be offered the opportunity to voluntarily sign a Certificate of Parentage (COP).

(b) Prior to the parties signing the COP, both the custodial parent and the alleged father shall be notified of the legal consequences associated with signing the COP, their rights in the COP process, and the alternatives to signing the COP.

1. The notice shall be given orally, or through the use of video or audio equipment, and in writing.
2. The notice shall specify that:

i. Either party may rescind the COP within the earlier of 60 days of the date of signing, or by the date of establishment of a support order. Additionally, the notice shall provide instructions on the manner in which the COP may be rescinded.

ii. A signed COP, that is not rescinded as specified in (b)2i above, shall be considered a legal finding of paternity.

iii. Either party may request genetic testing before signing the COP.

iv. Should both parents sign the COP, the alleged father shall obtain standing in any adoption or custody proceeding involving the child and may seek visitation rights.

v. By signing the COP, the alleged father shall become responsible for child and medical support for the child, and the Division shall seek and enforce orders regarding support issues.

(c) The COP shall serve to satisfy the method of collection of Social Security numbers as required pursuant to N.J.S.A. 26:8-28c. The COP shall contain, at a minimum, the following information:

1. A sworn statement by the father that he is the natural father of the child;
2. The Social Security numbers, except in those cases in which a person is ineligible to apply for one, and addresses of the father and mother;
3. The signature of the mother and father authenticated by a witness or notary; and
4. Instructions for filing the COP with the agency designated by the State IV-D agency.

10:110-12.3 Contested paternity

(a) If the parties will not sign a COP, a complaint to establish paternity and support obligations shall be filed in a court of competent jurisdiction.

1. The complaint shall be filed within 90 calendar days of locating the alleged father.
2. The parties shall be required to submit to genetic testing, unless there is good cause for refusal, if:

i. The party alleging paternity requests genetic testing and completes a sworn statement setting forth facts that establish a reasonable possibility that the parties had sexual intercourse during the probable period of conception; or

ii. The party denying paternity requests genetic testing and completes a sworn statement setting forth facts that establish a reasonable possibility that the parties did not have sexual intercourse during the probable period of conception or that another man had sexual intercourse with the mother during the probable period of conception.

10:110-12.4 Genetic testing

(a) A list of approved genetic testing laboratories shall be developed through the competitive procurement process. The State shall award a contract to each laboratory on the list.

(b) If the CWA/CSP unit determines that genetic tests should be required, or if a party requests genetic tests before signing the COP, or if the court orders genetic tests, the CWA/CSP unit shall schedule the genetic test at a State-approved facility.

(c) The CWA shall provide initial payment for all costs associated with the genetic testing, including, but not limited to, costs related to performing the tests and costs related to analyzing the test results. The CWA/CSP unit shall ask the court to stipulate that the CWA be reimbursed the cost for genetic testing by either of the parties involved as determined by the practice of the court, unless:

1. The court declares that the alleged father is not the biological father and specifies that the alleged father is not financially responsible.
2. The court declares the alleged father to be indigent, in which case the alleged father can be held liable for the cost and possible future payment.

(d) If genetic test results show the alleged father meets the 95 percent or higher threshold of probability, a rebuttable presumption of paternity is created and is the basis for entry of a judgment of paternity.

(e) Either party may contest the genetic test results by sending a written objection to the appropriate CWA/CSP unit within 10 calendar days of receipt of the results.

1. The party contesting the genetic testing results shall be responsible for advance payment of any additional genetic testing.

10:110-12.5 Establishing paternity in interstate cases

Within 20 calendar days of determining the alleged father is out-of-State, appropriate legal action or location action shall be initiated, if necessary. Whenever appropriate, proceedings to establish paternity shall be in accordance with the State's long-arm statute (the Parentage Act at N.J.S.A. 9:17-46(b)).

10:110-12.6 Adoption and artificial insemination

(a) When a child has been legally adopted, an action to establish paternity against an alleged biological father shall not be initiated unless a court of competent jurisdiction overturns the adoption.

(b) When a child is conceived through the artificial insemination of the mother with sperm donated anonymously to a "sperm bank" or similar institution, an action to establish paternity shall not be initiated.

10:110-12.7 Special circumstances

(a) Paternity proceedings shall be waived when good cause is established pursuant to N.J.A.C. 10:90-16.2 through 16.5.

(b) If a child is born to married parents, but the mother alleges that someone other than the presumed father (the husband) is the child's biological father, an action to establish paternity shall be pursued against the alleged biological father.

1. The legal relationship between the presumed father and the child may be severed by a court of competent jurisdiction, and the biological father can be adjudicated the legal father.

2. When the presumed father signs an Affidavit of Denial of Paternity, the legal relationship with the child may be severed if the biological father and mother sign a COP.

(c) Paternity establishment shall be pursued regardless of either parent's status as a minor.

1. A minor mother's sworn statement regarding the identity of her child's biological father shall be accepted without requiring the mother's parent or guardian to witness the document.

2. Unemancipated minors may execute the COP.

3. If the alleged father is a minor and will not sign a COP, a paternity complaint shall be filed with a court of competent jurisdiction. The court's rules regarding legal actions taken against minors shall be followed.

SUBCHAPTER 13. ESTABLISHING SUPPORT OBLIGATIONS
10:110-13.1 General statement

(a) In cases where there is no order for support, legal action to establish child support and health care coverage obligations shall be initiated within 90 days of determining the location of the noncustodial parent.

1. In cases where sufficient information is available to initiate proceedings for the purpose of establishing paternity and/or obtaining support and health care coverage, a consent order will be attempted in accordance with individual county procedures within 90 calendar days of location.

2. If paternity is acknowledged and/or support and health care coverage are agreed upon, the consent order shall be forwarded to the appropriate court for review and approval by the court.

10:110-13.2 Determining the amount of child support obligations

(a) The Child Support Guidelines of New Jersey Supreme Court Rule 5:6A are incorporated herein by reference. The Guidelines shall be applied when an application for support, made pursuant to any section of the rule, is considered by the court.

1. The Child Support Guidelines may be modified or disregarded by the court only where good cause is shown.

2. The determination of good cause is within the sound discretion of the court.

3. If the Child Support Guidelines are not applied in a specific case or the guidelines-based award is adjusted, the reason for the deviation and the amount of the guidelines-based award (before any adjustment) shall be specified in writing on the guidelines worksheet or in the support order and recorded on ACSES.

(b) Application of the Child Support Guidelines results in a rebuttable presumption that the amount computed is the correct amount for the current child support obligation.

(c) An order or judgment requiring one or both of the parties to provide health care coverage for the child shall be sought when such health care coverage is available at reasonable cost. Health care coverage shall be deemed to be of reasonable cost when it is available through a parent's employer or other group.

SUBCHAPTER 14. REVIEW AND MODIFICATION
10:110-14.1 Case selection

(a) Every three years, the CWA/CSP unit shall review for possible adjustment all WFNJ/TANF and Foster Care cases on which the support order exists. Additionally, the CWA/CSP unit shall review for possible adjustment all active Medicaid only cases if an existing order was established, last reviewed or modified three years prior and does not contain a health care coverage provision. To ensure that the review is initiated by the three-year anniversary date, the Automated Child Support Enforcement System (ACSES) shall generate a monthly report from the State case registry listing all WFNJ/TANF, Foster Care and applicable Medicaid only cases where the review date recorded in the State case registry is at least two years and 11 months earlier than the date on which the report is generated. This review shall occur unless the State has developed an Automated Cost-of-Living Adjustment for Support Payments Program.

(b) Upon the written request of either party, the CWA/CSP unit shall review for possible adjustment nonpublic assistance cases on which the support order was established, last reviewed or modified at least three years prior and the necessary financial information is available to the CWA/CSP unit for both parties. This review shall occur unless the State has developed an Automated Cost-of-Living Adjustment for Support Program.

1. Within 15 calendar days of receipt of a request for review, it shall be determined whether a review shall be conducted.

2. Within 180 calendar days of determining that a review shall be conducted or locating the nonrequesting parent, whichever occurs later, the CWA/CSP shall:

i. Notify the parties that a review shall be conducted;

ii. Conduct a review of the order;

iii. Notify the parties of the proposed adjustment or the determination that there should be no adjustment; and

iv. Adjust the order or determine that the order should not be adjusted.

(c) The CWA/CSP unit shall not initiate a review when:

1. In a WFNJ/TANF case there has been a determination of good cause, pursuant to N.J.A.C. 10:90-16.2 through 16.5, and neither party has requested a review;

2. In a Foster Care Title IV-E case, the Division of Youth and Family Services has made a determination of good cause and neither party has requested a review;

3. It is determined that the most recent order or review is less than 36 months old;

4. There is no valid address for one or both of the parties;

5. The child support order is not a New Jersey order;

6. In a Medicaid only Title XIX case, the order contains a health care coverage provision and neither party has requested a review; or

7. It is determined that a review would not be in the best interest of the child.

10:110-14.2 Review process

(a) On any case where it is determined that a review is warranted, both parties shall receive notice of the review at least 30 calendar days prior to the commencement of the review.

(b) On any case where it is determined that a review is warranted, the parties shall complete and return a Financial Information Sheet within 10 calendar days of the date on the request letter.

1. If the Financial Information Sheet is not returned by the requesting party, the CWA/CSP unit shall notify the custodial and noncustodial parents that the review is being terminated for failure to cooperate.

2. If the review was requested on a nonpublic assistance case, the IV-D client shall be asked to sign the “Authorization to Review Support.”

(c) Employment and income information provided by both parties, as well as information gathered from other sources (that is, employers, New Jersey’s Wage Reporting System, and so forth) shall be used to conduct the review.

(d) When all necessary information is obtained, but in no event before expiration of the 10–day period for completing and returning the Financial Information Sheet, a review shall be conducted to determine if an adjustment to the order is appropriate.

1. To conduct a review means to apply the Child Support Guidelines using the most recently available financial information for the parties or to determine whether a health care coverage provision should be added to a support order.

2. After conducting the review, an adjustment shall be sought if:

- i. The newly calculated amount differs from the existing obligation amount by 20 percent or more; or
- ii. There is no health care coverage provision in the support order, and either or both parties have health care coverage available at reasonable cost.

(e) Upon completion of the review, a written notice shall be sent to both parents regarding the results of the review.

1. The notice shall be sent by certified and regular mail to the parties’ residential addresses.

2. If the notice advises the parties that an adjustment of the order shall be pursued:

- i. A Consent to Modify Order Form shall be provided with each notice.
- ii. The notice shall inform the parties:

(1) Of the new child support amount;

(2) That a modification of the order shall be sought to include a health care coverage provision, if appropriate;

(3) That if they agree with the review findings, they may avoid a court appearance by signing the Consent to Modify Order Form and returning it within 30 days of the date the notice was served;

(4) That if they disagree with the review findings (that is, they disagree that an adjustment is appropriate, disagree with the new child support obligation, or disagree with the determination of responsibility

for providing health care coverage for the child), they may object to the adjustment by filing a written challenge within 30 calendar days of the date of service; and

(5) That if a challenge is not received within 30 calendar days, the court may proceed to adjust the child support obligation.

3. If the notice advises that an adjustment of the order is not appropriate, the notice shall advise the parties that:

i. If they disagree with the review findings, they may challenge by filing a written objection within 30 calendar days of the date of service; and

ii. If a challenge is not received within 30 calendar days, another review of the order shall not be conducted for 36 months.

(f) If a party files a challenge with supporting documentation within the 30–day period or if a party requests a court hearing, the case shall be referred to an attorney for review.

(g) In cases where it is determined an adjustment is appropriate, and the parties either return the Consent to Modify Order Form within 30 calendar days or do not challenge the determination, the case shall be referred to the probation division for appropriate action.

10:110–14.3 Reviews in interstate cases

(a) When a request for a review is received in an interstate case and New Jersey is the controlling order state, the matter shall be reviewed by the appropriate CWA/CSP unit in accordance with N.J.S.A. 2A:17–56.9(a) and the Child Support Guidelines.

(b) When a request for review is received in an interstate case and it is determined that the controlling order is in another state, a request for review shall be sent to the responding jurisdiction via the appropriate Federally mandated standard interstate child support enforcement forms.

SUBCHAPTER 15. ENFORCING SUPPORT OBLIGATIONS

10:110–15.1 General statement

(a) The enforcement of child support obligations includes:

1. Ensuring that current child support obligations are met;
2. Collecting past-due child support obligations;
3. Enforcing health care coverage; and
4. Collecting spousal support obligations when spousal support is ordered in conjunction with child support.

(b) All Federal requirements and time frames set forth in 45 C.F.R. 303.6 for enforcement of support obligations shall be followed.

10:110-15.2 Child support enforcement remedies

(a) Available enforcement remedies shall include, but are not limited to:

1. Provisions concerning income withholding are as follows:

i. Orders established or modified on or after November 1, 1990 shall be subject to income withholding, regardless of whether support payments are in arrears, unless:

(1) The parties demonstrate, and the court finds, that there is good cause not to require immediate income withholding. Good cause shall be based on:

(A) A written determination why immediate income withholding would not be in the best interests of the child;

(B) If support was previously ordered, there exists proof of timely payment; and

(C) Both parties (and the county agency, if there is an assignment of support rights to the county agency) sign a written agreement that provides for an alternative arrangement.

(2) Regardless of any alternative arrangement, the noncustodial parent's income shall be subject to income withholding on the date the noncustodial parent fails to make support payments in an amount equal to or exceeding the support due for 14 calendar days or if the obligee, for good cause, or the obligor requests that withholding be initiated.

ii. Where the noncustodial parent is subject to immediate income withholding, a notice to the noncustodial parent's employer directing the employer to withhold the current child support amount, and if appropriate, an additional sum to be applied to any past-due support owed by the noncustodial parent shall be sent within two business days after the date verified employment information regarding a noncustodial parent is entered into the ACSES.

iii. If there is more than one child support withholding against the same obligor, the total amount withheld from the obligor's income shall be allocated among all obligees on a prorated basis.

(1) The withheld amounts shall first be applied to the current support obligations for all obligees.

(2) The withheld amounts that remain after all current support obligations are satisfied shall be allocated among all the obligees to pay past-due support in accordance with Federal distribution requirements.

iv. Employers shall be provided with the option of sending amounts to one location through Electronic Funds Transfer (EFT).

2. Unemployment compensation benefits intercept provisions are as follows:

i. Under the State Unemployment Garnishment Agreement with the New Jersey Department of Labor, the unemployment benefits of noncustodial parents who owe past-due support shall be garnished. The county agency shall pay all direct costs incurred in submitting cases and processing collections under the agreement. Such payments are retroactive to the date of garnishment program implementation. Since the State pre-pays such fees, payment from the counties shall be in the form of reimbursement to the State.

3. Workers compensation benefits intercept provisions are as follows:

i. Under agreement with the New Jersey Department of Labor, the workers compensation benefits of noncustodial parents who owe past-due support shall be intercepted. The county agency shall pay all direct costs incurred in submitting cases and processing collections under the agreement. Since the State pre-pays such fees, payment from the counties shall be in the form of reimbursement to the State.

4. Account seizure provisions are as follows:

i. Provisions concerning financial institution information matching program are as follows:

(1) Each financial institution doing business in the State shall provide information on all noncustodial parents who maintain an account at the financial institution and who owe past due child support that equals or exceeds the amount of support payable for three months and for which no regular payments are being made.

(2) Pursuant to an agreement entered into with the Department, a financial institution's information can be provided by:

(A) All accounts method: The financial institution shall provide OCSPP with a file that includes the name, address of record and either Social Security number, tax identification number or other identifying information of each individual maintaining an account at the financial institution as shown on its records for OCSPP to match against its data base;

(B) Matched accounts method: OCSPP shall provide the financial institutions with information of child support debtors meeting the criteria in (a)4i(1) above for the financial institutions to match against their account records and the financial institutions shall report any matches to OCSPP; or

(C) Other mutually agreed upon method: The financial institution shall provide OCSPP the name, address of record and either Social Security number, tax identification number or other identifying information in a form and by a method mutually agreeable to the financial institution and the Department.

(3) Financial institutions shall provide the information required on a quarterly basis, by electronic or magnetic media, mail, facsimile or any automated data exchange method or other means authorized by the Department.

(4) Financial institutions shall be paid a reasonable fee for the data match. To the extent consistent with Federal and State law, financial institutions shall be reimbursed for actual costs that are reasonably and efficiently incurred in conducting the data match.

(5) No financial institution-affiliated party shall be required to provide information required by this section if the financial institution with which the party is affiliated has otherwise provided the required information.

ii. Provisions concerning action to be taken where there is a match as identified under (a)4i above are as follows:

(1) In response to a lien or a levy, a financial institution shall encumber or surrender assets of an obligor who is the subject of a child support lien, held by the financial institution.

(A) To the extent consistent with Federal law, the encumbrance or surrender shall be subject to any right to any fees and penalties or set-off the financial institution may have against the assets under State law.

(B) A financial institution is entitled to collect or deduct from the account its reasonable and normally scheduled processing fee for a levy; and collect or deduct its normally scheduled account activity fee to maintain the account for any period the account is blocked, frozen or encumbered. The provisions of this section shall not be construed to preclude a financial institution from exercising its right to charge back or recoup a deposit to an account.

(2) All the levies for accounts at a particular financial institution shall be sent to the financial institution, together with a report listing all of the levies.

(A) The financial institution shall freeze each account levied immediately. If the account is closed, the financial institution shall provide notice to OCSPP.

(B) The financial institution shall remit the funds as directed.

(C) The financial institution shall remit any additional deposits made to the levied account up to the amount of the levy as directed.

(D) The amount subject to levy in a joint account, as defined in section 2 of P.L. 1979, c.491 (N.J.S.A. 17:161-2), shall be in accordance with the provisions of section 4 of P.L. 1979, c.491 (N.J.S.A. 17:161-4).

iii. Notice of intent to levy an account and the right to challenge the levy shall be provided by OCSPP to the accountholder.

(1) The account holder shall have 30 calendar days following the notice's postmark date to contest the levy.

(2) The assets shall be held and not distributed to any party until the contest period has expired or while an action on these assets is pending in court.

iv. Disclosure of information provisions are as follows:

(1) A financial institution shall not be liable under any Federal or State law, notwithstanding any other provision of Federal or State law to the contrary, to any person for any disclosure of information to the Department for the purpose of establishing, modifying or enforcing a child support obligation of an individual, or for encumbering, holding, refusing to release to the obligor or surrendering any assets held by the financial institution, in response to a notice of lien or levy issued by the Department, or for any other action taken in good faith to comply with the requirement of P.L. 1998, c.1.

(2) In obtaining a financial record of an individual from a financial institution, the Department may only disclose the financial information for the purpose of, and to the extent necessary to establish, modify or enforce a child support obligation of the individual.

(3) If any officer or employee of the Department knowingly, or by reason of negligence, discloses a financial record of an individual, the injured individual may bring a civil action for damages against the officer or employee. Unauthorized release of information shall also be cause for administrative discipline of any employee who engages in an unauthorized release. In the case of willful unauthorized release of information, such action by an employee shall be cause for termination of employment.

(4) No liability shall arise under this section with respect to any disclosure which results from a good faith but erroneous interpretation.

5. Federal income tax refund intercept provisions are as follows:

i. Cases shall be submitted by the OCSPP to the Federal Office of Child Support Enforcement for Federal income tax refund intercept in accordance with 45 C.F.R. 303.72 and instructions issued by the Federal Office of Child Support Enforcement. The CWA shall pay all direct costs incurred in submitting cases and in processing tax offset payments. Since the State prepays these fees, payment from the counties shall be in the form of reimbursement to the State.

ii. The Federal Office of Child Support Enforcement shall issue notice to all cases submitted by the OCSPP for Federal income tax refund intercept.

6. Lottery winnings intercept provisions are as follows:

i. Under the State Lottery Intercept Agreement with the New Jersey Department of Treasury, the Social Security number of lottery winners in excess of \$600.00 shall be electronically matched with the Social Security number of noncustodial parents who owe past-due support for possible interception.

ii. A notice shall be sent to the obligor advising of the OCSPP's intent to intercept the lottery winnings. The notice shall include:

(1) The amount of past support owed;

(2) Notification that an appeal based on a mistake of fact must be made in writing within 10 business days of the date of the notice to the OCSPP;

(3) Notification that if no appeal is received within 10 business days, the past due amount indicated on the notice shall be withheld and applied to the child support debt; and

(4) Notification that any excess lottery winnings shall be sent directly to the obligor by the Division of Lottery.

iii. The CWA shall pay all direct costs incurred in submitting cases and processing collections under the agreement. Since the State prepays such fees, payment from the counties shall be in the form of reimbursement to the State.

iv. A Title IV-D obligor who has been determined delinquent shall be prohibited from assigning an annuity award.

7. License suspension, revocation, or denial provisions are as follows:

i. Motor vehicle, professional, occupational, recreational, or sporting licenses held or applied for by any obligor shall be suspended, revoked, or denied if:

(1) The child support arrearage is equal to or exceeds the amount of child support payable for six months;

(2) The obligor fails to provide health care coverage for the children as ordered by the court for six months;

(3) The obligor fails to respond to a subpoena relating to a paternity or child support proceeding; or

(4) A warrant for the obligor's arrest has been issued by the court in connection with child support matters.

ii. The obligor shall be provided with notice of the proposed suspension and shall have 30 calendar days following the notice's postmark date to contest the license suspension.

iii. The obligor's driver's license shall be suspended by operation of law upon issuance of a child support-related warrant.

8. Credit bureau reporting provisions are as follows:

i. A notice shall be sent to the obligor if past-due support is owed. The notice shall inform the obligor that the following information shall be reported to the credit reporting agency:

(1) The obligor's name;

(2) The obligor's Social Security number; and

(3) The debt amount.

ii. The notice shall:

(1) Be sent to the obligor's last known address by first class mail;

(2) Specify the amount of the past-due support the obligor owes;

(3) Advise of the intention to notify the credit reporting agency of the amount of past-due support; and

(4) Notify the obligor that a court hearing can be requested on the issue within 10 calendar days of the date on the notice by sending a written request for a hearing.

iii. If the obligor requests a hearing within the 10-day time period, the request shall be forwarded to the AOC, which shall schedule a hearing on the issue within 30 calendar days from the date the request was received. After the hearing is held, the AOC shall issue a hearing decision that shall be sent to both the obligor and the CWA/CSP unit.

iv. In cases where OCSPP is requesting information from a credit reporting agency for the purpose of establishing a noncustodial parent or alleged father's capacity to make child support payments, notice shall be sent by regular and certified mail 10 days prior to requesting such information from a credit reporting agency.

9. IRS full collection provisions are as follows:

i. Applications for full collection by the Internal Revenue Service (IRS) shall be submitted on both public assistance and nonpublic assistance cases in accordance with 45 C.F.R. 303.71. In nonpublic assistance cases, the custodial parent shall pay the amount of the fee charged by the IRS for full collection services with submittal of the application. For WFNJ/TANF cases, the CWA/CSP shall be billed a collection fee of \$122.50 for each application certified by the U.S. Department of Health and Human Services.

10. Set-Off of Individual Liability Program (SOIL) provisions are as follows:

i. Cases for offset shall be submitted by the OCSPP to the New Jersey Set-Off of Individual Liability Program (SOIL) pursuant to N.J.A.C. 18:35-2.3.

(1) Cases submitted under this program shall meet the following criteria:

(A) There shall be a court order issued by a court of competent jurisdiction for child support or a judgment; and

(B) The delinquent amount owed shall be greater than the monthly support obligation for SOIL. The selection amount for the submittal of arrears only cases to SOIL is \$25.00.

(2) Cases shall be submitted at least once per year via magnetic tape in accordance with specifications issued annually.

(3) The Division of Taxation shall be responsible for notifying all taxpayers whose refunds or rebates are subject to offset due to past-due child support. The notification shall state:

(A) The taxpayer has 35 calendar days from the date of the notice to file an appeal with the OCSPP;

(B) All inquiries or appeals regarding the offset of their State Income Tax/Homestead Rebate shall be directed to OCSPP; and

(C) The manner in which appeals are resolved shall be made by the OCSPP.

(4) In situations where an appeal is received and the obligor and his or her employed spouse may have filed a joint return and the spouse is not responsible for the child support debt, the appeal, together with supporting documentation, shall be forwarded to OCSPP for resolution.

(A) Where the obligor's appeal challenges the amount of arrearages, OCSPP shall place the case on appeal status and refer the case to the AOC for resolution.

(5) The CWA shall pay all direct costs incurred in submitting cases and processing collections under the State Income Tax Refund/ Homestead Rebate Program. Since the State prepaids such fees, payments from counties shall be in the form of reimbursement to the State.

11. Civil award/settlements provisions are as follows:

i. Upon resolution of any civil action where a party is entitled to receive a monetary award or settlement, the court shall:

(1) Require a certification which includes the full name, address, Social Security number and date of birth of the party entitled to receive the monetary award or settlement; and

(2) Order that disbursement of any monies due that person not be made for 30 days after submission of a certification.

(A) Monies due that person do not include monies for attorney fees, witness fees, court costs, fees for health care providers, payment of liens which may be subject to the award, including, but not limited to, taxes, physician and mechanics' liens and related item, which shall be disbursed immediately.

ii. During the 30 day period before monies may be disbursed to the entitled party, the probation division, in cooperation with the Clerk of the Superior Court and the Division, shall ascertain whether the person is a delinquent child support obligor.

iii. An attorney may disburse monies due the entitled party, for purposes other than those specified in (a)11i(2)(A) above, if notice that the party owes any child support is not received from the probation division and the Division within the 30 day period.

iv. An attorney who has not received notice from the probation division and the Division and disburses monies due to that person after the 30 day period, for purposes other than those specified in (a)11i(2)(A) above, shall be immune from civil or criminal liability.

v. An attorney who withholds monies pending a determination by the probation division and the Division shall not be liable for payments which otherwise would have been made pursuant to (a)11i(2)(A) above, which were not so identified to the attorney.

vi. An attorney who receives written determination by the probation division and the Division within the 30 day period and as soon as practicable forwards the money to the probation division or the Division for payment to the child support obligee, shall not be liable to the litigant or to the litigant's creditors.

vii. An attorney shall not be required to challenge a probation division or the Division determination as to

child support arrearages unless retained by the litigant to do so.

12. Denial, revocation or limitation of passport provisions are as follows:

i. Cases shall be certified by the OCSP to the Secretary of the U.S. Department of Health and Human Services for the possible denial, revocation or limitation of delinquent obligors' passports pursuant to 42 U.S.C. § 652(K).

(1) Cases shall be submitted as part of the Federal Intercept process. However, only obligors who owe past-due child support exceeding \$5,000 shall be considered for this process.

(2) Prior to submitting a case, the Federal Office of Child Support Enforcement shall:

(A) Notify the obligor of its intention to refer the case for denial, revocation or limitation of passport; and

(B) Provide an opportunity for the obligor to contest the action.

13. Uniform Fraudulent Transfer Act provisions are as follows:

i. In any case where a transfer by a child support judgment debtor pursuant to the Uniform Fraudulent Transfer Act, N.J.S.A. 25:2-20 et seq., is known and a prima facie case is established, the CWA/CSP unit shall seek to void the transfer or obtain a settlement in the best interest of the child support creditor.

SUBCHAPTER 16. PROCESSING SUPPORT PAYMENTS

10:110-16.1 Distribution of excess child support

(a) When an individual applies for or receives assistance under WFNJ/TANF, he or she assigns to the CWA any rights to support he or she may have, and any rights to support on behalf of any other individual for whom assistance is being sought or paid.

(b) If the entire support obligation for the month is collected and it exceeds the current month's assistance payment, the State shall retain the excess to apply toward the unreimbursed assistance (URA) for preceding months.

1. If URA is zero dollars, then any excess child support collected is paid to the family.

10:110-16.2 Time frames

(a) Amounts collected pursuant to 42 U.S.C. § 657 shall be distributed within two business days after receipt, if sufficient information with which to identify the payee is provided.

(b) Distribution of collections made on past-due amounts shall be delayed when the noncustodial parent makes a timely appeal and resolution of that appeal is pending.

(c) The date of collection for purposes of Federal distribution regulations is the date the payment is received, except the date of collection shall be the date of withholding when the following circumstances exist:

1. The employer withheld current support in the month in which it was due; and
2. The withholding was received in a subsequent month.

SUBCHAPTER 17. DISTRIBUTION OF ARREARAGE PAYMENTS

10:110-17.1 Payments on arrearages

(a) Before October 1, 2000, payments on past due child support shall be used to satisfy claims as follows:

1. If the obligee is receiving WFNJ/TANF cash assistance, any payment shall first satisfy amounts owed to the county agency before any payment to the obligee.
2. If the obligee has never received WFNJ/TANF cash assistance, all payments shall go to the obligee.
3. If the obligee formerly received WFNJ/TANF cash assistance:

i. Payments from Federal tax intercepts first shall satisfy any amounts owed to the county agency.

ii. All other payments shall satisfy amounts in the following priority order:

- (1) Amounts which have accrued since the family left public assistance.
- (2) Amounts owed to the county agency.
- (3) Any remaining balance to the family.

SUBCHAPTER 18. INCENTIVE PAYMENTS

10:110-18.1 CWA share of incentive

(a) The Division shall determine the appropriate share of incentives a CWA shall receive. Factors considered in computing the incentive for CWAs include:

1. The efficiency and effectiveness of the CWA's activities in implementing the requirements of the Title IV-D Program.

2. The percentages shall be computed separately for each segment, based on the ratio of the State's WFNJ/TANF collections to the State's total IV-D administrative costs.

3. The portion of the incentive payments paid for a specific year in recognition of its nonpublic assistance collections shall be limited to 115 percent of its WFNJ/TANF collections.

10:110-18.2 Total incentive estimate

The Federal Office of Child Support Enforcement will estimate the total incentive to be received by a state for the upcoming fiscal year.

SUBCHAPTER 19. STATE CASE REGISTRY

10:110-19.1 Maintaining the State Case Registry

The State Case Registry shall be maintained in accordance with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193 and the New Jersey Child Support Program Improvement Act, P.L. 1998, c.1.

SUBCHAPTER 20. CASE CLOSURE

10:110-20.1 General rules

All Federal requirements and time frames set forth in 45 C.F.R. 303.11 for closure of IV-D cases shall be followed.

10:110-20.2 Retention of case records

(a) Each county agency will retain all material normally kept in the IV-D case folder for the time periods indicated in (b) below. At the expiration of such time period the Child Support and Paternity unit may, at its option, destroy records in accordance with the retention indicated below, continuing to retain those portions as indicated in (b) below.

(b) Retention periods are as follows:

1. Case folders shall be retained for a period of three and one-third years after agency action or court action, or all arrears have been satisfied when:

i. The noncustodial parent has died during the effective period that a court order for support existed.

ii. The client terminates his or her assistance grant and no court order for child support existed at any time.

iii. The client terminates his or her assistance grant and all amounts owed to the county agency have been satisfied.

2. In each instance of unresolved "suits and claims" matters, open and unpaid assigned support or unpaid arrearage amounts, all records in each case shall be retained until the question is resolved, then shall be retained accordingly.

i. Case folders shall be retained for a period of three and one-third years after agency action or court action, or all arrears have been satisfied when:

(1) The client terminates assistance.

(2) The client is receiving an assistance grant, an order for support exists or efforts are continuing to establish an order for support.

(c) The case files shall be destroyed in a manner that ensures the protection of all confidential information contained in the case records. A permanent record shall be maintained showing the date and the manner in which each case folder was destroyed.

10:110-20.3 Reopening a closed case

(a) A closed WFNJ/TANF case shall be reopened if new information is received that may make establishment of paternity and/or an order for support, including health care coverage, or enforcement of an order possible.

(b) On nonpublic assistance cases, upon request of the custodial parent to reopen a closed case, the custodial parent shall be required to complete a new application and pay the application fee on cases that have been closed for longer than 30 days.