

CHAPTER 110

CHILD SUPPORT PROGRAM

Authority

N.J.S.A. 30:1-12, 44:10-3, 44:10-58, and 47:1A-1 et seq. as amended by P.L. 2001, c.404, Public Access to Government Records; 42 U.S.C. §§ 601, 654, 654(22), 658, 666(a)(17) and (a)(19), and 669A, as amended in accordance with Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA); 45 C.F.R. 260.50-59 and 301 through 310; Public Law 105-34, The Taxpayer Relief Act of 1997; Public Law 105-149, The Balanced Budget Act of 1997; Child Support Performance and Incentive Act of 1998, P.L. 105-200; P.L. 1998, c.1, the New Jersey Child Support Program Improvement Act (NJCSPIA); P.L. 1998, c.2, the New Jersey Uniform Interstate Family Support Act; 42 U.S.C. §§ 651 through 669B; and the New Jersey Rules of Court (Rule 5:6A and Appendices IXA through IXH).

Source and Effective Date

R.2004 d.88, effective January 29, 2004.
See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 110, Child Support Program, expires on July 28, 2009. See: 40 N.J.R. 5501(a).

Chapter Historical Note

Chapter 110, Child Support Program, was adopted as R.1998 d.189, effective April 20, 1998 (to expire September 23, 1998). See: 30 N.J.R. 1404(a).

Chapter 110, Child Support Program, was readopted as R.1998 d.506, effective September 22, 1998. See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Subchapter 9, Cooperation, was repealed by R.2001 d.150, effective May 7, 2001. Subchapter 9, Child Support and Paternity, was adopted as new rules by R.2001 d.150, effective May 7, 2001, to expire September 22, 2003. See: 33 N.J.R. 182(a), 33 N.J.R. 1381(a).

Chapter 110, Child Support Program, was readopted as R.2004 d.88, effective January 29, 2004. See: Source and Effective Date. See, also, section annotations.

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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 non-custodial parents, establishing paternity, and obtaining, enforcing and modifying support obligations (both monetary and medical support) owed by non-custodial parents to their children in both, as defined herein, intrastate and interstate cases. As used herein, the terms "child support" and "Title IV-D" are interchangeable.

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Inserted a reference to modifying support obligations, and added "in both intrastate and interstate cases" at the end of the second sentence.

Amended by R.2004 d.88, effective March 1, 2004.

See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

Substituted "medical support" for "health care coverage" preceding "owed by non-custodial parents" and inserted "as defined herein," preceding "intrastate and interstate cases".

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 Services (OCSS).

(b) The OCSS shall be the single organizational unit responsible for the administration of the Child Support Program.

(c) The OCSS shall oversee the delivery of child support services involving:

1. County welfare agencies (CWA);
2. County welfare agency child support units (CWA/CSU);
3. The Judiciary's Administrative Office of the Courts and the respective components of the judicial districts, namely, the Family Division, the Probation Division (Child Support) and the Finance Division;
4. County prosecutor's offices;
5. County sheriff's offices;
6. The State Attorney General's Office; and
7. Contracted service providers of the NJ Child Support Program.

(d) The OCSS shall supervise and monitor the Child Support Program.

(e) In the administration of child support services, there shall be no discrimination by reason of: race; creed, color; affectional or sexual orientation or sex; national origin; ancestry; marital status; familial status; liability for service in the Armed Forces of the United States; or disability or handicap by the Department, or any other entities or contractual agents under contract or agreement with the Department and 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), the Americans with Disabilities Act (P.L. 101-336), and the Law Against Discrimination, P.L. 1945, c.169 (C.10:5-1 et seq.).

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (b), deleted “, located in the Division of Family Development (Division),” following “OCSPP”.
Amended by R.2004 d.88, effective March 1, 2004.
See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).
Rewrote the section.

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 non-custodial 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 medical support as defined in this chapter;
4. Enforcement of child support and medical support obligations; and
5. Collection and disbursement of child support payments.

(c) The OCSS shall establish and maintain an administrative complaint process and publicize to all applicants/recipients their opportunity to request a review, upon written request, about an action taken or lack of action taken on the case. The OCSS shall ensure that the individual requesting an administrative review is notified of the results of the review, and of any action(s) taken when there is evidence that there has been an error on the case or that an action that should have been taken on the case was not taken.

1. The administrative complaint process does not include requests for review of court orders. Those requests are handled in accordance with the process delineated at N.J.A.C. 10:110-14.

Amended by R.2004 d.88, effective March 1, 2004.
See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

In (b), substituted “including medical support as defined in this chapter” for “including health care coverage support” in 3 and substituted “medical support obligations” for “health care coverage support obligations” in 4; added (c).

10:110-1.4 Eligibility for services

(a) Individuals residing in New Jersey who receive WFNJ/TANF, WFNJ/GA, Title XIX Medicaid 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 applicants and recipients, and Title IV-E DYFS referrals shall accept child support services, including medical support, as a condition of eligibility for public assistance, unless good cause is found in accordance with N.J.A.C. 10:110-9.2 through 9.5 or 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 is found in accordance with N.J.A.C. 10:110-9.2 through 9.5 or 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 case closes, unless the closure is due to non-cooperation with child support service requirements, or the individual advises the IV-D Agency after case closure that services are no longer desired.

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

(b) New applicants who are requesting Title IV-D services and are 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 a formal 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) New applicants residing outside of New Jersey shall be eligible for child support services. Non-residents may apply for services directly with the IV-D Agency in the state of their residence; with the Indian Tribe or Tribal organization child support enforcement agency, as defined herein, if appropriate; or file a petition directly with the Family Division of the Superior Court of New Jersey.

Amended by R.1998 d.506, effective October 19, 1998.
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (a), deleted “only” following “Medicaid” throughout, and substituted a reference to service requirements for a reference to services at the end of 3; in (b), substituted “New applicants who are requesting Title IV-D services and are” for “Individuals” at the beginning, and substituted a reference to formal applications for a reference to applications; and rewrote (c).

Amended by R.2004 d.88, effective March 1, 2004.
See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

In (a), substituted “medical support” for “health care coverage support” and amended the N.J.A.C. references in 1, amended the N.J.A.C. references in 2 and inserted “, or the individual advises the IV-D Agency after case closure that services are no longer desired” in 3; in (c), inserted “, with the Indian Tribe or Tribal organization child support enforcement agency, as defined herein, if appropriate;”.

10:110-1.5 Delivery of service

Title IV-D services provided by the county agency child support units to WFNJ/TANF applicants/recipients also shall be provided to non-public assistance applicants/recipients in both intrastate and interstate cases (including, but not limited to cases originating from another state, from an Indian Tribe/Tribal organization child support enforcement agency, from foreign reciprocating countries in accordance with 42 U.S.C. § 659A, from U.S. citizens living abroad, and from non-resident aliens who apply or have applied directly to a state for child support enforcement services).

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Substituted a reference to Title IV-D services for a reference to attorney services, and inserted a reference to TANF applicants/recipients.

Amended by R.2004 d.88, effective March 1, 2004.

See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

Rewrote the section.

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.

Amended by R.2004 d.88, effective March 1, 2004.

See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

10:110-1.7 Confidentiality and privacy

(a) Unless further restricted by Federal or State law, the use or disclosure of information concerning applicants or recipients of child support services, including the child(ren); legal guardians; putative fathers; and non-custodial parents; and other individuals for whom information may be in the record (such as, but not limited to grandparents, other siblings or dependents in the home or outside the home), shall be limited, based on the right and need to know the information, 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, II, III, X, XIV, XVI, XIX, XX, or XXI of the Federal Social Security Act (42 U.S.C. §§ 301 et seq. and § 653 and § 663) 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, and any of its contractual agents (as defined herein) providing child support services, is prohibited from disclosing to any committee or Federal, State or local legislative body any identifiable information about any such applicant or recipient.

(c) A custodial or non-custodial parent requesting the assistance of a third party as his or her authorized agent in obtaining information on the status of the case, including but not limited to an attorney, a Federal or State official, or other authorized agent consistent with Federal law, shall give the IV-D Agency the authority to release the information to the authorized individual by signing a release of information statement giving the reason why the information is being requested and for what purpose, and any information necessary for the IV-D Agency to determine the case under question. The release instrument grants permission to the IV-D Agency to disclose to that authorized representative the information requested, if determined appropriate for release to the requesting party by the IV-D Agency, in accordance with Federal and State laws.

(d) The confidentiality and privacy safeguards of the Child Support Program shall be in compliance with all applicable Federal and State laws, regulations, Court rules and as described herein. These confidentiality and privacy safeguards shall be binding on DHS, its subordinate agencies, and on all persons, agencies and organizations that contract with the DHS to provide IV-D services, directly or indirectly; or under any agreements or other instruments used for such purposes by the Department or its designees in implementing Title IV-D requirements.

1. The Department shall ensure that written notice of the Department's policy on the use, confidentiality, privacy safeguards, and disclosure of Program information is provided to all agencies, organizations, persons and affiliated entities, including those entities procured under contract, sub-contract or through affiliation agreements.

2. Personal information collected and retained by the Child Support Program is not a public record for purposes of the New Jersey Open Public Records Act, P.L. 2001, c.404.

3. Every individual working in the IV-D Program, including any persons employed by and working on a Program function or service as contractual agents of the IV-D Agency, and staff of contractual agents of the Program, shall annually sign the standardized confidentiality/ disclosure agreements of the Program in keeping with Federal requirements concerning confidentiality, staff responsibility and obligation over that confidentiality, access to, and release of Program information.

4. In accordance with 42 U.S.C. § 653(b)(2) and § 654(26), no information shall be disclosed to any person when the IV-D Agency has reasonable evidence of domestic violence or child abuse in accordance with 42 U.S.C. § 653(b)(2) and N.J.A.C. 10:110-9 and 10:90-20, and the disclosure of such information could be harmful to the parent or the child(ren) of such parent.

i. The "family violence indicator," in accordance with 45 C.F.R. 307.11, shall be coded in such instances on the automated child support system to reflect the case situation with regard to risk of harm to the individual and his or her child(ren), and shall be reported to the Federal Case Registry.

ii. Exceptions to such disclosure are decided by the court in accordance with 42 U.S.C. §§ 653(b)(2)(B) or (c)(2) or 663(d)(2)(B).

5. Persons receiving FPLS information for child support purposes must protect the privacy rights of individuals in accordance with 42 U.S.C. § 653 and this subsection. Therefore, any individual meeting the criteria of an authorized person in non-IV-D locate-only cases referenced at N.J.A.C. 10:110-3.2(f)2 and (g)1 must be informed, in writing, by the IV-D agency or its designee(s), that the FPLS information provided in accordance with N.J.A.C. 10:110-11.2(k)2 shall be safeguarded by the authorized person and is disclosed and shall be used by that authorized person for child support purposes only.

(e) The Department and any of its contractual agents, as defined herein, providing child support services and having access to Internal Revenue Service (IRS) return information in accordance with the Internal Revenue Code (IRC) section 6103, shall keep that IRS return information confidential, and shall not disclose that information obtained in connection with their service in the performance of child support functions. "Return information" as used herein, means the definition for that term found at IRC section 6103.

Amended by R.1998 d.506, effective October 19, 1998.
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (a), inserted a reference to legal guardians, putative fathers and non-custodial parents in the introductory paragraph; and added (c) and (d).

Amended by R.2004 d.88, effective March 1, 2004.
See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

Rewrote the section.

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 non-custodial parent shall be released to consumer credit agencies upon their request in accordance with N.J.A.C. 10:110-15.2(a)9.

(c) Although other sources are available, the New Jersey Child Support Hotline and website 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 non-custodial parents shall be handled as follows:

1. Copies of court orders, enforcement actions and financial information used to calculate the obligation shall be released upon request by either the custodial or non-custodial parent on a right and need to know basis in accordance with N.J.A.C. 10:110-1.7.

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 and the agency has been advised by the court, an out-of-State IV-D agency or by one or both of the parties that such an order exists.

Amended by R.1998 d.506, effective October 19, 1998.
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (c), deleted a former first sentence, and added "Although other sources are available," at the beginning of the new first sentence; and in (d), added a reference to N.J.A.C. 10:110-1.7 at the end of 1, and added "and the agency has been advised by the court, an out-of-State IV-D agency or by one or both of the parties that such an order exists" at the end of 2.

Amended by R.2004 d.88, effective March 1, 2004.
See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

In (b), amended the N.J.A.C. reference; in (c), inserted "and website" following "New Jersey Child Support Hotline"; in (d), deleted "fiscal records," following "enforcement actions" and inserted "on a right and need to know basis" preceding "in accordance with N.J.A.C. 10:110-1.7" in 1.

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, or other deposit account as identified by Federal Law as subject to Financial Institution Data Match requirements.

"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.

"Administrative Office of the Courts (AOC)" means the Judiciary's administrative office that assists in providing guidance to the 15 judicial districts, or vicinages, under the authority granted by the State Constitution to the Chief Justice of the State Supreme Court and the Administrative Director of the Courts in the administration of all courts in the State. The Family, Probation (Child Support) and Finance Divisions, components of the local vicinages, are involved in the administration of the Child Support Program.

"Alleged father" means a person who has been named as the father of a child born out-of-wedlock, but who has not been legally determined to be the father; also referred to as a putative father.

"Arrearage" means the amount of unpaid support that is past due under a court order or an administrative order from a state, for support of a child or of a child and the custodial parent.

"Assessment or intake process" means conducting an investigative interview with the applicant for child support services or those applying for or receiving public assistance, and activities associated with initial support case opening, to establish the child support case circumstances and to determine if child support services are appropriate. This is the first step in the child support enforcement process.

"Automated Administrative Enforcement of Interstate Cases (AEI)" means the State's ability to locate, place a lien on, and seize financial assets of delinquent obligors upon request of another state or Indian Tribe/Tribal organization child support enforcement agency, or foreign reciprocating country.

"Automated child support system" means the Federally required system of the State that handles the automation of child support records and the performance of all related functions required of that system and is the State Case Registry (SCR) of child support cases.

"Case record" means the official file, including electronically stored data, that constitutes a complete record on a case which supports the decisions and actions of the child support entity on a case and may include, but is not limited to, forms, chronological narrative, correspondence, and other documents pertinent to child support activity on that case.

"Cash or cash-equivalent assets" means bank accounts, retirement accounts, trusts, insurance proceeds, net monetary awards and settlements from civil lawsuits, non-court settlements, proceeds from estates, investments, commissions, bonuses and any other asset from which funds are readily available without the need for seizure, inventory or public sale.

"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 Enforcement Network (CSENet)" means the state-to-state telecommunications network which transfers detailed information among states' automated child support systems.

"Child Support Lien Network (CSLN)" means that database network used by various states that was contracted by the OCSS as of July 2002 as a tool of administrative enforcement for obligors owing past-due child support. That database contains the names and information on delinquent child support obligors for purposes of asset matching, and is specifically directed at intercepting newly identified insurance settlement proceeds of such delinquent obligors before the distribution of any net proceeds of a settlement, judgment or award is made to such obligor.

"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.

"Confidential information" means any data, written or verbal, available to or obtained through the Title IV-D Program by authorized staff or contracted entities, which assists in the administrative purposes of the Title IV-D Program, and includes such information used for establishment and enforcement purposes as permitted by Federal and State statutes and regulations.

"Contractor for new hire reporting purposes" means someone who is 18 years of age or older who performs labor under contract for an "employer" or "payor of income", and to whom a payor of income makes payments that are not subject to income withholding for child support. The contractor is an individual, and is not a corporation, government, business trust, estate, partnership or other legal entity for whom the payor of income is required to file a Federal "Form 1099-MISCELLANEOUS" (currently required for payment of service of \$600.00 or more).

"Contractual agent" means an entity providing a child support service(s) or function(s) of the Child Support Program and is inclusive of those agents of the Program procured through purchase-of-service contracts, contractual agreements or memoranda of understanding with the IV-D Agency.

"Cost-of-living adjustment (COLA)" means an adjustment of the amount of a support obligation based on the economy's increasing or decreasing cost of the necessities of life such as food, shelter and clothing based on the Consumer Price Index.

"County welfare agency (CWA)" means that county agency designated by the respective county to handle the administration of public assistance benefits such as, but not limited to Food Stamps, Work First New Jersey/Temporary Assistance to Needy Families (WFNJ/TANF), Medicaid Programs, Child Support, and Work First New Jersey General Assistance (WFNJ/GA). The term CWA includes, but is not limited to, agencies that may be locally known as the "Board of Social Services"; the "Department of Citizen Services, Division of Welfare"; the "Division of Social Services"; the "Division of Temporary Assistance and Social Services"; or as the "Department of Family and Community Development."

"County welfare agency child support unit (CWA/CSU)" means that separate work unit within the CWA, as defined herein, that is responsible for Title IV-D responsibilities.

"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 or of an Indian Tribe/Tribal organization child support enforcement agency that is competent to enter or modify orders for paternity or child support.

"Court rules" means the Rules Governing the Courts 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 or 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.

"Division" means the Division of Family Development.

"Employee" means an individual who is an employee within the meaning of chapter 24 of the Internal Revenue Code of 1986. For purposes of new hire reporting, "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 or payor of income" 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.

"Family violence" means subjecting an individual(s) to extreme cruelty or physical battering as defined at 408(a)(7)(C) of the Social Security Act (42 U.S.C. § 608(a)(7)(c)). These behavioral acts of abuse by a perpetrator are those behaviors that result in, or threaten to result in, physical or mental injury/abuse; threatened or attempted sexual assault; sexual assault activity involving a dependent child; the forcing of an individual as the caretaker relative of a dependent child to take part in non-consensual sexual acts or activities; and neglecting or preventing the individual(s) from getting medical care. Such harmful physical and controlling behavior(s) by the perpetrator, that may have occurred in the past or are presently taking place, can cause, but is not limited to, economic intimidation and isolation of the intimate partner(s) or other family member(s), and may impact that individual's compliance with child support cooperation requirements or in seeking needed services for fear of their own or their child(ren)'s safety.

"Federal Parent Locator Service (FPLS)" means a computerized national location network operated by the Federal Office of Child Support Enforcement to help the states, as defined herein, locate parents in order to obtain child support payments and/or medical support. FPLS obtains address and employer information from Federal agencies and the National Directory of New Hires.

"Federal provisions" means statutes, regulations, the Child Support State Plan submitted and maintained by OCSS to the Federal Office of Child Support Enforcement (OCSE), and other applicable issuances of that Office, such as, but not limited to Action Transmittals, Information Memoranda, Dear Colleague Letters, Policy Interpretation Questions, as well as Technical Correspondence, used by OCSE to convey Child Support Program and related program interface materials and information, policies, interpre-

tations and procedures to the state and Indian Tribe/Tribal organization child support enforcement agencies.

"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.

"Foreign reciprocating country" means any country, or political subdivision thereof, having an authorized declaration or international agreement for purposes of child support establishment and enforcement with the United States in accordance with 42 U.S.C. § 659A; and those existing reciprocity agreements that states had previously made with foreign governments which have not been declared reciprocating countries under Federal law under the continuing authority granted to states under 42 U.S.C. § 659A(d).

"Health care coverage" means cash medical support, health insurance, dental insurance, eye care, pharmaceutical assistance and other types of medical support, as defined herein, 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, or other source of income to withhold support from the income of the obligor.

"Independent contractor for new hires reporting purposes" means someone who operates his or her own business as a sole proprietor who is liable for his or her own taxes, whom another "employer" or "payor of income" expects to reimburse for services for one or more contracts during a year, who is not an employee, but receives compensation or executes a contract for services with the other employer.

"Indian Tribe" means, for purposes of the Child Support Enforcement Program, in accordance with section 455(f) of the Social Security Act (42 U.S.C. § 655f), any Indian Tribe, as defined in accordance with section 4 of the Indian Self-Determination and Education Assistance Act (P.L. 93-638), band, nation, pueblo, village or community, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. §§ 1601 et seq.) that the Secretary of the interior acknowledges to exist as an Indian Tribe, and Tribes meeting this definition that function as political entities exercising governmental authority, and included in the most current list of Federally recognized Indian Tribal governments pursuant to P.L. 103-454 (25 U.S.C. § 479a) with a recognized government-to-government relationship with the United States.

"Indian Tribe/Tribal organization child support enforcement agency" means the organizational unit in the Tribe or Tribal organization that has the delegated authority for administering or supervising the Tribal Child Support Enforcement (CSE) Program under section 455(f) of the Act (42 U.S.C. § 655(f), and 45 C.F.R. 309 with an approved Tribal Child Support Plan. This does not mean those Tribes or Tribal organizations that have signed authorized agreements, in accordance with section 454(33) of the Social Security Act (42 U.S.C. § 654(33)), with a state IV-D agency to include the Tribe or Tribal organization in that state's Child Support Enforcement Program.

"Interstate cases" means child support cases processed in accordance with the Uniform Interstate Family Support Act (UIFSA), P.L. 1998, c.2, or its predecessor law, where a non-custodial parent lives in a different state than his or her child and the custodial party, or where two or more states are involved in some case activity, including, but not limited to cases where "state" means originating from another state; from an Indian Tribe/Tribal organization child support enforcement agency; from a foreign reciprocating country in accordance with 42 U.S.C. § 659A; from a U.S. citizen living abroad; and from a non-resident alien who applies or has applied directly to a state for child support enforcement services.

"IV-D (Four-D)" means a reference to Title IV-D of the Social Security Act that requires that each state create a program to locate non-custodial parents, establish paternity, establish and enforce child support obligations, and collect and distribute support payments. All recipients of public assistance are referred to the state's IV-D or Child Support Program. States must also accept applications, if requested, to assist in collection of child support from families who do not receive public assistance.

"IV-D application" means a written document provided by the State IV-D Agency for non-public assistance individuals, that indicates that the individual is applying for child support services under the State's Title IV-D Program, and is signed by the individual applying for those IV-D services.

"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 and effect 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 operation of a motor vehicle or for recreational or sporting purposes.

"Medicaid" means medical assistance provided under a State plan approved under Title XIX of the Social Security Act.

"Medical support" means a legal provision for payment of medical and dental premiums, which can be linked to a parent's access to medical insurance as a form of child support where such healthcare coverage, as defined in this section, is paid by the non-custodial parent (NCP) in accordance with 45 C.F.R. 303.30, 31, and 302.80 and State statutes. Depending on the court order, medical support can be a NCP's sole financial obligation, or it can be one of several obligations, with child and/or spousal support being the others.

"Multi-state financial institution" means a financial institution, as defined herein, that does business in more than one state or territory.

"Non-custodial parent" means the parent who does not have physical custody of the child on a day-to-day basis. In shared parenting situations, the non-custodial parent is known as the parent of alternate residence.

"Non IV-D cases" means a child support case not handled by the State/local child support enforcement (IV-D) agency. A non IV-D case is one where the State:

1. Is not currently providing service under the State's Title IV-A, Title IV-D, Title IV-E, or Title XIX Programs;
2. Has not previously provided State services under any of these programs; and
3. Has no current IV-D application or IV-D applicable fee for services paid by either parent.

"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."

"Political subdivision of the State" means a county or municipality of the State and any agency of that county or municipality, as well as any legal entity of that subdivision, such as, but not limited to, the county prosecutor and county sheriff.

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

"Reciprocity" means a relationship between states, as defined herein, or countries, whereby recognition of child support paternity and enforcement policies and procedures is granted by one to the other, and returned one to the other (that is, state-to-state; country-to-country).

"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., and replaced by the enactment of UIFSA, P.L. 1998, c.2).

"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/Tribal organization child support enforcement agency; 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 disbursement unit (SDU)" means a unit responsible for the processing of the collection of child support funds made under support orders in Title IV-D cases being enforced by the State pursuant to 42 U.S.C. § 654b, and in non-Title IV-D cases.

"State IV-D Agency" means the Division of Family Development's Office of Child Support Services (OCSS) in the Department of Human Services.

"State Parent Locator Service (SPLS)" means a unit within and operated by the State IV-D Program that is mandated to perform activities relating to the location of non-custodial parents, to establish paternity and to establish and enforce child support obligations, in accordance with 45 C.F.R. 302.35 and 303.70.

"State Plan" means the formalized plan developed by each state, territory or Indian Tribe/Tribal organization child support enforcement agency, in conjunction with the Federal Office of Child Support Enforcement. The State Plan includes procedures for implementing State policies and the allocation of necessary resources.

"Support guidelines" means the set of presumptive standards for determining the amount of child support as established by Court Rule 5:6A and in Appendix IX.

"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 non-public assistance case, in which an application for Title IV-D services has been filed and a fee paid, as appropriate, with the Program, or an interstate case referred to the State Program by another jurisdiction.

"Tribal organization" means, for purposes of the Child Support Enforcement Program in accordance with section 455(f) of the Social Security Act (42 U.S.C. § 655(f)), and in accordance with the definition in section 4 of P.L. 93-638 of 'Tribal organization', the recognized governing body of any Indian Tribe as defined herein; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities; provided, that in any case where a contract is let or grant made to an organization to perform services benefiting one or more Indian Tribes, the approval of each such Indian Tribe shall be prerequisite to the letting or making of such contract or grant. Then, the Tribal organization is charged with the vested authority by the aforementioned, to apply for and carry out a child support enforcement program on its behalf in accordance with the criteria of 45 C.F.R. 309.

"UIFSA" means the "Uniform Interstate Family Support Act" to be adopted by each state to replace RURESA pursuant to P.L. 104-193, and enacted in the State as P.L. 1998, c.2 (N.J.S.A. 2A:4-30 et seq.).

Amended by R.1998 d.506, effective October 19, 1998.
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Inserted "Medicaid"; and in "Support guidelines", inserted a reference to Court Rule 5:6A.

Amended by R.2004 d.88, effective March 1, 2004.
See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

Rewrote the section.

SUBCHAPTER 2. CHILD SUPPORT ADMINISTRATION

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

The Department 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's OCSS as the IV-D Agency.

Amended by R.1998 d.506, effective October 19, 1998.
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Substituted a reference to the Department for a reference to the OCSP.

Amended by R.2004 d.88, effective March 1, 2004.
See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

Substituted "Division's OCSS as the IV-D Agency" for "Division".

10:110-2.2 Reciprocal agreements with foreign reciprocating countries

A request for IV-D services by a foreign reciprocating country, as defined, shall be treated as a request by another state.

Amended by R.2004 d.88, effective March 1, 2004.
See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

Substituted ", as defined," for "or a foreign county with which the State has an agreement as described in 42 U.S.C. § 459A(d)".

10:110-2.3 Full faith and credit

In accordance with N.J.S.A. 2A:17-56.23a, 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.

Amended by R.1998 d.506, effective October 19, 1998.
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Added "In accordance with N.J.S.A. 2A:17-56.23a," at the beginning.

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

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

1. Interstate cases include, but are not limited to, cases originating from another state, from an Indian Tribe/Tribal organization child support enforcement agency, from foreign reciprocating countries in accordance with 42 U.S.C. § 659A, from U.S. citizens living abroad, and from non-resident aliens who apply or have applied directly to a state for child support enforcement services.

(b) Legal representation shall be provided by the CWA in IV-D cases to the petitioner or the initiating support enforcement agency, if any, in all proceedings brought under P.L. 1998, c.2.

Amended by R.1998 d.506, effective October 19, 1998.
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Rewrote the section.

Amended by R.2004 d.88, effective March 1, 2004.

See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

In (a), added 1; in (b), substituted "CWA" for "CWA/CSP unit".

10:110-2.5 Publicizing child support services

The OCSS 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.

Amended by R.2004 d.88, effective March 1, 2004.
See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

Substituted "OCSS" for "OCSP".

SUBCHAPTER 3. RESPONSIBILITIES IN THE DELIVERY OF SERVICES

10:110-3.1 OCSS' responsibilities in IV-D cases as the IV-D Agency

(a) The OCSS shall transmit regulatory and procedural information to the various child support entities as necessary for implementation and continuing operational efficiency and effectiveness. The OCSS shall ensure that policies are established and issued consistent with the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq.

(b) The OCSS shall provide technical assistance to all contractual agents or entities and political subdivisions.

(c) As permitted by Federal and State law, the OCSS shall respond to requests for information from any person or entity.

(d) The OCSS shall operate an automated child support system meeting Federal Program certification requirements.

(e) The OCSS and all of its contractual agents shall act in a manner consistent with the best interests of the child.

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

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

(h) The OCSS 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 OCSS shall establish, in a manner consistent with Federal and State laws, with the Child Support State Plan submitted and maintained by OCSS, and any other applicable official issuances of the Federal OCSE, a service delivery system, that shall provide services in a timely manner as follows:

1. By providing web-based customer service access to Program information, as appropriate;
2. By providing responses to appropriate parties as permitted by Federal and State law to written, e-mail and telephone inquiries for help with the case or for information;
3. By establishing and providing for an administrative complaint review process established as a customer service provision in accordance with 45 C.F.R. 303.35; and
4. By using technological advances for access to and the management of general Program information, including, but not limited to, automated income withholding processing; new hires reporting; direct deposit of collected support through the various electronic funds transfer payment processes offered by the Program; and COLA adjustments.

(j) The OCSS shall ensure that fiscal accountability is maintained for child support services provided directly by the OCSS or through its political subdivisions or contractual agents in accordance with Federal and State provisions; and cost-efficient and effective performance aligned with Federally prescribed performance measures, other applicable official issuances of the Federal OCSE, and with the Child Support State Plan. Fiscal accountability includes procedures in accordance with Federal provisions that relate to the handling of misdirected or erroneous payments.

1. Any fiscal penalty imposed by the Federal OCSE to the State, affecting administrative monies for the Program due to failure to meet Federal performance measures and/or Federal audit reviews, as well as other fiscal accountability issues in accordance with Federal provisions, as defined herein, shall be passed by the OCSS to the entity or entities of the Program having responsibility for that specific area of the Program in accordance with the cooperative agreement, memorandum of understanding or other contract between the entity and the OCSS.

(k) The OCSS shall ensure that applications for child support services are readily accessible to the public.

(l) The OCSS shall ensure that services relating to the establishment of paternity and the establishment, modification or enforcement of child support obligations, as appropriate, comply with the Federal standards for Program operation, and provide for both administrative and expedited judicial procedures in accordance with Federal and State provisions. The OCSS shall use contractual agents, as necessary, procured through purchase-of-service contracts, contractual agreements or memoranda of understanding.

(m) The OCSS shall ensure that child support guidelines are established in conjunction with the Administrative Office of the Courts in the New Jersey Rules of Court (Rule 5:6A) for setting and modifying child support award amounts within the State as required by 45 C.F.R. 302.56.

(n) The OCSS shall ensure that the Program provides for the periodic review and adjustment of child support orders as required by 45 C.F.R. 303.8 (see N.J.A.C. 10:110-14).

(o) The OCSS shall ensure that support rights assigned to the State for public assistance cases comply with the requirements of 45 C.F.R. 302.50.

(p) The OCSS shall ensure that medical support enforcement services, including petitioning for health care coverage, are provided in accordance with Federal and State provisions; and that the Medicaid Agency is notified that assigned medical support payments are being, or have been retained, by a non-IV-A Medicaid recipient.

(q) The OCSS may request the help of OCSE to initiate litigation in the U.S. District Court with regard to the collection of child support, as appropriate, pursuant to 45 C.F.R. 303.73.

(r) The OCSS shall establish and oversee the State disbursement unit (SDU), in accordance with 45 C.F.R. 302.32, for the processing of the collection of child support funds made under support orders in IV-D and non-IV-D cases, where the order was initially issued on or after January 1, 1994, when the income of the NCP is subject to income withholding.

(s) The OCSS shall ensure that reciprocity agreements are maintained with foreign reciprocating countries established by the State through "Letters of Agreement" signed by the Administrative Director of the Courts as the State IV-D Central Registry, in accordance with 42 U.S.C. § 659A(d), until or unless such country is declared a reciprocating country of the U.S. in accordance with 42 U.S.C. § 659A; and ensure that any requests from those countries for child support services are handled in accordance with Federal and State provisions.

(t) The OCSS shall establish a procedure for case closure in accordance with 45 C.F.R. 303.11 and State provisions (see N.J.A.C. 10:110-20.3).

(u) The OCSS shall ensure that enforcement remedies are provided in accordance with Federal and State provisions for both IV-D and non-IV-D cases, and shall use contractual agents, as necessary, procured through purchase-of-service contracts, contractual agreements or memoranda of understanding with the OCSS. Such remedies include, as Federal and State provisions require, but are not limited to, the following:

1. The OCSS shall implement and maintain a financial institution data match (FIDM) unit and provide oversight on the related functions of this enforcement process, including entering into formal agreements with each financial institution doing business in the State.

2. The OCSS shall efficiently and effectively assist in carrying out the provisions set forth at N.J.S.A. 2A:17-56.23(a) and (b).

i. The OCSS shall participate in the Child Support Lien Network, as defined herein, to effectuate these provisions.

3. The OCSS shall ensure a process is established and conducted to handle the intercept of Federal tax refunds in accordance with 45 C.F.R. 303.72.

4. The OCSS shall ensure a process is established and conducted to intercept State tax refunds and rebates in accordance with 45 C.F.R. 303.102.

5. The OCSS shall ensure a process is established complying with Federal policy for the denial, suspension or revocation of a passport for obligors owing past-due support.

6. The OCSS shall ensure a process is established and maintained for the denial, suspension or revocation of driver's, professional, occupational, sporting and recreational licenses for obligors owing past-due support.

7. The OCSS shall ensure a process is established and maintained to intercept lottery winnings for obligors owing past-due support.

8. The OCSS shall ensure a process is established for notifying consumer credit reporting entities of obligors owing past-due support pursuant to 45 C.F.R. 303.105.

9. The OCSS shall establish a work requirement program to assist obligors in meeting both current and past-due child support obligations.

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (j), substituted references to the Department for references to the Division throughout.

Amended by R.2004 d.88, effective March 1, 2004.

See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

Rewrote the section.

10:110-3.2 County welfare agency's responsibilities

(a) Each CWA shall maintain a child support unit (CSU) with responsibility for, but not limited to, the duties described in this section.

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

(c) The CWA shall maintain a separate line of authority for CWA/CSU staff.

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

2. Exceptions shall be granted by the Commissioner of Human Services and the U.S. Department of Health and Human Services where it is determined, based on documentation, that such separation is not administratively feasible in sparsely populated counties.

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

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

(f) 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.

(g) 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.

1. Non-IV-D locate only cases, referenced at (f)2 above, means those cases in which a request for location services only is made by an authorized person as defined at 42 U.S.C. § 653(c)(3) and § 663(d)(2), that include a resident parent, legal guardian, attorney or agent of a child not receiving public assistance under TANF, who has a duty to support and maintain any such child without regard to a court order against a non-custodial parent; or any agent, attorney or court in accordance with 42 U.S.C. § 663(d)(2) that has the duty or authority to enforce a child custody or visitation determination, or the duty or authority to investigate, enforce or bring a prosecution with respect to the unlawful taking or restraint of a child. Such individual requesting FPLS location information may be charged a reasonable, consolidated fee of \$25.00 established by the OCSS. That consolidated fee includes the rate determined by the U.S. Department of Health and Human Services for FPLS services and a State processing cost.

(h) The CWA shall be billed quarterly for the Child Support Enforcement Network (CSENet) services.

(i) The CWA shall pay all direct costs incurred in submitting cases and processing collections for State unemploy-

ment withholdings, State Lottery intercepts, Federal tax offset payments, and State Income Tax Refund/Homestead/Saver Rebates. Since the State prepaids such fees, payments from the CWA shall reimburse the State for processing of the aforementioned cases.

Amended by R.1998 d.506, effective October 19, 1998.
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Deleted a former (c); recodified former (d) through (h) as (c) through (g); and rewrote the new (c).
Amended by R.2004 d.88, effective March 1, 2004.
See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

Rewrote (a); in (b), the introductory paragraph of (c), and (c)1, substituted "CWA/CSU" for "CWA/CSP unit"; in (g), added 1; added (h) and (i).

10:110-3.3 CWA/CSU's responsibilities

(a) The CWA/CSU shall:

1. Organize in a way that effectively and efficiently handles child support cases;
2. 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;
3. Provide child support services as described in this chapter;
4. Notify, on a quarterly basis, individuals who have assigned rights of support of the amount of support payments collected;
5. Notify the WFNJ/TANF custodial parent, within five working days of when public assistance is terminated, that child support services shall continue unless the client requests, in writing, that such services be terminated;
6. Cooperate on inter-county cases;
7. Direct the probation division, obligor or payee to change the payee to the appropriate designated state entity, in cases where support is subject to an assignment or an application for Title IV-D services has been filed;
8. Provide application services that are readily accessible to the public for non-public assistance cases;
9. Provide, as representatives of the State IV-D Agency on the local level, appropriate IV-D services for those referrals received from DYFS in accordance with the terms of the IV-E/IV-D Inter-Divisional Cooperative Agreement;
10. Provide review and adjustment services in accordance with the procedures established by the OCSS in accordance with 45 C.F.R. 303.8 and N.J.A.C. 10:110-14; and
11. Provide monitoring and tracking services on those NCPs involved in the work requirement program.

Amended by R.1998 d.506, effective October 19, 1998.
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (a), deleted "in a manner consistent with State and Federal requirements," following "unit"; and rewrote (g).
Amended by R.2004 d.88, effective March 1, 2004.
See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).
Rewrote the section.

10:110-3.4 Monitoring of the Administrative Office of the Courts' (AOC) responsibilities

(a) The OCSS shall be responsible for monitoring the activities included in the Cooperative Agreement between the Division and AOC, which shall include, but is not limited to, the following activities:

1. Developing standard operating procedures, practices and forms, which shall be reviewed by the Department 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 Department;
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;
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; and
11. Including non-IV-D cases established or modified in the State on or after October 1, 1998, on the State Case Registry (SCR) for transmission to the Federal Case Registry.

Amended by R.1998 d.506, effective October 19, 1998.
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (a), rewrote the introductory paragraph, and substituted references to the Department for references to the Division throughout.
Amended by R.2004 d.88, effective March 1, 2004.
See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

In (a), substituted "OCSS" for "OCSP" and substituted "Division" for "Department" in the introductory paragraph, substituted "Division" for "Department" in 5. and added 11.

SUBCHAPTER 4. CUSTODIAL AND NON-CUSTODIAL PARENTS' RIGHTS AND RESPONSIBILITIES**10:110-4.1 Custodial parents' rights**

(a) The custodial parent shall be provided with easy access to an application for child support services, and once the case is established, timely and appropriate notice of any action that significantly impacts the status of his or her 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 custodial parent has the right to receive payments in a timely manner.

(d) The custodial parent shall be informed, in writing, that in the event of certain overpayments, the State may recoup the overpayment from the next or subsequent child support payment, or take incremental amounts from subsequent payments with the custodial parent's permission. This may occur when an overpayment is made as a misdirected payment or an erroneous payment based on a bad check, or the reversal of an electronic payment due to insufficient funds in the account of the non-custodial parent. At the time the custodial parent applies for child support services, the IV-D agency may request that the parent give written authorization for such recoupment. The applicant shall be informed that the consent is optional and that IV-D services are not conditioned based on consent to recoupment of overpayments from future collections. At the time an overpayment occurs, if the custodial parent did not consent to recoupment of overpayments at the time of application, the IV-D agency may send a letter to the custodial parent requesting permission to recoup the overpayment. Letters of request shall inform the custodial parent of a specified number of days to respond. After a third letter asking for permission is sent to a custodial parent, permission may be assumed when no response is received within the specified time period of that letter. The final letter shall state that if the parent does not respond within the specified period of time, permission to recoup the overpayment from subsequent child support payments will be assumed by default. Default consent is only valid for a particular overpayment occurrence and does not automatically authorize the IV-D agency to recoup for future overpayments.

(e) The custodial parent has the right to request a review of the support ordered amount every three years.

(f) The following information shall be made available through the New Jersey Child Support Hotline and/or New

Jersey Child Support Website in accordance with N.J.A.C. 10:110-1.8(c) to authorized persons for authorized purposes of the Program:

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

(g) The custodial parent has the right to be notified of the OCSS' administrative complaint procedures, be provided with a copy of those procedures, and to request a review, in writing, about an action taken or lack of action taken on the case. Subsequent to any administrative complaint review that occurs, the custodial parent shall be notified of the results of, and action(s) taken, when there is evidence that there has been an error on the case.

(h) The custodial parent has the right to choose to have his or her child support payment directly deposited to his or her checking or savings account by choosing from the various electronic funds transfer processes offered through the Program for this purpose. However, the IV-D agency maintains the right to require receipt of collected support payments through electronic funds transfer.

Amended by R.2004 d.88, effective March 1, 2004.

See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

Rewrote (a); in (c), deleted "non-public assistance" preceding "custodial parent" in the introductory paragraph and deleted i; added a new (d); added (e); recodified former (d) as (f) and rewrote the introductory paragraph; added (g) and (h).

10:110-4.2 Non-custodial parents' (NCPs') rights

(a) The non-custodial parent shall be provided easy access to an application for child support services, and once the case is established, with timely and appropriate notice of any action that significantly impacts the status of his or her child support case.

(b) The non-custodial parent at his or her request, in writing, or through the New Jersey Child Support Hotline, and/or by-way-of the New Jersey Child Support Website, shall be informed of the amount of paid support that was distributed as current support and/or paid to other entities as past-due support.

(c) The non-custodial parent has the right to request a review of the support ordered amount every three years.

(d) The non-custodial parent has the right to be notified of the OCSS' administrative complaint procedures, be provided with a copy of those procedures, and to request a review, in writing, about an action taken or lack of action taken on the case. Subsequent to any administrative complaint review that occurs, the non-custodial parent shall be notified of the results of, and action(s) taken, when there is evidence that there has been an error on the case.

New Rule, R.2004 d.88, effective March 1, 2004.

See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

Former N.J.A.C. 10:110-4.2, Custodial parent's responsibilities in Title IV-D cases, recodified to N.J.A.C. 10:110-4.3.

10:110-4.3 Custodial parents' responsibilities in Title IV-D cases

(a) Custodial parents in Title IV-D cases shall be responsible as follows:

1. In WFNJ/TANF cases, the custodial parents shall:
 - i. Cooperate in the establishment of paternity, including making the child(ren) available for genetic testing, and the establishment, modification and enforcement of child support and medical support in accordance with N.J.A.C. 10:110-9, 10:90-16, and if family violence is involved, with N.J.A.C. 10:90-20; and
 - ii. Notify the CWA/CSU and remit immediately, any child support payment received directly from any person or entity to the CWA/CSU, as required by TANF provisions at N.J.A.C. 10:90-2.2(a)6.
2. In both WFNJ/TANF and in non-public assistance cases, the custodial parents shall notify the CWA/CSU, Family Court, or Probation Division child support, as appropriate, if any of the following factors occur:
 - i. Changes in custody;
 - ii. Any change of name or address (in writing);
 - iii. If an attorney is retained to handle a child support matter;
 - iv. Of any protective order entered to which they are a party; and
 - v. Any change in financial circumstances.
3. In both WFNJ/TANF and in non-public assistance cases, the custodial parents shall respond to subpoena(s) for purposes of child support.

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Rewrote the section.

Recodified from N.J.A.C. 10:110-4.2 and amended by R.2004 d.88, effective March 1, 2004.

See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

Rewrote the section. Former N.J.A.C. 10:110-4.3. Non-custodial parents responsibilities in a Title IV-D case, recodified to N.J.A.C. 10:110-4.4.

10:110-4.4 Non-custodial parents' responsibilities in a Title IV-D case

(a) Non-custodial parents shall:

1. Appear at all court hearings in response to a summons issued by the court;
2. Respond to a subpoena requesting information pertaining to the establishment of paternity or the establishment, enforcement or modification of an order for child support or medical support;

3. Appear for scheduled genetic testing to determine paternity;

4. Pay child support and provide medical support as ordered by the court;

5. Participate in work activities as ordered by the court;

6. Inform the court of any changes in custody;

7. Notify the court of any change in employer or address; and

8. Maintain sufficient funds to ensure that payments made for child support are viable payments, and if any situation arises concerning the return of funds by the financial institution, including but not limited to insufficient funds, make good on that returned payment and any penalties that are applied to it.

New Rule, R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Recodified from N.J.A.C. 10:110-4.3 and amended by R.2004 d.88, effective March 1, 2004.

See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

In (a), rewrote the introductory paragraph, substituted "medical support" for "health care coverage" in 2 and 4, and added 8.

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) In accordance with P.L. 1998, c.1 and N.J.S.A. 2A:17-56.34, the Department or its designee, including the probation divisions, may compel, by administrative subpoena, the production of books, papers, accounts, records, and documents, and 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 non-custodial parent and the entity not to supply the information; or

ii. Conspiracy between the non-custodial 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.

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (a), substituted "In accordance with P.L. 1998, c.1 and N.J.S.A. 2A:17-56.34, the Department or its designee, including the probation divisions," for "The Department" at the beginning.

Amended by R.2004 d.88, effective March 1, 2004.

See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

In (a), inserted "and" preceding "any financial or other information needed".

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, Indian Tribe/Tribal organization child support enforcement agency, or any foreign reciprocating country to enforce a support order.

1. Neither of the involved entities (that is, state-to-state, state to Indian Tribe/Tribal organization child support enforcement agency, or state to foreign reciprocating country and vice-versa) shall consider the case to be transferred to the caseload of the other.

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 or other aforementioned entity via the Federally mandated forms.

(d) Electronic means shall be utilized whenever feasible.

Amended by R.2004 d.88, effective March 1, 2004.

See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

In (b), rewrote the introductory paragraph and 1; in (c), inserted "or other aforementioned entity" preceding "via the Federally mandated forms".

10:110-5.4 Work activities

(a) In cases where a child is receiving assistance under a State program funded under TANF, and all the provisions at (b) below concerning the obligor are met, the Department 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; and/or

2. Participate in work activities as ordered by the court.

i. A petition for participation in a work activity may 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.

(b) In cases where a child is receiving assistance under a State program funded under TANF, and the following provisions concerning the obligor are met, the Department is authorized to petition the court for issuance of an order against the obligor as stipulated at (a) above:

1. The obligor resides in New Jersey;

2. The obligor shall be noticed in the "Notice of Delinquency" (the CS022) of the work requirements program, the existing notice issued when the obligor has made no regular payment for the past 45 days; and

3. There is no verified employer of record; and

4. The obligor is not participating in a work activity as an applicant/recipient of WFNJ/TANF, WFNJ/GA or Food Stamps.

(c) Work requirements may also be extended to non-public assistance cases when the non-custodial parent meets the criteria of (b)1 through 4 above.

1. The NCP shall:

i. Pay the support in accordance with a plan approved by the court; and/or

ii. Participate in work activities as ordered by the court.

2. A petition for participation in a work activity may 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.

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (a), rewrote the introductory paragraph; and added (b).

Amended by R.2004 d.88, effective March 1, 2004.

See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

Rewrote (b); added (c).

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 county agency.

(b) Assignment of support rights applies to any Division of Youth and Family Services (DYFS) case referred for child support services.

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

(d) Whenever a family is no longer eligible for assistance under WFNJ/TANF, DYFS or Medicaid, the county agency shall notify the family within five working days of the notification of ineligibility or termination, that Title IV-D services shall continue unless the family notifies the county agency that services are no longer desired.

Amended by R.1998 d.506, effective October 19, 1998.
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Rewrote the section.

10:110-6.2 Support payments

All support rights due the WFNJ/TANF applicant/recipient, which are assigned to the county, shall be paid through the State disbursement unit as ordered by the court. Up to the first \$50.00 of any current support collected in a month when the child support is due, shall be paid to the family.

Amended by R.1998 d.506, effective October 19, 1998.
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Substituted a reference to the county for a reference to the State in the first sentence, and substituted a reference to noncustodial parents for a reference to absent parents in the second sentence.

Amended by R.2004 d.88, effective March 1, 2004.
See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

Rewrote the section.

10:110-6.3 (Reserved)**10:110-6.4 Authorization to seek or enforce a child support and/or medical support obligation**

An application for services by a non-public assistance recipient of child support services shall operate as authorization to seek or assist the party to establish, modify, or enforce child support or medical support as requested.

Amended by R.1998 d.506, effective October 19, 1998.
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Substituted "or assist the party to establish, modify, or enforce child support as requested" for "modify, or enforce child support" at the end.

Amended by R.2004 d.88, effective March 1, 2004.
See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

Inserted "or medical support" preceding "as requested".

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, and the individual at some later time requests that services be reinstated, the CWA/CSU shall require that the individual file a IV-D application and that the \$6.00 application fee be paid.

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

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

2. Income withholding only cases shall be exempt from all application fees.

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (b), added 2.

Amended by R.2004 d.88, effective March 1, 2004.

See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

In (a), rewrote 1; in (b), inserted "non-public assistance" preceding "custodial parent" in 1 and substituted "Income withholding only cases" for "Non IV-D income withholding cases" in 2.

10:110-7.2 Application process

(a) Applications shall be made accessible to the public. There shall be included with each application for IV-D services, and provided to each applicant for WFNJ/TANF, Medicaid and Title IV-E foster care services upon referral to the CWA/CSU, information describing child support services, the custodial and non-custodial parent's rights and responsibilities, application fees or recovery of cost charged by an out-of-State IV-D agency, overpayment recoupment policies, administrative complaint procedures, direct deposit policies and payment distribution policies.

1. A IV-D application shall be provided on the day a request is made in person.

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

(b) The IV-D Agency must accept any application, as filed, on the day it and the IV-D application fee are received in accordance with 45 C.F.R. 303.2(a)3.

Amended by R.1998 d.506, effective October 19, 1998.
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (a), substituted "application fees or recovery of cost charged by an out-of-State IV-D agency," for "fees," following "responsibilities" in the introductory paragraph.

Amended by R.2004 d.88, effective March 1, 2004.

See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

In (a), rewrote the introductory paragraph and substituted "A IV-D application" for "An application in 1 and 2; rewrote (b).

SUBCHAPTER 8. CASE ACTION PROCEDURES AND CASE RECORD ESTABLISHMENT

10:110-8.1 Investigative 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. 10:110-9.2 through 9.5 or 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 in both public assistance and non-public assistance cases.

(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. 10:110-9.2 through 9.5 or 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/TANF.

(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 non-public assistance applicant/recipient, if sufficient information is provided from the applicant and other relevant sources as required by the court, then assistance in establishing paternity in accordance with N.J.A.C. 10:110-12.2 shall be attempted, or help in filing a complaint for paternity and/or support shall be provided.

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Rewrote (b)2.

Amended by R.2004 d.88, effective March 1, 2004.

See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

In (a), amended the N.J.A.C. references and inserted "in both public assistance and non-public assistance cases" following "child support services"; in (b), amended the N.J.A.C. references in 1i and substituted "WFNJ/TANF" for "WFNJ" in 1i(1) and rewrote 2.

10:110-8.2 Establishment of case records

(a) Case records shall be maintained for all cases receiving child support services in accordance with 45 C.F.R. 303.2 and 302.15. The OCSS shall ensure that procedures to retain such records are in accordance with 45 C.F.R. Part 74

and in accordance with other Federal and State provisions pertaining to those records and specific case circumstances.

(b) The case record, as defined herein, shall be established within no more than 20 calendar days of receipt of referral of a case to the CWA/CSU or of the filing of a IV-D application, including opening or establishing an automated case record on the OCSE authorized State automated child support system (the State Case Registry).

(c) New information shall be added to the case record within no more than five working days of receipt.

(d) The case record shall be supplemented with all information and documents pertaining to the case, as well as all relevant facts, dates, actions taken, contacts made, and resulting case record circumstances.

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (b) and (c), inserted "no more than" following "within".

Amended by R.2004 d.88, effective March 1, 2004.

See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

Rewrote (a) and (b); added (d).

SUBCHAPTER 9. CHILD SUPPORT AND PATERNITY

10:110-9.1 Introduction

(a) P.L. 93-647 establishes Title IV-D of the Social Security Act, which mandates procedures for locating non-custodial parents, establishing paternity for children born out-of-wedlock and establishing, enforcing and/or modifying support obligations owed by noncustodial parents to their children. Title IV-D services with regard to paternity determinations and support collections shall be available to WFNJ individual, a Medicaid individual, a Title IV-E individual or any other individual not receiving WFNJ who files an application for child support services.

(b) The WFNJ program is designed to promote self-sufficiency. Support collections are a vital financial resource to all individuals attempting to attain and/or maintain self-sufficiency. Applicant/recipient cooperation with the county welfare agency child support unit (CWA/CSU) is a necessary step in obtaining support collections. Child support cooperation is an interactive ongoing process based on individual case circumstances. The applicant/recipient has a continuing responsibility to provide all necessary and new information available to them. The CWA/CSU is responsible for assisting the clients in obtaining information in its efforts to make paternity determinations and to obtain support collections from their responsible parent(s).

Amended by R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

In (b), in second sentence substituted "unit (CWA/CSU)" for "(CWA/CSP) unit"; in (b), in fourth sentence substituted "CWA/CSU" for "CWA/CSP unit".

10:110-9.2 Cooperation with child support for WFNJ eligibility

(a) The first step in the WFNJ application process is cooperation with child support. In addition to the eligibility requirements contained in N.J.A.C. 10:90-2.2 and 3.2 or 3.4, requirements for WFNJ eligibility shall include the following:

1. The application process for WFNJ benefits for both WFNJ/TANF and WFNJ/GA individuals begins with the agency worker assigned to ascertain cooperation requirements of child support. For TANF purposes, at the time of the IV-D interview with the WFNJ/TANF applicant/recipient, the CWA/CSU worker shall explain the child support cooperation requirements set out in this section and N.J.A.C. 10:110-9.3, the good faith effort requirement set out in N.J.A.C. 10:110-9.4, and what constitutes a claim for good cause exceptions from the child support requirements, as outlined at N.J.A.C. 10:110-9.5 and the related procedures for those individuals affected by family violence at N.J.A.C. 10:90-20. The CWA/CSU worker, as an agency program contact person, shall notify all WFNJ/TANF individuals having contact with the CWA/CSU of the WFNJ Family Violence Option (FVO) in accordance with N.J.A.C. 10:90-20.2, and explain the purpose of the WFNJ FVO and of the availability and opportunity for referral to the CWA FVO representative. Except in extraordinary circumstances, the IV-D interview shall be conducted at the time of application.

- i. For TANF purposes, the IV-D interview to establish cooperation shall begin with the applicant/recipient signing the affidavit of cooperation and completing the child support questionnaire which includes providing information related to the non-custodial parent in accordance with N.J.A.C. 10:110-9.4(b) and (c), unless the WFNJ/TANF individual requests a WFNJ FVO Waiver in accordance with N.J.A.C. 10:110-9.5 and 20.6 for reason of family violence as a good cause exception from child support requirements, or any of the other reasons for good cause exemption from child support requirements in accordance with N.J.A.C. 10:110-9.5. The WFNJ FVO Waiver and WFNJ/TANF Waiver means the same as a good cause exception from the child support requirements for reason of family violence or the risk of family violence and are used interchangeably throughout this subchapter.

- (1) The WFNJ/TANF applicant/recipient is required to provide information related to the non-custodial parent at the time of the IV-D interview but not later than 30 calendar days from the date of the notice of initial cooperation with child support in accordance with N.J.A.C. 10:110-9.4(d).

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

Amended by R.1998 d.506, effective October 19, 1998.
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (a)2, inserted "by regular mail" following "notice" in the introductory paragraph, and substituted "documented and provided to the court when appropriate" for "provided to the court" following "shall be" in i.

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

Diligent efforts to serve process in establishment and 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 the Treasury, to obtain adequate identifying information and other information to attempt service of process or the periodic repeating of service of process attempts, in cases in which previous attempts to serve process have failed.

Amended by R.2004 d.88, effective March 1, 2004.
See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).
Rewrote the section.

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, all appropriate location sources shall be accessed in an attempt to locate non-custodial parents or alleged fathers and/or their assets.

1. In these location investigations:

i. All appropriate local, State and Federal resources available shall be utilized in accordance with 45 C.F.R. 303.3(b);

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 or immediately upon receipt of new information which may aid in the location, whichever occurs sooner. Quarterly attempts shall be limited to automated sources that shall include State employment security files.

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (a), substituted "all appropriate location sources shall be accessed in an attempt" for "investigations shall be conducted" following "necessary," in the introductory paragraph.

Amended by R.2004 d.88, effective March 1, 2004.

See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

In (a), inserted "in accordance with 45 C.F.R. 303.3(b)" in ii and rewrote 2.

10:110-11.2 Location sources

(a) In accordance with 42 U.S.C. § 653A(b)(1), a New Hires Directory shall be maintained. 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, including contractors and independent contractors as defined herein; and

2. The re-hiring or return to work of any employee, contractor and/or independent contractor of the employer 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, re-hiring, or return to work of the employee, contractor or independent contractor, 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, contractor's or independent contractor's name; address; Social Security number; date of hire for employees or the date of service for either type of contractor; and date of birth; and indicate which of the following Federal Forms the employer completes for the individual:

i. The Federal Form (W-4) for an employee; or

ii. The Federal Form (1099 "Miscellaneous") for contractors or independent contractors providing a service when the payment for service is \$600.00 or greater; and the contractor's/independent contractor's Federal tax identification number; and

2. The employer's name, address, the state of hire or the state of contract, and employer's Federal tax identification number (FEIN).

i. In the event the reported address of the employer is different than the payroll address needed for wage withholding purposes, both addresses should be submitted by the employer.

(d) An employer, who fails to report as required, shall be given a written warning of non-compliance 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, contractor, or independent contractor 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 re-hiring or return to work of any employee, contractor or independent contractor consistent with the Federal requirements which include, the employee's, contractor's or independent contractor's name, address and Social Security number; and the employer's name address and Federal tax identification number, when the employee's, contractor's or independent contractor'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:

1. The National Directory of New Hires;
2. Agencies responsible for the administration of a program under Title IV-A, Title XIX, Title I, Title XIV or Title XVI;
3. Agency responsible for administration of the Food Stamp Program; and
4. Agency operating the unemployment insurance benefit and workers' compensation programs.

(i) Any employer or labor organization doing business in this State who has employees (including contractors and independent contractors) 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) The State Parent Locator Service (SPLS) shall be established to perform parent locator services.

(k) Through the automated child support system, 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, with instructions issued by the Federal Office of Child Support Enforcement, and in accordance with N.J.A.C. 10:110-1.

2. FPLS requests made by an individual meeting the criteria of an authorized person in non-IV-D locate-only cases referenced at N.J.A.C. 10:110-3.2(f)2 and (g)1 is limited by 42 U.S.C. § 653. No information shall be disclosed to any person for the reasons of domestic violence, confidentiality of census data, or when disclosure would contravene national policy or the security interests of the United States, in accordance with 42 U.S.C. § 653.

(l) In accordance with N.J.A.C. 10:110-1.7, the OCSS 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 the 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.

(n) The use and disclosure of information obtained through the sources identified in this section shall be in accordance with the rules contained herein, and as detailed at N.J.A.C. 10:110-1.7.

(o) Location resources may be used, when necessary, to also locate the custodial party for purposes of child support only.

Amended by R.1998 d.506, effective October 19, 1998.
 See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).
 Rewrote (h); and added (n).
 Amended by R.2004 d.88, effective March 1, 2004.
 See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).
 Rewrote the section.

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, paternity shall be established or service of process completed as necessary to commence proceedings to establish paternity within no more than 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/CSU shall:

1. Initiate paternity establishment proceedings against all alleged fathers named by the client. If one of the alleged fathers is excluded through genetic testing or if the court rules that he is not the father, the complaint shall be amended removing that individual as a defendant and the complaint shall proceed against the remaining defendants or the defendant whose genetic test established at least a 95 percent probability of paternity.
2. A consent order will be attempted in accordance with individual county procedures prior to the scheduled court date.

Amended by R.1998 d.506, effective October 19, 1998.
 See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).
 Rewrote (a) and (c).
 Amended by R.2004 d.88, effective March 1, 2004.
 See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).
 In (c), substituted "CWA/CSU" for "CWA/CSP unit" in the introductory paragraph.

10:110-12.2 Voluntary acknowledgment of paternity

(a) The OCSS shall establish and operate a voluntary acknowledgment of paternity program that shall be known as the Paternity Opportunity Program (POP). POP will allow for the voluntary acknowledgment of paternity through the execution of a Certificate of Parentage, which

shall have the same force and effect as a court order, or judgment of paternity.

(b) In all cases in which sufficient information is available to initiate paternity establishment proceedings, the parties, including an un-emancipated minor, shall be offered the opportunity to voluntarily sign a Certificate of Parentage (COP). If another man is presumed to be the child's father pursuant to N.J.S.A. 9:17-43 et seq., acknowledgment may be effected only if an affidavit of denial in accordance with N.J.A.C. 10:110-12.7(b)2 is signed by the presumed father, and the biological father and mother sign a COP.

(c) 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 60 days of the date of signing, or by the date of establishment of a support order whichever date is earlier. Additionally, the notice shall provide instructions on the manner in which the COP may be rescinded.

ii. Each attempted acknowledgment, whether or not effective, shall be kept on file by the State IV-D Agency or its designee, and shall entitle the person who filed it to notice of all proceedings concerning parentage and adoption of the child, as provided pursuant to N.J.S.A. 9:3-45 and C. 9:17-47.

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

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

v. 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.

vi. By signing the COP, the alleged father shall become responsible for child support and health care coverage for the child, and the OCSS may seek, modify and enforce orders regarding support issues.

(d) 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. Current full name of mother, father and child;
2. Date of birth of mother, father and child;
3. Address of mother and father;

4. Birthplace of child;

5. Brief explanation of the legal significance of signing the COP and a statement that both parents have 60 days to rescind the COP;

6. A sworn statement by the father that he is the natural father of the child;

7. 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;

8. The signature of the mother and father authenticated by a witness or notary; and

9. Instructions for filing the COP with the agency designated by the State IV-D Agency.

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Rewrote the section.

Amended by R.2004 d.88, effective March 1, 2004.

See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

In (a), substituted "OCSS" for "OCSPP"; in (b), added the last sentence; in (c), added a new 2ii, recodified former 2ii through 2v as 2iii through 2vi, substituted "(c)2i" for "(b)2i" in 2iii and substituted "OCSS" for "OCSPP" in 2vi.

10:110-12.3 Contested paternity

(a) If the parties will not sign a COP and no complaint has been filed, a complaint to establish paternity and support obligations shall be filed in a court of competent jurisdiction.

1. The complaint shall be filed and service of process necessary to commence proceedings to establish paternity completed within no more than 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 in accordance with N.J.A.C. 10:110-9.2 through 9.5 and 10:90-16.2 through 16.5, 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 the requisite sexual contact 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 the requisite sexual contact during the probable period of conception or has reason to believe he is not the biological father.

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Rewrote (a).

Amended by R.2004 d.88, effective March 1, 2004.

See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

Amended the N.J.A.C. references.

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/CSU 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/CSU 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/CSU 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; or

2. The court declares the alleged father to be indigent, in which case the alleged father may 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 object to the genetic test results by sending a written objection to the appropriate county child support agency within 10 calendar days of receipt of the results. If no complaint has been filed, the written objection shall be filed with the CWA/CSU. If a complaint has been filed, the written objection shall be filed with the court and the CWA/CSU.

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

(f) In order for a county to receive Federal reimbursement for genetic testing fees, it must choose a laboratory from the list of laboratories awarded a contract by the State to perform paternity testing. This list shall be provided to the county CWA/CSUs by the OCSS. The county shall use the State contract with the chosen laboratory and may only negotiate with that laboratory for a lower cost than that specified in the State contract. After choosing a laboratory, the county agency will be responsible for carrying out the terms of the contract.

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (e), rewrote the introductory paragraph; and added (f).

Amended by R.2004 d.88, effective March 1, 2004.

See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

In (b) and the introductory paragraphs of (c) and (e), substituted "CWA/CSU" for "CWA/CSP unit" throughout; rewrote (f).

10:110-12.5 Establishing paternity in interstate cases

Within no more than 20 calendar days of determining the alleged father is out-of-State and the case meets the definition of an interstate case, appropriate legal action or location action shall be initiated, if necessary. Whenever appropriate, proceedings to establish paternity shall be in accordance with the New Jersey Parentage Act at N.J.S.A. 9:17-46(b) and P.L. 1998, c.2.

Amended by R.1998 d.506, effective October 19, 1998.
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Inserted "no more than" following "Within" at the beginning, and added a reference to P.L. 1998, c.2 at the end.

Amended by R.2004 d.88, effective March 1, 2004.

See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

Inserted "and the case meets the definition of an interstate case," preceding "appropriate legal action".

10:110-12.6 Adoptions and artificial insemination

(a) When a child has been legally adopted, an action by a county child support agency 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 an alternate means of conception or the artificial insemination of the mother with sperm donated anonymously to a "sperm bank" or similar institution, an action by a county child support agency to establish paternity shall not be initiated. Verification of artificial insemination circumstances is delineated at N.J.A.C. 10:110-9.2 and 10:90-16.5(a)5.

Amended by R.1998 d.506, effective October 19, 1998.
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Inserted "by a county child support agency" following "action" throughout; and in (b), inserted "an alternate means of conception or" following "through" in the first sentence, and added a second sentence.

Amended by R.2004 d.88, effective March 1, 2004.

See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

In (b), amended the N.J.A.C. references.

10:110-12.7 Special circumstances

(a) Paternity proceedings shall be waived in a WFNJ/TANF case when good cause is established pursuant to N.J.A.C. 10:110-9.2 through 9.5 and/or 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 may 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, and the biological father and mother sign a COP, action to establish a child support obligation may be pursued.

(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.

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (a), inserted "in a WFNJ/TANF case" following "waived"; and in (b), substituted "may" for "shall" following "paternity" in the introductory paragraph, and rewrote 2.

Amended by R.2004 d.88, effective March 1, 2004.

See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

In (a), amended the N.J.A.C. references.

SUBCHAPTER 13. ESTABLISHING SUPPORT OBLIGATIONS

10:110-13.1 General statement

(a) In cases where there is no order for child support and health care coverage within no more than 90 calendar days of determining the location of the non-custodial parent, an order for support shall be established or service of process completed as necessary to commence proceedings to establish an order.

1. A consent order will be attempted in accordance with individual county procedures prior to the scheduled court date.

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.

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (a), rewrote the introductory paragraph and 1.

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

(a) All child support orders shall be established or modified, including a modification request in accordance with 42 U.S.C. § 666(a)(10)(B) due to proof of a significant change in circumstances, in accordance with the New Jersey Child

Support Guidelines as adopted by the Supreme Court in Rule 5:6A and Appendix IX.

1. The Child Support Guidelines may be modified or deviated from 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 the automated child support system.

(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 as defined at 45 C.F.R. 303.31.

Amended by R.1998 d.506, effective October 19, 1998.
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (a), rewrote the introductory paragraph.
Amended by R.2004 d.88, effective March 1, 2004.
See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

In (a), rewrote the introductory paragraph, substituted "deviated from" for "disregarded" preceding "by the court" in 2, and substituted "the automated child support system" for "ACSES" following "recorded on" in 3; in (c), inserted "as defined at 45 C.F.R. 303.31".

SUBCHAPTER 14. TRIENNIAL REVIEWS

10:110-14.1 Case selection

(a) Every three years, the CWA/CSU shall review for possible adjustment/modification all WFNJ/TANF and Foster Care cases on which the support order exists. Additionally, the CWA/CSU shall review for possible adjustment/modification 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 system shall generate a monthly report from the State case registry listing all WFNJ/TANF, Foster Care and applicable Medicaid 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 even when the order has received an Automated Cost-of-Living Adjustment (COLA) adjustment(s), as defined herein, on an order that has been entered, enforced or modified on or after September 1, 1998 when the COLA became effective under the State Program.

(b) The parties in non-public assistance cases, not subject to cost-of-living adjustments (COLA), shall be notified three years from the date their support orders were established, last reviewed, or modified, of their right to request a review for possible adjustment/modification. Upon the written request of either party, the CWA/CSU shall review for possible adjustment/modification non-public 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/CSU for both parties. This review shall occur at the request of either party even when the order has received a COLA adjustment(s), as defined herein, on an order that has been entered, enforced or modified on or after September 1, 1998 when the COLA became effective under the State 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 no more than 180 calendar days of determining that a review shall be conducted or locating the non-requesting parent, whichever occurs later, the CWA/CSU shall complete the triennial review process at N.J.A.C. 10:110-14.2.

(c) The CWA/CSU shall not initiate a triennial review when:

1. In a WFNJ/TANF case there has been a determination of good cause, pursuant to N.J.A.C. 10:110-9.2 through 9.5 and 10:90-16.2 through 16.5, and neither party has requested a review;

2. In a Title IV-E foster care 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 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.

Amended by R.1998 d.506, effective October 19, 1998.
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (b)2, inserted "no more than" following "Within" in the introductory paragraph.

Amended by R.2004 d.88, effective March 1, 2004.
See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

Rewrote (a) and (b); in (c), substituted "CWA/CSU" for "CWA/CSP unit" and inserted "triennial" preceding "review" in the introductory paragraph, and amended the N.J.A.C. references in 1.

10:110-14.2 Triennial 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/CSU shall notify the custodial and non-custodial 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 as defined in 45 C.F.R. 303.31.

(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 proposed 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 both parties agree with the review findings, each party may avoid a court appearance by signing the Consent to Modify Order Form and returning it within 30 calendar days of the date the notice was served;

(4) That if either party disagrees with the review findings (that is, either party disagrees that an adjustment is appropriate, disagrees with the proposed new child support obligation, or disagrees with the determination of responsibility for providing health care coverage for the child), either party 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 either party disagrees with the review findings, either party 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 unless there is a substantial change in circumstances and a petition is made.

(f) If a party files a challenge, the individual filing the challenge shall provide supporting documentation within the 30-day period. If documentation is provided, the case shall be referred to an attorney of the CWA for review, and if appropriate, the filing of a motion for court action.

(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.

(h) A case shall also be referred to an attorney when the CWA/CSU conducting the review is unable to determine if a case qualified for an adjustment or a court hearing is requested by one or both of the parties. In cases where a conflict of interest exists between the CWA/CSU attorney and the involved parties, a "Conflicts Counsel" shall be necessary to process and resolve the case review.

Amended by R.1998 d.506, effective October 19, 1998.
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (d)2ii, added C.F.R. reference at the end; in (e)2ii(3), substituted a reference to 30 calendar days for a reference to 30 days; rewrote (f); and added (h).

Amended by R.2004 d.88, effective March 1, 2004.
See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

In (b), substituted "CWA/CSU" for "CWA/CSP unit" in 1; in (e), inserted "proposed" preceding "new child support" in 2ii(1) and 2ii(4), and rewrote 3ii; in (h), substituted "CWA/CSU" for "CWA/CSP unit" throughout.

10:110-14.3 Triennial reviews in interstate cases

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

(b) When a request for a triennial 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.

Amended by R.2004 d.88, effective March 1, 2004.

See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

In (a), substituted "CWA/CSU" for "CWA/CSP unit"; inserted "triennial" preceding "review is received" throughout.

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 medical support; 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.

Amended by R.2004 d.88, effective March 1, 2004.

See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

In (a), substituted "medical support" for "health care coverage" in 3.

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 the parties demonstrate, and the court finds, that there is good cause not to require immediate income withholding or both parties sign a written agreement that provides for an alternative arrangement.

(1) Regardless of any alternative arrangement, the non-custodial parent's income shall be subject to income withholding on the date the non-custodial 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 non-custodial parent is subject to immediate income withholding, a notice to the non-custodial 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 non-custodial parent shall be sent within two business days after the date verified employment information regarding a non-custodial parent is entered into the automated child support system.

iii. If there is more than one child support withheld 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, the State Disbursement Unit, through Electronic Funds Transfer (EFT).

v. Employers identified through the automated matching with the State New Hire Directory shall be issued an income withholding notice within two business days.

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 non-custodial parents who owe past-due support shall be withheld in accordance with 45 C.F.R. 302.65.

3. Workers compensation benefits intercept provisions are as follows:

i. The workers compensation benefits of non-custodial parents who owe past-due support shall be subject to income withholding.

4. Financial institution data match (FIDM) provisions are as follows:

i. The OCSS, in accordance with N.J.S.A. 2A:17-56.53 and 2A:17-56.57 et seq., shall conduct both in State and multi state financial institution data matches (FIDM) to identify assets of non-custodial parents held in financial institution accounts, as defined herein, or in accordance with this subsection and Federal law at 42 U.S.C. § 666(a)(17).

(1) Accounts subject to levy through FIDM are those accounts, as defined herein, held in a financial institution as defined in these rules, that meet the selection criteria of this subsection and that do not satisfy any exemption from levy factors described herein.

(2) Each financial institution doing business in the State shall enter into agreement with the Department or its designee for purposes of child support financial institution data matches.

(3) Each financial institution shall provide information on all non-custodial 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.

(4) Pursuant to an agreement entered into with the Department, information from a financial institution doing business in this State can be provided by:

(A) All accounts method. The financial institution shall provide OCSS 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 OCSS to match against its data base;

(B) Matched accounts method. OCSS 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 OCSS; or

(C) Other mutually agreed upon method. The financial institution shall provide OCSS 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.

(5) 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.

(6) Financial institutions may 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.

(7) 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. If the account is closed, or is such that assets are not subject to levy for purposes of child support pursuant to Federal or State law, the financial institution shall provide notice to OCSS.

(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 institutions 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 by OCSS.

(A) The financial institution shall freeze each account levied immediately.

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

(C) The financial institution shall remit those monies in the levied account as of the date the "Notice to Remit" is received by the financial institution, 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 OCSS to the accountholder at the address of record on the automated child support system and to the financial institution customer address of record.

(1) The accountholder shall have 30 calendar days following the notice's postmark date to contest the levy by writing to the OCSS to request an administrative contest review for limited circumstances as follows:

(A) Mistaken identity;

(B) Incorrect arrearage amount;

(C) Bankruptcy status;

(D) Joint account issues; or

(E) Because litigation of support has been filed and is pending resolution in the appropriate court of jurisdiction.

(2) When the request is made timely (that is, within the 30-calendar day period from the postmark date of the notice) and accompanied by the required documentation for contest, upon receipt of the request or of the required documentation, a review by the OCSS shall take place within 10 calendar days from the stamped date of receipt by the OCSS of the request for contest. Certain cases, based on circumstances, may require additional review beyond the standard 10-day review. Expedited review may occur in hardship cases involving homelessness, job loss, physical incapacitation or severe financial hardship as determined by OCSS.

(3) 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 that results from a good faith but erroneous interpretation.

v. Account seizure provisions are as follows:

(1) A review of matched information reports identifying non-custodial parents meeting the selection criteria of this subsection, that have been matched to accounts in financial institutions, is conducted by the OCSS before any notice of levy is issued.

(2) Pursuant to administrative enforcement of interstate cases (N.J.A.C. 10:110-5.3), when the OCSS is the assisting state, the OCSS shall accept and process interstate requests to freeze and seize assets.

(3) OCSS may determine not to levy an account on the basis of applicable exemption factors. Certain identified accounts may be considered or be protected under other Federal or state statutes, regulations, or court rules; or a non-custodial parent may, for legal or practical reasons, be exempt from levy.

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

i. Cases shall be submitted by the OCSS 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.

ii. The Federal Office of Child Support Enforcement shall issue notices to all parties for whom cases are submitted by the OCSS 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 the Treasury, the Social Security number of lottery winners whose winnings are in excess of \$600.00, shall be electronically matched with the Social Security number of non-custodial parents who owe past-due support for possible interception.

ii. A notice shall be sent to the obligor advising of the OCSS's intent to intercept the lottery winning. 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 OCSS;

(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. 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. Driver's, professional, occupational, recreational, or sporting licenses held or applied for by a delinquent obligor may be suspended, revoked, or denied in accordance with N.J.S.A. 2A:17-56.41.

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 for appropriate action in accordance with established court procedures.

iv. In cases where OCSS is requesting a consumer report from a credit reporting agency for the purpose of establishing a non-custodial parent or alleged father's capacity to make child support payments, notice shall be sent to the obligor 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 non-public assistance cases in accordance with 45 C.F.R. 303.71. In non-public 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/CSU shall be billed a collection fee in accordance with prevailing costs 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 OCSS 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 an administrative order, or a judgment; and

(B) The delinquent amount owed shall be greater than the monthly support obligation in order to qualify for selection for SOIL. The selection amount for the submittal of arrears only cases to SOIL is a threshold of \$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 OCSS;

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

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

(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 OCSS for resolution.

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

11. Judgment for child support lien against net proceeds provisions are as follows:

i. Upon resolution of any civil judgment, civil arbitration award, lawsuit, inheritance or worker's compensation award where a beneficiary or prevailing party is entitled to receive a monetary award or settlement the provisions of N.J.S.A. 2A:17-56.23b shall apply.

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

i. Cases shall be certified by the OCSS 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 meeting the Federally established criteria shall be considered for this process.

(A) Notice to the obligor of the intent to deny, suspend or revoke a passport, will be provided by the Federal Office of Child Support Enforcement.

13. Uniform Fraudulent Transfer Act provisions are as follows:

i. In any case where a transfer by a child support judgment debtor is in violation of 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/CSU shall seek to void the transfer or obtain a settlement in the best interest of the child support creditor.

14. Work requirement provisions are as follows:

i. In cases where a child is receiving assistance under a State program funded under TANF, or in non-public assistance cases when the non-custodial parent is past-due in support, and the provisions of N.J.A.C. 10:110-5.4(b)1 through 4 apply, the probation 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; and/or

(2) Participate in work activities as ordered by the court.

Amended by R.1998 d.506, effective October 19, 1998.
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (a), rewrote li. 3i, 4ii(2)(C), 7, 8iii, 11 and 12i, inserted lv, substituted a reference to consumer reports for a reference to information in 8iv, and made internal reference changes in 11iv and v. Amended by R.2004 d.88, effective March 1, 2004.
See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

Rewrote the section.

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 pursuant to 42 U.S.C. §§ 608(a)(3) and 657, and 45 C.F.R. 302.51.

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

Amended by R.2004 d.88, effective March 1, 2004.

See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

In (b), inserted "pursuant to 42 U.S.C. §§ 608(a)(3) and 657, and 45 C.F.R. 302.51" following "for preceding months" in the introductory paragraph.

10:110-16.2 Timeframes

(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 non-custodial parent makes a timely appeal of the past-due amount, 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 withheld monies are received in a subsequent month.

Amended by R.2004 d.88, effective March 1, 2004.

See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

In (b), inserted "of the past-due amount," preceding "and resolution of that appeal is pending"; in (c), substituted "withheld monies are" for "withholding was" preceding "received" in 2.

(c) Requests to expend incentives on activities not currently eligible for funding under the IV-D Program, but which would benefit the IV-D Program, shall be submitted to the Commissioner, or designee, for approval by the Commissioner of the Federal Office of Child Support Enforcement.

New Rule, R.2004 d.88, effective March 1, 2004.
See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

SUBCHAPTER 19. STATE CASE REGISTRY

10:110-19.1 Maintaining the State Case Registry

The State Case Registry is the automated child support system 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.

Amended by R.1998 d.506, effective October 19, 1998.
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Inserted "which shall be known as the Automated Child Support Enforcement System (ACSES)" following "Registry".
Amended by R.2004 d.88, effective March 1, 2004.
See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

Substituted "is the automated child support system" for "which shall be known as the Automated Child Support Enforcement System (ACSES)".

SUBCHAPTER 20. CASE CLOSURE

10:110-20.1 Case closure criteria and the retention of case records

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

Amended by R.2004 d.88, effective March 1, 2004.
See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

10:110-20.2 Retention of case records

(a) Each entity providing IV-D services shall retain all material normally kept in the IV-D case record, for the time periods indicated in (b) below in accordance with 45 C.F.R. 74. At the expiration of such time period the respective entity may, at its option, destroy records in accordance with the retention period indicated in (b) below.

(b) Retention periods are as follows:

1. All case records shall be retained for a period of three and one-third years after agency action, court action, and/or all arrears have been satisfied, and:

i. The non-custodial parent has died during the effective period that a court order for support existed; or

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

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

iv. Cases in which legitimate and repeated efforts over time to locate putative fathers or obligors are unsuccessful because of inadequate identifying or location information; or

v. When in interstate cases in which the IV-D Agency, as the responding State, lacks jurisdiction to work a case, and the initiating State has not responded to a request for additional information or case closure.

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

i. Case records shall be retained for a period of three and one-third years after recovery of all arrears owed to the county agency and:

(1) The custodial parent terminates assistance; or

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

(c) The case records 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.

Amended by R.1998 d.506, effective October 19, 1998.
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Rewrote (b).
Amended by R.2004 d.88, effective March 1, 2004.
See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).
Rewrote the section.

10:110-20.3 Case closure criteria

(a) The Department's OCSS shall ensure that case closure policies are implemented and followed in the Program in accordance with 45 C.F.R. 303.11 for the Program to be administratively responsible in maintaining a caseload that includes cases in which there is adequate information or likelihood of successfully providing child support services.

(b) Notice shall be provided to recipients of child support services of the intent to close the case by the IV-D Agency in accordance with the provisions of (d) below, and that they have the opportunity to respond with information or a

request to keep the case open prior to any action to close the case.

(c) Circumstances under which a case could be closed shall meet at least one of the following criteria:

1. There is no longer a current support order and arrearages are under \$500.00 or unenforceable under State statutes;

2. The noncustodial parent or putative father is deceased and no further action, including a levy against the estate, can be taken;

3. Paternity cannot be established because:

i. The child has reached the age of majority and action to establish paternity is barred pursuant to N.J.S.A. 9:17-38 et seq.;

ii. A genetic test or court or administrative process has excluded the putative father and no other putative father can be identified;

iii. In accordance with 45 C.F.R. 303.5(b), the IV-D Agency has determined that it would not be in the best interests of the child to establish paternity in a case involving incest or forcible rape, or in any case where legal proceedings for adoption are pending; or

iv. The identity of the biological father is unknown and cannot be identified after diligent efforts, including at least one interview by the IV-D Agency with the recipient of services;

4. The noncustodial parent's location is unknown and the IV-D Agency has made diligent efforts using multiple sources, in accordance with 45 C.F.R. 303.3, all of which have been unsuccessful, to locate the noncustodial parent:

i. Over a three-year period when there is sufficient information to initiate an automated locate effort; or

ii. Over a one-year period when there is not sufficient information to initiate an automated locate effort;

5. The noncustodial parent cannot pay support for the duration of the child's minority because the parent has been institutionalized in a psychiatric facility, is incarcerated with no chance for parole, or has a medically-verified total and permanent disability with no evidence of support potential. The IV-D Agency must also determine that no income or assets are available to the noncustodial parent which could be levied or attached for support;

6. The noncustodial parent is a citizen of, and lives in a foreign country, does not work for the Federal government or a company with headquarters or offices in the United States, and has no reachable domestic income or assets; and the IV-D Agency or the OCSE has been unable to establish reciprocity with the country;

7. The IV-D Agency has provided location-only services as requested by the recipient under 45 C.F.R. 302.35(c)(3);

8. The non-IV-A recipient of services requests closure of a case and there is no assignment to the State of medical support under 42 C.F.R. 433.146, or of arrearages which accrued under a support order;

9. There has been a finding by the CWA/CSU of good cause or other exceptions to cooperation with the IV-D Agency, and the CWA/CSU has determined that support enforcement may not proceed without risk of harm to the child or caretaker relative;

10. When in a non-public assistance case or a former assistance case under WFNJ/TANF, IV-E foster care, or Medicaid receiving child support services the IV-D Agency is unable to contact the recipient of services within a 60 calendar day period, despite an attempt of at least one letter sent by first class mail to the last known address;

11. In a non-public assistance case or a former assistance case under WFNJ/TANF, IV-E foster care, or Medicaid receiving child support services, the IV-D Agency documents the circumstances of the recipient of services non-cooperation, and an action by the recipient of services is essential for the next step in providing IV-D services; or

12. The IV-D Agency as the responding State on an interstate case documents failure by the initiating State or Indian Tribe/Tribal organization child support enforcement agency to take an action which is essential for the next step in providing services.

(d) In cases meeting the criteria in (c)1 through 6 and 10 through 12 above, the IV-D Agency must notify the recipient of services, or in an interstate case meeting the criteria for closure under (c)12 above the initiating State, in writing, 60 calendar days prior to closure of the case of the State's intent to close the case.

1. The case must be kept open if the recipient of services or the initiating State supplies information in response to the notice which could lead to the establishment of paternity or a support order or enforcement of an order, or, in the instance of (c)10 above, if contact is reestablished with the recipient of services.

New Rule, R.2004 d.88, effective March 1, 2004.

See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).

Former N.J.A.C. 10:110-20.3, Reopening a closed case, recodified to N.J.A.C. 10:110-20.4.

10:110-20.4 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.

Recodified from N.J.A.C. 10:110-20.3 by R.2004 d.88, effective March
1, 2004.

See: 35 N.J.R. 3042(a), 36 N.J.R. 1207(a).