

CALIFORNIA DEPARTMENT OF CHILD SUPPORT SERVICES

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



June 21, 2005

CSS LETTER: 05-19

ALL IV-D DIRECTORS
 ALL COUNTY ADMINISTRATIVE OFFICERS
 ALL BOARDS OF SUPERVISORS

SUBJECT: COURT VENUE AND DIRECT APPLICATIONS FOR CHILD SUPPORT SERVICES

<u>Reason for this Transmittal</u>	
<input type="checkbox"/>	State Law or Regulation Change
<input type="checkbox"/>	Federal Law or Regulation Change
<input type="checkbox"/>	Court Order or Settlement Change
<input type="checkbox"/>	Clarification requested by One or More Counties
<input checked="" type="checkbox"/>	Initiated by DCSS

This letter provides direction to local child support agencies (LCSAs) in applying Family Code (FC) provisions to determine superior court venue when in receipt of direct applications for child support services. The term "direct application" used in the context of this letter refers exclusively to applications for child support services submitted directly to a Title IV-D agency by a custodial party (CP) or noncustodial parent (NCP) who resides in another country or state. LCSAs have raised questions about appropriate procedures to follow when in receipt of a direct application for services when the responding party to the action is located in a different jurisdiction within this State. In these instances, superior court venue may be in conflict with the LCSA jurisdiction where the application is received.

The California Department of Child Support Services (DCSS) has developed policies and procedures for processing direct applications for IV-D services when superior court venue is in conflict with the receiving LCSA jurisdiction. These policies were developed based upon FC §17400(n)(1)(A-E). The procedures outlined below are organized by the policies that apply first to a CP and then to an NCP direct applicant.

Superior Court Venue and Direct Application from a CP

- When a CP submits a direct application for child support services, the LCSA must accept the direct application on the same day it is received in compliance with 45, Code of Federal Regulations (CFR), §303.2(a)(3). The case record must be established within 20 days of receipt of the application in accordance with 45, CFR, §303.2(b).

- If the NCP is located in a county within the same superior court venue as the receiving LCSA, the LCSA shall proceed to process the case appropriately.
- If the NCP does not reside within the superior court venue of the receiving LCSA, the LCSA shall review subparagraphs (A), (B), (C) and (D) of FC §17400(n)(1) for relevancy to the specific circumstances of the case. The subparagraphs are as follows.

“(A) Venue shall be in the superior court in the county that is currently expending public assistance.”

“(B) If public assistance is not currently being expended, venue shall be in the superior court in the county where the child who is entitled to current support resides or is domiciled.”

“(C) If current support is no longer payable through, or enforceable by, the local child support agency, venue shall be in the superior court in the county that last provided public assistance for actions to enforce arrearages assigned pursuant to Section 11477 of the Welfare and Institutions Code.”

“(D) If subparagraphs (A), (B), and (C) do not apply, venue shall be in the superior court in the county of residence of the support obligee.”

If subparagraphs (A), (B), (C) and (D) of FC §17400(n)(1) do not apply, venue shall be in the superior court of the obligor's county of residence. The LCSA will transfer the case file, the application, and all relevant case documents to the NCP's county of residence using the appropriate case transfer package and following the case transfer procedures pursuant to Case Transfer Policy in Child Support Letters (CSS) 02-18 and 02-21.

- When an NCP is located in another state and this State does not have any jurisdiction, the LCSA in receipt of the application shall contact the CP and advise him/her that the NCP has been located in another state. The receiving LCSA may inform the CP of the advantage of having the Title IV-D agency in the NCP's state of residence provide the Title IV-D Services and may recommend that the CP submit a direct application to that state. This will provide the CP with the best enforcement actions available and better customer service.

If the CP chooses to submit a direct application to the state Title IV-D agency where the NCP resides, the LCSA shall close the case pursuant to CCR, Title 22, Section 118203(a)(8). If the CP requests that the receiving LCSA retain and process the direct application, the appropriate interstate actions must be initiated.

Court Venue and Direct Application from an NCP

A direct application received from an NCP is processed in a similar manner to one received from a CP. The major difference is that the CP is most often the California resident and the LCSA should first determine whether or not the CP is receiving or has ever received public assistance. Determination of court venue in these instances is referenced in FC §17400(n)(1)(A - D) and is based upon the status of the CP.

- The relevant subsections of FC 17400(n)(1) are as follows.

“(A) Venue shall be in the superior court in the county that is currently expending public assistance.”

“(B) If public assistance is not currently being expended, venue shall be in the superior court in the county where the child who is entitled to current support resides or is domiciled.”

“(C) If current support is no longer payable through, or enforceable by, the local child support agency, venue shall be in the superior court in the county that last provided public assistance for actions to enforce arrearages assigned pursuant to Section 11477 of the Welfare and Institutions Code.”

“(D) If subparagraphs (A), (B), and (C) do not apply, venue shall be in the superior court in the county of residence of the support obligee.”

- When the public assistance or nonassistance status has been determined, the LCSA must follow the Family Code court venue guidelines and proceed with the next appropriate action. All timeframes that apply to the acceptance of the direct application from the NCP and establishment of the case record are identical to those that apply when a CP is the direct applicant.
- The instructions for LCSAs to follow in cases, where an NCP submits a direct application and the CP is located in another state, are the same that apply when direct applications are submitted by a CP and the NCP resides in another state.

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If you have any questions or concerns regarding this matter, please contact Dottie Wallace, Manager of Case Management Policy Establishment Section, at (916) 464-5055.

Sincerely,

o/s/SANDRA O. POOLE

SANDRA O. POOLE
Deputy Director
Child Support Services Division