

CALIFORNIA CODE OF REGULATIONS

TITLE 22

CHAPTER 10 COMPLAINT RESOLUTION

Article 3 State Hearings

(1) Amend Section 120201 to read as follows:

Section 120201. Right to a State Hearing.

(a) A complainant who is dissatisfied with the resolution of a complaint made with a local child support agency, pursuant to Article 2, shall have the right to request a state hearing pursuant to the requirements of this Article. The subject of the request for a state hearing shall be limited to any one or more of the following actions or failures to take action by a local child support agency or the Franchise Tax Board:

(1) An application for child support services has been denied or has not been acted upon within the required time frame.

(2) The child support services case has been acted upon in violation of federal or state law, regulation, or Department policy letter, or has not been acted upon within the required time frame, including services for the establishment, modification, and enforcement of child support orders and child support accountings.

(3) Child support collections have not been distributed or have been distributed or disbursed incorrectly, or the amount of child support arrears, as calculated by the local child support agency, is inaccurate.

(A) State hearing jurisdiction shall not extend to arrears issues if there is no dispute as to the accounting of the amount owed, but the complainant is seeking relief from enforcement of the order or judgment, or if the complainant is seeking credit for payments that were made to someone other than the local child support agency.

(B) The complainant shall not be entitled to request a state hearing and a court review at the same time. If the complainant or the other party files for a court determination of arrears either before or after a state hearing is requested, the local child support agency shall notify the State Hearing Office, and any state hearing that has been requested on the same issues shall be dismissed.

(C) The local child support agency shall not be required to give notice to the non-complaining party of a state hearing request that concerns the calculation of the arrears. However, in order to protect the property rights of the parties, the local child support agency shall send the non-complaining party a copy of any hearing decision, in which the calculation of arrears is at issue, and provide notice of the right to have the arrears issue heard in court. The local child support agency shall redact all confidential information, including the complaining party's address, prior to sending the hearing decision to the non-complaining party.

(4) The local child support agency's decision to close a child support case.

- (b) The following issues shall not be heard at a state hearing:
- (1) Complaints arising from a child support matter which must, by law, be addressed by motion, order to show cause, or appeal, in a court.
 - (2) A review of any of the following:
 - (A) A court order for child support or child support arrears.
 - (B) A court order or equivalent determination of paternity.
 - (C) A court order for spousal support.
 - (3) Child custody determinations.
 - (4) Child visitation determinations.
 - (5) Complaints of alleged discourteous treatment by a local child support agency employee unless such conduct resulted in one of the actions or inactions enumerated in subsection (a)(1) through (4).
- (c) Prior to requesting a hearing, the complainant shall exhaust the local complaint resolution process specified in Article 2, unless a local child support agency has not, within the time frames specified in Section 120105, submitted a written resolution of the complaint. Only a complaint that was raised in the local complaint resolution process can be raised in a state hearing.
- (d) All requests for a state hearing shall:
- (1) Be made orally or in writing to the State Hearing Office.
- Complainants shall be encouraged, but not be required, to complete a "Request for State Hearing," SH001, dated (~~10/01/06~~06/09), incorporated by reference herein.

(2) Be made within 90 days after any of the following:

(A) The date the complainant received the local child support agency's "Notice of Complaint Resolution," LCR006, dated (10/01).

There shall be a rebuttable presumption that the complainant received a "Notice of Complaint Resolution," LCR006, dated (10/01), five (5) business days after the postmark date of the LCR006.

(B) The date the complainant made the complaint with the local child support agency, if the local child support agency failed to issue a "Notice of Complaint Resolution," LCR006, dated (10/01).

(C) The date the complainant received the "Complaint Transfer," LCR004, dated (10/01), from the local child support agency that transferred the complaint pursuant to Section 120104, if the local child support agency to which the complaint was transferred has not issued a "Notice of Complaint Resolution," LCR006, dated (10/01) within the time frame specified in Section 120105.

(D) The date the complainant received the "Notice of Complaint Resolution Extension," LCR005, dated (10/01) from the local child support agency that took an extension pursuant to Section 120105, if the local child support agency has not issued a "Notice of Complaint Resolution," LCR006, dated (10/01) within 60 days from the complaint receipt date.

(3) Include, at a minimum, the information specified in Section 120101(b)(3). A request for a state hearing shall not be deemed invalid for failure to include the information specified in Section 120101(b)(3)(B).

(e) If a local child support agency receives a "Request for State Hearing," SH001, dated (~~10/01/06~~06/09), directly from a complainant, the local child support agency shall fax the SH001 to the State Hearing Office by the close of business of the following business day.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code.
Reference: Section 17801, Family Code.

- (2) Repeal REQUEST FOR STATE HEARING, Form SH 001 (10/01).

(3) Incorporate by reference REQUEST FOR STATE HEARING Form SH 001 (06/09).

REQUEST FOR STATE HEARING Page two

- I need the State to provide me with an interpreter at no cost to me. (A relative or friend cannot interpret for you at the hearing). My language or dialect is: _____
- I have a disability and need the State to provide me the following reasonable accommodation to participate at my hearing: _____
- I want the person named below to represent me at this hearing. I give my permission for this person to have access to my records or attend the hearing for me. (This person can be a friend or relative but cannot interpret for you).

NAME		TELEPHONE NUMBER
STREET ADDRESS		
CITY	STATE	ZIP CODE
COMPLAINANT'S SIGNATURE		DATE

RIGHT TO A STATE HEARING:

- If the local child support agency **does not** respond to you within 30 days from receiving your complaint, you have the right to request a State Hearing before an Administrative Law Judge. **IMPORTANT: Your request for a state Hearing must be made within 90 days after you complained to the local child support agency.**
- If the local child support agency **does** respond to you within 30 days of making your complaint, and you are not satisfied with the local child support agency's complaint resolution or response, you have the right to request a State Hearing before an Administrative Law Judge. **IMPORTANT: Your request for State Hearing must be made within 90 days after you received the local child support agency's written response to your complaint.**
- You can request a State Hearing in writing by sending a Request for State Hearing form (SH001) to the Department of Child Support Services, or you can call the Department of Child Support Services toll free at 1-866-289-4714.
- The Department of Child Support Services will let you know the date, time, and place of your State Hearing.
- The Department of Child Support Services will provide an interpreter or disability accommodation for you at the hearing if you need one.
- **IMPORTANT: Not all complaints can be heard at a State Hearing.**

State Hearings will only be granted for the following issues:

- An application for child support has been denied or has not been acted upon within the required time.
- The child support services case has been acted upon in violation of federal or state law or regulation, or California Department of Child Support Services policy letter, including services for the establishment, modification, and enforcement of child support orders and child support accountings.
- Child support collections have not been distributed, or have been distributed or disbursed incorrectly, or the amount of child support arrears, as calculated by the local child support agency is inaccurate.
- The local child support agency's decision to close a child support case.

IMPORTANT: The following issues cannot be heard at a State Hearing:

- Child support issues that must be addressed by motion, order to show cause, or appeal in a court.
- A review of any court order for child support or child support arrears.
- A court order or equivalent determination of paternity.
- A court order for spousal support.
- Child custody determinations.
- Child visitation determinations.
- Complaints of alleged discourteous treatment by a local child support agency employee, unless such conduct resulted in a hearable action or inaction.

OMBUDSPERSON SERVICES:

- Every local child support agency has an Ombudsperson available to help you through the complaint resolution and/or State Hearing process.
- The Ombudsperson can help you obtain information regarding your complaint to help you prepare for your State Hearing.
- **IMPORTANT: The Ombudsperson cannot represent you at the State Hearing or give you legal advice.**

Department of Child Support Services

R-49-09

State Hearing Address Update

Explanatory Statement

This is a nonsubstantive rulemaking under the provisions of Title 1 California Code of Regulations (CCR), section 100 in that it does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision. It is essentially just an address change. While address change is not one of the listed types of changes without regulatory effect, Section 100 says “Changes without regulatory effect include, but are not limited to:...” We believe this address change is one of the allowable nonsubstantive changes that are not enumerated.

Under the provisions of Family Code (FC) section 17801 it has always been the responsibility of the Department of Child Support Services (DCSS) to provide state hearings on child support complaints. In the past this responsibility has been met by contracting with the Department of Social Services’ (DSS) Office of Administrative Hearings as provided for at FC 17801(i) for provision of all services relating to requests for state hearings. Unfortunately due to budgetary issues, DSS is no longer able to provide these services. Effective July 1, 2009; they have cancelled their contract with DCSS.

Since DSS is no longer handling any child support state hearing activities, it is necessary to revise the REQUEST FOR STATE HEARING Form SH 001 to redirect all public contact regarding child support state hearings to DCSS. Since the form is incorporated by reference into 22 CCR section 120201(d)(1) and also referred to in (e), amendments to change the revision date are proposed for those regulatory provisions. That is the extent of this rulemaking, only contact information has been changed on the form and the form revision date has been changed in the regulatory text. The public’s rights and services are not altered by this rulemaking. For these reasons this has been submitted as a nonsubstantive rulemaking.