

September 9, 2004

ATTACHMENT A

Revised Regulatory Text
for R-16-03
Review & Adjustment of Support Orders

(1) Adopt Chapter 5, and Section 115500 to read as follows:

Chapter 5. Review and Adjustment of Child Support Orders.

Section 115500. Operative Date and Implementation

This Chapter shall become operative and implemented upon the date in which the Director of the California Department of Child Support Services executes a declaration that states that the local child support agencies have begun to convert to the California Child Support Automation System, Version 2. A local child support agency shall be required to implement this Chapter once the local child support agency converts to the California Child Support Automation System, Version 2.

Authority cited: Sections 17306, 17310 and 17312, Family Code.

Reference: Sections 17304, 17306, 17310 and 17312, Family Code.

(2) Adopt Chapter 5, and Section 115503 to read as follows:

Chapter 5. Review and Adjustment of Child Support Orders.

Section 115503. Notification of the Right to Request Review for Adjustment.

(a) Each local child support agency shall mail a written notice, at least once every 3 years, to each party to a child support order with a current support obligation subject to enforcement by the local child support agency.

(b) The notice shall be mailed to the last known address of each party.

(c) The notice shall inform the parties of the following:

(1) The right to request, either written or orally, that the local child support agency review the current child support obligation for either an upward or downward adjustment based upon either of the following:

(A) A change in circumstance as specified in Section 115520 or Section 115530. The notice shall include examples of changes of circumstances.

(B) The need to include a provision for medical support.

(2) The name, address, and public telephone number of the local child support agency.

(3) The requirement that the local child support agency assist each party throughout the review and adjustment process by explaining the process, providing forms and information.

(4) The requirement that the local child support agency conduct a review for adjustment upon request and either obtain an adjusted order, or determine that the order should not be adjusted within 180 days from the date of a

request for review and adjustment, or the date a non-requesting party has been located, whichever is later. The date of receipt of a request is the date the requesting party provides current and complete income and expense Judicial Council forms and requested documents to the local child support agency.

(5) Notification that a request for review and adjustment in an interjurisdictional case, such as a case involving another state, may need to be forwarded to the agency having jurisdiction over the case for review and adjustment.

(6) The right of a party to file a motion for modification, order to show cause, or motion to set aside on his or her own behalf at anytime.

(7) The right of a party to obtain assistance from the local Family Law Facilitator.

(8) The name, address, and public telephone number of the local Family Law Facilitator.

(9) The availability of the complaint resolution and state hearing processes pursuant to 22 California Code of Regulations, Chapter 10, Section 120001 et seq.

Authority cited: Sections 17306, 17310 and 17312 Family Code

Reference: Sections 17304 and 17401.5, Family Code; 42 U.S.C. 666(a)(10); 45 CFR 302.70(a)(10), 303.4(c), and 303.8(b).

(3) Adopt Section 115510 to read as follows:

Section 115510. Processing a Review for Adjustment of a Support Order - Request by a Party

(a) When the local child support agency becomes aware, during communication with a party to a child support order with a current support obligation, that a change in circumstance pursuant to Section 115520 appears to exist, the local child support agency shall ask if the party wants the local child support agency to review the case and, if appropriate pursuant to Section 115535, seek an adjustment. The local child support agency shall:

(1) Immediately make a verbal inquiry if the local child support agency becomes aware of an apparent change in circumstance during verbal communication with a party.

(2) Make a verbal or written inquiry within 15 business days of becoming aware of an apparent change in circumstance by written communication from a party.

(b) Within 180 days from the date of a request for review for adjustment; or the date a non-requesting party has been located, whichever is later, the local child support agency shall conduct a review of the order and obtain an adjusted order, or determine that the order should not be adjusted. The date of receipt of the request is the date the requesting party provides current and complete income and expense Judicial Council forms and requested documents to the local child support agency.

(c) A local child support agency may, but is not required, to review a case for adjustment if the case has been reviewed for adjustment within the last six months and nothing has changed. If the local child support agency exercises its discretion not to review a case based upon this subsection, the local child support agency shall terminate the review and adjustment process in accordance with Section 115545(c).

(d) Interstate cases shall be handled pursuant to Title 22 California Code of Regulations, Section 117403.

(e) Within 15 business days of receiving an oral or written request for review for adjustment, the local child support agency shall:

(1) Determine whether one of the following appears to exist:

(A) A change in circumstance pursuant to Section 115520 is reasonably expected to last for more than three months.

(B) The parties stipulated to a child support order below the amount established by the statewide uniform guideline. No change of circumstance need be demonstrated to obtain an adjustment of the child support order to the applicable guideline level or above.

(C) A request is based upon the need to include a provision for medical support in the child support order.

(2) Terminate the review and adjustment process in accordance with Section 115545(c) if none of the three situations set forth in Section 115510(e)(1) appears to exist.

(3) Proceed pursuant to 22 California Code of Regulations, Section 116114 if a request is based upon the need to include a provision for medical support in the child support order.

(4) Take the following actions if a change in circumstance appears to exist pursuant to Section 115520 and is reasonably expected to last for more than three months, or the parties stipulated to a child support order below the amount established by statewide uniform guideline:

(A) Determine whether the non-requesting party's location is known.

(B) Determine whether a requesting party, who is a non-custodial parent, has multiple cases within the county. If so, the local child support agency shall proceed pursuant to Section 115510(e)(6)(E).

(5) Follow the procedure set forth in Section 115550 if the location of a non-requesting party is unknown.

(6) Provide to all parties, on the same date, by mail or personal delivery, the appropriate income and expense Judicial Council forms and/or a written notice as follows if the non-requesting party's location is known:

(A) A requesting party, who is a parent, shall be provided with the appropriate income and expense Judicial Council forms and a written notice. The written notice shall include the following information:

(i) The requesting party's current and complete income and expense Judicial Council forms, and requested documents are required to process the request for review for adjustment.

(ii) No action will be taken by the local child support agency until the requesting party provides current and complete income and expense Judicial Council forms and requested documents to the local child support agency.

(iii) The requesting party's failure to submit current and complete income and expense Judicial Council forms and requested documents to the local child support agency within 20 business days from the date of the notice will result in the local child support agency terminating the review and adjustment process.

(iv) The date of receipt of the request for review for adjustment is the date the requesting party provides current and complete income and expense Judicial Council forms, and requested documents to the local child support agency.

(B) A requesting party, who is not a parent, shall be provided with a written notice. The written notice shall include the following information:

(i) An acknowledgement of receipt of the request for review for adjustment.

(ii) The local child support agency's request that the requesting party provide information, which may affect a child support determination, within 20 business days of the date of the notice.

(C) A non-requesting party, who is a parent, shall be provided with the appropriate income and expense Judicial Council forms and a written notice. The written notice shall include all of the following information:

(i) A request for a review for adjustment has been made by another party.

(ii) The local child support agency requests that the non-requesting party provide his or her current and complete income and expense Judicial Council forms and requested documents.

(iii) The non-requesting party's failure to submit current and complete income and expense Judicial Council forms and requested documents to the local child support agency within 20 business days from the date of the notice will result in the local child support agency proceeding with the review for adjustment based upon the information provided by the other party and/or other verified information obtained by the local child support agency.

(D) A non-requesting party, who is not a parent, shall be provided with a written notice. The written notice shall include the following information:

(i) A request for a review for adjustment has been made by another party.

(ii) The local child support agency's request that the non-requesting party provide information, which may affect a child support determination, within 20 business days of the date of the notice.

(E) When a requesting party is a non-custodial parent who has multiple cases with the local child support agency, the local child support agency shall:

(i) Provide the forms and notice as discussed in Section 115510(e)(6)(A) to the requesting party and add a provision to the notice which states that a request for review for adjustment will be construed as a request for review of all of the party's cases within the county.

(ii) Process each of the custodial parties' cases collectively, if possible. If the location of a non-requesting party is unknown, the local child support agency shall follow the procedure set forth in Section 115550 for that particular non-requesting party. If the location of a non-requesting party is known, the local child support agency shall continue to process the request for review for adjustment by providing the forms and/or written notices to the non-requesting party as set forth in Section 115510(e)(6)(C) and (D).

(f) Within 15 business days of receipt of the requesting party's income and expense Judicial Council forms and requested documents, the local child support agency shall review the requesting party's income and expense Judicial Council forms and requested documents for completeness and, if incomplete, notify the requesting party, verbally or in writing, of the following:

(1) The requesting party's complete income and expense Judicial Council forms and requested documents are required before commencement of the review for adjustment.

(2) The specific deficiencies of the income and expense

forms and/or failure to submit the forms or requested documents.

(3) Failure to correct the deficiencies within 35 business days of the date of the initial notice set forth in Section 115510(e)(6)(A) will result in the local child support agency terminating the review and adjustment process.

(g) Any alteration(s) to the requesting party's income and expense Judicial Council forms requires the requesting party's signature prior to a hearing.

(h) If the requesting party fails to correct the deficiencies within 35 business days of the date of the initial notice set forth in Section 115510(e)(6)(A), the local child support agency shall terminate the review and adjustment process pursuant to Section 115545(c).

(i) If the requesting party completes and submits income and expense Judicial Council forms and requested documents, the local child support agency shall review for adjustment as set forth in Section 115535 using the following, if applicable:

(1) The non-requesting party's complete and current income and expense Judicial Council forms and requested documents if the non-requesting party submitted such forms and requested documents within 20 business days of the date of the written notices as set forth in Section 115510(e)(6).

(2) The presumption as discussed in Section 115540 if the non-requesting party failed to submit current income and expense Judicial Council forms and requested documents within 20 business days of the date of the written notices as set forth in Section 115510(e)(6) and the presumption criteria is met.

(3) The court findings pursuant to Family Code Section 4058(b).

September 9, 2004

(4) The non-requesting party's current income and expense information contained within the case file and/or information obtained through automated locate tools and the Federal Case Registry.

Authority cited: Sections 17306, 17310 and 17312 Family Code
Reference: Section 3680.5, 4065 and 17304 Family Code; 22 CCR 117403; 42
U.S.C. 666(a)(10); 45 CFR 302.70(a)(10), and 303.8.

(4) Adopt Section 115520 to read as follows:

Section 115520. Changes in Circumstances – Review Requested by a Party

(a) Any of the following changes in circumstances or combination of changes in circumstances shall be considered a basis for a review for adjustment.

Changes in circumstances may include:

(1) A change in the obligee or obligor's employment status or income.

(2) A change in parenting time or custody. A court order showing a change in parenting time shall be prima facie evidence of a change in the parenting time.

(3) A change in additional child support costs or expenses incurred related to the following:

(A) Child care costs related to employment or reasonably necessary education or training for employment skills.

(B) Reasonable uninsured health care costs for the child(ren) as provided in Section 4063, Family Code.

(C) Costs related to the educational or other special needs of the child(ren).

(D) Travel expenses for visitation.

(4) A financial hardship on the obligee or obligor, as defined in Family Code Section 4071.

(5) The obligee or obligor begins or ceases receiving Unemployment Insurance Benefits, State Disability Insurance, or Worker's Compensation.

(6) Additional child support orders exist for which the obligor is responsible, which were not taken into account when the order was established or last adjusted.

(7) A change in the obligee or obligor's health insurance premium or the availability of health insurance through an employer.

(8) The release of the obligee/obligor from incarceration in a county jail, state or federal prison, or court-ordered rehabilitation facility.

(9) The release of the obligee/obligor from a psychiatric facility.

(10) Any other changes in circumstances that would affect the amount of support.

Authority cited: Sections 17306, 17310 and 17312 Family Code

Reference: Section 3680.5, 17304 Family Code; 42 U.S.C. 666(a)(10); 45 CFR 302.70(a)(10), and 303.8.

(5) Adopt Section 115525 to read as follows:

Section 115525. Processing a Review for Adjustment – Initiated by the Local Child Support Agency

(a) Within 15 business days of becoming aware of any potential change in circumstance set forth in Section 115530, the local child support agency shall:

(1) Provide the parties, who are parents, by mail or personal delivery, with the appropriate income and expense Judicial Council forms and a written notice. The written notice shall include the following information:

(A) The local child support agency is initiating a review for adjustment based upon a potential change in circumstance.

(B) The local child support agency requests that each parent provide his or her current and complete income and expense Judicial Council forms and requested documents.

(C) The party's failure to submit current and complete income and expense Judicial Council forms and the requested documents within 20 business days of the date of the notice will result in the local child support agency proceeding with the review for adjustment based upon the information the other party provides and/or verified information obtained by the local child support agency.

(2) Provide the parties, who are not parents, by mail or personal delivery, with a written notice that shall include the following information:

(A) The local child support agency is initiating a review for adjustment based upon a potential change in circumstance.

September 9, 2004

(B) A request that specific information, which may affect a child support determination, be submitted within 20 business days of the date of the notice.

Authority cited: Sections 17306, 17310 and 17312 Family Code
Reference: Sections 3680.5 and 17304 Family Code; 42 U.S.C. 666(a)(10), and 45 CFR 302.70(a)(10), and 303.8.

(6) Adopt Section 115530 to read as follows:

Section 115530. Changes in Circumstances – Automatic Review by Local Child Support Agency

(a) Any of the following changes in circumstances or combination of changes in circumstances shall be considered a basis for an automatic review for adjustment. Changes in circumstances shall be limited to:

(1) The obligor or obligee is incarcerated in a county jail, state or federal prison, or court-ordered rehabilitation facility and there is no evidence of support potential. If the obligor is incarcerated, the local child support agency shall seek to adjust the current order to zero, and refer to the case closure regulations at 22 California Code of Regulations, Section 118203(a)(5)(B) to determine if case closure is appropriate.

(2) The obligor's sole income is Supplemental Security Income/State Supplementary Payment, CalWORKs, or any other public assistance program for which eligibility is determined on the basis of need, and that income was used in determining the amount of the support order. If the obligor's sole income is Supplemental Security Income/State Supplementary Payment, the local child support agency shall seek to adjust the current order to zero, and refer to the case closure regulations at 22 California Code of Regulations, Section 118203(a)(5)(D) to determine if case closure is appropriate. Pursuant to Section 17400.5, Family Code, the local child support agency shall file a motion to modify the order within 30 days of verification of receipt of the Supplemental Security Income/State Supplementary Payment.

(3) The obligor stops receiving Supplemental Security Income/State Supplementary Payment, CalWORKs, or any other public assistance program for which eligibility is determined on the basis of need.

(4) The obligor has a medically verified total and permanent disability with no evidence of support potential. The local child support agency shall seek to adjust the current order to zero and refer to the case closure regulations at 22 California Code of Regulations, Section 118203(a)(5)(C) to determine if case closure is appropriate.

(5) The obligor is institutionalized in a psychiatric facility and has no evidence of support potential. The local child support agency shall seek to adjust the current order to zero and refer to the case closure regulations at 22 California Code of Regulations, Section 118203(a)(5)(A) to determine if case closure is appropriate.

(6) The child support order was based on presumed income, and the actual income or income history of the obligor becomes known.

(7) The obligor or obligee's health insurance premium was not included in the guideline (Family Code Section 4055) calculation when the child support was established or last adjusted.

(8) The obligor or obligee is a reservist in the military and is called to active duty.

Authority cited: Sections 17306, 17310 and 17312 Family Code
Reference: Section 3680.5, 17304, 17400.5, 17432, and 17516, Family Code; 42 U.S.C. 666(a)(10); 45 CFR 302.70(a)(10), and 303.8.

(7) Adopt Section 115535 to read as follows:

Section 115535. Review for Adjustment

(a) Within 40 business days of the date of the written notices provided to a party as set forth in Sections 115510(f)(6), or 115525. The local child support agency shall:

(1) Verify whether either of the following situations exists:

(A) A change in circumstance pursuant to either Section 115520 or Section 115530 exists and is reasonably expected to last for more than three months.

(B) The parties stipulated to a child support order below the amount established by the statewide uniform guideline. No change of circumstance need be demonstrated to obtain an adjustment of the child support order to the applicable guideline level or above.

(2) Terminate the review and adjustment process in accordance with 115545(c), if such a change in circumstance does not exist or is not reasonably expected to last for more than three months, and the parties did not stipulate to a child support order below the amount established by the statewide uniform guideline.

(3) Determine whether the amount of the support would be altered, upward or downward, by at least 20% or \$50, whichever is less, in instances where a change in circumstance exists and is reasonably expected to last for more than three months, or the parties stipulated to a child support order

below the amount established by statewide uniform guideline. The LCSA shall determine the 20% or \$50 alteration by either:

(A) Calculating the guideline amount based upon the income and expense information of the parties, or

(B) Presuming that the amount of the support is altered, if the presumption criteria in Section 115540 is met.

(b) The local child support agency shall use the income and expense Judicial Council forms and requested documents provided by a party and/or income and expense information obtained by the local child support agency instead of presuming a 20% or \$50 alteration in the child support amount to calculate the guideline amount if the information is provided or obtained at any time prior to the court order modifying the amount of support.

Authority cited: Sections 17306, 17310 and 17312 Family Code
Reference: Section 17304 Family Code; 42 U.S.C. 666(a)(10); 45 CFR 302.70(a)(10), and 303.8.

(8) Adopt Section 115540 to read as follows:

Section 115540. Presumption

(a) The local child support agency shall presume the amount of the support is altered, upward or downward, by at least 20% or \$50, whichever is less, if all of the following are met:

(1) A party fails to return the requested income and expense Judicial Council forms and requested documents within 20 business days from the date of the written notice as set forth in Section 115510(f)(6), or Section 115525.

(2) The local child support agency provided the written notice either by personal delivery to the party, or by mail to the party's "last known address", and the information was not returned to the local child support agency as undeliverable.

(3) The local child support agency has no current income and expense information for the party in the case file.

(4) The local child support agency is unable to obtain information on the party through automated locate tools and the Federal Case Registry.

(5) The income and expense Judicial Council forms and requested documents, provided by either the requesting party as set forth in Section 115510(f)(6), or a party as set forth in Section 115525, or a verified change in circumstance as set forth in Section 115530 suggests a change in the amount of the child support order, upward or downward, by at least 20% or \$50, whichever is less.

Authority cited: Sections 17306, 17310 and 17312 Family Code
Reference: Section 17304, Family Code; 42 U.S.C. 666(a)(10); 45 CFR 302.70(a)(10), and 303.8.

(9) Adopt Section 115545 to read as follows:

Section 115545. Process After Adjustment Criteria Assessed

(a) Within 15 business days of determining that it is appropriate to seek an adjustment, the local child support agency shall take one of the following actions:

(1) File a motion for modification or an order to show cause to seek an adjustment with the court and serve the notice of motion for modification or order to show cause on the parties. Service shall be conducted in accordance with the requirements of Section 1013, Code of Civil Procedure or any other manner allowed in the Code of Civil Procedure.

(2) File a motion to set aside the child support order and serve the notice of motion to set aside on the parties if a child support order meets the criteria for set aside pursuant to Section 17432, Family Code. Service shall be conducted in accordance with the requirements of Section 1013, Code of Civil Procedure or any other manner allowed in the Code of Civil Procedure.

(3) Enter into a stipulation with all necessary parties and file the stipulation with the court.

(b) Within 14 days of the issuance of an adjusted order, the local child support agency shall send a copy of the adjusted court order to the parties.

(c) Within 14 days of a determination that an adjustment will not be sought, the local child support agency shall provide, by mail or personal delivery, a written notice of the determination to the parties which includes the following information:

(1) The local child support agency's determination that it will not seek an adjustment of the child support order because of one of the following:

(A) The criteria was not met.

(B) The order has been reviewed for an adjustment within the last six months and nothing has changed since the last time the requesting party requested a review.

(C) The requesting party failed to submit current and complete income and expense forms and/or the requested documents.

(2) An explanation of why the adjustment criteria was not satisfied, if applicable.

(3) A statement informing the parties that each party may file his or her own notice of motion or order to show cause for adjustment of the child support order and may obtain the necessary forms from the local child support agency.

(4) A statement informing the parties of the option to obtain the assistance of the local Family Law Facilitator.

(5) The name(s), address and public telephone number for the local Family Law Facilitator.

(6) Information on the availability of the complaint resolution and state hearing processes pursuant to 22 California Code of Regulations, Chapter 10, Section 120001 et seq.

Authority cited: Sections 17306, 17310 and 17312 Family Code
Reference: Sections 17304, 17401.5, and 17406(g) Family Code; 42 U.S.C. 666(a)(10); 42 U.S.C. 654(12)(B), and 45 CFR 302.70(a)(10) and 303.8.

(10) Adopt Section 115550 to read as follows:

Section 115550. Locate for Purposes of Review for Adjustment – Request by a Party

(a) Within 15 business days of determining that a non-requesting party's location is unknown, the local child support agency shall access all appropriate locate tools, as set forth in 22 California Code of Regulations, Section 113100, for a period of 30 business days.

(b) If the non-requesting party is located within 30 business days of accessing the appropriate locate tools pursuant to 22 California Code of Regulations, Section 113100, the review and adjustment timeframes shall resume effective on the date the non-requesting party is located.

(c) If the local child support agency is unable to locate the non-requesting party within 30 business days of accessing all appropriate locate tools pursuant to 22 California Code of Regulations, Section 113100, the local child support agency shall terminate the review and adjustment process and send a written termination notice to the requesting party within 14 days of the expiration of the 30th business day of accessing the appropriate locate tools. The termination notice shall contain the following information:

(1) The local child support agency does not have a current address for the non-requesting party and, as a result, the review and adjustment process cannot proceed and has been terminated.

(2) The requesting party should contact the local child support agency to share any information he or she has regarding the non-requesting party's location.

(3) The local child support agency will continue locate efforts as required by 22 California Code of Regulations, Section 113100 et seq.

(4) The local child support agency will process a new request for review for adjustment in the future provided that the requesting party renews his or her request.

Authority cited: Sections 17306, 17310 and 17312 Family Code
Reference: Sections 17212, 17304, 17505, 17506, 17508, 17512 and 17514, Family Code.

- (11) Repeal Manual of Policies and Procedures Section 12-223 entirely as follows:

~~12-223 PROGRAM PERFORMANCE STANDARDS—ESTABLISHMENT AND MODIFICATION OF CHILD SUPPORT ORDERS~~

~~.1 The district attorney shall attempt to establish a child support order for cases in which a child support order does not exist.~~

~~.11 When petitioning the court for child support, the district attorney shall use the statutory child support guidelines in effect at that time to determine the amount of child support sought.~~

~~.12 Establishment of child support orders shall also be done in accordance with the standards specified in Section 12-106.~~

~~.2 Upon a written request for modification of a child support order the district attorney shall:~~

~~.21 Review the case.~~

~~.22 Respond to the request in writing within 90 calendar days of the date the request is postmarked.~~

~~NOTE: Authority cited: Sections 10553, 10554, 11475, and 11479.5, Welfare and Institutions Code.~~

~~Reference: Sections 11479.5 and 15200.8, Welfare and Institutions Code; 45 CFR 302.50(a) and 303.4(b) and (d); Section 4720.1, California Civil Code; and 42 U.S.C. 466(a)(10)(A).~~

FINAL STATEMENT OF REASONS

Chapter 5, Review and Adjustment

Section 115500. Effective Date and Implementation. This section has been adopted to make specific Section 11343.4, Government Code specifying the effective date and implementation of the review and adjustment regulations.

Section 115503. Notification of the Right to Request Review and Adjustment. This section has been adopted to interpret, implement, and make specific Sections 17401.5, Family Code (FC); 42 United States Code (USC), 666(a)(10), and 45 Code of Federal Regulations (CFR) Sections 302.70(a)(10), 303.4(c), and 303.8(b) by specifying the requirements necessary for notification of the right to request a review and adjustment of a child support order.

Subsection (a) has been adopted to specify the requirement that all local child support agencies are responsible for sending notices at least once every three years to all parties subject to a current California child support order. The adoption of this subsection is necessary to implement federal law at 42 USC, Section 666(a)(10)(C) and 45 CFR, Section 303.4(c) and 303.8(b).

Subsection (b) has been adopted to specify that the notice referred to in subsection (a), shall be sent to the last known address of each party to a child support order. The adoption of this subsection is necessary to implement federal law at 42 USC, Section 666(a)(10). This regulation is also necessary to specify where the notice must be sent to ensure that every effort is made to contact each party subject to a child support order.

Subparagraphs (c)(1) through (9) have been adopted to specify the information that must be contained in the notification referred to in subsections (a) and (b). The contents of this notice are intended to give parties information on the LCSAs role and responsibilities in conducting the review for adjustment, the right of a party to seek an adjustment on his or her own, the availability of the Family Law Facilitator, and the right to file a complaint if the party is dissatisfied with the LCSAs actions. The adoption of these subparagraphs is necessary to implement state and federal law at Section 17401.5, FC; 42 USC 666(a)(10), and 45 CFR 303.8.

Section 115510. Processing a Review for Adjustment of a Support Order – Request by a Party

This section has been adopted to interpret, implement, and make specific Sections 3680.5, and 4065, FC; 42 USC 666(a)(10), and 45 CFR 302.70(a)(10), and 303.8 by specifying when a review and adjustment is required and the type of information required in order to complete a review and adjustment.

Subparagraphs (a)(1) through (a)(2) has been adopted to specify that local child support agency must ask a party if the party wants the agency to review the case for adjustment when the agency becomes aware that a change in circumstance appears to exist. The adoption of this subparagraph is necessary to be in compliance with federal and state laws at Section 3680.5 FC, 42 USC 666(a)(10), and 45 CFR 302.70(a)(10).

Subsection (b) has been adopted to specify that the local child support agencies must conduct a review for adjustment and obtain an adjusted order, or determine that an order should not be adjusted within 180 days from the date of the request for adjustment or date a non-requesting party has been located, whichever is later. The adoption of this subsection is necessary to be in compliance with federal law at 45 CFR 303.8.

Subsection (c) has been adopted to specify that a local child support agency is not required to review a case for adjustment if the case has been reviewed within the last six months and nothing has changed. The adoption of this subsection is necessary to be in compliance with federal law at 42 USC 666(a)(10).

Subsection (d) has been adopted to specify that a local child support agency is required to handle interstate cases pursuant to Title 22 California Code of Regulations (CCR), Section 117403.

Subsection (e) has been adopted to specify the actions a local child support agency must take within 15 business days of receiving a request for review for adjustment.

Subparagraph (e)(1) requires that the local child support agency determine whether a change in circumstance is reasonably expected to last for more than three months; the parties stipulated to a child support order below the amount established by the statewide uniform guideline, or a provision for medical support in the child support order is needed.

Subparagraph (e)(2) requires the local child support agency to terminate the review and adjustment process if none of the three situations set forth in Section 115510(e)(1) appears to exist.

Subparagraph (e)(3) requires the local child support agency to proceed pursuant to 22 CCR, Section 116114 if a request is based upon the need to include a provision for medical support in the child support order.

Subparagraph(e)(4) requires the local child support agency to determine whether the non-requesting party's location is known and whether a non-custodial parent, who is a requesting party, has multiple cases if a change in circumstance appears to exist and is reasonably expected to last for more than three months, or the parties stipulated to a child support order below the amount established by statewide uniform guideline.

Subparagraph(e)(5) requires the local child support agency to follow the procedure set forth in Section 115550 if the location of a non-requesting party is unknown.

Subparagraph(e)(6) requires the local child support agency to provide to parties, on the same date, by mail or personal delivery, the appropriate income and expense Judicial Council forms and/or a written notice if the non-requesting party's location is known.

Subparagraph (e)(6)(A) has been adopted to require that a requesting party, who is a parent, shall be provided with the appropriate income and expense Judicial Council forms and a written notice that informs the requesting party that (1) his or her current and complete income and expense Judicial Council forms, and requested documents are required to process the request for review for adjustment; (2) no action will be taken by the local child support agency until the forms and documents are received by the local child support agency; (3) the requesting party's failure to submit the forms and documents within 20 business days from the date of the notice will result in termination of the review and adjustment process; and (4) the date of receipt of the request for review for adjustment is the date the requesting forms and documents are received.

Subparagraph(e)(6)(B) has been adopted to specify that a requesting party, who is not a parent, shall be provided with a written notice that (1) acknowledges of receipt of the request for review for adjustment; (2) requests information, which may affect a child support determination, within 20 business days of the date of the notice.

Subparagraph(e)(6)(C) has been adopted to specify that a non-requesting party, who is a parent, shall be provided with the appropriate income and expense Judicial Council forms and a written notice that informs the non-requesting party that (1) a request for a review for adjustment has been made by another party; (2) the local child support agency requests that the non-requesting party provide current and complete income and expense Judicial Council forms and requested documents; (3) failure to submit forms and documents within 20 business days from the date of the notice will result in the local child support agency proceeding with the review for adjustment based upon the information provided by the other party and/or other verified information obtained by the local child support agency.

Subparagraph(e)(6)(D) has been adopted to specify that a non-requesting party, who is not a parent, shall be provided with a written notice that informs the party that: (1) a request for a review for adjustment has been made by another party; (2) the local child support agency's request information, which may affect a child support determination, within 20 business days of the date of the notice.

Subparagraph(e)(6)(E) has been adopted to address circumstances in which a requesting party is a non-custodial parent who has multiple cases with the local child support agency. The local child support agency is required to: (1) provide the forms and notice as discussed in Section 115510(e)(6)(A) to the requesting party and add a provision to the notice which states that a request for review for adjustment will be construed as a request for review of all of the party's cases within the county; and

(2) process each of the custodial parties' cases collectively, if possible. If the location of a non-requesting party is unknown, the local child support agency shall follow the procedure set forth in Section 115550 for that particular non-requesting party. If the location of a non-requesting party is known, the local child support agency shall continue to process the request for review for adjustment by providing the forms and/or written notices to the non-requesting party as set forth in Section 115510(e)(6)(C) and (D).

Subsection (f) requires the local child support agency to review the requesting party's income and expense Judicial Council forms and requested documents for completeness within 15 business days of receipt and, if incomplete, notify the requesting party, verbally or in writing.

Subparagraphs (f)(1) through (f)(3) have been adopted to specify the information that must be contained in the notification referred to in subsection (f).

Subsection (g) provides that any alteration(s) to the requesting party's income and expense Judicial Council forms requires the requesting party's signature prior to a hearing.

Subsection (h) provides that the local child support agency shall terminate the review and adjustment process if the requesting party fails to correct the deficiencies within 35 business days of the date of the initial notice.

Subparagraphs (i)(1) through (i)(4) provides that upon a determination that the requesting party's income and expense Judicial Council forms are complete and the requested documents are submitted, the local child support agency shall review for adjustment using income and expense information obtained from the non-requesting party, a presumption, court findings, or income and expense information obtained by the local child support agency, whichever is applicable.

Section 115520. Change in Circumstances – Review Requested by Party.

This section has been adopted to interpret, implement, and make specific Sections 3680.5, 4055, 4059, 4062, 4063, and 4071, FC; 42 USC 666(a)(10), and 45 CFR 302.70(a)(10), and 303.8 by specifying the changes in circumstances that prompt a review for adjustment upon request.

Subparagraphs (a)(1) through (a)(10) have been adopted to specify the changes in circumstances or combination of changes in circumstances that shall be considered a basis for a review for adjustment when a request is made by a party. These items are taken into consideration in calculating support under the statewide uniform guidelines.

Section 115525. Processing a Review for Adjustment – Initiated by Local Child Support Agency

This section has been adopted to interpret, implement, and make specific Sections 3680.5, FC; 42 USC 666(a)(10), and 45 CFR 302.70(a)(10), and 303.8 by specifying the process for a review for adjustment initiated by the local child support agency.

Subsection (a) has been adopted to specify when local child support agencies shall initiate reviews and adjustments of child support cases, regardless of whether or not the review has been requested. The local child support agency shall provide income and expense Judicial Council forms and written notices. The adoption of this subsection is necessary when the change of circumstance is such that the parent is effectively unable to make a formal request, or the circumstances so obviously warrant a change in the order because the obligor clearly could not meet the obligation. In addition, the adoption of this subsection is necessary to be in compliance with Section 3680.5, FC.

Subparagraph (a)(1) requires the local child support agency to provide Judicial Council forms and written notices to parents. It also describes the contents of the notice.

Subparagraph (a)(2) requires the local child support agency to provide only written notices to parties who are not parents since their income and expense information is irrelevant, and describes the required contents of the notice.

Section 115530. Changes in Circumstances – Automatic Review by Local Child Support Agency

This section has been adopted to interpret, implement, and make specific Sections 3680.5, 3763(b), 4055, 4062, 4071, 17400.5, 17432, and 17516, FC; 42 USC 666(a)(10), and 45 CFR 302.70(a)(10), and 303.8 by specifying the changes in circumstances that prompt a review for adjustment initiated by the local child support agency.

Subsection (a) has been adopted to specify when local child support agencies shall initiate reviews and adjustments of child support cases, regardless of whether or not the review has been requested. The adoption of this subsection is necessary when the change of circumstance is such that the parent is effectively unable to make a formal request, or the circumstances so obviously warrant a change in the order because the obligor clearly could not meet the obligation. In addition, the adoption of this subsection is necessary to be in compliance with Section 3680.5, FC.

Subparagraph (a)(1) has been adopted to specify that incarceration of the obligor or obligee, with no support potential, is cause for review and adjustment of a child support order. The adoption of this subparagraph is necessary to comply with Section 3680.5, FC.

Subparagraph (a)(2) has been adopted to specify that if the sole income that was used in determining the amount of the obligor's support order was based on income from a public assistance program, and that sole income is Supplemental Security Income/State Supplementary Payment, or any other public assistance program, the local child support agency shall modify the order. The adoption of this subparagraph is necessary to comply with Section 17400.5 and 17516, FC. This regulation makes a cross reference to the case closure guidelines. The reference to case closure is necessary because cases in which the obligors sole income is derived from Supplemental Security Income/State Supplementary Payment must be closed pursuant to 22 CCR, Division 13, Section 118203(a)(5)(D).

Subparagraph (a)(3) has been adopted to specify that discontinuance of Supplemental Security Income/State Supplementary Payment or certain public assistance programs is cause for review for adjustment of a child support order.

Subparagraph (a)(4) has been adopted to specify that local child support agencies must review child support orders for adjustment when it has been determined that the obligor has a medically verified total and permanent disability with no evidence of support potential. This subparagraph also refers to the case closure regulations. The adoption of this subparagraph is necessary to comply with 22 CCR, Division 13, Section 118203(a)(5)(C) which may require case closure in this situation.

Subparagraph (a)(5) has been adopted to specify that local child support agencies must review child support orders for adjustment when it has been determined that the obligor is institutionalized in a psychiatric facility and has no evidence of support potential. This subsection also refers to the case closure regulations. The adoption of this subparagraph is necessary to comply with 22 CCR, Division 13, Section 118203(a)(5)(A) which may require case closure in this situation.

Subparagraph (a)(6) has been adopted to specify that local child support agencies must review child support orders for adjustment when it has been determined that an order was based on presumed income and the actual income becomes known. Because courts may allow child support orders to be based on presumed income when the actual income of the obligor is unknown, it is important that local child support agencies review these types of orders upon becoming aware of the obligors actual income. This is necessary to ensure correct and accurate orders are being issued.

Subparagraph (a)(7) has been adopted to specify that local child support agencies must review child support orders for adjustment if the obligor or obligee's health insurance premium was not considered when the child support was established or last adjusted. The adoption of this subparagraph is necessary to implement Section 3763(b), FC.

Subparagraph (a)(8) has been adopted to specify that local child support agencies must review child support orders for obligee/obligor reservists in the military when called to active duty. The adoption of this subparagraph is necessary because reservists called

to active duty may experience a change in salary if required to take a leave of absence from current employment. This could result in a reduction or increase in salary.

Section 115535. Review for Adjustment .

This section has been adopted to interpret, implement, and make specific: 42 USC 666(a)(10), and 45 CFR 302.70(a)(10) and 303.8 by specifying the timeframes for acting on a review for adjustment and the receipt of specific information necessary to conduct the review and adjustment.

Subsection (a)(1) and (2) have been adopted to specify that within 40 business days of the date of the written notices provided to a party as set forth in Sections 115510(f)(6), or 115525; the local child support agency shall verify whether a change in circumstance pursuant to either section 115520 or Section 115530 exists and is reasonably expected to last for more than three months, or the parties stipulated to a child support order below the amount established by the statewide uniform guideline. If neither condition is met, the local child support agency shall terminate the review and adjustment process in accordance with 115545(c).

Subsection (a)(3) has been adopted to require that the local child support agency determine whether the amount of the support would be altered, upward or downward, by at least 20% or \$50, whichever is less, in instances where a change in circumstance exists and is reasonably expected to last for more than three months, or the parties stipulated to a child support order below the amount established by statewide uniform guideline.

Subparagraphs (a)(3)(A) and (B) have been adopted to require the local child support agency to determine the 20% or \$50 alteration by calculating the guideline amount based upon the income and expense information of the parties. However, the local child support agency shall not delay moving forward with a review for adjustment due to the failure of the non-requesting party to provide the income and expense information. If the local child support agency is initiating a review for adjustment pursuant to the provisions of section 115525, the local child support agency is not required to obtain income and expense information from either party because the local child support agency is required to verify the change in circumstance that warrants the review for adjustment.

Subsection (b) has been adopted to require the local child support agency to use the income and expense Judicial Council forms and requested documents provided by a party and/or income and expense information obtained by the local child support agency instead of presuming a 20% or \$50 alteration in the child support amount to calculate the guideline amount if the information is provided or obtained at any time prior to the court order modifying the amount of support.

Section 115540. Presumption.

This section has been adopted to interpret, implement, and make specific: 42 USC 666(a)(10), and 45 CFR 302.70(a)(10) and 303.8 by specifying that the local child support agency is to presume the amount of the support is altered, upward or downward, by at least 20% or \$50, whichever is less, when all of the conditions within the section are met. As indicated above, the local child support agency shall not delay moving forward with a review and adjustment due to the failure of the non-requesting party to provide the income and expense information. If the local child support agency is initiating a review and adjustment pursuant to the provisions of section 115525, the local child support agency is not required to obtain income and expense information from either party because the local child support agency is required to verify the change in circumstance that warrants the review and adjustment.

Section 115545. Process After Adjustment Criteria Assessed.

This section has been adopted to interpret, implement, and make specific: 1013, Code of Civil Procedure; Sections 3650, 17401.5 and 17406(g), FC; 42 USC 666(a)(10), 42 USC 654(12(B), and 45 CFR 302.70(a)(10) and 303.8 by specifying the timeframes for acting on a determination regarding an adjustment.

Subsection(a) has been adopted to specify that within 15 business days of determining that it is appropriate to seek an adjustment, the local child support agency shall file a motion for modification, a motion to set aside or an order to show cause to seek an adjustment with the court and serve the notice of motion for modification or order to show cause on the parties, or enter into a stipulation. Service shall be conducted in accordance with the requirements of Section 1013, Code of Civil Procedure or any other manner allowed in the Code of Civil Procedure.

Subsection (b) has been adopted to specify that within 14 days of the issuance of an adjusted order, the local child support agency shall send a copy of the adjusted court order to the parties.

Subsection (c) has been adopted to specify that within 14 days of a determination that an adjustment will not be sought, the local child support agency shall provide, by mail or personal delivery, a written notice of the determination to the parties which includes information the reason for and an explanation of the determination. The parties are also notified that each party may file his or her own notice of motion or order to show cause for adjustment of the child support order and may obtain the necessary forms from the local child support agency. Also, the parties have the option to obtain the assistance of the local Family Law Facilitator, and are provided with the name(s), address and public telephone number for the local Family Law Facilitator. Finally the parties are made aware of the availability of the complaint resolution and state hearing processes.

Section 115550. Locate for Purposes of Review for Adjustment – Request by a Party

This section has been adopted to interpret, implement, and make specific: Sections 17212, 17505, 17506, 17508, 17512, and 17514, FC; and 22 CCR, Section 113100 by specifying the locate process as it pertains to the review and adjustment process.

Subsection (a) has been adopted to specify that within 15 business days of determining that a non-requesting party's location is unknown, the local child support agency shall access all appropriate locate tools, as set forth in 22 CCR, Section 113100, for a period of 30 business days

Subsection (b) has been adopted to specify that if the non-requesting party is located within 30 business days of accessing the appropriate locate tools, the review and adjustment timeframes shall resume effective on the date the non-requesting party is located.

Subsection (c) has been adopted to specify that if the local child support agency is unable to locate the non-requesting party within 30 business days of accessing all appropriate locate tools, the local child support agency shall terminate the review and adjustment process and send a written termination notice to the requesting party within 14 days of the expiration of the 30th business day of accessing the appropriate locate tools. The termination notice shall inform the person that the local child support agency does not have a current address for the non-requesting party and, as a result, the review and adjustment process cannot proceed and has been terminated. The requesting party should contact the local child support agency to share any information he or she has regarding the non-requesting party's location. The local child support agency will continue locate efforts as required by 22 CCR, Section 113100 et seq. The local child support agency will process a new request for review for adjustment in the future provided that the requesting party renews his or her request.

MPP Section Repealed

This rulemaking repeals Manual of Policies and Procedures Section 12-223.2 through .22. These provisions are repealed and replaced by the text of these regulations.

Documents Relied Upon

The Department has relied only upon the documents identified in the Initial Statement of Reasons.

ATTACHMENT D

Department of Child Support Services

Addendum to the Final Statement of Reasons

For R-16-03

Review and Adjustment of Child Support Orders

Regulatory Text Changes:

Section 115500 - In both the section title and text the word "effective" was replaced with the word "operative". This change was made for clarification. Under the Administrative Procedure Act, the effective date can be no later than 30 days after filing with the Secretary of State's Office. However, the operative date can be any date. The clarification is consistent with departmental intent to have the operation of the regulations remain suspended until triggered by the Director's declaration.

Section 115500 reference citations - The clarification discussed above required the change of reference citation from Government Code Section 11343.4 which describes effective date to various Family Code Sections which establish the department's administrative authority to determine the operative date.

Section 115503(c)(4) - The last sentence of this paragraph was restructured to clarify that it is the requesting party that must provide the documentation to the local child support agency.

Section 115503(c)(9) - The abbreviation "CCR" was spelled out as "California Code of Regulations" and the Section number "Section 120001, et. seq." was added to clarify the cross-reference.

Section 115503 reference citations - Reference to Family Code Section 17304 was added as requested by the Office of Administrative Law. This statute is being implemented by these regulations.

Section 115510(b) - The last sentence of this paragraph was restructured to clarify that it is the requesting party that must provide the documentation to the local child support agency.

Section 115510(d) - The abbreviation "CCR" was spelled out as "California Code of Regulations" to clarify the cross-reference.

Section 115510(e)(6)(ii) - The sentence was restructured to clarify that it is the requesting party that must provide the documentation to the local child support agency.

Section 115510(e)(6)(iv) - The sentence was restructured to clarify that it is the requesting party that must provide the documentation to the local child support agency.

Section 115510(i) - The sentence was restructured to clarify that it is the requesting party that must complete and submit the documentation to the local child support agency.

Section 115510 reference citations - Reference to Family Code Section 17304 was added as requested by the Office of Administrative Law. This statute is being implemented by these regulations.

Section 115520 reference citations - Reference to Family Code Section 17304 was added as requested by the Office of Administrative Law. This statute is being implemented by these regulations. Reference to Family Code Sections 4055, 4059(e), 4062, 4063 & 4071 were deleted as these regulations, while consistent with them, do not implement those statutes.

Section 115525 reference citations - Reference to Family Code Section 17304 was added as requested by the Office of Administrative Law. This statute is being implemented by these regulations.

Section 115530(a)(1) - The abbreviation "CCR" was spelled out as "California Code of Regulations" to clarify the cross-reference.

Section 115530(a)(2) - The abbreviation "CCR" was spelled out as "California Code of Regulations" to clarify the cross-reference. The last sentence was added to clarify that the processing time frames in these regulations do not supersede the statutory requirement of Family Code Section 17400.5 regarding the processing of cases in which the local child support agency becomes aware of the obligor beginning to receive Supplemental Security Income or State Supplementary Payment.

Section 115530(a)(4) - The abbreviation "CCR" was spelled out as "California Code of Regulations" to clarify the cross-reference.

Section 115530(a)(5) - The abbreviation "CCR" was spelled out as "California Code of Regulations" to clarify the cross-reference.

Section 115530 reference citations - Reference to Family Code Sections 3763(b), 4055, 4062 & 4071 were deleted as these regulations, while consistent with them, do not implement those statutes. Reference to Family Code Section 17304 was added as requested by the Office of Administrative Law. This statute is being implemented by these regulations.

Section 115535 reference citations - Reference to Family Code Section 17304 was added as requested by the Office of Administrative Law. This statute is being implemented by these regulations.

Section 115540 reference citations - Reference to Family Code Section 17304 was added as requested by the Office of Administrative Law. This statute is being implemented by these regulations.

Section 115545(c)(6) - The abbreviation "CCR" was spelled out as "California Code of Regulations" and the Section number "Section 120001, et. seq." was added to clarify the cross-reference.

Section 115545 reference citations - Reference to Code of Civil Procedure Section 1013 and Family Code Section 3650 were deleted as these regulations, while consistent with them, do not implement those statutes. Reference to Family Code Section 17304 was added as requested by the Office of Administrative Law. This statute is being implemented by these regulations.

Section 115550(a) - The abbreviation "CCR" was spelled out as "California Code of Regulations" to clarify the cross-reference.

Section 115550(b) - The abbreviation "CCR" was spelled out as "California Code of Regulations" to clarify the cross-reference.

Section 115550(c) - The abbreviation "CCR" was spelled out as "California Code of Regulations" to clarify the cross-reference.

Section 115550(c)(3) - The abbreviation "CCR" was spelled out as "California Code of Regulations" to clarify the cross-reference.

Section 115550 reference citations - Reference to Family Code Section 17304 was added as requested by the Office of Administrative Law. This statute is being implemented by these regulations. Reference to 22 California Code of Regulations Section 113100 was deleted as unnecessary.

MPP Section 12-223. 1 through .12 was also repealed. It was superseded by a statutory reassignment of those responsibilities to the local child support agencies by Family Code Section 17304. As a result of this additional repeal, all of MPP Section 12-223 is repealed in this rulemaking.

Local Mandate Determination:

The Department has determined that the regulations would not impose a mandate on local agencies or school districts.

Consideration of Alternatives:

The Department has determined that no reasonable alternative considered by the Department or that has otherwise been identified or brought to the attention of the Department would be more effective in carrying out the purpose for which these regulations are being implemented or would be as effective and less burdensome to affected private persons than these regulations.

Summaries of Public Comments and Responses to Rulemaking Text:

A summary of public comments received during the initial 45-day comment period and the Department's responses to them appear at Tab 5 of the rulemaking file and are incorporated here by this reference.

A summary of public comments received during the first 15-day renote comment period and the Department's responses to them appear at Tab 12 of the rulemaking file and are incorporated here by this reference.

A summary of public comments received during the second 15-day renote comment period and the Department's responses to them appear at Tab 11 of the rulemaking file and are incorporated here by this reference.

**Summary and Response to Review and Adjustment
Initial 45-day Public Comments
Revised 7/28/04**

Comment No.	Commenter	Section	Comment	Response	Revision Needed
1	Butte (Sharon Stone)	General Comment	The documents have District Attorney throughout, inappropriately. There is also language about the enforcement of spousal support orders which I believe should be taken out! Thank you for the opportunity to respond.	The Department disagrees. No reference to DA or spousal support appears in the proposed regulations. It appears that the commenter is referring to the MPP which will be repealed. The Department proposes no change based upon this comment.	No
2	Mariposa (Debra Walton, Director)	General Comment (CASES)	I have received the proposed Review and Adjustment Regulations and after checking with the CASES Consortia I was informed that the automation to implement these changes was on hold due to funding issues. We will not be able to implement the new procedures without the changes to CASES as it is too labor intensive to write individual letters and set up tasks manually in a time when we are short staffed. Any ideas on this? Thanks for your consideration and help in this matter.	The review and adjustment regulations will become effective and each LCSA shall be required to implement the regulations once the LCSA converts to the California Child Support Automation System, Version 2. The Department proposes no change based upon this comment.	No
3	Napa (Letty van der Vegt)	General/terminology	The term "Review and Adjustment" should be changed to "review and modification". There used to be a distinction based on the R&A process. Under the proposed regulations there is no distinction. A person is requesting a modification, not the former "R&A" (which the parties never requested anyway. They always requested a modification).	The Department disagrees. Review and adjustment is the correct terminology per 45, CFR, Section 303.8. The Department proposes no change based upon this comment.	No
4	Napa (Letty van der Vegt)	General/terminology	The term "adjustment" should be replaced by "modification" throughout the regulations.	Please see response to comment 3.	No

**Summary and Response to Review and Adjustment
Public Comments**

Comment No.	Commenter	Section	Comment	Response	Revision Needed
5	Napa (Letty van der Vegt)	General Comment	The within “10 business days” requirements are too short. This does not leave time to gather sufficient information and try to work out stipulations.	The Department is unable to respond since a specific provision has not been identified. The Department proposes no change based upon this comment.	No
6	Rebecca Wightman Commissioner	115510(a) (1)	The reference or phrase “party to a child support order” is a legal term of art that can be confusing...One can be the beneficiary of a child support order, yet not be a party to the case (especially some of the older cases, before the other parent was automatically added as a party and/or cases that start out as foster care, but then the child is returned to home of one or the other parent)...I’m not sure how you can fix the ambiguity.	The phrase “party to a child support order” is meant to include the CP, NCP, LCSA, or any other person or entity who may have standing to request a review and adjustment. (45, CFR 303.8(a)). The Department proposes no change based upon this comment.	No.
7	Rebecca Wightman Commissioner	115510(a) (3)	What is deemed to be a “current” income and expense information...one received within 90 days?...one filed in court 120 days ago?...or one received within X time of the request?	As indicated within the regulations, “Current Income & Expense” refers to income and expense information received within a maximum of 35 business days from the date of the request for information by the local child support agency. The Department proposes no change based upon this comment.	No.
8	Napa (Letty van der Vegt)	115510(c)	“Shall be considered cause to file a motion for modification” – there should be a distinction between welfare and non-welfare cases. In a non-welfare case, if there is a basis to increase support, the CP should be contacted first to see if the CP wants our office to file a modification. The	The Department disagrees. This section lists examples of changes in circumstances which would warrant a review for adjustment upon request from a party whether or not the case is an assistance case. The Department	No

**Summary and Response to Review and Adjustment
Public Comments**

Comment No.	Commenter	Section	Comment	Response	Revision Needed
			CP may choose not to seek an increase for a variety of reasons.	proposes no change based upon this comment.	
9	Stanislaus (Bob Panos)	115510(c)	This change to the prior regulations of “30 percent or \$50 whichever is greater” will subject nearly “EVERY” case to a modification. This is ludicrous. There will not be enough staff to just handle modifications.	The Department disagrees. This threshold was developed through the collaborative process. The Department consulted with representatives from Child Support Directors Association (CSDA), the Office of Child Support Enforcement, and other stakeholders. The purpose of the threshold is to ensure the accuracy of child support orders. The Department proposes no change based upon this comment.	No
10	San Francisco (Russell Bratburd)	115510(d)	<p>At our Consortium Case Management Workgroup meeting, we were reviewing the recent emergency regulation packages for whether we needed to make changes to our documents and other system items. We found what appears to be two inconsistent regulations and we are requesting they be reviewed. Please compare these two sections:</p> <p>Medical Enforcement 116114(a)(1): When a LCSA determines that an existing child support order for current support does not contain a health insurance coverage provision, except as provided in subsection (b), the LCSA shall concurrently: File a notice of motion or order to show cause with the court to include a health</p>	The Department agrees and proposes to revise the language to indicate that the LCSA shall follow the requirements of Section 116114(a) when a LCSA determines that an existing child support order does not contain a health insurance coverage provision.	Yes

**Summary and Response to Review and Adjustment
Public Comments**

Comment No.	Commenter	Section	Comment	Response	Revision Needed
			<p>insurance coverage provision in the child support order.</p> <p>Review and Adjustment 115510(d): A determination that a child support order does not include a provision for medical support shall be cause for automatic review and adjustment whether or not the review has been requested by the obligee or obligor.</p> <p>116114(a)(1) is consistent with long standing procedures under existing regulations and LCSA practices. When it is determined that an existing child support order does not have a health insurance coverage provision, the LCSA simply filed the notice of motion or order to show cause to request that the order include a provision for health insurance coverage. Because the health insurance coverage provision is all that is being requested, and the current support order itself was not being reviewed, the case does not go through the much more detailed procedure required by a review and adjustment case. In the medical-only modification request, there are no attachments to the motion that address a support calculation (i.e., declarations of custody/visitation, child care, income and expense declarations, etc.), because there is no child support calculation. Because of the simplicity of the request, we are able to quickly file a motion for a hearing in the court.</p>		

**Summary and Response to Review and Adjustment
Public Comments**

Comment No.	Commenter	Section	Comment	Response	Revision Needed
			<p>On the other hand, if we are going to do a full review and adjustment of the child support order when there is no order for health insurance coverage/medical support as called for in 115510(d), we will be gathering information to review and possibly adjust the child support order (earnings, visitation, child care, etc.) which will add much more time to the process. In addition, if the result of the eventual support calculation finds there is less than 20% or \$50 change in the existing order, the child support officer will end the review and adjustment process, without requesting a court hearing to obtain an order for health insurance coverage, which is what we needed in the first place.</p> <p>The question is whether the sections are compatible and not in conflict with each other. Which section prevails over the other? Should there be additional procedures that address how the caseworker decides which way to proceed? For example, if the NCP has a new employer, use 115510(d).</p>		
11	Rebecca Wightman Commissioner	115510(e)	The “circumstances listed below” fails to include a huge category: receipt of unemployment benefits. While I realize that it is listed elsewhere, e.g. subdivision (b) where the party contacts the agency, and (c)(1)... Why is it not mentioned in subdivision (e)? THIS IS A HUGE CONCERN FOR ME, AS I SEE MANY, MANY CASES	Subsection (e) lists circumstances which allow the LCSA to initiate a review for adjustment without a request. Most of the circumstances listed in subsection (e) result in no income (incarceration, on public assistance, etc.) or are circumstances	No

**Summary and Response to Review and Adjustment
Public Comments**

Comment No.	Commenter	Section	Comment	Response	Revision Needed
			INVOLVING THIS SITUATION...	in which the order must be adjusted (order is based on presumed income and actual income becomes known) In the situation described, there is income available.	
12	San Francisco (Russell Bratburd)	115510(e)	<p>This question concerns review and adjustment in non public assistance cases. We understand that the CDCSS Policy Branch is currently reviewing draft regulations concerning review and adjustment. Notwithstanding the draft regulations, there is a potential issue regarding cases where the support is not assigned.</p> <p>Does the LCSA have the right to initiate a review absent a request by either party to a child support order?</p> <p>Does this right extend to cases where the support is not assigned (non public assistances cases)?</p> <p>If so, what if the parents object?</p>	<p>The LCSA has the responsibility to initiate a review in certain circumstances as set forth in 115510(e). These types of circumstances signify that the support order is no longer in line with state guidelines. As a party to the child support case, the LCSA has ability to initiate the review and adjustment process and file motions or orders to show cause.</p> <p>Yes.</p> <p>It is unlikely that both parents will object under the circumstances. If</p>	<p>No</p> <p>No</p> <p>No</p>

**Summary and Response to Review and Adjustment
Public Comments**

Comment No.	Commenter	Section	Comment	Response	Revision Needed
			<p>If so, is a completed income and expense form a completed request?</p> <p>Under federal regulations, at 45 CFR 303.8(a), "...Parent includes any custodial parent or non-custodial parent (or for the purposes of requesting a review, any other person or entity who may have standing to request an adjustment to the child support order)." Does the LCSA qualify as an "entity who may have standing to request an adjustment to the child support order?"</p> <p>Our concern is (in addition to the scenarios outlined at 115510(e)) with cases in which we know there is a change of circumstances where the support amount of the current order is not aligned with the current ability of the non-custodial parent to pay support. For example, the latest order was based on earnings, and the NCP is now unemployed, and his/her only earnings are unemployment insurance benefits (UIB), and the UIB being received is much less than s/he was earning when employed.</p>	<p>there is an explicit objection by both parents, the LCSA would not proceed with filing a motion or order to show cause.</p> <p>Under this provision, neither party needs to request a review for adjustment.</p> <p>Yes.</p> <p>No question pending, however, for clarification, 1115510(c) addresses the concern about UIB circumstances.</p>	<p>No.</p> <p>No</p> <p>No</p>

**Summary and Response to Review and Adjustment
Public Comments**

Comment No.	Commenter	Section	Comment	Response	Revision Needed
13	Napa (Letty van der Vegt)	115510(g)	There should be a requirement that the requesting party provide a completed income and expense form before the LCSA files a modification.	The Department agrees and will revise the regulation.	Yes
14	Napa (Letty van der Vegt)	115510(i)	“Shall pursue a set aside”. This appears to be in conflict with federal funding to establish paternity and support rather than vacate support orders. “Pursue” needs to be defined. “Pursue” suggests “advocate in favor of”. A non-welfare CP has due process rights, which are not guaranteed, in this section.	AB 1752 (Trailer Bill) amended Section 17432(g) to require LCSAs to check all orders based on presumed income within 3 mos. of the date the LCSA receives the first payment to determine if income information is available and, if so, to determine if a set aside is appropriate. Pursue means, “to proceed along the course of”. For clarification, the Department will revise the language to state “bring a motion”. CPs due process rights are protected in that all parties are given notice of the motions and hearing as provided by the Code of Civil Procedures.	Yes
15	National Center for Youth Law	115520(a)	It appears that the Department plans not to even review cases for modification on request unless the requesting party first provides income and expense information. Section 115520(a) [proposal #3]. However, federal law requires modification review no later than 180 days of a request (or of locating the non-requesting parent), whether or not income and expense information is provided. See, e.g., 45 C.F.R., Section 303.8(e). Sufficient information may be available	The federal law does not preclude the Department from implementing screening criteria. Under federal law, the state is charged with the responsibility of implementing review and adjustment procedures. Under state law, the Department is required to promote statewide uniformity and to meet state law requiring that sufficient income and expense information be	No

**Summary and Response to Review and Adjustment
Public Comments**

Comment No.	Commenter	Section	Comment	Response	Revision Needed
			through automated or other methods. See, e.g., 42 U.S.C., Section 666(a)(10(A)(i)(III). Therefore, we recommend that the Department, at a minimum, indicate that it will wait 180 days for this information from the requesting party, preferably while it simultaneously attempts to obtain it through other means, before proceeding without it. Alternatively, the Department could notify the requesting party that providing such information would enhance the ability of the Department to process the request, but that in the meantime the Department will proceed without it.	provided to the court while ensuring due process to the non-requesting party.	
16	Stanislaus (Bob Panos)	115520(c)	This is ludicrous. There is no way to handle the sheer numbers of reviews that will be generated and received in a ten day time restriction.	The Department understands the need to clarify the timeframes and process, and has made adjustments to the timeframes in the final proposed regulations.	Yes
17	Stanislaus (Bob Panos)	115520(c) (2)	We should not be responsible for “baby-sitting” them. If they cannot follow the instructions, we should proceed with the information we have.	The Department is committed to providing quality customer service and ensuring that the LCSA has complete income and expense information. Accurate information is needed for accurate orders. The Department proposes no change based upon this comment.	No
18	Napa (Letty van der Vegt)	115520(d)	This section highlights the importance of FC 17406(a). As early as intake, staff needs to collect as much income information from the CP as from the NCP.	No response required to comment. The Department proposes no change based upon this comment.	No

**Summary and Response to Review and Adjustment
Public Comments**

Comment No.	Commenter	Section	Comment	Response	Revision Needed
19	Lassen (Diana Midkiff)	115520(e)	<p>What is the State’s policy regarding the proper service of Motions to Modify support? The new regulations (Title 22, CCR, Chapter 5, Section 115520) that were released 4/28/03 regarding R&A state “Service shall be conducted in accordance with the requirements of CCP 1013.” If I understand CCP 1013, service may be accomplished by 1st class mail to the party’s residence. This has been our standard mode of service in the past. The issue came up referencing Family Code 215, which states: “...no modification of the judgment or order, and no subsequent order in the proceedings, is valid unless any prior notice otherwise required to be given to a party to the proceeding is served, in the same manner as the notice is otherwise permitted by law to be served, upon the party.” Our staff attorney contends we must personally serve all Motions to Modify Support by personal service. Otherwise any modifications are not valid orders. While attending the Training Coordinator’s Meeting 5/13/03 & 5/14/03, I took the opportunity to poll several other counties as to their business practice. I determined there is no consensus in the various counties. Several counties serve Notice of Motions by 1st class mail. Some counties personally serve Orders to Show Cause. Some counties use both methods, determined on a case-by-case basis. All counties said that Compliance time frames are an issue</p>	<p>The Department’s position is clear. Service may be conducted in accordance with CCP 1013. The Department has revised the section to clarify that any other manner provided by the CCP is also acceptable.</p>	Yes.

**Summary and Response to Review and Adjustment
Public Comments**

Comment No.	Commenter	Section	Comment	Response	Revision Needed
			<p>when personal service is used. Some counties assumed LCSA's are exempt from the FC 215 requirement for personal service, since all IV-D orders contain the provision that the parties are required to notify the LCSA of any change in address.</p> <p>If it is the State's policy that all Motions to Modify must be personally served, how do we resolve the obvious issue of remaining within the Compliance timeframes of completing the R&A within 180 days (additional time required for personal service)? In addition to the issue of Compliance time frames, there is the added issue of costs related to personal service compared to mail service. During the budget crisis we are all in, this is an important issue. In order to ensure consistency and uniformity of the counties, I think this issue is relevant. Several others would like to know that the "right answer" is.</p>		
20	Napa (Letty van der Vegt)	115520(e)	"The LCSA shall serve the notice of motion for modification or OSC...at least 30 calendar days prior to scheduled hearing date." This 30-day service requirement is in conflict with CCP 1005(b) (21 days) and 1013 (5 days for mailing). The 30 days requirement should be changed to conform to CCP requirements	The Department agrees and has revised the section to require that service be conducted in accordance with the CCP.	Yes.
21	Rebecca Wightman Commissioner	115520(h)	General comment: I think this is great that you are requiring action on a review & adjustment sooner rather than later? I have one concern	45 CFR, 303.8(e) provides a 180-day timeframe to complete the review and adjustment process. This timeframe	Yes.

**Summary and Response to Review and Adjustment
Public Comments**

Comment No.	Commenter	Section	Comment	Response	Revision Needed
			<p>regarding subdivision (h) of this section. I think you need to be careful about simply not going through with the review & adjustment process simply because you do not have a valid address on the non-requesting party... What if the “non-requesting” party is the custodial parent with whom the agency has lost contact (and has not yet closed its case), does that mean that the requesting party is out of luck as far as getting services from the CSA in changing a “running child support order” even though the requesting party’s circumstances have clearly changed? The same holds true in the other direction (where the non-requesting party is the non-custodial parent)... At a MINIMUM, the requesting party should be given a written statement/explanation as to why the CSA is not going to proceed, as well as a referral to the local Family Law Facilitator’s Office.</p>	<p>starts upon receipt of a request or “locating the Non-Requesting Party”. The LCSAs must have current addresses in order to effect service of process. Absent service, the court will not allow the LCSA to proceed. The LCSA is required to follow locate procedures to attempt to locate parties and to notify the requesting party if no valid address is available and the LCSA is unable to proceed. In addition, it is unlikely that a custodial parent’s location will be unknown if payments are being received.</p> <p>The proposed regulations have been revised to provide that a written notice to the requesting party shall contain a statement which explains the reason that the process will not proceed.</p>	
22	Napa (Letty van der Vegt)	115520(i)	<p>Once the non-requesting party is located, the requesting party should be contacted to ascertain whether the requesting party still seeks a modification before the LCSA automatically resumes the modification procedure.</p>	<p>The Department has addressed the locate issue by developing section 115550.</p>	Yes.

**Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
1st Renotice Summary of Comments and Responses
Revised 8/4/04**

Comment No./ Commenter	Relevant Section	Comment	Response	Revision Proposed
#1 K. Harrison	Entire Text	"I am ready to forward comments from the CSDA Policy and Regulations Committee. Before I send them I would really like to speak with the person who has responsibility for writing these amendments. We all felt that DCSS staff did a great job on re-writing these. It is a little difficult to adequately communicate our few suggestions just in written form. Could you point me in the right direction to have an informal discussion so our comments are understood? Thanks!"	The Department appreciates your comment and proposes no changes based upon this comment.	No.
#2 K. Harrison	Entire Text	"...The committee sends its compliments to you and your colleagues for doing a great job on this re-write."	The Department appreciates your comment and proposes no changes based upon this comment.	No.
#3 P. Lowe	Entire Text	"Your 3/16/04 proposed child support regulations will add more work for staff, which is contrary to promises made by DCSS with regard to new regulations during this time of shrinking staff."	The Department disagrees. The Department developed these regulations through the collaborative process. The Department consulted with representatives from Child Support Directors Association (CSDA), the Office of Child Support	No.

Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
1st Renotice Summary of Comments and Responses
Revised 8/4/04

			<p>Enforcement, and other stakeholders. A diligent effort has been made to minimize workload without compromising the goal of statewide standardization of child support services for the benefit of the public. In addition, the regulations will become effective, in the future, when the LCSAs convert to the California Child Support Automation System, Version 2, the single statewide automation system, which will also reduce workload for the LCSAs. The Department proposes no change based upon this comment.</p>	
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**Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
1st Renotice Summary of Comments and Responses
Revised 8/4/04**

#4 P. Lowe	Entire Text	"I think you lost focus of your mission. You were supposed to decrease demands on county staff during these difficult times, which the regulations accomplished in part. However it appears that you just couldn't quite resist the temptation of adding new requirements while you were at it. This approach and result was very predictable. More busy work for the counties with less staff to do it!"	Please see response to comment 3.	No.
#5 R. Bratburd	Entire Text	"1. Under 45 CFR 303.8(e), we are required to complete a review and adjustment of a support order, or determine that the order should not be adjusted, within 180 days. There is no mention of this in the State R&A regulation package, and this important federal timeframe should not be overlooked or excluded."	The Department agrees and has added a section to the proposed regulations to address the 180 day time frame.	Yes.
#6 R. Wightman	Entire Text	<p>"General Comment: Somehow, these 're-noticed' rules seem more complicated and confusing than the earlier version(s). Partly because it seems that the 20% or \$50 benchmark is not discussed until towards the END of the section, partly because of all the variations mentioned between requesting and non-requesting parties (they made me dizzy.), and partly because I had a hard time tracking and understanding them myself when I read them. There's got to be a better way to organize/lay these out..."</p> <p>"Question: Are there any R&A regs, dealing with an annual basis (vs. once every three years)? I had seen an earlier "DRAFT" of such regs., but don't believe I have seen anything else."</p>	<p>The Department understands the need to clarify the process and has reorganized the proposed regulations for clarification.</p> <p>No.</p>	Yes.

**Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
1st Renotice Summary of Comments and Responses
Revised 8/4/04**

#7 K. Harrison	115500	"Other than the title of the chapter, the phrase 'review and adjustment' is better stated as 'review <u>for</u> adjustment'. In some sections reference to review and adjustment implies that the LCSA can do both review and adjust. Since only the Court can adjust, review <u>for</u> adjustment better describes the process."	The Department agrees to an extent and the phrase has been changed from "and" to "for", except in areas where the regulations refer to the process of review and adjustment.	Yes.
#8 R. Durney	115500(a)	"The regulations do not offer a DCSS definition of the term 'party.' Pursuant to the CFR, a 'party' is someone with specific legal standing. Alternatively, one becomes a party pursuant to the 1058 judgment process. Further, a court ordered party to a child support action is not necessarily (and often not) the custodian of the children any longer. There are lots of rights and duties assigned by the regulations to a 'party' as the term is used. It is imperative that these regulations refer the user to a definition of 'party'."	The Department disagrees. The term party is a well-established term.	No.
#9 K. Harrison	115500(c)(3)	"This requirement needs clarification or should be eliminated. Customer expectations for assistance may not be met and that always creates the opportunity for unnecessary Fair Hearings. Other than the LCSA requirements stated throughout these regulations what other actions are contained in the concept of 'assist'? It is generally not considered appropriate for LCSA staff to assist in such things as advising how to complete the I & E. The principle 'assistance' provided and required by these regs is reviewing for changed circumstances and actually causing the motion to modify to be	The Department agrees and has clarified that the local child support agency is required to assist by explaining the process, providing forms, and providing information.	Yes

**Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
1st Renotice Summary of Comments and Responses
Revised 8/4/04**

		filed. It is recommended that this item be eliminated or precise definition be given to 'assist' to avoid the fair hearing claims of non-assistance."		
#10 K Harrison	115500(c)(10)	"Customers are notified of complaint resolution and state hearing fully, adequately and repeatedly. There seem to be no actions or non-actions of an LCSA flowing from these regulations that are jurisdictionally proper for State Fair Hearing. Other than failing to initiate a review when requested it does not seem appropriate to have ALJs reviewing the LCSA's finding as to whether a change of circumstances has been met. By highlighting complaint resolution and state fair hearing in this notice, customers will inevitably believe that if they do not like the result in court or do not agree with an LCSA denial that their best remedy is to go through the state hearing process. This could be seriously counter-productive as the best action in those circumstances is to file an appeal or initiate their own motion to modify. If they choose state hearing they will lose their right to appeal or months of opportunity to change the support amount. The need for this 'reminder' might be outweighed by the potential to mislead the customer to follow the wrong path."	The Department disagrees. The concern about erroneous filings for complaint resolution will be addressed by additional language on the back of the notice that is provided at least every three years. The language will discuss the parameters of the complaint resolution and state hearing process.	No.
#11 R. Wightman	115510	"Use of the term 'party' can be misleading, as a 'party' is a legal term of art."	Please see response to comment 8 of these public comments.	No.

**Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
1st Renotice Summary of Comments and Responses
Revised 8/4/04**

<p>#12 J. LeSan</p>	<p>115510(a)(1)</p>	<p>"Section 115510(a)(1) states that, if the change in circumstances is noted in writing by the reporting party, the LCSA must make a written inquiry within 15 days to ask if the party wants a review. With there or could there, be an exception to allow a verbal inquiry by the LCSA in response to a written notification? It would seem more time effective to call the reporting party to make an inquiry. If the LCSA is unable to make contact by phone, then the written inquiry would still need to be made within 15 days. The section does not indicate that this is acceptable."</p>	<p>The Department agrees and has revised the section to include a verbal inquiry.</p>	<p>Yes.</p>
<p>#13 R. Wightman</p>	<p>115510(b)</p>	<p>"What are the guidelines, if any, for determining if a change is or is not "reasonably expected to last for three months?"</p> <p>Also, your regs seem to go back and forth between 'lasting three months' or 'more than three months' - WHICH IS IT? IF the latter (which is what you put in Section 115535), you are excluding any modifications where the child care amount only changes during the summer months (up or down) when the child is not in school.</p> <p>I must say, I'm not crazy about the 'three month' criteria with no guidelines, because then it leaves so much up for speculation... I realize that it is intended to keep out those cases in which someone is incarcerated for 10 days, for example, or who is in between jobs for 30 days - HOWEVER, will different LCSAs be taking different approaches to someone who has lost a</p>	<p>There are no such guidelines.</p> <p>The Department agrees and has standardized phrasing to use "more than 3 months."</p> <p>The Department disagrees on the need to develop guidelines for determining "reasonably expected to last 3 months". This minor amount of</p>	<p>No.</p> <p>Yes.</p> <p>No.</p>

**Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
1st Renotice Summary of Comments and Responses
Revised 8/4/04**

		<p>job, and figure that a person is likely to be re-employed within three months?"</p> <p>"This subsection also really very confusing with the 'requesting' vs. 'non-requesting' terms and whether the requesting party is a parent or not. I literally had to make a chart for myself just to understand what was supposed to happen.</p> <p>Besides, when is the location of the non-requesting party "unknown" -- when something comes back in the mail? When it has been 3 years since you've received any \$? There are THOUSANDS of cases here in SF where the LCSA presumably has a 'good' address (because of a postal verification years ago when the matter was sub-served and defaulted to a judgment), and no one ever sends mail back to LCSA...."</p>	<p>administrative latitude is necessary due to diversity of circumstances.</p> <p>The Department disagrees that the use of "requesting" and "non-requesting" is confusing. However, the Department understands the need to clarify the provisions that refer to these terms in conjunction with parent and non-parent, and has done so.</p> <p>The Department disagrees. The locate regulations set forth what the local child support agencies are responsible for finding.</p>	<p>Yes.</p> <p>No.</p>
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**Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
1st Renotice Summary of Comments and Responses
Revised 8/4/04**

		<p>"I also hope you will have some guidelines as to when the I&E information is deemed 'complete' -- I see so many that have only one or two lines filled in (e.g. income and rent)... Will that be deemed complete or incomplete?</p> <p>Are the LCSAs going to be using the Simplified Financial Statement, or the full I&E, or some other form?"</p>	<p>The Department disagrees that guidelines are needed. Complete means completed pursuant to the form instructions.</p> <p>The local child support agencies will use the form that is appropriate under the circumstances as indicated by the form instructions. The Department proposes no change based upon this comment.</p>	<p>No.</p> <p>No.</p>
#14 K. Harrison	115510(b)(1)	<p>"'Exists' may be too strong a word here and in (2) below. 'Exists' can be viewed as a certainty when fairly limited, but adequate, information is available. Staff may be tempted to deny taking the next step in the process unless they are certain that a court will modify the amount. Suggest stating it this way: 'Determine if a change in circumstance that is likely to continue for more than ninety days has occurred that justifies court adjustment.'"</p>	<p>The Department agrees and has inserted the word "appears".</p>	<p>Yes.</p>
#15 K. Harrison	115510(b)(2) (B)	<p>"The strategy here seems unnecessarily bifurcated. From an overall production standpoint if the LCSA becomes aware of a change in</p>	<p>The Department agrees and has revised the</p>	<p>Yes.</p>

**Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
1st Renotice Summary of Comments and Responses
Revised 8/4/04**

		<p>circumstance and the party says yes they would like a review then it would be better to just initiate the full review by soliciting income information from both parties. After all, it will be difficult to really do a meaningful review without info on both parties. Recommend that this just be folded into Section 115535 such that the same path will be followed by the LCSA. When they (1) 'learn' of a change via case review work, verbal communication, or written communication, or (2) a direct request for review is made the LCSA just move forward with the review process by soliciting the information from both parties simultaneously. The way this is set out now, the 'learn' scenario will take at least 30 to 45 days longer than a direct request to get to the point that a meaningful review can be conducted."</p>	<p>regulations to provide for simultaneously providing information to and soliciting information from the requesting and non-requesting parties.</p>	
#16 R. Durney	115510(c)	<p>"You refer to receipt of the 'requesting party's IED', however in non-parent custody cases, we do not request an IED since their income is irrelevant to the request for modification. How does this affect the regulation when no IED is received because it is not practice to receive the IED?"</p>	<p>The Department agrees and has clarified the provision so as to not request such information from a non-parent.</p>	Yes.
#17 K. Harrison	115510(c)(1)	<p>"Many LCSAs handle this situation by calling the customer and clarify or obtain missing information by a phone call. Please include that option: 'the local child support agency shall notify the requesting party in writing or verbally that the requesting party's complete . . .'"</p>	<p>The Department agrees and has included the verbal notification process with the proviso that any alterations to the requesting party's forms require the requesting party's</p>	Yes.

**Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
1st Renotice Summary of Comments and Responses
Revised 8/4/04**

			signature prior to hearing.	
#18 R. Durney	115510(c)(2) (B & C)	<p>"Again, the request for the non-requesting party to provide the IED is not practice for non-parent caretaker or relative. Perhaps this section needs further thought to address the process when a caretaker relative situation exists. Further, when do you send the IED to the other non-party parent for a combined calculation in these caretaker relative or person with standing cases? Subdivision (C) does not provide how to obtain necessary information from both parents when a combined calculation is needed."</p> <p>"Further, the regs indicate the LCSA will proceed with the R&A 'based upon the information provided by the other party.' What about information received from other sources? Perhaps the EC, the FCR or other automated information received by the LCSA. This is an observation you will see again later. The failure to denote that the LCSA will use information received from other sources."</p>	<p>Please see response to comment #16.</p> <p>The Department agrees and has added language to allow the local child support agency to obtain income and expense information from other sources.</p>	<p>Yes.</p> <p>Yes.</p>
#19 P. Lowe	115510(d)	"Specifically, (d) on page 7 will result in more hearings."	The Department is unclear as to the basis of the conclusory statement. The section provides for notification to all custodial parties when a requesting party who is a non-	Yes.

**Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
1st Renotice Summary of Comments and Responses
Revised 8/4/04**

			<p>custodial parent requests a review for adjustment and has multiple cases. The purpose of the provision is to ensure the accuracy of child support orders and prevent the necessity of returning to court numerous, different times to modify each order instead of handling the cases at once. The Department, however, has clarified the requirements of notification when the non-custodial parent has multiple cases within a county.</p>	
#20 R. Wightman	115510(d)	"What if the parents in the other case(s) had previously (and very recently) reached an agreement for an above- or below-guideline support? Perhaps the notice form that goes out should have a place on it where the other parent can check a box indicating that they wish to keep the order where it is...	The Department disagrees. When multiple parties are impacted, equity must be a consideration and efforts must be made to review all cases at once. The	No.

**Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
1st Renote Summary of Comments and Responses
Revised 8/4/04**

		Also, is the 'written notice' mentioned here the one that is required by Section 115500? (It is not clear)."	<p>Department proposes no changes based upon this comment.</p> <p>The Department has clarified to which written notice the regulation refers.</p>	Yes.
#21 G. Gater	115520(a)(3) (B)	"Page 17, item (3)(B), reasonable uninsured health care costs... as proposed will cause more work for the LCSAs. Our staffing is down by 20%. If we are required to take a matter to court to modify the court order based on a change of circumstances for uninsured health care costs, that will cause a drain on our resources. First we must determine a change of circumstances by reviewing the documentation of health care bills, who paid, who did not pay, etc. Then we have to set the matter for court, more court time, more documents, more service of process, more phone calls, accounts may need to be adjusted, etc."	The Department disagrees. 45 CFR Sec. 303.8(d) provides that health care needs through health insurance or other means must be an adequate basis for a review for adjustment. Family Code Sections 4062 and 4063 address uninsured health care costs which effect a child's health care needs. The Dept. proposes no changes based upon this comment. For further discussion see response to # 22 below.	No.

Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
1st Renotice Summary of Comments and Responses
Revised 8/4/04

<p>#22 R. Durney</p>	<p>115520(a)(3) (B)</p>	<p>"FC 4063(g) provides an established and reasonable mechanism to enforce uninsured health care costs for children. This is clearly beyond the resources of DCSS during these harsh budget times to consider an unpaid medical bill a reason for modification. If the child receives regular treatment or medication for an on-going condition, those costs are already included as a 50/50 add-on, like child care and travel expenses. It is patently absurd to make this a condition to warrant a modification when the code already provides the parents a method to reduce the amount to judgment so it can be rolled into child support arrears for collection. This specific provision must be deleted as a condition for modification."</p>	<p>The provision does not require the local child support agency to obtain a lump sum order for arrears that accrue under an existing percentage order. The local child support agency is required to review for adjustment when the order contains a sum certain which needs to be modified due to a change in circumstance.</p>	<p>No.</p>
<p>#23 P. Lowe</p>	<p>115520(a)(3) (B) & (C)</p>	<p>"Likewise, (3)(B) and (C) on page 17 will result in more hearings."</p>	<p>45 CFR Sec. 303.8(d) and Family Code Sec. 4062 require these items to be bases for adjustment. The Department proposes no change in response to this comment.</p>	<p>No.</p>
<p>#24 R. Wightman</p>	<p>115520(a)(4)</p>	<p>"Why do you use the phrase that 'did not exist' here, when you use the phrase 'were not taken into account' in subdivision (a)(6)... RECOMMENDATION: You use the latter, and change it to that 'was not taken into account...' I have MANY, MANY cases that come before me</p>	<p>The Department agrees that the language should not be different. The Department will delete both phrases</p>	<p>Yes.</p>

**Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
1st Renotice Summary of Comments and Responses
Revised 8/4/04**

		that were set or established with incomplete information in the first place (i.e. the LCSA was unaware of the existence of a hardship because a prior hearing proceeded without the NCP present), yet those 'hardship' children existed at the time of the hearing. If read literally, a LCSA could claim that there was no 'change in circumstance' because those 'hardship' children previously 'existed' when the order was first established or last adjusted."	since a "change in circumstance" indicates that the situation was not taken into account when the last order was entered.	
#25 R. Durney	115520(a)(5)	"While the first instance of UIB, DIB or work comp might require a review for adjustment, there is no accommodation for those orders that already include the annualized benefits as part of the order. Perhaps another line explaining that if these benefits have already been considered in the current order, then a review is not required. Many counties have seasonal workers and this requirement to continually review the order for modification is burdensome."	The Department disagrees in that a "change in circumstance" indicates that the situation was not taken into account when the last order was entered. If an order already includes annualized benefits as part of the order, there has been no change of circumstance as to the annualized benefits since they have already been considered. The Department proposes no changes	No.

**Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
1st Renotice Summary of Comments and Responses
Revised 8/4/04**

			based upon this comment.	
#26 R. Durney	115520(a)(6)	"FC 4059(e) very clearly states that a parent's income is computed by deduction of 'any child or spousal support <u>actually being paid</u> by the parent pursuant to a court order...' Clearly, this term is beyond the scope of the law and offers a deduction that is not legal. As attorneys, we are each individually subject to follow the law and not regulation that superceded or extends that law. This is a longstanding and well established principle and I don't know why this part of the regulation exists in its current form. A simple reference to Section 4059(e) would serve the purpose."	The Department disagrees. For review for adjustment purposes, the Department wants all orders taken into consideration. Family Code section 4059(e) will still be used to determine net disposable income. The Department proposes no change based upon this comment.	No.
#27 P. Lowe	115520(a)(7) & (8)	"More hearings and consumption of staff time will also be the result of instituting automatic review of cases under circumstances set forth under (7) and (8) on page 18."	45 CFR 303.8(d) provides that the need to provide for the child's health care needs in the order through health insurance or other means, must be an adequate basis to initiate an adjustment. An obligor/obligee's release from	No.

**Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
1st Renotice Summary of Comments and Responses
Revised 8/4/04**

			detention affords a parent opportunity to work which means the parent may be able to pay support or increased support. Consequently, support obligations must be reevaluated at that time.	
#28 K. Harrison	115520(a)(10)	<p>"For several reasons, the committee recommends that this hierarchy of change in circumstances not be articulated in the regulations and instead a general statement of the changed circumstance threshold be stated. In discussing these specifics it was observed that many courts will not modify support when the only change are the items stated in (3), (4), and (8). By specifying the types of change the LCSA is mandated to file a motion to modify even when it knows the practice of the local court will result, with certainty, in a denial of the request.</p> <p>For the most part, assessment of the factors listed is not particularly useful as all LCSAs have written direction and training that identify these common factors for staff. It would be better to leave some room for local practice nuance needs that are driven by court policy and perspective. It should be adequate to limit the regulation as follows:</p>	The Department disagrees. The list specifying changes in circumstances is needed to promote statewide consistency. The Department proposes no changes based upon this comment.	No.

**Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
1st Renotice Summary of Comments and Responses
Revised 8/4/04**

		<p><u>(a) 'A change in circumstance for purposes of this chapter is any change in a party's circumstances related to their parenting time or financial ability that is likely to continue for more than ninety days and when considered in the calculation of guideline child support will result in a change in the amount of an existing court order of 20% or \$50.00, whichever is less.'</u></p> <p>This is similar to 115530 (a). It is the customer that will benefit from a listing of the possible changed circumstances to consider. Since those are to be included in the 115500 notice the above definitional approach will not weaken the mandate to review and eliminate the trap for some LCSAs who would otherwise be forced to file what amounts to, for their court, a frivolous motion."</p>		
#29 R. Wightman	115525	"Why is this section limited to parties who are parents? Doesn't the LCSA ever want to get information from the 'custodial person' regarding visitation? Suggestion: Perhaps a provision needs to be added with regard to a different notice that is to be give to a CP (other than a parent)."	The Department agrees and has modified the section to request information from a custodial party who is not a parent.	Yes.
#30 K. Harrison	115525(a)(3)	"Delay in the return of the income and expense information is the number one event that inhibits the LCSA from moving forward with the review for adjustment. 20 business days is equivalent to four weeks. In an effort to improve the timely return of the information it is recommended that this notice require return within 15 calendar days."	The Department agrees and has yielded a compromise of 15 business days.	Yes.

**Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
1st Renotice Summary of Comments and Responses
Revised 8/4/04**

<p>#31 R. Bratburd</p>	<p>115525 & 115530</p>	<p>"2. Please refer to the proposed sections: 115525, titled Processing a Review for Adjustment - Initiated by the LCSA, and 115530, titled Changes in Circumstances - Automatic Review by LCSA. Both of these sections fail to address non-assistance cases.</p> <p>Under 42 USC 666(a)(10), 'each state must have in effect laws requiring the use of the following procedures, consistent with this section and with regulations of the Secretary, In general. -- Procedures under which every 3 years (or such shorter cycle as the state may determine), upon the request of either parent, or, if there is an assignment under part A of this subchapter, upon the request of the state agency under the state plan or of either parent',</p> <p>Under 45 CFR 303.8(a), a 'parent' is defined as any custodial parent or non custodial parent (or for purposes of requesting a review, any person or entity who may have standing to request an adjustment of the child support order.</p> <p>Comparing the CFR cite to the USC cite shown, 'entity' would include a LCSA in those cases where there has been an assignment of support rights.</p> <p>The code section appears to state in a straightforward fashion that the state agency or LCSA may request an adjustment of the child</p>	<p>The Department disagrees. Both sections address assistance and non- assistance cases.</p> <p>No response required.</p> <p>No response required.</p> <p>The Department agrees.</p> <p>The Department disagrees. The LCSA has the responsibility to</p>	<p>Yes.</p>
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**Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
1st Renotice Summary of Comments and Responses
Revised 8/4/04**

		<p>support order only when there is an assignment of support rights.</p> <p>I have no problem with the state sections 115525 & 115530 which provide for automatic reviews by the LCSA. Further, I doubt there is any court in California that would have a problem with this section. The courts would expect that the LCSA would promptly review these cases for adjustment, regardless if either parent requested the review for adjustment, and regardless if the case had an assignment of support rights or not.</p>	<p>initiate a review in certain circumstances as set forth in these sections. These types of circumstances signify that the support order is no longer in line with state guidelines. As a party to the child support case, the LCSA has the ability to initiate the review and adjustment process and file motions or orders to show cause.</p> <p>No response required.</p>	
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**Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
1st Renotice Summary of Comments and Responses
Revised 8/4/04**

		However, these state regulations are giving standing to the LCSA it does not have in non-assistance cases, as defined under the federal code that is cited under the state regulations."	The Department disagrees for the reasons set forth above in this response.	
#32 R. Wightman	115530(a)	"I STRONGLY disagree with there not being a category for automatic review regarding UIB (Unemployment Benefits). While perhaps there is a legitimate concern regarding people who will only temporarily be unemployed -- there are MANY cases that I see where the LCSA has found and is intercepting UIB for MANY months, and it is so clear that the child support order is out of line with this situation. As I stated in earlier comments -- a vast majority of NCPs are under a very COMMON MISCONCEPTION that the agency is 'aware' of their changed circumstance because the agency is garnishing the UIB, and that they need not do anything... SUGGESTION: Add a provision for automatic review when the obligor's income is UIB for at least two or three months... Otherwise, you are once again creating a large amount of (possibly uncollectible) arrears when the information is there!"	This section lists circumstances which allow the LCSA to initiate a review for adjustment without a request. Most of the circumstances listed result in no income (incarceration, on public assistance, etc.) or are circumstances in which the order must be adjusted (order is based on presumed income and actual income becomes known) In the situation described, there is income available.	No.
#33 K. Harrison	115530(a)	Delete first sentence as redundant.	The Department agrees and has deleted first sentence.	Yes.

**Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
1st Renotice Summary of Comments and Responses
Revised 8/4/04**

		Insert the word 'court' before adjustment.	The Department disagrees, however, it will modify the language to state "seek to adjust"	Yes.
#34 K. Harrison	115530(a)(1)	"Since it is really the Court that does the adjusting this would be better stated as 'the LCSA shall seek a Court adjustment of ': Or we could reference that LCSA shall request adjustment pursuant to section 115545"	Please see the response to comment #33.	Yes.
#35 K. Harrison	115530(a)(2), (3) & (4)	"Same as above, the Court adjusts the order and also 3 and 4 below"	Please see the response to comment #33.	Yes.
#36 G. Nielsen	115530(a)(1), (2),(4) & (5)	"We would recommend that the language, 'the local child support agency shall adjust the current order' be modified to 'the local child support agency shall bring a motion to request the court to adjust the current child support order' or words to that effect. To imply that the LCSA has authority to change an order without judicial involvement would be misleading to the public."	Please see the response to comment #33.	Yes.
#37 R. Wightman	115530(a)(2)	"Also, re: subdivision (a)(2): the use of the term 'and' seems inappropriate (or perhaps I don't understand why there is an "and" there)... What if LCSA becomes aware of the obligor's sole income being public assistance (e.g. GA on the basis of need) yet such income was NOT used in determining the amount of the support order. Does that mean no review is triggered? Please clarify."	The provision addresses situations where certain income has erroneously been used to determine the amount of a support order.	No.

**Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
1st Renotice Summary of Comments and Responses
Revised 8/4/04**

<p>#38 R. Wightman</p>	<p>115530(a)(3)</p>	<p>"As to subdivision (a)(3): when there is a stoppage of such needs based income... then what? It seems the LCSA is supposed to go forward with sending the request for I&E... then, what if no one sends back any income and expense information? The case stays where it is?"</p>	<p>The regulation provides that the local child support agency shall send a request for income and expense information. If no information is sent back, the local child support agency must still proceed given other verified information.</p>	<p>No.</p>
<p>#39 G. Gater</p>	<p>115530(a)(3)</p>	<p>"Page 21, item (3) change of circumstances based - Automatic Review, (3), the obligor stops receiving SSI/SSP, CalWorks, or any other public assistance, based on a need determination. This may adversely affect our performance by setting a dollar amount of child support. We need to look at income history. This needs to be referenced under change of circumstances, by not AUTOMATIC REVIEW PART.</p> <p>This will also cause more work for the LCSAs, requiring an automatic review. Often the person involved in these cases has not ability to pay support. Often are in prison on public assistance, etc. for years, often through-out the child's minor years."</p>	<p>The section requires a review, and if appropriate, a modification. Hence, the local child support agency still has the ability to determine whether setting a dollar amount is appropriate.</p> <p>The Department has made diligent efforts to minimize workload without compromising the goal of obtaining</p>	<p>No.</p>

Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
1st Renotice Summary of Comments and Responses
Revised 8/4/04

			accurate child support orders.	
#40 R. Durney	115535(a)(1)	"While the LCSA is required to determine if UIB or DIB is expected to last more than 3 months, again there is no exception for those existing orders that have already annualized the seasonal income and seasonal benefits as part of the current order. These orders should not be reviewed or modified as they are correct, until another significant change or circumstance occurs."	Please see response to comment #25.	No.
#41 R. Wightman	115535(a)(1)	"There is a grammar/TYPO (p.22) in the last sentence (i.e. 'If the such a change...'). Again, I have some concerns about uniformity as to what is 'reasonably expected to last more than three months.' I really think you are creating more problems by having such a 'gray area' -- why not let the Court's decided whether something is a 'substantial change'?"	The Department agrees and has fixed the typo. Please see response to comment #13.	Yes.
#42 K. Harrison	115535(a)(1)	Delete "the".	The Department agrees and has deleted "the".	Yes.
#43 R. Durney	115535(a)(1) (A)	"This section requires calculation of guideline based only upon the IED information of the parties. What about FC Section 3664 and the other reliable sources of income the LCSA currently receives and relies upon? This section must be expanded to include reliable information received from any source available to the LCSA. A majority of our cases are currently based upon NER, FCR, CWQT, ECs and tax returns. This subsection	The Department agrees that other sources of information can be used. Income and expense information incorporates all sources and, therefore, does not	No.

Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
1st Renotice Summary of Comments and Responses
Revised 8/4/04

		must be expanded to allow continued reliance on these reliable sources of income and expense information."	need to be expanded.	
#44 K. Harrison	115535(a)(1) (A)	"It is not uncommon to review for adjustment and determine that the court at the last hearing made special findings that allowed for imputing earnings to the obligor because he was intentionally suppressing his income. In these instances calculating on I & E alone would not be appropriate. Can we rephrase this to something like 'Calculating the guideline amount based upon the income and expense information or previous court findings pursuant to Family Code section 4058(b).' OR 'Calculating the guideline amount based upon the income and expense information or previous court findings regarding the earning capacity of the party(s)'".	Please see response to comment #43.	Yes.
#45 G. Nielsen	115535(a)(1), (a)(1)(A), (a)(1)(B) & (a)(2)	"We strongly recommend that the language, 'by at least 20% or \$50, whichever is less' be changed to 'by at least 20% or \$50, whichever is greater.' This change would be consistent with current practice, with the exception that the percentage figure is lower. Please note that the definition of a 'substantial difference' in a court order for purposes of setting aside an order based on presumed income in FC Section 17432(c) is 10 percent or more. To leave the requirement as proposed would mean the LCSA's would be obliged to bring motions to modify any order \$250 per month or greater. Given the short staffing most counties are experiencing, this task would be virtually impossible to fulfill. In addition, the courts	The Department disagrees. This threshold was developed through the collaborative process. The Department consulted with representatives from Child Support Directors Association (CSDA), the Office of Child Support Enforcement, and other stakeholders.	

**Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
1st Renotice Summary of Comments and Responses
Revised 8/4/04**

		throughout the state would be flooded beyond their capacity be able to hear the increased number of motions."	The purpose of the threshold is to ensure the accuracy of child support orders. The Department proposes no change based upon this comment.	
#46 R. Durney	115535(b)	"This section again refers only to the IED provide by a party. I would merely change '...income and expense information <u>provided by</u> a party...' to 'income and expense information <u>about</u> a party...' This leaves open the reality that the LCSA will use reliable information from other sources as described above."	The Department agrees and has modified the language to allow for the local child support agency to use information other than that obtained from a party.	Yes.
#47 K. Harrison	115535(b)	Not sure we can understand the utility of this paragraph. After filing the motion there is not a lot of purpose to the LCSA recalculating the support. The I & E can be provided to the court to consider at the hearing if the parties are unable to stip. Probably can delete this as it appears that no LCSA will deny a party the opportunity to late file an I & E. We'll take'm whenever we can get them.	The Department disagrees. The provision will promote statewide uniformity of practice in using most current information.	No.
#48 K. Harrison	115540(a)(1)	"The reference to 115510(c)(2) and 115525 seem to make this applicable only when the nonrequesting party fails to return the I & E. This would make sense because if the requesting party fails to return the I & E the review will be terminated. Can we just say if the nonrequesting party fails to return the I & E presume a change?"	The Department disagrees. The section applies to both sections 115510 and 115525.	No.

**Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
1st Renotice Summary of Comments and Responses
Revised 8/4/04**

<p>#49 R. Durney</p>	<p>115540(a)(3) and (5)</p>	<p>"The first line currently reads 'local child support shall...' and should read 'local child support agency shall...'" "First at 3, it states the LCSA has no current IED for the parties in the file, then at 5 it state the income information is known because it was provided by the requesting party. Huh? What? Is someone going to explain this in real life terms before it is implemented because it certainly doesn't make sense on paper."</p>	<p>The Department agrees and has added "agency". The local child support agency has no current income and expense information for the party who failed to submit an income and expense form and requested documents. However, there is a form and requested documents from the other party and/or a verified change in circumstance pursuant to 115530.</p>	<p>Yes. No.</p>
<p>#50 R. Wightman</p>	<p>115540(a)(5)</p>	<p>"Am I correct in reading this section, i.e. the LCSA is to utilize information they received verbally from a party?"</p>	<p>The Department disagrees. The language has been revised to clarify that the local child support agency will use income and expense forms and requested documents submitted by the other party.</p>	<p>Yes.</p>

**Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
1st Renotice Summary of Comments and Responses
Revised 8/4/04**

#51 R. Wightman	115545(a)(2)	"This section is unclear in the sense that I cannot tell if the LCSA is support[ed] to file a motion to set aside IN LIEU OF, or IN ADDITION TO the previous subsection. Please clarify."	The Department has removed the language for clarity.	Yes.
#52 K. Harrison	115545(a)(2)	Recommend insert "of the".	The Department disagrees in that it is nonessential language and is inconsistent with our standard practice.	No.
#53 K. Harrison	115545(b)	"This can probably be deleted as FC 17406(g)(1) already requires we provide a copy of all orders. That FC section ties it to the federal time frame. If this is to stay in it should match the federal time frame"	The Department disagrees to delete it, however, the language has been modified to coincide with federal timeframes.	Yes.
#54 K. Harrison	115545(c)(6)	"This can be misleading. If they do not agree with the denial their best remedy is to file their own motion or OSC. Do we really want the State Fair Hearing Officer to have jurisdiction over this type of case management decision making? The ramifications are huge. After all, what value is there to the customer if they get a favorable decision? The LCSA is directed to file the motion six months later? Please reconsider the value of this being included."	The Department disagrees. The concern about erroneous filings for complaint resolution will be addressed by additional language on the notice. The language will discuss the parameters of the complaint resolution and state hearing process.	No.

**Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
1st Renotice Summary of Comments and Responses
Revised 8/4/04**

<p>#55 R. Durney</p>	<p>115550(a)</p>	<p>"CCP 1010, 1012 & 1013 all provide the well established methods and places of service of a motion. This provision to cease the modification because of 'locate' is patently unfair to the requesting party, and also possibly prejudicial to the parent who might be entitled to a lower court order because the custodial party has vanished. This oversteps the boundaries of reason preventing an LCSA to proceed at the last know legal address of a party as provided by law - not regs."</p>	<p>The Department disagrees. While the CCP allows service to the last known legal address, it is appropriate to provide actual notice in order to avoid the need to set aside default orders in the future.</p>	<p>No.</p>
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Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
2nd Renotice Summary of Comments and Responses

REVISED 7/28/04

Comment Number	Relevant Section	Comment	Response	Revision Proposed
1. G. Galligher	115500	Proposed Section 115500 should include a section specifying the rules that will remain in effect until the CCSAS conversion is complete. A statement that Division 12 of the California Dept of Social Services Manual of Policy & Procedure remains in effect would preclude confusion as to the procedures to be followed.	The Department disagrees. The Department website has information on the current procedures. CSS letter 04-09 publishes the current authority.	No.
2 S. Goldberg	115500	Proposed section 115500 would delay implementation of the R & A regs until LCSAs have converted to CCSAS. LSNC's understanding is that conversion will not occur for several years. LSNC further understands that programming new requirements into computer systems which will be replaced may not be the best use of resources. However, Section 115500 as drafted leaves regulations regarding R & A of child support orders in limbo until conversion to CCSAS. Neither Section 115500 or any other section of the proposed regulations specify what rules will be in effect until CCSAS conversion. It seems reasonable that the existing regulations in Division 12 of the CDSS MPP should remain in effect until the new regulations become effective. In addition, federal regulations regarding review and adjustment of child support orders remain effective in California. (See 45 CFR	Please see response to comment 1.	No.

Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
2nd Renotice Summary of Comments and Responses

REVISED 7/28/04

		Section 303.8) Which regulations will be used in the interim until CCSAS is operational should be specified in the new regulations. Without such specification LCSAs could believe that no rules are in effect in the interim regarding review and adjustment of child support orders. Lack of specification of the governing regulations in the interim period could lead to the untenable situation of LCSAs failing to process requests for review and adjustment until CCSAS is implemented. Specification of the interim rules would prevent that unfortunate occurrence.		
3. J. Drabin	115500	What is this [the California Child Support Automation System, Version 2]? a definition of the trigger for the regulations, or at least a cross reference to where that may be found would be helpful.	The Department disagrees that a definition is necessary. The effective and implementation date will be triggered by a declaration by the Director indicating the local child support agencies have begun to convert to the single statewide computer system.	No.
4. J. Drabin	115503(c)(1)(A)	Comment: Will DCSS be providing a uniform notice for this purpose?	Yes, the Department will provide a uniform notice upon implementation of the regulations.	No.

Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
2nd Renotice Summary of Comments and Responses

REVISED 7/28/04

5. T. Repp	115503(c)(4)	<p>..."the date of receipt of a request is that date the requesting party's current and complete income and expense Judicial Council forms <u>and requested documents</u> have been provided to the LCSA.</p> <p>Q - What if the LCSA only gets the income expense form but does not get the "requested documents". For CASES, the requested documents would be an Employment Verification letter. Or vice versa, what if we get the Employment Verification letter (which documents from the employer wage information), but don't get the I&E back?</p>	<p>The section refers to the receipt of "requested documents" submitted by the requesting party, not documents that are received from other sources such as the Employment Verification letter in the commentor's example. The receipt of the forms and documents requested of the requesting party trigger the date of receipt of the request. The Department proposes no changes based upon this comment.</p>	No.
6. K. Harrison	115510(a)	<p>115510(a) states in part: When the local child support agency becomes aware ...that a change in circumstance pursuant to Section 115520 appears to exist...</p> <p>Question: The word appears will be open to interpretation based upon the reviewer and their case knowledge, is this the intent of the regulation?</p>	<p>The Department incorporated the solution to address a concern expressed in the 1st renotice. Please see response to comment #14 to the 1st renotice comments. The term 'Exists' may be too strong a word. As indicated in comment #14 to the 1st renotice, "'Exists' can be viewed as a certainty when fairly limited, but adequate, information is available.</p>	No.

Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
2nd Renotice Summary of Comments and Responses
REVISED 7/28/04

			Staff may be tempted to deny taking the next step in the process unless they are certain that a court will modify the amount.”	
7. T. Repp	115510(a)	<p>"When the local child support agency becomes aware during communication with a party to a child support order with a current support obligation that a change in circumstance exists pursuant to Section 115520 exists..."</p> <p>Q- what if the LCSA gets new employment information (i.e. via FCR), which comes about outside of talking to the party (during communication) - per Section 115530 the LCSA is limited to automatically initiating R & A to: people in jail, on or discontinuing disability, on public assistance, being institutionalized, presumed income orders, reservists called to active duty or if medical is required. How do we proceed if LCSA becomes aware that the NP has a greater ability to pay? Can we contact the NW CP to ask if they want an increase? Can we automatically start the process for Welfare CPs?</p>	<p>The regulations do not require the local child support agencies to contact the parties when information of a potential change in circumstance is obtained from a source other than a party. Such a requirement would place an undue burden on the local child support agencies.</p> <p>The regulations do not preclude the local child support agencies from contacting a party or proceeding with public assistance cases.</p>	No.
8. K. Harrison	115510(a)(1)	(1) A local child support agency shall immediately make a verbal written inquiry within 15 business days of the local child support agency becoming aware of an apparent change in circumstance by	The Department disagrees. The section incorporates both face to face interviews and telephone calls.	No.

Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
2nd Renotice Summary of Comments and Responses
REVISED 7/28/04

		during written verbal communication from with a party. Clarify which party - It appears the wording pertains to the party the LCSA has contact with during a face to face interview or telephone call. Just change verbal communication from with the party during a face to face interview or telephone call.		
9. K. Harrison	115510(b)	<p>States in relevant part: The date of receipt of the request is the date the requesting party 's current <i>and complete income and expense Judicial Council forms and requested documents</i> have been provided to the local child support agency.</p> <p>Question: Wouldn't the date of receipt be the date that complete information is received to conduct the review from <u>either</u> the income and expense Judicial Council form <u>or</u> the requested documents, rather than both? Many times a determination can be made when either one is provided if the appropriate information is submitted.</p>	No. Under state law, the Department is required to promote statewide uniformity and to meet state law requiring that sufficient income and expense information be provided to the court while ensuring due process to the non-requesting party. The Department proposes no changes based upon this comment.	No.
10. G. Gater	115510(c)	A LCSA may, but is not required, to review a case for adjustment if the case has been reviewed for adjustment within the last six months and nothing has changed. I think six months should be changed to twelve months. Our staffing levels have been substantially reduced and the twelve months is the screening process currently being used. More staff would be required	The Department disagrees. This provision reduces the LCSA workload by reducing the necessity for the LCSA to go through the entire review and adjustment process. The Department is not inclined to expand the six month provision to	No.

Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
2nd Renotice Summary of Comments and Responses
REVISED 7/28/04

		to deal with a six month time frame, new procedures and training would be required, new forms would be required, etc. Also, state compliance review guides currently state 12 months.	twelve months.	
11. G. Galligher	115510(e)(6)(A)(iii)	Proposed Section 115510(e)(6)(A)(iii) provides that the requesting party's failure to submit current and complete income and expense Judicial Council forms and requested documents to the local child support agency within 20 business days from the date of the notice will result in the local child support agency terminating the review and adjustment process. In the interest of promoting the effectiveness of the child support enforcement program, the Department should adopt good cause criteria for not returning the paperwork within 20 business days. If the child or parent is ill or hospitalized, the parent should not be forced to start the process from the beginning. The parent should be able to submit the information along with a reason for missing the due date.	The Department disagrees. The Department has provided ample time for submission of forms and documents by both the requesting party and non-requesting party. Both have 20 business days to submit which works out to roughly 30 calendar days. The Department must balance the workload impact associated with implementing exceptions with the minimal consequences to the requesting party. The requesting party will re-request a review for adjustment and submit his or her forms and other requested documents at that time.	No.

Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
2nd Renotice Summary of Comments and Responses

REVISED 7/28/04

12. G. Gater	115510(e)(6)(B)	A requesting party, who is not a parent, shall be provided with a written notice. The written notice shall include the following information... There needs to be something that clarifies the non-parent party must have legal custody of the child, or is payee in the court order to qualify for the review process. Also, adding an acknowledgement of receipt to the process adds one more thing that must be done. Why complicate an already complicated process. I think we need to remove this requirement.	The Department disagrees. Party includes the CP, NCP, LCSA, or any other person or entity who may have standing to request a review and adjustment. (45, CFR 303.8(a). Also, this provision does not add the requirement of providing an acknowledgement of receipt. Rather, the provision requires that a notice be sent, and, within the notice, the LCSA shall acknowledge receipt of the request for review for adjustment.	No.
13. T. Repp	115510(e)(6)(B)	"A requesting party who is not a parent shall be provided with a written notice. The written notice shall include the following information: ii) The LCSA request that the requesting party provide information, which may affect a child support determination, within 20 business days of the date of the notice." Q - Why doesn't the non-parent requesting party need to provide an I&E? What is the definition of "information" with regard to the sentence "provide information which may affect a child support determination." What income verification can the LCSA obtain for the non-parent CP?	Parents have a duty to support a minor, therefore, income and expense information is needed. Such information is not needed for non-parents since there is no such responsibility. As indicated by the section, information means information that may affect the child support determination.	No.

Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
2nd Renotice Summary of Comments and Responses

REVISED 7/28/04

<p>14. S. Goldberg</p>	<p>115510(e)(6)(C)(iii)</p>	<p>New proposed section 115510(e)(6)(C)(iii) states that failure of a noncustodial parent to submit requested information within 20 business days of notice from the LCSA will result in the LCSA proceeding with the review based on available information. However, proposed section 115550(c) authorizes the LCSA to terminate the review and adjustment process if the noncustodial parent is not located. These sections are inconsistent because one reason for documents to not be returned could be incorrect location information about the non-custodial parent.</p> <p>The problem is that proposed Section 115550(c) is inconsistent with the governing federal regulation, 45 CFR Section 303.8 The federal regulation requires that," within 180 days of receiving a request for a review <i>or locating the noncustodial parent, whichever is later</i>" the review and adjustment process must be</p>	<p>The Department disagrees that these provisions are inconsistent. Section 115510(e)(4) requires the local child support agency to determine whether the non-requesting parties location is known. If so, the local child support agency is to send a notice as specified in 115510(e)(6)(C)(iii) to the non-requesting party who is a parent. The notice indicates that the process will proceed if information is not received in 20 business days. Section 115550(c) is only applicable when the location of the non-requesting party is unknown and locate efforts have occurred for 30 days.</p> <p>The Department disagrees. The federal law does not preclude the Department from utilizing screening criteria. After 30 days of locate efforts, the review and adjustment process is terminated. Locate efforts</p>	<p>No.</p>
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Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
2nd Renotice Summary of Comments and Responses

REVISED 7/28/04

		completed. (45 CFR Sec. 303.8(e) [emphasis added].) Nothing in the governing federal regulations authorizes termination of a request for review and adjustment because the non-custodial parent is not located. To the contrary, 45 CFR Section 303.8(e) requires that the request for review and adjustment remain open so it can be processed when the non-custodial parent is located. Correcting proposed Section 115550 to be consistent with 45 CFR Section 303.8(e) will bring the proposed regulation into compliance with federal law and will, at least to some degree, resolve the inconsistency with new proposed section 115510(e)(6)(C)(iii).	for the non-requesting party continue. Once the non-requesting party is located, a review for adjustment will proceed upon request. It is administratively burdensome to carry locate cases for an indefinite time period.	
15. J. Drabin	115510(e)(6)(E)(ii)	[custodial parties'] Comment: What about Custodial Parents with multiple cases? If the change in circumstance is such that it results in a change in the Custodial Parents "net disposable income" [which can come about due to actual changes in earnings, or changes in tax status (married/unmarried/widow), or additions/deletions of dependent minor children to the family unit (minor children other relationship, emancipation of minor children, change in custody)] should not the request for review and adjustment from the custodial parent be construed as a request for review of all of the custodial parents cases within the county and	The Department disagrees. It is not appropriate to pursue a request for adjustment on all of the custodial party's cases unless the custodial party requests an adjustment in the cases. Instead, section 115510(a) sets forth a provision that requires the local child support agencies to inquire as to whether the custodial party wants the local child support agency to review for adjustment. The Department proposes	No.

Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
2nd Renotice Summary of Comments and Responses

REVISED 7/28/04

		<p>should not the Custodial Parent be given the same or similar notice as the Non-Custodial Parent. There is no rational basis to treat Custodial Parents differently than Non-Custodial Parents where the change in circumstance is one that impacts net disposable income. There is an obvious rational basis to treat parties differently where the change in circumstance is related to time-share only [given the inter-related nature of the Non-Custodial Parents support obligations.] Changes in language here would also require changes in the language in the immediately preceding paragraph and in paragraph (e)(4)(B) supra.</p> <p>Comment: This should be non-custodial parties' cases, not custodial.</p>	<p>no changes based upon this comment.</p> <p>The language refers to the same cases. The Department proposes no changes based upon this comment.</p>	
<p>16. G. Gater</p>	<p>115510(f)(3)</p>	<p>Failure to correct the deficiencies within 35 business days of ...and h) If the requesting party fails to correct the deficiencies with 35 The 35 days should be changed to 20, which is consistent with the other time frames. This will create continuity in terms of the time frames for training purposes, forms, and follow up to the process.</p>	<p>The Department disagrees. The requesting party is initially given up to 20 business days from the date of the notice to submit the documents and is given up to 15 more business days to correct any deficiencies. The Department is not inclined</p>	<p>No.</p>

Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
2nd Renotice Summary of Comments and Responses
REVISED 7/28/04

			to expand the time to correct deficiencies from 15 days to 20 days.	
17. G. Gater	115520(a)(3)(B)	Reasonable uninsured health care costs for the children as provided in Section 4063, Family Code. This is could create a big workload and with a shrinking staff and resources, court time, etc., it is not reasonable to ask the LCSA to do this, even though it is in the FC.	The Department disagrees. 45 CFR Sec. 303.8(d) provides that health care needs through health insurance or other means must be an adequate basis for a review for adjustment. The Family Code addresses uninsured health care costs which effect a child's health care needs. The Department proposes no changes based upon this comment.	No.
18. K. Harrison	115520(a)(8) & (9)	Section 115520(a) Add "commitment" to each of the following: (8) The commitment or release of the obligee/obligor from incarceration in a county jail, state or federal prison, or court-ordered rehabilitation facility. (9) The commitment or release of the obligee/obligor from a psychiatric facility.	The Department disagrees since section 115530(a)(1) and 115530(a)(5) address the circumstances of commitment. The local child support agency is required to initiate the process without a request.	No.
19. G. Gater	115525(a)(2)	Provide the parties, who are not parents, by mail or personal delivery with a written notice that shall include the following information: Again the non-parent must have legal custody, or the court order has made them payee in order to qualify for the review.	Please see response to comment 12 of this 2 nd Renotice Summary of Comments and Responses.	No.

Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
2nd Renotice Summary of Comments and Responses

REVISED 7/28/04

20. T. Repp	115540	<p>Presumption - states "The local child support agency shall presume the amount of support is altered, upward or downward, by at least 20% or \$50 whichever is less, if all of the following criteria are met."</p> <p>Q - in all items 1-5 --What are we to presume? Are we to presume the "other party" has a minimum wage ability or zero ability when doing the calculations.</p>	<p>The local child support agency is to presume the amount of support is altered by at least 20% or \$50 whichever is less and proceed with the review and adjustment process.</p>	No.
21. G. Galligher	115545(c)	<p>Proposed Section 115545(c) requires the local child support agency to provide, by mail or personal delivery, a written notice of the determination that an adjustment will not be sought to the parties within 14 days of that determination. That notice should include a provision that either party can request from the local child support agency the return of the original copies of the income and expense Judicial Council forms and all other requested documents. The local child support agency would then have 10 business days to return the forms to the parties.</p>	<p>The Department disagrees. The Records Management regulations provide that the LCSAs are required to maintain records pertaining to the case. However, documents requested by the person who wrote, prepared or furnished the document may be disclosed to the person or his/her designee upon written authorization, thereby giving access to the information contained in the income and expense forms. Finally, the judicial council forms request copies of documents, not the original documents.</p>	No.

Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
2nd Renotice Summary of Comments and Responses

REVISED 7/28/04

22. G. Gater	115545(c)(1)(B)	The order has been reviewed for an adjustment within the last six months and nothing has changed since the last time the requesting party requested a review. The time frame should be twelve months based on existing screening criteria, not 6 months for reasons stated in the first bullet shown above [Gater comment #6]	Please see response to comment 10.	No.
23. K. Harrison	115545(c)(3)	<p>115545(c)(3) states in part: A statement informing the parties that each party may file his or her own notice of motion or order to show cause for adjustment of the child support order and <i>may obtain the necessary forms from the local child support agency.</i></p> <p>Question: If the LCSA is providing forms to a party, there may be cause for the party to believe that the local child support agency can assist with completing forms and answering questions related to the court clerk. In addition there is the cost and maintenance of the forms to consider. There also may be other forms that an individual may need to file based on the individual's circumstances, such as a waiver of fees form, responsive declarations, proof of service, etc. Providing court facilitator information and court clerk information will better assist the requestor and should be sufficient for the party to proceed on his/her own.</p>	The department disagrees. There is no indication in the section that the local child support agency is mandated to assist with completing the forms or answering questions. The local child support agency can refer the party to the facilitator. The notice also refers the individual to the facilitator. Finally, the cost and maintenance of the forms should be minimal since the notice refers the party to the facilitator.	No.

Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
2nd Renotice Summary of Comments and Responses
REVISED 7/28/04

		Recommend that the proposed change " <i>may obtain the necessary forms from the local child support agency</i> " be deleted from this section/regulation.		
24. B. Fennel		I think 180 days is too long to wait for a mod. One's unemployment checks will be exhausted by then. I think 30 days should be long enough to have <u>filed</u> a motion with the court. I can get litigants into a workshop, help them complete the paperwork, mail copies and file the motion and I&E within 90 mins. and they have a hearing within 30 days. Currently DCSS tells them it may take 6 months, so why should they wait? When they protest, they are directed to a Facilitator workshop. DCSS knows the litigant can get a motion filed the same day. Our court clerks will not file a motion regarding child or spousal support without an I&E. They're required. Our DCSS does provide their own workshops to assist people in completing I&Es in English and in Spanish. Everything takes too long with DCSS, including opening a case. Parents are told it may take 12 months to open a case. Get real! They can open their own cases and file a motion on the same day. Why wait for DCSS? If they have no income, they qualify for a fee waiver. DCSS sends them to a workshop, too.	The Department disagrees. The timeframe is set forth in 45 CFR Sec. 303.8(e). The Department proposes no change based upon this comment.	No.

Department of Child Support Services
R-16-03-E Review and Adjustment of Support Orders
2nd Renotice Summary of Comments and Responses

REVISED 7/28/04

<p>25. C. Goldman</p>		<p>I am concerned that asking for an administrative review may lull an obligor/obligee into thinking that any change will be retroactive to the date of the request, and so they won't pursue their interests in the court until they have lost significant time and money, quite possibly to their detriment (and despite notice that they have the right to file at any time) - especially given the 6 months that the LCSA is allowed to take in completing the process.</p> <p>It therefore seems that, to be fair to the parties, there may need to be a statutory provision that would permit an administrative review (to save court time) with a provision that if a stipulation or motion/OSC is then filed on the completion/termination of the review, the order for any change in support could be effective from the review request date - treating the review as if it were the filing date of a motion/OSC.</p>	<p>The request for a statutory provision is beyond the scope of the regulations. The Department proposes no change based upon this comment.</p>	<p>No.</p>
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