

(1) Adopt Article 7, Section 111550 to read as follows:

Chapter 1. Program Administration.

Subchapter 1. Operations.

Article 7. Staff Requirements.

Section 111550. Bonding of Employees.

(a) Each local child support agency shall:

(1) Obtain a surety bond against losses resulting from employee dishonesty for every employee who receives, disburses, handles, or otherwise has access to any child support funds or support collections under the child support enforcement program required by Title IV-D of the Social Security Act.

(2) Ensure surety bonds are established in amounts sufficient to protect the local child support agency against loss from employee dishonesty.

(3) Ensure compliance with the bonding requirements specified in this Section by any other public or private agencies with which a plan of cooperation or purchase of service agreement is established involving any cash handling and/or accounting function.

(b) Bonding requirements may be satisfied by a county's self-bonding or self-insurance program, as permitted by local ordinance, code or local government resolution, if the self-bond or self-insurance is adequate to cover any loss of child support funds or support collections as a result of employee dishonesty.

(c) Any local child support agency that uses a self-bonding or self-insurance program to protect against loss, shall ~~designate~~ identify a county official to certify the

following to the Department: “This county is self-bonded or self-insured for an amount adequate to cover any loss of child support funds or support collections as a result of employee dishonesty.”

(d) Each local child support agency shall make available, upon the request of the Department, proof of bonding by providing:

(1) A copy of the bond that meets the requirement specified in subsection (a)(1) above; or

(2) The certification specified in subsection (b)(1) for self-bonded or self-insured counties.

(e) In no case shall any bonds or insurance acquired in compliance with this section reduce or limit the liability of the county or the local child support agency for losses of child support collections.

NOTE: Authority cited: Sections 17306, 17310, and 17312, Family Code.
Reference: 42 United States Code, Section 654(14)(A); and 45 Code of Federal Regulations, Section 302.19.

FINAL STATEMENT OF REASONS

Update of Initial Statement of Reasons

The Bonding of Employees regulations described in the Initial Informative Digest/Policy Statement Overview (found behind Tab 1 in the Notice of Proposed Action) are already in place on an emergency basis (OAL File No. 02-0716-02E) and have been adopted on a permanent basis by this certificate of compliance rulemaking. However, a change has been made as a result of public comments as evidenced later in this document.

The Department of Child Support Services (Department) is required by Family Code Section 17306(d) to consult with a wide array of statutorily specified stakeholders. These stakeholders include: counties, custodial and noncustodial parent advocates, labor organizations, judiciary, and legislative committees. The Department met these requirements through a series of consultative interactions. During the emergency rulemaking process, which preceded this certificate of compliance rulemaking, the Department distributed the draft regulations for review first by county representatives only, and then by a diverse group of stakeholders identified on the "Stakeholders" distribution list included in Attachment A of this Final Statement of Reasons. Also, the certificate of compliance process requires at least a 45-day public comment period. This requirement was complied with and the mailing list to whom the regulations were mailed is provided in the permanent rulemaking file behind Tab 2. Finally, the regulations text was posted on the Department's public website at <http://www.childsup.cahwnet.gov/> for the full 45 day public comment period making it available for anyone to comment.

Section 111550. Subsections (b) and (c) were amended to clarify that the self-bonding or self-insurance must be adequate to cover losses of all child support funds, including child support collections. Subsection (a) sets forth the extent to which local child support agencies must be bonded, and specifies that the bond must cover losses resulting from employee dishonesty for all employees who have access to any child support funds or support collections. Subsection (b) simply provides an alternative mechanism for satisfying the requirement that the local child support agencies be bonded. It does not alter the scope of the bonding requirements. Subsection (c) simply defines how the local child support agency submits certification that the county is self-bonded or self-insured. It also does not alter the scope of the bonding requirements. During the public comment period, a commenter suggested that subsections (b) and (c) would be clearer if they also referenced losses of child support collections. Although the Department does not believe this additional language changes the meaning of these subsections, as the scope of the bonding requirements was fully set forth in subsection (a), the Department agreed that for the sake of clarity, the change would be made.

The Department determined that, pursuant to Title 1, Section 40 of the California Code of Regulations, this change was nonsubstantive and did not require renote in that it

clarified, without materially altering the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text.

Documents Relied Upon

None.

Local Mandate Determination:

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

These regulations do not affect businesses generally, only those that choose to contract with a local child support agency for performance of a function that involves cash handling or accounting of child support program funds and collections. Additionally, these regulations do not impose a new requirement, but rather re-state an existing requirement found in federal regulation (45 CFR 302.19) and this regulation was previously contained in the Appendix 1 of Division 12 of the Manual of Policies and Procedures. The Department is not aware of any local child support agencies currently contracting with any business and/or employees that would be affected by this regulation. If local child support agencies were to contract with any business and/or employees to handle IV-D funds in the future, the impact of these regulations to be bonded is minimal. It is expected that, due to the magnitude of funds being handled, such businesses would likely already be bonded to prevent against employee dishonesty. The Department therefore assumes these regulations will have no potential fiscal impact to businesses and/or employees.

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.