

TO BE RESCINDED

5101:12-60-50 **Termination of support.**

(A) The following definitions are relevant to terminating a support apply to this rule:

- (1) "Age of majority" has the same meaning as in section 3109.01 of the Revised Code.
- (2) "Child support order" has the same meaning as in section 3119.01 of the Revised Code.

(B) The child support enforcement agencies (CSEA) shall use the following forms during the support order termination process:

- (1) JFS 07617, titled "Notice of Child Support Investigation - Termination of Support" (01/2005), is used by the CSEA to document the results of its termination investigation.
- (2) JFS 07615, titled "Notice of Child Support Investigation - Continuation of Support" (11/2002), is used by the CSEA to document that the results of its investigation showed that support should continue.
- (3) JFS 07622, titled "Administrative Termination Hearing Decision - Continuation of Support" (11/2002), is used by the CSEA after a hearing has been requested and a decision rendered, and the final administrative order is for continuation of support.
- (4) JFS 07618A, titled "Administrative Order to Impound Child Support" (07/2002), and JFS 07618J, titled "Order to Impound Child Support" (07/2002), are used to order the impounding of any further child support payments.
- (5) JFS 07619, titled "Notice of Administrative Termination Hearing" (07/2002), is used to notify the obligor and the obligee of the date, time and location of the hearing.
- (6) JFS 07620, titled "Administrative Termination Hearing Decision" (03/2003), is used to submit the findings of the administrative hearing to the court for inclusion in a revised court order or, as an administrative child support order if administrative.
- (7) JFS 07513, titled "Administrative Termination Order - Contested" (11/2002), is

used to recommend the administrative hearing decision be approved and adopted when neither party objected to the decision.

- (8) JFS 07514, titled "Administrative Termination Order" (10/2002), is used by the CSEA to order that the investigation be approved and adopted when neither party objected to the termination investigation.
- (9) JFS 07515, titled "Termination Order - Contested" (10/2002), is used to recommend that the administrative hearing decision be approved and adopted by the court.
- (10) JFS 07516, titled "Termination Order" (10/2002), is used when neither party objected to the termination investigation and that the CSEA recommends that the termination investigation be approved and adopted by the court.
- (11) JFS 04047, titled "Order/Notice to Withhold Income for Child Support" (rev. 12/2002), is used to notify an employer to deduct money subject to a child support order.
- (12) JFS 04043, titled "Notice to Payor/OBES Office of Unemployment Compensation/Financial Institution to Terminate the Withholding of from Obligor Obligor's Income/Assets" (rev. 12/2005), is used to notify any payor that withholding will cease.

(C) A child support order may be terminated for any of the following reasons:

- (1) The child's attainment of the age of majority related to full-time attendance at an accredited high school;
- (2) The child's death;
- (3) The child's marriage;
- (4) The child's emancipation;
- (5) The child's enlistment in the armed services;
- (6) The child's deportation; or
- (7) Change of legal custody of the child.

(D) If there are reasons for termination that are not authorized for administrative termination, parties may be advised to file a private judicial action.

(E) Termination investigation.

(1) On receipt of a notice from an obligee or obligor, the CSEA administering a child support order shall complete an investigation within twenty calendar days after receipt of the notice. The agency may conduct an investigation on its own initiative if it has reason to believe that there may be a reason for which the order should terminate. The JFS 07617 will be used to advise parties to an administrative order of the investigation results and to advise the court of those results. The investigation shall address the following:

(a) Whether there is a reason to terminate the order;

(b) If there are other children included in the order;

(c) If the obligor owes arrears;

(d) Whether to continue withholding for arrears;

(e) Overpayments made to the obligee, if any; and

(f) Whether child support amounts paid pursuant to the order being investigated should be impounded because the continued payment and disbursement of those amounts will create an overpayment by the obligor.

(2) The investigation will include calculation of the formula for the continuing support of the remaining children, if any. The formulas for the two types of parenting arrangements are as follows:

(a) When the child support order is for a sole parenting arrangement or a shared parenting arrangement, the CSEA shall divide the child support due annually and per month under the order by the number of children subject to the order, and subtract the amount due for the child for whom the order should be terminated from the total child support amount due annually and monthly to calculate a revised child support payment order.

- (b) When the child support order was calculated for a split custody arrangement, the CSEA shall use the existing worksheet and shall divide the annual and monthly obligation for the non-residential parent of the child for whom support is being terminated by the number of children in the other party's custody, and subtract the amount due for the child for whom the order should be terminated from the total child support amount due annually and monthly under a revised child support payment order. This revised amount of support must then be offset against the other party's support obligation to calculate the revised child support for inclusion in the order. This may result in a new obligor for payment of the child support order and may consequently require a new support enforcement tracking system (SETS) case.
- (3) If arrears are owed, those amounts shall be included in the JFS 07620 and an arrears order shall be recommended in an amount equal to the terminating obligation.
- (4) The termination investigation shall not include a review and adjustment of the order. Termination of a support order for one of the children in the order is a reason sufficient to justify a request for a review and adjustment in a separate proceeding, if there are remaining minor children.
- (5) Whether case closure may be initiated pursuant to rule 5101:1-29-11 of the Administrative Code.

(F) Termination investigation results.

- (1) The JFS 07617 shall be used to document the results of the termination investigation for both administrative and judicial orders. The JFS 07617 advises the obligor and obligee of their right to request an administrative hearing, and includes a request form to return within thirty calendar days from the date of receipt of the notice. Allowing three delivery days from the date of mailing to the date of receipt, provides for a total of thirty-three days from the mailing date of the notice to the required return within thirty days of receipt. If no objections are raised, the investigation results will be included in a revised or terminated order. No revised order will be issued if a hearing is requested.
- (2) If the CSEA determines as a result of an investigation conducted pursuant to this paragraph that the order shall terminate, and that support paid pursuant to the order shall not be impounded, it shall issue a JFS 07617.

- (3) If the CSEA determines as a result of an investigation conducted pursuant to this paragraph that the order shall terminate and that support paid pursuant to the order shall be impounded, it shall:
 - (a) Issue a JFS 07617 and, if the order is a judicial child support order, immediately prepare and send to the court a JFS 07618J; or
 - (b) Issue a JFS 07617 and, if the order is an administrative child support order, issue a JFS 07618A.
- (4) The CSEA that conducts the investigation shall give the obligor and obligee under the order notice of the results of its investigation and a copy of any judicial or administrative impound order. Additionally, the CSEA that conducts the investigation shall give the obligor and obligee:
 - (a) Notice of their right to request an administrative hearing regarding the conclusions of the investigation;
 - (b) Notice of the procedures and time frame deadlines for requesting a hearing;
 - (c) Notice that the conclusions of the investigation will be issued as an administrative order by the agency if the underlying order is an administrative child support order;
 - (d) Notice that the conclusions of the investigation will be submitted to the court for inclusion into a revised or terminated court child support order with no further court hearing if the underlying order is a court child support order; and
 - (e) Notice that no revised administrative or court child support order will be issued if either the obligor or obligee requests an administrative hearing on the investigation conclusions within thirty calendar days of receipt of the JFS 07617. Allowing three delivery days from the date of mailing to the date of receipt, provides for a total of thirty-three days from the mailing date of the notice to the required return within thirty days of receipt.
- (5) The JFS 07615 shall be used to document a termination investigation resulting in a finding that a support order should not terminate.

(G) Hearing rights.

- (1) If an obligor or obligee timely requests an administrative hearing, the CSEA shall schedule a hearing on this issue, give the parties notice of the date, time and location of the hearing via the JFS 07619 and conduct the hearing. On completion of the hearing, the CSEA shall issue a decision utilizing the JFS 07620, which includes a notice stating that the obligor or obligee may object to the decision by filing a motion within thirty calendar days after the issuance of the decision in the court with jurisdiction over a judicial order or the court with jurisdiction to receive pleadings regarding administrative orders. Allowing three delivery days from the date of mailing to the date of receipt, provides for a total of thirty-three days from the mailing date of the notice to the required return within thirty days of receipt. If a hearing is requested when the JFS 07615 has documented that a support order should not terminate, the CSEA shall issue the order utilizing the JFS 07622.
- (2) If neither party objects within the thirty calendar days of receipt of the issuance of the decision, allowing three delivery days from the date of mailing to the date of receipt, which provides for a total of thirty-three days from the mailing date of the notice to the required return within thirty days of receipt, the decision will be final.
- (3) Terminated income withholding. When an order is terminated and there are no arrears and no other children in the child support order, the CSEA shall immediately issue the JFS 04043 to each employer, financial institution or other payor under the order. If the parties object to a court, the court is required to set the case for a hearing. The court is also required to extend the impoundment order while the motion is pending.

(H) Income withholding requirements.

- (1) Amended income withholding. When the child support amount has been revised as a result of termination for one of the children in a child support order, the CSEA shall immediately (on completion of the termination order as described in paragraph (F) of this rule) issue a revised JFS 04047 to each employer, financial institution, or other person or entity that is required to withhold income. The total amount withheld shall be for the revised amount determined according to paragraph (F) of this rule.
- (2) Continued income withholding for outstanding arrearage. When a termination investigation indicates the existence of an outstanding arrearage, and income withholding is already in place, it shall continue at the prior rate.

- (3) Terminated income withholding. When an order is terminated and there are no arrears and no other children in the child support order, the CSEA shall immediately issue the JFS 04043 to each payor, financial institution, or to the office of unemployment compensation.

(I) Disbursement of funds at termination.

- (1) CSEAs are required by section 3119.94 of the Revised Code to return impounded funds to the appropriate person. Disbursement of impounded funds will be calculated as soon as the amount of total arrears and/or overpayment is determined as part of the investigation.
- (2) The obligor's arrearage status and/or the obligee's payment status must be determined.
- (3) If the obligor has outstanding arrears, the amount withheld or deducted from the obligor's personal earnings, income, unemployment benefits, or accounts shall continue until the support obligation has been paid and there are no remaining arrearages.
- (4) Unless the obligor waives recovery, if the obligee receives payment of more than the appropriate amount as determined by the CSEA or court, the amount shall be subject to being repaid as follows:
 - (a) If the order is terminated, the excess amount shall be collected from the obligee; or
 - (b) If the order is being continued for the support of other child(ren), any excess amount shall be considered as a child support credit toward any on-going obligation.

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CERTIFIED ELECTRONICALLY

Certification

10/21/2008

Date

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