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**CHILD SUPPORT PROGRAM  
FTB CHILD SUPPORT COLLECTION PROGRAM**

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**TABLE OF CONTENTS**

**CHAPTER 12-500 FRANCISE TAX BOARD (FTB) CHILD SUPPORT  
COLLECTION PROGRAM REGULATIONS**

	<b>Section</b>
Definitions .....	12-501
General Requirements .....	12-505
Case Submission Standards .....	12-510
Complaints.....	12-515
Over Collections .....	12-520

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**HANDBOOK BEGINS HERE**

- (A) Example 1: To suspend collection action on a bank levy, the FTB informs the financial institution to Afreeze@ an account for the amount of the levy. The bank will not withdraw funds from that account until it receives instructions from the FTB, and the noncustodial parent cannot withdraw the frozen funds.
- (B) Example 2: To suspend collection action on a wage levy, the FTB informs the employer that the wage levy is enforceable, but wages should not be withheld until the employer is provided with further instructions from the FTB.

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- (t) Reserved
- (u) Reserved
- (w) Reserved
- (x) Reserved
- (y) Reserved
- (z) Reserved

NOTE: Authority cited: Sections 10553, 10554, 11475, and 11479.5, Welfare and Institutions Code. Reference: Section 11350.6, Welfare and Institutions Code; 45 CFR 302.12; and Sections 19271 and 19271.5(a), Revenue and Taxation Code.

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**12-510**                      **CASE SUBMISSION STANDARDS**                      **12-510**  
(Continued)

- .12 If there is a child support delinquency at the time the case is opened by the district attorney, the case shall be referred to the Franchise Tax Board no later than 90 days after the receipt of the case by the district attorney.
- .13 The case does not meet the exemption criteria specified in Section 12-510.3 or Section 12-510.4.
- .2 The district attorney may refer any Title IV-D case which meets the following criteria:
  - .21 The case contains a child support order and either of the following:
    - .211 The case contains a child support obligation that is 30 days or more past due; or
    - .212 The case is not delinquent, subject to the restrictions of Section 19271.5 of the Revenue and Taxation Code.
- .3 A district attorney shall not refer delinquent cases that conform to the provisions of Revenue and Taxation Code Section 19271(e)(3).

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**HANDBOOK BEGINS HERE**

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- .31 Revenue and Taxation Code Section 19271(e)(3) states that the district attorney shall not refer or the FTB collect on delinquent cases referred to the FTB Child Support Collection Program if the following conditions exist: 1) a court has ordered an obligor to make scheduled payments on a child support arrearages obligation and 2) the obligor is in compliance with a judgement or order for support as defined in Section 12-501.2(c)(1).

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- .4 A case that meets the criteria specified in Section 12-510.1 need not be referred to FTB if any of the following conditions exist:
  - .41 An earnings assignment order or a notice of assignment has been served on the obligated parent's employer and court-ordered support is being paid pursuant to the earnings assignment order or the notice of assignment, or at least 50 percent of the obligated parent's earnings are being withheld for support.
  - .42 A jurisdiction outside this state is enforcing the support order.



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**12-515 COMPLAINTS** (Continued)**12-515**

- .24 To make a determination about a claim of hardship, the district attorney shall:
- .241 Review documentation provided by the noncustodial parent.
  - .242 Consider the examples of circumstances evidencing hardship provided in Family Code Section 4071.
- .25 If the district attorney cannot make a determination of the claim of hardship within five working days of receiving documentation from the noncustodial parent, the district attorney shall advise the FTB to suspend collection action until further notice. (See definition of **Suspend Collection Action** at Section 12-501.2(s)(1).)
- .26 The district attorney shall make a determination on a claim of hardship, in compliance with Section 706.075 of the Code of Civil Procedure, within 15 days of receiving the claim and the requested documentation, or the district attorney must withdraw the case from the FTB Child Support Collection Program until such time that the hardship determination is made.
- .261 If a delay of a determination of a claim of hardship is due to the noncustodial parent's failure to provide the requested documentation, the district attorney may proceed with collection action on the case.
  - .262 If it is determined that a hardship exists, the district attorney may withdraw the case, notify the FTB to reduce the amount of money being withheld through a wage levy, and/or reduce the amount of money to be withheld from a lump sum levy.
    - (a) The FTB shall be informed of the hardship determination and any changes in collection action within five working days of the date of the determination, or by the last day of the 15-day time frame defined at Section 12-515.26, whichever occurs first.
  - .263 The noncustodial parent shall be notified in writing of the results of the district attorney's determination within 15 working days of that determination.
    - (a) The notice shall include information concerning the noncustodial parent's right to seek a review of the district attorney's determination in court, and shall include information pertaining to any time limits within which a request for review must be filed with the court.
- .3 If a noncustodial parent challenges the referral of his or her case to the FTB Child Support Collection Program because of a dispute about the existence of, or the amount of, a past due balance, the district attorney shall make a determination about the disputed balance in accordance with the following:



**12-515**                      **COMPLAINTS** (Continued)                      **12-515**

- .342 If the district attorney cannot make a determination about a disputed portion of a past due balance within five working days of receipt of documentation from the noncustodial parent, the district attorney shall advise the FTB to suspend collection action on the disputed amount until further notice. (See definition of ASuspend Collection Action® at Section 12-501.2(s)(1).)
  - (a) Within 15 days of initial contact from the noncustodial parent and receipt of all requested documentation, the district attorney shall make a determination concerning the disputed portion of a past due balance, or the district attorney must notify the FTB of a decrease in the past due balance proportionate to the disputed balance amount by the last day of the 15-day time frame.
  - (b) If it is determined that the past due balance is less than the balance amount referred to the FTB, the district attorney shall inform the FTB of the balance decrease within five working days of the date of the determination, or by the last day of the 15-day time frame defined at Section 12-515.342(a), whichever occurs first.
- .35 If a determination concerning the existence of, or the amount of, a disputed balance is delayed due to the noncustodial parent's failure to provide requested documentation or proof of payment, the district attorney may proceed with collection action on the case.
- .36 The noncustodial parent shall be notified in writing of the results of the district attorney's determination within 15 working days of that determination.
  - .361 The notice shall include information concerning the noncustodial parent's right to seek a review of the district attorney's determination in court, and shall include information pertaining to any time limits within which a request for review must be filed with the court.

NOTE: Authority cited: Sections 10553, 10554, 11475, and 11479.5, Welfare and Institutions Code. Reference: 45 CFR 303.72; Section 19271, Revenue and Taxation Code; Section 12419.5, Government Code; Sections 706.051 and 706.075, Code of Civil Procedure; and Section 4071, Family Code.

**12-520 OVER COLLECTIONS****12-520**

- .1 If a collection occurs in excess of the past due balance amount, and state and federal support distribution requirements are satisfied, the district attorney shall reimburse the over paid amount to the noncustodial parent.
- .11 The reimbursement shall be issued within 15 working days of the day the district attorney determined the amount due the noncustodial parent.
- .12 When an over collection is refunded to the noncustodial parent and is returned by the post office as undeliverable, the district attorney shall:
- .121 Attempt to find a current address through standard locate sources.
- .122 Deposit and retain the undeliverable over collection in a trust fund until one of the following occurs:
- (a) The location of the noncustodial parent becomes known to the district attorney and the amount of the over collection is refunded to the noncustodial parent; or
- (b) The undeliverable over collection has remained in the trust fund for three years.

NOTE: Authority cited: Sections 10553, 10554, 11475, and 11479.5, Welfare and Institutions Code.  
Reference: Section 50050, Government Code.

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**TABLE OF CONTENTS**

**CHAPTER 12-600 REAL PROPERTY LIENS**

	<b>Section</b>
Definitions .....	12-601
General Requirements .....	12-602
Cases to be Recorded .....	12-603
When to Record.....	12-604
Where to Record.....	12-605
What to Record.....	12-606

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**CHAPTER 12-600 REAL PROPERTY LIENS****12-601 DEFINITIONS****12-601**

- .1 Definitions of terms used in these regulations, which are common to the Child Support Enforcement Program, are found in MPP Section 12-701.
- .2 When used in these regulations, unless the context otherwise indicates:
  - a. (Reserved)
  - b. (Reserved)
  - c. (Reserved)
  - d. (Reserved)
  - e. (Reserved)
  - f. (Reserved)
  - g. (Reserved)
  - h. (Reserved)
  - i.
    - (1) Initiating cases -- means those cases in which the county commences the child support action.
    - (2) Intercounty cases -- means those cases in which more than one California county is involved in the support action.
    - (3) Interstate cases -- means those cases in which more than one state is involved in the support action.
    - (4) Intracounty cases -- means those cases in which only one jurisdiction within a state or a single county is involved in the support action.
  - j. (Reserved)
  - k. (Reserved)

**12-601 DEFINITIONS (Continued)****12-601**

- l. Lien -- means a charge or encumbrance on real property.
- m. (Reserved)
- n. (Reserved)
- o. (Reserved)
- p. (Reserved)
- q. (Reserved)
- r. Responding cases -- means those cases in which the county receives the child support action for purposes of enforcement.
- s. (Reserved)
- t. (Reserved)
- u. (Reserved)
- v. (Reserved)
- w. (Reserved)
- x. (Reserved)
- y. (Reserved)
- z. (Reserved)

NOTE: Authority cited: Section 11475, Welfare and Institutions Code. Reference: 45 CFR Section 303.103.

**12-602 GENERAL REQUIREMENTS** **12-602**

.1 Each district attorney shall record all support orders/judgments to create liens against real property.

NOTE: Authority cited: Section 11475, Welfare and Institutions Code. Reference: 45 CFR Sections 303.103 and 305.52 and Section 697.320, California Code of Civil Procedure.

**12-603 CASES TO BE RECORDED** **12-603**

.1 The district attorney shall create a real property lien in the following types of cases:

.11 Intracounty cases;

.12 Intercounty responding cases;

.13 Interstate responding cases; and

.14 Interstate initiating cases.

.141 Liens shall be created in these cases only if the absent parent is known to have, or is likely to acquire, real property interests in California.

NOTE: Authority cited: Section 11475, Welfare and Institutions Code. Reference: 45 CFR Sections 303.103 and 305.52 and Section 697.320, California Code of Civil Procedure.

**12-604 WHEN TO RECORD** **12-604**

.1 The district attorney shall create a lien at the time that each new order, or modification to an existing order, is entered.

.11 Liens in existing cases shall be created as the cases are processed by the district attorney.

NOTE: Authority cited: Section 11475, Welfare and Institutions Code. Reference: 45 CFR Sections 303.103 and 305.52 and Section 697.320, California Code of Civil Procedure.

**12-605 WHERE TO RECORD****12-605**

- .1 The district attorney shall record real property liens:
  - .11 In the county in which the absent parent resides;
  - .12 In the county in which the absent parent's parent(s) reside, if known and different from the absent parent's county; and
  - .13 In any other county in which the absent parent is known to have, or could reasonably be expected to acquire, real property.

NOTE: Authority cited: Section 11475, Welfare and Institutions Code. Reference: 45 CFR Sections 303.103 and 305.52 and Section 697.320, California Code of Civil Procedure.

**12-606 WHAT TO RECORD****12-606**

- .1 The district attorney shall record one of the following:
  - .11 An abstract of support judgment or
  - .12 A certified copy of the judgment.
- .2 All liens shall be extended and re-recorded unless the judgment is satisfied or the judgment lien is released.

NOTE: Authority cited: Section 11475, Welfare and Institutions Code. Reference: Section 697.320, California Code of Civil Procedure.

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**CHILD SUPPORT PROGRAM  
FTB INTERCEPT REGULATIONS**

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**TABLE OF CONTENTS**

**CHAPTER 12-700 FRANCHISE TAX BOARD (FTB) AND FINANCIAL MANAGEMENT  
SERVICES (FMS) TAX REFUND INTERCEPT REGULATIONS**

	<b>Section</b>
Definitions .....	12-701
General Requirements .....	12-702
FTB Eligibility Requirements.....	12-703
FMS Eligibility Requirements .....	12-704
Bankruptcy.....	12-705
Interstate Submissions.....	12-706
Certification .....	12-707
Submission Criteria for FC Cases and State-Only Aided Cases .....	12-708
Intercept Warning Notice to Noncustodial Parents (NCPs).....	12-709
Updates .....	12-710
Allocation of Intercept Collections .....	12-711
Administrative Review Procedures .....	12-712
Instructions for Returning Excess Intercepts.....	12-713
FMS Offset Fees.....	12-714
Submission Audits.....	12-715
Joint IRS Returns .....	12-716
Negative FMS Adjustments.....	12-717

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**CHAPTER 12-700 FRANCHISE TAX BOARD (FTB) AND FINANCIAL MANAGEMENT SERVICES (FMS) TAX REFUND INTERCEPT REGULATIONS****12-701 DEFINITIONS****12-701**

When used in these regulations, unless the context otherwise indicates:

- (a) (1) Adult disabled children -- means while a minor, was determined to be disabled under Title II or Title XVI of the Social Security Act.
- (2) Affidavit -- means a sworn statement in writing made under oath or an affirmation before an authorized officer.
- (3) Arrearages -- means unpaid child support payments for past periods owed by a parent who is obligated by court order to pay.
- (4) Assignment of Support Rights -- means an assistance eligibility requirement whereby all applicants/recipients must assign to the state all rights to support paid in their behalf or in behalf of a dependent child for whom assistance is sought or paid.
- (5) Assistance -- means recipient of California Work Opportunity and Responsibility to Kids (CalWORKs), Foster Care, former recipient of Aid to Families with Dependent Children (AFDC), and any federally funded program paid under Title IV-A of the Social Security Act.
- (b) Reserved
- (c) (1) Certify -- means to vouch formally under penalty of perjury for the accuracy of facts by a signed writing.
- (2) Child Support -- means a legally enforceable obligation assessed against an individual for the support of a dependent child.
- (3) Custodial Parent -- means the person with legal custody under a court order.
- (d) (1) Disability -- means the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.
- (2) District Attorney -- means the single organization unit located in the office of the district attorney (County Family Support Division) in each California county charged with the responsibility for enforcement of support orders.
- (e) Reserved

**12-701 DEFINITIONS** (Continued)**12-701**

- (f) (1) Federal Aid Categories -- means those aid programs established under CalWORKs in which there is an assignment of support rights: CalWORKs Family Group, CalWORKs Legal Immigrants Family Group, CalWORKs Unemployed, CalWORKs Legal Immigrants Unemployed, Foster Care, Federal/Foster Care Voluntary, Emergency Assistance, Unemployed, and Emergency Assistance Foster Care.
- (2) Financial Management Services (FMS) -- means the federal government agency responsible for collecting federal income taxes and administering the federal administration offset program. On January 1, 1999, the federal income tax refund offset program was transferred from the Internal Revenue Service (IRS) to the federal Department of the Treasury's FMS.
- (3) Franchise Tax Board (FTB) -- means the state government agency in California responsible for collecting state income taxes.
- (g) Reserved
- (h) Reserved
- (i) (1) Initiating State -- means the state in which a Uniform Interstate Family Support Act (UIFSA) proceeding is commenced and where the noncustodial (NCP) or custodial parent is located.
- (2) Intercept -- means an amount of money taken from an obligated parent's state or federal income tax refund to satisfy a child support debt.
- (3) Intercounty Cases -- means those cases in which another California county is involved in the tax intercept either as the submitting county or the county where the child support order was issued.
- (4) Interstate Cases -- means those cases in which another state is involved in the tax intercept either as the submitting state or the state where the child support order was issued.
- (j) Reserved
- (k) Reserved
- (l) Reserved
- (m) (1) Medical needy only -- means any individual who has been determined eligible for or is receiving Medi-Cal under Title XIX of the Social Security Act, but is not receiving, nor deemed to be receiving aid under Title IV-A or IV-E of the Act.
- (n) (1) Non-assistance -- means a Title IV-D case that is not currently receiving assistance under CalWORKs (which includes the legal immigrant program), Foster Care, and any federally funded program paid under Title IV-A of the Social Security Act.

**12-701**      **DEFINITIONS** (Continued) **12-701**

- (2) Noncustodial parent (NCP) -- means any individual who does not have primary physical custody of the child(ren) and who is legally responsible for providing financial support for the dependent child(ren).
  
- (3) Non-Federal Aid Categories -- means those non-assistance programs established under CalWORKs in which there is an assignment of support rights: CalWORKs Family Group, Non-Federal; CalWORKs Legal Immigrants Family Group, Non-Federal; CalWORKs Unemployed, Non-Federal; CalWORKs Legal Immigrants Unemployed, Non-Federal; and Foster Care, Non-Foster.
  
- (o) (1) Obligation -- means the amount of money to be paid as support by the absent or custodial parent pursuant to the terms of the court order.
  
- (2) Order -- means a direction of a magistrate, judge, or properly empowered administrative officer to a person, made or entered in writing.
  
- (p) Reserved
  
- (q) Reserved
  
- (r) (1) Registration -- means a procedure set up by state law to adopt a judgment of a foreign jurisdiction as if it were from a California court. This procedure is used to enforce the foreign judgment in California.
  
- (2) Responding State -- means a state receiving and acting on an interstate child support case.
  
- (s) (1) Spousal Support -- means a legally enforceable obligation assessed against an individual for the support of a spouse or former spouse who is living with a child or children for whom the individual also owes support.
  
- (t) (1) Temporary Assistance for Needy Families (TANF) -- means the federal aid program which replaces the Aid to Families with Dependent Children (AFDC). The California aid program is California Work Opportunity and Responsibility to Kids CalWORKs). The federal income tax refund and administrative offset programs require states to submit files as TANF or non-TANF.
  
- (2) Title II of the Social Security Act (Sections 202, 205, 216, 221, 222, 223, and 1102) -- means that portion of federal law establishing and prescribing the Old Age, Survivors, and Disability Insurance Benefits Program.
  
- (3) Title IV-D or IV-D -- of the Social Security Act (Sections 451, 452, 453, 454, 457, and 460) means that portion of the federal law establishing and prescribing the Child Support Enforcement Program.

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**12-701**      **DEFINITIONS** (Continued) **12-701**

- (4) Title XVI of the Social Security Act (Sections 202, 205, 216, 222, 223, 225, and 1102) -- means that portion of federal law establishing and prescribing the Supplemental Security Income for the Aged, Blind, and Disabled Program.
  
- (u) (1) Uniform Interstate Family Support Act (UIFSA) -- means a uniform law that permits establishment and enforcement of support orders when the child lives in one jurisdiction and the noncustodial parent lives in another.
  
- (v) Reserved
  
- (w) Reserved
  
- (x) Reserved
  
- (y) Reserved
  
- (z) Reserved

NOTE: Authority cited: Sections 17302 and 17400, Family Code. Reference: Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) Sections 103 [42 U.S.C. 401(a)] and 321 [42 U.S.C. 666]; Section 17400, Family Code; Section 4900 et seq., Family Code; Office of Child Support Enforcement Action Transmittal 98-17, Sections I. and II.; and 20 CFR 404.1505.

**12-702**      **GENERAL REQUIREMENTS** **12-702**

- .1 Each local child support agency shall submit to DCSS all eligible cases as prescribed in Manual of Policies and Procedures Sections 12-703 and 12-704.
  
- .2 The local child support agency shall conduct ongoing reviews to determine which cases require a social security number to qualify for tax refund intercept.
  
- .3 When necessary for submission, the local child support agency shall obtain the obligor's social security number within 180 days from the date the case is identified as being deficient. Whenever a local child support agency has exhausted all available resources and the social security number is still unavailable, the local child support agency shall document all actions taken in the case file.

NOTE: Authority cited: Sections 17302 and 17400, Family Code. Reference: Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193); Office of Child Support Enforcement Action Transmittal 98-17, Section I.B.; and Section 17400, Family Code.

**12-703 FTB ELIGIBILITY REQUIREMENTS****12-703**

- .1 Eligible cases shall meet the following minimum requirements:
- .11 The case shall contain a child support order established by a court of competent jurisdiction. Orders originating outside California must be registered by the submitting local child support agency.
  - .12 Title IV-D assistance and non-assistance cases are eligible.
    - .121 Assistance cases shall include an assignment of support rights.

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**HANDBOOK BEGINS HERE**

- .122 Non-assistance Title IV-D cases do not require an assignment of rights; however, the local child support agency will obtain a copy of the payment record and/or an affidavit signed by the custodial parent attesting to the amount of support owed.
- .13 Counties can submit less than the minimum criteria (FTB - \$100). The DCSS Integrated Data Base (IDB) system will consolidate all counties' arrearages and if the combined arrearages meet the minimum criteria for submission, DCSS will include the case for submission.

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**HANDBOOK ENDS HERE**

- .14 The arrearage shall include all monies owed to the certifying local child support agency, overdue child support, and any other related costs included in the court order.

NOTE: Authority cited: Sections 17302 and 17400, Family Code. Reference: Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193); 45 CFR 303.102; Section 708.730, Code of Civil Procedure; Section 12419.5, Government Code; and Section 17400, Family Code.

**12-704 FMS ELIGIBILITY REQUIREMENTS****12-704**

- .1 Eligibility for FMS intercept shall meet the following requirements:
- .11 The Title IV-D agency shall have an assignment of support right as established in Section 402(a)(26) of the Social Security Act.
    - .111 A case shall contain a delinquent amount of child support established by a court of competent jurisdiction or an administrative process.
    - .112 The county is responsible for enforcing the child support obligation.
    - .113 Title IV-D assistance and non-assistance cases are eligible.
    - .114 Interest charges may be included in the amount certified for offset by the FMS.
  - .12 Both assistance and non-assistance cases shall be submitted to the FMS and all assistance cases shall include an assignment of support rights.

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**HANDBOOK BEGINS HERE**

- .13 Counties can submit less than the minimum criteria (FMS TANF - \$150, FMS non-TANF - \$500). The DCSS Integrated Data Base (IDB) system will consolidate all counties' arrearages and if the combined arrearages meet the minimum criteria for submission, DCSS will include the case for submission.

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**HANDBOOK ENDS HERE**

**12-704 IRS ELIGIBILITY REQUIREMENTS (Continued)****12-704**

- .14 Title IV-D assistance case eligible requirements:
  - .141 In assistance cases spousal support can be included into the amount submitted only when a single order exists for both spousal and child support.
- .15 Title IV-D non-assistance case eligible requirements:
  - .151 The support obligation amount due is owed to a minor or a person acting on his/her behalf.
  - .152 The county shall review its records to determine if a non-assistance case in arrears also has an assistance case with arrearage.
  - .153 Spousal support is eligible for certification if it is included in the child support order.
- .16 If the submitting county cannot verify the amount owed using a copy of the payment records, the custodial parent shall sign an affidavit attesting to the amount of the child support arrears.
- .17 The Title IV-D agency shall retain a copy of all pertinent child support orders. In non-assistance cases the county shall obtain the custodial parent's current address.
- .18 Before submitting essential case information, the name and social security number of the noncustodial (NCP) parent and arrears owed shall be verified as correct by the county **local child support agency**.

NOTE: Authority cited: Sections **17302** and **17400**, **Family** Code. Reference: Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) Section 103 [42 U.S.C. 401(a)]; Section **17400**, **Family** Code; and Office of Child Support Enforcement Action Transmittal 98-17, Section II.B.

**12-705 BANKRUPTCY****12-705**

- .1 A county may not certify a case in which the noncustodial parent or his or her spouse has filed for bankruptcy under Chapters VII, XI, XII, or XIII of Title 11 of the United States Code unless the automatic stay under 11 U.S.C. 362(h) of the Bankruptcy Code has been lifted or is no longer in effect and the obligation was not discharged by the bankruptcy proceeding.

NOTE: Authority cited: Sections **17302** and **17400**, **Family** Code. Reference: Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) Section 321 [42 U.S.C. 666]; Office of Child Support Enforcement Action Transmittal 98-17, Section II.D.

**HANDBOOK BEGINS HERE**

- .1 The FMS Tax Refund Intercept Program is a federal enforcement program; therefore, registration of another state's court order in a California court is not required prior to submission to FMS.

**HANDBOOK ENDS HERE**

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- .2 The county in which the aid assignment or non-assistance application for Title IV-D services has been filed must submit the past-due support for federal tax refund or administrative offset.
- .3 If a county submits a case for federal income tax refund or administrative offset on the basis of another state's child support order, the submitting county shall comply with the other state's laws regarding offsets.
- .4 When determining the arrears amount for certification, the submitting jurisdiction shall provide the current arrearage at the time of certification.

.41 Multiple Orders

- .411 If there are multiple orders in the case being certified and a tribunal has entered a Controlling Order determination under UIFSA, the amount of the arrears determined pursuant to the UIFSA registration action is binding upon all other jurisdictions.
- .412 A jurisdiction that issued one of the multiple orders used in the Controlling Order determination may certify the arrears owed under their order as determined by the tribunal issuing the Controlling Order determination.
- .5 If an intercept is received, the submitting jurisdiction shall notify the other jurisdiction of the collection.

NOTE: Authority cited: Sections 17302 and 17400, Family Code. Reference: Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) Section 103 [42 U.S.C. 401(a)]; Section 17400, Family Code; and Office of Child Support Enforcement Action Transmittal 98-17, Sections I. and II.E.

**12-707 CERTIFICATION****12-707**

- .1 Local child support agency shall ensure that requests for tax refund, lottery, and administrative intercepts are submitted properly and contain correct information identifying the NCP and the amount of delinquency.
- .2 Local child support agency shall complete and sign a statement certifying under the penalty of perjury the accuracy of the information submitted.

NOTE: Authority cited: Sections 17302 and 17400, Family Code. Reference: Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193); 45 CFR 303.102; Section 708.730, Code of Civil Procedure; Section 12419.5, Government Code; Section 17400, Family Code; and Office of Child Support Enforcement Action Transmittal 98-17, Section I.A.

**12-708 SUBMISSION CRITERIA FOR FC CASES AND STATE-ONLY AIDED CASES 12-708**

- .1 Foster Care (FC) cases shall meet the following submission requirements:
  - .11 Federal FC cases with arrearages will be submitted as TANF FMS Tax Refund Intercept Program cases.
  - .12 State-only and county-only FC cases with arrearages shall only be submitted as non-TANF FMS Tax Refund Intercept Program cases.
  - .13 Assigned arrearages accrued before going on aid shall be included into the FC arrearage certification.
  - .14 For cases which go on and off aid, all arrearages shall be assigned through the last month aid is collected.
- .2 Non-Federal aid category cases shall be submitted as non-TANF FMS Tax Refund Intercept Program cases.
- .3 Federal Aid Category cases shall be submitted as TANF FMS Tax Refund Intercept Program cases.

NOTE: Authority cited: Sections 17302 and 17400, Family Code. Reference: Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) Section 103 [42 U.S.C. 401(a)]; Office of Child Support Enforcement Action Transmittal 98-17, Section I.B.; and Section 17400, Family Code.

**12-709 INTERCEPT WARNING NOTICE TO NONCUSTODIAL PARENTS (NCPs) 12-709**

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**HANDBOOK BEGINS HERE**

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- .1 NCPs will be notified by DCSS prior to intercept that his/her name will be referred for FTB and/or FMS tax interception.
  - .11 The Child Support Warning Notice (DPS 236) will contain, at a minimum, the following information:
    - .111 Amount certified by the local child support agency at notice issuance.
    - .112 The name, address, and phone number of the county submitting the individual to be intercepted.
    - .113 The NCP's right to contest the referral and request an administrative review within 30 days from the date of notice (see Section 12-712 for complaint procedure).

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**HANDBOOK CONTINUES**

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**12-709 INTERCEPT WARNING NOTICE TO ABSENT PARENTS (Continued) 12-709**

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**HANDBOOK CONTINUES**

- .114 Possible reasons for disagreeing with the action such as no support judgment has been entered against the NCP, the support amount(s) shown as past due is incorrect, or the automatic stay under 11 U.S.C. 362(h) of the Bankruptcy Code has not been lifted or is still in effect.

**HANDBOOK ENDS HERE**

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- .2 If DCSS does not have an address for a submission, the notice will be sent to the submitting local child support agency for addressing and mailing.
- .21 If a local child support agency does not have any address information for an NCP, the local child support agency shall delete the NCP's name from the intercept submission list.
- .3 In cases in which the intercept warning notices are returned as undeliverable by the post office, the local child support agency shall attempt to identify a more current address.
- .31 If a more current address is not available, the notice and envelope shall be placed in the case file and the file annotated to document the attempt to mail.
- .32 Notices that are undeliverable due to clerical or typographical errors shall be corrected and mailed by the local child support agency.
- .33 Cases in which all attempts to notify the NCP have been made, but are unsuccessful shall not be deleted from the intercept process.

NOTE: Authority cited: Sections 17302 and 17400, Family Code. Reference: Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193); 45 CFR 303.72 and 303.102; Section 708.730, Code of Civil Procedure; Section 17400, Family Code; and Office of Child Support Enforcement Action Transmittal 98-17, Sections I. and III.A.

**12-710 UPDATES 12-710**

- .1 Local child support agencies shall update individual case arrearage amounts and submit the updates to DCSS at least monthly when the certified arrearage amount has changed.
- .2 Updates shall be submitted in the manner prescribed by DCSS.

NOTE: Authority cited: Sections 17302 and 17400, Family Code. Reference: Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193); 45 CFR 303.72 and 303.102; Section 708.730, Code of Civil Procedure; Section 17400, Family Code; and Office of Child Support Enforcement Action Transmittal 98-17, Section IV.A.

<b>12-711</b>	<b>ALLOCATION OF INTERCEPT COLLECTIONS</b>	<b>12-711</b>
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**HANDBOOK BEGINS HERE**

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- .1 Intercepted refunds are forwarded to the local child support agency by DCSS.

**HANDBOOK ENDS HERE**

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- .2 Intercepted FMS tax and administrative intercept, FTB tax intercept, and lottery intercept collections must be distributed in accordance with the distribution regulations set forth in Sections 12-415 and 12-420.
- .3 If the amount collected and forwarded to a local child support agency exceeds the current certified arrearage, that local child support agency shall research the statewide master file for additional certified arrearages in other counties.
- .31 If an additional certified arrearage exists in another county, the county shall:
- .311 Confirm the obligation,
- .312 Notify the NCP, and
- .313 Transfer the money to the other county(ies).

NOTE: Authority cited: Sections 17302, 17310, 17312, 17316, 17400, 17402, and 17406, Family Code. Reference: Section 11477, Welfare and Institutions Code; Section 17416, Family Code; Section 695.221, Code of Civil Procedure; Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193), Section 457(a)(2)(B)(iv) [(42 U.S.C. 657(a)(2)(B)(iv)]; and Office of Child Support Enforcement Action Transmittal 97-17, Sections V(a), (b), (c), and (d); and 98-17, Sections I.B. and II.A.2.

**12-712 ADMINISTRATIVE REVIEW PROCEDURES****12-712**

- .1 If an NCP challenges an intercept submission within 30 days after receipt of the "Child Support Warning Notice" (DPS 236) or within 15 days after receipt of the "Offset Notice" (DPS 245), the submitting local child support agency shall attempt to resolve the dispute.
- .2 The submitting local child support agency shall first complete an informal review to attempt to resolve the complaint. The informal review procedure is as follows:
  - .21 The local child support agency shall:
    - .211 Review all necessary legal documents and proof of payment from the NCP.
    - .212 If an intercept notice has been received, attempt to obtain a copy of the notice from the NCP.
    - .213 Audit its records and report the findings to the NCP in writing. Written findings shall inform the NCP of the right to a formal review as provided in Section 12-712.3.
    - .214 Document case records with all actions and findings of such audit.

**12-712 ADMINISTRATIVE REVIEW PROCEDURES (Continued)****12-712**

- .215 If an error was detected, the local child support agency shall:
- (a) Correct all records, accounts receivable, and automated systems.
  - (b) Submit an update to DCSS within five working days.
  - (c) If a tax refund intercept has already been made, the local child support agency shall promptly return any excess money intercepted to the NCP (see Section 12-713, Instructions for Returning Excess Intercepts).
- .3 If the dispute was not resolved by the informal review, the submitting local child support agency must conduct a formal administrative review. The administrative review procedures are as follows:
- .31 The local child support agency shall:
- .311 Provide the NCP with a written notice for requesting a formal administrative review. A sample notice shall be provided by CDSS. District attorneys may substitute their own upon approval by CDSS.
  - .312 Upon receipt of the request, notify the NCP in both assistance and non-assistance cases, and also the custodial parent in non-assistance cases, of the time and place where the review will be conducted in the county. The review may be done either in person or by telephone, if requested by the NCP.
  - .313 Consider all new information and documentation to determine if deletions or modifications are to be made.
  - .314 Report deletions, downward, or upward modifications as a result of an administrative review to DCSS using the standard update format and mailed no later than one day after the decision is made.
  - .315 Promptly notify the NCP of the results of the formal review in writing and return any erroneously intercepted money to the NCP (see Section 12-713, Instructions for Returning Excess Intercepts).

**12-712 ADMINISTRATIVE REVIEW PROCEDURES (Continued)****12-712****.4 Interstate cases**

- .41 "Interstate" cases are those in which another state is involved in the tax intercept.
- .42 The submitting California local child support agency's office shall first attempt to resolve complaints on interstate cases following the procedures outlined in Sections 12-712.1 and .2.
- .43 If the California local child support agency is unable to resolve the complaint and/or the NCP requests an administrative review in the other state, the California local child support agency shall transfer the case using the following procedures:
- .431 The California local child support agency shall:
- (a) Notify the other state of the request for review.
  - (b) Provide the other state with the following information within ten working days of the request:
    - (1) Copy of the order and any modifications.
    - (2) Copy of the payment record or the custodial parent's affidavit.
    - (3) Custodial parent's address.
    - (4) Evidence of assignment or non-assistance application.
    - (5) The issues of the review, including the NCP's position and the local child support agency's position.
    - (6) The certified arrearage (not the current arrearage). If there are cumulative orders which serve as the basis for the submission, it should be clearly indicated that the former state need only verify a portion of the amount submitted for intercept.

**12-712 ADMINISTRATIVE REVIEW PROCEDURES (Continued) 12-712**

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**HANDBOOK BEGINS HERE**

- .432 The other state will be responsible for:
- (a) Notifying the NCP in both FC and non-assistance cases (and also the custodial parent in non-assistance cases) of the time and the place of the review.
  - (b) Conducting the review.
  - (c) Making a decision within 45 days of receipt of the California local child support agency notice and case information.
  - (d) Notifying the submitting California local child support agency of its decision.

**HANDBOOK ENDS HERE**

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- .433 The submitting California local child support agency shall be bound by the decision of the state conducting the review.
- .44 If an intercept has occurred, the submitting California local child support agency shall promptly refund any excess money intercepted to the NCP (see Section 12-713, Instructions for Returning Excess Intercepts).
- .5 If the administrative review process fails to resolve the dispute, the NCP may take further legal action as allowed by law.

NOTE: Authority cited: Sections 17302 and 17400, Family Code. Reference: Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) Section 103 [42 U.S.C. 401(a)]; Section 17400, Family Code; and Office of Child Support Enforcement Action Transmittal 98-17, Section IV.A.

**12-713 INSTRUCTIONS FOR RETURNING EXCESS INTERCEPTS 12-713**

- .1 Before returning offset money, the statewide FTB/FMS master file shall be checked to assure the taxpayer appears on the list and to identify any obligation in another county.
- .11 If the taxpayer is not listed, the county shall contact the DCSS Systems Unit. If the taxpayer is listed for another county(ies), the county shall contact the other county(ies) regarding intercept transfer arrangements.
- .111 The county shall send the taxpayer a letter advising him/her of the transfer.

**12-713 INSTRUCTIONS FOR RETURNING EXCESS INTERCEPTS (Continued) 12-713**

- .2 If there are no additional certified or uncertified arrearages in other counties, local child support agencies shall refund excess monies intercepted to the NCP within 15 working days from the day the county receives the appropriate collection report/file, regardless of whether or not the local child support agency has received the intercepted funds.
- .3 When excess intercepted monies which are refunded to the taxpayer by a local child support agency are returned by the post office as undeliverable, the county shall:
  - .31 Research available county records for another address, using FTB/FMS address information whenever possible, and remail the refund if another address is available.
  - .32 Retain and not return the undeliverable monies to FTB, Lottery, or FMS.
  - .33 Deposit the over offset money into a special fund if a better address is not available.
  - .34 Hold monies for at least three years before disposition from the special fund.
- .4 All monies returned to the taxpayer shall be paid in accordance with the name(s) of the offset notice.

NOTE: Authority cited: Sections 17302 and 17400, Family Code. Reference: Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193); Section 17400, Family Code; Section 708.731, Code of Civil Procedure; and Office of Child Support Enforcement Action Transmittal 98-17, Section I.

**12-714 FMS OFFSET FEES 12-714**

- .1 The county shall pay an offset fee for TANF and non/TANF offsets. the county's share of the offset fee shall be deducted from the county's administrative advance.
  - .11 The amount billed shall be based upon the number of offsets received each month by individual counties and the current FMS charge per offset.
  - .12 Repealed by CDSS Manual Letter No. CS-99-04, effective 11/24/99.

NOTE: Authority cited: Sections 17302 and 17400, Family Code. Reference: Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) Section 103 [42 U.S.C. 401(a)]; Section 17400, Family Code; and Office of Child Support Enforcement Action Transmittal 98-17, Section I.

**12-715 SUBMISSION AUDITS** **12-715**

- .1 Ten percent (10%) of the cases submitted for offset shall be reviewed annually by the counties. If findings warrant, an additional ten percent shall be reviewed. If the problem continues to occur, the sample shall be expanded to address all submissions.

NOTE: Authority cited: Sections 17302 and 17400, Family Code. Reference: Section 17400, Family Code and 45 CFR 303.72(a)(5).

**12-716 JOINT FMS RETURNS** **12-716**

- .1 All joint FMS returns and community property complaints concerning FMS tax refund intercepts shall be referred to the local FMS office.

NOTE: Authority cited: Sections 17302 and 17400, Family Code. Reference: Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193); 45 CFR 303.72 and 303.102; Section 708.730, Code of Civil Procedure; and Section 17400, Family Code.

**12-717 NEGATIVE FMS ADJUSTMENTS** **12-717**

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**HANDBOOK BEGINS HERE**

- .1 If a county has made a refund to the taxpayer and has notified DCSS of this, OCSE shall inform FMS which will then notify the nonobligated spouse that no adjustment will be made.
- .2 If the county has made no payment or partial payment to the taxpayer, FMS will proceed to make the appropriate refund to the nonobligated spouse and adjust the state's account. The adjustment will be passed on to the appropriate county(ies).

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NOTE: Authority cited: Sections 17302 and 17400, Family Code. Reference: Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193); Section 17400, Family Code; and Office of Child Support Enforcement Action Transmittal 98-17.

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**CHILD SUPPORT PROGRAM  
COMPLIANCE AND SANCTIONS**

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**TABLE OF CONTENTS**

**CHAPTER 12-800 COMPLIANCE AND SANCTIONS**

	<b>Section</b>
General.....	12-801
Notice of Noncompliance .....	12-802
County Action Upon Receipt of Notice of Noncompliance.....	12-803
Action Upon Continued Noncompliance By a County.....	12-804
Order to Appear .....	12-805
Requests to Participate in the Compliance Hearing.....	12-806
Compliance Hearing.....	12-807
Director's Findings and Decision, and Sanctions .....	12-808

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**CHAPTER 12-800 COMPLIANCE AND SANCTIONS**

**12-801 GENERAL 12-801**

- .1 Pursuant to the provisions of Welfare and Institutions Code Section 10605, as described in the handbook material in this chapter, and to the provisions of this chapter, the Director shall have the authority to take specified administrative and/or judicial actions if he/she believes that a county is substantially failing to comply with any provision of the Welfare and Institutions Code or any regulation pertaining to any program administered by the Department, and he/she determines that formal action may be necessary to secure compliance.

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- .2 The compliance proceedings described in this chapter are in addition to the Director's power to bring an action for writ of mandamus or such other judicial action as may insure that there is no interruption in the provision of benefits to any eligible person under the provisions of the Welfare and Institutions Code or the regulations of the Department.

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**12-802 NOTICE OF NONCOMPLIANCE 12-802**

- .1 Upon determination of the necessity for formal action to secure compliance, the Director shall provide notice of the noncompliance to the county.
- .11 The notice shall conform to the requirements of Welfare and Institutions Code Section 10605.

**HANDBOOK BEGINS HERE**

- .111 The following portion of Welfare and Institutions Code Section 10605 relates to noncompliance notices:

"If the director believes that a county is substantially failing to comply with any provisions of this code or any regulation pertaining to any program administered by the Department, and the director determines that formal action may be necessary to secure compliance, he or she shall inform the county welfare director and the board of supervisors of that failure. The notice to the county welfare director and board of supervisors shall be in writing and shall allow the county a specified period of time, not less than 30 days, to correct its failure to comply with the law or regulations."

**HANDBOOK ENDS HERE**

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- .12 The notice shall contain the following information in addition to that specified in Section 12-802.11:
- .121 A citation of the statute or regulation with which the Director has determined the county is not in compliance.
  - .122 A statement of facts which supports such determination.

**12-803 COUNTY ACTION UPON RECEIPT OF NOTICE OF NONCOMPLIANCE 12-803**

- .1 If, upon receipt of the notice, corrective action regarding the noncompliance has been taken, the county shall provide such evidence as may be requested in writing by the Director in order to establish that it has come into compliance as directed by the notice.
- .11 In making such a request, the Director shall allow the county a reasonable period of time, not less than the remainder of the period specified in the notice of noncompliance, in which to provide such evidence.
- .2 If the county chooses to provide written reasonable assurances that it will be in compliance in accordance with Welfare and Institutions Code Section 10605 it shall meet the requirements specified in Sections 12-803.211 and .221.

**12-803 NOTICE OF NONCOMPLIANCE (Continued) 12-803**

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**HANDBOOK BEGINS HERE**

- .21 With regard to reasonable assurances, Welfare and Institutions Code Section 10605 states, in pertinent part, that the county may within the specified time for correction, "...provide reasonable assurances in writing that it will comply within the additional time as the director may allow...".

**HANDBOOK ENDS HERE**

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- .211 Such assurances shall be:
- (A) Signed by the county welfare director.
  - (B) Approved by the county board of supervisors.
- .221 If the county cannot comply within the period specified in the notice, it shall provide the Director with the following information:
- (A) The basis for such inability.
  - (B) The additional time necessary to enable compliance.
- .3 If the county fails to comply with the provisions of Sections 12-803.1 or .2, it shall be subject to the provisions of Section 12-804.

**12-804 ACTION UPON CONTINUED NONCOMPLIANCE BY A COUNTY 12-804**

- .1 If the provisions of Sections 12-803.1 or .2 are not met within the specified time period, the Director shall have the authority to take one or both of the following actions:
- .11 Seek injunctive relief, as specified in Welfare and Institutions Code Section 10605.

**12-804 ACTION UPON CONTINUED NONCOMPLIANCE BY A COUNTY**  
(Continued)**12-804**

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- .111 On the subject of injunctive relief, Welfare and Institutions Code Section 10605 states that:

"Any county which is found to be failing in a substantial manner to comply with the law or regulations pertaining to any program administered by the department may be enjoined by any court of competent jurisdiction. The court may make orders or judgments as may be necessary to secure county compliance."

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**HANDBOOK ENDS HERE**

- .12 Conduct a compliance hearing, in accordance with Welfare and Institutions Code 10605(b).

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- .121 With regard to conduct of compliance hearings, Welfare and Institutions Code Section 10605(b) states, in pertinent part, that the Director may "Order the county to appear at a hearing before the director with the State Social Services Advisory Board Committee on Welfare and Social Services to show cause why the director should not take administrative action to secure compliance. The county hearings shall be conducted pursuant to the rules and regulations of the department."

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**HANDBOOK ENDS HERE****12-805 ORDER TO APPEAR****12-805**

- .1 The Order to Appear shall contain information including but not limited to the following:
- .11 The hearing date, which shall be not less than 30 days after the date of the order.
- .12 The hearing location, which shall be in the city in which the principal office of the county welfare department is located, or in such other place as is designated by the Director when necessary for the convenience of the parties or their representatives.

**12-805 ORDER TO APPEAR (Continued) 12-805**

- .2 A copy of the order shall be sent to the county board of supervisors.
- .3 The order shall be published in at least one newspaper of general circulation in the county.

**12-806 REQUESTS TO PARTICIPATE IN THE COMPLIANCE HEARING 12-806**

- .1 The county and the Department shall be considered to be parties to the hearing and need not make a specific request to participate.
- .2 The Director shall have the authority to recognize other individuals or groups as parties, if the county noncompliance to be considered has caused them injury and their interest is among those to be protected by the law or regulation in issue.
  - .21 Any individual or group wishing to participate as a party shall file a petition with the Director within ten days after notice of the hearing has been published in accordance with Section 12-805.3, and shall send a copy to the county welfare director and the county board of supervisors.
  - .22 The petition shall concisely state the following:
    - .221 The petitioner's interest in the proceeding.
    - .222 The person who will appear for the petitioner.
    - .223 The issues upon which the petitioner wishes to participate.
    - .224 Whether the petitioner intends to present witnesses.
  - .23 The county shall be permitted to file comments with the Director regarding the petition to participate provided that such comments are submitted within five days of receipt, in accordance with Section 12-806.21, of a copy of the petition.
  - .24 The Director, or the presiding officer, shall promptly determine whether each petitioner has the requisite interest in the proceedings and shall permit or deny participation accordingly.
    - .241 The Director or presiding officer shall give each petitioner written notice of the decision on his or her petition at least ten days prior to the hearing.
    - .242 If the petition is denied, the notice shall briefly state the grounds for denial.

**12-806 REQUESTS TO PARTICIPATE IN THE COMPLIANCE HEARING 12-806**  
(Continued)

- .25 Where petitions to participate as parties are made by individuals or groups with common interests, the Director or presiding officer shall have the authority to request all such petitioners to designate a single representative, or to recognize one or more of such petitioners to represent all such petitioners.

**12-807 COMPLIANCE HEARING 12-807**

- .1 All parties shall have the following rights during conduct of the hearing:
- .11 To appear by counsel or other authorized representative in all hearing procedures.
  - .12 To make opening statements at the hearing.
  - .13 To present relevant evidence on the issues at the hearing.
  - .14 To present witnesses who then shall be available for cross-examination by the other parties.
  - .15 To present oral and/or written arguments at the hearing.
- .2 The presiding officer at the hearing shall be the Director or his designee.
- .21 The presiding officer shall have the following duties:
    - .211 To conduct a fair and equitable hearing.
    - .212 To avoid delay.
    - .213 To maintain order.
    - .214 To make a record of the proceedings.
  - .22 The presiding officer shall have the following powers:
    - .221 To settle or simplify the issues in the proceeding, or to consider other matters that may aid in an expeditious disposition of the proceeding.
    - .222 To administer oaths and affirmations.
    - .223 To regulate the course of the proceeding and conduct of counsel therein.
    - .224 To examine witnesses.

**12-807 COMPLIANCE HEARING (Continued)****12-807**

- .3 The members of the State Social Services Advisory Board Committee on Welfare and Social Services shall have the following rights at any time during the proceeding:
- .31 To request that testimony be presented on any issue in dispute.
  - .32 To request that a party explain or clarify any argument, evidence, or other matter which is relevant to the issues in dispute.
  - .33 To examine witnesses.
- .4 The rules of the Evidence Code shall not apply to hearings held pursuant to this chapter, with the exception that the presiding officer shall have the authority to exclude irrelevant, immaterial, or unduly repetitious evidence, and shall exclude evidence which is privileged under the Evidence Code if the privilege is claimed in accordance with law.
- .41 All documents and other evidence offered for or taken for the record shall be open to examination by the parties.
  - .42 Opportunity shall be given to refute facts and arguments advanced on either side of the issues.
- .5 If the department and the county agree to stipulations of fact, such stipulations shall be made part of the record.
- .6 Oral testimony by witnesses at the hearing shall be given under oath or affirmation.
- .7 The issues considered at the hearing shall be limited to those issues of which the county was notified pursuant to Section 12-802.1, unless both the Department and the county agree to consideration of a new issue.

**12-808 DIRECTOR'S FINDINGS AND DECISION, AND SANCTIONS****12-808**

- .1 No later than 30 days following the hearing, the Director shall render in writing his/her findings and decision on the county noncompliance issues.

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**12-808 DIRECTOR'S FINDINGS AND DECISION, AND SANCTIONS (Continued) 12-808**

- .2 The Director's written decision shall contain information including but not limited to the following:
- .21 Whether the county has been found to be in compliance, or to be in noncompliance as cited.
  - .22 If the county has been found in noncompliance, whether a sanction is to be invoked, and relevant information regarding the sanction.
    - .221 If the Director finds that the original citation of noncompliance is valid, he/she shall have the authority to decide that one of the sanctions specified in Welfare and Institutions Code Section 10605 shall be invoked.

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**HANDBOOK BEGINS HERE**

- (a) Regarding sanctions, Welfare and Institutions Code Section 10605 states, in pertinent part:

"If the director determines, based on the record established at the hearing and the advice of the State Social Services Advisory Board Committee on Welfare and Social Services, that the county is failing to comply with the provisions of this code or the regulations of the department, ...the director may invoke either of the following sanctions:

- "(1) Withhold all or part of state and federal funds from the county until the county demonstrates to the director that it has complied.
- "(2) Assume, temporarily, direct responsibility for the administration of all or part of any or all programs administered by the department in the county until the time as the county provides reasonable assurances to the director of its intention and ability to comply. During the period of direct state administrative responsibility, the director or his or her authorized representative shall have all of the powers and responsibilities of the county director, except that he or she shall not be subject to the authority of the board of supervisors."

- (b) It should be further noted that this section requires the county to provide sufficient funds for the continued operation of all programs administered by the Department.

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**HANDBOOK ENDS HERE**

**12-808 DIRECTOR'S FINDINGS AND DECISION, AND SANCTIONS (Continued) 12-808**

- .23 Reference to the county's right to judicial review of the Director's decision, as specified in Welfare and Institutions Code Section 10605 shall be invoked.

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**HANDBOOK BEGINS HERE**

- .231 This code section allows the county to seek judicial review of the Director's decision under Code of Civil Procedure Section 1094.5. This method of review is the exclusive remedy available to review the Director's decision.

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**HANDBOOK ENDS HERE**

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- .3 Copies of the decision shall be sent to the following:
- .31 The county welfare director.
  - .32 The county board of supervisors.
  - .33 Other parties to the hearing, if any.