

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12E-1, FLORIDA ADMINISTRATIVE CODE
CHILD SUPPORT ENFORCEMENT PROGRAM
AMENDING RULES 12E-1.030, AND 12E-1.036

12E-1.030 - Administrative Establishment of Child Support Obligations.

(1) through (3) No change.

(4) Obtaining Cooperation from the Petitioner.

(a) If a case is eligible for establishment of an administrative support order the Department must obtain cooperation from the petitioner before serving notice on the respondent. To obtain cooperation, the Department mails the petitioner Form CS-ES96, Request for Information, incorporated herein by reference, effective ____~~08/19/17~~

([http://www.flrules.org/Gateway/reference.asp?No=Ref-____~~08623~~](http://www.flrules.org/Gateway/reference.asp?No=Ref-____08623)); the Financial Affidavit Administrative Proceeding (CS-OA11); ~~and~~ the Parent Information Form (CS-OA12); and the Title IV-D Standard Parenting Time Plan (CS-OA250), except as provided by paragraph (6)(a).

Forms CS-OA11 and CS-OA12 are incorporated by reference in Rule 12E-1.036, F.A.C. The petitioner has 20 days after the mailing date of the forms to complete and return them.

(b) through (c) No change.

(5) Initial Notice.

(a) The Department uses Form CS-OA01, Notice of Proceeding to Establish Administrative Support Order (incorporated by reference in Rule 12E-1.036, F.A.C.), to inform the respondent

that the Department has initiated an administrative proceeding to establish a support obligation.

This notice is referred to as the “Initial Notice”.

1. Along with the Initial Notice, the Department shall provide the respondent with the following documents:

- a. Financial Affidavit Administrative Support Proceeding (CS-OA11); ~~and~~
- b. Parent Information Form Administrative Support Proceeding (CS-OA12); and
- c. Title IV-D Standard Parenting Time Plan (CS-OA250), except as provided by paragraph

(6)(a).

2. No change.

(b) No change.

(6) Title IV-D Standard Parenting Time Plan.

(a) The Department will provide a Title IV-D Standard Parenting Time Plan, form CS-OA250, to each parent as required by section 409.25633, F.S., unless:

1. Florida is not the child’s home state;
2. One or both parents do not reside in Florida;
3. Either parent has requested nondisclosure for fear of harm from the other parent;
4. The parent who owes support is incarcerated; or
5. The parent owed support is a caregiver.

(b) If both parents agree to, sign, and return a parenting time plan to the Department before an administrative Final Order is entered, the parenting time plan will be incorporated into the Final Order. Both parents do not need to sign the same form. If the parents have a judicially established parenting time plan, the plan will not be incorporated in the administrative order.

(6) renumbered to (7), No further change.

~~(8)(7)~~ Proposed Administrative Support Order.

(a) After the Department serves the respondent with the Initial Notice in accordance with paragraph ~~(5)(4)~~(b), no sooner than 20 days after service, the Department shall calculate the respondent's support obligation using the child support guidelines in section 61.30, F.S. If the respondent does not provide financial information within the time required by section 409.2563(13)(a) and (b), F.S., the Department shall impute income as provided by section 61.30(2)(b), F.S. or section 409.2563(5), as applicable.

(b) through (d) No change.

(e) Except as provided by paragraph (6)(a), a blank Title IV-D Standard Parenting Time Plan is included with Form CS-OA20 when the parents do not provide a parenting time plan of their own or do not agree to the Title IV-D Standard Parenting Time Plan.

(e) renumbered to (f), No further change.

~~(9)(8)~~ Informal Discussions.

(a) through (b) No change.

(c) The respondent may contact the Department to discuss the case at any time, however, contact outside the time frame referenced in paragraph ~~(9)(8)~~(b) does not extend the time to request a hearing. If the respondent asks the Department for an informal discussion outside of the time frame referenced above, the Department shall send the respondent Form CS-OA35, Notice of Late Request for Informal Discussion Administrative Proceeding (incorporated by reference in Rule 12E-1.036, F.A.C.), and inform the respondent that the Department will discuss the Proposed Order with the respondent, but will not extend the time to request an administrative hearing.

(d) through (f) No change.

(9) renumbered to (10), No further change.

~~(11)(40)~~ Final Administrative Support Orders. The Department uses Form CS-OA40, Final Administrative Paternity and Support Order (incorporated by reference in Rule 12E-1.036, F.A.C.) to establish the support obligation. Section 409.2563(7)(e), F.S., sets the requirement for the Final Administrative Support Order and the minimum requirements for the content of the order. In addition to the Final Administrative Support Order, the Department enters an Income Deduction Order as part of the Final Administrative Support Order. The respondent is responsible for making the ordered payments to the State Disbursement Unit until the income deduction begins. Once rendered, a Final Administrative Support Order has the same force and effect as a court order and it remains in effect until the Department modifies it, or it is vacated as described in subsection ~~(17)(15)~~, or it is superseded by a court order. If an administrative hearing is held, the administrative law judge shall issue an administrative support order, or a final order denying an administrative support order. If both parents agree to, sign, and return a parenting time plan to the Department before an administrative Final Order is entered, the parenting time plan will be incorporated into the Final Order. If a parenting time plan is not incorporated into the Final Order, the Department will provide each parent a blank Petition to Establish a Parenting Time Plan, except as provided by paragraph (6)(a).

~~(12)(44)~~ A respondent may consent to the entry of a final order any time after the receipt of the Initial Notice. To do this, the respondent must complete and return Form CS-PO384, Waiver of Opt-Out Administrative Proceeding (incorporated by reference in Rule 12E-1.036, F.A.C.), after the respondent receives the Initial Notice Packet. If the respondent returns the Waiver of Opt-Out Administrative Proceeding, Financial Affidavit, and Parent Information Form, the Department sends the respondent Form CS-ES97, Waiver of Administrative Hearing

(incorporated by reference in Rule 12E-1.036, F.A.C.). The Department also sends a copy of the Proposed Administrative Support Order discussed in subsection ~~(8)(6)~~ of this rule. If the respondent completes and returns the CS-ES97, the Department need not wait 27 days from sending the Proposed Order to complete and render a Final Administrative Paternity and Support Order, CS-OA40. If the respondent does not return the CS-ES97, the Department waits at least 27 days after sending the Proposed Order before completing a Final Administrative Paternity and Support Order.

(12) renumbered to (13), No further change.

~~(14)(13)~~ Modifying an Administrative Support Order.

(a) through (c) No change.

(d) The Department shall notify the parents or caregiver when it begins a proceeding to modify the support obligation of an Administrative Support Order.

1. The Department uses Form CS-OA120R, Proposed Order to Modify Administrative Support Order, hereby incorporated by reference effective 9/19/17 (http://www.flrules.org/Gateway/reference.asp?No=Ref-____08625), to modify the support obligation amount when a review indicates a modification is appropriate. If the party that did not request the review responds during the support order review, the Department sends the proposed order by regular mail to both parties to their addresses of record. If the non-requesting party does not participate in the support order review, the Department shall attempt to serve the proposed order on the non-requesting party by certified mail or personal service. If service is not accomplished by certified mail or personal service, the Department shall send the non-requesting party the proposed order by regular mail to the non-requesting party's address of record. If the proposed order is not contested by either party within 30 days of service by certified mail or

personal service, or 35 days after the Notice is sent by regular mail, the Department prepares and renders Form CS-OA140R, Final Modified Administrative Support Order, hereby incorporated by reference effective 9/19/17 (<http://www.flrules.org/Gateway/reference.asp?No=Ref-08626>). Under section 409.2563(13)(c), F.S., a party to an administrative proceeding has a continuing duty to provide the Department with a current mailing address after being served with an initial notice under (5)(b) of this rule and the party is presumed to receive a subsequent notice, proposed order or other document mailed to the party's address of record including a proposed order to modify support.

2. The Proposed Order to Modify Administrative Support Order shall include the same notices as specified in subsection (8)(7) of this rule.

3. Except as provided by paragraph (6)(a), a blank Title IV-D Standard Parenting Time Plan is included with Form CS-OA120R and CS-OA140R when the parents do not provide a parenting time plan of their own or do not agree to a Title IV-D Standard Parenting Time Plan. If a parenting time plan is not incorporated into the Final Modified Administrative Order, a blank Petition to Establish a Parenting Time Plan is provided, except as provided by paragraph (6)(a).

(15)(14) Termination of an Administrative Support Order

(a) through (d) No change.

(e) When the Department begins a proceeding to terminate an Administrative Support Order, the Department shall notify the parents or caregiver by regular mail at the address of record for each party using Form CS-OA160, Notice of Intent to Terminate Final Administrative Support Order, hereby incorporated by reference effective 9/19/17 (<http://www.flrules.org/Gateway/reference.asp?No=Ref-08627>). If the notice is not contested the Department shall render Form CS-OA178, Final Administrative Order Terminating Support

Order, hereby incorporated by reference effective 9/19/17

(<http://www.flrules.org/Gateway/reference.asp?No=Ref-08628>).

(15) through (17) renumbered to (16) through (18), no further change.

*Rulemaking Authority 61.13(1)(b)7., 61.14(1)(d), 409.2557(3)(p), 409.2563(7)(e), 409.2563(16),
409.25633(9), F.S. Law Implemented 409.2563, 409.25633, F.S. History – New 9/19/17,
Amended _____.*

12E-1.036 Administrative Establishment of Paternity and Support Obligations.

(1) through (4) No change.

(5) Obtaining Cooperation from the Mother or Caregiver.

(a) No change.

(b) If the mother or caregiver and the child(ren) appear for the genetic test and provide a sample timely, the Department shall proceed to serve the respondent with an initial notice as described in subsection (7)~~(6)~~ below.

(c) No change.

(6) Title IV-D Standard Parenting Time Plan.

(a) The Department will provide a Title IV-D Standard Parenting Time Plan, form CS-OA250, to each parent as required by section 409.25633, F.S., unless:

1. Florida is not the child's home state;
2. One or both parents do not reside in Florida;
3. Either parent has requested nondisclosure for fear of harm from the other parent;
4. The parent who owes support is incarcerated; or
5. The parent owed support is a caregiver.

(b) If both parents agree to, sign, and return the parenting time plan to the Department before an administrative Final Order is entered, the parenting time plan will be incorporated into the Final Order. Both parents do not need to sign the same form. If the parents have a judicially established parenting time plan, the plan will not be incorporated in the administrative order.

(7)(6) Notice of Proceeding to Establish Paternity and Order to Appear for Genetic Testing.

(a) Notice of Proceeding to Establish Paternity or Paternity and Administrative Support Requirements. The Department will serve the alleged father with Form CS-OP01, Notice of Administrative Proceeding to Establish Paternity, hereby incorporated by reference effective 9/19/17 (http://www.flrules.org/Gateway/reference.asp?No=Ref-__08631), hereafter referred to as the Notice of Proceeding. The Department will send the alleged father Form CS-OP02, Order to Appear for Genetic Testing, incorporated by reference effective 04/16 (<http://www.flrules.org/Gateway/reference.asp?No=Ref-06601>), with the Notice of Proceeding and a copy of the Paternity Declaration, CS-PO34, or an affidavit that names the alleged father. The Notice of Proceeding will be served on the respondent by certified mail, restricted delivery, return receipt requested, or by any other means of service that meet the requirements for service of process in a civil action. Once served, the alleged father must notify the Department in writing of any change of address. If the alleged father does not update the Department, the Department will serve by regular mail any other document or resulting order to the address of record and the alleged father is deemed to have received them.

(b) No change.

(7) renumbered to (8), No further change.

(9)(8) Scheduling and Rescheduling of Genetic Testing Sample Collections.

(a) No change.

(b) Rescheduling of Genetic Testing. The Department will reschedule the appointment for a genetic testing sample collection:

1. through 2. No change.

3. One time when a person sanctioned as described by subsection ~~(10)~~(9) of this rule asks for a genetic testing sample collection.

(c) through (d) No change.

(9) through (10) renumbered to (10) through (11), No further change.

~~(12)~~(11) Proposed Order of Paternity. The Proposed Order of Paternity (http://www.flrules.org/Gateway/reference.asp?No=Ref-____08636), CS-OP30 effective ____9/19/17 and incorporated by reference, is sent to the alleged father by regular mail to the address of record. The Proposed Order of Paternity informs him that the Department intends to issue a final order establishing him as the legal father of the child or children named in the Proposed Order of Paternity. The Proposed Order of Paternity informs the alleged father of his right to an informal review and to an administrative hearing. The time frames, forms, and procedures for the informal review and administrative hearing are the same as described in paragraphs ~~(14)~~(13)(a) and (b). A blank Title IV-D Standard Parenting Time Plan, CS-OA250, is included with form CS-OP30 except as provided by paragraph (6)(a). The Department will:

(a) through (c) No change.

~~(13)~~(12) Proceeding to Establish an Administrative Paternity and Support Order.

(a) After paternity has been determined, the Department may serve the alleged father by regular mail at the address of record with the Notice of Proceeding to Establish Administrative Support Order form (http://www.flrules.org/Gateway/reference.asp?No=Ref-____08638), CS-OA01 effective ____9/19/17 and incorporated by reference. The CS-OA01 informs the

alleged father the Department intends to establish a paternity and a support obligation for the child named in the Notice and explains the steps the Department will take. The CS-OA01 also informs the alleged father of his right to file an action in circuit court or request the Department to proceed in circuit court instead of administratively. The Department will:

1. Send the alleged father the Notice of Proceeding to Establish Administrative Support Order form, CS-OA01, by regular mail informing him of the Department's intent to establish an order for paternity and support. The Department uses the Notice of Proceeding to Establish Paternity and Administrative Support Order form

(http://www.flrules.org/Gateway/reference.asp?No=Ref-____08639), CS-OX01 effective ____9/19/17 and incorporated by reference, when there is more than one child on the case and paternity has already been established for one or more children. The Department will provide a Title IV-D Standard Parenting Time Plan, CS-OA250, except as provided by paragraph (6)(a).

2. No change.

3. Send the mother, caregiver, or other state a copy of the Notice of Proceeding to Establish Administrative Support Order, CS-OA01, by regular mail. The Department will also include the genetic test results and a blank Financial Affidavit Administrative Support Proceeding, CS-OA11, in the packet. The Financial Affidavit is not sent to caregivers. The Department also sends the Notice to Parent or Caregiver of Administrative Proceeding form

(http://www.flrules.org/Gateway/reference.asp?No=Ref-____08642), CS-OA06 effective ____9/19/17 and incorporated by reference. The Notice to Parent or Caregiver of

Administrative Proceeding informs the mother or caregiver of the proceeding to establish support and directs the mother to complete the enclosed forms. Included in the packet is the Parent

Information Form Administrative Support Proceeding, CS-OA12. The Department will provide a Title IV-D Standard Parenting Time Plan, CS-OA250, except as provided by paragraph (6)(a).

(b) Alleged Father's Rights; Proceeding in Circuit Court as an alternative to the Administrative Process:

1. The alleged father may file a paternity action in circuit court and serve the Department with a copy of the petition. The alleged father must have the petition served on the Deputy Agency Clerk at the address specified in the notice within 20 days after the date the Notice of Proceeding to Establish Administrative Support Order was mailed. If the Department is served timely, it will end the administrative establishment process and proceed in circuit court. If the alleged father files a petition in circuit court, but does not serve the Department in the 20-day time frame, the Department will continue with the administrative establishment proceeding by either issuing a Proposed Administrative Paternity and Support Order (http://www.flrules.org/Gateway/reference.asp?No=Ref-____08643), CS-OA20 effective ____9/19/17 and incorporated by reference, or referring the proceeding to the Division of Administrative Hearings without issuing a Proposed Administrative Paternity and Support Order if the Department determines that an evidentiary hearing is appropriate to determine the respondent's income. If the petition is served on the Department timely, the Department will mail the petitioning parent or caregiver the Dismissal of Administrative Proceeding form, CS-OA88.

2. No change.

~~(14)(13)~~ Proposed Administrative Paternity and Support Order. Not sooner than 20 days after serving the Notice of Proceeding to Establish Administrative Support Order form, CS-OA01 under subsection ~~(12)(44)~~, the Department shall calculate the respondent's support obligation

using the child support guidelines in section 61.30, F.S. If the respondent does not provide financial information within the time required by section 409.2563(13)(a) and (b), F.S., the Department shall impute income as provided section 61.30(2)(b), F.S. or section 409.2563(5), as applicable.

(a) through (b) No change.

(c) The Department may proceed with the administrative establishment of paternity and support by either sending the alleged father a Proposed Administrative Paternity and Support Order, CS-OA20, or referring the proceeding to the Division of Administrative Hearings without issuing a Proposed Administrative Paternity and Support Order if the Department determines that an evidentiary hearing is appropriate to determine the respondent's income. The Department shall calculate the respondent's support obligation using the child support guidelines in section 61.30, F.S. If the respondent does not provide financial information within the time required by section 409.2563(13)(a) and (b), F.S., the Department shall impute income as provided by section 61.30(2)(b), or impute income at fulltime minimum wage as provided by section 409.2563(5)(a), F.S. Calculation of the respondent's retroactive support obligation shall be in accordance with section 61.30(17), F.S. Retroactive support shall be addressed in an initial determination of child support. The Department uses a Proposed Administrative Paternity and Support Order (http://www.flrules.org/Gateway/reference.asp?No=Ref-____08637), CS-OX20 effective ____9/19/17 and incorporated by reference, when a proceeding involves more than one child and paternity has already been established for one or more of the children. The Proposed Administrative Paternity and Support Order may include terms for monetary support, retroactive support, health insurance, and non-covered medical expenses as appropriate. The Proposed Administrative Paternity and Support Order tells the alleged father that the Department

intends to issue an administrative order establishing paternity and a support obligation for the child or children listed in the Proposed Administrative Paternity and Support Order. When an agreed to and signed parenting time plan is provided by the parents, it is enclosed with Proposed Order. If a signed parenting time plan is not enclosed, the Department will provide a blank Title IV-D Standard Parenting Time Plan, CS-OA250, with form CS-OX20 except as provided by paragraph (6)(a).

(d) through (e) No change.

(f) The Proposed Order also informs the alleged father of his rights to contest the Proposed Administrative Paternity and Support Order. The alleged father's rights to contest the Proposed Administrative Paternity and Support Order, CS-OA20, CS-OX20, or the Proposed Order for Paternity, CS-OP30, discussed in paragraph (12)(14) are:

1. through 2. No change.

(g) through (h) No change.

(15)(14) Final Order Establishing Paternity or Paternity and Child Support.

(a) The Department will render a Final Order of Paternity (http://www.flrules.org/Gateway/reference.asp?No=Ref-____08644), CS-OP50 effective ____9/19/17, or a Final Administrative Paternity and Support Order (http://www.flrules.org/Gateway/reference.asp?No=Ref-____08645), CS-OA40 effective ____9/19/17, both forms incorporated by reference, if the alleged father does not ask for a hearing timely. The Department may use a Final Administrative Paternity and Support Order (http://www.flrules.org/Gateway/reference.asp?No=Ref-____08646), CS-OX40 effective ____9/19/17 and incorporated by reference, in cases where there is more than one child on the order and paternity does not need to be established for all of the children. In addition to the Final

Administrative Paternity and Support Order, the Department enters an Income Deduction Order as part of the Final Administrative Paternity and Support Order. The respondent is responsible for making the ordered payments to the State Disbursement Unit until the income deduction begins.

(b) If a parenting time plan is not incorporated into the final order, forms CS-OP50, CS-OA40 and CS-OX40 include a blank Petition to Establish a Parenting Time Plan, except as provided by paragraph (6)(a).

~~(c)(b)~~ A respondent may consent to the entry of a final order any time after the receipt of the Initial Notice. To do this, the respondent must complete and return the Waiver of Opt-Out Administrative Proceeding (CS-PO384), (<http://www.flrules.org/Gateway/reference.asp?No=Ref-08647>), incorporated by reference, effective 9/19/17, after the respondent receives the Initial Notice Packet. If the respondent returns the Waiver of Opt-Out Administrative Proceeding, Financial Affidavit, and Parent Information Form, the Department sends the respondent the Waiver of Administrative Hearing (CS-ES97), (<http://www.flrules.org/Gateway/reference.asp?No=Ref-08648>), incorporated herein by reference, effective 9/19/17. The Department also sends a copy of the Proposed Administrative Support Order discussed in subsection ~~(7)(6)~~ of this rule. If the respondent completes and returns the CS-ES97, the Department need not wait 27 days from sending the Proposed Order to complete and render a Final Administrative Paternity and Support Order, CS-OX40. If the respondent does not return the CS-ES97, the Department waits at least 27 days after sending the Proposed Order before completing a Final Administrative Paternity and Support Order.

(c) through (d) renumbered (d) through (e), No further change.

(15) through (20) renumbered (16) through (21), No further change.

*Rulemaking Authority 409.2557(3)(p), 409.256(17), 409.25633(9), FS. Law Implemented
409.256, 409.2563, 409.25633, FS. History—New 4-5-16, Amended.*