

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12E-1, FLORIDA ADMINISTRATIVE CODE
CHILD SUPPORT PROGRAM

AMENDING RULE 12E-1.008, 12E-1.011, 12E-1.014, 12E-1.030 AND 12E-1.036

Substantial rewording of Rule 12E-1.008 follows. See Florida Administrative Code for present text.

12E-1.008 Determination of Cooperation; Determination of Noncooperation; Determination of Good Cause.

(1) Definitions.

(a) Definitions. As used in this section:

1. “Applicant” or “recipient” means an individual who has applied for or receives public assistance.
2. “Cooperation” means an applicant or recipient taking the actions identified in Section 409.2572, F.S., as requested by the child support program, to assist in identifying and locating the parent who owes support; establishing paternity; establishing, modifying, and enforcing medical and financial support; and collecting support or other payments or property due from the parent who owes support.
3. “Department” means the Department of Revenue.
4. “Good cause” means a legally and factually sufficient reason to excuse the applicant or recipient from cooperation requirements as determined by the Department, after evaluating the applicant or recipient’s written good cause claim, and other evidence available to the Department, in accordance with subsection (5) of this rule.

5. “Public assistance” means temporary cash assistance; food assistance received on behalf of a child under 18 years of age residing most of the time with only one parent or a nonparent caregiver; or money paid for foster care or Medicaid under Title IV-E and Title XIX of the Social Security Act, respectively.

(2) Cooperation Requirements for Applicants or Recipients of Public Assistance. As a condition of eligibility for public assistance, an applicant or recipient must cooperate in good faith with the child support program to help the Department identify and locate the alleged father or parent who owes support, establish paternity; establish, modify, and enforce medical and financial support; and collect support from the parent who owes support or the applicant must request to not cooperate. An adult who applies for or receives Medicaid services for a child only is not required to cooperate. An applicant or recipient of Medicaid-only must cooperate in establishing, modifying and enforcing medical support if the applicant or recipient is receiving Medicaid. The requirement for an applicant or a recipient to cooperate with the child support program will be excused only when the Department has approved a request for good cause to not cooperate in accordance with subsection (5).

(a) Cooperation Requirement for Applicants for Public Assistance.

1. The requirement to cooperate for purpose of public assistance eligibility is satisfied if the applicant provides the Department, either directly or through the Department of Children and Families, the following information concerning the alleged father or parent who owes support of each child for whom public assistance is sought:

a. First and last name;

b. Gender;

c. Race; and

d. Date of birth or social security number.

2. If the applicant does not cooperate as required by subparagraph 1, the applicant must be interviewed by the Department. At the interview, the applicant may cooperate by providing information concerning the alleged father or parent who owes support of each child. An applicant who does not have information about the location or identity of the alleged father or parent who owes support satisfies the requirement to cooperate.

3. An applicant is not eligible for public assistance when the applicant does not cooperate with the Department as provided by subparagraphs 1. and 2. The Department will notify the Department of Children and Families of the applicant's noncooperation as provided by subsection (6).

4. Once the applicant or recipient satisfies the requirement to cooperate for purposes of public assistance eligibility, the applicant or recipient must cooperate further with the Department as provided by subsection (2), paragraph (b) and Section 409.2572, F.S.

(b) Continuous Cooperation Requirement.

1. A recipient of public assistance must continue to make a good faith effort to cooperate with the Department as provided by Section 409.2572, F.S., to assist the Department in its efforts to identify and locate the alleged father or parent who owes support to establish paternity; establish, modify, and enforce medical and financial support; and collect support from the parent who owes support.

2. The recipient must provide the following information regarding the alleged father or parent who owes support when requested by the Department, if known:

a. Social Security Number;

b. Race;

c. Date of birth;

d. Current or former employer;

e. Place of birth;

f. Current or former address and phone number;

g. Driver license number and state where issued;

h. Make, model, license number of vehicles owned, and state where the vehicle is or was registered;

i. Arrest and incarceration history; and

j. Other information, based upon individual case circumstances, that may help the Department determine the identity and location of the alleged father or parent who owes support.

3. A recipient who does not have information about the location or identity of the alleged father or parent who owes support satisfies the requirement to cooperate.

(3) Determination of Noncooperation. If a recipient of public assistance does not cooperate with the Department as provided by Section 409.2572, F.S., and subsection (2), the Department will mail the Notice of Noncooperation (CS-CF07), incorporated herein by reference, effective xx/xx, (<http://www.flrules.org/Gateway/reference.asp?No=Ref->) to the recipient at the last known address provided to the Department.

(a) The recipient may return the CS-CF07 or contact the Department within 10 business days after the date of mailing of the notice to make arrangements to cooperate, request good cause to not cooperate, or request the Department to conduct an informal review as provided by subsection (4). At the time of the request for informal review the recipient may state if they want to be present during the review and if they want a representative present during the review.

(b) If the recipient does not take timely action as required by subsection (3)(a), the

Department will notify the Department of Children and Families of the recipient's noncooperation as provided by subsection (6).

(c) The Department does not report noncooperation to the Department of Children and Families if the recipient cooperates by the date specified in the CS-CF07 notice mailed to the recipient. The recipient is not reported as uncooperative unless the request to not cooperate is denied by the Department as provided by subsection (5) and the recipient continues to not cooperate. Food assistance-only recipients must make requests to not cooperate directly to the Department of Children and Families.

(4) Request for Informal Review.

(a) Reviews of pending determinations of noncooperation requested pursuant to subsection (3), paragraph (b), must be completed within 20 business days after receipt of a completed request for review. The Department will contact the recipient with an explanation of the additional information required if an incomplete request is provided to the Department. The Department will make arrangements for the parent to comply with the requested action if the parent indicates their intent is to cooperate in their request for a review. The Department will determine the recipient is noncooperative and notify the Department of Children and Families if the parent indicates their intent is to not cooperate in their request for a review. The Department will take the following actions when a completed request for review is received by the Department.

1. Schedule a date to conduct the review if the recipient has requested to be present for the review and send a notice to the recipient to appear in a local child support office before the date specified in the notice, which must be at least 10 days after the date the notice is mailed. If the recipient chooses to have a representative present at the review, the recipient is responsible for

making those arrangements.

2. Conduct the review. Reviews consist of an examination of the Department's case record, interview with Department staff and an evaluation of the recipient's statements. The Department provides the results of the review to the parent on the Notice of Decision on Noncooperation (CS-CF38), incorporated herein by reference, effective xx/xx, (http://www.flrules.org/Gateway/reference.asp?No=Ref-_____).

(5) Good Cause Request to not Cooperate in Public Assistance Cases. The Department is authorized in accordance with 42 U.S.C. 654(29), and Section 409.2572(4), F.S., to determine a recipient's request to not cooperate in public assistance cases, except when the recipient is receiving only food assistance. Food assistance-only recipients must make requests to not cooperate directly to the Department of Children and Families. An approved request excuses the recipient from the requirement to cooperate with the Department on the specific case against a specific alleged father or parent who owes support for which the request to not cooperate is approved.

(a) When an applicant or recipient states he or she does not want to cooperate because doing so will endanger the recipient or child(ren), the recipient must complete, sign and return the Request to Not Cooperate (CS-CF08) form, incorporated herein by reference, effective xx/xx, (http://www.flrules.org/Gateway/reference.asp?No=Ref-_____) with supporting documents within 20 days after the date of the Request to Not Cooperate. If the recipient does not provide documentation timely or the documentation is not sufficient to support the claim that cooperation may endanger the recipient or child, the Department denies the request to not cooperate and proceeds with establishing paternity, support, or paternity and support.

(b) A written request for good cause to not cooperate is approved when the recipient provides

information that:

1. There is a reasonable likelihood that the recipient or child may be physically or emotionally harmed if cooperation is required;
2. The child was born as a result of rape or incest;
3. Legal proceedings for the adoption of the child are pending in court; or
4. The parent or caregiver is being assisted by a public or licensed private social services agency to determine whether to place the child for adoption.

(c) Requests for good cause are approved or denied based upon the information provided by the recipient. The Department will suspend child support case activities from the time a request to not cooperate is received until a final determination is made.

1. A request is approved when documentation is submitted to substantiate the circumstances establishing good cause.
2. A request is denied when no documentation is provided or documentation does not substantiate the circumstances establishing good cause.

(d) The Department sends the Notice of Decision on Request to Not Cooperate (CS-CF11), incorporated herein by reference, effective xx/xx,
(<http://www.flrules.org/Gateway/reference.asp?No=Ref->) to notify the recipient of the decision.

(e) A recipient whose request for good cause is denied pursuant to paragraph (c), subparagraph 2., must cooperate with the Department as provided by Section 409.2572, F.S. and subsection (2). If the recipient does not cooperate, the Department begins the process of determining noncooperation as stated in paragraph (2).

(6) Notification to the Department of Children and Families.

(a) In accordance with Section 409.2572(3), F.S., the Department is responsible for determining and reporting to the Department of Children and Families, noncooperation by applicants and recipients of public assistance.

(b) The Department will notify the Department of Children and Families when the applicant or recipient cooperates with the Department in accordance with Section 409.2572, F.S., or when the Department determines that an applicant or recipient has not cooperated, or when the Department determines the recipient is not required to cooperate.

(c) The Department will notify the Department of Children and Families and the applicant or recipient within two business days after the Department's determination that:

1. The applicant or recipient is cooperating in good faith; or
2. Cooperation by the applicant or recipient is not needed or required to take the next appropriate case action.

Rulemaking Authority 409.2557(3)(h) FS. Law Implemented 409.2572 FS. History—New 4-1-86, Amended 4-6-88, 7-20-94, Formerly 10C-25.006, Amended 3-6-02, _____.

12E-1.011 Lottery Intercept.

(1) Pursuant to Section 24.115(4), F.S., the Department will ~~department shall~~ intercept the Florida lottery prize of any obligor who owes past-due support and who claims or is awarded a lottery prize or a portion of a lottery prize equal to or greater than \$600. The prize ~~is shall be~~ applied toward any past-due support or costs owed by the obligor for a Title IV-D case, not to exceed the amount owed.

(2) Definitions. As used in this rule:

(a) “Obligor” means a person responsible for making payments pursuant to an order establishing, enforcing, or modifying an obligation for child support, spousal support, or for child and spousal support when enforced by the Department ~~department~~.

(b) “Past-due support” means the amount of support owed pursuant to an order for child support, spousal support, or for child and spousal support when enforced by the Department ~~department~~ that has not been paid. Also included in past-due support are amounts owed to the Department ~~department~~ for court or administrative costs.

(c) “Department” means the Department of Revenue.

(3) Certification of Past-Due Support. The Department certifies all parents who owe a past-due amount for lottery intercept. Prior to the payment of a prize to any obligor owing past-due support, the Department of the Lottery will ~~shall~~ verify the information provided by the Department ~~department~~ to determine if past-due support is owed. Upon the request of the Department of the Lottery, the Department will ~~department shall~~ provide written certification that the obligor owes past-due support and specify the amount owed. Upon receipt of such written certification from the Department ~~department~~, the Department of the Lottery will ~~shall~~ transmit the prize money, not to exceed the amount certified as past-due support, to the

Department ~~department~~.

(4) Notification of Intercept.

(a) The Department will ~~department shall~~ notify the obligor by regular U.S. ~~certified~~ mail, ~~return receipt requested~~, that the prize money is being intercepted and will be applied to the balance of past-due support. The Notice of Intent to Deduct Lottery Winnings (CS-EF160), incorporated herein by reference, effective xx/xx, (http://www.flrules.org/Gateway/reference.asp?No=Ref-_____) ~~certified mail~~ will be sent to the address provided by the obligor to the Department of the Lottery. The ~~notice will state that the~~ obligor may request an administrative hearing as set forth in Chapter 120, F.S., to contest a mistake of fact about the amount of past-due support or the identity of the obligor. ~~Refusal of the notice sent to the obligor by certified mail, return receipt requested, constitutes proper service of the notice.~~

(b) If a petition for administrative hearing is ~~a return receipt~~ is not received within 20 ~~30~~ days after the ~~from the mailing~~ date of the notice specified in paragraph (4)(a) ~~above, if the notice is returned unclaimed, or if no written petition for a hearing is received, the department shall send the notice to the obligor by regular mail to the address provided to the Department of the Lottery and to the last known address according to the department's records. If there is no response from the obligor to the second notice as provided for in this paragraph, the prize received from the Department of the Lottery will be applied to the obligor's past-due support 30 days from the mailing date of the second notice.~~

(c) To request an administrative hearing, the obligor will ~~shall~~ file a petition for an administrative hearing with the Department of Revenue, Child Support ~~Enforcement~~ Program, Deputy Agency Clerk, P.O. Box 8030, ~~5050 West Tennessee Street, Building L~~, Tallahassee, FL

~~32314-8030 32399-0195~~, within ~~20~~ 21 days ~~after the date of the notice of the date the obligor received or refused the notice sent by certified mail, or within 30 days from the date of mailing of the notice sent by regular mail.~~ If a ~~return receipt request is received from the certified notice and~~ petition for administrative hearing is not received within ~~20~~ 21 days after the date of the notice, the obligor will be considered to have waived the right to a hearing and the intercept will be applied to the obligor's past-due support obligation. Administrative hearings will be conducted pursuant to Chapter 120, F.S.

(5) Application of Lottery Prize when Obligor owes Past-Due Support on Multiple Cases. If the obligor owes past-due support on more than one Title IV-D case, the prize ~~is shall be~~ applied to each case based on the ratio of the past-due amount for each individual case to the total past-due support owed by the obligor for all Title IV-D cases. When past-due support is satisfied on all cases, the prize is applied to unpaid costs on each case based on the ratio of the unpaid costs for each individual case to the total unpaid costs owed by the obligor for all Title IV-D cases.
Rulemaking Authority 409.2557(3) FS. Law Implemented 24.115(4) FS. History—New 6-17-92, Amended 7-20-94, Formerly 10C-25.008, Amended 1-23-03, _____.

Substantial rewording of Rule 12E-1.014 follows. See Florida Administrative Code for present text.

12E-1.014 Federal Offset Program; Passport Denial; Secretary of the Treasury Full Collection Services.

(1) Definitions. As used in this rule:

(a) “Assignment” means an assignment of rights to support as a condition of eligibility for temporary cash assistance, foster care maintenance payments, or medical support as authorized by 45 CFR 301.1.

(b) “Offset” means the complete or partial intercept of a federal income tax refund, rebate, or other federal payment.

(c) “Past-due support” means the amount of support determined under a court order, or an order of an administrative process established under Florida or another state’s law, for support and maintenance of a child which has not been paid, regardless of whether the child is a minor, but does not include retroactive support only with no delinquent payments.

(d) “Department” means the Department of Revenue.

(e) “Obligee” means the person to whom support payments are made pursuant to a child support order.

(f) “Obligor” means a person who is responsible for making support payments pursuant to a child support order.

(2) Certification for Federal Offset Program and Passport Denial. The Department will certify obligors to the federal Office of Child Support Enforcement for offset of federal income tax refunds or rebates when they meet the criteria in paragraph (3)(b), for offset of other federal payments when they meet the criteria in paragraph (3)(c), and for passport denial when support arrearages are greater than \$2,500.

(3) Federal Offset Program.

(a) Obligor who owe past-due support in Title IV-D cases are subject to offset as authorized by 31 USC 3716, 42 USC 664(c), 45 CFR 301.1, and 45 CFR 303.72.

(b) Certification for Offset of Federal Income Tax Refunds or Rebates. The Department will certify an obligor for offset of the obligor's federal income tax refund or rebate as follows:

1. For support assigned to the state, the total past-due support assigned to the state for all the obligor's cases enforced by the Department is \$150 or greater; and

2. For support owed to an obligee, the total past-due support owed to obligees on all the obligor's cases enforced by the Department is \$500 or greater.

(c) Certification for Offset of Other Federal Payments. The Department will certify an obligor for offset of federal payments, other than federal income tax refunds or rebates, as follows:

1. Past-due support is \$25 or greater; and

2. Past-due support has been owed for 30 days or more.

(d) The Department will not certify past-due support owed by an obligor that is otherwise subject to certification under paragraph (3)(b) if:

1. The Department is enforcing another state's support order on the other state's behalf because the obligor resides in Florida, and the obligor does not owe past-due support assigned to Florida;

2. A court order prohibits offset certification;

3. A court order provides that enforcement of past-due support is stayed, unless the order specifies that federal offset is permitted; or

4. The Department has received a confirmed bankruptcy plan for the obligor under Chapters 11, 12, or 13 of the United States Bankruptcy Code. Upon receiving a Chapter 11, 12, or 13 confirmed bankruptcy plan for an obligor, the Department will decertify the obligor's past-due support from offset. The Department will refund to the obligor an offset the Department receives during the term of a Chapter 11, 12, or 13 confirmed bankruptcy plan.

(e) Notification of Offset. Once an offset occurs, the United States Department of Treasury notifies the obligor by regular mail that the Department of Treasury is disbursing the offset to the Department.

(f) Distribution of Offset.

1. Offsets of past-due support assigned to the state are deposited by the Department in the State Treasury. After past-due support assigned to the state is paid in full, any remaining past-due support collected by the Department is paid to the obligee as required by 42 USC 657(a)(1) and (a)(2)(B).

2. For past-due support not assigned to the state, the Department delays distribution of an offset from a joint federal income tax refund for 180 days as allowed by 42 USC 664(a)(3)(B) to allow the unobligated joint filer to claim the unobligated joint filer's share of the refund before the offset is distributed. In that case, distribution is delayed until one of the following occurs:

a. The Department receives written verification from the United States Department of Treasury that the unobligated joint filer's claim filed by the obligor's spouse has been resolved;
or

b. 180 days has passed since the Department received the offset.

3. The Department will distribute offsets of other federal payments not from a federal income tax refund or rebate within two business days after the receipt date.

(g) If the obligor is paying retroactive support as ordered, and the obligor is not delinquent in the payment of current support, past-due support, or retroactive support, the Department will not certify the retroactive support amount for offset. If the Department is notified after it has received an offset that the offset was for retroactive support only, the Department will refund the offset to the obligor if there is no delinquency.

(4) Offsets under Review by the Internal Revenue Service.

(a) When the Department receives an offset, and identifies it as being a potentially erroneous offset, the Department refers the offset to the federal Office of Child Support Enforcement for the Internal Revenue Service to review the offset. The Department uses the following criteria to identify offsets referred for Internal Revenue Service review:

1. The total amount of the offsets received for the obligor is \$1,000 or more, and there are no reported wages for the obligor for the tax year;

2. The total amount of the offsets is 20 percent or more of the obligor's wages reported for the tax year; or

3. The Internal Revenue Service has previously reversed an offset received from the obligor.

(b) Based on authorization from the federal Office of Child Support Enforcement in Dear Colleague Letter DCL-11-17 issued September 9, 2011, if the Internal Revenue Service is reviewing an offset as being potentially erroneous, the Department delays distribution of the offset until the Internal Revenue Service completes its review.

(c) After the Internal Revenue Service completes its review and notifies the Department the offset will not be reversed, the Department distributes the offset.

(d) If the Department is notified an offset will be reversed, the Department does not distribute the offset, except as provided in paragraph (4)(e).

(e) In accordance with 31 CFR 285.3(g) and (h), if within six months after the Department receives the offset, the United States Department of Treasury, Bureau of the Fiscal Service has not responded to the Department or reversed the offset, the Department will distribute the offset. If the offset is disbursed to the obligee and is subsequently reversed by Fiscal Service, the Department initiates a payment recovery action under Rule 12E-1.022, F.A.C.

(5) Passport Denial.

(a) The Department of Revenue will certify and report for passport denial obligors who owe more than \$2,500 in support arrearages under subsection (2) of this rule as required by s. 409.2564(10), F.S. Passport denial includes denial of:

1. A new passport;
2. Renewal of a passport;
3. Replacement of a lost passport; and
4. The addition of pages to an existing passport.

(b) When the United States Department of State denies an obligor's passport application due to the Department's certification for passport denial, the United States Department of State sends the obligor a notice informing the obligor that the obligor is not eligible to receive a passport unless the Department withdraws its certification for passport denial.

(c) If an obligor needs a United States passport, the obligor must contact the Department at the address or telephone number provided in the notice mailed by the federal Office of Child Support Enforcement as outlined in subsection (6) of this rule or the telephone number provided in the United States Department of State's denial notice. The obligor may also contact one of the Department's local offices for an informal conference.

(d) After the Department submits certification for passport denial, the Department will withdraw its certification if:

1. The obligor receives federal Supplemental Security Income; or
2. A court order requires the Department to withdraw its certification.

(e) An obligor may ask the Department to withdraw its certification for passport denial in the following circumstances:

1. The obligor reduces the support arrearages owed on all the obligor's cases to \$2,500 or less.
2. The obligor provides documentation from a medical authority verifying a close relative's death or medical emergency requiring the obligor to travel outside the United States.
3. The obligor has a job that requires travel outside the country. The employer must agree to income withholding of support from the obligor's pay.
4. The obligor is active duty military and provides a letter signed by a field grade commanding officer (Major or Lieutenant Commander or above). The letter must state the obligor's duties require a passport.
5. The obligor receives social security disability benefits and has no other income. The Department must have verification of the obligor's benefits, such as a copy of an award letter from the Social Security Administration.

(f) The Department will consider the circumstances provided by the obligor under paragraph (5)(e), and the following factors when deciding whether to withdraw its certification for passport denial:

1. The obligor's previous payment history;
2. The obligor's current ability to pay;

3. The obligor's capacity to pay a lump sum towards the past-due support;

4. The obligor's ability to work if the obligor keeps the passport; and

5. The overall case history.

(g) Only the state that certifies an obligor for passport denial may withdraw the certification and restore the obligor's passport eligibility. If a state other than Florida certified the obligor for passport denial, the obligor must contact the other state at the address or telephone number listed in the notice discussed in subsection (6) to ask about passport reinstatement.

(6) Notice to Obligor of Certification for Federal Offset Program and Passport Denial. The federal Office of Child Support Enforcement mails each obligor who is subject to offset under paragraph (3)(b) or (5)(a) a one-time pre-offset notice. Once the Department certifies the amount for offset and passport denial, the certification continues until the obligor pays the past-due support or support arrearage in full. The Department updates the amount certified weekly if there are changes in the amount of the obligor's past-due support or support arrearage.

(7) Right to Informal Review and Administrative Hearing.

(a) If an obligor contacts the Department in response to the pre-offset notice in subsection (6), or within 20 days after the date of notice of offset from the United States Department of Treasury or notice of passport denial from the United States Department of State, the Department will review its records and any records submitted by the obligor and attempt to resolve the obligor's concerns informally.

(b) If the Department cannot resolve the obligor's concerns during the informal review, the Department will notify the obligor by regular mail at the obligor's last known address using form CS-EF36A, Notice of Decision of Informal Conference for Federal Offset or Passport Denial.

Form CS-EF36A (<http://www.flrules.org/Gateway/reference.asp?No=Ref->) is incorporated by reference herein effective xx/xx.

(c) If the Department does not resolve the obligor's concerns through an informal review, the obligor may ask for an administrative hearing within 30 days after the date of the notice.

1. If the past-due support or support arrearage is based on a Florida order, the obligor may ask for an administrative hearing in Florida. The Department of Children and Families, Office of Appeal Hearings conducts this hearing as authorized by Section 120.80(7), F.S.

2. If the past-due support or support arrearage is based on an order entered in another state, the obligor may ask that a hearing be held either in Florida or in the state that issued the order. If the obligor asks for the hearing to be held in the issuing state, the Department will contact the state that issued the order and provide all necessary information within 10 days after receiving the obligor's request. The state that issued the order will inform the obligor and obligee of the date, time, and place of the administrative hearing.

(d) If the state that issued the order or the Florida Department of Children and Families holds an administrative hearing and issues a final order in the obligor's favor, the Department will inform the federal Office of Child Support Enforcement to remove the obligor's certification or change the certification amount to show the past-due support or support arrearage amount pursuant to the final order. If the final order is issued in the Department's favor, the certification stays in place and any change in the past-due support or support arrearage amount is updated as required by subsection (6). If the final order requires the Department to refund an offset to the obligor, the Department will refund the offset or appeal the final order.

(8) United States Secretary of the Treasury Full Collection Services. As allowed by 45 CFR 303.71, the Department may request the federal Office of Child Support Enforcement to certify

past-due support to the United States Secretary of the Treasury for full collection services under the Internal Revenue Code, Title 26 United States Code. The following conditions must be met for a case to be eligible for certification to the Secretary of the Treasury for full collection services:

- (a) There must be a support order;
- (b) An arrearage owed under the support order must equal or exceed \$750;
- (c) All reasonable efforts through the Title IV-D agency's own collection remedies must have been made to collect the arrearage;
- (d) The parent or custodian of the child to whom support is owed must have completed an assignment of rights to support or an application for services;
- (e) At least six months must have passed since the most recent request to the Secretary of the Treasury for full collection services on the case; and
- (f) The Department has certified the case for the federal offset program under this rule.

Rulemaking Authority 409.2557(3)(i), 409.2564(13) FS. Law Implemented 61.17, 409.2564 FS.

History—New 6-17-92, Amended 7-20-94, Formerly 10C-25.011, Amended 1-23-03, 1-12-

10,_____ .

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 xx/xx1/18, (http://www.flrules.org/Gateway/reference.asp?No=____Ref-08991); the Financial Affidavit Administrative Proceeding (CS-OA11); 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. Form CS-OA250 is available at www.floridarevenue.com/childsupport/parenting_time_plans. The petitioner has 20 days after the mailing date of the forms to complete and return them.

(b) and (c) No change.

(5) through (13) No change.

(14) Modifying an Administrative Support Order.

(a) through (d) No change.

1. The Department uses Form CS-OA120R, Proposed Order to Modify Administrative Support Order, hereby incorporated by reference, effective xx/xx1/18, (http://www.flrules.org/Gateway/reference.asp?No=Ref-____08992), 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 xx/xx1/18, (http://www.flrules.org/Gateway/reference.asp?No=Ref-____08993). 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 paragraph (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. and 3. No change.

(15) through (18) No 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) FS. Law Implemented 409.2563, 409.25633 FS. History—New 9-19-17, Amended 1-17-18, _____.

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

(1) through (12) No change.

(13)(a) No change.

(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-____08999), CS-OA20, effective xx/xx1/18, 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)(a) and (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 will ~~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 Sections 409.2563(13)(a) and (b), F.S., the Department will ~~shall~~ impute income as provided by Section 61.30(2)(b), F.S., 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 is ~~shall be~~ in accordance with Section 61.30(17), F.S. Retroactive support is ~~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-____09000), CS-OX20, effective xx/xx14/18, 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 (h) No change.

(15) 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-____09001), CS-OP50, effective xx/xx1/18, or a Final Administrative Paternity and Support Order

(http://www.flrules.org/Gateway/reference.asp?No=Ref-____09002), CS-OA40, effective xx/xx1/18, 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-____09003), CS-OX40, effective xx/xx1/18, 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) through (e) No change.

(16) through (21) No 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 9-19-17, 1-17-18,_____.