

# Child Support Handbook



California Department of  
Child Support Services  
August 2007

## Director's message



Greta Wallace  
*Director*

Dear Fellow Californians,

California's children represent the future of our Golden State. Ensuring the well-being of our children is one of our highest priorities. The Department of Child Support Services is dedicated to providing quality child support program services to children and families across our state.

Working together with a network of 52 county and regional child support agencies and the courts, we strive to ensure that every child has the financial, medical and emotional support to which he or she is legally entitled. For thousands of children, child support provides financial stability and critical access to healthcare services that help children grow into healthy and productive adults.

It is my pleasure to present California's new *Child Support Handbook*. It provides a wealth of information for you, detailing the services that are available to make sure children receive the support they need.

California's child support community is committed to serving children and families and we will continue our efforts to build a child support program that puts children first.

Sincerely,

Greta Wallace

*Director*, California Department of Child Support Services

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## **Equal treatment**

The State of California is committed to treating all persons equally. No one will be excluded from services or denied access to the child support program, or otherwise subjected to treatment that is different than that provided to others because of age, color, disability, ethnic group identification, national origin, race, religion, or gender.

The DCSS is responsible for ensuring that all persons are provided equal access to services and information. All programs shall deliver services in ways that recognize individual differences and are sensitive to cultural differences. Effective communication with customers who don't speak English will be achieved through bilingual staff, translated written materials, and contracted interpreter and translation services. (California Government Code sections 7290 and thereafter) For more information call (916) 464-5078, or (916) 464-5624 (TTY).

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# Introduction

Children are our most valuable resource, and the child support program is an important part of California's effort to nurture and protect that resource. Working with our partners, the local child support agencies, the courts and community groups, we touch the lives of over 2 million children and their families every year. Through our work to establish, collect and distribute child support, we provide an essential bridge to self-sufficiency and security for children and families.

This handbook provides general information about California's Child Support Services Program. It is intended to help parents, guardians and families understand how to access child support services. It should not be used as legal advice.

Telephone contact information for your local child support agency (LCSA) is listed on page 34 of this handbook. Program and contact information is also available on the California Department of Child Support Services website, [www.childsup.ca.gov](http://www.childsup.ca.gov).

## What is child support?

Both parents have a legal duty to provide financial support for their children. The court may order either or both parents to make regular payments to cover a child's living and medical expenses. This payment is called child support.





## California's Child Support Program

*The mission of the California Child Support Services Program is to promote the well-being of children and the self-sufficiency of families by assisting both parents to meet the financial, medical, and emotional needs of their children through the delivery of quality child support establishment, collection, and distribution services.*

### Who we serve

California's Child Support Services Program works with parents—custodial and noncustodial—and guardians to ensure children and families receive court-ordered financial and medical support. Child support services are available to the general public through a network of 52 county and regional child support agencies (LCSAs).

Services offered by the Child Support Program:

- Establishing paternity (fatherhood)
- Locating absent parents
- Requesting child support orders from the court
- Requesting medical support orders from the court
- Enforcing child support orders
- Modifying child support orders
- Enforcing spousal support orders

Services NOT offered by the Child Support Program:

- Divorce
- Custody
- Visitation
- Restraining orders
- Establishing spousal support orders

*“The child support office works slowly  
and it takes forever to get the money to you.”*

Child Support money is sent out to custodial parents from the California State Disbursement Unit within two days of receiving it. Payments can now be received using Direct Deposit or an electronic payment card.

## Your role in the child support process

As parents and guardians work with the child support office to establish a financial partnership in support of their children, parents should remember that not all solutions to child support problems are within their control. The legal rights of all parties must be guarded, and sometimes laws that protect the rights of one parent seem unfair to the other. Parents and guardians are encouraged to educate themselves about California's Child Support Services Program so they will better understand their rights and responsibilities under the law and be more successful in providing support to their families.

## Child support terms and abbreviations

**Account:** Record of financial transactions in a case, which includes a record of charges against a child support obligor for such things as current support, welfare arrears, spousal support, blood test fees, court costs, attorneys' fees and interest. Also includes a record of payments by the obligor and adjustments to to the financial record.

**Account Audit:** An examination of the account or accounts of a child support obligor to determine necessary adjustments and/or the balance owing.

**Arrearage:** Child support that has not been paid is called arrears. An arrearage is any past due child support including interest.

**Billing Statement:** The child support notice sent to the child support obligor on a monthly basis outlining the amount of support owed. Reflects each account and balance with payment due date.

**CalWORKS:** Public assistance benefits paid on behalf of low-income, needy, dependent children, provided under Title IV-A of the Social Security Act.

**Child Support Guidelines:** A standard method for setting the amount of child support obligation based on the income of both parents and other factors as determined by state law (California Family Code sections 4050 and thereafter).

**Custodial Party/CP:** The parent or guardian who has temporary or primary physical custody of a dependent child. The parent or guardian who usually receives child support payments.

**California State Department of Child Support Services/DCSS:** The state department responsible for the oversight of the state Child Support Program. Child Support Program services are delivered through 52 county and regional child support agencies.

**Disregard:** When a child support payment is collected, a CP receiving CalWORKS gets the first \$50 of the child support payment—called a *disregard*—and the rest of the payment is used to pay back the county for the cost of the CalWORKS benefit.

**Income/ Wage Withholding:** When an employer deducts a child support payment directly from an employee's paycheck to satisfy the employee's court-ordered child support obligation.

**IV-D Services:** The custodial party (CP) or noncustodial parent (NCP) is receiving child support services offered through a local child support agency. Refers to Title IV-D of the Federal Social Security Act at Title 42, United States Code sections 651 and thereafter.

**Local Child Support Agency/LCSA:** The county or regional department of child support services responsible for providing services directly to the public.

**Medical Support Order:** An order requiring the parent to provide medical or dental insurance or to pay for medical expenses not covered by insurance. See your family law facilitator, LCSA or attorney for details.

**Noncustodial Parent/NCP:** The parent who does not have primary physical custody of a dependent child. The NCP is typically the parent who pays child support.

**Non-IV-D:** Individuals who do not have an open case with an LCSA, but have their private employer wage withholding payments received and sent by the State Disbursement Unit (SDU).

**Obligee:** The person for whom child support is owed.

**Obligor:** The person responsible for paying child support.

**Paternity Establishment:** The legal process by which the father of a child is legally determined.

**Modification:** A requested change in the amount of an existing support order. Modification requests can be made by LCSAs, CPs and NCPs to increase or decrease the amount of the order.

**State Disbursement Unit/SDU:** The state entity responsible for receiving and sending all child support payments for CPs/NCPs with cases through LCSAs. The SDU is also responsible for receiving and sending all employer child support wage withholding payments, including those from private support orders.

## Important resources

### Child support law

California child support services are governed by various sections of the California Family Code including sections 17000 and thereafter. State regulations that operate the child support program can be found in Title 22, California Code of Regulations sections 110000 and thereafter, available on the Internet at [www.calregs.com](http://www.calregs.com).

### LCSA ombudsperson

Every LCSA has an ombudsperson available to explain your rights and responsibilities and talk to you about child support concerns. See page 31.

### Family law facilitator

Every family court has a family law facilitator to provide child support information and help parents obtain and complete court forms. Services are free and unconnected with DCSS. Contact information is available on the Internet at [www.courtinfo.ca.gov/selfhelp/lowcost/flf.htm](http://www.courtinfo.ca.gov/selfhelp/lowcost/flf.htm).

### Advocacy groups

Child support advocacy groups are available in nearly every community. Ask the ombudsperson at your LCSA for a list of advocacy groups for custodial parties and noncustodial parents.



## The court's role in child support

The Court Commissioner or Family Law Judge has the final authority for deciding the amount of child support to be paid and who will be responsible for making those payments. The LCSA may ask the court to issue a new support order or modify an existing order to either decrease or increase child support.

The support order may be part of an interim, temporary, permanent, or modified court order in a: divorce, paternity action, child custody action, or separate child support action. The court generally orders the NCP to provide support for the child who is living with the other parent. The court sets the amount of child support and medical support.

If you already have a child support order the LCSA will enforce that order. If you don't have a support order but have an existing family law court file, the LCSA can act on your behalf and request a support order. If no prior court action exists, the LCSA will begin the process with the Summons and Complaint.

### The Summons and Complaint

The court process begins when the LCSA files a Summons and Complaint with the court to get a child support order. The Summons and Complaint and a blank Answer form are delivered to the parent being asked to pay child support. This must generally be done within **90** days of locating the parent.

The person who is served a Summons and Complaint must respond within **30** days. It is critical that the person served respond within **30** days in order to have their income information considered by the court.

If the person served does not respond in writing within **30** days, the court will set child support with the information it has. If the court has no information regarding the NCP's income, under California law (California Family Code 5002 and 17400), the court must set the amount of support using presumed income. The presumed income amount is based on the minimum wage at 40 hours per week.

If the NCP agrees, the LCSA can prepare an agreement (stipulation) using the same child support guidelines the court uses. The court usually approves this agreement without requiring the NCP to come to court.

*“My mother had a child support case and she never got much support. Why should I bother with all that paperwork and inconvenience?”*

The process for opening a case has been simplified with forms in your language and case workers to guide you through the process. Child support offices have made many advances over the past few years and collections of child support orders are higher now than ever.

## Step-by-step—the court process

1. The LCSA files a Summons and Complaint
2. The LCSA serves the NCP
3. The NCP responds within **30** days to the Summons and Complaint
4. The CP and NCP submit Income and Expense Declaration
5. The CP and NCP agree on support, or appear in court
6. The court sets the child support amount and issues the child support order and wage withholding order

## How the court decides the amount of support

### Child support guidelines

In California, child support is determined using the guidelines established in state law (California Family Code sections 4050 and thereafter). Child support guidelines are based on various factors, including monthly net income of both parents and the amount of time the child spends with each parent.

The court reviews child support agreements to make sure the guidelines are applied correctly and the child support amount is appropriate. In some cases, the court may decide not to use the income guidelines to determine the amount of child support.

**Important:** When parents have joint physical custody, shared custody, or split custody of a child, the determination of child support is complicated. For more information, see the California Guideline Child Support Payment Calculator User Guide available on the Internet at [www.childsup.ca.gov/calculator/](http://www.childsup.ca.gov/calculator/).

### Income and Expense Declaration

Child support is determined using guidelines established by California law and is based on many factors, including each parent's ability to financially provide for the children. The law requires each parent to complete an Income and Expense Declaration and provide proof of the amount of income.

In deciding the amount of child support, the court will consider income from all sources, whether or not it is reported or taxed under federal law. The income can be in the form of money, property or services. **Please note:** Welfare payments and Supplemental Security Income (SSI) are not included as income.

## Questions and answers—the court process

### *I am an NCP. What should I do when I get the Summons and Complaint?*

A blank Answer form is supplied with the Summons and Complaint—fill it out and file it with the Superior Court clerk within **30** days. The LCSA or family law facilitator in your county can help you fill out the necessary forms.

### *What if an NCP ignores or forgets about the Summons and Complaint?*

If the NCP does not respond, the estimated child support payment sent with the Summons and Complaint will be the amount of child support ordered by the court. When the court enters the order, the NCP will need to ask the court for permission to challenge it.

### *If I respond to the court, will I have a chance to talk to the judge?*

Yes. If you respond to the Summons and Complaint and contest paternity or the amount of child support requested, you will be given a court date.

### *How will the court decide how much child support I have to pay as an NCP?*

The amount of child support is based on various factors including the income of both parents and the amount of time each parent cares for the child. The court uses child support guidelines found at [www.childsup.ca.gov/calculator/](http://www.childsup.ca.gov/calculator/). Click on the *California Guideline Child Support Payment Calculator User Guide*.

### *How will my employer know how much money to take out of my paycheck to pay my child support?*

After the court decides the amount of child support, a document called an Order/Notice to Withhold is mailed to your employer with instructions on how much to deduct and where to send the payment.

### *Is there any way to avoid having to go to court?*

Yes. You can avoid going to court by signing a legal agreement (stipulation). The NCP and the LCSA can agree (stipulate) on the amount of child support if the CP is receiving welfare benefits. If neither parent is receiving welfare benefits, then both parents may sign a legal agreement (stipulation) about the amount of child support.

### *What else is in a stipulation?*

Stipulations vary with circumstances, but the usual stipulation contains the agreement that the NCP is:

- The parent of the child;
- Willing to pay child support;
- Willing to provide health insurance for the child if available through the parent's employer; and
- Willing to allow the court to enter an order without appearing in court.

### *The NCP has group health insurance available at work. Must the children be covered by that insurance?*

Yes. Health insurance must be included in any child support order. Even if it is not available immediately, the court order will order both parents to provide insurance when it does become available. This applies to all cases.

# Custodial parents and guardians— what you need to know

## Visiting your local child support agency

Individuals may visit an LCSA to open a child support case or for information about other services. The LCSA can refer parents to other agencies for employment, training, and other helpful programs.

Child support services include obtaining child support and medical support orders, establishing paternity, and collecting support payments—NOT divorce, custody, or visitation.

### Opening a new child support case

Applications for service are available at LCSAs or online at [www.childsup.ca.gov/application/#packet](http://www.childsup.ca.gov/application/#packet). Completed applications must be mailed or dropped off at the LCSA to be processed. After receiving a completed application, an LCSA will open a case within **20** days, and interview the applicant within **10** days. (If a child support order already exists, be sure to tell the LCSA.)

### Basic child support and other expenses

Basic child support is calculated by a formula and **does not** include child care, medical bills unpaid by insurance, travel costs for visitation, education or other special needs. Additional child support for child care costs and uninsured health care costs will be ordered. Additional child support for travel costs for visitations and education or other special needs may also be ordered. Ask your LCSA about getting additional child support to help cover such expenses.

Before visiting the LCSA to open a child support case, gather as much information as possible. The more information available, the faster a child support order can be obtained. The following information is helpful:

#### Information about the CP

- Full name, address, and phone number
- Date of birth
- Social Security number
- Paycheck stubs
- Name, address, and phone number of the employer or the former employer
- Existing child support orders
- Marriage license
- Divorce order or separation agreement
- Tax returns for the last two years, including W-2 forms and 1099 forms

#### Tell the caseworker

Tell the county welfare department and LCSA if:

- You've ever received public assistance
- You no longer have a child living at home
- The NCP pays child support directly to you

## Social Security numbers

Federal law requires DCSS to keep Social Security numbers on file to establish, modify, and enforce child support orders. Enrolling a child in health insurance may require release of the child's Social Security number and mailing address to the other parent or the other parent's employer. You can still apply for services if you do not have a Social Security number.

## Information about the child

- Each child's full name, address, and phone number
- Each child's date of birth and copy of birth certificate
- Each child's Social Security number
- Proof of paternity

## Information about the NCP

- Full name, address, and phone number
- Date of birth
- Social Security number
- Name, address, and phone number of the employer or last job; union or self-employment information
- A recent photograph or description
- The names and phone numbers of friends or family
- Information about past involvement with the child
- The names of any clubs or organizations the NCP belongs to
- Information about valuables, such as cars, motorcycles, boats, RVs, or other property
- Copies of paycheck stubs, bank statements for checking, savings, or other accounts
- Tax returns for the last two years, including W-2 forms and 1099 forms

*“Sometimes the other parent gives me money. If it goes through the child support office, they keep some of the money. I will get more if I just let the other parent pay me when they can.”*

Your child has needs every day that cannot be subject to the parent's willingness to pay when they feel like it. Children receive more support from parents who have an active child support order in place.

## Questions and answers—opening a child support case

### *Can I still open a child support case even if the other parent has been gone a long time?*

Yes. But the longer parents are gone, the harder it may be to find them. See “Locating a parent” below.

### *Is my child support case open to the public?*

Child support case information is confidential and not open to the public, but documents in court files or county recorder files are public records.

### *What can I expect when I visit the LCSA?*

The process to obtain child support begins with opening a child support case, and your help and cooperation are required. A caseworker will ask for information about you, your children, and the other parent. The more information the caseworker has, the faster a child support order can be obtained.

### *What will happen to my case if I move?*

Be sure to tell your LCSA when you move—the child support case follows the CP to any new county or state of residence.

### *What can I do if I am a victim of family violence?*

You can ask that information about your case not be shared with other agencies or to any other party. If you receive CalWORKs or Medi-Cal, you can ask that the LCSA not act on your case.

## Locating a parent

To obtain or enforce a child support order, the LCSA must locate the NCP. CPs can help the LCSA by providing any information they have about the NCP’s whereabouts, income, and assets. Although the law requires the LCSA to use any new information within **75** days after receiving it to locate the NCP, the LCSA will continue to use any information it gets to find the NCP.

Below are some sources LCSAs use to find NCPs:

- Motor vehicle registration and driver’s license records
- Employment and unemployment records
- Credit reporting agency records
- Social services records
- Military records
- State licensing boards
- United States Postal Service
- Current and previous employers
- Current and previous utility companies
- Law enforcement agencies, parole and probation offices

### **California Employment Development Department**

NCPs may be found in the Employment Development Department's (EDD's) New Employee Registry. California employers must report to this registry the names, addresses, and Social Security numbers of all new employees.

Also, names and addresses of independent contractors in California must be reported to EDD, which can help locate self-employed parents.

### **The Federal Parent Locator Service**

The Federal Parent Locator Service uses information about NCPs from across the United States. The data comes from the National Directory of New Hires and the Federal Case Registry.

The National Directory of New Hires is the central database for information on employment, unemployment insurance, and wages from all states. All U.S. employers must report every new employee's name, address, and Social Security number.

Eventually, the Federal Case Registry will include every child support case and order in the United States.

### **Cooperating with other states, countries, and tribunals**

NCPs sometimes move out of California. However, every state and many foreign countries or tribunals have an agency to enforce child support orders. Although laws differ from state to state, all child support agencies work with each other to collect current and past-due child support and locate parents and their assets. Federal law requires every state to enact the Uniform Interstate Family Support Act (UIFSA) so states can work together to establish and enforce child support orders.



## Paternity

Paternity means fatherhood. When a married couple has a child conceived during the marriage, paternity does not need to be established—the law automatically presumes the husband is the child’s legal father. (The grounds for contesting this marital presumption are very limited—you should seek legal advice if there are issues.)

When an unmarried woman has a child, paternity needs to be established to provide the child with the same legal rights as a child born to married parents. Also, the court cannot order child support or determine custody or visitation until paternity has been legally established.

### Good reasons to establish paternity

Paternity provides a child of unmarried parents the same legal rights as a child born to married parents. Those rights include:

- Support from both parents
- Legal documentation of who the parents are
- Access to family medical history to learn of diseases, illnesses, birth defects, and other health problems that can be passed on by parents
- Medical and life insurance from either parent, if available
- Inheritance rights
- Social Security and veterans’ benefits, if available
- An unmarried father can have his name added to the child’s birth certificate

### Paternity Opportunity Program (POP)

DCSS’s Paternity Opportunity Program (POP) is a fast, free, and easy way to establish paternity. Through POP, unmarried parents may establish paternity by completing and signing a Declaration of Paternity at the hospital when the baby is born. Once both parents complete and sign the form, the hospital files the form with the DCSS, and paternity is established. For more information call POP at (866) 249–0773.

Parents may choose to sign a Declaration of Paternity at a later date. Check with your LCSA for more information.

### Establishing paternity by legal agreement

Both parents may agree (stipulate) to a child’s paternity and arrange for child support payments. The stipulation may also include child custody and visitation rights. The LCSA can explain how to do this without going to court, but the agreement must be approved by the court.

*“The parent won’t like the child if someone takes part of their paycheck for the baby.”*

Parents who pay child support are more likely to desire a relationship with the child if they are meeting their child support responsibilities.

## **Genetic tests**

Sometimes a parent may want biological proof of paternity before a man is named the legal father. In that case, the LCSA or either parent can request a genetic test. The test will exclude a man who is not the biological father of the child, or it can show with greater than 99 percent accuracy that a man is the father. LCSAs offer genetic testing, usually at their offices or a nearby clinic.

If there is a dispute about paternity and the parties do not consent to genetic testing, the court can order the parties to submit to testing. If either parent refuses to be tested, the court can force the parties to submit to the testing through contempt, or determine the matter against the uncooperative parent.

## **Proving paternity in court**

If the alleged father refuses to cooperate with genetic testing, the court can establish paternity. The court may consider the following information:

- Details about the man's relationship with the mother
- Money given for the child by the man
- Admissions of fatherhood by the man
- Letters sent or gifts given to the child by the man
- Details about when the child was conceived
- Information from others who knew about the man's relationship with the mother
- Pictures of the man with the child

## **Questions and answers—paternity**

### *Can I get child support if I'm not sure who the father of my child is?*

No. Paternity must be established before child support can be ordered. Paternity gives your child many rights, including child support, access to medical records, government benefits and more.

### *The man doesn't have any money or even a job to support my child. Why should I bother proving that he is the father?*

If you don't establish paternity, your child won't be able to get child support or health insurance, even after the alleged father gets a job. Proving he is the father as soon as possible makes collecting child support easier later on, including possible government benefits.

### *Can I start my case while I'm pregnant, before my baby is born?*

Yes. You may start the paperwork to establish paternity when you are pregnant. If the man you believe is the father denies it, a genetic test can be ordered after your baby is born. Genetic tests can be scheduled through the LCSA.

### *Can paternity be established for my child if the father lives in another state?*

Yes. The LCSA will ask for a genetic test from the court in the other state. Also, a man can sign a Declaration of Paternity voluntarily declaring he is a child's father even if he lives in another state or another country.

## Collecting child support

Unless the court approves a different payment method, child support payments must be withheld from an NCP's paycheck. A wage withholding order is sent to the NCP's employer within **15** days after an employer is located. In most cases, the employer must start withholding no later than **10** days after receiving the wage assignment. The wage withholding remains in effect as long as the parent remains employed.

### Step-by-step—collecting and receiving child support

1. The court issues a child support order and wage withholding order.
2. The LCSA serves the wage withholding order on the NCP's employer.
3. The employer deducts the child support payment and sends the payment to the State Disbursement Unit (SDU).
4. The SDU processes and sends the child support payment within two business days.
5. Child support payments can be received by:

**Direct Deposit**—Payments are automatically deposited in the CP's checking or savings account

**Electronic Payment Card (EPC)**—Payments are credited to the EPC and it is used like an ATM card

**Check**—Payments are mailed to the CP

### Questions and answers—collecting child support

*What happens when the NCP has money to pay child support but still won't pay?*

The LCSA can use a variety of enforcement tools available to collect the payments. Also, the court may find an NCP in contempt of court, or in rare instances, guilty of a misdemeanor and/or felony.

*What should I do if the NCP moves away?*

Tell the LCSA—child support can be enforced anywhere in the U.S. Also, if you have custody and move away, your child support case can be transferred to your new county or state.

*I have a California support order and the other parent lives in another state. I asked the other state to help me collect support, but the judge lowered the child support amount. Is that legal?*

Laws known as the Full Faith and Credit for Child Support Orders Act and the Uniform Interstate Family Support Act may prevent a state from changing another state's court orders. If the child lives here and an order is issued in California, only a California court can change it in most cases.

### *May I look at the payment records?*

Yes, you may see the records of all payments made by the NCP on your case. If you have custody and you think the LCSA made a mistake, you have the right to ask for a review or audit.

### *The NCP is in jail. Can I still get support?*

Unless the parent in jail has assets or other income, child support will be nearly impossible to collect. An NCP who goes to jail should contact the LCSA to modify the child support order—otherwise, past-due child support will add up plus interest and the NCP will be responsible for paying it when released.

## **Modifying the child support order**

An existing child support order may be modified (changed) if there is:

- A significant increase or decrease in either parent's earnings;
- A change in custody or the amount of time the child spends with each parent; or
- A change in any other factor that would affect the child support guideline.

Either parent may request a review of their child support order. The request must be in writing, and must state reasons why the amount of the child support order is now too high or too low. A modification may be justified if the support order would change by 20 percent or \$50, whichever is less.

The LCSA will review the child support order in the event of a major change, like getting a new job, losing a job, or a change in custody or visitation. Quitting a job does not justify a review.

If the LCSA decides the modification requirements have been met and a change is appropriate, they will ask the court to modify the child support order. The LCSA has **180** days to request a change.

**Please note:** If the LCSA decides the requirements for a review are not met, the parent requesting the review may ask the court to review the order.

If the NCP and the CP can agree to the support amount ahead of time, the NCP and CP can sign a stipulation (agreement) that must be filed with the court. If there is no agreement, a notice to appear in court will be sent and a judge or commissioner will decide the amount.

In cases where medical support was not already ordered by the court, the law requires the LCSA to ask the court for a medical support order whenever health insurance becomes available.



### **When cooperating is dangerous**

A CP can ask the county not to seek a child support order if cooperating puts the CP or child(ren) in danger. If the claim of danger is verified by the welfare department, CalWORKs, Foster Care, or Medi-Cal payments will not be reduced.

## **CalWORKs, Foster Care and Medi-Cal child support cases**

If a child receives CalWORKs, Foster Care, or Medi-Cal benefits, the welfare department refers the case to an LCSA. To be eligible for public assistance, parents who apply for CalWORKs must cooperate with the child support caseworker unless it places the parent or child in danger. In that case, no action will be taken to collect child support until the county welfare office can investigate and make a decision on the claim of good cause. (A sworn statement from the CP is usually sufficient to show good cause.)

### **When child support rights belong to the county**

The CP must give the right to child support to the county in exchange for receiving CalWORKs or Foster Care along with Medi-Cal benefits. When a child support payment is collected, the CP will get the first \$50 of the child support payment and the county will get what is left. After the CP is given the \$50, the rest of the payment is used to pay back the county for the cost of the CalWORKs benefit.

The CP's \$50 payment is called a *disregard*, and won't change the amount of the CalWORKs benefit. **Please note:** due to recent federal law changes the disregard amount may change—contact the LCSA or county welfare office for more information.

### **Foster Care and child support**

When a child is placed in Foster Care, the right to child support payments belongs to the state. Any child support collected above what it costs the state to pay for Foster Care is either put into trust or used immediately for the child.

### **Medically needy only cases**

In cases where the only public assistance provided is Medi-Cal, a CP may decline child support services, but must cooperate in getting and enforcing a medical support order. If he or she accepts child support services, the CP must cooperate fully in collecting support from the NCP. Court-ordered medical support requires the NCP to enroll the child in a health insurance plan, if available at a reasonable cost.

A CP with a medical support order may contact the health insurance company and the NCP's employer directly to talk about insurance plan options.

## **After leaving CalWORKs**

After CalWORKs payments or Medi-Cal benefits end, the child support case remains open and current collections and arrears owed to the CP are still enforced by the LCSA. If the CP notifies the LCSA in writing that child support services are no longer needed and requests the case be closed, DCSS will continue to collect payments only for past-due child support owed to reimburse the county for CalWORKs or Medi-Cal benefits.

## **Credit for direct child support payments**

The CP must report to the LCSA any direct payments received from the NCP. In CalWORKs cases, the CP must also report direct payments to the county welfare department.

*Please note:* When the NCP pays the CP directly, the payments may not be credited toward the child support amount owed by the NCP.

Both parents should keep records of payments made and received, as well as receipts for purchases. Payments made for clothes, school supplies, rent, and other expenses are not credited as child support payments.

Child support paid through the DCSS SDU assures the parties of an accurate record of payments.

## **Questions and answers—CalWORKs and Medi-Cal**

### *I am receiving CalWORKs. How is child support distributed?*

In every month that a child support payment is made, a notice will be mailed to the CP showing how much money the NCP paid. Each month, the first \$50 of current child support—a disregard—is paid to the CP. The remainder goes to repay the county for any CalWORKs payments received. (New federal law may change the disregard payment amount. Contact the LCSA or county welfare office for more information.)

### *If the LCSA cannot find the NCP, can I still get CalWORKs or Medi-Cal benefits?*

Yes. If you are eligible and cooperate with the LCSA, you can receive CalWORKs or Medi-Cal benefits while the LCSA tries to find the NCP.

### *I received CalWORKs in the past, but not now. How is child support distributed?*

Current support and arrears owed to you is paid to you. Anything collected above current support and arrears owed to you is kept by the LCSA to pay for past-due child support when you received CalWORKs payments in the past.

*“I can get welfare for almost everything my child needs.”*

Public assistance is not a substitute for the benefits that children receive from having two active, involved parents in their lives. Children get a sense of security, belonging and purpose from having their needs met on a consistent basis.

# Noncustodial parents—what you need to know



## Visiting your local child support agency

Child Support Program services are for both parents—CPs and NCPs. NCPs may visit to apply for services, or ask to modify child support already ordered.

LCSAs are an important resource for NCPs. By working closely with the LCSA, NCPs can avoid or minimize issues that may arise regarding their child support case and/or child support payments.

The LCSA can also provide assistance and referrals to other agencies for employment, training, and other helpful programs and services.

## Paternity

Paternity means fatherhood. When a married couple has a child conceived during the marriage, paternity does not need to be established—the law automatically presumes the husband is the child’s legal father.

Unmarried parents can establish paternity by signing a Declaration of Paternity. Both parents must sign the Declaration of Paternity in front of a designated witness or notary public. A Declaration of Paternity is available at birthing hospitals, local registrars of births and deaths, family law facilitator offices, welfare offices, or the LCSA. For more information call DCSS’s Paternity Opportunity Program (POP) at (866) 249-0773.

The court cannot order child support or determine custody or visitation until paternity has been legally established.

## Genetic tests

Either parent can request a genetic test if biological proof of paternity is wanted before a man is named the legal father. In that case, the LCSA or either parent can request a genetic test. LCSAs offer genetic testing, usually at their offices or a nearby clinic.

If there is a dispute about paternity and the parties do not consent to genetic testing, the court can order the parties to submit to testing. If either parent refuses to be tested, the court can force the parties to submit to the testing through contempt, or determine the matter against the uncooperative parent.

## Establishing paternity by legal agreement

Both parents may agree (stipulate) to a child's paternity and arrange for child support payments. The stipulation may also include child custody and visitation provisions. The LCSA or family law facilitator can explain how to do this without going to court, but the agreement must be approved by the court.

## Making child support payments

Most court-ordered child support payments are made through employer wage withholding—when an employer deducts court-ordered child support payments from an employee's paycheck.

If your payment for current child support is not made by wage withholding, other payment options are available. Confirm with your LCSA or family law facilitator if you are eligible to pay using the following options:

- Pay by check—mail your payment to:  
State Disbursement Unit  
P.O. Box 989067  
West Sacramento, CA 95798
- Make a debit/credit card payment online at [www.casdu.com](http://www.casdu.com) or over the telephone at 1-866-325-1010.
- Set up ongoing (recurring) automatic withdrawals from your checking or savings account or credit card at [www.casdu.com](http://www.casdu.com).

*“The other parent is nicer to me when I don’t bug them about child support. I think we might get back together, and opening a child support case would ruin our chances of being a family. Wouldn’t that be good for the child?”*

Meeting your child's needs is more important. Child support strengthens families by encouraging both parents to be responsible and respectful of their roles. Responsible parenting can be the start of long-term relationships for the child and both parents.

### The family law facilitator in each county provides free assistance

Every family court has a family law facilitator to provide child support information and help parents obtain and complete court forms. Services are free and unconnected with DCSS. Contact information is available on the Internet at [www.courtinfo.ca.gov/selfhelp/lowcost/flf.htm](http://www.courtinfo.ca.gov/selfhelp/lowcost/flf.htm).

## Modifying the child support order

An existing child support order may be modified (changed) if there is:

- A significant increase or decrease in either parent's earnings;
- A change in custody or the amount of time the child spends with each parent; or
- A change in any other factor that would affect the child support guideline.

If you become disabled, lose your job, or go to jail, contact the LCSA as soon as possible. Unless the child support order is modified, unpaid child support will still be owed—with interest.

The LCSA will review the child support order in the event of a major change, like losing a job, getting a new job, or a change in custody or visitation. Quitting a job does not justify a review.

Either parent may request a review of their child support order. The request must be in writing, and must state reasons why the amount of the child support order is now too high or too low. A modification may be justified if the support order would change by 20 percent or \$50, whichever is less.

If the LCSA decides the modification requirements have been met and a change is appropriate, they will ask the court to modify the child support order. The LCSA has **180** days to request a change.

**Please note:** If the LCSA decides the requirements for a review are not met, the parent requesting the review may ask the court to review the order.

If the NCP and the CP can agree to the support amount ahead of time, the NCP and CP can sign a stipulation (agreement) that must be filed with the court. If there is no agreement, a notice to appear in court will be sent and a judge or commissioner will decide the amount.

In cases where medical support was not already ordered by the court, the law requires the LCSA to ask the court for a medical support order whenever health insurance becomes available.

## Questions and answers—modifying the child support order

*I am an NCP. If I lose my job, do I still have to pay child support?*

Yes, but call the LCSA right away and ask them to review your case. The court can modify the child support order if you lost your job through no fault of your own.

*I am an NCP, but my child lives with me now. Can I change the child support order?*

Yes. When there is a change in visitation or custody of the child, you can either go to court to ask for a change in the child support order, or you may ask the LCSA to ask the court to modify the court the order. You may be able to reduce the child support you pay or begin receiving child support from the other parent.

*My ex-spouse has remarried and has another family to support. How does this affect the support owed to our children?*

The amount of the child support order may be decreased if the parent paying support must also support children from another relationship.

*“The other parent has threatened to quit their job if I open a child support case.”*

Quitting their current job does not stop child support from accruing. A pattern of changing employment will be viewed as noncompliance if that parent is brought into court for nonpayment of child support. Threats are frequently a way to keep you from providing what is best for your child.

## Paying court-ordered child support is your responsibility

Under California law, NCPs are required to pay their court-ordered child support on time and in full. An NCP who cannot meet the full obligation or cannot make the court-ordered payments must contact the LCSA as soon as possible to avoid or minimize any adverse actions that may be taken.

**Please note:** Unpaid child support will still be owed—with interest.

The LCSA tries to get parents to pay child support voluntarily. But if an NCP is late, or fails to pay court-ordered child support, both DCSS and the LCSA have many ways to collect support, including:

**Credit Reporting:** Paying child support late can affect an NCP's credit rating. Every payment and/or failure to pay is reported to the major credit reporting agencies.

**Passport Denial:** If a person owes \$2,500 or more in past-due child support, the U.S. Department of State will not issue or renew a passport until all past-due child support is paid. In most cases, a passport is needed to travel outside the U.S.

**Property Liens:** A real property lien will be filed against the real property of a parent who owes past-due support. In most cases when the property is sold, partial or full payment of the real property lien will be paid to the past-due support.

**State Licensing Match System:** Driver's licenses, business licenses, and permanent state-issued professional licenses—for example, contractor, doctor, teacher, attorney, cosmetologist, etc.—can be suspended or withheld until past-due child support is collected.

**DCSS Full Collection Program (FCP):** The LCSA must alert the FCP anytime a person is more than \$100 and 60 days past-due in paying support. FCP can take funds using information found through the Financial Institution Data Match from bank accounts, rental income, royalties, and dividends to collect child support.

**Income Tax Refund Intercepts:** The Internal Revenue Service (IRS) and the Franchise Tax Board (FTB) can intercept tax refunds for past-due support.

**Board of Equalization Sales and Use Tax Intercept System:** Sales tax refunds can be intercepted.



**Disability Insurance Benefit Intercept System:** Part of state disability payments owed to NCPs can be intercepted.

**Unemployment Insurance Benefit Intercept System:** Part of state unemployment benefit payments due to NCPs can be taken.

**Workers' Compensation Appeals Board Match System:** Lump sum workers' compensation awards can be taken.

**Financial Institution Data Match:** Assets of the NCP held by many banks, savings and loan institutions, and credit unions in California and the U.S. can be taken. The DCSS Full Collection Program is responsible for responding to any inquiries concerning this type of action.

**Lottery Intercept:** Lottery winnings can be taken.

**Social Security Benefits:** These benefits can also be intercepted.

In extreme situations, the DCSS can seek a contempt citation in court if an NCP who has the ability to pay refuses to pay child support. Normally this is used only as a last resort when all other attempts to collect child support have failed. Cases may also be referred to the District Attorney to review for a possible misdemeanor or felony.

### **Help with arrearages (past-due payments)**

The DCSS has two programs to help parents pay off arrearages:

The Compromise of Arrearages Family Reunification Program is for parents who owe the government money because aid was paid for a child living with a relative, a guardian, or in foster care. If the child is still a minor and now lives with the obligor, and the obligor's net income is less than 250 percent of the federal poverty level, the obligor can apply for this program.

The Compromise of Arrears Program (COAP) may allow a parent who owes the government arrears of \$5,000 or more to reduce the total amount owed by making payments. Contact your LCSA for more information.



# Closing a child support case

Under state law there are specific rules that govern how a child support case can be closed, and by whom.

## When an LCSA closes a case

Under Title 22 California Code of Regulations (CCR) Section 118203(a)(1) through (a)(15) the LCSA must close a case if:

- A current child support order is no longer enforceable, and less than \$500 in past-due child support is owed
- The NCP died and a levy on the estate cannot be enforced
- Paternity cannot be established because:
  - The youngest child is over age 18 and paternity was never established
  - Genetic tests excluded the man as the father
  - It is in the best interests of the child because of a pending adoption
  - The biological father cannot be identified after strong diligent efforts are made to identify him
  - The child was conceived as a result of artificial insemination and the donor was not the husband of the woman
- The NCP's residence, employment address, earnings and assets are all unknown after the local child support agency has made diligent efforts to find them
- The NCP has no earnings or assets that can be levied or attached for child support purposes because:
  - The NCP is institutionalized in a psychiatric facility
  - The NCP is in prison without possibility of parole
  - The NCP is medically verified to be totally and permanently disabled
  - The only income the NCP has is SSI/SSP
- The NCP lives in a foreign country, including Mexico, and specific conditions apply
- LCSA provided non-IV-D location only services
- See "When a CalWORKS CP closes a case" below
- The court determines it inappropriate to establish a case for retroactive child support only
- The recipient of services moved to another county or state
- The case was opened in error

In most cases, the LCSA must notify the recipient of services in writing at least **60** days before closing a child support case. The individual can respond to the notice and provide information that will keep the case open.

## **When a CP/NCP can request closure of a case**

Under CCR Section 118203(a)(8) the recipient of services (the person who requested services from the local child support agency) can request to close the case.

*Please note:* When the case is closed the person no longer receives services from the LCSA. However the child support order will still remain in effect and court-ordered child support payments will still have to be paid.

## **When a CalWORKs CP closes a case**

A person who applies for CalWORKs must cooperate with the child support caseworker, unless the county welfare office determines that cooperating places the parent or child(ren) in danger. See “CalWORKs, Foster Care and Medi-Cal child support cases” on page 21 for more information.

When the county welfare office determines the applicant for CalWORKs has good cause not to cooperate with the LCSA, or if such determination is pending, the LCSA must close the case when it receives that information. If the county welfare office determines that good cause no longer applies, the case can be reopened.



# Resolving problems with your child support case

## Talk to the ombudsperson!

If you need help with a problem, ask to speak with the LCSA's ombudsperson—it is his or her job to:

- Help you get child support services
- Explain your rights and responsibilities
- Help you resolve problems with your case
- Explain the complaint process before, during, and after a complaint is filed
- Help you request and prepare for a state hearing if you are not satisfied with the results of the complaint resolution process
- Help arrange for special accommodations or interpreters
- Evaluate customer satisfaction and suggest ways to improve service

## The complaint resolution process

If you're not satisfied with the assistance you're receiving from the LCSA, you have the right to file a written complaint through the Complaint Resolution Program.

The CP or the NCP may file a complaint if there is a case open with the DCSS.

Complaint issues that **can** be resolved through the Complaint Resolution Program include:

- Decision to open or close a case
- Failure to establish a court order for child support
- Collection and distribution of payments
- Calculation of past-due payments
- Efforts to modify the child support amount
- Timeliness of service
- Enforcement efforts
- Location efforts

Complaints that **cannot** be resolved through the Complaint Resolution Program include:

- Court-ordered amount of child support or past-due payments; custody, visitation, or spousal support; or determination of parental relationship
- Complaints about court services—contact the family law facilitator at the courthouse, an advocate, or a lawyer for help
- Civil rights violations
- Court ordered visitation issues
- Services, if the complainant does not have a child support case open

## How to file a complaint

State your complaint by phone or in person, or get a Request for Complaint Resolution form from your LCSA or the DCSS website, [www.childsup.ca.gov](http://www.childsup.ca.gov). Submit the complaint form to the LCSA by mail or in person.

You must file your complaint with the LCSA within **90** days of the date you knew—or should have known—about the subject of your complaint.

## What will be done about your complaint

Someone other than the caseworker involved with your complaint will investigate and try to resolve your complaint, and will tell the LCSA what must be done to remedy the problem. The complaint investigator will contact you soon after he or she receives your complaint.

The LCSA is required to provide a resolution in writing to a complaint within **30** days. If necessary, the LCSA can extend the complaint resolution period a maximum of **30** additional days. If the complaint resolution period is extended, the LCSA is required to mail you a notice stating the reason.

The LCSA will send you a written Notice of Complaint Resolution which will include information about your right to a state hearing in case you are not satisfied with the response to your complaint.

## The state hearing process

If you are not satisfied with the LCSA's response to your complaint, or if you have not received a response from the LCSA within the 30-day time frame, you have the right to have your complaint heard at a state hearing.

The following disputes **cannot** be heard at a state hearing:

- Issues that must be addressed in court
- Court-ordered child support amounts
- Parental relationship/paternity
- Child custody or visitation
- Contempt proceedings
- Civil rights violations
- Discourteous treatment by LCSA employee

## How to request a state hearing

Talk to the ombudsperson, or request a form from:

- Your LCSA
- The California Department of Child Support Services website, [www.childsup.ca.gov](http://www.childsup.ca.gov)
- The State Hearing Office—call toll-free (866) 289-4714
- The California Department of Social Services  
State Hearing Office  
744 P Street MS 19-98  
Sacramento, CA 95814

## How to prepare for a state hearing

The ombudsperson can help you request a state hearing and prepare the documents you'll need. The following information will help you present your case:

- Write a statement of the facts of your case.
- Bring copies of any information, such as statements and notices that support your complaint.
- Prepare a list of witnesses and people who might be willing to speak on your behalf about the complaint at the hearing.

You can ask for a subpoena to get documents about your case or have witnesses attend the hearing. Contact the State Hearing Office for more information.

The hearing will be held within **45** days after the State Hearing Office receives your request. You will be notified of the date, time and place of the hearing. If you are unable to attend, ask for a new hearing date or for the hearing to be held by telephone.

Translation services and reasonable disability assistance are available free of charge if needed.



## Complaint resolution & state hearing timelines

You must file your complaint with the LCSA within **90** days of the date you knew, or should have known, about the subject of your complaint.

You must request a state hearing within **90** days after the date you receive the LCSA's written response to your complaint.

If the LCSA does not respond to your complaint in writing, you must request a state hearing within **90** days from the date you filed your complaint with the LCSA.

The state hearing will be held within **45** days after the State Hearing Office receives your request.

## Local child support agency phone numbers

**Please note:** LCSAs will be transitioning to a new statewide toll-free child support phone line, Customer Connect, during 2007-2008. Customer Connect's toll-free automated phone system lets individuals access their account information or connect to the LCSA.

Individuals will be notified when their LCSA transitions to Customer Connect. For more information, visit the DCSS website, [www.childsup.ca.gov](http://www.childsup.ca.gov) and click on "Contact Local Office."

Alameda	800-809-2955
Alpine	888-250-3849
Amador	209-223-6318
Butte	530-538-7221
Calaveras	888-251-4769
Colusa	530-458-0555
Contra Costa	866-244-5382
Del Norte	707-464-7232
El Dorado	866-901-3212
Fresno	559-494-1090
Glenn	530-934-6527
Humboldt	707-441-3200
Imperial	760-482-2300
Inyo	760-873-3659
Kern	800-980-2021
Kings	888-252-9656
Lake	888-313-0863
Lassen	530-251-2630
Los Angeles	800-615-8858
Madera	559-675-7885
Marin	800-497-7774
Mariposa	209-966-3400
Mendocino	707-463-4216
Merced	877-521-5437
Modoc	866-233-6216
Mono	760-924-1720
Monterey	831-755-3200
Napa	707-253-4251
Nevada	888-786-1253

Orange	888-594-7600
Placer	530-889-5700
Plumas	530-283-6264
Riverside	951-955-4100
Sacramento	916-875-7400
San Benito	831-636-4130
San Bernardino	909-799-1790
San Diego	866-230-2273
San Francisco	888-823-2734
San Joaquin	209-468-2601
San Luis Obispo	805-781-5734
San Mateo	866-366-8221
Santa Barbara	800-818-1386
Santa Clara	888-687-7500
Santa Cruz	831-454-3700
Shasta	866-440-4443
Sierra	888-786-1253
Siskiyou	888-823-6318
Solano	707-784-7210
Sonoma	888-271-4214
Stanislaus	209-558-3000
Sutter	866-901-3212
Tehama	530-527-3110
Trinity	888-331-2033
Tulare	888-823-6588
Tuolumne	209-533-6400
Ventura	805-654-5200
Yolo	866-901-3212
Yuba	530-749-6000



