

CALIFORNIA DEPARTMENT OF CHILD SUPPORT SERVICES

P.O. Box 419064, Rancho Cordova, CA 95741-9064

Reason for this Transmittal

- State Law or Regulation Change
- Federal Law or Regulation Change
- Court Order or Settlement Change
- Clarification requested by One or More Counties
- Initiated by DCSS

November 1, 2001

CSS LETTER: 01-30

ALL IV-D DIRECTORS
 ALL DISTRICT ATTORNEYS
 ALL COUNTY ADMINISTRATIVE OFFICERS
 ALL BOARDS OF SUPERVISORS

SUBJECT: RESPONSES TO TRAINING CONFERENCE CALL QUESTIONS

In August, 2001 the Department of Child Support Services (DCSS) implemented the statewide Complaint Resolution and State Hearing Regulation training course. Because this course was designed for computer-based, video and/or workbook delivery as opposed to traditional, face-to-face lecture delivery, conference calls were held as an integral part of the implementation process. During these calls, local agency representatives posed questions regarding the complaint resolution and state hearing processes, regulations and associated training materials.

Attached is a document that provides all the questions submitted by local staff and responses developed by DCSS. The information contained in this document will be placed on the training website under a Frequently Asked Questions (FAQ) tab. From this point forward, this tab on the web site will be constantly updated as new questions arise and responses are generated. We recommend that a copy of the attached document also be placed in the Coordinator Handbook associated with the course.

Two more conference calls hosted by the Training and Procedures Unit have been scheduled for October and November, 2001. Subsequent questions about the training material should be submitted by the local Training Coordinators to the Training and Procedures Unit. If questions arise regarding the role of the Ombudsperson or the Complaint Resolution Tracking System, they can be submitted to the Customer and Community Services Branch electronically at complaintresolutionquestions@dcss.ca.gov. If questions arise regarding policy issues or the regulations, they can be submitted to the DCSS Policy Branch through the local Policy Coordinator.



DO YOUR PART TO HELP CALIFORNIA SAVE ENERGY
 For energy saving tips, visit the DCSS website at
www.childsup.cahwnet.gov

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We hope you find the attached document useful as you move forward with the local management of this important program.

Sincerely,

SANDRA POOLE, Chief
Policy Branch

cc: Child Support Training Coordinators
Training Advisory Committee

Attachment

**California Department of Child Support Services
Child Support Services Division**

**Complaint Resolution & State Hearing Regulation Training
Frequently Asked Questions and Answers**

MAIN TOPIC: TRAINING REQUIREMENTS

Note: *For policy direction on training requirements associated with the Complaint Resolution & State Hearing Regulation Training course, refer to CSS Letter 01-26.*

Question: Can DCSS more clearly define “all staff” relative to the mandatory requirement for Lesson One?

Response: Completion of this lesson is mandatory for all staff who have or will potentially have contact with the public and/or child support services customers.

Prepared By: Kim M. Krazynski, DCSS Training & Procedures Unit

Question: Because of the delay in the release of the video, can the counties get an extension on the September 30, 2001 deadline for all appropriate staff to have completed Lesson One?

Response: The video was released overnight mail on September 24, 2001. The deadline has been changed from September 30, 2001 to October 31, 2001.

Prepared By: Kim M. Krazynski, DCSS Training & Procedures Unit

Question: Can DCSS more clearly define the mandatory training requirements for Lessons Two, Three, Four and Five?

Response:

- Lesson Two, Complaint Review and Investigation: Completion is mandatory for all staff who are or will potentially be working directly with the complaint resolution and state hearing processes.
- Lesson Three, State Hearings: Completion is mandatory for all staff who are or will potentially be working directly with the state hearing process.
- Lesson Four, Administration: Completion is mandatory for all staff who are or will potentially be involved in the administration of the local complaint resolution program, including oversight and records management, compliance reporting and other administrative functions.
- Lesson Five, Automated Tracking System: Completion is mandatory for all staff who are or will potentially be authorized to use the Complaint Resolution Tracking System.

Prepared By: Kim M. Krazynski, DCSS Training & Procedures Unit

MAIN TOPIC: TRAINING REQUIREMENTS

(continued)

Question: Are there time requirements for appropriate staff to complete Lessons Two, Three, Four and Five?

Response: Staff performing duties or who have the potential requirement to perform duties associated with the complaint resolution and/or state hearing processes must complete the appropriate lessons no later than November 30, 2001.

Prepared By: Kim M. Krazynski, DCSS Training & Procedures Unit

Question: If a person is out during the initial training period, or if a new staff person joins an agency, what is the time frame in which they need to complete the training?

Response: New staff and those who missed the initial training period should complete Lesson One within 30 days of their start date or date of return, whichever is appropriate. Lessons Two, Three, Four and Five should be completed as appropriate no later than November 30, 2001 for staff who were out during the initial training period and within 60 days of the start date for new staff.

Prepared By: Kim M. Krazynski, DCSS Training & Procedures Unit

Question: Under what authority is DCSS, a state agency, requiring training of county staff?

Response: Family Code Section 17306 (b)(8) mandates the DCSS to “develop uniform training protocols, require periodic training of all child support staff and conduct training sessions as appropriate.”

Prepared By: Kim M. Krazynski, DCSS Training & Procedures Unit

Question: Do staff who attended the State Hearing Representative (SHR) Training need to complete the Complaint Resolution and State Hearing training?

Response: Yes. The SHR training was provided by the Department of Social Services’ State Hearing Office to review the hearing process itself. The information contained in Lessons Two and Three of the Department’s Complaint Resolution and State Hearing training address practices that occur at the local level in accordance with the regulations and are, therefore, different in nature.

Prepared By: Kim M. Krazynski, DCSS Training & Procedures Unit

MAIN TOPIC: EXAMINATIONS

Note: For policy direction on the examinations associated with the Complaint Resolution & State Hearing Regulation Training course, refer to CSS Letter 01-26.

Question: Can DCSS provide more concrete direction about the exams?

Response: Successful completion of the exam associated with a particular lesson is necessary for an individual to receive credit for completing the training.

- Lesson One includes an open-book examination. This lesson provides a general overview of the complaint resolution and state hearing processes. The purpose of the exam is to ensure staff are familiar with the learning aids and can use them effectively as references on the job as necessary.
- Lessons Two, Three and Four include closed-book examinations. DCSS is responsible to ensure child support personnel are properly trained in all aspects of their job. These three lessons are designed for staff who will be working directly with customers and others to investigate, resolve and hear complaints and/or participate in the administrative functions associated with the program. It is no longer enough for an agency to say that it is providing training; the agency must be able to prove that the training provided is correct and that adequate measures of mastery of the subject matter can be documented. Consequently, it is critically important that these staff demonstrate their understanding of the training materials.
- Lesson Five does not include an examination. User knowledge will be demonstrated by successful use of the system.

A score of 60 and below fails. All staff required to complete a particular lesson must achieve a passing score on any associated examination. If a passing score is not achieved, the individual must repeat the training and attempt successful completion of the examination until a passing score is achieved. DCSS strongly recommends that in remedial training actions alternative delivery modes be employed to ensure that learning styles incompatible with initial delivery methods are not preventing an individual's absorption of the information. ***Only this remedial action should be taken in the event of examination failure - no disciplinary action should be taken under any circumstances.***

Prepared By: Kim M. Krazynski, DCSS Training & Procedures Unit

Question: The exam for Lesson One has undergone several changes. Can the corrected questions be taken out of the final scoring for those who took the test prior to the corrections?

Response: Yes. If this is done, the total points possible will change. The percentage score will need to be calculated based on the total points earned divided by the total points possible. In this circumstance, the pass point remains the same; any score above 60 percent passes. Scores below 60 percent fail.

Prepared By: Kim M. Krazynski, DCSS Training & Procedures Unit

MAIN TOPIC: UNION OPPOSITION TO TRAINING REQUIREMENTS & EXAMS

Question: Should individual counties contact their local chapters to meet and confer and/or otherwise discuss the mandatory training?

Response: The DCSS Training Advisory Committee, which is an integral part of the DCSS training certification process, does include labor representation so that labor organizations are aware of, and have input into, child support training materials and requirements. It is important for LCSA administrations to review local bargaining agreements and be mindful of the potential need to meet and confer with local union representatives regarding mandatory training materials. While DCSS is making every effort to include the administrations of the union organizations in the development and approval of its training materials, honoring local agreements are the responsibility of the LCSAs. The DCSS Training Unit is available to answer any questions for local agencies in support of such communications regarding training.

Local administrations should also make clear to all employees required to take any and all of the lessons in this course that the training and associated exams have been designed to ensure that:

- Child support staff have the information required to perform their jobs.
- Appropriate child support staff understand the information imparted in the training to the extent required to carry out their job responsibilities related to complaint resolution and state hearings if the situation arises.
- The exams will not be used to make employment decisions such as gauging performance, promotional readiness, salary increases or for any other purpose.

Prepared By: Donna Hershkowitz, DCSS Office of Legal Services
Kim M. Krazyński, DCSS Training & Procedures Unit

Question: Union difficulties would be alleviated if the mandatory nature of the training and other important information about how the course is to be administered at the local level was placed into a CSS (policy) letter.

Response: A CSS letter has been prepared and is currently in process for approval, signature and distribution. In the mean time, the cover letter for the training manual and the coordinator instructions contained in the course handbook explain DCSS' direction relative to the mandatory nature of the curricula and how DCSS expects the course to be administered at the local level.

Prepared By: Donna Hershkowitz, DCSS Office of Legal Services
Kim M. Krazyński, DCSS Training & Procedures Unit

MAIN TOPIC: TRAINING MATERIALS

Question: Can we change the materials?

Response: The material was created and produced by the DCSS and is **not** to be changed in any way by local staff. It is to be delivered as created, and only DCSS training staff have the authority to make changes, additions and/or augmentations to the curricula.

Prepared By: Kim M. Krazynski, Training & Procedures Unit

Question: Some counties have developed additional learning aids. Can we use and/or share these via the DCSS training web-site?

Response: The DCSS Training Unit uses a formal process, with the participation of other DCSS units and a Training Advisory Committee on which the local agencies, unions, advocates and other stakeholders have representation, to certify its training materials. This is a critically important step in our design process. Also, all supplemental materials should be reviewed to ensure consistency with the regulations and the program. Both processes will help ensure the continued integrity of the materials. The DCSS training team encourages participation by county training staff relative to developing tools their staff may need and/or find useful to absorb material presented in DCSS training courses. However, in order to ensure standardization and prevent possible misinterpretation of the regulations and program requirements, these supplemental materials should be submitted electronically to the DCSS training team (at kim.krazynski@dcss.ca.gov) who will shepherd them through the review, approval and certification process as optional additional learning aids. This **must** be done if your materials are to be used in conjunction with DCSS certified curriculum. Once approval has been obtained, these optional supplemental materials can be made available to all training coordinators via the DCSS training web-site.

Prepared By: Kim M. Krazynski, Training & Procedures Unit

Question: When a county e-mails or calls with a question, can the information be shared with the other counties?

Response: Yes. This is being done during the initial training period through the use of the conference call question and answer process. If questions are raised during this period outside the conference calls, the DCSS training team is noting the question and adding it to those that are submitted for formal responses. Once formal responses are received, they will be loaded on to the DCSS training web-site under a Frequently Asked Questions (FAQ) tab. In the long-term, the FAQ component of the training web-site will be maintained, updated and augmented routinely to reflect the questions being asked about the training materials and the program.

Prepared By: Kim M. Krazynski, Training & Procedures Unit

MAIN TOPIC: TRAINING MATERIALS

(continued)

Question: Can the Training Coordinator Letters be placed on the web-site?

Response: The Training and Procedures Unit in DCSS will place these letters on the site.

Prepared By: Kim M. Krazynski, Training & Procedures Unit

Question: Senate Bill (SB) 943 expands the complaint resolution function. Will the training change?

Response: SB 943 actually does not expand the complaint resolution function. SB 943 simply cleans up a variety of statutes that created ad hoc administrative review procedures. None of the statutes amended by SB 943 add anything new to the complaint resolution process, it simply standardizes the time frames and processes and forms for resolution of complaints.

Prepared By: Donna Hershkowitz, Office of Legal Services

MAIN TOPIC: REPORTING REQUIREMENTS

Question: Can DCSS provide additional information about reporting requirements?

Response: The quarterly reports are due by the 15th day of the month following the close of the quarter to the Training and Procedures Unit, DCSS.

<i>Quarter</i>	<i>Period</i>	<i>Deadline</i>
1 st Quarter	September 1 – November 30	December 15
2 nd Quarter	December 1 – February 28	March 15
3 rd Quarter	March 1 – June 31	July 15
4 th Quarter	July 1 – August 31	September 15

The quarterly reports should be submitted with all course evaluations received during the reporting quarter. While the reports themselves can be filed with DCSS electronically, the course evaluations associated with those reports will have to be submitted through U.S. mail.

Prepared By: Kim M. Krazynski, Training & Procedures Unit

MAIN TOPIC: THREE-DAY ISSUE RESOLUTION PERIOD

Question: Can the LCSAs develop their own forms for activities involved in the three-day pre-complaint resolution process period?

Response: Forms were not created for the three day process. Counties can create forms to expedite processing of customer's issues.

Prepared By: Francine Woods, Branch Chief, Customer & Community Relations Branch

Question: How a county handles the three-day issue period could lead to many or few complaints being filed. How the issue is addressed and trained for could lead to great disparity among counties. Are counties being left to develop their own training in this area if they choose to?

Response: Customer service regulations are being drafted to address how counties handle the three-day process for consistent reporting and identification of complaints. Once the regulations are finalized, the DCSS Training and Procedures Unit will create uniform training guidelines.

Prepared By: Francine Woods, Branch Chief, Customer & Community Relations Branch

Question: CASES counties have developed forms for the three-day issue period and have added curriculum on the subject to the DCSS Complaint Resolution training. Can DCSS consider adding this to the statewide training program?

Response: Because the three-day issue resolution process is a possible precursor to, but separate and apart from, the complaint resolution and state hearing processes, the course intentionally does not address the subject. The Complaint Resolution & State Hearing Regulation Training course material was created and produced by the DCSS and is not to be changed in any way by local staff. It is to be delivered as created, and only DCSS training staff have the authority to make changes, additions and/or augmentations to the curricula. If local training staff have developed other training material that is associated with the three-day issue resolution process, they can provide the training back-to-back but should not incorporate the two courses together.

Prepared By: Kim M. Krazyński, Training & Procedures Unit

MAIN TOPIC: INTERFACE WITH THE FRANCHISE TAX BOARD

Question: How should the counties interface with the Franchise Tax Board (FTB) on complaint resolution issues?

Response: The FTB has established complaint resolution liaisons to facilitate complaint resolution issues involving FTB actions/inactions. In the event that such a complaint is filed, LCSAs should contact their FTB complaint resolution liaison. It is important to note that this is **not the same person as the collection liaison**. If the LCSA has difficulty contacting the FTB, they should e-mail the DCSS Complaint Resolution Unit at the following address: complaintresolution@dcss.ca.gov. The DCSS Complaint Resolution Unit will then provide the LCSA with the name of a contact person from FTB.

Prepared By: Francine Woods, Chief, Customer & Community Services Branch
Ron Dotta, Franchise Tax Board

Question: If a customer wants to file a complaint against FTB, what is the LCSAs responsibility/role, do LCSAs accept and investigate the complaint?

Response: The LCSA is responsible for accepting and investigating the complaint and, as stated above, in the event that such a complaint is received, the LCSA should contact their FTB *complaint resolution liaison* (**not the same person as the collection liaison**). If the LCSA has difficulty contacting the FTB, they should e-mail the DCSS Complaint Resolution Unit at the following address: complaintresolution@dcss.ca.gov. The DCSS Complaint Resolution Unit will then provide the LCSA with the name of a contact person from FTB.

Prepared By: Francine Woods, Chief, Customer & Community Services Branch
Ron Dotta, Franchise Tax Board

Question: Are there LCSA/FTB actions or inactions that are not appropriate for complaint resolution?

Response: Yes. All complaints must be acknowledged and responded to. If the complaint is not within the jurisdiction of the complaint resolution process, the LCSA must explain its determination in the "Notice of Complaint Resolution", form LCR006. The regulations specify that none of the following are the proper subject for complaint resolution:

- (1) Complaints which must, by law, be addressed by motion, order to show cause, or appeal, in a court of law – unless an administrative review is provided for by statute;
- (2) A court ordered amount of child support or child support arrears;
- (3) A court order or equivalent determination of paternity;
- (4) A court order for spousal support;
- (5) Child custody or visitation matters.

Additionally, certain types of issues must be dealt with so quickly that complaint resolution would be inappropriate. Please refer to the "Miscellaneous" section of the Frequently Asked Questions for a discussion related to this subject.

Prepared By: Donna Hershkowitz, DCSS Office of Legal Services
Cindy Cunningham, DCSS Policy Branch

MAIN TOPIC: COMPLAINT RESOLUTION TRACKING SYSTEM

Question: Is the Complaint Resolution Tracking System (CRTS) capable of performing a search for complaints filed by county?

Response: At this time, only the state is able to view all complaints and sort by county on the CRTS. However, enhancements to the start-up version of CRTS are now being programmed. One of these enhancements is a query that will allow a county to view all complaints filed with that county.

Prepared By: Francine Woods, Branch Chief, Customer & Community Relations Branch

Question: What does “When Referred” mean?

Response: There was a “When Referred” data element in the CRTS, which has been removed.

Prepared By: Francine Woods, Branch Chief, Customer & Community Relations Branch

Question: Is there a hard copy of the “Complaint Types” list that staff could use as a cheat sheet?

Response: The complaint types are available though e-mail. Please e-mail the DCSS Complaint Resolution Unit at the following address: complaintresolution@dcss.ca.gov. In the near future, the complaint types will be available on the web site.

Prepared By: Francine Woods, Branch Chief, Customer & Community Relations Branch

Question: At the end of the “Resolution Information” section, the system asks for “Responsible Party”. What data is this supposed to be populated with?

Response: The “Responsible Party” is the name of the LCSA person responsible for completing actions related to the complaint.

Prepared By: Francine Woods, Branch Chief, Customer & Community Relations Branch

MAIN TOPIC: COMPLAINT RESOLUTION TRACKING SYSTEM

(Continued)

Question: How come Ombudsperson staff are given access to the CRTS when they aren't able to participate in the complaint resolution process? Are Ombudsperson proper people to be entering complaint information into the CRTS initially?

Response: Ombudspersons may not be complaint investigators and may not be State Hearing Representatives. The IV-D Directors have the authority to determine who at their agency should have access to the CRTS and what level of access those people should have:

- The first level permits data entry only – users with this access permission cannot edit or change the information once it is entered.
- The second level permits the user to both enter new and edit existing data in the system.

Nothing in the regulations or policy letters prohibits the IV-D Director from assigning complaint data entry responsibilities to the Ombudsperson staff.

Prepared By: Francine Woods, Chief, Customer & Community Services Branch
Donna Hershkowitz, DCSS Office of Legal Services

Question: Can a Complaint Investigator enter information into the CRTS?

Response: The IV-D Directors have the authority to determine who at their agency should have access to the CRTS and what level of access those people should have. Nothing in the regulations or policy letters prohibits the IV-D Director from assigning complaint data entry responsibilities to any member of the agency staff.

Prepared By: Francine Woods, Chief, Customer & Community Services Branch
Donna Hershkowitz, DCSS Office of Legal Services

MAIN TOPIC: ROLES AND RESPONSIBILITIES

Question: Can DCSS clarify the roles and responsibilities of the State Hearing Representative (SHR), Ombudsperson and Complaint Investigator (CI)? Do they have to be separate positions/people? Who can the CI be? Can the Ombudsperson be a SHR?

Response:

- The CI and SHR can be the same person; each LCSA has the authority to either keep these positions separate or allow their CIs to also represent the LCSA at the State Hearing. However, neither the Ombudsperson nor the individual whose action/inaction is the subject of the complaint may fill either of these roles.
- The CI makes jurisdictional determinations, investigates and attempts to resolve complaints. This may include reviewing the complaint, investigating the underlying circumstances, and trying to resolve the issue, either by communicating why the LCSA's action was correct and cannot be changed, or identifying problems with the way the case was handled and direct action to correct those problems.
- The SHR prepares and presents the LCSA's position statement and represents the agency's interests at the State Hearing and, therefore, must be authorized to make binding agreements at the hearing on behalf of the LCSA. The SHR may agree with the position that was articulated during the complaint resolution process and present that position at the state hearing, or may decide that the case should have been handled differently, and agree to resolve the case.
- The Ombudsperson is not directly involved in the complaint resolution process. However, if a person has not yet requested complaint resolution or wants to request a State Hearing, the Ombudsperson can assist the individual in securing those services. In addition, the Ombudsperson is the point of contact for DCSS and the State Hearing Office relative to ensuring the availability of a hearing room for a scheduled State Hearing.

Prepared By: Donna Hershkowitz, DCSS Office of Legal Services
Francine Woods, Chief, Customer & Community Services Branch

Question: Can the Ombudsperson be the CI? Who can be a CI? Can the CI be part of the State Hearing process? When does the Ombudsperson get involved in the complaint resolution/state hearing process?

Response:

- The CI may be any person other than the Ombudsperson or the individual involved in the action/inaction that is the subject of the complaint. CIs can be SHRs if the LCSA so chooses. The only individuals who cannot be SHRs are Ombudspersons and the individual whose action/inaction is the subject of the complaint.
- The Ombudsperson may be involved at various times during the complaint resolution and state hearing processes. Hopefully, their involvement at the front end will result in "inquiries" not turning into "complaints" because the issue is resolved to the customer's satisfaction.
- If the issue is not resolved, the Ombudsperson is instructed to help complainants navigate through the complaint resolution/state hearing processes. Ombudspersons may help complainants prepare requests for State Hearing, or otherwise assist complainants in understanding the complaint resolution/State Hearing processes.

Prepared By: Donna Hershkowitz, DCSS Office of Legal Services

MAIN TOPIC: ROLES AND RESPONSIBILITIES

(continued)

Question: CSS Letter 01-18, in addressing Ombudsperson functions, states that “when the Ombuds receives an initial “issue”, they must explain the local complaint resolution process to the complainant and refer the initial complaint to the complaint resolution caseworker.” Is this the case family support officer (FSO) or the complaint investigator?

Response: The complaint resolution case worker is the complaint investigator. The complaint investigator can be an FSO.

Prepared By: Francine Woods, Chief, Customer & Community Services Branch

Question: Is it true that the CI can not participate in a State Hearing for a complaint that he/she investigated?

Response: No.

Prepared By: Donna Hershkowitz, DCSS Office of Legal Services

MAIN TOPIC: FORMS

Question: On Form SH001, there is no place for the complainant to list the LCSA case number.

Response: The SH001 will be revised to include a place for the complainant to list the LCSA case number.

Prepared By: Francine Woods, Chief, Customer & Community Services Branch

Question: Will any forms/brochures be available in Spanish or Vietnamese? Both?

Response: Forms and brochures will be in Spanish and Vietnamese. The brochures are currently being translated into Spanish and then we will work on other language translations.

Prepared By: Francine Woods, Chief, Customer & Community Services Branch

Question: Where can county staff get electronic copies of the Complaint Resolution and State Hearings forms?

Response: For electronic copies of the forms, counties may submit an e-mail request to complaintresolutionquestions@dcss.ca.gov.

Prepared By: Francine Woods, Chief, Customer & Community Services Branch

Question: Do Judicial Council forms exist? Are they ready for complainants to use to file in court if the State Hearing/rehearing process doesn't yield desired results?

Response: There do not appear to be any standard Judicial Council forms available or under design for the filing of a writ with the Superior Court to challenge a hearing/rehearing decision.

Prepared By: Donna Hershkowitz, DCSS Office of Legal Services

Question: Primarily caseworkers will be completing the "Notice of Complaint Resolution", form LCR006. However, most have little or no legal background. The form includes a requirement to cite legal citations. Does DCSS have any advice for completing this information on the form? A requirement to run all forms through legal staff would be a tremendous resource drain.

Response: DCSS does not believe legal needs to be involved in every case. The LCR006 form and the State Hearing position statement do require the LCSA to identify the source of information upon which the decision is based. This may be a CSS policy letter, federal or state law or regulation, or other similar source. However, DCSS expects that an LCSA be prepared – at any time - to offer an explanation of why it has or has not carried out an action. Prior to making such a decision, LCSA staff should have defined a solid basis, i.e., the laws, policies, and/or regulations, that justify the action or inaction taken. It is exactly such an explanation and justification that needs to be contained in the LCR006.

Prepared By: Donna Hershkowitz, DCSS Office of Legal Services

MAIN TOPIC: Forms
(Continued)

Question: Does a copy of the “Request for Complaint Resolution”, form LCR001 go to DCSS? Is the bottom part of the form completed only when an LCSA representative is completing the form on behalf of the complainant who filed verbally?

Response: Copies of these forms are not forwarded to the DCSS. The bottom of this form is for LCSA use, if needed.

Prepared By: Francine Woods, Chief, Customer & Community Services Branch

MAIN TOPIC: STATE HEARINGS

Question: Who can be an Authorized Representative (AR)?

Response: A complainant may pick anyone to act as their AR – an attorney, a friend, a relative, or an advocacy organization to name a few. However, if the complainant does not appear personally at the State Hearing, the regulations require a specific written authorization before the AR may appear on the complainant's behalf. These regulations seek to ensure that the Administrative Law Judge (ALJ) properly determines that the complainant truly intended the particular person to act as his or her representative. If the complainant is present at the hearing, there is no need for written verification, as the complainant can simply state that he or she is authorizing the other person to act as his or her representative.

Prepared By: Donna Hershkowitz, DCSS Office of Legal Services

Question: Can the State Hearing Representative (SHR) be an attorney?

Response: The SHR can be an attorney, although DCSS does not believe the representative needs to be an attorney. DCSS tried to give each LCSA the flexibility to determine who they want to assign the SHR responsibilities to, but does not believe this duty needs to be handled by an attorney. DCSS expects each LCSA to appoint individuals who:

- Are familiar with case processing issues that arise, and
- Can speak to LCSA practice and policy in these areas.
- Can be empowered to enter into binding agreements with the complainant at the hearing if appropriate. (this requirement is in regulation)

Prepared By: Donna Hershkowitz, DCSS Office of Legal Services

Question: Can an LCSA have more than one SHR?

Response: There is no limit on the number of SHRs an LCSA may have; however, there should only be one SHR at each hearing. If the LCSA wishes to have additional individuals attend a hearing (for example, to provide training to new SHRs), pursuant to regulation, the LCSA would need the approval of both the complainant and the ALJ for the additional person(s) to attend. Even if the complainant agrees, the ALJ may exclude any person whose presence may be adverse to the hearing.

Prepared By: Donna Hershkowitz, DCSS Office of Legal Services

MAIN TOPIC: STATE HEARINGS

(Continued)

Question: When the State Hearing Office (SHO) sends a letter notifying LCSAs of a hearing, the letter does not indicate the subject of the complaint/hearing. Can this be fixed?

Response: The SHO sends a copy of the state hearing request form to the LCSA as a matter of course. The form includes a description of the complaint, from the complainant's perspective. If it is more helpful to you to receive the form by fax rather than ordinary mail, you may contact the DCSS Complaint Resolution Unit at the following e-mail address: complaintresolutionquestions@dcss.ca.gov for assistance.

Prepared By: Francine Woods, Branch Chief, Customer & Community Services Branch

Question: How detailed is the SHO's initial review of a complaint? If they are unable to find a complaint logged on the Complaint Resolution Tracking System (CRTS) will they contact the local agency to determine if and when a complaint was filed? Is there any avenue for LCSAs to contest the SHO's granting of a hearing?

Response: The SHO will contact the LCSA's lead Ombudsperson if they are unable to find a complaint on the CRTS to determine if a complaint has been filed. However, these are additional steps that were not part of the Department's interagency agreement. For this reason, the sooner you are able to enter information into the CRTS, the better.

If the LCSA does not feel that there is jurisdiction, the LCSA may send a letter to the SHO, with a copy to the complainant (otherwise it would be an impermissible ex parte communication) giving the SHO their view of why the SHO should dismiss for lack of jurisdiction.

Prepared By: Francine Woods, Branch Chief, Customer & Community Services Branch

Question: Who would determine what is confidential or not confidential relative to a complainant's review of case file documents?

Response: All documents are subject to the same statutory or regulatory requirements for privacy and confidentiality that exist for all child support documents. Lesson Four, Administration, in the Complaint Resolution and State Hearing Regulation Training course provides information on this topic.

Prepared By: Francine Woods, Branch Chief, Customer & Community Services Branch
Kim Krazynski, DCSS Training & Procedures Unit

MAIN TOPIC: STATE HEARINGS

(Continued)

Question: The SHO is required to send notification of hearing to the LCSA within 10 calendar or business days of the date of the scheduled hearing? The written position statement is due at least five days prior to the hearing – this does not provide much time.

Response: “Days” is considered calendar days unless otherwise specified. The SHO must notify all interested parties at least 10 calendar days prior to the scheduled hearing. [Reference: Section 120203].

The LCSA must mail the position statement to the complainant at least five (5) business days prior to the scheduled hearing. This is to ensure that the complainant receives a copy of the statement prior to the state hearing in order for the complainant to be informed of the local child support agency’s position. The regulations do not require the complainant to respond back to the LCSA regarding the position statement prior to the state hearing. Rather, the complainant has the opportunity to respond to the position statement at the state hearing. [Reference: Section 120204(a)(6)].

Much of the information required should be contained in the “Notice of Complaint Resolution”, form LCR006, and the LCSA should be in constant preparation once they receive the SH001.

Prepared By: Cindy Cunningham, DCSS Policy Branch
Donna Hershkowitz, DCSS Office of Legal Services

Question: How long can an ALJ hold the record open at the conclusion of a State Hearing?

Response: Section 120210 of the State Hearing regulations gives the ALJ the authority to hold the record open for a stated period of time not to exceed 30 days.

Prepared By: Donna Hershkowitz, DCSS Office of Legal Services

Question: Who appoints the ALJs?

Response: The SHO is responsible for selecting and appointing ALJs.

Prepared By: Francine Woods, Branch Chief, Customer & Community Relations Branch

MAIN TOPIC: STATE HEARINGS

(Continued)

Question: Can an attorney represent a complainant at the State Hearing?

Response: Yes, the complainant may be represented at the hearing if he or she so chooses. The likelihood, however, is that the large majority of complainants will be unrepresented.

Prepared By: Donna Hershkowitz, DCSS Office of Legal Services

Question: Some counties have hearings coming up and they do not have their State seals or flags yet. What do they do for the hearings? Should there be a flag or sign in front of the building where a hearing is supposed to be held?

Response: State hearings can proceed without the flags and seal. Flags do not have to be in front of the building where the hearing is taking place. DCSS is in the process of shipping the flags and seals to the counties. Please e-mail DCSS at complaintresolution@dcss.ca.gov if you have not received your flags and seal.

Prepared By: Francine Woods, Branch Chief, Customer & Community Relations

MAIN TOPIC: REHEARINGS

Question: What discretion does the DCSS Director have to turn down a request for rehearing which comes from the complainant?

Response: Either the LCSA or the complainant may request a rehearing. The regulations define specific reasons why a rehearing may be requested/granted. A rehearing shall be granted for one or more of the following reasons:

- (1) Newly discovered evidence is now available but was not available to the requesting party at the time of the hearing, and the new evidence, if it had been introduced, could have changed the result of the decision;
- (2) The adopted decision is inconsistent with the law; or
- (3) The adopted decision is not supported by the evidence in the record.

Prepared By: Donna Hershkowitz, DCSS Office of Legal Services

Question: Who does the DCSS Director ask to have the decision reheard?

Response: If the Director grants a rehearing, that rehearing will be conducted by the State Hearing Office – the same as the original hearing request.

Prepared By: Donna Hershkowitz, DCSS Office of Legal Services

MAIN TOPIC: ARREARAGE COMPLAINTS

Question: If a complaint regards not just a math error but a child or equity issue, will the Administrative Law Judges be able to make a determination at the State Hearing?

Response: The DCSS has recently issued CSS Letter 01-25 which discusses the scope of state hearings in regard to arrearage issues.

Prepared By: Donna Hershkowitz, DCSS Office of Legal Services

Question: If a State hearing is requested and granted on an arrearage issue, shouldn't the other party (likely the custodial party) be notified of the hearing since the outcome directly effects them? Will LCSAs be responsible for performing such notification? In what capacity could/would the other party attend the hearing?

Response: The DCSS has recently issued CSS Letter 01-25 which discusses the scope of state hearings in regard to arrearage issues. The letter specifically addresses this issue of notice to other parties.

Prepared By: Donna Hershkowitz, DCSS Office of Legal Services

MAIN TOPIC: PROPERTY SEIZURE

Question: Counties have different policies regarding SLMS license releases, which will make an Administrative Law Judge decision on such a subject difficult. Will the State develop a standardized policy on the release of held licenses?

Response: Yes. DCSS is currently drafting regulations on a number of topics to standardize many practices and procedures. Among the issues that will be the subject of regulations is Enforcement Remedies, including SLMS.

Prepared By: Donna Hershkowitz, DCSS Office of Legal Services

Question: Can passport seizure issues be resolved through the complaint resolution process?

Response: The DCSS believes that resolution of passport seizure and release issues are generally of such a time sensitive nature that going through the complaint resolution process would be ineffective. Because an individual rarely realizes their passport has been seized until just before travel is scheduled to take place, the 30 days required to complete the complaint resolution process and the time required to have a decision rendered in a State Hearing (if dissatisfied with the results of complaint resolution) may interfere with a complainant's ability to contest the passport seizure before the time he or she needs the passport to travel. Therefore, if the LCSA receives a request for complaint resolution on these issues, the LCSA should contact the complainant immediately and inform him/her that the proper forum to raise that complaint is in court, and not through the local complaint resolution process. DCSS has recently issued CSS Letter 01-25 which further explores this issue.

Prepared By: Donna Hershkowitz, DCSS Office of Legal Services

MAIN TOPIC: MISCELLANEOUS

Question: Does a custodial party (CP) from another state have access to or the right to use California's complaint resolution process to file against a California action/inaction?

Response: Yes. A CP or Non-Custodial Parent (NCP) from another state would have the right to use the complaint resolution process as long as the complaint pertains to an action/inaction of a California LCSA or the Franchise Tax Board, and the issue is within the jurisdiction of the complaint resolution process. [Reference: Section 120101]

Prepared By: Cindy Cunningham, DCSS Policy Branch

Question: Can DCSS provide examples of situations in which a resolution must be reached so quickly that use of the complaint resolution process is precluded?

Response: For certain complaints, taking the time to complete the local complaint resolution process can jeopardize an individual's right to seek court review of the action in question or otherwise resolve the issue. This would occur in matters where there is a particularly short time frame in which to challenge an action. For example:

- If an LCSA notifies an obligor of its intent to levy on property, the obligor generally has 10 days in which to file a claim of exemption with the LCSA. If the obligor were to submit a request for complaint resolution to have the concern addressed by the complaint resolution process instead of filing the claim of exemption, the property would be levied upon before any resolution of the issue were possible.
- Actions such as the release of a passport are generally so time sensitive that resort to the complaint resolution process is an ineffective solution. DCSS has therefore determined that these types of actions are inappropriate for the complaint resolution process.

DCSS is has recently issued CSS letter 01-25 on state hearing jurisdiction. This letter explores this concept further.

Prepared By: Donna Hershkowitz, DCSS Office of Legal Services

Question: DCSS maintains an Ombudsperson List. To whom should changes in the Ombudsperson list be submitted? How can a local agency ensure that changes have been made correctly?

Response: Send changes for the list to complaintresolutionquestions@dcss.ca.gov. The LCSA can review the Ombudsperson list to ensure changes have been made correctly and provide corrections through the e-mail address.

Prepared By: Francine Woods, Branch Chief, Customer & Community Services Branch

MAIN TOPIC: MISCELLANEOUS

(Continued)

Question: How are customers going to become aware of the complaint resolution and state hearing program? When will the brochures and other public information materials be distributed? How are they going to be distributed? Are LCSAs required to do outreach for this program or is it a State campaign?

Response: Customers should become aware of the program when they contact the LCSA. Also, the DCSS Public Affairs Office plans to do a series of news releases regarding the Ombudsprogram, Complaint Resolution and State Hearing processes. Other outreach activities will be coordinated with the LCSA's Outreach Coordinators. The LCSAs are required to do outreach for this program with materials provided by the State. These materials are currently being printed and will be distributed shortly.

Prepared By: Francine Woods, Branch Chief, Customer & Community Services Branch

Question: Why are we bringing so many attorneys into the mix when we are supposed to be resolving issues at the lowest level possible?

Response: LCSAs are strongly encouraged to try to resolve complaints, inquiries, etc. at the lowest level. If a CP or NCP calls with a problem, LCSAs have been instructed to try to resolve the problem immediately. If the CP or NCP is not satisfied with the response, or does not receive a response, he or she may file a complaint to get satisfaction. Attorneys are not necessarily required at any step in the complaint resolution/state hearing process. Some LCSAs are using attorneys as hearing representatives, but others are not. DCSS does not believe this process requires attorney participation.

Prepared By: Donna Hershkowitz, DCSS Office of Legal Services

Question: Is there any additional information wanted in the Customer Service Quarterly Progress Report relative to complaint resolution? Will there be a change to the content and/or format as a result of the implementation of this program?

Response: The customer service quarterly progress report is being revised to reflect the regulation changes. The Ombudsprogram report should contain the number and type of inquiries, issues, disputes and/or complaints (customer contacts) received by the Ombudsprogram with an analysis of the data and an identification of systemic issues. The Complaint Resolution Tracking System (CRTS) was designed for the DCSS to provide a report on complaint resolution activities. However, if the LCSA has not recorded complaints in the CRTS, the LCSA will need to provide a report of the complaint resolution activities to the DCSS. A CSS letter is being drafted to address this issue.

Prepared By: Francine Woods, Branch Chief, Customer & Community Services Branch

MAIN TOPIC: MISCELLANEOUS

(Continued)

Question: How does the Complaint Resolution and State Hearing program affect current complaint resolution processes set by law for monetary complaints? Does the new program supercede these old practices/processes?

Response: The Barnes process is currently in place for certain complaints related to collection and distribution. The complaint resolution and state hearing processes take the place of the Barnes process. However, LCSAs are required to continue sending Barnes notices identifying the amounts of support collected and distributed.

Prepared By: Donna Hershkowitz, DCSS Office of Legal Services

Question: Regarding CSS Letter 01-20 dated July 25, 2001, do local agencies have to follow through on any "inquiry" they get? This word is used in the letter, and the agency is asking for further definition of the word and separating general information inquiries from problem inquiries.

Response: CSS Letter 01-20 was in response to questions raised by LCSAs about having to log all customer inquiries as complaints, even though the LCSA is able to resolve the question while the customer is on the telephone, or shortly thereafter. CSS Letter 01-20 therefore seeks to give LCSAs the opportunity to resolve concerns quickly and informally without referring them to the more formal complaint process. However, this CSS letter also seeks to ensure that customers know that they have the option to request formal resolution of their concern, and that if they are not satisfied with the approach initially taken, they do not give up the opportunity to try to have their issue revisited through the complaint resolution and state hearing processes.

Prepared By: Donna Hershkowitz, DCSS Office of Legal Services

Question: What is the phone number for calling DCSS with inter-county jurisdiction disagreements?

Response: Intercounty jurisdiction disagreements should be forwarded to the DCSS Complaint Resolution Unit through the following e-mail address:
complaintresolutionquestions@dcss.ca.gov.

Prepared By: Francine Woods, Chief, Customer & Community Services Branch

MAIN TOPIC: MISCELLANEOUS

(Continued)

Question: Does a complainant have the right to representation during the complaint resolution process? If yes, can anyone be an authorized representative for the complainant, including a current spouse or the parent of the complainant?

Response: If the complainant is represented by an attorney, the LCSA needs to direct its questions and answers to the attorney, as they would any inquiries made by a customer who is represented by an attorney. Otherwise, absent any disability, language barrier, or other clear obstacle that would make it difficult for the complainant to personally participate, use of an authorized representative would be inappropriate during the complaint resolution process itself. The regulations do clearly permit the use of authorized representatives during the state hearing process.

Prepared By: Donna Hershkowitz, DCSS Office of Legal Services

Question: Why does the insufficient information letter (following initial interview) have to go out between the 15th and 20th days?

Response: The LCSA may contact the complainant at any time to obtain additional information. In fact, the LCSA is strongly encouraged to contact the complainant as early as possible and as often as necessary to obtain any and additional information necessary to resolve the complaint. However, if the LCSA is going to contest that failure to respond to the request for additional information will result in the complaint being closed (which the regulation in question provides), DCSS thought it would be inappropriate to send the notice too early in the 30 day complaint resolution period. The regulations therefore provide that such notification needs to be provided between the 15th and 20th days – with the complainant being given the opportunity to provide the remaining needed information by the 25th – 30th day.

Prepared By: Donna Hershkowitz, DCSS Office of Legal Services

Question: Can the county's complaint resolution and Ombuds program teams be made into one team?

Response: LCSAs need to carefully avoid having Ombudspersons perform Complaint Investigator or State Hearing Representative roles. The two teams should not be made into one team because of the Ombuds' unique role.

Prepared By: Donna Hershkowitz, DCSS Office of Legal Services
Francine Woods, Branch Chief, Customer & Community Services Branch