

**CALIFORNIA DEPARTMENT OF CHILD SUPPORT SERVICES**

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



September 27, 2006

CSS LETTER: 06-33

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

SUBJECT: SPOUSAL SUPPORT

<u>Reason for this Transmittal</u>	
<input type="checkbox"/>	State Law or Regulation Change
<input type="checkbox"/>	Federal Law or Regulation Change
<input type="checkbox"/>	Court Order or Settlement Change
<input type="checkbox"/>	Clarification requested by One or More Counties
<input checked="" type="checkbox"/>	Initiated by DCSS

The purpose of this letter is to provide policy direction on spousal support activities. The release of this letter replaces and makes obsolete any prior written policy on spousal support. Effective immediately, the following spousal support policy is in effect.

Spousal Support Authority

Federal regulations require states to enforce spousal support for a spouse or former spouse who is living with the child(ren) for whom the spousal support obligor also owes child support, but only if a child support obligation has been established for that spouse and the child support obligation is being enforced under the Title IV-D State Plan [45 Code of Federal Regulations 302.31(a)(2)].

The State Plan limits responsibility for spousal support, to spousal support included in a child support order [Family Code (FC) Section 17604(a)(2)].

FC Section 17400(h) identifies five specific actions that are considered to be “enforcing obligations”. These examples are not considered to be all-inclusive. One of the examples includes the response to an obligor’s request for a downward modification of a spousal support order, but only when the child(ren) are residing with the obligee parent and the local child support agency (LCSA) is also enforcing a related child support obligation owed to the obligee parent by the same obligor [FC Section 17400(h)(4)].

FC Section 17520 provides the license suspension requirements. Section 17520(a)(4) defines “compliance with a judgment or order for support”. This definition states, in part, “...The local child support agency is authorized to use this section [17520] to enforce orders for spousal support only when the local child support agency is also enforcing a related child support obligation owed to the obligee parent by the same obligor, pursuant to Sections 17400 and 17604.”

### Enforcement of a Spousal Support Order

Pursuant to the Federal and State laws above, spousal support that is not associated with a child support order **shall not** be enforced under the Title IV-D program. Enforcement of a spousal support order under the Title IV-D program shall only occur when **both** of the following criteria are met:

- a) The obligee is living with the child(ren) for whom the spousal support obligor also owes child support; **AND**
- b) the child support order is also being enforced under the Title IV-D program.

### Collection and Distribution of Spousal Support

Federal guidance received from the Office of Child Support Enforcement (OCSE) gives the State the discretion to continue to collect and distribute spousal support once a child support obligation has been satisfied and the LCSA is no longer enforcing a child support order. Since State law limits the State's involvement in spousal support activities, the Department of Child Support Services (DCSS) has determined that it is not appropriate to process, monitor, and track spousal support payments that are not associated with a child support order.

### Data Reporting

Spousal support that is not associated with an active child support order may no longer be reported in Section F on the Child Support (CS) 1257. Additionally, collections and disbursements for spousal support where the IV-D case has been closed should not be reported on the CS 34 and 35.

### Interstate and Foreign Reciprocating Countries

Interstate – Interstate spousal support orders shall only be enforced if the criteria in a) and b) listed above are met. The Uniform Interstate Family Support Act does not require states to enforce another state's spousal-only support order. As such, California's State Profile in the OCSE Intergovernmental Referral Guide (IRG), Section F9, reflects this policy and cites as the authority Title 22, Division 13, California Code of Regulations (CCR), Section 112100(b)(2)(A), and FC Sections 4351(b) and 17400(h).

Foreign Reciprocating Countries – Spousal support orders from foreign reciprocating countries shall only be enforced if the criteria in a) and b) are met. Policy Interpretation Question (PIQ) 04-01 released by OCSE addressed the processing of cases with foreign reciprocating countries. The PIQ refers to spousal-only services requested by a foreign reciprocating country when there is no child involved (question 7). The PIQ states that IV-D agencies are not required to provide services in spousal-only cases from foreign reciprocating countries pursuant to Sections 454(4)(B) and 54(32)(B) of the Social Security Act.

Since State statute prohibits spousal support activities in cases where there is not a related child support order, LCSAs shall not provide spousal support services to any foreign reciprocating country unless the criteria in a) and b) are met.

Case Closing

When an order for both child (current and/or arrears) and spousal support is being enforced and the child support obligation becomes satisfied, leaving only the spousal support order, the LCSA shall discontinue all spousal support activities and close the case pursuant to the case closure requirements at Title 22, CCR, Division 13, Section 118203(a)(1).

Guidelines for Enforcing Spousal Support

The following guideline table provides examples of scenarios to help in determining when spousal support shall/shall not be enforced. The following table is not intended to be inclusive of all scenarios:

<b>Scenarios</b> <b>(The following scenarios may include currently open cases or new applications for services)</b>	<b>Enforce Spousal Support</b>	<b>Do Not Enforce Spousal Support</b>	<b>Close Case</b>
Current child and current spousal support. Obligee is living with the child.	✓		
Current child support and spousal support arrears. Obligee is living with the child.	✓		
Child support arrears (no current) and current spousal support. Obligee is living with the child.	✓		
Child support arrears (no current) and current spousal support. Obligee <b>is not</b> living with the child.		✓	

Child support arrears (no current) and spousal support arrears (no current). Obligee is living with child.	✓		
Child support arrears (no current) and spousal support arrears (no current). Obligee <b>is not</b> living with the child.		✓	
LCSA is enforcing order for both child and spousal support. Child support obligation becomes satisfied (no arrears), leaving spousal-only.		✓	✓
LCSA receives request from another state to enforce a spousal-only order.		✓	
LCSA receives request from a foreign reciprocating country to enforce a spousal-only order.		✓	

If you have any questions or concerns regarding this matter, please contact the DCSS Policy Branch, at (916) 464-5055.

Sincerely,

/s/

KAREN ECHEVERRIA  
 Deputy Director  
 Child Support Services Division