

February 1, 2019

Child Support Program Manual Transmittal Letter (CSPMTL) No. 149

TO: All Child Support Program Manual Holders

FROM: Michael J. McCreight, Interim Director

SUBJECT: FIDM and Mistake of fact Hearing & Forms

The Office of Child Support (OCS) has **rescinded, adopted, and amended** the following rules. The rules have been reviewed to comply with SB 70 of the 132nd General Assembly.

OCS has **rescinded** the following rule:

Rescinded Rule	Rescinded Rule Title	Prior Effective Date of Rule	Effective Date of Rescission
5101:12-55-10	Financial Institution Data Match Program	02/01/2016	2/11/2019
	This rule describes the financial institution data match (FIDM) program, including FIDM definitions, account information access agreements, financial institution rights and responsibilities, and the FIDM procedures that the CSEA is required to follow. The rule is being rescinded and replaced with the same rule number and title because more than fifty percent of this rule is being stricken. The provisions from paragraph (C) have been moved to amended rule 5101:12-55-10.1 of the Administrative Code (OAC); and the provisions from paragraph (D) have been moved to amended OAC rule 5101:12-55-10.3.		

OCS has **adopted** the following rule:

Adopted Rule	Adopted Rule Title	Effective Date of Adopted Rule
5101:12-55-10	Financial Institution Data Match Program	2/11/2019
	This rule lists the terms and definitions that apply to this rule and its supplemental rules. Changes from the rescinded rule include: moved the provisions from paragraph (C) to amended OAC rule 5101:12-55-10.1; and moved the provisions from paragraph (D) to amended OAC rule 5101:12-55-10.3. There are no other changes to this rule.	
	This rule is authorized by ORC section 3125.25, and amplifies ORC sections 3121.01, 3121.74, 3123.24, and 3123.25.	

OCS has **amended** the following rules:

Amended Rule	Amended Rule Title	Prior Effective Date of Rule	Effective Date of Amendment
5101:12-55-03.3	Administrative Mistake Of Fact Hearing Process	02/01/2016	2/11/2019
	<p>This rule describes the administrative mistake of fact hearing process when an obligor who has been found to be in default. The rule has been amended to update the time frame in paragraph (A) from 7 business days to 14 days to comply with amended section 3123.031 of the Revised Code.</p> <p>This rule is authorized by ORC section 3125.25, and amplifies ORC sections 3123.031, 3123.033, 3123.04, and 3123.21.</p>		
5101:12-55-03.4	Final And Enforceable Determination Of Default	02/01/2016	2/11/2019
	<p>This rule describes when a final and enforceable determination of default exists. The rule has been amended to update the time frame in paragraph (A) from 7 business days to 14 days to comply with amended sections 3123.031, 3123.04, and 3123.05 of the ORC.</p> <p>This rule is authorized by ORC section 3125.25, and amplifies ORC sections 3123.032, 3123.04, 3123.05, and 3123.06</p>		
5101:12-55-10.1	Investigation Of An Account, Imposing An Access Restriction, And Releasing An Access Restriction	02/01/2016	2/11/2019
	<p>This rule describes the procedures that the CSEA is required to follow when it investigates an account, imposes an access restriction, or releases an access restriction. Changes from the existing rule include:</p> <ul style="list-style-type: none"> • clarified the language in paragraph (A) to comply with amended section 3123.25 of the ORC; • moved the provisions from paragraph (C) of existing OAC rule 5101:12-55-10 to paragraph (A) of this rule; • added language requiring the CSEA to document the findings of the investigation; • added language requiring the CSEA to issue the JFS 04018 as an attachment to the JFS 04050 and JFS 04055 to comply with the federal “Dear Colleague Letter” 13-06; and • replaced the term “SSI benefits” with “protected benefits.” <p>This rule is authorized by ORC section 3125.25, and amplifies ORC sections 3123.25, 3123.26, and 3123.27</p>		
5101:12-55-10.2	Administrative And Court Hearings For Ownership Interest In An Account	02/01/2016	2/11/2019
	<p>This rule describes the administrative hearing procedures that the CSEA is required to follow as well as the court process when the joint account owner requests an administrative or court hearing. The rule has been amended to update the time frame from 10 days to 14 days to comply with amended sections 3123.30, 3123.31, 3123.34, and 3123.35 of the Revised Code.</p> <p>This rule is authorized by ORC section 3125.25 and amplifies ORC sections 3123.29, 3123.30, 3123.31, 3123.32, 3123.33, 3123.34, 3123.35, and 3123.36.</p>		
5101:12-55-10.3	Issuing A Withdrawal Directive	02/01/2016	2/11/2019
	<p>This rule describes the procedures that the CSEA is required to follow when it issues a withdrawal directive to a financial institution. Changes from the existing rule include: added language requiring the CSEA to issue the JFS 04018 as an attachment to the JFS 04055 to comply with the federal “Dear Colleague Letter” 13-06; and moved the provisions from paragraph (C) of existing OAC rule 5101:12-55-10 to paragraph (C) of this rule.</p>		

Amended Rule	Amended Rule Title	Prior Effective Date of Rule	Effective Date of Amendment
	This rule is authorized by ORC section 3125.25 and amplifies ORC sections 3123.28, 3123.32, 3123.36, and 3123.37.		
5101:12-55-20.1	Lien Levy and Execution	02/01/2016	2/11/2019
	This rule describes the process that the CSEA shall use when it decides to execute on a lien on personal or real property of an obligor that has been asserted by the CSEA in accordance with rule 5101:12-55-20 of the Administrative Code. The rule has been amended to remove the language in paragraph E(3)(c) and (d) as the amended section 3123.72 of ORC has removed these provisions.		
	This rule is authorized by ORC section 3125.25 and amplifies ORC sections 3123.71, 3123.72, 3123.73, 3123.74, 3123.75, 3123.76, and 3123.78.		
5101:12-55-99	Chapter 55 Forms – Enforcement of the Support Order Based on Finding of Default	6/15/2018	2/11/2019
	This rule contains a compilation of forms with their effective or revised effective date, referenced within various rules contained within division 5101:12 of the Administrative Code, but first cited within Chapter 5101:12-55 of the Administrative Code. The rule is being revised to update the effective date of the JFS 04049, JFS 04052, JFS 04054, JFS 07083.		
	This rule is authorized by ORC section 3125.25; and amplifies ORC sections 3125.03 and 3125.25.		

OCS has **revised** the following forms:

Form	Form Title	Prior Effective Date of Form	Revision Date
JFS 04049	Notice To Obligor Of Default And Potential Action	8/2010	2/2019
	This form has been revised to comply with SB 70; revised the time frame from 7 business days to 14 days to comply with amended sections 3123.031 and 3123.04 of the Revised Code (ORC); made formatting changes to comply with IPP 4301 and SETs formatting requirements; made some language changes for clarity, including adding language concerning the gaming winnings such as lottery and casino, and insurance awards/claims.		
JFS 04052	Notice To Person, Other Than Child Support Obligor, Having Ownership Interest In An Account	9/2006	2/2019
	This form has been revised to comply with SB 70; revised the time frame from 10 days to 14 days to comply with amended sections 3123.30 and 3123.31 of the ORC; made formatting changes to comply with IPP 4301 and SETs formatting requirements.		
JFS 04054	Notice Of Determination On Amount Of Ownership	9/2006	2/2019
	This form has been revised to comply with SB 70; revised the time frame from 10 days to 14 days to comply with amended sections 3123.34 and 3123.35 of the ORC; made formatting changes to comply with IPP 4301 and SETs formatting requirements.		
JFS 07083	Notice To Obligor Regarding Default And 20% Payment On Arrears	12/2002	2/2019
	This form has been revised to comply with SB 70; revised the time frame from 7 days to 14 days to comply with amended sections 3123.031, 3123.04 and 3123.05 of the ORC; made formatting changes to comply with IPP 4301 and SETs formatting requirements.		

INSTRUCTIONS:

When the CSPMTL is published, the CSPM will be updated as follows:

- A rescinded rule will be moved from the CSPM to the OAC Archive section of the eManuals.
- An adopted rule will be inserted
- An amended rule will be inserted and the previous version will be moved to the OAC Archive section of the eManuals.
- A revised form will be replaced with the amended form

The rules and forms in the CSPM can be accessed at:

<http://emanuals.jfs.ohio.gov/>

INSTRUCTIONS for CSEA INTERNAL PROCEDURAL HANDBOOK:

Paragraph (I)(1) of OAC rule 5101:12-1-01 states that, whenever a program change requires modification of local procedures, the CSEA is required to revise its internal procedural handbook and submit the revision to OCS within thirty days of the revision. The CSEA should carefully review the amended rules contained in this CSPMTL to determine whether they require the CSEA to update its internal procedural handbook.

5101:12-55-03.3 **Administrative mistake of fact hearing process.**

- (A) The JFS 07083, "Notice to Obligor Regarding Default and 20% Payment on Arrears" (effective or revised effective date as identified in rule 5101:12-55-99 of the Administrative Code), and the JFS 04049, "Notice to Obligor of Default and Potential Action" (effective or revised effective date as identified in rule 5101:12-55-99 of the Administrative Code), inform the obligor of the obligor's right to contest the default and any new payment on arrears by requesting an administrative mistake of fact hearing. The obligor must file the request for an administrative mistake of fact hearing with the child support enforcement agency (CSEA) within ~~seven business~~ fourteen days of the date the JFS 07083 or JFS 04049 was issued. When an obligor submits a request for an administrative mistake of fact hearing within ~~seven business~~ fourteen days of the date the JFS 07083 was issued and a second request for an administrative mistake of fact hearing within ~~seven business~~ fourteen days of the date the JFS 04049 was issued, the CSEA shall combine both requests into one administrative mistake of fact hearing.
- (B) When an obligor files a timely request for an administrative mistake of fact hearing with the CSEA, the CSEA shall:
- (1) Schedule the administrative mistake of fact hearing to be held on a date no later than ten days after the date that the obligor files the administrative mistake of fact hearing request; and
 - (2) Issue a JFS 07052, "Notice of Administrative Mistake of Fact Hearing" (effective or revised effective date as identified in rule 5101:12-55-99 of the Administrative Code), to the last known addresses of the obligor and obligee no later than five days before the date on which the administrative mistake of fact hearing is scheduled to be conducted.
- (C) The CSEA may deny a request for an administrative mistake of fact hearing if the request is not timely filed.
- (D) At the administrative mistake of fact hearing, the CSEA shall:
- (1) Consider testimony and evidence regarding an obligor's assertion that a mistake of fact exists on the JFS 04049 or the JFS 07083;
 - (2) Determine whether a mistake of fact exists on the JFS 04049 or the JFS 07083;
 - (3) When the obligor disputes the new arrears payment, consider any evidence the obligor presents regarding household expenditures, income variables, extraordinary health care issues, and other reasons for a deviation from the presumed minimum payment on arrears, pursuant to section 3123.21 of the

Revised Code, and determine whether to deviate from the presumed payment on arrears;

- (4) Issue the administrative determination to the obligor within five business days of the date the administrative mistake of fact hearing is held;
- (5) Record the results of the administrative mistake of fact hearing in the support enforcement tracking system (SETS); and
- (6) Make any necessary changes in SETS based on the administrative mistake of fact hearing determination.

Effective: 2/11/2019

Five Year Review (FYR) Dates: 3/1/2023

CERTIFIED ELECTRONICALLY

Certification

01/29/2019

Date

Promulgated Under: 119.03

Statutory Authority: 3125.25

Rule Amplifies: 3123.031, 3123.21, 3123.04, 3123.033

Prior Effective Dates: 05/14/1977, 08/01/1982, 05/01/1987, 10/01/1987,
12/20/1988, 09/01/1989, 12/16/1989, 08/01/1990,
10/09/1990, 04/01/1991, 07/15/1992, 06/01/1993,
10/07/1993, 12/31/1993, 01/01/1995, 07/01/1996,
01/01/1998, 12/01/2001, 05/19/2002, 09/01/2005,
04/15/2008, 07/15/2013, 02/01/2016

5101:12-55-03.4 **Final and enforceable determination of default.**

(A) A final and enforceable determination of default and of the amount of arrears owed exists when:

- (1) The office of child support (OCS) within the Ohio department of job and family services issues a JFS 04049, "Notice to Obligor of Default and Potential Action" (effective or revised effective date as identified in rule 5101:12-55-99 of the Administrative Code), to the obligor and the obligor does not request an administrative mistake of fact hearing within ~~seven business~~ fourteen days of the date the JFS 04049 was issued. The amount of arrears owed pursuant to the determination of default is the amount indicated on the JFS 04049.
- (2) The obligor requests an administrative mistake of fact hearing on the JFS 04049 but does not request a court hearing within ~~seven business~~ fourteen days of the date of the administrative mistake of fact hearing determination was issued. The amount of arrears owed pursuant to the determination of default is the amount indicated on the administrative mistake of fact hearing determination.
- (3) The obligor requests a court hearing on the administrative mistake of fact hearing determination and the court issues a determination. The amount of arrears owed pursuant to the determination of default is the amount indicated on the court determination.

(B) Within fifteen days of the date that a JFS 04049 becomes a final and enforceable determination of default, the child support enforcement agency (CSEA) shall:

- (1) When a JFS 04047, "Income Withholding for Support" (effective or revised effective date as identified in rule 5101:12-10-99 of the Administrative Code), or JFS 04017, "Notice to Deduct Funds for Child and Spousal Support" (effective or revised effective date as identified in rule 5101:12-50-99 of the Administrative Code), was not issued upon identification of default, issue a JFS 04047 or JFS 04017 to any available income or source of funds.
- (2) When a JFS 04047 or JFS 04017 was issued and the final and enforceable determination of default altered the arrears payment amount stated in the JFS 04049, issue a revised JFS 04047 or JFS 04017, when necessary.
- (3) When a JFS 04047 or JFS 04017 was issued and the final and enforceable determination of default did not alter the arrears payment amount stated in the JFS 04049, permit the JFS 04047 or JFS 04017 to remain in effect.

(C) When an obligor is subject to a final and enforceable determination of default, the CSEA shall enforce the support order using all required enforcement techniques, and

may use any additional appropriate enforcement techniques, described in Chapters 5101:12-50 and 5101:12-55 of the Administrative Code.

Effective: 2/11/2019

Five Year Review (FYR) Dates: 3/1/2023

CERTIFIED ELECTRONICALLY

Certification

01/29/2019

Date

Promulgated Under: 119.03
Statutory Authority: 3125.25
Rule Amplifies: 3123.032, 3123.06, 3123.05, 3123.04
Prior Effective Dates: 05/14/1977, 08/01/1982, 05/01/1987, 10/01/1987,
12/20/1988, 09/01/1989, 12/16/1989, 08/01/1990,
10/09/1990, 04/01/1991, 07/15/1992, 06/01/1993,
10/07/1993, 12/31/1993, 01/01/1995, 07/01/1996,
01/01/1998, 12/01/2001, 05/19/2002, 09/01/2005,
04/15/2008, 03/01/2013, 02/01/2016

5101:12-55-10**Financial institution data match program.**

- (A) This rule and its supplemental rules describe the procedures that a child support enforcement agency (CSEA) shall use when it elects to utilize the financial institution data match (FIDM) program to enforce a support order after a final and enforceable determination of default has been made against the obligor.
- (B) The CSEA shall document in its handbook of internal procedures the CSEA's criteria for initiating and utilizing the FIDM program as an optional enforcement technique.
- (C) The following terms and definitions apply to this rule and its supplemental rules:
- (1) "Access restriction" means, in accordance with section 3123.24 of the Revised Code, that funds within an account may not be withdrawn or transferred. For Ohio FIDM purposes, the access restriction is accomplished via the JFS 04050, "Financial Institution Account Access Restriction" (effective or revised effective date as identified in rule 5101:12-55-99 of the Administrative Code).
 - (2) For the purposes of this rule, "account" refers to a demand deposit account, checking account, negotiable withdrawal order account, savings account, time deposit account, money-market mutual fund account, or similar account that may be readily converted to cash.
 - (3) "Financial institution" means, in accordance with section 3121.01 of the Revised Code, a bank, savings and loan association, credit union, regulated investment company or mutual fund.
 - (4) "Protected benefit" has the same meaning as in rule 5101:12-50-10 of the Administrative Code.
 - (5) "Withdrawal directive" means an order to a financial institution to withdraw a specific amount of funds from an obligor's account and transmit the withdrawn funds to the office of child support within the department of job and family services. For Ohio FIDM purposes, the withdrawal directive is accomplished via the JFS 04055, "Financial Institution Account Withdrawal Directive" (effective or revised effective date as identified in rule 5101:12-55-99 of the Administrative Code).

Replaces: 5101:12-55-10

Effective: 2/11/2019

Five Year Review (FYR) Dates: 02/11/2024

CERTIFIED ELECTRONICALLY

Certification

01/29/2019

Date

Promulgated Under: 119.03

Statutory Authority: 3125.25

Rule Amplifies: 3121.01, 3123.25, 3123.24, 3121.74

Prior Effective Dates: 08/17/1999, 10/01/2001, 10/02/2006, 12/01/2011,
02/01/2016

5101:12-55-10.1 **Investigation of an account, imposing an access restriction, and releasing an access restriction.**

- (A) Child support enforcement agency (CSEA) investigation upon notice or discovery of an account in a financial institution.

In accordance with ~~section~~sections 3123.25 and 3123.27 of the Revised Code, when the CSEA elects to utilize the financial institution data match (FIDM) program to enforce a support order, the CSEA ~~shall investigate the account. The financial institution is required to cooperate with the CSEA's investigation of the account. During the investigation, the CSEA shall:~~

- (1) Verify that a final and enforceable determination of default has been made against the obligor, as described in rules 5101:12-55-03 to 5101:12-55-03.4 of the Administrative Code. For purposes of the FIDM program, a JFS 04049, "Notice to Obligor of Default and Potential Action" (rev. 08/1999, 10/2001, 04/2003, 05/2005, or 8/2010), must have been issued on or after August 17, 1999;
 - (2) Verify that the obligor has not filed for bankruptcy protection. When the CSEA determines that the obligor has filed for bankruptcy protection, the CSEA shall not use the FIDM program to enforce a support order unless the bankruptcy has been discharged or other relief from bankruptcy protection has been secured by the CSEA;
 - (3) Identify whether the obligor is receiving or has received income from a protected benefit, as described in rule 5101:12-50-10 of the Administrative Code, including, but not limited to, research in the support enforcement tracking system (SETS) and the state verification exchange system/defense manpower data center (SVES/DMDC);
 - (a) When the CSEA determines that any of the funds in the account are from a protected benefit source, the CSEA shall not issue the JFS 04050, "Financial Institution Account Access Restriction" (effective or revised effective date as identified in rule 5101:12-55-99 of the Administrative Code);
 - (b) When the CSEA determines that the funds in the account are not from a protected benefit source, the CSEA shall proceed in accordance with paragraphs (B) to (H) of this rule;
- (1) ~~Determine the amount of funds within the account that is available to satisfy the obligor's arrears under a support order within five business days from the date the FIDM report is made available to the CSEA; and~~

- ~~(2)~~(4) Determine whether the obligor's account is with a financial institution that conducts business in Ohio; and
- (a) When the CSEA determines that the account is with a financial institution that conducts business in Ohio, the CSEA shall follow the procedures described in paragraph (B) of this rule.
 - (b) When the CSEA determines that the account is with a financial institution that does not conduct business in Ohio, the CSEA shall follow the procedures described in paragraph (D) of this rule.
- (5) Document the results of the investigation in the case record.
- (B) Imposing an access restriction on an account when the account is with a financial institution that conducts business in Ohio.
- The CSEA shall issue:
- (1) The JFS 04050, "~~Financial Institution Account Access Restriction~~" (effective or revised effective date as identified in rule ~~5101:12-55-99~~ of the Administrative Code) and as an attachment, the JFS 04018, "Notice of Right to Garnish Federal Benefits" (effective or revised effective date as identified in rule 5101:12-55-99 of the Administrative Code) by first class mail to the financial institution in which the obligor's account is maintained; and
 - (2) A copy of the JFS 04050 by first class mail to the obligor.
- (C) For purposes of paragraphs (D), (E) and (F) of this rule, the following definitions apply:
- (1) "Assisting state" refers to the state that assists the requesting state in imposing an access restriction on an account and issuing a withdrawal directive.
 - (2) "Requesting state" refers to the state that requests assistance from the assisting state in imposing an access restriction on an account and issuing a withdrawal directive.
- (D) Imposing an access restriction on an account when the account is with a financial institution that does not conduct business in Ohio.
- (1) The CSEA shall assume the role of the requesting state, and request assistance from the state in which the financial institution conducts business.
 - (2) The state in which the financial institution conducts business will assume the role of the assisting state.

- (3) The case shall not be considered an interstate case.
- (4) The CSEA shall issue to the obligor the JFS 04049, "~~Notice to Obligor of Default and Potential Action~~" (effective or revised effective date as identified in rule ~~5101:12-55-99 of the Administrative Code~~), unless the CSEA has already issued the JFS 04049 to the obligor for the current period of default.
- (5) The CSEA shall determine the requirements of the assisting state with regard to imposing an access restriction on the account and issuing a withdrawal directive. State-specific data is provided on the innerweb for the office of child support (OCS) within the Ohio department of job and family services (ODJFS) and the website for the federal office of child support enforcement (OCSE).
- (6) The CSEA shall request that the assisting state impose an access restriction on the account and issue a withdrawal directive.
- (7) The CSEA shall provide the assisting state with the following information:
 - (a) The account number and the name and address of the financial institution ~~by providing a copy of the FIDM report;~~
 - (b) The amount to be withdrawn;
 - (c) A copy of the JFS 04049 that was issued to the obligor to verify to the assisting state the amount of the obligor's arrears and that due process under Ohio law has been completed; and
 - (d) Any other necessary information that the assisting state requires from the CSEA.
- (E) Imposing an access restriction on an account when the case is in a requesting state and the financial institution does not conduct business in the requesting state but conducts business in Ohio.

The requesting state will make its request through the ODJFS interstate central registry, which will forward the request to the CSEA located in the same Ohio county as the financial institution.

- (1) The CSEA shall assume the role of the assisting state.
- (2) The other state will assume the role of the requesting state, and request that the CSEA impose an access restriction on the account and issue a withdrawal directive.

- (3) The CSEA shall not open a case in SETS.
- (4) The case shall not be considered an interstate case.
- (5) The requesting state will provide the CSEA with the following information:
 - (a) The account number and the name and address of the financial institution;
 - (b) The amount to be withdrawn;
 - (c) The amount of the arrears and certification that due process under the requesting state's laws has been completed;
 - (d) Whether the account is a "sole" or "joint account"; and
 - (e) Any other necessary information that the CSEA requires from the requesting state.
- (6) The CSEA shall issue:
 - (a) The JFS 04050 and as an attachment, the JFS 04018 by first class mail to the financial institution; and
 - (b) A copy of the JFS 04050 by first class mail to the obligor.
- (F) After the CSEA issues a JFS 04050 or the assisting state imposes an access restriction on the account, the CSEA shall determine whether a person other than the obligor has an ownership interest in the account.
 - (1) When the CSEA determines that another person has an ownership interest in the account, the CSEA shall proceed with the administrative hearing process, in accordance with rule 5101:12-55-10.2 of the Administrative Code.
 - (2) When the CSEA determines that the obligor is the only person having ownership interest in the account, the CSEA shall issue the JFS 04055, "Financial Institution Account Withdrawal Directive" (effective or revised effective date as identified in rule 5101:12-55-99 of the Administrative Code), and as an attachment, the JFS 04018 in accordance with rule 5101:12-55-10.3 of the Administrative Code.
- (G) In accordance with section 3123.26 of the Revised Code, after the financial institution receives the JFS 04050 and the JFS 04018 from a CSEA or an access restriction notice from another state, the financial institution is required to promptly place an access restriction on the account. The access restriction remains in effect until:

- (1) The financial institution complies with a JFS 04055 from a CSEA;
- (2) The financial institution complies with a withdrawal directive from a court; or
- (3) A CSEA or a court orders the financial institution to release the access restriction.

(H) Release of an access restriction from an account.

- (1) When the obligor is no longer in default, the CSEA shall issue:
 - (a) The JFS 04051, "Financial Institution Account Full or Partial Release of Access Restriction" (effective or revised effective date as identified in rule 5101:12-55-99 of the Administrative Code), by first class mail to the financial institution in which the obligor's account is maintained, for a release on the total amount of funds in the account; and
 - (b) A copy of the JFS 04051 by first class mail to the obligor.

If the obligor is determined to be in default at a later date, the CSEA may again consider utilizing the FIDM program.

- (2) When, after the CSEA has imposed an access restriction on the account, the CSEA becomes aware of an amount of funds in the account that represents ~~SSI~~ benefits~~protected benefits~~, the CSEA shall issue:
 - (a) The JFS 04051 by first class mail to the financial institution in which the obligor's account is maintained, for a release on the amount of funds in the account that represent ~~SSI~~ protected benefits; and
 - (b) A copy of the JFS 04051 by first class mail to the obligor.
- (3) When the CSEA determines that a legal restriction exists on the account that prevents the obligor from withdrawing the funds, the CSEA shall issue:
 - (a) The JFS 04051 by first class mail to the financial institution in which the obligor's account is maintained, for a release on the amount of funds in the account that is legally restricted; and
 - (b) A copy of the JFS 04051 by first class mail to the obligor.

Effective: 2/11/2019

Five Year Review (FYR) Dates: 2/1/2021

CERTIFIED ELECTRONICALLY

Certification

01/29/2019

Date

Promulgated Under: 119.03

Statutory Authority: 3125.25

Rule Amplifies: 3123.25, 3123.27, 3123.26

Prior Effective Dates: 08/17/1999, 10/01/2001, 10/02/2006, 12/01/2011,
02/01/2016

5101:12-55-10.2 **Administrative and court hearings for ownership interest in an account.**

- (A) After the child support enforcement agency (CSEA) issues a JFS 04050, "Financial Institution Account Access Restriction" (effective or revised effective date as identified in rule 5101:12-55-99 of the Administrative Code), the CSEA shall determine whether a person other than the obligor has an ownership interest in the account.

For purposes of this rule, the person other than the obligor who has an ownership interest in the account is referred to as a "joint account owner" and includes "another person," as described in paragraph (B) of this rule.

- (B) When the CSEA determines that there is a joint account owner, the CSEA shall issue the JFS 04052, "Notice to Person, Other than Child Support Obligor, Having Ownership Interest in an Account" (effective or revised effective date as identified in rule 5101:12-55-99 of the Administrative Code), by first class mail to the joint account owner at an address for the joint account owner contained in the records of the financial institution.

When the address of the joint account owner is not contained in the records of the financial institution, the CSEA shall issue the JFS 04052 by first class mail to the joint account owner in care of another person whose address is contained in the records of the financial institution concerning the account.

- (C) Administrative hearing procedures.

(1) Administrative hearing time frames.

- (a) The joint account owner shall have ~~ten~~fourteen days from the date the JFS 04052 is issued to object to the withdrawal directive by returning the JFS 04052 to the CSEA.
- (b) When the joint account owner fails to return the JFS 04052 to the CSEA within the ~~ten~~fourteen-day timeframe, the CSEA shall issue the JFS 04055, "Financial Institution Account Withdrawal Directive" (effective or revised effective date as identified in rule 5101:12-55-99 of the Administrative Code), in accordance with rule 5101:12-55-10.3 of the Administrative Code.

(2) Conducting the administrative hearing.

- (a) When the joint account owner returns the JFS 04052 to the CSEA within the ~~ten~~fourteen-day timeframe, the CSEA shall:

- (i) Issue the JFS 04053, "Notice of Administrative Hearing in Regard to Account Ownership" (effective or revised effective date as identified in rule 5101:12-55-99 of the Administrative Code), by first class mail to the joint account owner no later than five days before the date the administrative hearing is to be conducted; and
- (ii) Conduct the administrative hearing no later than ten days after the date the joint account owner returns the JFS 04052 to the CSEA.

(b) At the administrative hearing, the CSEA shall:

- (i) Permit the joint account owner to present testimony and evidence at the administrative hearing only in regard to the issue of whether any amount, and how much, if any, of the amount, contained in the account is the property of the joint account owner and should not be subject to the withdrawal directive; and
- (ii) Determine whether any amount contained in the account is the property of the joint account owner.

(3) Administrative hearing determination.

(a) When the CSEA determines that the total amount of funds in the account is the property of the joint account owner, the CSEA shall:

- (i) Issue the JFS 04054, "Notice of Determination on Amount of Ownership" (effective or revised effective date as identified in rule 5101:12-55-99 of the Administrative Code), by first class mail to the joint account owner;
- (ii) Issue the JFS 04051, "Financial Institution Account Full or Partial Release of Access Restriction" (effective or revised effective date as identified in rule 5101:12-55-99 of the Administrative Code), by first class mail to the financial institution in which the obligor's account is maintained, for a release on the account;
- (iii) Issue a copy of the JFS 04051 by first class mail to the obligor; and
- (iv) Take no further enforcement action on the account.

(b) When the CSEA determines that no amount of funds in the account is the property of the joint account owner, the CSEA shall:

- (i) Issue the JFS 04054 by first class mail to the joint account owner; and

- (ii) Wait ~~ten~~fourteen days to allow the joint account owner to file a written motion with the court as described in paragraph (D)(1) of this rule.

When the joint account owner does not file a timely motion with the court, the CSEA shall issue the JFS 04055, in accordance with rule 5101:12-55-10.3 of the Administrative Code.

- (c) When the CSEA determines that a partial amount of funds in the account is the property of the joint account owner, the CSEA shall:

- (i) Determine that amount;
- (ii) Issue the JFS 04054 by first class mail to the joint account owner;
- (iii) Issue the JFS 04051 by first class mail to the financial institution in which the obligor's account is maintained, for a release on the amount of funds in the account that is the property of the joint account owner and take no further enforcement action on that amount;
- (iv) Issue a copy of the JFS 04051 by first class mail to the obligor; and
- (v) Wait ~~ten~~fourteen days to allow the joint account owner to file a written motion with the court as described in paragraph (D)(1) of this rule.

When the joint account owner does not file a timely motion with the court, the CSEA shall issue the JFS 04055, in accordance with rule 5101:12-55-10.3 of the Administrative Code.

(D) Court hearing.

- (1) In accordance with section 3123.34 of the Revised Code, the joint account owner has ~~ten~~fourteen days after the CSEA makes its determination to file a written motion with the court of common pleas of the county served by the CSEA for a hearing to determine whether any amount contained in the account is the property of the joint account owner.
- (2) When the joint account owner files a timely motion with the court, the court is required to hold a hearing on the request in accordance with section 3123.35 of the Revised Code.
- (3) In accordance with section 3123.36 of the Revised Code, the court may order the financial institution to:

- (a) Release the access restriction on the account and take no further enforcement action on the account;
- (b) Release the access restriction on a partial amount of funds in the account and order the CSEA to take no further enforcement action on those funds; or
- (c) Withdraw funds pursuant to a withdrawal directive, in accordance with section 3123.37 of the Revised Code.

Effective: 2/11/2019

Five Year Review (FYR) Dates: 2/1/2021

CERTIFIED ELECTRONICALLY

Certification

01/29/2019

Date

Promulgated Under: 119.03

Statutory Authority: 3125.25

Rule Amplifies: 3123.29, 3123.36, 3123.35, 3123.34, 3123.33,
3123.32, 3123.31, 3123.30

Prior Effective Dates: 08/17/1999, 10/01/2001, 10/02/2006, 12/01/2011,
02/01/2016

5101:12-55-10.3 **Issuing a withdrawal directive.**

- (A) In accordance with section 3123.28 of the Revised Code, when the child support enforcement agency (CSEA) proposes to intercept an obligor's funds in an account for purposes of the financial institution data match (FIDM) program, and after the CSEA issues a JFS 04050, "Financial Institution Account Access Restriction" (effective or revised effective date as identified in rule 5101:12-55-99 of the Administrative Code), in accordance with rule 5101:12-55-10.1 of the Administrative Code, the CSEA shall issue:
- (1) The JFS 04055, "Financial Institution Account Withdrawal Directive" (effective or revised effective date as identified in rule 5101:12-55-99 of the Administrative Code), and as an attachment, the JFS 04018, "Notice of Right to Garnish Federal Benefits" (effective or revised effective date as identified in rule 5101:12-55-99 of the Administrative Code) by first class mail to the financial institution in which the obligor's account is maintained; and
 - (2) A copy of the JFS 04055 by first class mail to the obligor.
- (B) In accordance with sections 3123.36 and 3123.37 of the Revised Code, when the court determines that any of the funds in an account are not the property of the joint account owner, the court is required to issue a withdrawal directive to the financial institution.
- (C) The CSEA shall return to the obligor any funds deducted from the account that are later identified as funds from a protected benefit source, within two business days of the CSEAs determination. The CSEA shall issue a refund from the administrative fund described in rule 5101:9-6-83 of the Administrative Code, including any bank fees charged to the obligor when the withdrawal resulted in the account having insufficient funds.

Effective: 2/11/2019

Five Year Review (FYR) Dates: 2/1/2021

CERTIFIED ELECTRONICALLY

Certification

01/29/2019

Date

Promulgated Under: 119.03

Statutory Authority: 3125.25

Rule Amplifies: 3123.28, 3123.37, 3123.36, 3123.32

Prior Effective Dates: 08/17/1999, 10/01/2001, 10/02/2006, 12/01/2011,
02/01/2016

5101:12-55-20.1 **Lien levy and execution.**

- (A) This rule describes the process that a child support enforcement agency (CSEA) shall use when it decides to execute on a lien on personal or real property of an obligor that has been asserted by the CSEA in accordance with rule 5101:12-55-20 of the Administrative Code.
- (B) For purposes of this rule, "execution" means a process issued by a court which directs the sheriff of a county to sell either real or personal property owned by a particular obligor upon which a CSEA has placed a lien. Execution on liens shall be done in accordance with Chapter 2329. of the Revised Code.
- (C) Because an execution is a complex and expensive procedure involving advertising and publication costs, court fees, filing fees, auctioneer's fees, possible storage fees, bonds, title transfer costs, appraisal costs, title search fees, and service of process, the CSEA should carefully consider each of the following factors before making a decision to execute on a lien:
- (1) The existence of prior liens or secured creditors. Prior liens and security interests can be determined by checking title record and other public records;
 - (2) The obligor's right to claim an exemption in the property to be seized and the amount of the exemption allowable in accordance with section 2329.66 of the Revised Code;
 - (3) Whether there are co-owners of the property who may have an interest in the property;
 - (4) The value of the obligor's equity interest in the property relative to the value of any mortgages, loans, other liens, or encumbrances which may be attached to the property;
 - (5) The estimated current market value and potential sale price of the property relative to the obligor's equity interest in that property;
 - (6) The storage cost of the property, if any, and the speed with which it must be sold to minimize the cost and not jeopardize the property;
 - (7) The execution notice and sale costs;
 - (8) Whether the estimated sale proceeds will produce a significant payment on the arrears;
 - (9) The need for immediate execution if bankruptcy is a strong possibility; and

- (10) The position the obligor will be in after the property is sold and whether the seizure of the property will decrease the obligor's ability to earn a living or result in long term indigence.

(D) Execution of a lien.

- (1) To execute on a lien, the CSEA shall file a complaint in the appropriate court of the county where the property is located in accordance with section 3123.74 of the Revised Code. The complaint shall be filed:
 - (a) In the court in the county where the support order was issued if the property is located in that county; or
 - (b) In the court of common pleas in the county where the property is located if the support order was issued in a state other than Ohio or if the child support order was issued by a county other than the one in which the property is located.
- (2) The complaint shall contain all of the following in accordance with the requirements of section 3123.74 of the Revised Code:
 - (a) A statement that the CSEA has obtained a lien on real and personal property of the obligor that is located in the county;
 - (b) A statement that the CSEA is entitled to have the property sold and have the proceeds of the sale applied to the child support arrearage in the case; and
 - (c) A request that the court issue an order for the property to be sold by an execution sale in accordance with Chapter 2329. of the Revised Code.
- (3) On receipt of a complaint, the court will conduct a hearing to determine whether the court has jurisdiction and whether the CSEA has obtained a lien pursuant to section 3123.74 of the Revised Code.
- (4) The court will issue an order requiring the property to be sold by execution sale in accordance with Chapter 2329. of the Revised Code, if it determines that the court has jurisdiction and that the CSEA has obtained a lien in accordance with section 3123.74 of the Revised Code.
- (5) If a CSEA has sent a Uniform Interstate Family Support Act (2008) petition to a child support agency in a responding state requesting enforcement of a support order, as described in rule 5101:12-70-05.5 of the Administrative Code, and the child support agency in the responding state has placed a lien on personal or real property owned by the obligor, the CSEA may request that the child

support agency in the responding state execute on the lien using the applicable laws of the responding state.

- (6) If a CSEA has sent an OMB 0970-0153, "Notice of Lien," to another state and the other state has placed a lien on personal or real property owned by the obligor, the CSEA may request that the other state execute on the lien using the applicable laws of that state. This form may be accessed on the internet at the following website address: www.acf.hhs.gov/programs/css/resource/notice-of-lien-form-instructions.

A sale of real or personal property extinguishes the lien associated with the property pursuant to section 3123.75 of the Revised Code

(E) Discharge of a lien imposed by a CSEA.

- (1) A lien filed with the county recorder shall be effective until the county recorder discharges the lien.
- (2) A county recorder shall discharge the lien within five days after the CSEA files a JFS 07006, "Discharge of lien" (effective or revised effective date as identified in rule 5101:12-55-99 of the Administrative Code), requesting that the lien be discharged.
- (3) The CSEA shall file the JFS 07006 requesting that the county recorder discharge the lien if one of the following applies:
 - (a) The lien is satisfied by an execution sale pursuant to Chapter 2329. of the Revised Code;
 - (b) The obligor makes full payment of the arrears to the office of child support, child support payment central;
 - ~~(c) An appropriate withholding or deduction notice or other appropriate order as described in section 3121.03, 3121.04, 3121.05, 3121.06, or 3121.12 of the Revised Code has been issued to collect current support and any arrears and the obligor is complying with the notice or order;~~
 - ~~(d) A new support order has been issued or the support order has been modified and the obligor is complying with the new or modified support order; or~~
 - ~~(e)~~(c) The CSEA requests the discharge of the lien in accordance with paragraph (E)(4) of this rule.

(4) At any time a CSEA may request the discharge of a lien on all or part of the property of the obligor or return seized property without liability in accordance with section 3123.76 of the Revised Code if:

(a) Assurance of payments is deemed adequate by the CSEA; or

(b) The discharge will facilitate the collection of the arrears for which the lien was imposed.

The discharge of a lien or the return of property does not prevent further action by the CSEA to collect arrears on the case.

Effective: 2/11/2019

Five Year Review (FYR) Dates: 2/1/2021

CERTIFIED ELECTRONICALLY

Certification

01/29/2019

Date

Promulgated Under: 119.03

Statutory Authority: 3125.25

Rule Amplifies: 3123.71, 3123.78, 3123.76, 3123.75, 3123.74,
3123.73, 3123.72

Prior Effective Dates: 01/01/1987 (Emer.), 03/20/1987, 10/01/1996,
01/01/1998, 04/18/2003, 04/01/2006, 02/01/2016

5101:12-55-99 **Chapter 5101:12-55 forms - enforcement of the support order based on finding of default.**

The forms identified in this rule are referenced within various rules contained within division 5101:12 of the Administrative Code. The effective or revised effective dates of the forms are as follows:

- (A) JFS 04016, "Notice to Expunge a Driver's Abstract" (rev. 8/2017);
- (B) JFS 04024, "Advance Notice to Suspend Professional, Recreational, and/or Driver's License" (3/2012);
- (C) JFS 04038, "Notice of Correction of a License Suspension" (rev. 12/2007);
- (D) JFS 04041, "Notice to Suspend Professional, Motor Vehicle Operator and Recreational License" (rev. 1/2005);
- (E) JFS 04042, "Notice to Reinstate/Reissue a License" (rev. 6/2008);
- (F) JFS 04049, "Notice to Obligor of Default and Potential Action" (rev. ~~8/2010~~2/2019);
- (G) JFS 04050, "Financial Institution Account Access Restriction" (rev. 9/2006);
- (H) JFS 04051, "Financial Institution Account Full or Partial Release of Access Restriction" (rev. 9/2006);
- (I) JFS 04052, "Notice to Person, Other than Child Support Obligor, Having Ownership Interest in an Account" (rev. ~~9/2006~~2/2019);
- (J) JFS 04053, "Notice of Administrative Hearing in Regard to Account Ownership" (rev. 9/2006);
- (K) JFS 04054, "Notice of Determination on Amount of Ownership" (rev. ~~9/2006~~2/2019);
- (L) JFS 04055, "Financial Institution Account Withdrawal Directive" (rev. 9/2006);
- (M) JFS 07006, "Discharge of Lien" (rev. 12/2005);
- (N) JFS 07052, "Notice of Administrative Mistake of Fact Hearing" (rev. 2/2005);
- (O) JFS 07070, "Notice to Terminate the State Lottery Prize Award Intercept Directive" (rev. 8/2017);
- (P) JFS 07071, "State Lottery Prize Award Intercept Directive" (rev. 8/2017);

(Q) JFS 07083, "Notice to Obligor Regarding Default and 20% Payment on Arrears" (rev. ~~12/2002~~2/2019); and

(R) JFS 07230, "Advance Notice to Suspend License to Practice Law" (3/2012).

Effective: 2/11/2019

Five Year Review (FYR) Dates: 2/1/2021

CERTIFIED ELECTRONICALLY

Certification

01/29/2019

Date

Promulgated Under: 119.03

Statutory Authority: 3125.25

Rule Amplifies: 3125.03, 3125.25

Prior Effective Dates: 02/01/2016, 08/01/2017, 06/15/2018