

State of Washington

I. Background

The Washington Division of Child Support (DCS) is housed within the Washington State Department of Social and Health Services (DSHS). The child support program is state-administered. There are 10 field offices. According to unaudited data, at the end of federal fiscal year 2006, the Washington child support program had 344,972 open IV-D cases¹ and 1670 full-time equivalent staff.² In that year Washington scored above the national average on four of the five federal performance measures (paternity, support order establishment, current collections, and arrearage collections). The state was lower than the national average in cost effectiveness.

The State of Washington has had some form of administrative process since the early 1970's. Initially the administrative procedures related to enforcement. The legislature eventually expanded the administrative authority to include establishment of a support obligation. Paternity adjudication in a contested case remains exclusively with the court.

The statutory authority for the Washington administrative process is in Chapters 26, § 74.20 and § 74.20A of the Revised Code of Washington (RCW). Detail is provided in Chapter 388-14A of the Washington Administrative Code.

II. Due Process Summary

Washington's use of administrative process in child support cases predates the Title IV-D program. In 1971 the Washington State legislature enacted into law administrative civil debt collection remedies designed to be used by the child support agency to collect child support. The remedies included wage withholding, bank account withholding, liens, and seizure remedies. Although these remedies had been available to private attorneys and the Attorney General, they had not previously been used by the agency without direct authorization by the judicial branch on a case by case basis and only on application to the court by an attorney or the Attorney General. This bill, when enacted into law, became chapter 74.20 RCW. The same legislature authorized the agency to expand its support enforcement jurisdiction from public assistance cases to nonpublic assistance cases. Initially there were lawsuits attacking the administrative enforcement remedies. In 1973 the state legislature enacted what are now the procedures for the Notice and Finding of Financial Responsibility and Notice of Support Debt. The legislation settled a lawsuit regarding determination of a noncustodial parent's ability to pay. That lawsuit was the last challenge the State of Washington has had to the constitutionality of an administrative process for the establishment of support. The conference board was created by regulation in 1977 in an attempt to assure the legislators that the agency had efficient procedures for reviewing any allegations of wrongful action by staff.

* Interview with Nancy Koptur, DCS Rules and Policy Manager, DSHS Child Support Headquarters.

¹ Table 4, Statistical Program Status, OCSE FY 2006 Preliminary Data Report.

² State Box Score, OCSE FY 2006 Preliminary Data Report.

Amendments to Washington's child support administrative processes have continued over the years, usually in response to federal Title IV-D legislation.

In the early years, when agency negotiation with the parties was unsuccessful, the parties could appeal to a review judge, who was an employee of the Department of Social and Health Services. From that final agency determination, parties could appeal to the court. Now when negotiation is unsuccessful, there is a hearing before an Administrative Law Judge (ALJ). The ALJ is employed by the Office of Administrative Hearings, which is a separate state agency from the Department of Social and Health Services.

In Washington, the agency may serve an administrative notice in a paternity case but, if paternity is denied, the court must resolve the issue.

Pursuant to current statutory authority, the Washington child support agency can administratively establish support when there is no court order for support and there is a legal basis for the support obligation. Once the agency opens an establishment case, it serves the parents with a Notice and Finding of Financial Responsibility. The notice informs the parties of the time within which they must file a response. Unlike the procedure in many administrative process states, the objection can be made orally; it does not have to be in writing.

If neither parent files an application for an administrative hearing, the Notice and Finding become a final administrative order by operation of law. The order is immediately enforceable. Either party may file a late objection/request to vacate. If the late objection/request is filed less than 365 days after service of the Notice, the matter is set for an administrative hearing but there is no stay of collection of support. An ALJ has authority to reopen the entire notice period. The noncustodial parent does not receive a refund of amounts collected in excess of the final ALJ determination. If the late objection/request is filed more than 365 days after service, the matter is set for an administrative hearing and there is no stay of collection of support. In this case, the ALJ must find good cause for the late objection. If good cause is found, the ALJ has authority to reopen the entire notice period. If the ALJ does not find good cause, the objection is treated like a petition for prospective modification.

If either parent responds to the administrative notice by filing an application for a hearing within 20 days, the Office of Administrative Hearings schedules an administrative hearing; any collection action is stayed pending the entry of a final administrative order. Any hearing before an ALJ is conducted pursuant to the State of Washington Administrative Procedure Act. The parties may be represented by counsel at their own expense or appear *pro se*. Most of the hearings are conducted telephonically. There is a record of the proceeding. Based upon the evidence presented, the ALJ enters a final administrative order. The ALJ decision is effective upon its entry. It does not have to be filed with, or approved by, the court. Some cases settle on the day of hearing using a consent order, which is signed by all parties and the ALJ. The ALJ is authorized by regulation to sign a consent order on behalf of a party appearing by telephone. The ALJ

decision or the consent order may differ from the terms of the Notice and Finding of Financial Responsibility.

If both parents fail to attend or participate in the hearing, upon a showing of valid service, the ALJ may enter an administrative order declaring the support amount as stated in the notice. If one parent fails to appear for the hearing, the ALJ will enter a default order against that party. The parent who appeared and DCS may negotiate a settlement or may proceed to a hearing in front of the ALJ. The ALJ decision or the consent order may differ from the terms of the Notice and Finding of Financial Responsibility.

Either party may request reconsideration of the ALJ decision by filing such a request within 10 days of the ALJ decision. The party requesting reconsideration may file an action for judicial review, and serve DCS, the attorney general, and the other party, within 30 days after service of the final order.

ALJs do not hear modification actions. Nor can the agency administratively modify an order in the absence of a consent between the parties. If a party requests the agency to review an administrative support order, the agency serves the parties with a Notice of Review. Based on information provided by the parties in response to that Notice, the agency then mails the parties the results of the review. A party can disagree by requesting a Modification Conference. A modification conference is an informal meeting with the agency during which the parties can present additional information. The parties can agree to a support amount. If there is no agreement but the agency determines that the criteria for modification has been met, the agency will refer the case for the filing of a modification action in court.

The agency cannot administratively modify judicial support orders. However, if the court order provides for adjustment based on the parties' annual exchange of financial information, the agency can perform such an adjustment.

Since the 1970's, there have been no reported appellate decisions in which a party has challenged the constitutionality of Washington's child support administrative procedures.

III. Establishment of Parentage

In Washington, the agency may serve an administrative notice in a paternity case but, if paternity is denied, the court must resolve the issue. The date of any paternity affidavit affects the type of administrative notice served on the alleged father.

If the alleged father signed a paternity affidavit prior to July 1, 1997, which has been filed with the state Department of Health, the agency may serve a Notice and Finding of Parental Responsibility on both parents. Service on the alleged father is by certified mail, return receipt requested. If the custodial parent is receiving IV-D services, service on the custodial parent (either the mother or the physical custodian of the child) is by first class mail. The Notice must include a copy of the affidavit and include the following information:

- That the alleged father or custodial parent may file, within 20 days from service, an application for an administrative hearing at which they both are required to appear and show cause why the amount stated in the Finding of Financial responsibility as to support should not be ordered;
- That the alleged father or custodial parent may request genetic testing and, if the alleged father is not excluded, may subsequently request the agency to initiate an action in superior court to determine parentage;
- That if neither the alleged father nor the custodial mother requests genetic testing or files an application for an administrative hearing, the amount of support stated in the Notice and Finding of Parental Responsibility shall become final.

An alleged father or custodial parent who objects to the amount of support requested in the Notice may file an application for an administrative hearing up to 20 days after service of the Notice. An application for an administrative hearing may be filed within one year of service without the necessity of showing a good cause for the delayed filing. Any administrative hearing is conducted in the same manner as that described for establishment of a support obligation. The issue for adjudication is the correct amount of support.

If the alleged father responds by denying paternity, the agency coordinates genetic testing. (If the mother of the child is not the custodial parent, she may at any time ask DCS to refer the case for paternity establishment in superior court.) The agency mails a copy of the test results by certified mail, return receipt requested, to the alleged father and custodial mother. If the test results exclude the alleged father from parentage, the agency must file a copy of the results with the state Department of Health and dismiss any pending administrative collection proceedings based upon the paternity affidavit.

Within 20 days of receiving the test results, the alleged father or custodial mother may request the agency to initiate a superior court action to determine parentage. If the alleged father or custodial mother does not request initiation of a superior court action, or fails to appear for genetic testing, the Notice and Finding of Parental Responsibility becomes a final child support order. Note that this is not an administrative determination of parentage, only an administrative determination of a support obligation.

Where there is a paternity affidavit or acknowledgment filed after July 1, 1997, with the state Department of Health, the agency serves a Notice and Finding of Financial Responsibility as in a support establishment case because the affidavit or acknowledgment creates a conclusive presumption of paternity. Attached to the Notice must be a copy of the acknowledgment. In addition to the contents required for establishment, the Notice must include a statement that the acknowledged father or any other signatory may commence a court proceeding to rescind or challenge the acknowledgment within the time periods allowed under the Uniform Parentage Act. Unlike the Notice and Finding of Parental Responsibility, there is no mention of the opportunity for genetic testing.

The party commencing a court action to rescind or challenge the acknowledgment must serve the agency and the Prosecuting Attorney's Office in the county in which the proceeding is begun. Commencement of a proceeding stays the establishment of the Notice and Finding of Financial Responsibility if the notice has not yet become a final order.

If neither the acknowledged father nor the other party to the notice files an application for an administrative hearing to object to the support amount, or if neither the acknowledged father nor the other signatory to the acknowledgment commences a court action to rescind or challenge the acknowledgment, then the amount of support stated in the Notice and Finding of Financial Responsibility becomes a final child support order.

In a case where there is no paternity acknowledgment and paternity is an issue, the agency can first seek a paternity acknowledgment. However, according to an agency representative, the agency usually refers the case immediately to the prosecutor's office to establish paternity through the courts. In some counties, during the period while the paternity petition is being prepared, the agency or the prosecutor will offer the parties another chance to sign a paternity acknowledgment. The agency will help coordinate genetic testing.

IV. Support Establishment

In support cases, where the parties were married, or there is a conclusive presumption of parentage (e.g., a signed paternity acknowledgment), the caseworker prepares a Notice and Finding of Financial Responsibility. The proposed support amount in the Notice and Finding is based upon financial information available to the agency through various database interfaces and other sources. If there is no current income information, the caseworker bases the noncustodial parent's income on past work history. The caseworker can also impute income based on the average wages of a person in that occupation. If there is no information about current or past employment, the caseworker can impute income based on the median net income from the federal census data.

The agency serves the parents with a Notice and Finding of Financial Responsibility. If the custodial parent is the parent receiving IV-D services, the agency sends the custodial parent a copy of the Notice and Finding by first class mail; the agency serves the noncustodial parent by certified mail, return receipt requested. The Notice includes the following information:

- A statement of the amount of support as to which financial responsibility is alleged;
- A statement that either parent may object to the Notice and Finding, and file an application for an administrative hearing to show cause why the terms of the notice should not be ordered. To be timely, a noncustodial parent's application must occur within 20 days from service of the Notice and Finding if the noncustodial parent was served in Washington State. An objection must be filed within 60 days of service if the noncustodial parent was served outside of

Washington State. To be timely, a custodial parent's objection must occur within 20 days of service;

- A statement that, if neither parent timely files an application for an administrative hearing, the payments stated in the Notice and Finding will be ordered, and the amounts due will be subject to collection action;
- A statement that various enforcement actions can be taken to enforce the support obligation without further advance notice or hearing

Unlike the procedure in many administrative process states, the objection can be made orally; it does not have to be in writing.

Pursuant to the Washington Administrative Code, an objection to the Notice is considered a request for an administrative hearing.

If neither parent makes a timely objection, the Notice and Finding become a final order by operation of law. The order is immediately enforceable.

If either parent files an application for a hearing within 20 days, the Office of Administrative Hearings schedules an administrative hearing before an ALJ; any collection action is stayed pending the entry of a final administrative order. If either parent files an application for a hearing after the 20 day period but within one year of service, the Office of Administrative Hearings will still schedule an administrative hearing. However, the filing of the application does not stay further collection action. After one year, the parent requesting an administrative hearing must show good cause for failure to timely file the application.

OAH sends notice of the hearing date by first class mail and certified mail to the parties. OAH sends out two notices to each person because some people refuse to open certified mail from the government. Prior to the hearing date, an agency caseworker will contact both parties to determine whether an agreement can be reached. If the agency and the two parents can agree to a support order, they sign an agreed settlement and the hearing does not occur. During this agreement negotiation, the agency caseworker does not have authority to deviate from the guideline amount other than to take into account children the noncustodial parent may have in his or her current household. The agreed settlement can differ from the terms of the Notice and Finding of Financial Responsibility.

Any hearing before an ALJ is conducted pursuant to the State of Washington Administrative Procedure Act, chapter 34.05 RCW. DCS and the parties may reach an agreement and have the ALJ enter a consent order. The ALJ is authorized to sign a consent order on behalf of a party appearing by phone. The consent order is final when the ALJ signs it. If for some reason an administrative hearing is continued, either party (or DCS) may ask for the entry of a temporary support order. This temporary order is not binding on the ALJ who enters the final order, but is a way to get support flowing to the family while the decision is pending.

Based upon the evidence presented, the ALJ enters a final administrative order. If a party does not appear at the hearing, that party should not assume that the ALJ will enter an

order in the same amount as stated in the Notice. The ALJ decision is effective upon its entry. It does not have to be filed with, or approved by, the court. A party may request reconsideration of an ALJ decision by filing an action for judicial review. The request must be filed within 10 days of the ALJ decision.

If both parents fail to attend or participate in the administrative hearing, upon a showing of valid service, the ALJ will enter a default order against the non appearing parties and may enter an administrative order declaring the support amount as stated in the notice. A parent that did not appear may petition to vacate the default order. If the ALJ vacates the default order, the ALJ then conducts a full hearing on the merits. All parties may participate.

If one parent fails to appear, the ALJ will enter a default order against that party. The party who appeared may agree to a consent order, or may proceed to hearing. The ALJ decision or the consent order may differ from the terms of the Notice and Finding of Financial Responsibility.

In summary³, once either parent objects to the Notice and Finding of Financial Responsibility, the matter is set for hearing. One of the following outcomes will happen:

- Both parents appear for the administrative hearing, and the administrative law judge (ALJ) holds a hearing and then enters an order –OR-
- Both parents fail to appear for the scheduled hearing, so the ALJ enters a default order in the notice amount –OR-
- One parent appears for the scheduled hearing and the other fails to appear. The ALJ enters a default order against the nonappearing party and either:
 - (a) the ALJ holds a hearing and enters an order; or
 - (b) the child support agency and the party who appeared reach an agreement and settle without a hearing, entering into an agreed settlement (not signed by ALJ) or a consent order (signed by ALJ) -OR-
- At some time before the hearing date or even on the day of the administrative hearing, the parents and the agency agree and settle the case with a consent order or agreed settlement.

V. Review and Adjustment/Modification

Washington law does not provide for Cost of Living Adjustments (COLAs) in administrative support orders.

³ This summary was prepared by Nancy Koptur, Rules and Policy Manager, DCS HQ Policy, Legal & Legislation Unit, DSHS Division of Child Support, as part of a workshop handout entitled “ A GUIDE TO SUPPORT ENFORCEMENT FOR LEGAL CLINIC VOLUNTEERS,” (Oct. 2005).

The agency cannot administratively modify judicial support orders. However, if there is a provision in the court order requiring the parties to exchange financial information every year and stating that the support order can be adjusted accordingly, the “adjustment” can be done administratively. If there is no such provision, any change to the support amount must be made by the court.

If there is an administrative support order, the agency or either parent may petition for a prospective modification of the order. The statute lists criteria for when it is appropriate to seek modification.

The agency may also review a support order upon request of a party. The agency must review any order on the request of either party, if 36 months have passed since the last review, adjustment or modification. A case can be reviewed in less than 36 months if there has been a “substantial change of circumstances.” Prior to conducting the review, the agency sends the parties a Review Notification by regular mail. The Review Notification includes a guideline worksheet and the superior court financial declaration form. The parties are advised that in 30 days, the agency will review their support order and that they may provide information to be considered during that review. In conducting its review, the agency ensures that the statutory threshold for a modification is met. The agency notifies the parties of the results of the review by first class mail. The Review Findings Notice informs the parties that if they disagree with the agency findings, they can request a Modification Conference to discuss the findings. The request for a Modification Conference must be made within 30 days of the date of the Notice of Review Finding.

If either party requests a modification conference, it will be scheduled in approximately 30 days. At this informal meeting (which is not an administrative hearing), either party can bring in income information or other information which they feel should change the agency’s findings. Parties also have the right to bring in counsel, if desired. If a result of the conference is an agreed order, the agency will prepare the agreed order; the order is then entered by the Attorney General’s Office or Prosecutor’s Office. If the Review Findings Notice states that the agency believes that the order should be modified, but the parties cannot agree on an amount, the agency will refer the case to the Attorney General or Prosecutor’s Office for filing of a modification action with the court.

If the Review Findings Notice states that the agency believes that the order does not meet the criteria for modification, the parties can seek to change that finding by presenting the agency with additional information. If the parties cannot convince the agency that the case does meet the criteria but the parties agree on a support amount, the agency can enter an agreed order. If the parties cannot agree, the review is terminated.

The parties also have the right to bypass the “review for modification” process and proceed directly to superior court or file a petition for prospective modification of an administrative order.

VI. Enforcement

The Washington Division of Child Support has a full range of administrative enforcement remedies, e.g., income withholding, license suspension, order to withhold and deliver, administrative seizure, credit bureau reporting. With the exception of contempt, which requires a court hearing, the agency uses the administrative process for enforcement actions.

Child support orders entered in Washington State are required to provide for payment to the Washington State Support Registry, and to provide for enforcement by the Division of Child Support, unless the court finds good cause not to do so. DCS can begin enforcement of most child support orders without any prior notice to the noncustodial parent. However, if the support order was not entered in Washington, or was entered in Washington without the statutory requirements, DCS must serve a notice on the noncustodial parent before beginning enforcement action.

The child support agency may prepare a Notice of Support Debt and Demand for Payment, which is served on the obligor by certified mail, return receipt requested. The Notice includes the following:

- A statement of the support debt
- A statement that the debtor's property is subject to collection action
- A statement of the various enforcement remedies available to the agency
- A demand for payment within 20 days of service of the Notice
- A statement that if payment is not made, the agency can initiate collection action without issuing a notice of support debt prior to taking the action.
- A statement that, to contest the Notice, the obligor must, within 20 days, request a conference board or obtain a stay from the superior court.

Once the agency knows that the Notice has been served on the obligor, it sends the custodial parent a copy of the Notice by first class mail.

The Notice of Support Debt and Demand for Payment becomes final and subject to enforcement, unless within 20 days from service, the noncustodial parent files a request with the agency for a conference board or obtains a stay from the superior court. A conference board is an informal review of case actions. The conference board chair is an attorney employed by the Division of Child Support in the conference board unit. Other members of the board are Division of Child Support staff. The board can make factual and legal determinations. It is not a formal hearing under the Administrative Procedure Act. Pending the conference board or court hearing, enforcement of current support and any uncontested arrearage continues.

If the noncustodial parent requests a conference board, the agency mails a copy of the notice of conference board to the custodial parent informing the parent of his or her right to participate in the conference board or to request an administrative hearing within 20 days of the date of the notice of conference board. If the custodial parent requests a hearing, the agency must stay enforcement of the notice of support debt and demand for payment and notify the noncustodial parent of the hearing. A noncustodial parent is

limited to a conference board to contest the notice; he or she cannot request an administrative hearing on a Notice of Support Debt and Demand for Payment. However, if the custodial parent requests an administrative hearing, the noncustodial parent can participate.

At any administrative hearing, the purpose is to determine the support debt under the order; the hearing is not to set a payment schedule on the support debt. If only one party appears at the administrative hearing and wishes to proceed, the ALJ will hold the hearing and issue an order based on the evidence presented. The ALJ may also continue the hearing. If neither parent appears or wishes to proceed with the hearing, the ALJ will issue a default order against both parents.

VII. Statistics

Timeframes

The agency representative did not provide timeframe information.

Contest to Administrative Notice

In State Fiscal Year 2006 (July 1, 2005 – June 30, 2006), 4532 cases were scheduled for an administrative hearing. Of those, 38 cases were filed for judicial review of the final administrative order.

Number of Administrative Law Judges

There are approximately 31 administrative law judges who conduct child support hearings on a routine basis. None of these ALJs are assigned 100% to a child support caseload.

VIII. Strengths/Limitations

The agency representative noted the following strengths of the Washington administrative process:

- It provides parties real access to justice. There is no need for an attorney. Forms are written to be easily understood. The parties always have a right to judicial review.
- It is more cost effective than the judicial process.

The agency representative noted the following limitations to the Washington administrative process:

- Although theoretically the administrative process is more expedited than the judicial process, there is a very low threshold for a continuance of an administrative hearing. To deter requests for the sole purpose of delay and to ensure children receive needed support, the ALJ can enter a temporary support order during the continuance.

- There are noncustodial parents who do not realize that an administrative notice and order are just as serious, and have the same effect, as a judicial summons and court order.
- There are members of the private bar who disdain the administrative process.
- The administrative process cannot establish parenting plans.

IX. Recommendations/Best Practices

The administrative process is most effective when both parties are involved in the process.

Ensure that the process is implemented uniformly statewide. Do not allow county variances.

Work closely with the prosecutors and the court to ensure they are comfortable with the due process protections.

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Selected Statutes from the Washington Revised Code

RCW 74.20A.040

Notice of support debt — Service or mailing — Contents — Action on, when.

(1) The secretary may issue a notice of a support debt accrued and/or accruing based upon RCW [74.20A.030](#), assignment of a support debt or a request for support enforcement services under RCW [74.20.040](#) (2) or (3), to enforce and collect a support debt created by a superior court order or administrative order. The payee under the order shall be informed when a notice of support debt is issued under this section.

(2) The notice may be served upon the debtor in the manner prescribed for the service of a summons in a civil action or be mailed to the debtor at his last known address by certified mail, return receipt requested, demanding payment within twenty days of the date of receipt.

(3) The notice of debt shall include:

(a) A statement of the support debt accrued and/or accruing, computable on the amount required to be paid under any superior court order to which the department is subrogated or is authorized to enforce and collect under RCW [74.20A.030](#), has an assigned interest, or has been authorized to enforce pursuant to RCW [74.20.040](#) (2) or (3);

(b) A statement that the property of the debtor is subject to collection action;

(c) A statement that the property is subject to lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver; and

(d) A statement that the net proceeds will be applied to the satisfaction of the support debt.

(4) Action to collect a support debt by lien and foreclosure, or distraint, seizure and sale, or order to withhold and deliver shall be lawful after twenty days from the date of service upon the debtor or twenty days from the receipt or refusal by the debtor of said notice of debt.

(5) The secretary shall not be required to issue or serve such notice of support debt prior to taking collection action under this chapter when a responsible parent's support order:

(a) Contains language directing the parent to make support payments to the Washington state support registry; and

(b) Includes a statement that income-withholding action under this chapter may be taken without further notice to the responsible parent, as provided in RCW [26.23.050](#)(1).

[1989 c 360 § 8; 1985 c 276 § 2; 1973 1st ex.s. c 183 § 5; 1971 ex.s. c 164 § 4.]

RCW 74.20A.055

Notice and finding of financial responsibility of responsible parent — Service — Hearing — Decisions.

*** CHANGE IN 2007 *** (SEE [5244-S.SL](#)) ***

(1) The secretary may, if there is no order that establishes the responsible parent's support obligation or specifically relieves the responsible parent of a support obligation or pursuant to an establishment of paternity under chapter [26.26](#) RCW, serve on the responsible parent or parents and custodial parent a notice and finding of financial responsibility requiring the parents to appear and show cause in an

adjudicative proceeding why the finding of responsibility and/or the amount thereof is incorrect, should not be finally ordered, but should be rescinded or modified. This notice and finding shall relate to the support debt accrued and/or accruing under this chapter and/or RCW [26.16.205](#), including periodic payments to be made in the future. The hearing shall be held pursuant to this section, chapter [34.05](#) RCW, the Administrative Procedure Act, and the rules of the department. A custodian who has physical custody of a child has the same rights that a custodial parent has under this section.

(2) The notice and finding of financial responsibility shall be served in the same manner prescribed for the service of a summons in a civil action or may be served on the responsible parent by certified mail, return receipt requested. The receipt shall be prima facie evidence of service. The notice shall be served upon the debtor within sixty days from the date the state assumes responsibility for the support of the dependent child or children on whose behalf support is sought. If the notice is not served within sixty days from such date, the department shall lose the right to reimbursement of payments made after the sixty-day period and before the date of notification: PROVIDED, That if the department exercises reasonable efforts to locate the debtor and is unable to do so the entire sixty-day period is tolled until such time as the debtor can be located. The notice may be served upon the custodial parent who is the nonassistance applicant or public assistance recipient by first class mail to the last known address. If the custodial parent is not the nonassistance applicant or public assistance recipient, service shall be in the same manner as for the responsible parent.

(3) The notice and finding of financial responsibility shall set forth the amount the department has determined the responsible parent owes, the support debt accrued and/or accruing, and periodic payments to be made in the future. The notice and finding shall also include:

(a) A statement of the name of the custodial parent and the name of the child or children for whom support is sought;

(b) A statement of the amount of periodic future support payments as to which financial responsibility is alleged;

(c) A statement that the responsible parent or custodial parent may object to all or any part of the notice and finding, and file an application for an adjudicative proceeding to show cause why the terms set forth in the notice should not be ordered;

(d) A statement that, if neither the responsible parent nor the custodial parent files in a timely fashion an application for an adjudicative proceeding, the support debt and payments stated in the notice and finding, including periodic support payments in the future, shall be assessed and determined and ordered by the department and that this debt and amounts due under the notice shall be subject to collection action;

(e) A statement that the property of the debtor, without further advance notice or hearing, will be subject to lien and foreclosure, distraint, seizure and sale, order to withhold and deliver, notice of payroll deduction or other collection action to satisfy the debt and enforce the support obligation established under the notice.

(4) A responsible parent or custodial parent who objects to the notice and finding of financial responsibility may file an application for an adjudicative proceeding within twenty days of the date of service of the notice or thereafter as provided under this subsection.

(a) If the responsible parent or custodial parent files the application within twenty days, the office of administrative hearings shall schedule an adjudicative proceeding to hear the parent's or parents' objection and determine the support obligation for the entire period covered by the notice and finding of financial responsibility. The filing of the application stays collection action pending the entry of a final administrative order;

(b) If both the responsible parent and the custodial parent fail to file an application within twenty days, the notice and finding shall become a final administrative order. The amounts for current and future support and the support debt stated in the notice are final and subject to collection, except as provided under (c) and (d) of this subsection;

(c) If the responsible parent or custodial parent files the application more than twenty days after, but within one year of the date of service, the office of administrative hearings shall schedule an adjudicative proceeding to hear the parent's or parents' objection and determine the support obligation for the entire period covered by the notice and finding of financial responsibility. The filing of the application does not stay

further collection action, pending the entry of a final administrative order, and does not affect any prior collection action;

(d) If the responsible parent or custodial parent files the application more than one year after the date of service, the office of administrative hearings shall schedule an adjudicative proceeding at which the parent who requested the late hearing must show good cause for failure to file a timely application. The filing of the application does not stay future collection action and does not affect prior collection action:

(i) If the presiding officer finds that good cause exists, the presiding officer shall proceed to hear the parent's objection to the notice and determine the support obligation;

(ii) If the presiding officer finds that good cause does not exist, the presiding officer shall treat the application as a petition for prospective modification of the amount for current and future support established under the notice and finding. In the modification proceeding, the presiding officer shall set current and future support under chapter [26.19](#) RCW. The petitioning parent need show neither good cause nor a substantial change of circumstances to justify modification of current and future support;

(e) If the responsible parent's support obligation was based upon imputed median net income, the grant standard, or the family need standard, the division of child support may file an application for adjudicative proceeding more than twenty days after the date of service of the notice. The office of administrative hearings shall schedule an adjudicative proceeding and provide notice of the hearing to the responsible parent and the custodial parent. The presiding officer shall determine the support obligation for the entire period covered by the notice, based upon credible evidence presented by the division of child support, the responsible parent, or the custodial parent, or may determine that the support obligation set forth in the notice is correct. The division of child support demonstrates good cause by showing that the responsible parent's support obligation was based upon imputed median net income, the grant standard, or the family need standard. The filing of the application by the division of child support does not stay further collection action, pending the entry of a final administrative order, and does not affect any prior collection action.

(f) The department shall retain and/or shall not refund support money collected more than twenty days after the date of service of the notice. Money withheld as the result of collection action shall be delivered to the department. The department shall distribute such money, as provided in published rules.

(5) If an application for an adjudicative proceeding is filed, the presiding or reviewing officer shall determine the past liability and responsibility, if any, of the alleged responsible parent and shall also determine the amount of periodic payments to be made in the future, which amount is not limited by the amount of any public assistance payment made to or for the benefit of the child. If deviating from the child support schedule in making these determinations, the presiding or reviewing officer shall apply the standards contained in the child support schedule and enter written findings of fact supporting the deviation.

(6) If either the responsible parent or the custodial parent fails to attend or participate in the hearing or other stage of an adjudicative proceeding, upon a showing of valid service, the presiding officer shall enter an order of default against each party who did not appear and may enter an administrative order declaring the support debt and payment provisions stated in the notice and finding of financial responsibility to be assessed and determined and subject to collection action. The parties who appear may enter an agreed settlement or consent order, which may be different than the terms of the department's notice. Any party who appears may choose to proceed to the hearing, after the conclusion of which the presiding officer or reviewing officer may enter an order that is different than the terms stated in the notice, if the obligation is supported by credible evidence presented by any party at the hearing.

(7) The final administrative order establishing liability and/or future periodic support payments shall be superseded upon entry of a superior court order for support to the extent the superior court order is inconsistent with the administrative order.

(8) Debts determined pursuant to this section, accrued and not paid, are subject to collection action under this chapter without further necessity of action by a presiding or reviewing officer.

[2002 c 199 § 5; 1997 c 58 § 940; 1996 c 21 § 1; 1991 c 367 § 46; 1990 1st ex.s. c 2 § 21; 1989 c 175 § 152; 1988 c 275 § 10; 1982 c 189 § 8; 1979 ex.s. c 171 § 12; 1973 1st ex.s. c 183 § 25.]

RCW 74.20A.056

Notice and finding of financial responsibility pursuant to an affidavit of paternity — Procedure for contesting — Rules (as amended by 2002 c 199).

*** CHANGE IN 2007 *** (SEE [5244-S.SL](#)) ***

(1) If an alleged father has signed an affidavit acknowledging paternity which has been filed with the state registrar of vital statistics before July 1, 1997, the division of child support may serve a notice and finding of parental responsibility on him and the custodial parent. Procedures for and responsibility resulting from acknowledgments filed after July 1, 1997, are in subsections (8) and (9) of this section. Service of the notice shall be in the same manner as a summons in a civil action or by certified mail, return receipt requested, on the alleged father. The custodial parent shall be served by first class mail to the last known address. If the custodial parent is not the nonassistance applicant or public assistance recipient, service shall be in the same manner as for the responsible parent. The notice shall have attached to it a copy of the affidavit or certification of birth record information advising of the existence of a filed affidavit, provided by the state registrar of vital statistics, and shall state that:

(a) The alleged father or custodial parent may file an application for an adjudicative proceeding at which ~~((he))~~ they both will be required to appear and show cause why the amount stated in the finding of financial responsibility as to support is incorrect and should not be ordered;

(b) An alleged father or mother, if she is also the custodial parent, may request that a blood or genetic test be administered to determine whether such test would exclude him from being a natural parent and, if not excluded, may subsequently request that the division of child support initiate an action in superior court to determine the existence of the parent-child relationship; and

(c) If neither the alleged father ~~((does not request))~~ nor the custodial parent requests that a blood or genetic test be administered or file [files] an application for an adjudicative proceeding, the amount of support stated in the notice and finding of parental responsibility shall become final, subject only to a subsequent determination under *RCW [26.26.060](#) that the parent-child relationship does not exist.

(2) An alleged father or custodial parent who objects to the amount of support requested in the notice may file an application for an adjudicative proceeding up to twenty days after the date the notice was served. An application for an adjudicative proceeding may be filed within one year of service of the notice and finding of parental responsibility without the necessity for a showing of good cause or upon a showing of good cause thereafter. An adjudicative proceeding under this section shall be pursuant to RCW [74.20A.055](#). The only issues shall be the amount of the accrued debt, the amount of the current and future support obligation, and the reimbursement of the costs of blood or genetic tests if advanced by the department. A custodian who is not the parent of a child and who has physical custody of a child has the same notice and hearing rights that a custodial parent has under this section.

(3) If the application for an adjudicative proceeding is filed within twenty days of service of the notice, collection action shall be stayed pending a final decision by the department. If no application is filed within twenty days:

(a) The amounts in the notice shall become final and the debt created therein shall be subject to collection action; and

(b) Any amounts so collected shall neither be refunded nor returned if the alleged father is later found not to be a responsible parent.

(4) An alleged father ~~((who denies being a responsible parent))~~ or the mother, if she is also the custodial parent, may request that a blood or genetic test be administered at any time. The request for testing shall be in writing, or as the department may specify by rule, and served on the division of child support ~~((personally or by registered or certified mail))~~. If a request for testing is made, the department shall arrange for the test and, pursuant to rules adopted by the department, may advance the cost of such testing. The department shall mail a copy of the test results by certified mail, return receipt requested, to the alleged father's and

mother's, if she is also the custodial parent, last known address.

(5) If the test excludes the alleged father from being a natural parent, the division of child support shall file a copy of the results with the state registrar of vital statistics and shall dismiss any pending administrative collection proceedings based upon the affidavit in issue. The state registrar of vital statistics shall remove the alleged father's name from the birth certificate and change the child's surname to be the same as the mother's maiden name as stated on the birth certificate, or any other name which the mother may select.

(6) The alleged father or mother, if she is also the custodial parent, may, within twenty days after the date of receipt of the test results, request the division of child support to initiate an action under *RCW [26.26.060](#) to determine the existence of the parent-child relationship. If the division of child support initiates a superior court action at the request of the alleged father or mother and the decision of the court is that the alleged father is a natural parent, the ~~((alleged father))~~ parent who requested the test shall be liable for court costs incurred.

(7) If the alleged father or mother, if she is also the custodial parent, does not request the division of child support to initiate a superior court action, or ~~((if the alleged father))~~ fails to appear and cooperate with blood or genetic testing, the notice of parental responsibility shall become final for all intents and purposes and may be overturned only by a subsequent superior court order entered under *RCW [26.26.060](#).

(8)(a) If an alleged father has signed an affidavit acknowledging paternity that has been filed with the state registrar of vital statistics after July 1, 1997, within sixty days from the date of filing of the acknowledgment:

(i) The division of child support may serve a notice and finding of parental responsibility on him and the custodial parent as set forth under this section; and

(ii) The alleged father or any other signatory may rescind his acknowledgment of paternity. The rescission shall be notarized and delivered to the state registrar of vital statistics personally or by registered or certified mail. The state registrar shall remove the father's name from the birth certificate and change the child's surname to be the same as the mother's maiden name as stated on the birth certificate or any other name that the mother may select. The state registrar shall file rescission notices in a sealed file. All future paternity actions on behalf of the child in question shall be performed under court order.

(b) If neither the alleged father ~~((does not))~~ nor the custodial parent files an application for an adjudicative proceeding or ~~((rescind his))~~ rescinds the acknowledgment of paternity, the amount of support stated in the notice and finding of parental responsibility becomes final, subject only to a subsequent determination under *RCW [26.26.060](#) that the parent-child relationship does not exist.

(c) An alleged father or custodial parent who objects to the amount of support requested in the notice may file an application for an adjudicative proceeding up to twenty days after the date the notice was served. An application for an adjudicative proceeding may be filed within one year of service of the notice and finding of parental responsibility without the necessity for a showing of good cause or upon a showing of good cause thereafter. An adjudicative proceeding under this section shall be pursuant to RCW [74.20A.055](#). The only issues shall be the amount of the accrued debt and the amount of the current and future support obligation.

(i) If the application for an adjudicative proceeding is filed within twenty days of service of the notice, collection action shall be stayed pending a final decision by the department.

(ii) If the application for an adjudicative proceeding is not filed within twenty days of the service of the notice, any amounts collected under the notice shall be neither refunded nor returned if the alleged father is later found not to be a responsible parent.

(d) If an alleged father or mother, if she is also the custodial parent, makes a request for genetic testing, the department shall proceed as set forth under RCW [74.20.360](#).

(e) If neither the alleged father ~~((does not))~~ nor the custodial parent requests an adjudicative proceeding, or if neither the alleged father ~~((fails to rescind his))~~ nor the mother rescinds the filed acknowledgment of paternity, the notice of parental responsibility becomes final for all intents and purposes and may be overturned only by a subsequent superior court order entered under *RCW [26.26.060](#).

(9) Affidavits acknowledging paternity that are filed after July 1, 1997, are subject to requirements of chapters [26.26](#) and [70.58](#) RCW.

(10) The department and the department of health may adopt rules to implement the requirements under this section.

[2002 c 199 § 6; 1997 c 58 § 941. Prior: 1994 c 230 § 19; 1994 c 146 § 5; 1989 c 55 § 3.]

RCW 74.20A.056

Notice and finding of financial responsibility pursuant to an affidavit of paternity — Procedure for contesting — Rules (as amended by 2002 c 302).

***** CHANGE IN 2007 *** (SEE [5244-S.SL](#)) *****

(1) If an alleged father has signed an affidavit acknowledging paternity which has been filed with the state registrar of vital statistics before July 1, 1997, the division of child support may serve a notice and finding of parental responsibility on him. ~~((Procedures for and responsibility resulting from acknowledgments filed after July 1, 1997, are in subsections (8) and (9) of this section.))~~ Service of the notice shall be in the same manner as a summons in a civil action or by certified mail, return receipt requested. The notice shall have attached to it a copy of the affidavit or certification of birth record information advising of the existence of a filed affidavit, provided by the state registrar of vital statistics, and shall state that:

(a) The alleged father may file an application for an adjudicative proceeding at which he will be required to appear and show cause why the amount stated in the finding of financial responsibility as to support is incorrect and should not be ordered;

(b) An alleged father may request that a blood or genetic test be administered to determine whether such test would exclude him from being a natural parent and, if not excluded, may subsequently request that the division of child support initiate an action in superior court to determine the existence of the parent-child relationship; and

(c) If the alleged father does not request that a blood or genetic test be administered or file an application for an adjudicative proceeding, the amount of support stated in the notice and finding of parental responsibility shall become final, subject only to a subsequent determination under ~~((RCW [26.26.060](#)))~~ [RCW 26.26.500](#) through [26.26.630](#) that the parent-child relationship does not exist.

(2) An alleged father who objects to the amount of support requested in the notice or who requests genetic tests may file an application for an adjudicative proceeding up to twenty days after the date the notice was served. An application for an adjudicative proceeding may be filed within one year of service of the notice and finding of parental responsibility without the necessity for a showing of good cause or upon a showing of good cause thereafter. An adjudicative proceeding under this section shall be pursuant to [RCW 74.20A.055](#). The only issues shall be the amount of the accrued debt, the amount of the current and future support obligation, and the reimbursement of the costs of blood or genetic tests if advanced by the department.

(3) If the application for an adjudicative proceeding is filed within twenty days of service of the notice, collection action shall be stayed pending a final decision by the department. If no application is filed within twenty days:

(a) The amounts in the notice shall become final and the debt created therein shall be subject to collection action; and

(b) Any amounts so collected shall neither be refunded nor returned if the alleged father is later found not to be a responsible parent.

(4) An alleged father who denies being a responsible parent may request that a blood or genetic test be administered at any time. The request for testing shall be in writing and served on the division of child

support personally or by registered or certified mail. If a request for testing is made, the department shall arrange for the test and, pursuant to rules adopted by the department, may advance the cost of such testing. The department shall mail a copy of the test results by certified mail, return receipt requested, to the alleged father's last known address.

(5) If the test excludes the alleged father from being a natural parent, the division of child support shall file a copy of the results with the state registrar of vital statistics and shall dismiss any pending administrative collection proceedings based upon the affidavit in issue. The state registrar of vital statistics shall remove the alleged father's name from the birth certificate and change the child's surname to be the same as the mother's maiden name as stated on the birth certificate, or any other name which the mother may select.

(6) The alleged father may, within twenty days after the date of receipt of the test results, request the division of child support to initiate an action under (~~RCW 26.26.069~~) [RCW 26.26.500](#) through [26.26.630](#) to determine the existence of the parent-child relationship. If the division of child support initiates a superior court action at the request of the alleged father and the decision of the court is that the alleged father is a natural parent, the alleged father shall be liable for court costs incurred.

(7) If the alleged father does not request the division of child support to initiate a superior court action, or if the alleged father fails to appear and cooperate with blood or genetic testing, the notice of parental responsibility shall become final for all intents and purposes and may be overturned only by a subsequent superior court order entered under (~~RCW 26.26.069~~) [RCW 26.26.500](#) through [26.26.630](#).

(8)(a) Subsections (1) through (7) of this section do not apply to acknowledgments of paternity filed with the state registrar of vital statistics after July 1, 1997.

(b) If an (~~alleged~~) ~~acknowledged~~ father has signed an (~~affidavit acknowledging~~) acknowledgment of paternity that has been filed with the state registrar of vital statistics after July 1, 1997 (~~(-within sixty days from the date of filing of the acknowledgment)~~):

(i) The division of child support may serve a notice and finding of (~~(parental responsibility on him as set forth under this section)~~) financial responsibility under [RCW 74.20A.055](#) based on the acknowledgment. The division of child support shall attach a copy of the acknowledgment or certification of the birth record information advising of the existence of a filed acknowledgment of paternity to the notice; (~~and~~)

(ii) The notice shall include a statement that the (~~alleged~~) ~~acknowledged~~ father or any other signatory may (~~rescind his acknowledgment of paternity. The rescission shall be notarized and delivered to the state registrar of vital statistics personally or by registered or certified mail. The state registrar shall remove the father's name from the birth certificate and change the child's surname to be the same as the mother's maiden name as stated on the birth certificate or any other name that the mother may select. The state registrar shall file rescission notices in a sealed file. All future paternity actions on behalf of the child in question shall be performed under court order~~) commence a proceeding in court to rescind or challenge the acknowledgment or denial of paternity under [RCW 26.26.330](#) and [26.26.335](#); and

(iii) The party commencing the action to rescind or challenge the acknowledgment or denial must serve notice on the division of child support and the office of the prosecuting attorney in the county in which the proceeding is commenced. Commencement of a proceeding to rescind or challenge the acknowledgment or denial stays the establishment of the notice and finding of financial responsibility, if the notice has not yet become a final order.

(~~(b)~~) (c) If the (~~alleged~~) ~~acknowledged~~ father or other party to the notice does not file an application for an adjudicative proceeding or (~~rescind his~~) ~~the signatories to the acknowledgment or denial do not commence a proceeding to rescind or challenge the~~ acknowledgment of paternity, the amount of support stated in the notice and finding of (~~parental~~) financial responsibility becomes final, subject only to a subsequent determination under (~~RCW 26.26.069~~) [RCW 26.26.500](#) through [26.26.630](#) that the parent-child relationship does not exist. The division of child support does not refund nor return any amounts collected under a notice that becomes final under this section or [RCW 74.20A.055](#), even if a court later determines that the acknowledgment is void.

(~~(c)~~) (d) An (~~alleged~~) ~~acknowledged~~ father or other party to the notice who objects to the amount of support requested in the notice may file an application for an adjudicative proceeding up to twenty days after the date the notice was served. An application for an adjudicative proceeding may be filed within one year of service of the notice and finding of parental responsibility without the necessity for a showing of good cause

or upon a showing of good cause thereafter. An adjudicative proceeding under this section shall be pursuant to RCW [74.20A.055](#). The only issues shall be the amount of the accrued debt and the amount of the current and future support obligation.

(i) If the application for an adjudicative proceeding is filed within twenty days of service of the notice, collection action shall be stayed pending a final decision by the department.

(ii) If the application for an adjudicative proceeding is not filed within twenty days of the service of the notice, any amounts collected under the notice shall be neither refunded nor returned if the alleged father is later found not to be a responsible parent.

~~((d) If an alleged father makes a request for genetic testing, the department shall proceed as set forth under RCW [74.20.360](#).)~~

(e) If the ~~((alleged))~~ acknowledged father or other party to the notice does not request ~~((an))~~ a timely adjudicative proceeding, or if ~~((the alleged father fails to rescind his filed acknowledgment of paternity))~~ no timely action is brought to rescind or challenge the acknowledgment or denial after service of the notice, the notice of ~~((parental))~~ financial responsibility becomes final for all intents and purposes and may be overturned only by a subsequent superior court order entered under ~~((RCW [26.26.060](#)))~~ RCW [26.26.500](#) through [26.26.630](#).

(9) ~~((Affidavits acknowledging))~~ Acknowledgments of paternity that are filed after July 1, 1997, are subject to requirements of chapters 26.26, the uniform parentage act, and [70.58](#) RCW.

(10) The department and the department of health may adopt rules to implement the requirements under this section.

[2002 c 302 § 707; 1997 c 58 § 941. Prior: 1994 c 230 § 19; 1994 c 146 § 5; 1989 c 55 § 3.]

Notes:

Reviser's note: RCW [74.20A.056](#) was amended twice during the 2002 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW [1.12.025](#).

RCW 74.20A.059

Modification of administrative orders establishing child support — Petition — Grounds — Procedure.

(1) The department, the physical custodian, or the responsible parent may petition for a prospective modification of a final administrative order if:

(a) The administrative order has not been superseded by a superior court order; and

(b) There has been a substantial change of circumstances, except as provided under RCW [74.20A.055](#)(4)(d).

(2) An order of child support may be modified one year or more after it has been entered without showing a substantial change of circumstances:

(a) If the order in practice works a severe economic hardship on either party or the child; or

(b) If a party requests an adjustment in an order for child support that was based on guidelines which determined the amount of support according to the child's age, and the child is no longer in the age category on which the current support amount was based; or

(c) If a child is a full-time student and reasonably expected to complete secondary school or the equivalent level of vocational or technical training before the child becomes nineteen years of age upon a finding that there is a need to extend support beyond the eighteenth birthday.

(3) An order may be modified without showing a substantial change of circumstances if the requested modification is to:

(a) Require health insurance coverage for a child covered by the order; or

(b) Modify an existing order for health insurance coverage.

(4) Support orders may be adjusted once every twenty-four months based upon changes in the income of the parents without a showing of substantially changed circumstances.

(5)(a) All administrative orders entered on, before, or after September 1, 1991, may be modified based upon changes in the child support schedule established in chapter [26.19](#) RCW without a substantial change of circumstances. The petition may be filed based on changes in the child support schedule after twelve months has expired from the entry of the administrative order or the most recent modification order setting child support, whichever is later. However, if a party is granted relief under this provision, twenty-four months must pass before another petition for modification may be filed pursuant to subsection (4) of this section.

(b) If, pursuant to subsection (4) of this section or (a) of this subsection, the order modifies a child support obligation by more than thirty percent and the change would cause significant hardship, the change may be implemented in two equal increments, one at the time of the entry of the order and the second six months from the entry of the order. Twenty-four months must pass following the second change before a petition for modification under subsection (4) of this section may be filed.

(6) An increase in the wage or salary of the parent or custodian who is receiving the support transfer payments as defined in *section 24 of this act is not a substantial change in circumstances for purposes of modification under subsection (1)(b) of this section. An obligor's voluntary unemployment or voluntary underemployment, by itself, is not a substantial change of circumstances.

(7) The department shall file the petition and a supporting affidavit with the secretary or the secretary's designee when the department petitions for modification.

(8) The responsible parent or the physical custodian shall follow the procedures in this chapter for filing an application for an adjudicative proceeding to petition for modification.

(9) Upon the filing of a proper petition or application, the secretary or the secretary's designee shall issue an order directing each party to appear and show cause why the order should not be modified.

(10) If the presiding or reviewing officer finds a modification is appropriate, the officer shall modify the order and set current and future support under chapter [26.19](#) RCW.

Excerpts from the Washington Administrative Code

WAC 388-14A-3100

How does the division of child support establish a child support obligation when there is no child support order?

(1) When there is no order setting the amount of child support a noncustodial parent (NCP) should pay, the division of child support (DCS) serves a support establishment notice on the NCP and the custodial parent. A support establishment notice is an administrative notice that can become an enforceable order for support if nobody requests a hearing on the notice.

(2) DCS may serve a support establishment notice when there is no order that:

- (a) Establishes the noncustodial parent's support obligation for the child(ren) named in the notice; or
- (b) Specifically relieves the noncustodial parent of a support obligation for the child(ren) named in the notice.

(3) Whether support is based upon an administrative order or a court order, DCS may serve a support establishment notice when the parties to a paternity order subsequently marry each other and then separate, or parties to a decree of dissolution remarry each other and then separate. The remaining provisions of the paternity order or the decree of dissolution, including provisions establishing paternity, remain in effect.

(4) Depending on the legal relationship between the NCP and the child for whom support is being set, DCS serves one of the following support establishment notices:

(a) Notice and finding of financial responsibility (NFFR), see WAC [388-14A-3115](#). This notice is used when the NCP is either the mother or the legal father of the child. WAC [388-14A-3102](#) describes when DCS uses a NFFR to set the support obligation of a father who has signed an acknowledgment or affidavit of paternity.

(b) Notice and finding of parental responsibility (NFPR), see WAC [388-14A-3120](#). This notice is used when the NCP was not married to the mother but has filed an affidavit or acknowledgment of paternity. WAC [388-14A-3102](#) describes when DCS uses a NFPR to set the support obligation of a father who has signed an acknowledgment or affidavit of paternity.

(c) Notice and finding of medical responsibility (NFMR), see WAC [388-14A-3125](#). This notice is used when DCS seeks to set only a medical support obligation instead of a monetary child support obligation.

WAC 388-14A-3102

When the parents have signed an acknowledgment or affidavit of paternity, which support establishment notice does the division of child support serve on the noncustodial parent?

(1) When the parents of a child are not married, they may sign an affidavit of paternity, also called an acknowledgment of paternity. The legal effect of the affidavit or acknowledgment depends on when it is filed, in what state it is filed, and whether both parents were over age eighteen when the affidavit was signed.

(2) For affidavits or acknowledgments filed on or before July 1, 1997 with the center for health statistics in the state of Washington, the division of child support (DCS) serves a notice and finding of parental responsibility (NFPR). See WAC [388-14A-3120](#).

(3) For affidavits or acknowledgments filed after July 1, 1997 with the center for health statistics in the state of Washington, DCS serves a notice and finding of financial responsibility (NFFR) under WAC [388-14A-3115](#), because the affidavit or acknowledgment has become a conclusive presumption of paternity

under RCW [26.26.320](#).

(4) For acknowledgments or affidavits filed with the vital records agency of another state, DCS determines whether to serve a NFFR or NFPR depending on the laws of the state where the affidavit is filed.

(5) DCS relies on the acknowledgment or affidavit, even if the mother or father were not yet eighteen years of age at the time they signed or filed the acknowledgment or affidavit, as provided in RCW [26.26.315](#)(4).

(6) If the mother was married at the time of the child's birth, but not to the man acknowledging paternity, the man to whom she was married must also have signed and filed a denial of paternity within ten days of the child's birth.

(7) If the acknowledgment or affidavit is legally deficient in any way, DCS may refer the case for paternity establishment in the superior court.

(8) If the mother is the noncustodial parent, DCS serves a NFFR.

WAC 388-14A-3110

When can a support establishment notice become a final order?

(1) The notice and finding of financial responsibility (NFFR), notice and finding of parental responsibility (NFPR), or notice and finding of medical responsibility (NFMR) becomes a final, enforceable order if neither the custodial parent or the noncustodial parent objects and requests a timely hearing on the notice. An objection is also called a hearing request.

(2) If a timely objection is filed, the division of child support (DCS) cannot enforce the terms of the notice until a final order as defined in this section is entered.

(3) To be timely, the noncustodial parent must object within the following time limits:

(a) Within twenty days of service, if the noncustodial parent was served in Washington state.

(b) Within sixty days of service, if the noncustodial parent was served outside of Washington state.

(4) To be timely, the custodial parent must object within twenty days of service.

(5) An objection to a support establishment notice is a request for hearing on the notice.

(6) The effective date of the hearing request is the date the division of child support (DCS) receives the request for hearing.

(7) When an NFPR is served, the order will not become a final order if either parent requests genetic testing under WAC [388-14A-3120](#)(14) within the following time limits:

(a) The noncustodial parent must request genetic testing within twenty days of service, if the noncustodial parent was served in Washington state.

(b) The noncustodial parent must request genetic testing within sixty days of service, if the noncustodial parent was served outside of Washington state.

(c) The custodial parent must request genetic testing within twenty days of service of the notice.

(8) The noncustodial parent or custodial parent must make the hearing request or request for genetic testing, either in writing or orally, at any DCS office. See WAC [388-14A-6100](#) regarding oral requests for hearing.

(9) After a timely request for hearing, the final order is one of the following, whichever occurs latest:

(a) An agreed settlement or consent order under WAC [388-14A-3600](#);

(b) An initial decision as defined in WAC [388-14A-6105](#) and further described in WAC [388-14A-6110](#), for which twenty-one days have passed and no party has filed a petition for review (this includes an order of default if neither party appears for hearing); or

(c) A final order as defined in WAC [388-14A-6105](#) and further described in WAC [388-14A-6115](#); or

(d) A review decision.

WAC 388-14A-3120

The notice and finding of parental responsibility is used to set child support when the father's duty of support is based upon an affidavit of paternity which is not a conclusive presumption of paternity.

(1) A notice and finding of parental responsibility (NFPR) is an administrative notice served by the division of child support (DCS) that can become an enforceable order for support, pursuant to RCW [74.20A.056](#).

(2) The NFPR differs from a notice and finding of financial responsibility (NFFR) (see WAC [388-14A-3115](#)) because the parties may request genetic testing to contest paternity after being served with a NFPR.

(3) DCS serves a NFPR when:

(a) An affidavit acknowledging paternity is on file with the center for health statistics and was filed before July 1, 1997; or

(b) An affidavit acknowledging paternity is on file with the vital records agency of another state and the laws of that state allow the parents to withdraw the affidavit or challenge paternity.

(4) DCS attaches a copy of the acknowledgment of paternity or certification of birth record information to the NFPR.

(5) The NFPR advises the noncustodial parent (NCP) and the custodial parent (who is either the mother or the physical custodian of the child) of the support obligation for the child or children named in the notice. The NFPR fully and fairly advises the parents of their rights and responsibilities under the NFPR. The NFPR warns the NCP and the custodial parent (CP) that at an administrative hearing on the notice, the administrative law judge (ALJ) may set the support obligation in an amount higher or lower than, or different from, the amount stated in the NFPR, if necessary for an accurate support order.

(6) The NFPR includes the information required by RCW [26.23.050](#), [74.20A.055](#), and [74.20A.056](#).

(7) The NFPR includes the NCP's health insurance obligation, pursuant to RCW [26.18.170](#) and [26.23.050](#).

(8) The NFPR may include an obligation to provide support for day care expenses or special child-rearing expenses, pursuant to chapter [26.19](#) RCW.

(9) DCS may not assess an accrued support debt for a period longer than five years before the NFPR is served. This limitation does not apply to the extent that the NCP hid or left the state of Washington for the purpose of avoiding service.

(10) After service of the NFPR, the NCP and the CP must notify DCS of any change of address, or of any changes that may affect the support obligation.

(11) The NCP must make all support payments to the Washington state support registry after service of the NFPR. DCS does not give the NCP credit for payments made to any other party after service of the NFPR, except as provided by 388-14A-3375.

(12) DCS may take immediate wage withholding action and enforcement action without further notice under chapters [26.18](#), [26.23](#), and [74.20A](#) RCW when the NFPR is a final order. See WAC [388-14A-3110](#) for when the notice becomes a final order.

(13) In most cases, a child support obligation continues until the child reaches the age of eighteen. WAC [388-14A-3810](#) describes when the obligation under the NFPR can end sooner or later than age eighteen.

(14) Either the NCP, or the mother, if she is also the CP, may request genetic tests. A mother who is not the CP may at any time request that DCS refer the case for paternity establishment in the superior court.

(15) DCS does not stop enforcement of the order unless DCS receives a timely request for hearing or a timely request for genetic tests. See WAC [388-14A-3110](#) for time limits. DCS does not refund any money collected under the notice if the NCP is later:

- (a) Excluded from being the father by genetic tests; or
- (b) Found not to be the father by a court of competent jurisdiction.

(16) If the NCP requested genetic tests and was not excluded as the father, he may request within twenty days from the date of service of the genetic tests in Washington, or sixty days from the date of service of the genetic tests outside of Washington:

- (a) A hearing on the NFPR.
- (b) That DCS initiate a parentage action in superior court under chapter [26.26](#) RCW.

(17) If the NCP was not excluded as the father, the CP (or the mother, if she is also the CP), may within twenty days of the date of service of the genetic tests request:

- (a) A hearing on the NFPR; or
- (b) That DCS initiate a parentage action in superior court under chapter [26.26](#) RCW.

(18) If the NCP is excluded by genetic testing, DCS may refer the case for paternity establishment in the superior court.

(19) A hearing on a NFPR is for the limited purpose of resolving the NCP's current support obligation, accrued support debt and amount of reimbursement to DCS for paternity-related costs. The hearing is not for the purpose of setting a payment schedule on the support debt. The NCP has the burden of proving any defenses to liability.

WAC 388-14A-3130

What happens if a parent makes a timely request for hearing on a support establishment notice?

(1) A timely request for hearing is an objection made within the time limits of WAC [388-14A-3110](#). For late (or untimely) hearing requests, see WAC [388-14A-3135](#).

(2) If either parent makes a timely request for hearing, the division of child support (DCS) submits the hearing request to the office of administrative hearings (OAH) for scheduling.

(3) OAH sends a notice of hearing by first class mail to all parties at their address last known to DCS, notifying each party of the date, time and place of the hearing. DCS, the noncustodial parent, and the custodial parent are all parties to the hearing.

(4) A timely request for hearing stops the support establishment notice from becoming a final order, so DCS cannot collect on the notice. However, in appropriate circumstances, the administrative law judge (ALJ) may enter a temporary support order under WAC [388-14A-3850](#).

(5) A hearing on an objection to a support establishment notice is for the limited purpose of resolving the NCP's accrued support debt and current support obligation. The NCP has the burden of proving any defenses to liability.

WAC 388-14A-3131

What happens if neither parent appears for the hearing?

(1) If neither parent appears at the scheduled hearing after being sent a notice of hearing, the administrative law judge (ALJ) enters an order on default, declaring the support establishment notice's claim for support to be final and subject to collection action. See WAC [388-14A-6110](#) and [388-14A-6115](#) to determine whether the ALJ issues an initial order or a final order.

(2) As provided in WAC [388-14A-6125](#), an initial order on default is subject to collection action on the twenty-second day after the order was mailed by the office of administrative hearings, and a final default order is enforceable immediately upon entry.

(3) A parent that did not appear may petition to vacate the default order pursuant to WAC [388-14A-6150](#).

(a) If the ALJ vacates the order of default, the ALJ then conducts a full hearing on the merits of the NFFR, NFPR or NFMR. All parties may participate in the hearing.

(b) If the parent who did not appear at the hearing is unsuccessful in the motion to vacate the default order, the ALJ may treat the petition as a petition to modify the support order.

WAC 388-14A-3132

What happens if only one parent appears for the hearing?

(1) If one parent appears at the hearing, but the other parent fails to appear after being sent a notice of hearing, the administrative law judge (ALJ) enters an order of default against the parent that did not appear. The hearing proceeds as described in WAC [388-14A-3140](#). See WAC [388-14A-6110](#) and [388-14A-6115](#) to determine whether the ALJ issues an initial order or a final order.

(2) The division of child support (DCS) and the parent that did appear may enter a consent order, but not an agreed settlement. The obligation in the consent order may be higher or lower, or different from, the terms set forth in the notice, without further notice to the nonappearing parent, if necessary for an accurate support order. The terms of the consent order become final when the order of default to the parent that did not appear becomes final, as provided in WAC [388-14A-6125](#).

(3) DCS and the parent that did appear may proceed to hearing. The ALJ may enter an initial decision setting an obligation which is higher or lower, or different from, the terms set forth in the notice, without further notice to the nonappearing parent, if necessary for an accurate support order. See WAC [388-14A-6110](#) and [388-14A-6115](#) to determine whether the ALJ issues an initial order or a final order.

(4) The parent that did not appear may petition to vacate the order of default pursuant to WAC [388-14A-6150](#).

(5) If the ALJ vacates the order of default, the ALJ then conducts a full hearing on the merits of the notice and finding of financial responsibility (NFFR), notice and finding of parental responsibility (NFPR) or notice and finding of medical responsibility (NFMR). All parties may participate in the hearing.

(6) If the parent who did not appear at the hearing is unsuccessful in the motion to vacate the default order, the ALJ may treat the petition as a petition to modify the support order.

WAC 388-14A-3133

What happens when the noncustodial parent and the custodial parent both appear for the hearing?

If both parents appear at the hearing:

(1) All parties may enter an agreed settlement or consent order. WAC [388-14A-3600](#) describes when an agreed settlement or consent order is a final order.

(2) All parties may proceed to hearing, after which the ALJ issues an order. The ALJ may enter an order setting an obligation which is higher or lower, or different from, the terms set forth in the notice, if necessary for an accurate support order. See WAC [388-14A-6110](#) and [388-14A-6115](#) to determine whether the ALJ issues an initial order or a final order.

(3) In a hearing under this section, the division of child support (DCS) proceeds first to document the support amount that DCS believes to be correct. Following DCS' presentation, the custodial parent (CP) and the noncustodial parent (NCP) may proceed in turn to show why the DCS position is wrong.

WAC 388-14A-3140

What can happen at a hearing on a support establishment notice?

(1) When a parent requests a hearing on a notice and finding of financial responsibility (NFFR), notice and finding of parental responsibility (NFPR), or notice and finding of medical responsibility (NFMR), the hearing is limited to resolving the NCP's current and future support obligation and the accrued support debt. The hearing is not for the purpose of setting a payment schedule on the support debt.

(2) The noncustodial parent (NCP) has the burden of proving any defenses to liability. See WAC [388-14A-3370](#).

(3) Both the NCP and the custodial parent (CP) must show cause why the terms in the NFFR, NFPR, or NFMR are incorrect.

(4) The administrative law judge (ALJ) has authority to enter a support obligation that may be higher or lower than the amounts set forth in the NFFR, NFPR, or NFMR, including the support debt, current support, and the future support obligation. The ALJ may enter an order that differs from the terms stated in the notice, including different debt periods, if the obligation is supported by credible evidence presented by any party at the hearing, without further notice to any nonappearing party, if the ALJ finds that due process requirements have been met.

(5) The ALJ has no authority to determine custody or visitation issues, or to set a payment schedule for the arrears debt.

(6) When a party has advised the ALJ that they will participate by telephone, the ALJ attempts to contact that party on the record before beginning the proceeding or rules on a motion. The ALJ may not disclose to the other parties the telephone number or the location of the party appearing by phone.

(7) In certain cases, there is no "custodial parent" because the child or children are in foster care.

(a) If the NCP fails to appear for hearing, see WAC [388-14A-3131](#).

(b) If the NCP appears for hearing, see WAC [388-14A-3133](#).

(8) In certain cases, there can be two NCPs, called "joint NCPs." This happens when a husband and wife are jointly served a support establishment notice for a common child who is not residing in their home.

(a) If both NCPs fail to appear for hearing, see WAC [388-14A-3131](#);

(b) If both NCPs appear for hearing, see WAC [388-14A-3133](#); or

(c) One joint NCP may appear and represent the other joint NCP.

(9) When the CP asserts good cause level B (see WAC [388-422-0020](#)), DCS notifies the CP that they will continue to receive documents, notices and orders. The CP may choose to participate at any time. Failure to appear at hearing results in a default order but does not result in a sanction for noncooperation under WAC [388-14A-2041](#).

(10) If any party appears for the hearing and elects to proceed, absent the granting of a continuance the ALJ hears the matter and enters an initial decision and order based on the evidence presented. The ALJ includes a party's failure to appear in the initial decision and order as an order of default against that party. The direct appeal rights of the party who failed to appear shall be limited to an appeal on the record made at the hearing.

WAC 388-14A-3275

The division of child support may amend an administrative notice at any time before a final administrative order is entered.

(1) The division of child support (DCS) may orally amend a notice issued under this chapter at the hearing to conform to the evidence. When DCS amends a notice at the hearing:

(a) The administrative law judge (ALJ) may grant a continuance when necessary to give the parties additional time to present evidence and argument as to the amendment; and

(b) DCS must put the terms of the amendment in writing and provide a copy, in person or by regular mail to the last known address of the parties, and to the ALJ within a reasonable time after amending the notice.

(2) The amended notice does not generate a new hearing right.

(3) When DCS has obtained reliable information that the income basis of the notice is inaccurate, DCS amends a notice issued under WAC [388-14A-3115](#), [388-14A-3120](#), or [388-14A-3125](#) prior to seeking a default order for failure to appear. An amendment under this subsection must be made according to the terms of subsection (1) above.

(4) Subsection (3) of this section does not apply:

(a) To cases in which no one has requested a hearing; or

(b) After the ALJ has closed the hearing record.

(5) If DCS has amended the notice under this section and either the noncustodial parent or the custodial parent fail to appear at a rescheduled hearing date, the ALJ must enter a default order on the terms of the amended notice.

WAC 388-14A-3304

The division of child support may serve a notice of support debt and demand for payment when it is enforcing a support order issued in Washington state, a foreign court order or a foreign administrative order for support.

(1) The division of child support (DCS) may serve a notice of support debt and demand for payment on a noncustodial parent (NCP) under RCW [74.20A.040](#) to provide notice that DCS is enforcing a support order entered in Washington state, a foreign court order or a foreign administrative order for support.

(a) A "foreign" order is one entered in a jurisdiction other than a Washington state court or administrative forum.

(b) DCS uses the notice of support debt and demand for payment when there is only one current child support order for the NCP and the children in the case.

(c) When there are multiple current support orders for the same obligor and children, DCS determines which order to enforce as provided under WAC [388-14A-3307](#).

(2) DCS serves a notice of support debt and demand for payment like a summons in a civil action or by certified mail, return receipt requested.

(3) In a notice of support debt and demand for payment, DCS includes the information required by RCW [74.20A.040](#), the amount of current and future support, accrued support debt, interest (if interest is being assessed under WAC [388-14A-7110](#)), any health insurance coverage obligation, and any day care costs under the court or administrative order.

(4) After service of a notice of support debt and demand for payment, the NCP must make all support payments to the Washington state support registry. DCS does not credit payments made to any other party after service of a notice of support debt and demand for payment except as provided in WAC [388-14A-3375](#).

(5) A notice of support debt and demand for payment becomes final and subject to immediate wage withholding and enforcement without further notice under chapters [26.18](#), [26.23](#), and [74.20A](#) RCW, subject to the terms of the order, unless, within twenty days of service of the notice in Washington, the NCP:

(a) Files a request with DCS for a conference board under WAC [388-14A-6400](#). The effective date of a conference board request is the date DCS receives the request;

(b) Obtains a stay from the superior court; or

(c) Objects to either the validity of the foreign support order or the administrative enforcement of the foreign support order, in which case DCS proceeds with registration of the foreign support order under WAC [388-14A-7100](#).

(6) A notice of support debt and demand for payment served in another state becomes final according to WAC [388-14A-7200](#).

(7) Enforcement of the following are not stayed by a request for a conference board or hearing under this section or WAC [388-14A-6400](#):

(a) Current and future support stated in the order; and

(b) Any portion of the support debt that the NCP and custodial parent (CP) fail to claim is not owed.

(8) Following service of the notice of support debt and demand for payment on the NCP, DCS mails to the last known address of the CP and/or the payee under the order:

(a) A copy of the notice of support debt and demand for payment; and

(b) A notice to payee under WAC [388-14A-3315](#) regarding the payee's rights to contest the notice of support debt. The CP who is not the payee under the order has the same rights to contest the notice of support debt and demand for payment.

(9) If the NCP requests a conference board under subsection (5)(a) of this section, DCS mails a copy of the notice of conference board to the CP informing the CP of the CP's right to:

(a) Participate in the conference board; or

(b) Request a hearing under WAC [388-14A-3321](#) within twenty days of the date of a notice of conference board that was mailed to a Washington address. If the notice of conference board was mailed to an out-of-state address, the CP may request a hearing within sixty days of the date of the notice of conference board. The effective date of a hearing request is the date DCS receives the request.

(10) If the CP requests a hearing under subsection (9) of this section, DCS must:

(a) Stay enforcement of the notice of support debt and demand for payment except as required under subsection (6) of this section; and

(b) Notify the NCP of the hearing.

(11) If a CP requests a late hearing under subsection (8) of this section, the CP must show good cause for filing the late request.

(12) The NCP is limited to a conference board to contest the notice and may not request a hearing on a notice of support debt and demand for payment. However, if the CP requests a hearing, the NCP may participate in the hearing.

(13) A notice of support debt and demand for payment must fully and fairly inform the NCP of the rights and responsibilities in this section.

WAC 388-14A-3305

What can I do if I disagree with a notice of support debt and demand for payment?

Once the division of child support has served a notice of support debt and demand for payment, either party may disagree with the notice.

(1) If either party objects to the enforcement of a non-Washington support order, that party may request that DCS register that order under chapter [26.21A](#) RCW. DCS then serves a notice of support debt and registration as provided in WAC [388-14A-7110](#).

(2) If the noncustodial parent (NCP) objects to the amount of current support or the amount of support debt stated in the notice, the NCP may request a conference board under WAC [388-14A-6400](#).

(a) The custodial parent (CP) may participate in the conference board under this section.

(b) The CP may choose to convert the proceeding to an administrative hearing. The NCP may participate in a hearing held under this section.

(3) If the custodial parent objects to the amount of current support or the amount of support debt stated in the notice, the CP may request an administrative hearing. The NCP may participate in a hearing held under this section.

(4) See WAC [388-14A-3304](#) for a more full description of the hearing process on the notice of support debt and demand for payment.

WAC 388-14A-3306

Does a notice of support debt and demand for payment result in a final determination of support arrears?

(1) After service of a notice of support debt and demand for payment as provided in WAC [388-14A-3304](#), the final administrative order determines the support debt as of the date of the order, and:

(a) The debt determination is not a final determination under the Uniform Interstate Family Support Act (UIFSA), chapter [26.21A](#) RCW.

(b) Any party may request that a tribunal determine any amounts owed as interest on the support debt.

(2) The final administrative order comes about by:

(a) Operation of law if nobody objects to the notice;

(b) Agreed settlement or consent order under WAC [388-14A-3600](#);

- (c) Final conference board decision under WAC [388-14A-6400](#);
- (d) Final administrative order entered after hearing or a party's failure to appear for hearing.

WAC 388-14A-3315

When DCS serves a notice of support debt or notice of support owed, we notify the custodial parent and/or the payee under the order.

(1) The division of child support (DCS) sends a notice to a payee under a court order or foreign administrative order for support when DCS receives proof of service on the noncustodial parent (NCP) of:

- (a) A notice of support owed under WAC [388-14A-3310](#); or
- (b) A notice of support debt under WAC [388-14A-3304](#).

(2) DCS sends the notice to payee by first class mail to the last known address of the payee and encloses a copy of the notice served on the NCP.

(3) In a notice to payee, DCS informs the payee of the right to file a request with DCS for a hearing on a notice of support owed under WAC [388-14A-3310](#) or a notice of support debt under WAC [388-14A-3304](#) within twenty days of the date of a notice to payee that was mailed to a Washington address.

(4) If the notice to payee was mailed to an out-of-state address, the payee may request a hearing within sixty days of the date of the notice to payee.

(5) The effective date of a hearing request is the date DCS receives the request.

WAC 388-14A-3320

What happens at a hearing on a notice of support owed?

(1) A hearing on a notice of support owed is only for interpreting the court order for support and any modifying orders and not for changing or deferring the support provisions of the order.

(2) The hearing is only to determine:

- (a) The amount of monthly support as a fixed dollar amount;
- (b) Any accrued arrears through the date of hearing; and
- (c) If a condition precedent in the court order to begin or adjust the support obligation was met.

(3) The hearing is not for the purpose of setting a payment schedule on the support debt.

(4) Either the noncustodial parent (NCP) or payee may request a hearing on a notice of support owed. The party who requested the hearing has the burden of proving any defenses to liability that apply under WAC [388-14A-3370](#) or that the amounts stated in the notice of support owed are incorrect.

(5) The office of administrative hearings (OAH) sends a notice of hearing to the NCP, to the division of child support (DCS), and to the payee. The NCP and the payee each may participate in the hearing as an independent party.

(6) If only one party appears and wishes to proceed with the hearing, the administrative law judge (ALJ) holds a hearing and issues an order based on the evidence presented or continues the hearing. See WAC [388-14A-6110](#) and [388-14A-6115](#) to determine if the ALJ enters an initial order or a final order.

(a) An order issued under this subsection includes an order of default against the nonappearing party and limits the appeal rights of the nonappearing party to the record made at the hearing.

(b) If neither the NCP nor the payee appears or wishes to proceed with the hearing, the ALJ issues an

order of default against both parties.

(7) If the payee requests a late hearing on a notice of support owed, the payee must show good cause for filing the late hearing request.

WAC 388-14A-3321

What happens if the custodial parent requests a hearing on a notice of support debt and demand for payment?

(1) If the custodial parent (CP) requests a hearing on a notice of support debt and demand for payment (also called the "notice of support debt"), the hearing is for the limited purpose of determining the support debt under the order through the date of the hearing.

(2) The office of administrative hearings (OAH) sends a notice of hearing to the NCP, to the division of child support (DCS), and to the payee.

(a) The NCP and the payee each may participate in the hearing.

(b) "Participating in" or "proceeding with" the hearing may include signing a consent order or agreed settlement under WAC [388-14A-3600](#).

(3) If only one party appears and wishes to proceed with the hearing, the administrative law judge (ALJ) holds a hearing and issues an order based on the evidence presented or continues the hearing. See WAC [388-14A-6110](#) and [388-14A-6115](#) to determine if the ALJ enters an initial order or a final order.

(a) An order issued under this subsection includes an order of default against the nonappearing party and limits the appeal rights of the nonappearing party to the record made at the hearing.

(b) If neither the NCP nor the payee appears or wishes to proceed with the hearing, the ALJ issues an order of default against both parties.

(4) If the payee requests a late hearing on a notice of support debt, the payee must show good cause for filing the late hearing request.

(5) When DCS uses a notice of support debt to assess and collect interest on an out-of-state support order, see WAC [388-14A-7110](#).

(6) For the purpose of this section, the terms "payee" and "CP" are interchangeable, and can mean either the payee under the order or the person with whom the child resides the majority of the time.

WAC 388-14A-3600

The parties may resolve any child support case by entering a consent order or an agreed settlement.

(1) The division of child support (DCS) may enter a consent order or agreed settlement to finalize any dispute in which a party requests a hearing. DCS attempts to settle matters through agreement when possible.

(a) An agreed settlement is signed only by the parties to the dispute.

(b) A consent order must be signed by the parties and by an administrative law judge (ALJ) provided that:

(i) In a telephone hearing, the ALJ may sign on behalf of any party if that party gives their consent on the record; and

(ii) The ALJ approves a consent order without requiring testimony or a hearing, unless entry of the order would be unlawful.

(2) An agreed settlement or consent order is final and enforceable on:

- (a) The date the last party signs the agreed settlement, if all parties signed the agreed settlement;
 - (b) The date the ALJ signs the consent order; or
 - (c) If the ALJ defaults one of the parties to the proceeding, the latest of the following dates:
 - (i) The date the ALJ signed the consent order;
 - (ii) The date the last party signed the agreed settlement; or
 - (iii) The date the order of default is final. See WAC [388-14A-6110](#) and [388-14A-6115](#) to determine whether the ALJ issues an initial order or a final order.
- (3) A party to a consent order or an agreed settlement may:
- (a) Not petition for review of the settlement or order under WAC [388-02-0560](#);
 - (b) Petition for modification under WAC [388-14A-3925](#); and
 - (c) Petition to vacate the settlement or consent order under WAC [388-14A-3700](#). However, the ALJ may only vacate a settlement or consent order after making a finding of fraud by a party, or on any other basis that would result in manifest injustice.
- (4) If a hearing has been scheduled, DCS files a copy of the agreed settlement or consent order with the office of administrative hearings (OAH), and OAH issues an order dismissing the hearing. There are no hearing rights on the order dismissing the hearing.
- (5) An agreed settlement or consent order entered under this section must comply with the requirements of WAC [388-14A-6300](#) if the dispute concerns a notice and finding of financial responsibility or a notice and finding of parental responsibility or other notice or petition to determine the amount of a support obligation.

WAC 388-14A-3700

When is it appropriate to vacate a default order?

- (1) If a party fails to appear at a hearing, the administrative law judge (ALJ) must, upon a showing of valid service, enter an initial decision and default order or proceed in the absence of the defaulting party as provided in WAC [388-14A-3131](#), [388-14A-3132](#), or [388-14A-3140](#).
- (2) The ALJ must state in the decision that the:
- (a) Support debt and the current support obligation stated in the notice are assessed, determined, and subject to collection action;
 - (b) Health insurance provisions of the notice are subject to direct enforcement action; and,
 - (c) Relief sought in the notice served by the division of child support is granted.
- (3) Decisions and orders on default become final twenty-one days from the date of mailing under WAC [388-08-464](#) or chapter [388-02](#) WAC.
- (4) Any party against whom the ALJ has entered an initial decision and order on default may petition the secretary or the secretary's designee for vacation of the default order, subject to the provisions, including time limits, of civil rule 60.
- (5) DCS must:
- (a) Request that the office of administrative hearings (OAH) schedule a hearing to determine whether or not the petitioner has good cause for vacating the default order; and
 - (b) Give any other parties to the hearing notice of the time and date of the hearing. OAH must send the notice to the last known address of the party.

(6) If, in a hearing under this section, the ALJ finds that the petitioner has good cause for vacating the default order, the ALJ:

(a) Must conduct a hearing on the merits of the petitioner's objection to the notice that was the basis for the hearing at which the petitioner failed to appear; and

(b) May stay any further collection to the extent provided for under the regulations authorizing the notice the parent originally objected to.

(7) The ALJ must apply civil rule 60 to determine whether the petitioner has good cause. Before vacating an order of default at the request of the NCP or CP, the ALJ must consider the prejudice to the non-DCS party that did appear for hearing.

WAC 388-14A-3902

How does DCS notify me that my order is eligible for review for modification?

(1) The division of child support (DCS) must:

(a) Notify recipients of support enforcement services, that the review and modification process is available; and

(b) Send notice of a pending review by regular mail to the last known address of the parties to the order thirty days before the review. The notice explains the parties':

(i) Rights in the review and modification process; and

(ii) Responsibility to submit:

(A) Completed Washington state child support schedule worksheets; and

(B) Income verification as required by the Washington state child support schedule, chapter [26.19](#) RCW.

(2) During the thirty days before conducting the review, DCS uses all appropriate procedures to obtain up to date income and asset information.

WAC 388-14A-3904

How do I find out the results of DCS' review for modification?

After reviewing a case under WAC [388-14A-3903](#), the division of child support (DCS) notifies the parties of:

(1) The findings of the review by regular mail at the parties' last known address;

(2) The parties' right to challenge the review findings; and

(3) The appropriate forum and procedure for challenging the review findings.

WAC 388-14A-3905

What if I don't agree with DCS' findings after review?

(1) Except as provided under subsection (3) of this section, a party to the review process may contest DCS's review findings by requesting a modification conference within thirty days of the date of the notice of review findings.

(2) The modification conference is conducted by:

(a) DCS when the review findings indicate that the case is not appropriate for DCS to petition for modification under WAC [388-14A-3903](#);

(b) The county prosecutor, or the attorney general's office when DCS has referred the case to the prosecutor or attorney general's office as a result of a review conducted under this section.

(3) When DCS has petitioned for modification of:

(a) A superior court order, the prosecutor or attorney general's office may, in their discretion, allow the parties to contest the review findings in the modification proceeding, rather than a modification conference. The modification proceeding is the sole means to contest the review findings.

(b) An administrative order, the parties may contest the review findings in the modification proceeding. In this case, the modification proceeding is the sole means to contest the review findings.

(4) In a modification conference, DCS the prosecutor, or the attorney general's office:

(a) Review all available income and asset information to determine if the review findings are correct; and

(b) Advise the parties of the results of the modification conference.

(5) A modification conference is not an adjudicative proceeding under the administrative procedure act, chapter [34.05](#) RCW.

(6) This section does not limit the right of any party to petition for a modification of the support order independent from the review and modification process.

(7) The CP's refusal to accept a proposed agreed order modifying support does not constitute noncooperation for the purpose of WAC [388-14A-2075](#).

WAC 388-14A-6400

The division of child support's grievance and dispute resolution method is called a conference board.

(1) The division of child support (DCS) provides conference boards for the resolution of complaints and problems regarding DCS cases, and for granting exceptional or extraordinary relief. A conference board is an informal review of case actions and of the circumstances of the parties and children related to a child support case.

(a) The term conference board can mean either of the following, depending on the context:

(i) The process itself, including the review and any meeting convened; or

(ii) The DCS staff who make up the panel which convenes the hearing and makes factual and legal determinations.

(b) A conference board chair is an attorney employed by DCS in the conference board unit. In accordance with section WAC [388-14A-6415](#), the conference board chair reviews a case, and:

(i) Issues a decision without a hearing, or

(ii) Sets a hearing to take statements from interested parties before reaching a decision.

(2) A person who disagrees with any DCS action related to establishing, enforcing or modifying a support order may ask for a conference board.

(3) DCS uses the conference board process to:

(a) Help resolve complaints and problems over agency actions;

(b) Determine when hardship in the paying parent's household, as defined in RCW [74.20A.160](#), justifies the release of collection action or the refund of a support payment;

(c) Set a repayment rate on a support debt; and

(d) Determine when it is appropriate to write off support debts owed to the department based on:

(i) Hardship to the paying parent or that parent's household;

(ii) Settlement by compromise of disputed claims;

(iii) Probable costs of collection in excess of the support debt; or

(iv) An error or legal defect that reduces the possibility of collection.

(4) A conference board is not a formal hearing under the administrative procedure act, chapter [34.05](#) RCW.

(5) A conference board does not replace any formal hearing right created by chapters [388-14A](#) WAC, or by chapters [26.23](#), [74.20](#) or [74.20A](#) RCW.

(6) This section and WAC [388-14A-6405](#) through [388-14A-6415](#) govern the conference board process in DCS cases.