

| | | |
|--|---|---|
|  <p>INDIANA DEPARTMENT OF CHILD SERVICES</p> | INDIANA DEPARTMENT OF CHILD SERVICES TITLE IV-D POLICY MANUAL | |
| | Chapter 16: Intergovernmental Case Processing | Effective Date: 11/26/2019 |
| | Section 9: Determining Continuing, Exclusive Jurisdiction (CEJ) and Modification of Support Orders | Version: 1 Revision Date: 11/26/2019 |

BACKGROUND

With limited exception, the state that issued the controlling order is the only state with authority to modify its order as long as one of the parties or the child(ren) remains in the state. This is because the state that issued the order has continuing, exclusive jurisdiction (CEJ) over its order.

POLICY

When a tribunal exercises CEJ to modify a child support order, the tribunal applies the child support guidelines in effect in the tribunal's jurisdiction.¹

REFERENCES

- [**IC 31-18.5-2-5**](#): Continuing, exclusive jurisdiction to modify child support order
- [**IC 31-18.5-6-4**](#): Choice of law
- [**IC 31-18.5-6-11**](#): Modification of child support order of another state
- [**IC 31-18.5-6-13**](#): Jurisdiction to modify child support order of another state
- [**IC 31-18.5-6-15**](#): Jurisdiction to modify child support order of foreign country
- [**IC 31-18.5-7-11**](#): Modification of child support order
- [**45 C.F.R. § 303.4**](#): Establishment of support obligations
- [**45 C.F.R. § 303.7**](#): Provision of services in intergovernmental IV-D cases

PROCEDURE

1. When an Indiana Court Has CEJ Over an Indiana Issued Order

An Indiana court that has issued a child support order shall exercise CEJ to modify its child support order if the order is the controlling order and:

- a. Indiana is the residence of the obligor, obligee, or child(ren) at the time of the filing of the request for modification;² or
- b. Indiana is not the residence of the obligor, obligee, or child(ren) at the time of the filing of the request for modification but the parties consent to the Indiana court exercising jurisdiction to modify the order.³

¹ 45 C.F.R. § 303.4(b); 45 C.F.R. § 303.7(d)(6)(ii)

² IC 31-18.5-2-5(a)(1)

³ IC 31-18.5-2-5(a)(2)

An Indiana court retains jurisdiction to modify a child support order issued in Indiana if a party resides in another state and the other party resides outside the United States.⁴

2. When an Indiana Court Does Not Have CEJ Over an Indiana Issued Order

An Indiana court that has issued a child support order may not exercise CEJ to modify its order if:

- a. All of the parties, who are individuals, file consent with the Indiana court that a tribunal of another state may modify the order and assume CEJ if that tribunal:
 - i. Has jurisdiction over at least one (1) of the parties, who is an individual; or
 - ii. Is located in the state of the child(ren)'s residence;⁵ or
- b. The Indiana order is not the controlling order.⁶

If an Indiana court lacks CEJ to modify a child support order, then it may initiate an interstate request to the state with CEJ to modify the order issued in that state.⁷

3. When Indiana May Exercise CEJ to Modify a Child Support Order Issued by Another State

The Indiana court becomes the tribunal having CEJ upon modifying a child support order that was originally issued in another state or country.⁸

An Indiana court may modify a child support order issued by another state and registered in Indiana if, after notice and hearing, the Indiana court finds any of these jurisdictional scenarios to be true:

- a. Scenario 1:
 - i. Neither the child(ren), individual obligee, nor obligor reside in the issuing state;⁹
 - ii. The petitioner who is not an Indiana resident seeks modification;¹⁰ and
 - iii. The respondent is subject to the personal jurisdiction of the Indiana court.¹¹
- b. Scenario 2:
 - i. Indiana is the residence of the child(ren) or an individual party subject to the personal jurisdiction of the Indiana court; and
 - ii. All of the individual parties have filed consent in the issuing tribunal for the Indiana court to modify the child support order and assume CEJ.¹²
- c. Scenario 3:
 - i. All of the individual parties reside in Indiana; and
 - ii. The child(ren) does not reside in the issuing state.¹³

⁴ IC 31-18.5-6-11(f)

⁵ IC 31-18.5-2-5(b)(1)

⁶ IC 31-18.5-2-5(b)(2)

⁷ IC 31-18.5-2-5(d)

⁸ IC 31-18.5-6-11(e); IC 31-18.5-6-15(b)

⁹ IC 31-18.5-6-11(a)(1)(A)

¹⁰ IC 31-18.5-6-11(a)(1)(B)

¹¹ IC 31-18.5-6-11(a)(1)(C)

¹² IC 31-18.5-6-11(a)(2)

¹³ IC 31-18.5-6-13(a)

If a foreign country lacks, or refuses to exercise, jurisdiction to modify its child support order, then an Indiana court may assume jurisdiction to modify the child support order regardless of whether the individual seeking the modification is an Indiana resident or whether the parties give consent to the modification.¹⁴

Indiana may only modify a Convention support order when the obligee still resides in the issuing foreign country if:

- a. The obligee submits to the jurisdiction of Indiana expressly or by defending the case without objecting to jurisdiction at the first available opportunity;¹⁵ or
- b. The foreign tribunal does not have jurisdiction, or refuses to exercise jurisdiction, to modify the order or issue a new one.¹⁶

A child support order that is modified by an Indiana court following registration is subject to the same requirements, procedures, and defenses and may be enforced and satisfied in the same manner as a child support order issued by an Indiana court.¹⁷

4. What Indiana Cannot Modify of Another State's Child Support Order

An Indiana court may not modify an aspect of another state's order that cannot be modified under the law of the other state including the duration of support.¹⁸ The law of the state that issued the initial controlling order governs the duration of the obligation of child support order.¹⁹ An Indiana court cannot extend the obligor's duty of support by issuing an additional child support order.²⁰

5. When Another State Exercises CEJ Over an Indiana Issued Order

If a tribunal of another state modifies a child support order of an Indiana court, the Indiana court shall recognize the CEJ of the tribunal of the other state.²¹

FORMS AND TOOLS

1. [Continuing Exclusive Jurisdiction \(CEJ\) Desktop Guide](#)
2. [Federal Interstate Time Frames UIFSA](#)
3. [Intergovernmental Forms Matrix \(OCSE\)](#)
4. [UIFSA Matrix \(CSB\)](#)
5. Tool for Determining Modification Jurisdiction

¹⁴ IC 31-18.5-6-15(a)

¹⁵ IC 31-18.5-7-11(a)(1)

¹⁶ IC 31-18.5-7-11(a)(2)

¹⁷ IC 31-18.5-6-11(b)

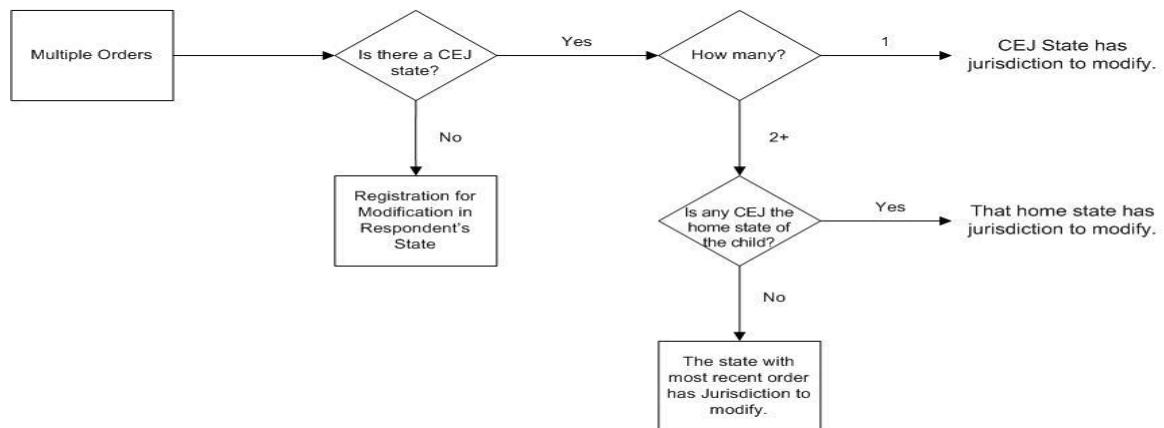
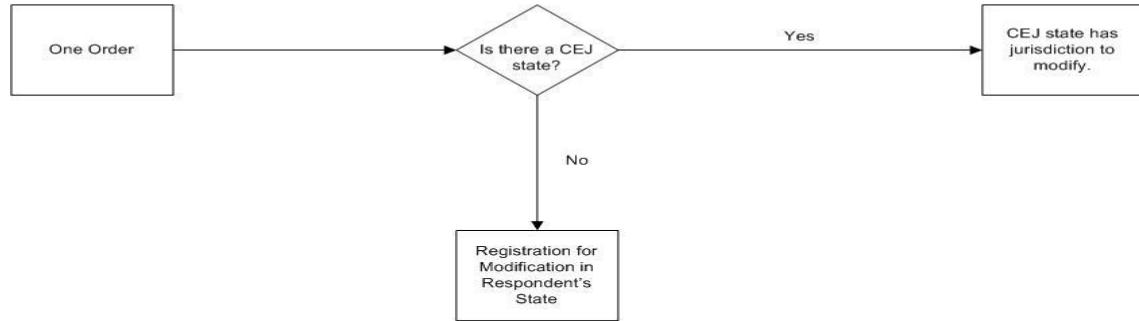
¹⁸ IC 31-18.5-6-11(c)

¹⁹ IC 31-18.5-6-11(d)

²⁰ IC 31-18.5-6-11(d)

²¹ IC 31-18.5-2-5(c)

Jurisdiction to Modify
(absent written consent of parties)



FREQUENTLY ASKED QUESTIONS

N/A

RELATED INFORMATION

N/A