



**George E. Pataki**  
Governor

**NEW YORK STATE**  
**OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE**  
40 NORTH PEARL STREET  
ALBANY, NY 12243-0001

**Brian J. Wing**  
Commissioner

## Administrative Directive

### Section 1

<b>Transmittal:</b>	03 ADM 5
<b>To:</b>	Local District Commissioners
<b>Issuing Division/Office:</b>	Division of Transitional Supports and Policy Division of Child Support Enforcement
<b>Date:</b>	June 19, 2003
<b>Subject:</b>	Child Support and the Family Violence Option
<b>Suggested Distribution:</b>	Domestic Violence Liaisons, Temporary Assistance Directors, and Child Support Enforcement Coordinators
<b>Contact Person(s):</b>	FVO Questions - Deb McArdle (518) 474-2828 or Ruth Ann Pickering (518) 473-6661 CSE Questions - CSE County Representative 1-800-343-8859
<b>Attachments:</b>	Notice Regarding Child Support Requirements for Domestic Violence Victims
<b>Attachment Available On – Line:</b>	<input checked="" type="checkbox"/>

### Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
98 ADM-3 99 ADM-5		18 NYCRR 351.2(1) 347.5 369.2(b)	SSL 459 a-g		

### Section 2

#### I. Purpose

The purpose of this Administrative Directive (ADM) is to clarify policy and procedures surrounding Child Support Enforcement (CSE) activities, related to Temporary Assistance (TA) applicants/recipients, who self-identify as a victim of domestic violence (DV). CSE workers and DV liaisons requested this clarification at various trainings and meetings throughout the State. This ADM is also a clarification to 98 ADM-3, which implemented the Family Violence Option (FVO) in New York State effective April 1, 1998 and 99 ADM-5, which changed the process for referring TA applicants/recipients to CSE.

## **II. Background**

98 ADM-3 advised local social services districts (LDSS) of the new regulations that implemented the FVO. These regulations require that all applicants for and recipients of TA receive information about DV and the protections and services available. In addition, as part of the application/recertification process, individuals will be screened to determine those currently affected by DV and individuals who self-identify as victims of DV must be referred to a specially trained Domestic Violence Liaison (DVL) who will assess whether the DV claim is credible and whether it impacts the individual's ability to meet TA requirements.

99 ADM-5 provided clarification of federal and state legislation that changed the CSE process for TA applicants. This directive established that income from child support payments is an integral part of recipients' movement to self-sufficiency and that TA applicants/recipients have an ongoing responsibility to participate in establishing paternity and securing and providing support for their children. Based on this principle, regulations were enacted that required TA applicants to demonstrate, prior to their eligibility determination, that they have met the CSE cooperation criteria.

## **III. Program Implications**

All workers dealing with TA applicants/recipients, including the TA worker, the CSE worker and the DVL must have a basic understanding of the requirements associated with each other's program area in order to ensure the safety of DV victims. The workers from these areas should meet regularly to participate in cross training, review procedures, discuss the implications of the CSE requirements and how these requirements will affect TA clients who are in DV situations. This is especially important when the CSE, TA and DV units are in different locations and/or the DVL position is contracted out with a community DV agency.

## **IV. Required Action**

### **A. Temporary Assistance Worker Responsibilities:**

TA workers must screen all TA applicants and recipients by using the LDSS-4583 "Domestic Violence Screening Form". Completing this form is voluntary on the part of the individual. When an individual indicates the presence of DV by checking "yes" on the screening form, that worker must refer the individual to a DVL for screening and assessment. All assessments, including CSE activities must be suspended during the DV screening and assessment process and until a waiver decision is made by the DVL. The DVL will notify CSE of the waiver decision and the length of the waiver, if applicable. Since LDSS procedures vary as to when TA applicants/recipients are screened for DV, workers should know their local procedures on how and when an applicant/recipient is referred to CSE.

The TA worker must evaluate TA applicant/recipient claims of Good Cause for refusing to cooperate with CSE. Prior to the implementation of the FVO, Good Cause exceptions were the primary means by which the needs of DV victims were considered. Since the implementation of the FVO, it is important for TA workers, CSE workers and DVLs to have a clear understanding of the key differences between the determination of DV waivers and Good Cause. Good Cause exceptions to CSE cooperation requirements still exist and even in cases when a DV waiver has not been granted, must be investigated. (Please see Section VI of this

directive, which outlines the differences between Good Cause and DV Waivers.) Good Cause for non-cooperation with CSE may be found to exist in the following circumstances:

- Cooperation is expected to result in physical or emotional harm of a serious nature to the child for whom support is sought;
- Cooperation is expected to result in physical or emotional harm of a serious nature to the parent/caretaker relative/grantee sufficient to impair the caretaker's ability to adequately care for the child;
- The child was conceived as a result of incest or forcible rape; or
- Adoption of the child is pending before a court, or the caretaker is receiving pre-adoption counseling services (for up to three months after the child's birth).

A TA applicant/recipient who claims good cause for refusing to cooperate must sign the good cause notice (DSS-4279). The good cause claimant has the burden of proving that good cause exists, by specifying the circumstances that they believe constitute good cause, providing corroborative evidence, and cooperating with investigation of the claim.

The TA worker or an appropriate designee of the LDSS must determine whether good cause exists based on the claimant's evidence, the worker's own investigation, if needed, and recommendations from the CSE. The TA worker with input from CSE determines whether to continue certain activities without the client's participation. CSE activities can continue without the client's consent. Refer to 99 ADM-5 "Cooperation with Child Support Enforcement for Temporary Assistance, Medicaid, Foster Care and Child Care Services Applicants and Recipients" for additional information regarding determinations of good cause.

## **B. Domestic Violence Liaisons Responsibilities:**

DVL's must conduct an assessment interview with the TA applicant/recipient to determine the credibility of the assertion of domestic violence. The DVL must also discuss the general CSE requirements and the implications of complying with these requirements, if applicable. The DVL should review the status of any existing orders of support with the applicant/recipient. Depending on the circumstances, a waiver may or may not be the best option for the applicant/recipient.

A new notice has been developed to provide DV victims with background information on child support services, good cause exemptions and possible implications of complying so that the victim can make an informed choice about whether a waiver is the best option. This new notice called "Notice Regarding Child Support Requirements for Victims of Domestic Violence" must be reproduced locally. See Attachment. DVLs are required to provide and discuss this notice with the victim as part of the assessment process. **This notice must not be mailed to the client.**

When necessary, and with the permission of the client, the DVL may need to consult with the CSE worker in complex situations. The DVL needs to be familiar with the CSE services and requirements, so he/she can properly advise the TA applicant/recipient of their options, including pursuing child support safely. After the assessment process, the DVL must notify CSE of the waiver decision. If a CSE waiver has been granted and subsequently ends, the DVL must notify CSE that the waiver has ended. LDSS staff must follow locally developed procedures for this notification process while ensuring confidentiality.

The DVL will make all waiver decisions. A waiver is a temporary suspension of one or more TA program requirements (e.g., child support cooperation requirement). Waivers may be granted by a DVL where compliance with program requirements would make it more difficult for the individual and/or the individual's children to escape from DV or subject them to further risk of DV. Waivers must be for an initial period of at least four months and may be extended, modified or terminated as appropriate. If a waiver is extended, the waiver must be reviewed at least every six months.

It is important to remember that in some situations the abuser could be a legally responsible relative, not the biological parent, who is required under TA regulations to provide child support payments, e.g. a child's stepparent. In cases with multiple non-custodial parents, the DVL must identify the abuser and may only apply the waiver to the specific support case. In this situation, it is considered a full waiver and not a partial waiver as indicated in previous data entry procedures.

During the assessment interview the DVL needs to explain what cooperating with CSE entails, as well as the potential impact of a waiver. CSE cooperation includes providing identifying information about the absent parent/putative father and their address and participating in necessary activities with the child support office and the court to establish paternity and establish, modify or enforce support obligations. Refer to 99 ADM-5 or 369.2(b) of the regulations for further information). The DVL needs to explain that safety risks may occur from cooperating with CSE requirements, as well as after an order is filed, enforced or stopped.

There are three child support waiver options:

- **No Waiver:** Proceed with CSE activities as usual.
- **Full Waiver:** STOP all CSE activities.
  - Full CSE waivers are granted if any CSE activity will put the victim and/or the victim's children at risk.
- **Partial Waiver:** Proceed with CSE activity, but with certain precautions.
  - The regulations outlined in 98 ADM-3 and subsequent directives do not provide direction for granting partial waivers. Computer coding was developed to allow for partial waivers when victims could participate in some but not all program requirements. The definition of partial waivers under CSE program requirements is being redefined and is more restrictive than has been allowed in the past. Under no circumstances can the DVL grant waivers for only some child support enforcement activities and not others. (e.g. waivers granted for tax offset but not a drivers license suspension). If a partial waiver is granted, CSE may:
    - Remove the victim's location or employment information from petitions, notices or any required financial disclosure, subject to the approval of the court; **\*While the victim's address can be suppressed from all forms it is not always possible to suppress the name of the county CSE or the court that issued the order. The victim must be advised of this due to safety concerns.**

- Request that the court not disclose the victim’s location or employment information;
- Request that the court order for any laboratory appointments for genetic testing of the parties and child be done on separate dates; and
- Not call the victim to testify at the hearing or, if his or her testimony is required, request that the court make adequate provision for his or her safety while in court. A victim who is receiving temporary assistance is not a necessary party and her presence or testimony should not be routinely required.

It is important to understand that even though a partial waiver is granted, CSE will still proceed with CSE activities but with the precautions stated above.

All waivers, including partial waivers, are granted to ensure the victim’s safety and confidentiality. When a DVL grants a waiver and enters this data into the DV WMS subsystem, this will initiate a DV indicator on “WMS Screen 3” (WINQ03) during a case comprehensive inquiry. The purpose of this indicator is to alert workers to the possible safety implications and to proceed with caution. Without this DV indicator, the client’s safety may be jeopardized.

When a waiver is granted, the DVL must develop a “services plan” with the client. This plan is designed to lead the victim to safety and self-sufficiency. The plan will list recommendations, referrals and/or options that are available to assist the victim. Most of the services will be available through DV service providers. The DVL’s role is to assist the individual in identifying and accessing resources, not to counsel or provide the recommended services. The services plan is not a list of requirements. The individual has the option of whether or not to act on these referrals. The services plan is a way to document and formalize the referrals given.

Once the DVL completes the assessment and makes a waiver decision, she/he must notify the appropriate workers, based on local procedures, of the waiver decision.

### **C. Child Support Enforcement Worker Actions:**

When an individual indicates the presence of DV to the CSE worker, that worker must refer the individual to a DVL for screening and assessment using locally developed procedures. CSE workers should not use the “Domestic Violence Screening Form”. With respect to the children of the alleged batterer, the local CSE unit will not undertake to locate the absent parent or putative father, establish paternity or establish, modify or enforce an order of support while the individual is undergoing DV screening and assessment. All CSE activities must be suspended during the assessment process and until a waiver decision is made by the DVL. Upon receiving notice from the DVL, the local CSE unit, to the extent required by such waiver, must not undertake any activities with respect to the children of the batterer while such waiver is in effect. When a waiver ends, the DVL must notify CSE that the waiver has ended.

### **Support Orders and Arrears**

- **Open TA Cases:** Collection on **existing support orders** will be enforced unless there is a full CSE waiver granted. When a full waiver is granted, CSE will suspend and/or stop

enforcement of the order. However, the arrears will continue to accrue. When the waiver period ends, and upon notification from the DVL, CSE will begin collection on the existing order and arrears, including the period of the waiver. An existing order remains in effect until the court terminates it.

If there is **no existing support order**, CSE will file a support petition to establish an order of support unless a full CSE waiver is granted. If a waiver is granted, CSE will not file a petition to establish an order. However, once the DVL notifies CSE that the waiver has ended, CSE will proceed to establish a support order if the client remains on TA.

- **Closed TA Cases:** When the TA case closes, TA staff will automatically notify CSE of the closing. CSE will automatically send the former TA client a “Continuation of Child Support Services” notice. Such notice has specific language to DV victims under the header, “IF YOU RECEIVED A WAIVER FROM CHILD SUPPORT COOPERATION”, advising the DV victim to contact CSE in writing as to whether or not the DV victim wishes CSE to begin or resume to provide services. The notice also states that if the DV victim does not contact CSE, nothing will happen with the case and, if no contact after 30 days, the CSE case will be closed according to case closure procedures. This form was shared with LDSS’s in the December 18, 2001 DCSE “Dear Colleague Letter”. Note: if the DV victim reopens TA or is a recipient of other assistance from the LDSS, (i.e. Medicaid, Child Care and/or Foster Care), child support enforcement activities may automatically begin. In this situation a victim also has the right to request a good cause exemption.

Former TA clients who wish to terminate CSE activities or who do not get or respond to the notice should also be made aware that if there are any arrears due and owing the LDSS based on the assignment of support rights, it is the LDSS’s right to pursue collection of those arrears. CSE staff should assess with the DV victim the relative risk of pursuing assigned arrears on behalf of the LDSS. If a client thinks that pursuing arrears will put her or her children at risk, the client should contact CSE to discuss the implications. If there is a risk, the arrears should not be pursued. CSE staff should annotate the case record and close the case.

**\*OTDA strongly encourages LDSS staff to use extreme caution when a TA case involving a recipient who has a waiver from child support closes. It is important to establish local procedures that ensure the safety of the victim and the victim’s children.**

Once the client is no longer in receipt of TA there is no assignment of support rights, so the client must decide whether to go forward with proceedings to establish paternity, or establish, modify or enforce orders of child support. The client must decide whether his or her safety would be jeopardized under the circumstances. However, if the client chooses to go forward, the client may request that the CSEU:

- Remove any location or employment information from petitions, notices or any required financial disclosure, subject to the approval of the court; **\*While the victim’s address can be suppressed from all forms it is not always possible to suppress the name of the county CSE or the court that issued the order. The victim must be advised of this due to safety concerns.**
- Request that the court not disclose any location or employment information;
- Request that the court order for any laboratory appointments for genetic testing of the parties and child be done on separate dates; and

- Not call the victim to testify at the hearing or, if his or her testimony is required, request that the court make adequate provision for his or her safety while in court. A victim who is receiving temporary assistance is not a necessary party and her presence or testimony should not be routinely required.

IV. **CSE Systems Implications** (These system implications are related to the CSMS system only.)

A. **To STOP Administrative Enforcement Processes on CSMS**

**\*If a full CSE waiver is granted, all of the actions listed below must be stopped.**

1. Income Executions – Change the delinquency switch on IVDQRY to 86 and then, the next day, to 19.
2. Unemployment Insurance Intercept- Enter an “8” in the UIB-IND to request a termination to the Department of Labor. When CSMS changes the UIB-IND to “4”, set the UIB-IND to “9” to prevent the case from reentering the process.
3. Tax Refund Offset Process (TROP) – by entering the current value for the tax refund offset process via the 33 DCOR transaction on page 00 of IVDQRY screen, and, if the account is already certified, by processing a negative 64 batch transaction for each ledger certified on the account to delete the account from TROP. The entry of the current year’s DCO value for non-submittal will suppress the account from being submitted for TROP if entered between May and August end-of-month. If notification is received after the August end-of-month, the district must still enter the current year’s value for non-submittal so it will appear on the listing of accounts generated during May’s end-of-month run each year, which lists each case in a district with the previous year’s value for non-submittal. Once this annual list is received, the district should review each case to determine if non-submittal is appropriate.
4. Driver License Suspension – Enter DMV-IND of C08 to prevent the initial notice to DMV. If the driver’s license is already suspended, enter T08 to terminate the suspension.
5. Lottery Intercept and Credit Reporting – Enter a “C” in the CR-IND. For credit bureau reporting, contact Larry Dole at (518) 486-3129 to remove the respondent’s name from the credit reporting processes.
6. Referral to Taxation and Finance – Enter TAX-COLL-IND of C8 to prevent the initial notice, referral to DTF or continued enforcement.
7. Property Execution – Enter DELQ-SW 19 to prevent asset records from entering the PEX process. If a restraining notice has been issued, produce from the document generation module of CSMS a DOC GEN Notice to Vacate Restraining Notice or Execution. CSMS will then set the PROP EXE CODE to a 01. The following day, the district should enter a 96 and then a 98 in the PROP EXE CODE to prevent another restraining notice from going out. If an execution has been issued, generate on DOC GEN a Notice to Vacate Restraining Notice or Execution. CSMS will change the PROP EXE CODE from a 04 to a 01. The following day, the district should enter a 96 and then a 98 in the PROP EXE CODE to prevent another execution from going out.
8. Personal Injury Insurance Claim Settlement Intercept Process – If the PIC Code on any IVDPIC record is 01, contact DCSE for coding to prevent the record from

entering the process. If the PIC Code on any IVDPIC record is 02, change the PIC Code to 76. If the PIC Code on any IVDPIC record is 04, change the PIC Code to 86. If the PIC Code on any IVDPIC record is 15, change the PIC Code to 86.

9. To Stop COLA Process on CSMS – by entering an X in COLA-REQ-IND or DELQ-SW 19 to stop COLA process.

## **B. When to Use the Family Violence Indicator**

In any instance that child support is made aware of family violence, either DV or child abuse, they must, in addition to other appropriate actions, update the Family Violence Indicator. The Family Violence Indicator, “FVI” on CSMS’s IVDJCA and “FV-IND” on IVDJRI is a one-position user update field, which is used to identify those cases where there are concerns that DV or child abuse exists. The purpose of the indicator is to ensure that the Federal Case Registry will be notified of all cases in which the indicator is set. This will flag the case so that no information regarding the person(s) will be shared with another data match, including National Directory of New Hires and FPLS.

## **C. How to Use the Family Violence Indicator**

Districts were notified, 11/25/98, OCSE Coordinator Letter, about the Family Violence Indicator. All district staff should become familiar with how and when to update the indicator and ensure that all cases in which family violence is an issue are properly coded.

The values for the Family Violence Indicator are as follows:

**Y** = Request notification of family violence to the FCR. Manually set only when prior value is blank.

**V** = Family Violence Indicator sent to the FCR. System set when prior value is Y. Manually set when prior value is X.

**X** = Request removal of Family Violence Indicator set on case at the FCR. Manually set only when prior value is V.

**Blank** = No Family Violence Indicator set on case at the FCR. System set when prior value is X. Manually set when prior value is Y.

When a case is identified as a family violence case, the LDSS should enter a Y in the FVI field on IVDCA1. CSMS will then notify the FCR during the weekly process, that the potential for domestic violence or child abuse exists for the CSMS client and for any associated children for that client. The FVI will then be set to a V. If the DV liaison notifies child support that a DV waiver is terminated, then the Family Violence Indicator should be removed by entering an X in the FVI field.

## **D. How to Suppress the Custodial Parent’s Address**

In situations where the custodial parent’s address must be concealed due to a partial DV waiver, CSE must ensure that the client’s address does not appear on any documents, notices, petitions, summons, etc. that are created to provide a CSE service. CSE should coordinate with the courts to suppress the address when necessary. While the victim’s address can be suppressed from all forms it is not always possible to suppress the name



of the county CSE or the court that issued the order. The victim must be advised of this due to safety concerns.

## VI. Additional Information

### Difference Between Good Cause and DV Waivers

The following table outlines the distinction between Good Cause Determinations and Domestic Violence Waivers.

<b>GOOD CAUSE</b>	<b>DOMESTIC VIOLENCE WAIVERS</b>
Granted by TA unit in consultation with CSE unit.	Granted by the DVL.
All activities suspended during period of determination by TA unit.	All activities suspended when referral to DVL is made.
Client has 20 days to prove claim; determination must be made within 30 days of client signing notice to claim good cause.	Determination is made by the DVL as soon as practicable.
CSE can continue certain activities without the recipient's consent even after a good cause determination is approved.	DVL informs CSE whether there is no waiver, a full waiver or a partial waiver granted, and the timeframe for waivers.
Granted under four conditions stated above, two of which pertain to issues of family violence.	Granted when compliance with CSE requirements would make it more difficult for the victim and/or the victims children to escape from DV or subject them to further risk.
Requires evidence provided by the client and further investigation by staff, if necessary.	Requires minimal documentation, (e.g. sworn statement) according to the judgment of the DVL.
Timeframe indefinite, but must be reviewed at recertification where circumstances are subject to change.	Granted on a temporary basis, and reassessed, at least every six months.

The DVL is in the best position to assess risk associated with complying with child support requirements, and will most likely be involved in any TA case where domestic violence has been disclosed. It is possible for a DV victim to have both a good cause exemption and a DV waiver. However, in situations where there is a conflict between the provisions of the good cause exemption and the DV waiver, the TA worker, the CSE worker and the DVL are encouraged to resolve the issues, with the safety of the DV victim and her/his children as the primary concern. There may be circumstances that do not result in a domestic violence waiver of child support requirements but which do constitute good cause for not pursuing paternity establishment or child support. Even if a DV waiver is not granted, the client may still pursue good cause through the TA worker.

**VII. Effective Date**

Immediately.

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**Issued By**

**Name: Shari Noonan**

**Title: Deputy Commissioner**

**Division/Office: Transitional Supports and Policy**

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**Issued By**

**Name: Margot Bean**

**Title: Deputy Commissioner**

**Division/Office: Child Support Enforcement**