

ESTABLISHING A SUPPORT OBLIGATION

Notice of Default

CS 405.4

SUPERSEDES

CS 405.4 Notice of Default, February 15, 1988

Policy

Following service of an administrative notice, if the person served has not taken sufficient action to prevent a default, the CSED **may, at its option**, delay final action on the default by issuing further notice in the form of a Notice of Default. The purpose of the Notice of Default is to make the person aware of the existent default situation, and to prompt appropriate action. If the person does not respond appropriately within 10 days, the CSED then proceeds with a final administrative order based on the default.

EXCEPTION:

The Notice of Default is **not** appropriate for use in income withholding actions, because the federal time frames following the withholding notice do not, in practice, allow for the additional response time required.

Generally the Notice of Default is used--at the caseworker's or region's option--when the following conditions apply:

- 1) Initial Contact. The person served has timely contacted (or responded to contact by) the CSED in a way that recognizes the existence of the pending administrative action.
- 2) Applicable Default. The person served has not timely requested a hearing on the notice or signed an agreement consenting to the terms of the notice (or to other terms acceptable to the CSED), and the CSED has not dismissed the notice.
- 3) Possible Misconception. In the circumstances, it is possible the person served is not aware he or she is in a default position, or that the CSED still intends to proceed as stated in the notice.

When it is certain the person understands he or she is subject to default action, or when there is no contact at all with the person following service of the original notice, the CSED normally does not use the Notice of Default. However, in exceptional situations it may still be useful in protecting the CSED from later charges the person was not afforded due process, or in preventing the necessity for later CSED actions to undo the default order.

There is no statutory or other legal requirement for the CSED to issue a Notice of Default in connection with any administrative process. Nor does CSED policy require use of the Notice of Default as a standard procedure in any of these processes. (Certain specific, non-standard scenarios are identified in this Manual where the Notice of Default is expressly required.)

Procedures for Caseworker

1. Upon determining a person served with a CSED administrative notice is in default determines whether a Notice of Default applies according to the policy and procedures in this section. If so, proceeds to step 2.
2. Prepares form CS 405.4 Notice of Default, and sends by regular mail to last known address of person served.

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3. Monitors for response within 10 working days plus 3 mailing days, and takes action as follows:
 - a. If person does not timely request hearing or contact CSED (or if timely contact does not result in a signed agreement acceptable to the CSED or in a dismissal of the original notice), proceeds with default action for particular administrative process.
 - b. If person timely requests hearing in writing, follows procedures for administrative hearing associated with particular administrative process.
 - c. If person timely agrees to sign agreement acceptable to CSED, follows procedures for preparing and executing agreement associated with particular administrative process.
 - d. If person timely contacts CSED and proves action specified in notice is not appropriate, executes form CS-401.3F, Motion and Order to Dismiss Administrative Notice (or other specialized document as appropriate to particular administrative process).