2017 CFSC Administrative Process Action (APA) Do's and Don'ts
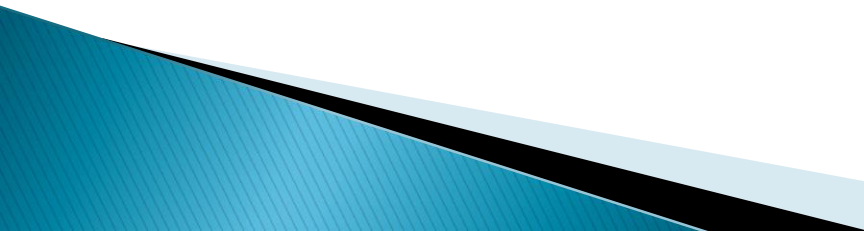
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APA Resources

▸ See Handout for Resource List: statutes, Volume 6, manuals (including ACSES User's Guide sections) and desk aids

▸ Subject Matter Experts
  ◦ Robert Kurtz – APA
  ◦ Operation Analysts (OAs) – ACSES and DISH issues
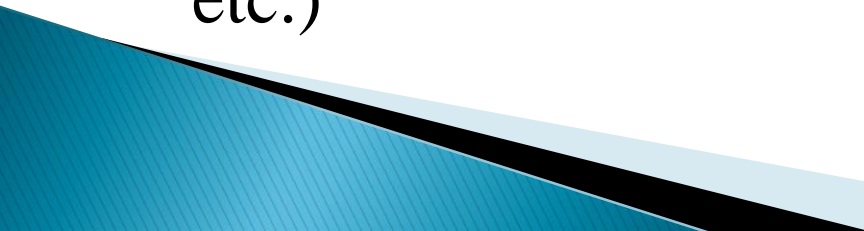
Order / Paternity Research

Do – Always follow the Order Research
    Checklist desk aid on every case

Do – Confirm the paternity status of each child on
    the case

APA Case Preparation

- Do - Case preparation well in advance of the Negotiation Conference of court hearing
- Ask for help early if you need help
- Always include your complete contact information in all e-mails
- Always state your name and telephone number slowly and trice on all telephone voice-mail messages
- Always provide the IV-D case number if you want advice and/or instructions documented in ACSES chronology

Always Use APA if Appropriate

- The APA statute and Volume 6 mandate the use of APA in all types of cases if APA is appropriate
- Don't' – Not do APA just because there is a pending (establishment) court case relating to child support
- Don't – Not do an APA modification action just because you know that a party will not agree to a new order
- Don't – Not do APA just because the case is hard (self-employed, disability, fight over over-nights, etc.)

Prior Judicial Order

- Do – Always use APA if there is a prior judicial order that is "silent" as to child support

- Do – Obtain a complete copy of all prior orders (and all attachments) and review. Consult your supervisor, IV-D attorney or call the state office to help you make this determination if necessary

- Don't – Use APA if the court has "reserved" child support

- Do –Use APA if the prior judicial order is vacated or determined to be "null and void"

Subsequent Judicial Order

- Do – If an APA order has been established and then you discover that a subsequent judicial child support order has been established (see handout)…..
  - Get a copy of the court order
  - Draft and file a Motion and Order to Set Aside / Vacate the entire court order or if appropriate, just the section on child support
  - Request a court hearing
  - Provide the court with a certified copy of the APA order and have the court certify the APA order in to the judicial case stays APA)

  ❖ See the Order Validity Handout!

Genetic Testing

- Don't – Share genetic testing results with child welfare or a D & N court (sharing genetic testing results with someone who is not a party to the child support case is a crime)

- Do – Refer an APA case to court if the obligor is excluded genetic testing results (less than 97% probability) and facts exist supporting another presumption of paternity (Do not enter an APA order)
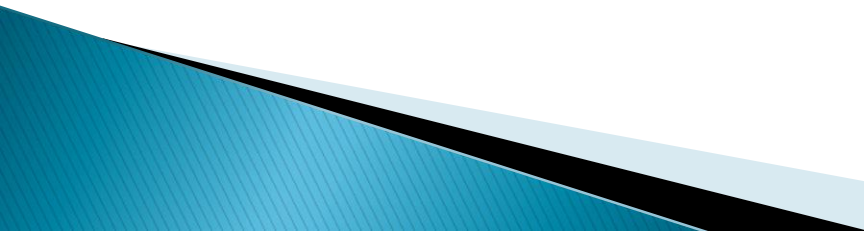
RPDs & Birth Certificates

- Don't - provide a party with a copy of a birth certificate that you obtained from <u>anyone</u>
- Report of Paternity Determination (RPD)
  - Do – Always complete and file in all paternity establishment cases
  - Do – Provide a certified copy (If you are the custodian of the record, you do the certification) of the order with the RPD if it is another state/territory birth certificate
  - Do – Tell Erica James and Robert Kurtz if your RPD is rejected because the state/territory wants the parents to fill out a form
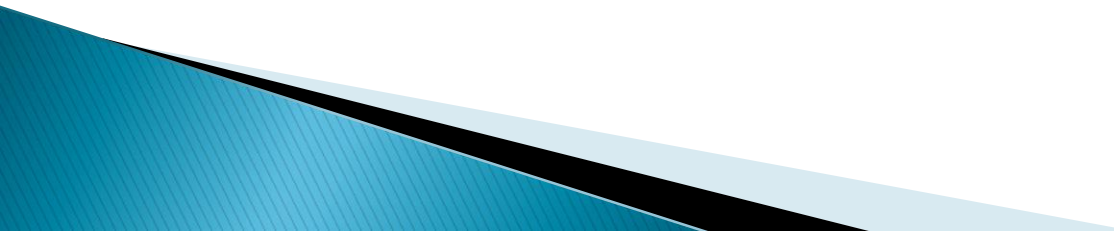
Issuance of Process

▸ Do – Print your DocGen NFR on the date you will be delivering it to your process server or the date you will deposit it in the mail for service on the obligor (The Negotiation date must be 30 days from the date process was issued).

▸ Don't – Print your NFR and just put it in a basket to be picked up "sometime" or to be dropped in the mailbox "sometime"

▸ See the "Service of Process" handout

Unknown v. Deceased Parents

▸ Do – Use minimum wage on the guidelines for unknown parent (i.e. Foster Care fee order)

▸ Don't – Use any income (enter zero) if the parent is deceased

▸ Do – For undocumented immigrant parents, do impute potential earning capacity (the fact that they do not have / can't get a SSN is irrelevant)

Pre-Order Change of Physical Care

- Do – Calculate your guidelines ASAP to confirm that the parties are in their correct roles (this is true for APA and judicial actions and Establishment and Modification actions)
- Do - If the guidelines cause a "role-reversal", in APA cases, do not enter an order and do not enter an order with a zero MSO.
- Do – Close the APA with no order, document in chronology the reason advise both parents and advise the parties that they can apply for services in their true roles.

APA Modifications (Reviews)

▸ Do – Redact all locate information in all documents that will be provided to the other parent if the case is flagged as NDI

▸ Don't – Redact documents (if NDI is not flagged) that are used as "supporting" financial documentation used in calculating the guidelines during the Review of an order

▸ Do – advise the parent that you <u>will not</u> redact "unnecessary" but sensitive information