

1) Opening

- a) Humor about something Boring

19) UIFSA Concepts



a) One Order / Child-Obligor @time

There can be only one support order for each obligor and child combination at any given time.

- i) FFC recognition of jurisdiction

The Constitution requires States to recognize and give full faith and credit to the judgments of other states. UIFSA codifies the concept.

The one order per payer/child means that a court that issued an order retains decision making power over that order until jurisdiction is lost.

b) **Continuing** Exclusive Jurisdiction vs. Controlling Order

You will hear many terms with UIFSA – CEJ and Controlling Order are related – but their meanings apply in slightly different contexts. Many times the terms are confused or used incorrectly.

i) CEJ – modification

Controlling Exclusive Jurisdiction (CEJ) applies to modification of an order – the exclusivity means that only one can do it – usually the issuing state retains it until it loses its exclusive jurisdiction.

- ii) Controlling Order refers to the order given priority/recognition over any competing orders. In the past the payer could have several orders issued by different states all in effect at the same time for one child. The idea of picking one over the others is “Determining the Controlling Order” - DCO

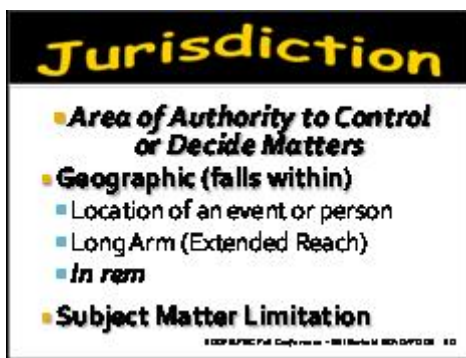
c) **Issuing** – Initiating – Responding

There are plenty of other terms used to describe the different roles that parents play and terms to describe the different roles that states and state agencies play

Issuing State/Tribunal means the one that “issued” an order.

Initiating State refers to the one that requests an action start – states and state agencies initiate “establishment”, “enforcement” ,”registration for enforcement” and “registration for modification” to name a few.

20) **Jurisdiction**



What does the term JURISDICTION mean?

a) **Area** of Authority to Control or Decide Matters

The idea of jurisdiction means that a decision “falls within” the authority of the decision maker

b) **Geographic** (falls within)

i) Location of an event or person

An event falls within the region we have authority over – or a person lives within the region we have authority over

ii) Long Arm (Extended Reach)

There are ways to extend the reach beyond the borders of our geographic limit – it is called long arm. We will talk more about long arm in a minute

iii) *In rem*

In rem jurisdiction – applies to a person’s property or income – even though the person may not be within our authority – the property has a tie that is within our reach. We have authority to make a decision about the property, even if we cannot make a decision about the person.

c) **Subject** Matter Limitation

Laws limit the authority of decision makers. Just because the person can make some decisions – laws may limit them from making decisions outside of their authority, or because laws say in certain circumstances someone else has authority to make a decision.

For instance a District Court Magistrate cannot grant a divorce. UIFSA says a court in one state has to recognize that another

state issued an order and that no one else can establish a new one while the first remains in effect.

21) **What** Service Is Needed?



What are we trying to accomplish in IV-D/Child Support Cases? What is our GOAL?

a) Goal: Regular Appropriate \$upport for Care of Children

To figure out what the appropriate action is to reach that goal in any given IV-D case we need to ask several simple questions:

IS THERE AN OBLIGATION [TO SUPPORT THIS CHILD] AND AN ORDER?

If there is not an obligation and order to support this child that tells us that we have to provide IV-D services to establish an obligation (parentage) or once the person is the parent to establish a support order. So if not our goal is:

i) Establishment

If there is a support order, our next question has to be:

ARE REGULAR PAYMENTS BEING MADE?

If there aren't regular payments being made that tells us we need to provide IV-D services to have the order enforced.

ii) Enforcement

If there are regular payments, that tells us we probably need to have the support redirected through the MiSDU so we can meet our IV-D requirement and provide services to monitor payments and automatically begin enforcement if payments are interrupted.

iii) Redirection

Anytime there is a support order, there is a IV-D requirement to assure that it remains in an appropriate amount. Therefore, if an order is in effect we also always need to figure out if

IS THE AMOUNT OF THE ORDER APPROPRIATE?

The answer to that question tells us if we have to provide services and take action to change the order.

iv) Modification

ONCE we figure out what action is needed to provide the needed service we have to figure out,

22) Who Can Take Action



a) Who Has Authority/ Jurisdiction to Take the Needed Action?

i) One State (Long Arm/Direct)

Sometimes if a state issued an order they can enforce the order even if the obligor (payer) lives outside of its jurisdiction. They can use long arm jurisdiction or a direct enforcement tool to reach and take the payment.

ii) Two States

Sometimes one state lacks the authority to take all the steps to accomplish the action. So the first state “initiates” a request for action to another state. The other state becomes the “responding state” they are the one that will have to take the action directly.

iii) Limited Service / Assistance

Sometimes, while you may have authority to take an action, you may need a little help to serve, locate, or collect information from a person living in another state. You can request limited service or assistance from another state without having them take an active role in providing ongoing services. Once they complete the limited action they get out of the way.

23) Picking Your Option



To figure out the action and where you need to take it – there are several questions that you ask; the first question:

a) How Many Orders (Cover All)?

Tells you whether you need to establish an obligation or order for the child, and if there is an order, will help in determining which order controls.

The next question:

b) Which State(s) Issued Orders?

Tells you which order controls, and depending on the location of parties and children will help in determining where to enforce or modify the order.

c) Dates Orders Issued?

Will help determine which order controls, if any may be potentially void, as well as calculate arrearages.

d) Where Do Parties/Kids Reside?

Helps determine where the order can be enforced or modified, especially as it relates to CEJ.

e) Are Regular Payments Being Made?

Helps determine which action is needed – enforcement or redirection.

Those five questions generally will get you the place you will know what action you have to take and where it will need to go.

In starting with the first question, how many orders are entered for all the kids, if we answer none – what IV-D service will we have to provide.

ANS: Establish an order –

To determine who can do it – if the mother and child live here and the father on the birth certificate lives in Chicago, who can take action to establish the order?

ANS: Could be MI or IL –

24) Long Arm Jurisdiction



Remember there are ways that we can reach and exercise our authority under certain circumstances. That was called LONG ARM JURISDICTION.

We cannot indiscriminately say everyone falls under our authority, but if we can show sufficient minimum ties to MI – related to the crux of the action we need to take, we can exercise our authority over an individual living in another state.

You might ask what are those ties?

- a) Conception in State
- b) Lived w/Child in State
- c) Resided in State and Provided Prenatal expenses or Support
- d) Submits to State's Jurisdiction

e) Personally Served in State

25) Long Arm Jurisdiction



a) Parentage Asserted in Registry

b) **Caused** Child to Reside in State

c) Other Constitutionally Valid – Sufficient Minimum Contacts

d) **Authority Over Property – Asset – Income Source**

If we are enforcing against a person- so long as we have authority over the payer's property – asset – or income source – we can take direct enforcement action against that particular asset.

26) Controlling Order



Let's use our questions to figure out whether there is a controlling order (one we must give priority to) and determine what we have to do.

a) **How Many States Have Issued Orders?**

- i) **None:** Get one from tribunal with jurisdiction over Respondent
 - ii) **One:** Controls and must be recognized
 - iii) **More than One:** Determine which one has priority
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27) **Controlling Order**
Multiple States Priority



a) **Any previously determined controlling?**

- i) **Yes-** Controls and must be recognized
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b) **Any after issuing state adopted UIFSA or FFCCSOA (10/20/94)?**

- i) **No:** Determine which has priority
- ii) **Yes:** Order likely void

28) Controlling Order



Multiple Issuing States

- a) **How Many Issuing States Have Party or are Child's home state?**
- i) **One:** Order Controls & State has CEJ
 - ii) **More than One:** Child's "Home State," or if no home state, "most recent" Order Controls and State has CEJ
 - iii) **None:** Resp. State consolidates and issues new and assumes CEJ

29) Where to Modify



- a) 1 – Party or Child in State issuing Controlling Order
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- i) **Issuing** State retains CEJ Continuing **Exclusive** Jurisdiction

OR

ii) Any party's state by written agreement in issuing tribunal

30) Where to Modify



a) **2 – No** One in State issuing Controlling Order

i) **Non**-moving party's State

ii) OR Other party's state by written agreement in issuing tribunal

iii) **Modifying** State must have Registered the Order