

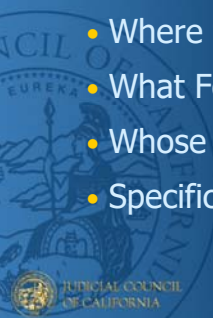
**Boots on the Ground
UIFSA**

23rd Annual AB 1058 Child Support
Training Conference
August 27–30, 2019



**Boots on the Ground
UIFSA**

- Where to Begin?
- What Forms do I need?
- Whose law applies?
- Specific Issues you may see.



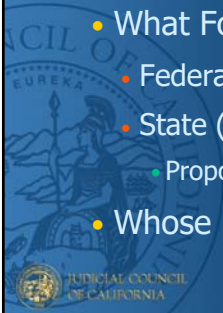
**Boots on the Ground
UIFSA**

- Where to Begin?
- History
- Structure
- Main Concepts
- Terminology



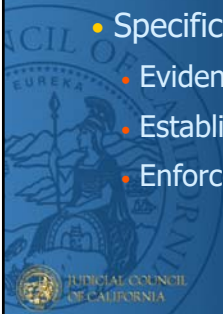
Boots on the Ground UIFSA

- What Forms do I need?
 - Federal (OCSE)
 - State (Judicial Council)
 - Proposed new forms
- Whose law applies?



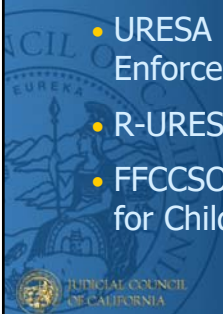
Boots on the Ground UIFSA

- Specific Issues you may see:
 - Evidentiary
 - Establishment
 - Enforcement



UIFSA – A History

- URESA (Uniform Reciprocal Enforcement of Support Act)
- R-URESAs (Revised URESAs)
- FFCCSOA (Full Faith and Credit for Child Support Orders Act)



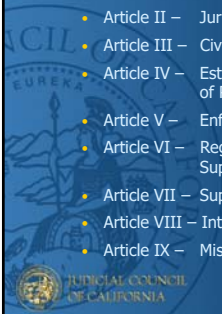
UIFSA – A History

- UIFSA (Uniform Interstate Enforcement of Support Act)
- 1996 - a PRWORA mandate
- 2001 – enacted conditionally
- 2008 - current version



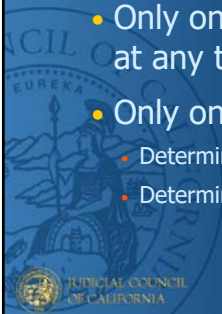
UIFSA Structure

- Article I – General Provisions
- Article II – Jurisdiction
- Article III – Civil Provisions of General Application
- Article IV – Establishment of Support Order or Determination of Parentage
- Article V – Enforcement of Support Order without Registration
- Article VI – Registration, Enforcement & Modification of Support Order
- Article VII – Support Proceedings Under Convention
- Article VIII – Interstate Rendition
- Article IX – Miscellaneous Provisions



UIFSA Concepts

- Only one state with jurisdiction at any time – CEJ
- Only one enforceable order
 - Determination of Controlling Order
 - Determination of Arrears



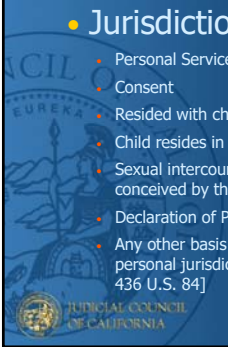
UIFSA – Where to Begin?

- Jurisdiction
 - Establishment
 - Enforcement
 - Modification



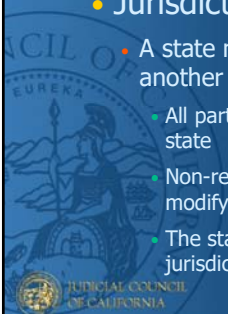
UIFSA – Where to Begin?

- Jurisdiction – Establishment or Enforcement
 - Personal Service in CA
 - Consent
 - Resided with child in CA
 - Child resides in CA based on acts or directive of individual
 - Sexual intercourse in CA and child could have been conceived by that act
 - Declaration of Paternity (Parentage) in CA
 - Any other basis consistent with constitutional bases for personal jurisdiction [Kulko v. Superior Court of CA (1978) 436 U.S. 84]



UIFSA – Where to Begin?

- Jurisdiction – Modification
 - A state may register and modify another state's order when:
 - All parties no longer reside in the issuing state
 - Non-requesting party resides in the modifying state
 - The state modifying the order has personal jurisdiction over the non-requesting party



UIFSA – Where to Begin?

- Jurisdiction – Modification (Exceptions to general rule)
 - A state may register and modify another state's order when:
 - The parties consent on the record (or in a writing filed with the issuing state's tribunal), regardless of where the parties reside
 - One party resides in the U.S. and the other party resides outside the U.S.

Hypothetical – You Decide

- Washington Order registered in CA without contest
- Custodial Parent and child live in CA, Noncustodial Parent lives in Arizona
- Custodial Parent seeks modification in CA.
Does CA have Jurisdiction to Modify?

Terminology

- Obligor/Creditor
- "State" – capitalized or not?
 - Initiating
 - Responding
 - Issuing

Forms - OCSE

- 13 different forms*
- Find at: www.acf.hhs.gov/css/resource/uifsa-intergovernmental-child-support-enforcement-forms



*Selected forms are in your materials

What Forms do I need?

- To REGISTER an out of state order:
 - Transmittal #1 – initial request
 - Letter of Transmittal Requesting Registration
 - A IV-D agency must also complete (but not file) a Child Support Agency Confidential Information



T-#1 – Initial Request

2 pages of form, 5 pages of instructions.

Top section gives basic information about the case.

Section 1 Tells the tribunal what you are seeking to accomplish (i.e. what causes of action to plead)

CHILD SUPPORT ENFORCEMENT TRANSMITTAL #1 - INITIAL REQUEST	
The information on this form may be disclosed as authorized by law.	
If you are not the intended recipient, you are advised to return this form to the sender, immediately, if a copy of this form is in custody or is being prepared.	
Initial Request Agency (underlying enforcement proceeding) or responding agency:	
Responding Legal Name (this includes tax suffix)	ICD Case
Tribunal Affiliation (if applicable)	<input type="checkbox"/> All 4 States Only <input type="checkbox"/> District of Columbia <input type="checkbox"/> Puerto Rico <input type="checkbox"/> Never Assistance
Responding Legal Name (this includes tax suffix)	Responding Locator Code: State
Tribunal Affiliation (if applicable)	Responding IC Case Identifier: Responding Tribunal Number
To: (agency name and address)	Initiating Locator Code: State
From: (agency name and address)	Initiating IC Case number: Initiating Tribunal Number
Send Payments To: (if different from above)	Payment Locator Code: State
NOTE:	
<input type="checkbox"/> Noncustodial Party/Respondent attached <input type="checkbox"/> This form sent through CSSE <input type="checkbox"/> This request or information sent through CSSEmail	
Section 1 - Action: The responding jurisdiction should open an intergovernmental case with the initiating jurisdiction and provide appropriate services as required. Please check the appropriate response.	
<input type="checkbox"/> Establish paternity <input type="checkbox"/> Establish and enforce child support and forward payment to the initiating jurisdiction's ICSE <input type="checkbox"/> Current child support, including medical support <input type="checkbox"/> Retrospective child support <input type="checkbox"/> Medical support only <input type="checkbox"/> Transfer the enforcing jurisdiction to the responding tribunal <input type="checkbox"/> Order and forward payment to the initiating jurisdiction's ICSE <input type="checkbox"/> Federal, state, and enforce <input type="checkbox"/> Health care claim for intergovernmental IC Case <input type="checkbox"/> Criminal parent only <input type="checkbox"/> Transfer governmentally enforced to federal health and enforce	<input type="checkbox"/> Take the following action on a support order of another jurisdiction's ICSE: <input type="checkbox"/> Register and enforce <input type="checkbox"/> Register, modify, and enforce <input type="checkbox"/> Register, modify, then close the intergovernmental IC Case <input type="checkbox"/> Register and enforce in court only <input type="checkbox"/> Other



T-#1 – Initial Request (continued)

Section II deals with the background information on the court order. You must discuss what arrearages, if any exist and how it was computed.

Section III and IV provides information about the parties to the case.

Section II. Case Summary (Continued)	
Date of support order	State and county, tribe, or foreign country issuing order
	Tribunal number
Support amount/frequency	Date of last payment
\$	
Total amount of arrearage	Period of computation
\$	from to
<input type="checkbox"/> Current Support	<input type="checkbox"/> Arrearage Only
<input type="checkbox"/> Additional orders or information attached	
Section III. Obligor Information: <input type="checkbox"/> Parent <input type="checkbox"/> Caretaker	
Obligor legal name (first, middle, last, suffix)	
<input type="checkbox"/> Has legal custody/guardianship of the child(ren)	
Section IV. Obligor Information: Obligor legal name (first, middle, last, suffix)	

LETTER OF TRANSMITTAL REQUESTING REGISTRATION	
THIS FORM CONTAINS SENSITIVE INFORMATION. REGISTERED FROM PROBATE PUBLIC ACCESS ONLY	
The information on this form may be disclosed to a third party in the state, unless accompanied by a non-disclosure order.	
If you are not this document signer, you are hereby notified that any late, inaccurate, distribution, or copying of this form or its contents is strictly prohibited.	
This form is used to register support orders with the Child Support Agency (CSA). Information on this form should be attached to the support order.	
Registration of Support Order	Registration of Child Support Order
Responsible Tribunal Number	Including Tribunal Number
AGID	Agency
<input type="checkbox"/> Need/Arrearage Franchise/Arrearage attached	<input type="checkbox"/> Register for Enforcement of Arrearage Only
<input type="checkbox"/> This form used through CSIS	<input type="checkbox"/> Assign Arrearage
<input type="checkbox"/> Non-registered Arrearage	
<input type="checkbox"/> Register for Modification	
<input type="checkbox"/> Register for Modification and Enforcement	
Section I. Case Summary: Background of the order (omit arrearage orders)	
Date of support order	State and county/tribe issuing order
	Tribunal number
Current Obligation	
Current child support	Frequency paid
Current medical support	
Current carseat support	
Other	
Age of Arrearage	
Total child support arrearage	Amount
Total medical support arrearage	
Total carseat support arrearage	
Total other	
Total amount of arrearage	Period of computation from to
	(omit distribution of NSF non-payment)
Section II. Obligor Information:	
<input type="checkbox"/> Parent <input type="checkbox"/> Caretaker	
Obligor legal name (first, middle, last, suffix)	
Obligor address	
Obligor phone number	
Obligor legal name (first, middle, last, suffix)	
Obligor address	
Obligor phone number	
Obligor SSN	
Employer name	

Letter of Transmittal Requesting Registration

- Contains information on:
- What the court is being asked to do
 - What the current support orders are
 - Where orders are registered
 - Who the participants
 - Identifies Attachments
 - Signed under penalty of perjury

What Forms do I need?

- If I also want to MODIFY or ESTABLISH SUPPORT:
 - Uniform Support Petition
 - Personal Information Form (§311)
 - General Testimony

Uniform Support Petition

Section I. Action:
 The petitioner in this action files this petition to request (check all that apply):

Establishment of parentage

Establishment of an order for:

- Current child support, including medical support
- Retroactive child support since _____ (date)
- Medical support only
- Spousal support (Non-IV-D only)
- Costs and fees

Modification of a support order

Other remedy sought: _____

Section II. Grounds Supporting the Remedy Sought in Section I:

Parentage of the child(ren) named in this petition has not been established. (Attach a Declaration in Support of Establishing Parentage for each one.)

The parents have a duty to support the child(ren) named in this petition. (If retroactive support is sought, check the applicable box below.)

- Respondent has not provided support since: _____ (date)
- Petitioner has not provided support since: _____ (date)
- It has been 3 years (or the time frame permitted by the laws of the responding jurisdiction) since the last review or modification.
- There has been a change in circumstances since the order was entered. (Explain: _____)

Additional grounds: _____



Uniform Support Petition

UNIFORM SUPPORT PETITION, PAGE 2

Section III. Servicemembers Civil Relief Act:
 As of the current date, (Check one of the following.)

- The respondent is in military service.
- The respondent is not in military service.
- I am unable to determine whether the respondent is in military service.

The following facts support the statement regarding whether or not the respondent is in military service: (Be specific.)

Did you use the [Servicemembers Civil Relief Act](#) website to determine the respondent's military status? Yes No (if yes, attach the results.)

Section IV. Other Pertinent Information:
 The following documents are attached to and incorporated in this Petition:

- Petitioner's General Testimony
- Declaration in Support of Establishing Parentage
- Acknowledgment of parentage
- Birth certificate/record of the child
- Documentation regarding military service
- Other: _____



Uniform Support Petition

Section V. Declaration:
 Under penalty of perjury, all information and facts stated in this Uniform Support Petition are true to the best of my knowledge and belief.

<input type="text"/>	<input type="text"/>	<input type="text"/>
Date	Printed name	<input type="checkbox"/> Signature of petitioner <input type="checkbox"/> Signature of IV-D representative/title

<input type="text"/>	<input type="text"/>	<input type="text"/>
Date	Printed name of petitioner's private attorney and attorney/bar number (if applicable)	Signature of petitioner's private attorney

Encryption Requirements:
 When communicating this form through electronic transmission, precautions must be taken to ensure the security of the data. Child support agencies are encouraged to use the electronic applications provided by the federal Office of Child Support Enforcement. Other electronic means, such as encrypted attachments to e-mails may be used if the encryption method is compliant with Federal Information Processing Standard (FIPS) Publication 140-2 (FIPS PUB 140-2).



General Testimony

GENERAL TESTIMONY

Information provided on this form is to be provided to the petitioner for use at the time of the hearing. This information should be provided to the petitioner for use at the time of the hearing. This information should be provided to the petitioner for use at the time of the hearing. This information should be provided to the petitioner for use at the time of the hearing.

Ten pages –

The caption should feel familiar by now.

Seeks physical description, tax filing status, occupation, gender and other children the obligor is financially responsible for.

General Testimony

Section X lists all the types of documents that may be attached and incorporated by reference.

GENERAL TESTIMONY, PAGE 10

X. Attached and Incorporated by Reference:

- 1) Requested number of copies of all support orders for the case
- 2) Certified child support payment records
- 3) Awarded balance and/or accrued interest (if/that of arrears)
- 4) Payment history
- 5) Copies of three most recent pay stubs from current employer(s)
- 6) Copies of unemployment insurance file for the obligor in this action
- 7) Declaration in Support of Establishing Paternity for a child whose paternity is at issue
- 8) Copy of individual's bank statements/records
- 9) Acknowledgment of paternity
- 10) Documentation of legal custody/guardianship of children
- 11) Documentation of child care expenses
- 12) Documentation of ongoing medical expenses for the children in this action
- 13) Documentation in support of request for modification
- 14) Copy of order for divorce or legal separation involving the children in this action
- 15) Other

XI. Declaration:

Under penalty of perjury, all information and facts stated in this General Testimony are true to the best of my knowledge and belief.

Date: _____ Petitioner Name: _____ Signature: _____

Date: _____ Name/Title, Agency or Tribunal Representation: _____ Signature: _____

Encryption Requirements:

When communicating this form through electronic transmission, precautions must be taken to ensure the security of the data. Child support agencies are encouraged to use the electronic applications provided by the Federal Office of Child Support Enforcement. Other electronic means, such as encrypted attachments to e-mails may be used if the encryption method is compliant with Federal Information Processing Standard (FIPS) Publication 186-2 (FIPS Pub. 186-2).

Personal Information For UIFSA §311

PERSONAL INFORMATION FORM FOR UIFSA § 311 – TO BE FILED WITH A TRIBUNAL

Nondisclosure finding/affidavit attached

THIS FORM CONTAINS SENSITIVE INFORMATION – DO NOT FILE THIS FORM IN A PUBLIC ACCESS FILE

The information on this form is filed with the petition or pleading and may be disclosed to the parties in the case, unless accompanied by a nondisclosure finding/affidavit.

If you are not the intended recipient, you are hereby notified that any use, disclosure, distribution, or copying of this form or its contents is strictly prohibited.

NOTE:

This form sent through EDE

Section 1. Case Information:

Initiating jurisdiction name:	Responding jurisdiction name:
Initiating IV-D case identifier:	Responding IV-D case identifier:
Initiating tribunal number:	Responding tribunal number:

Confidentiality

To Disclose

- UIFSA § 311
 - Regulates what must be in the pleadings
 - Name
 - Residential Address
 - SSN
 - Child's sex
 - Child's DOB
 - Child's SSN
 - Child's address

Family Code § 5700.311

- In proceedings for support, determine parentage, or modify support order from another jurisdiction a Petition is required.
- Unless § 5700.312 non-disclosure applies you must provide specified personal information.
- Petition must have copies of any support order known to have been issued by another tribunal.

Confidentiality

To Disclose

- UIFSA § 311
 - Regulates what must be in the pleadings
 - Name
 - Residential Address
 - SSN
 - Child's sex
 - Child's DOB
 - Child's SSN
 - Child's address

Or Not?

- UIFSA § 312 - Nondisclosure
- Family Code § 17212 – Confidentiality of IV-D records
- Rules of Court prohibiting filing of SSN/ITINs

WHERE OR HOW DOES YOUR COUNTY:

- A. File the form
- B. Hold hearings for Non-Disclosure
 1. At what stage in the proceeding?
 2. Notice required?

Forms – Judicial Council

Find these on the Judicial Council Website at:

www.courts.ca.gov/forms.htm

Under the drop down category:
Family Law – Interstate Actions

Form #	Date Revised	Description
FL-510	Jul 1, 2017	Summons (UFSA)
FL-520	Jan 1, 2017	Response to Uniform Support Petition (UFSA)
FL-530	Jan 1, 2017	Judgment Regarding Parental Obligations (UFSA)
FL-530	Jan 1, 2017	Judgment Regarding Parental Obligations (UFSA) (Spanish)
FL-560	Jan 1, 2017	Ex Parte Application for Transfer and Order (UFSA)
FL-570	Jul 2017	Notice of Registration of Out-of-State Support Order
FL-575	Jan 1, 2017	Request for Hearing Regarding Registration of Support Order
FL-580	Jan 1, 2000	Registration of Out-of-State Custody Order
FL-585	Jan 1, 2003	Request for Hearing Regarding Registration of Out-of-State Custody Decree
FL-590A	Jul 1, 2017	UFSA Child Support Order Jurisdictional Attachment
FL-592	Jul 1, 2017	Notice of Registration of an International Hague Convention Support Order
FL-594	Jan 1, 2017	Request for Hearing Regarding Registration of an International Hague Convention Support Order

Notice of Registration of Out of State Court Order FL-570

NOTICE OF REGISTRATION OF OUT-OF-STATE SUPPORT ORDER CASE NUMBER: _____

Support Order Income Withholding Order

- To (name): _____
- You are notified that an Out-of-State Support Order Out-of-State Order for Income Withholding has been registered with this court. A copy of the order and the Letter of Transmittal Requesting Registration are attached.
- The amount of arrears is specified in section 1 on the attached Letter of Transmittal Requesting Registration.
The amount of the alleged arrears is _____ as of _____
 The arrears have a U.S. dollar equivalence of _____ as of _____
- The registered order is enforceable in the same manner as a support order made by a California court as of the date that the Letter of Transmittal Requesting Registration is filed.
- If you want to contest the validity or enforcement of the registered order, you must request a hearing within 20 days after notice. You can request a hearing by completing and filing a Request for Hearing Regarding Registration of Support Order (form FL-575).
- If you fail to contest the validity or enforcement of the attached order within 20 days after notice, the order will be confirmed by the court and you will be unable to contest any portion of the order including the amount of arrears as specified in item 3 of the Letter of Transmittal Requesting Registration.



Notice of Registration of Out of State Court Order FL-570

CLERK'S CERTIFICATE OF MAILING

7. I certify that I am not a party to this cause and that a copy of the Letter of Transmittal Requesting Registration with a copy of the out-of-state order were sent to the person named in item 1 by first-class mail. The copies were enclosed in an envelope with postage fully prepaid. The envelope was addressed to the person named in item 1 only at the address in the Personal Information Form, sealed, and deposited with the U.S. Postal Service.

at (place): _____
 on (date): _____

8. A copy was sent to the local child support agency on (date): _____

Date: _____ Clerk, by _____ Deputy



Recap – Registration Package

Enforcement

- Letter of Transmittal Requesting Registration
- Order to be registered (2 copies, 1 certified) and any modification of the order
- Sworn statement re: arrearages

Modification

- All of the documents required under Enforcement
- Plus:
 - Uniform Support Petition
 - PII §311
 - General Testimony



Proposed Form Revision

- FL – 570 Notice of Registration of Out-of-State Support Order

NOTICE OF REGISTRATION OF OUT-OF-STATE SUPPORT ORDER

Support Order Income Withholding Order

CASE NUMBER: _____

- To (name): _____
- You are notified that an Out-of-State Support Order Out-of-State Order for Income Withholding has been registered with this court. A copy of the order and the letter of transmittal requesting registration are attached.
- The amount of arrears is specified in the attached letter of transmittal requesting registration or sworn statement.
The amount of the alleged arrears is _____ as of _____.
 The amount has a U.S. dollar equivalent of _____ as of _____ (only applicable to foreign support orders).
- The registered order is enforceable in the same manner as a support order made by a California court as of the date that the letter of transmittal requesting registration or sworn statement is filed.
- If you want to contest the validity or enforcement of the registered order, you must request a hearing within 20 days after notice. You can request a hearing by completing and filing a Request for Hearing Regarding Registration of Out-of-State Support Order (Stats.FL 575).
- If you fail to contest the validity or enforcement of the attached order within 20 days after notice, the order will be confirmed by the court and you will be unable to contest any portion of the order including the amount of arrears as specified in the letter of transmittal requesting registration or sworn statement.

CLERK'S CERTIFICATE OF MAILING

Proposed Form Revision

- Request for Hearing re: Registration of Out-of-State Support Order FL – 575

REQUEST FOR HEARING REGARDING REGISTRATION OF OUT-OF-STATE SUPPORT ORDER

CASE NUMBER: _____

NOTICE OF HEARING

1. A hearing on this application will be held as follows (see instructions on how to get a hearing date):

a. Date:	Time:	Dept:	Div:	Room:

b. The address of the court is: same as noted above Other (specify): _____

2. I request that service of the registration of support order be vacated (corrected) because:

- the court or tribunal that issued the order did not have personal jurisdiction over me;
- the support order was obtained by fraud;
- the support order has been vacated, suspended, or modified by a later order. (Attach a copy of the later order.)
- the order has been stayed pending appeal;
- the amount of arrears (check support listed in this letter for the letter of transmittal requesting registration or sworn statement) is incorrect. The correct amount of arrears is (specify amount): \$ _____ Supporting documents attached.
- some or all of the arrears are not enforceable;
- Other (specify): _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

What about In State Orders?

- Not governed under UIFSA
- Used to enforce or modify an existing California order
- May be filed by an Obligee or the LCSA
- Contest – Motion to Vacate Registration §5603
- Forms:
 - Statement for Registration of California Support Order (ROCO) FL-650
 - Notice of Registration of California Support Order (FL-651)



Forms – Judicial Council

Find these on the Judicial Council Website at:

www.courts.ca.gov/forms.htm

Under the drop down category:
Family Law – Governmental Child Support

FL 648 **	Jan 1, 2003	Response of Local Child Support Agency to Notice of Intent to Take Independent Action to Enforce Support Order (Governmental)
FL 650 **	Jan 1, 2003	Statement for Registration of California Support Order (Governmental)
FL 651 **	Jan 1, 2003	Notice of Registration of California Support Order (Governmental)
FL 600 **	Jan 1, 2003	Ex Parte Motion by Local Child Support Agency and Declaration for Jorder of Other Parent (Governmental)
FL 601 **	Jan 1, 2012	Notice of Motion and Declaration for Jorder of Other Parent in Governmental Action (Governmental)



Proposed New Form

- FL – 445 Request for Hearing re: Registration of CA Support Order

REQUEST FOR HEARING REGARDING REGISTRATION OF CALIFORNIA SUPPORT ORDER		Court number
NOTICE OF HEARING		
1. A hearing on this application will be held as follows (see instructions on how to get a hearing date):		
a. Date:	Time:	Dept. Room:
b. The address of the court is: <input type="checkbox"/> Same as noted above <input type="checkbox"/> Other (specify):		
2. <input type="checkbox"/> I request that service of the registration of support order be vacated (annulled) because (check all that apply):		
a. <input type="checkbox"/> I am not the obligee (the parent ordered to pay support) named in the statement for registration.		
b. <input type="checkbox"/> The support order attached to the statement for registration is not a valid order.		
c. <input type="checkbox"/> The amount of arrears (back support) listed in the paperwork attached to the statement for registration is incorrect. The correct amount of arrears is (specify amount): \$ _____ <input type="checkbox"/> (Supporting documents attached. (NOTE: You can file this Request without stating what you believe is the correct amount of arrears.)		
d. <input type="checkbox"/> Other (specify):		
3. <input type="checkbox"/> I request that enforcement of the support order be stayed (stopped) because the order has been appealed. I have furnished security for payment of the support ordered and the appeal is pending or the order has been stayed by another court.		
4. Explain the facts in support of your request:		
<input type="checkbox"/> Confirmed in the attached declaration.		
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.		
Date:		



Contests to Registration

- Grounds:
 - Lack of Personal Jurisdiction
 - Order obtained by fraud
 - Order has been vacated, suspended or modified by later order
 - Stayed pending appeal by Issuing tribunal
 - State law defense (CA)
 - Full or partial payment has been made
 - Statute of Limitations
 - Not the Controlling Order (if so alleged)

Contests to Registration

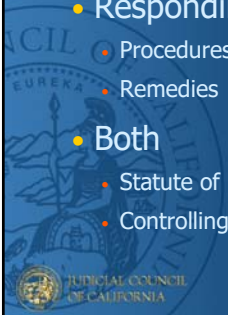
- Timing
 - Within 20 days after Notice of Registration
- Burden of Proof
 - On the contesting party
- Judicial Options
 - Determine which of the orders is the controlling one
 - Stay enforcement of registered order
 - In Full
 - In Part
 - Continue for further evidence

Who's Law Applies?

- Issuing State:
 - Nature, Extent, Duration of current payments
 - Computation of arrearages and accrual of interest on arrears
 - Existence and satisfaction of other obligations under the support order.

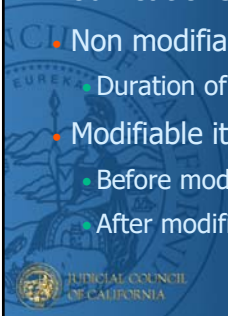
Who's Law Applies?

- Responding State
 - Procedures
 - Remedies
- Both
 - Statute of Limitations – whichever is longer
 - Controlling Order – Issuing State



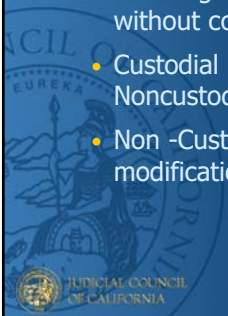
Who's Law Applies?

- Modifications
 - Non modifiable items – Issuing State
 - Duration of support obligation
 - Modifiable items
 - Before modification – Issuing State
 - After modification – Responding State



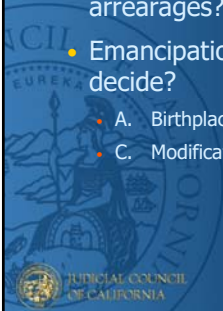
Hypothetical – You Decide

- Washington Order registered in CA without contest
- Custodial Parent and child live in CA, Noncustodial Parent lives in Arizona
- Non -Custodial Parent seeks modification in CA.



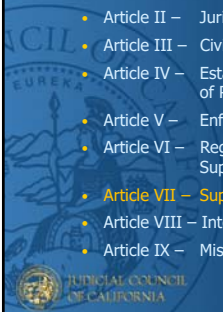
Hypothetical – You Decide

- What interest rate is charged on the arrearages? WA or CA?
- Emancipation: Under whose law do we decide?
 - A. Birthplace of child B. Issuing State
 - C. Modification State D. State with CEJ



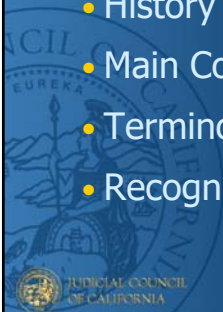
UIFSA Structure

- Article I – General Provisions
- Article II – Jurisdiction
- Article III – Civil Provisions of General Application
- Article IV – Establishment of Support Order or Determination of Parentage
- Article V – Enforcement of Support Order without Registration
- Article VI – Registration, Enforcement & Modification of Support Order
- Article VII – Support Proceedings Under Convention
- Article VIII – Interstate Rendition
- Article IX – Miscellaneous Provisions



Hague Convention

- History
- Main Concepts/Scope
- Terminology
- Recognition and Enforcement



Hague Convention-History

International Recovery of Child Support and Other Forms of Maintenance "Hague Child Support Convention"

- Negotiations 2003- 2007
- Ratified by the US 8/30/2016; Effective 1/1/2017
- 41 Countries have ratified



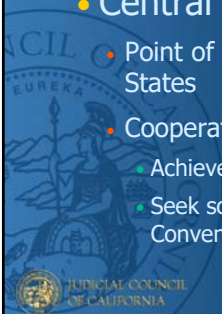
Hague Main Concepts/Scope

- Establish, Enforce or Modify
 - Child Support until age 21
 - Spousal Support
 - In combination with Child Support



Hague Main Concepts/Scope

- Central Authority
 - Point of Contact for Contracting States
 - Cooperate with each other
 - Achieve purposes of the Convention
 - Seek solutions in applying the Convention



Hague - Terminology

- "Foreign Country"
 - Foreign Reciprocating Countries
 - State Reciprocal Agreements
 - Countries with laws substantially similar to UIFSA
 - Hague Child Support Convention Country
 - "Contracting State"
- "Outside this State"



Hague - Terminology

Convention Term US Equivalent

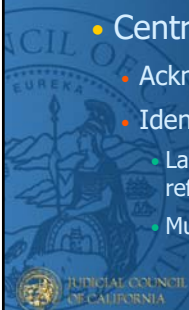
- | | |
|---------------------------|-----------------------------|
| • Creditor | • Oblige |
| • Debtor | • Obligor |
| • State | • Country |
| • Maintenance | • Support |
| • Requesting State | • Initiating State |
| • Requested State | • Responding State |
| • R&E of Decision | • R&E of Registered Order |
| • Maintenance Arrangement | • Foreign Support Agreement |



R&E= Recognition & Enforcement

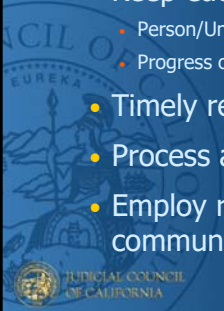
Application for Recognition and Enforcement

- Central Authority
 - Acknowledges receipt within 10 days
 - Identify any needed information
 - Lack of all documents is not grounds to refuse to process
 - Must process to the extent possible



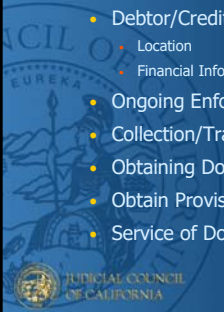
Central Authority Responsibilities

- Keep each other informed
 - Person/Unit Responsible for Case
 - Progress of Case
- Timely respond to inquiries
- Process as quickly as possible
- Employ rapid/efficient means of communication available to them



Central Authority Responsibilities

- Legal Assistance, where needed
- Debtor/Creditor
 - Location
 - Financial Information
- Ongoing Enforcement
- Collection/Transfer of Payments
- Obtaining Documentary Evidence
- Obtain Provisional orders
- Service of Documents



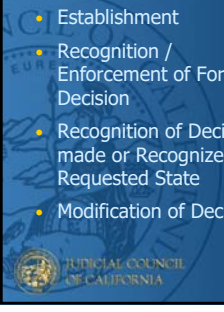
Types of Applications

By Creditor/Obligee

- Establishment
- Recognition / Enforcement of Foreign Decision
- Recognition of Decision made or Recognized in a Requested State
- Modification of Decision

By Debtor/Obligor

- Recognition of a Foreign Decision leading to the suspension or limiting enforcement of a previous decision in the requested State
- Modification of a Decision





French Order
Applicant – Creditor lives in Switzerland

YOU BE THE JUDGE



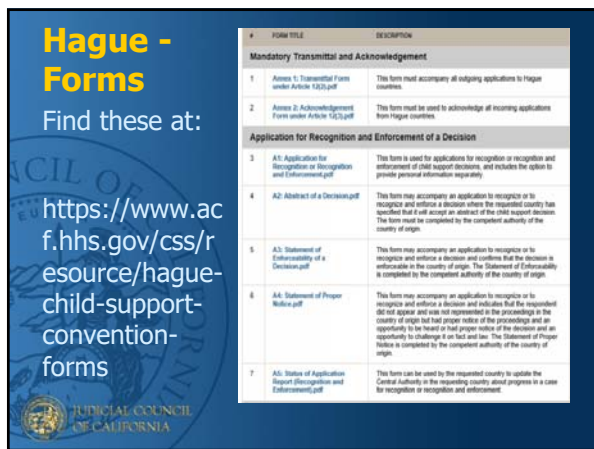
JUDICIAL COUNCIL OF CALIFORNIA



Hague - Terminology

- Direct Application
- Direct Request

JUDICIAL COUNCIL OF CALIFORNIA



Hague - Forms

Find these at:

<https://www.acf.hhs.gov/css/resource/hague-child-support-convention-forms>

#	FORM TITLE	DESCRIPTION
Mandatory Transmittal and Acknowledgement		
1	Annex 1: Transmittal Form under Article 14(2).pdf	This form must accompany all outgoing applications to Hague countries.
2	Annex 2: Acknowledgment Form under Article 14(3).pdf	This form must be used to acknowledge all incoming applications from Hague countries.
Application for Recognition and Enforcement of a Decision		
3	A1: Application for Recognition or Enforcement and Enforcement.pdf	This form is used for applications for recognition or enforcement of child support decisions, and includes the option to provide personal information separately.
4	A2: Abstract of a Decision.pdf	This form may accompany an application to recognize or to enforce a decision where the requested country has indicated that it will accept an abstract of the child support decision. The form must be completed by the competent authority of the country of origin.
5	A3: Statement of Enforceability of a Decision.pdf	This form may accompany an application to recognize or to enforce a decision and certifies that the decision is enforceable in the country of origin. The Statement of Enforceability is completed by the competent authority of the country of origin.
6	A4: Statement of Proper Notice.pdf	This form may accompany an application to recognize or to enforce a decision and indicates that the respondent did not appear and was not represented in the proceedings in the country of origin but had proper notice of the proceedings and an opportunity to be heard or had proper notice of the decision and an opportunity to challenge it on fact and law. The Statement of Proper Notice is completed by the competent authority of the country of origin.
7	A6: Status of Application Report Recognition and Enforcement.pdf	This form can be used by the requested country to update the Central Authority in the requesting country about progress in a case for recognition or recognition and enforcement.

JUDICIAL COUNCIL OF CALIFORNIA

Recognition and Enforcement - FORMS

- Two Mandatory
 - Transmittal
 - Application
- 12 Recommended



Incoming Application for Recognition & Enforcement

Required by UIFSA 706 [FC 5700.706]	When Used	Form/Document
Transmittal	Always	Convention Transmittal
Application	Always	Convention Application
	If Risk of Harm	Convention Restriction Information on the Applicant
Complete Text of Order	Always, unless your state allows an abstract or extract of order	Order itself, or Convention Abstract, if acceptable
Statement of Enforceability	Always	Convention Statement of Enforceability



Incoming Application for Recognition & Enforcement

Required by UIFSA 706 [FC 5700.706]	When Used	Form/Document
Record attesting to Notice & opportunity to be heard	Always if Respondent did not appear and was not represented	Convention Statement of Proper Notice
Record of Arrears	Always, if there are any	Domestic document showing amount and date calculated
Information about Obligor	Always (for applications by creditors)	Convention Financial Circumstances Form
Record showing requirement for auto adjustment and explaining how to adjust or index support amount	Always, if order provides for automatic adjustment or indexation	Domestic document

Transmittal – Required Document

- Identifies the Requesting and Requested Central Authority
- Identifies the Creditor and Debtor
- Identifies the Article number(s) the application falls into
- Identifies the attachments

ANEXI
Transmittal form under Article 12(2)
 CONFIDENTIALITY AND PERSONAL DATA PROTECTION NOTICE
 Personal data gathered or transmitted under the Convention shall be used only for the purposes for which it was gathered or transmitted. Any authority processing such data shall ensure its confidentiality, in accordance with the law of its State.
 An authority shall not disclose or confirm information gathered or transmitted in application of this Convention if it determines that to do so could jeopardize the health, safety or liberty of a person in accordance with Article 48.
 If a determination of non-disclosure has been made by a Central Authority in accordance with Article 48:
 1. Requesting Central Authority: _____ 2. Central person in requesting State: _____
 a. Address: _____ b. Address (if different): _____
 c. Telephone number: _____ d. Telephone number (if different): _____
 e. Fax number: _____ f. Fax number (if different): _____
 g. E-mail: _____ h. E-mail (if different): _____
 i. Reference number: _____ j. Language(s): _____
 3. Requested Central Authority: _____
 Address: _____
 4. Particulars of the applicant:
 a. Family name(s): _____
 b. Given name(s): _____
 c. Date of birth: _____ (dd/mm/yyyy)
 or
 a. Name of the public body: _____

Application – for Recognition and Enforcement

All Convention applications have a privacy notice.

Convention on the International Recovery of Child Support and Other Forms of Family Maintenance
Application for Recognition of Recognition and Enforcement
 (of Article 10(1) and of Article 10(2) or of Article 20)
 CONFIDENTIALITY AND PERSONAL DATA PROTECTION NOTICE
 Personal data gathered or transmitted under the Convention shall be used only for the purposes for which it was gathered or transmitted. Any authority processing such information shall ensure its confidentiality, in accordance with the law of its State.
 An authority shall not disclose or confirm information gathered or transmitted in application of this Convention if it determines that to do so could jeopardize the health, safety or liberty of a person in accordance with Article 48.
 If a determination of non-disclosure has been made by a Central Authority in accordance with Article 48, 2, a, 2, in Fund 3 and 5 should only be provided in the Requested Information on the Applicant page of this form.
 1. Requesting Central Authority file reference number: _____
 2. Particulars of the applicant
 The applicant is:
 The person for whom maintenance is sought or payable
 The representative of the person for whom maintenance is sought or payable
 The debtor
 The representative of the debtor
 a. Family name(s): _____
 b. Given name(s): _____
 c. Date of birth: _____ (dd/mm/yyyy)
 or
 a. Name of the public body: _____
 b. Family name(s) of the counter person: _____
 c. Given name(s) of the counter person: _____

Application – for Recognition and Enforcement

Bases for Recognition & Enforcement

Attestation

State the recognition and enforcement (Article 20) (please tick all relevant boxes)
 Date of decision: (dd/mm/yyyy) Year of origin: _____
 The requirement was habitually resident in the State of origin at the time proceedings were initiated.
 The requirement has submitted to the jurisdiction either expressly or by submitting to the merits of the case without objecting to the jurisdiction at the first available opportunity.
 The conduct on (initially) residence in the State of origin at the time proceedings were initiated.
 The State of origin has the maintenance was initiated was habitually resident in the State of origin at the time proceedings were initiated, provided that the respondent has had with the child that has or has resided in that State and provided support for the child there.
 There has been agreement in the jurisdiction by the parties to testing or enforcement in writing consent to enforce maintenance obligation in respect of child.
 The maintenance decision was made by an authority exercising jurisdiction on a basis of personal status or parental responsibility and that jurisdiction was not based solely on the authority of one of the parties, or
 In a case where the State addressed has made a reservation in accordance with Article 20(2), there are factual circumstances in which the law of that State in which enforcement would reside or would have exercised jurisdiction as its authority to make such a decision. Please specify: _____

11. Attestation
 This application was completed by the applicant and received by the requesting Central Authority.
 This application complies with the requirements of the Convention (Article 12(2)). The information contained in this application and the attached documents correspond to that set in consistency with the information and documents provided by the applicant to the requesting Central Authority. The application is forwarded by the Central Authority on behalf of and with the consent of the applicant.
 Name: _____ (in block letters) Date: _____ (dd/mm/yyyy)
 Authorized representative of the Central Authority

Statement of Enforceability

Statement of Enforceability of a Decision
(Article 26(1) b)

1. Name of the State of origin of the decision: _____
(Identify territorial unit if applicable)

2. Competent authority issuing the Statement

2.1 Name: _____

2.2 Address: _____

2.3 Telephone number: _____

2.4 Fax number: _____

2.5 E-mail: _____

3. The decision¹

3.1 Type of authority: judicial authority or administrative authority²

3.2 Name and place of authority: _____

3.3 (address if applicable): _____

3.4 Date of the decision: _____ (dd/mm/yyyy)

3.5 Date of effect of the decision: _____ (dd/mm/yyyy)

3.6 Reference number of the decision: _____

3.7 Names of the parties to the decision: _____

4. The decision is enforceable in the State of origin.

Name: _____ (in block letters) Date: _____ (dd/mm/yyyy)
Name of the official from the competent authority of the State of origin

This Statement of Enforceability of a Decision was completed by the official from the competent authority of the State of origin whose name appears above and is transmitted by the requesting Central Authority.

Name: _____ (in block letters) Date: _____ (dd/mm/yyyy)
Authorized representative of the Central Authority

Registering Central Authority reference number: _____
For Central Authority use only

Financial Circumstances

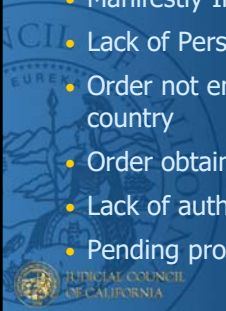
- Provides information on the finances of the relevant parties
- Only need information on Debtor in Recognition/Enforcement proceedings
- Form is not signed

Registering Tribunal

- Registration/filing of Convention Order
- Tribunal Review
 - May vacate ONLY if order would be "manifestly incompatible" with public policy
- Notice of Registration or Order Vacating Registration
- Effect of Registration
- Resolution of challenge by Respondent

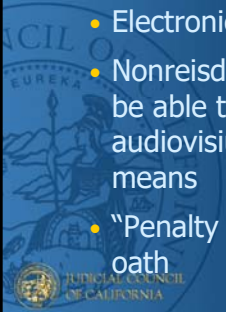
Hague - Defenses to Registration

- Manifestly Incompatible
- Lack of Personal Jurisdiction
- Order not enforceable in issuing country
- Order obtained by procedural fraud
- Lack of authenticity/integrity
- Pending proceeding filed first



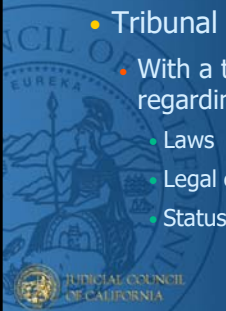
Evidence

- Electronic Transmission Permitted
- Nonresident witness/party **MUST** be able to testify by telephonic, audiovisual or other electronic means
- "Penalty of Perjury" replaces under oath



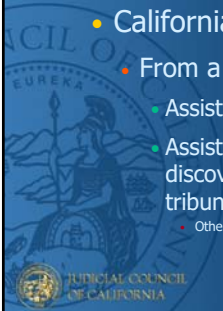
Evidence

- Tribunal may communicate:
 - With a tribunal outside this state regarding:
 - Laws
 - Legal effect of tribunal's order
 - Status of a proceeding






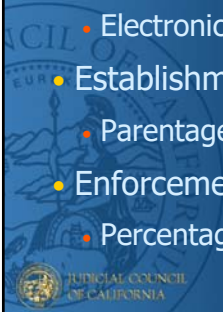
Evidence

- California tribunal may request:
 - From a tribunal outside this state
 - Assistance with Discovery
 - Assistance to compel responses to discovery (even if propounded by tribunal outside this state)
 - Other tribunal must have PJ over person to do so



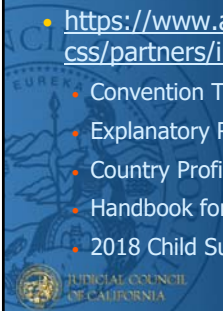
Intergovernmental Issues

- Evidence 
- Electronically filed documents
- Establishment 
- Parentage
- Enforcement
- Percentage Orders 



Resources - Hague

- <https://www.acf.hhs.gov/css/partners/international>
 - Convention Text
 - Explanatory Report
 - Country Profiles
 - Handbook for Caseworkers
 - 2018 Child Support Judicial Guide



Resource Material

- Citations & Links (pp 2, 3)
- Copy of most of the forms we have discussed
- US Country Profile – Hague (pp. 38-128)
- UIFSA Conversion Chart (p. 5)
- Differences between Convention and Non-Convention Orders (pg. 37)





Thank you for sharing your time today.

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State of California Department of Child Support Services
Shannon.Richards@dcss.ca.gov

