



## Ohio Administrative Code

### Rule 5101:12-70-05.7 Determination of the controlling order.

Effective: December 15, 2021

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(A) The Uniform Interstate Family Support Act (UIFSA)(2008) requires that only one valid order may exist for the purpose of enforcing a support obligation prospectively, beginning with the date on which the determination of controlling order is made. After a controlling order is determined, it becomes the only order that may be prospectively enforced, and sets the non-modifiable terms. Non-modifiable terms of a controlling order include the duration of the order and the dates of the termination of the order. A controlling order may not be determined more than once.

(B) As a result of the "Full Faith and Credit for Child Support Orders Act," 28 U.S.C. 1738B (9/29/2014) and the implementation of UIFSA, multiple valid orders are not possible after January 1, 1998. Thus, the need to complete the entire original hierarchy analysis of a controlling order determination under UIFSA section 209 is rare. The initial step will always be to ask the court to determine which order is valid.

(C) When there is any question regarding the validity of an order, a controlling order determination must be made. A controlling order determination shall only be made by a court with personal jurisdiction over both the obligee and obligor, and must be made prior to any enforcement action or any action to modify a support order.

(D) The child support enforcement agency (CSEA) shall take the following steps before any actions can be taken:

(1) Identify all existing support orders;

(2) Obtain certified copies of each order along with payment records and arrearage calculations for each order;

(3) Examine each existing order to verify that it contains a current child support order provision and appears valid on its face;



- (4) Verify the current residential state of the obligee, obligor, and child to which the order applies;
- (5) Determine in which state a determination of the controlling order and reconciliation of arrearages may be made;
- (6) Within twenty days of completing the actions required in paragraphs (D)(1) to (D)(5) of this rule and, if appropriate, receipt of any necessary information needed to process the case, either:
  - (a) Proceed in accordance with paragraph (E) of this rule when the CSEA determines that Ohio may issue a controlling order determination; or
  - (b) Refer any intergovernmental case to the appropriate state central registry, tribal program, or central authority of a country for action, when the CSEA determines that Ohio may not issue a controlling order determination.
- (E) When Ohio is issuing a controlling order determination, the CSEA shall take the following actions:
  - (1) Identify which orders were issued consistent with 28 U.S.C. 1738B (9/29/2014).
  - (2) Reconcile the arrearages for all support orders.
  - (3) File the appropriate pleadings with the court, including recommended language regarding which order should be determined the controlling order and a calculation of the reconciled arrearages.
  - (4) After the court has made the controlling order determination, prepare the OMB 0970-0085, "Notice of determination of controlling order," and send it with a certified copy of the controlling order determination to the tribunal (typically in care of the child support agency in each state) that issued or registered any of the support orders used to determine the controlling order.