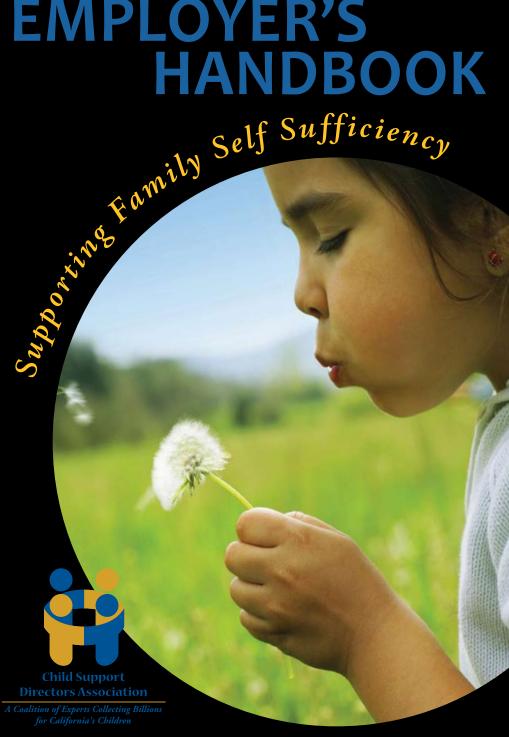


EMPLOYER'S HANDBOOK





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Introduction

The information in this handbook is intended to answer common questions about working with local child support offices as it relates to the employer's role in processing child support obligations. For additional information regarding the employer's role and responsibility under California's child support program please visit the California Department of Child Support Services website at www.childsup.ca.gov.

In the State of California there are 52 local child support agencies (LCSAs), which are overseen by the California Department of Child Support Services. Each of the local child support agencies provides the following services to parents and guardians:

- Establish orders for parentage
- Establish orders for child and/or medical support (includes health care coverage)
- File and/or respond to various motions, e.g., to modify support obligations
- Enforce child, family, medical, and spousal support orders

Federal and state laws require that all child support orders must include an order for income withholding and medical support. LCSAs are mandated by law to proceed with enforcement actions on all active IV-D cases once the court issues an order for child and/or medical support. LCSAs work closely with the Franchise Tax Board, the Internal Revenue Service and other government agencies to enforce support orders.

IV-D cases are those cases that are actively managed by one of the LCSAs within the California Department of Child Support Services system. If there is a court case, but the case is not being managed by an LCSA, it is considered a Non IV-D case. In Non IV-D cases, the Income Withholding Order will be served on the employer by a private party or an attorney. Employers who have been served with an income withholding order for support, whether IV-D or Non IV-D, are required to remit all child support wage withholding payments to the State Disbursement Unit (SDU).

The child support program is committed to providing excellent customer service, which includes assisting and providing prompt service to employers. If you need information, assistance, or have questions, please call the statewide toll free number 866-901-3212 and follow the prompts.

State Disbursement Unit (SDU)

Federal Requirements

Federal law¹ requires all states to establish a central location for processing child support payments, including all employer wage assignments. The law's intent is to improve the accuracy of child support records, speed payment processing, and streamline wage assignment processing for employers.

California's SDU is responsible for collecting and processing the following types of child support payments:

- All payments for cases being enforced by local child support agencies. Cases
 enforced by LCSAs are called "IV-D" cases, referring to Title IV-D of the federal
 Social Security Act pertaining to the Child Support Enforcement program.
- All payments secured through private support orders that are not being enforced by an LCSA, which are referred to as "non-IV-D" cases.

What does the SDU mean to your business?

Employers are now required to direct all payments to the SDU and notify the SDU of payments sent directly to individuals.

Employers must send copies of all FL-195 Order/Notice to Withhold Income for Child Support (now Income Withholding for Support) forms in Non IV-D cases (see page 2 for definition) to the **State Disbursement Unit, P.O. Box 980218, West Sacramento, CA 95798.**

Once the SDU receives the FL-195, employers will be sent instructions for remitting the information required to process employee support payments. Payments will be returned to employers that fail to provide the required information. If you have questions about the FL-195, call the SDU Electronic Help Desk at **866-901-3212**.

Employer Benefits

- Electronic payment options
- All payments can be sent to one centralized location
- IV-D and non-IV-D payments can be made at one time
- Helpful and advanced features will be offered on the SDU Web site at www.casdu.com
- More information is available at <u>www.childsup.ca.gov.</u>

¹ 1996 Welfare Reform Legislation, US Code 42 USC 654B

Employer Checklist for Child Support Withholding



- √ Within 10 days of receipt, confirm that the obligor named in the Order/Notice is the employee and provide him/her with a copy of the Order/Notice, the Request for Hearing Regarding Wage and Earnings Assignment, and Information Sheet.
- √ At next payroll cycle or within 10 days
 of receipt, whichever is less, calculate
 allowable net disposable income. (See
 page 14 for a general guide.) Withhold the
 appropriate amount not exceeding 50%,
 unless a higher percentage is expressly
 ordered by the court. You may not exceed
 the Consumer Credit Protection Act limits,
 outlined in the Order/Notice.
- √ If no federal tax levy is already in place against the employee's earnings, withhold the maximum allowable disposable income needed to satisfy the child support obligation, and your administrative fee, if any. If a federal tax levy is in place, please contact the LCSA by calling the statewide toll free number 866-901-3212 to determine if the child support order was entered prior to the date of the tax levy and therefore has priority over the tax levy.
- √ Send the amount withheld, together with identifying information, within 10 days, to:

State Disbursement Unit P.O. Box 989067 West Sacramento, CA 95798

√ If the employee no longer receives payments from you, is terminated, on disability leave, or there is any cause to disrupt the withholding of payments, notify the issuing LCSA in writing no later than the date the next payment is due.

Questions and Answers about Employment and Income Verification

Why is the child support agency requesting information about my employee?

The information is requested for a number of reasons:

- Locating noncustodial parents to serve them with child support actions
- Requesting wage information to properly determine a child support amount
- Verifying employment to serve a wage withholding notice
- Verifying the availability of medical support (includes health care coverage)
- Delivering other official correspondence

Can my company release this information to the child support agency without violating my employee's privacy?

Yes. Each LCSA has the legal authority to locate noncustodial parents and their financial assets. State and federal laws require employers to provide this information promptly and as fully as possible. Employees of these agencies are restricted by law from using this information for anything other than the establishment or collection of child support.

What type of information does the child support agency need?

Most verification requests pertain to location, financial resources, and/or the availability of employment-related health insurance.



Questions and Answers about Income Withholding

What does the FL-195 Income Withholding For Support (also referred to as Income Withholding Order/Notice For Support [IWO]) require me to do?

1. Document the date you received the Order/Notice.

2. Give a copy of the Order/Notice and the blank Request for Hearing form to the employee within 10 days of receipt.

Note: Order/Notices to Withhold Income for Child Support generated by an LCSA do not have to be signed by a judicial officer or filed at Superior Court to be valid orders.

3. Follow the terms of the order. Begin to withhold money from the employee's net disposable earnings no later than 10 days after receipt. This usually means you begin deductions at the next pay period after receipt.

4. Send payments to the State
Disbursement Unit within seven
working days of the employee's pay date.
Do not wait until the end of the month to send the
support. (The withholding limit varies from state to state. California employers
may not withhold more than 50% of the employee's net disposable income
unless a higher percentage is expressly ordered by the court.)

- 5. When sending payments, provide the following:
 - Employee's Child support case number
 - Employee's name
 - Employee's Social Security number
 - Dates money was withheld. The date the money was withheld is the date the employee was paid, i.e., the pay date.

(See page 11 for information regarding multiple employees on one payment.)

What forms will I be receiving along with the Order/Notice?

- A cover letter with instructions on how to implement wage withholding
- Request for Hearing Regarding Wage and Earnings Assignment and Information sheet
- A letter for employers to inform the LCSA if the employee leaves this employment. (Notify the issuing LCSA no later than the date of the next payment and provide the employee's social security number, last known address, and, if known, the name and address of the new employer.)
- National Medical Support Notice (if applicable)
- Health Insurance Information form

Note: Employers MAY NOT use an Order/Notice as grounds for refusing to hire a person or for taking disciplinary action against an employee. Employers could face civil penalties if they do so.

The Order/Notice doesn't have a judge's signature. Do I still have to comply with it? Is it based on a court order?

Yes. The Order/Notice has been a federally required form since January 1, 2000 and is used in all support cases in all states. The signature of a judicial officer is not required when the Order/Notice is sent by an LCSA. The ongoing support obligation is based on the most recent court order. An arrears payment on an Order/Notice may be based on a court order, but the LCSA also has the authority to administratively set an arrears payment.

What if we believe that wage withholding is too much work or that we should not be involved in this family matter?

Following the terms of an Order/Notice is the law. Employers who fail to comply with an assignment order for support are liable for the accumulated amount which should have been withheld, plus interest. Willful failure by an employer to comply with an assignment order is punishable as contempt. In addition, an employer who fires, disciplines, or refuses to hire an employee based upon income withholding may be assessed additional civil penalties.

What if the name and/or Social Security number on the Order/Notice do not match my employee?

Please contact the issuing LCSA first to check whether there is an error in the number or name, or if this could be a case of mistaken identity. If the employee's identification has been stolen and he/she is not the correct person, the LCSA can sometimes compare the employee's description and identifying information to a photograph or description of the noncustodial parent. However, the employee may need to file a motion in court to quash the Order/Notice using the Request for Hearing form.

May I allow an employee to pay child support directly to the State Disbursement Unit as long as I know the payments are being made?

No. Direct the employee to contact the issuing LCSA to discuss this request. You must continue to comply with the Order/Notice.

What earnings can be used for child support?

- Wages, salary, tips, bonuses, vacation pay, retirement pay, regular overtime, and commissions
- Payments due for services of independent contractors, interest, dividends, rents, royalties, residuals, patent rights, or mineral or other natural resource rights
- Payments or credits due or becoming due as a result of written or oral contracts for services or sales whether denominated as wages, salary, commission, bonus, or otherwise
- Payments due for workers' compensation temporary disability benefits
- Any other payments or credits due or becoming due, regardless of source

What are net disposable earnings?

Net disposable earnings are earnings remaining after mandatory taxes and deductions including mandatory retirement or union dues. Therefore, if the employee has voluntary deductions for 401k plans, or other benefits, these deductions cannot be included in calculating net disposable earnings.

What do I do if the employee does not have sufficient earnings to satisfy the Order/Notice? What if the employee has multiple Order/Notices?

Prioritize withholding in the following order:

- First, to current monthly child or family support;
- Second, to current monthly cash medical support;
- Third, to payments of current monthly health care coverage premiums;
- Fourth, to current monthly spousal support;
- Fifth, to payment of ordered child or family support arrears;
- Sixth, to payment of ordered cash medical support arrears;
- Seventh, to payment of ordered spousal support arrears; and
- Eighth, to any remaining ordered amounts.

Where there are multiple orders for the same employee, first add up the total current monthly support obligations. If 50% of the employee's net disposable earnings will not pay in full all of the orders for support, send 50% of the net disposable earnings to the State Disbursement Unit; the SDU will prorate the payments. (See sample calculations on page 14.)

Some of my employees only work part-time. What do I do if 50% of the net disposable earnings are less than the withholding amount for the pay period?

California law requires that you only withhold up to 50% of the employee's net disposable earnings each month (this withholding limit varies from state to state). If the employee voluntarily agrees to pay more, he or she should first contact the issuing LCSA to make arrangements to pay more.

May I withhold a fee for processing and withholding the child

support payment?

Yes. In California, you may deduct \$1.50 from the employee's earnings for each payment you send on the order. You may retain this fee for your processing costs. However, the deductions plus the fee may not exceed 50% of the employee's net disposable earnings. The amount of the allowable employer's fee varies from state to state.

What do I do if an employee has other nonsupport income attachments?

Except when an IRS tax levy was served prior to the date the child support order was entered, federal and state laws require child support withholding to take priority over all other income attachments. You must withhold the required amount as long as the amount does not exceed 50% of the employee's net disposable earnings.

An Order/Notice for support has priority against any attachment, execution, or other assignment.

Our company's pay periods are biweekly. There are 26 pay periods per year. How do I compute how much I should deduct?

The Order/Notice includes the amount to withhold if your pay periods are weekly, biweekly, semi-monthly or monthly.

Keep in mind that the child support order itself specifies a monthly payment. If the employee voluntarily agrees to have child support deducted from the first paycheck of each month, you are not bound by the computed amounts on the Order/Notice, only the overall figure and the 50% limit. Deducting once a month from the first paycheck might be preferable for an employee who is paid biweekly because if support is paid by the pre-calculated per paycheck deductions, in some months the employee may seem behind in support, and in other months, more than the monthly obligation is deducted.



What should I do if the employee tells me not to enforce the Order/Notice because it is incorrect?

Payments must continue until further order of the court or notification by the LCSA. It is the employer's obligation to withhold as ordered on the Order/Notice. It is the employee's responsibility to contact the LCSA, seek legal counsel or file a motion with the court.

What if an employee disagrees with the amount of arrears shown on the Order/Notice?

It is the employee's obligation to contact the LCSA about any problems or questions regarding his/her case.

It is the employer's obligation to comply with the Order/Notice. Payments must continue until further order of the court or notification by the LCSA.

An employee has told payroll his/her child has turned 18 and/or the arrears are paid in full and to stop wage withholding. Should the withholding stop?

No. Do not end wage withholding until notified to do so by the LCSA. Contact the agency and encourage the employee to contact the agency to address this issue.

An employee told me his/ her child support order is illegal because he/she never knew about it. Another employee states that the Order/Notice was sent in error. What should I do?

It is the employee's obligation to contact the LCSA if he/she has any questions about the order. You, as an employer, are responsible for honoring the Order/ Notice according to state law until notified by the court or issuing agency.



I have several employees with Order/Notices for child support which I received from various county child support agencies in California. May I combine all of their child support into one check?

Yes. You may combine support withholdings for multiple employees into one consolidated check. You must provide an itemized accounting and include the following:

- · Employee names
- Employee Social Security numbers
- Withholding dates
- Amount withheld for each child support case number

Where do I send the support I withhold?

If the Order/Notice was sent to you by any county in California, make your check payable to the State Disbursement Unit and send payments to:

State Disbursement Unit P.O. Box 989067 West Sacramento, CA 95798

Other states have different payment addresses. If you receive an Order/Notice from another state's child support services agency, please send the payments directly to the other state so that the employee's payments can be properly credited and an accurate payment history can be kept for the benefit of the employee.

How long does it take for the State Disbursement Unit to distribute payments I send?

As required by federal law, when the State Disbursement Unit receives a payment check, it must be distributed within two business days of receipt.

What if the employee becomes injured, quits work, is laid off or fired after I begin withholding child support?

You have a duty to report any of the above to the agency that sent you the Order/Notice. This is true whether the employee quits or is terminated. When the employee stops working for you, notify the child support office no later than the date of the next payment. You must also provide the employee's last known address and, if known, the name and address of your former employee's new employer.

What if I receive phone calls from the other parent about the Order/Notice?

Refer the other parent to the issuing LCSA. Let the LCSA know about any problems you have with the other parent or guardian. We will work with that person to avoid disruption of the workplace.

Why do I keep getting paperwork for this employee if I have notified the child support agency he/she is no longer employed?

California's automated child support system receives data from many sources. Occasionally, this data may override current data in the system, causing new documents to be sent out to the same employer.

Why do I need to garnish if the employee says he/she has custody of the child(ren)?

Continue to withhold payments pursuant to the Order/Notice. The employee should contact the LCSA immediately with documentation of the custody change. When the LCSA verifies a change in custody, the Order/Notice will be terminated or reduced.

An employee is an independent contractor. Can I garnish his/her wages?

Yes. Independent contractor wages are subject to an Order/Notice to withhold income for support.

I have an Order/Notice from another county for the same children. Which Order/Notice do I enforce?

Contact the issuing LCSA for assistance. They will research the matter and advise. If both of the Order/Notices are for the same child(ren) and include ongoing child support payments, a determination will have to be made regarding which county has responsibility for managing the case.

Why did I receive a noncompliance letter when I am currently sending payments?

California's automated child support system issues two different types of noncompliance letters. The first noncompliance letter is issued on a case 45 days after a wage assignment is sent and NO payments have been received. The second noncompliance letter issues 45 days after ongoing wage assignment payments stop. If you receive a noncompliance letter and you are remitting payments, contact the LCSA. This could be a case of a misapplied payment or an error in the automated system.

How much does the employee owe? When can I stop garnishing?

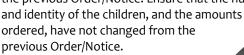
You will be notified when it is appropriate to stop garnishing the employee's wages.

Can you verify the receipt of the payments our company is sending to your office?

Yes. Receipt of payments can be verified by calling the LCSA at 866-901-3212.

I am already deducting and remitting payments. Why do I keep receiving Order/Notices for this employee?

This could be a new or amended Order/Notice recently obtained by the child support agency. Check the court order number and verify that the court order is the same as the previous Order/Notice. Ensure that the number



Please call the LCSA if you continue receiving duplicate copies.



Calculating Child Support Deductions

Priority of Support Deductions

- 1. Current child or family support
- 2. Current cash medical support
- 3. Monthly health insurance premiums
- 4. Current spousal support
- 5. Payment of ordered child or family support arrears
- 6. Payment of ordered cash medical support arrears
- 7. Payment of ordered spousal support arrears
- 8. Any remaining ordered amounts

Calculating 50% of Net Disposable Income

Net disposable income is the net amount after making mandatory deductions such as state, federal, and Social Security taxes, Medicare taxes, state disability insurance, union dues and mandatory retirement. Although the federal Consumer Credit Protection Act allows withholding of greater than 50% of the net disposable income in certain circumstances, in California all LCSA wage assignments are limited to 50% maximum withholding unless the court expressly orders a higher percentage.

Example:

Gross Income		\$4,882.00
Federal Income Tax	-496.00	
State Income Tax	-109.00	
FICA	-313.00	
Medicare	-73.00	
SDI	-50.00	
Mandatory Retirement	-150.00	

Net Disposable Income	\$3,691.00
Multiply by 50%	x 0.5
Available for Deduction	\$1.845.00

Multiple Orders Without Medical Deductions

Example:

Current Child Support		Child Support Arrears			
Order A:	\$150.00	+	\$50.00	=	\$200.00
Order B:	\$100.00	+	\$25.00	=	\$125.00
Total f	or Both Orde	rs			\$325.00

REMIT THE FULL OBLIGATION FOR EACH ORDER TO THE STATE DISBURSEMENT UNIT

Questions and Answers About New Hire Reporting

What is the New Hire Reporting Program?

The New Hire Reporting Program was mandated by welfare reform in 1996. As an employer, you must report all newly hired employees to the California Employment Development Department, or the designated agency in your state, within 20 days of the start work date.

How is the new employee information used?

Every state matches New Employee Registry reports against local child support agencies' records to help locate parents.

When reporting new hires, what information do I need to provide?

- 1. Employee's full name, Social Security number, address, and start work date.
- Employer's name, address, employer account number, and Federal Employer Identification Number.

To report a newly hired employee, visit the EDD New Hire Reporting web page, download from DE34 and fax or mail it to the phone number or address provided on the EDD web page. (see page 20 for EDD contact information)

Do I have to provide information on independent contractors who work for me?

Effective January 1, 2001, any business that is required to file a federal form 1099-MISC for services received from an independent contractor must now also report the independent contractor to the Employment Development Department. To report hiring an independent contractor, go to EDD's Independent Contractor Reporting



Employer Checklist for Child Support Health Insurance Enforcement

- √ Confirm that the person named in the National Medical Support Notice (NMSN) is the employee and provide him/her with a copy of the Notice. Confirm that the person named in the National Medical Support Notice (NMSN) is the employee and provide him/her with a copy of the Notice within 10 business days.
- √ Determine whether group health insurance is available to the employee and dependent child(ren).
- √ Any eligibility questions can be answered through NMSN guidelines or by contacting the issuing LCSA directly.
- √ Forward instructions to enroll to the designated Plan Administrator within 20 business days of receipt of Notice (Union/Trust Benefit Representative or Employer Benefits Specialist).



- √ Once enrollment is verified with the effective date, complete the Health Insurance Information form and return it to the issuing LCSA.
- √ You must, within 40 business days of the date of the Notice or sooner if reasonable, furnish the LCSA with a description of the coverage available and the effective date of the coverage, including, if not already provided, a summary plan description and any forms, documents, or information necessary to effectuate such coverage, as well as information necessary to submit claims for benefits.
- √ If health insurance coverage terminates for any reason, notice of lapse of health insurance coverage must be forwarded to the LCSA as soon as possible; no later than 10 business days.

Questions and Answers About Medical Support

What does the National Medical Support Notice (NMSN) for Child Support

require me to do?

 Confirm that the employee is eligible for group health care benefits and, if so, provide him/her with a copy of the Notice.

 Forward instructions to enroll to your designated plan administrator within 20 business days.

- 3. After the plan administrator has completed enrollment, the Health Insurance Information form must be completed and returned to the issuing LCSA. In addition, ID cards, booklets and summary plan descriptions should be forwarded to the LCSA within a reasonable time frame.
- 4. Any interruption of health insurance benefits must be reported to the LCSA as soon as possible; no later than 10 business days.

What if we don't have health insurance coverage available to the employee(s)?

If health insurance is not available to the employee, complete and sign the NMSN Employer Response on the reverse of the form and mail the form to the issuing LCSA within 20 days.

What if the employee has voluntarily elected not to maintain any insurance?

You must enroll the children. The employee does not have to be involved in the enrollment process. On the signature line of the enrollment forms, simply write, "per court order-copy attached." If the insurer requires that the employee be enrolled in health insurance in order to provide insurance for the employee's children, enroll both the employee and children.

How soon must I begin coverage? Can I wait for open enrollment?

We ask for a 10-business day response to the notice; however, you may take up to 20 business days to forward the notice to the plan administrator and 40 business days to provide coverage information to the LCSA.



Why do I have to send in enrollment information, if the employee has existing health insurance for the children?

The employee is under court order to supply medical coverage for the dependent(s) through employment. Enrolling the dependent(s) is only half the obligation. In order for the employer and employee to be in compliance, it is necessary for this information to be noted in the file and the information forwarded to the custodian of the child(ren).

Why do I keep getting NMSNs when the employee's benefits are provided through a union/trust membership?

It is still the responsibility of the employer to secure health insurance benefits for the dependent(s), even if these benefits are paid through a union/trust. The law says that the employer is to forward (Part B) of the NMSN to the Trust Administrator. The remaining paperwork (Part A) is to remain on file with the employer.

Why do I have to enroll if the employee says the children are already insured by the custodial party?

If you have received the medical support notice, it means that the child support agency has not confirmed that the custodial party is providing medical coverage. Or, it could mean that the custodial party is currently on Medi-Cal, or does not want to provide this coverage but is doing so out of necessity. You can give the employee the option of contacting the LCSA to discuss this issue. Until such time as you receive a notice of termination from the LCSA or a court order terminating the NMSN, you must comply with the Notice.

What should I do if the children live out-of-state?

Contact the issuing LCSA to verify that the family lives out-of-state. Depending on the insurance provider, there may be a "guest membership enrollment" available. This means the insurance coverage may extend to another state and it is just a matter of changing the enrollment information. After verifying with the LCSA the zip code of the family, you may need to contact the insurance provider to arrange this coverage. In the alternative, the parties may wish to go back to court to obtain an order that fits their circumstances. If health care coverage is not accessible to children living outside California, check item #2 of the NMSN Employer Response (Part A) and return it to the LCSA.

What if health insurance coverage is available, but the deduction of premiums and the child support exceed the employee's 50% net disposable earnings?

Complete the NMSN Employer Response Form and return it to the issuing agency within 20 business days. Please specify the cost amounts for health insurance benefits.

Why are you asking us to forward medical cards to the child support agency when they go directly to the employee?

Part of the notification of enrollment for benefits includes making sure that the family receives the necessary materials needed to use the benefits effectively. If the employer is not able to convince the employee to surrender the identification cards, then it becomes the employer's responsibility to secure cards directly from the carrier. The child support agency should be notified only after this attempt has failed.

What should I do if there is a lapse in coverage?

Any interruption in the coverage must result in a notice to the LCSA within 10 business days. This includes reinstatement of benefits or any change in coverage.

What will happen if I don't comply and enroll?

If medical coverage is available and your organization fails to enroll and send in coverage and materials, the court may find the employer in contempt and the resulting penalties can include a fine. In addition, any employer who willfully fails to comply with the NMSN is liable for the amount incurred in health care services that would otherwise have been covered.



Contacts for Employers

California Department of Child Support Services

Statewide Phone Line: 866-901-3212

Web site: <u>www.childsup.ca.gov</u>

This web site provides links to each of the local child support agencies where you can obtain correspondence addresses and fax numbers.

Mail Payments to: State Disbursement Unit

P.O. Box 989067

West Sacramento, CA 95798

California State Disbursement Unit

Web site: www.casdu.com

Mail Payments to:

State Disbursement Unit P.O. Box 989067

West Sacramento, CA 95798

Mail FL 195 - Order/Notices to:

State Disbursement Unit

P.O. Box 980218

West Sacramento, CA 95798

Employment Development Department

Phone: 888-745-3886 Web site: www.edd.ca.gov

Federal Office of Child Support Enforcement

Phone: 202-401-9267, 7:30 a.m. - 5:30 p.m. EST

Web site: www.acf.hhs.gov/programs/cse/newhire/employer/home.htm

U.S. Small Business Administration

Web site: www.sba.gov

Government Printing Office

Web site: http://bookstore.gpo.gov/



