 Department of Children & Family Services <i>Building a Stronger Louisiana</i>	Division/Section	Family Support
	Chapter No./Name	9 – Child Support Enforcement (CSE)
	Part No./Name	G – Intake
	Section No./Name	G-500 Paternity Disestablishment
	Document No./Name	G-510 Paternity Disestablishment
	Effective Date	February 15, 2022

I. STATEMENT OF POLICY

Paternity disestablishment, as defined by the Office of Child Support Enforcement, is when a man challenges his established paternity by presenting genetic evidence excluding him as the biological father. A genetic test alone does not disestablish paternity.

CSE and contracted DA staff SHALL NOT disestablish paternity. An action to disestablish paternity of a child, whether a legal or non-legal child, must be initiated by the father; or in the case of an acknowledgment, the action must be initiated by either party to the acknowledgment. The services provided by the Child Support program are mandated by federal regulation in 45 CFR and paternity disestablishment is not a service provided by the IV-D program. In the event that an action to disestablish involves a paternity judgment obtained by CSE, CSE (as represented by a contracted District Attorney's Office or a staff attorney) must defend the department's judgment.

Some courts have used judicial procedures to disestablish paternity when paternity is no longer an issue. An appropriate petition to disestablish paternity must be filed, by the alleged father, in a court that has the legal right to hear the case and make a formal decision over the parties involved. An action to disestablish paternity of a child should be done in a separate ordinary proceeding and should not take place during a child support proceeding. In cases of questioned paternity and the court orders genetic testing after a man has been adjudicated to be the father, the CSE attorney or contracted DA should take legal action by filing a written objection to the hearing officer's recommendation under [LA R.S. 46:236.5](#); or filing a motion for a new trial under Louisiana Code of Civil Procedure Articles 1971 through 1979, prior to reporting the court's decision to State Office as an adverse ruling (Refer to: [L-610 Notification of Adverse Court Rulings](#)).


II. PROCEDURES

G-511 PATERNITY DISESTABLISHMENT OF LEGAL CHILDREN

To disestablish paternity of a legal child(ren), the husband or legal father, who is presumed to be the father of the child, must successfully disavow paternity or execute the three-party acknowledgment of paternity developed by Louisiana Department of Health. (Refer to: L-800 Disavowal of Paternity; [Civil Code Article 185](#) & [189](#)).

A judgment of disavowal terminates the obligation to pay child support and revokes any court order enforcing that obligation. However, it does not affect any child support payment or arrearages paid, due, or owed prior to the date the disavowal action was filed. ([LA R.S. 9:402](#)).

The three-party acknowledgment of paternity completed after 8/1/2020 terminates the obligation to pay child support by the husband or former husband and revokes any court order enforcing that obligation for that child. However, it does not affect any child support payment or arrearages paid, due, or owed prior to the date that the three party acknowledgment was executed. In instances where a three party acknowledgment was executed prior to 8/1/2020, the legal father (husband of the

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mother or former husband) will have the right to request a review of the order for change in circumstance once a copy of the three-party acknowledgment is provided. * (See [LA R.S. 9:402.1](#)). **

Note: If there are other children included in the order, the case may be referred to court to ask that the court remove from the inglobo order the particular child affected by the three-party acknowledgment, but continue support for the other children not affected. If there are multiple children on the order, the parties can be contacted to initiate a review. The child should be non-participated in LASES.

G-512 PATERNITY DISESTABLISHMENT OF NON-LEGAL CHILDREN

G-512-1 Acknowledgment of Paternity


Once paternity has been established through an acknowledgement of paternity (authentic act of acknowledgment), either party to the acknowledgement has 60 days under [LA R.S. 9:406](#) and [LA R.S. 9:392](#) in which to revoke the acknowledgment of paternity, without cause, and thereby disestablish the child's paternity. CSE will not initiate the revocation or annulment process.

If the acknowledgment has not been revoked within the 60-day period under [LA R.S.9:406 \(B\)\(1\)](#), a person who has signed an acknowledgment of paternity may petition the court to annul the acknowledgment only upon proof, by clear and convincing evidence, that such act was induced by fraud, duress, or material mistake of fact, or error, or that the alleged father who executed the authentic act of acknowledgment is not the biological father of the child. However, the party seeking to annul the act of acknowledgement must prove his statement of fact or belief and provide other evidence to support his testimony. The party shall institute the annulment process as a separate proceeding, in a court that has the legal right to hear the case after notice to the party who executed the act of acknowledgment including DCFS Child Support Enforcement. CSE will not initiate this action.

G-512-2 Department Paternity Judgments (Default, Consent, Contested)

Whether or not the defendant is present for the hearing, the court may enter a judgment adjudicating him to be the father of a child. The defendant, the child, the mother of the child, or the legal representative of any of these persons may bring an action to disestablish paternity under [LA R.S. 399.1](#), which could result in the judgment of paternity being set aside or vacated based upon a subsequently obtained genetic test in accordance with [LA R.S. 9:397.2](#) and [397.3](#). In the event, the court finds that the act was induced by fraud, duress, material mistake of fact or error, or that the person who executed the act of acknowledgment is not the biological father of the child, then, and only then, the court shall order genetic testing. The genetic test results will be filed with the court and will be admissible on the issue of paternity.

In the event the defendant seeks to disestablish paternity after the order is established, and services are being provided by the Department, CSE legal representatives (staff or DA attorneys) must defend the Department's judgment. (Refer to [L-610 Notification of Adverse Court Rulings](#)).

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G-513 PATERNITY DISESTABLISHMENT AND TERMINATION OF SUPPORT

During a disestablishment proceeding, if the acknowledged father is found to be excluded based on the genetic test results and an order of support has been established, the order shall be dismissed and the acknowledgment of paternity shall be annulled. However, if the voluntary acknowledgment is annulled by order of the court based upon genetic test results and an order of support has not been established, no further action may be initiated against the excluded person. See [E-910 Case Closure Criteria](#).

G-513-1 Vacating or Setting Aside Paternity Judgments

Under [LA R. S. 9:406](#) if an order of support is dismissed on the basis of non-paternity of the adjudicated father, the judgment dismissing an established order of support does not affect any child support payment or arrearages paid, due or owed prior to the date the annulment was filed. Except as decided by the court, all legal obligations shall continue and the debt should not be ended in LASES until the outcome of the annulment proceedings has been determined by the court.

G-513-2 Revocation of an Authentic Act of Acknowledgment of Paternity

Under [LA R. S. 9:406](#) revoking a voluntary acknowledgment within the 60 day time period does not stop CSE from initiating a paternity action against an alleged father. However, if a voluntary acknowledgment is revoked by court order and an order of support has not been established (intake case), no further action is possible. See [E-910 Case Closure Criteria](#).

III. FORMS AND INSTRUCTIONS

There are no forms associated with this policy.

IV. REFERENCES

* [LA R.S. 9:402.1](#) **

[LA R.S. 9:406](#)

[LA R.S. 9:402](#)

[LA R.S. 9:392](#)

[LA R.S. 9:397.2](#)

[LA R.S. 9:399.1](#)

[LA R.S. 46.236.5](#)

[Civil Code 190.1](#)