

**Michigan IV-D Child Support Manual**  
**Michigan Department of Health and Human Services**

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## 1. Overview: International Support Cases

The Uniform Interstate Family Support Act (UIFSA)<sup>1</sup> governs child support cases in which one parent lives in the United States or a U.S. territory, and the other parent lives:

- Outside the U.S. (international);
- In another state or territory (interstate); or
- Within the jurisdiction of a tribal nation (tribal).

UIFSA categorizes countries outside of the U.S. depending on the country’s laws and/or whether there is an existing treaty or agreement with a U.S. state or the U.S. government. Michigan IV-D workers must understand the distinctions so they will use the correct case procedures when a parent lives outside the U.S. or an applicant seeks the enforcement of an order issued by a country outside the U.S.

UIFSA’s definition of a “state” includes the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or any territory under the jurisdiction of the U.S.<sup>2</sup> Any IV-D case involving Michigan and another U.S. state as defined by UIFSA is to be treated as an interstate case. UIFSA also instructs that tribal cases are to be handled in the same way as interstate cases.

UIFSA defines a “foreign country” to be a country or political subdivision thereof, other than the U.S., that authorizes the issuance of support orders and:

- Has been declared under U.S. law as a foreign reciprocating country (FRC);<sup>3</sup>

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<sup>1</sup> Michigan Compiled Law (MCL) 552.2101-552.2905

<sup>2</sup> MCL 552.2102(z)

<sup>3</sup> Ref: Subsection 3.1, “Federal Reciprocal Agreements,” of this manual section for a discussion of FRCs.

- Has established a state reciprocal agreement for child support as provided in section 308 of UIFSA;
- Has enacted a law or established procedures for the issuance and enforcement of support orders that are substantially similar to the procedures under UIFSA; or
- Is a jurisdiction in which the 2007 Hague Child Support Convention<sup>4</sup> is in force with respect to the U.S.<sup>5</sup>

Country classification is integral to successful processing of an international child support case, so Michigan IV-D workers must understand the terminology used. The following terms are used in this policy to classify countries outside the U.S.

Term Used in This Policy	Explanation of Term
Country Outside the U.S.	Any country that is not the U.S. or a territory of the U.S.
Foreign Country	A country outside the U.S. that fits the definition of “foreign country” as defined by UIFSA.
Non-UIFSA Country	A country outside the U.S. that does not fit the definition of “foreign country” as defined by the U.S.
Hague Contracting State	A country that operates under The Hague Child Support Convention.

UIFSA directs the actions of U.S. jurisdictions only. Any time the Michigan IV-D program deals with a foreign country in a child support case, the rules laid out in UIFSA are controlling over what the Michigan IV-D worker can do and the timelines that must be followed. The actions of the foreign country are not bound by UIFSA. Foreign countries are bound by their own rules and, if present, any rules agreed upon by treaties or reciprocal agreements they have entered into with the U.S. or the state of Michigan. Michigan IV-D workers will keep international cases open beyond the deadlines outlined in UIFSA because the other jurisdiction is not bound by UIFSA.

## 2. The Hague Child Support Convention

The [Hague Conference on Private International Law \(HCCH\)](#) is the “World Organization for Cross-Border Cooperation in Civil and Commercial Matters.” The HCCH organizes numerous Conventions (treaties) between countries to create uniform procedures for international Hague Contracting States to follow in a given subject matter.

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<sup>4</sup> Ref: Subsection 2 of this manual section for information about The Hague Child Support Convention.

<sup>5</sup> MCL 552.2102(f)

The Hague Convention that governs child support is The Hague Child Support Convention. The Hague Child Support Convention went into effect in the U.S. on January 1, 2017.<sup>6</sup> UIFSA Article 7 deals specifically with support cases that fall under The Hague Child Support Convention. However, when Michigan IV-D workers are dealing with an international child support case, the following Hague Conventions may be relevant along with the Child Support Convention:

- [Service](#) (1965);
- [Evidence](#) (1970);
- [Child Abduction](#) (1980);
- [Intercountry Adoption](#) (1993); and
- [Protection of Children](#) (1996).

Each Hague Convention has different Hague Contracting States. Therefore, all, some, or none of the Conventions may apply to an international support case depending on the facts of the case and what is needed.

The Hague Child Support Convention is separated into nine chapters and a total of 65 articles. The chapters of The Hague Child Support Convention are:

1. Object, Scope and Definitions;
2. Administrative Co-Operation;
3. Applications Through Central Authorities;<sup>7</sup>
4. Restrictions on Bringing Proceedings;
5. Recognition and Enforcement;
6. Enforcement by the State Addressed;
7. Public Bodies;
8. General Provisions; and
9. Final Provisions.

IV-D workers in Michigan will also consult the [Practical Handbook for Caseworkers under the 2007 Child Support Convention](#) when processing a Hague Child Support Convention Case.

## 2.1 Terminology Differences

The Hague Child Support Convention uses unique terminology. The following chart lists the most common terminology differences between Michigan's Child Support Program and The Hague Child Support Convention.<sup>8</sup>

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<sup>6</sup> Ref: [IV-D Memorandum 2016-040, Hague Maintenance Convention Case-Processing Forms](#).

<sup>7</sup> In this manual section, the term "application" refers specifically to an intergovernmental referral under The Hague Child Support Convention. Any time this manual section refers to the *IV-D Child Support Services Application/Referral* (DHS-1201), it will be specified.

<sup>8</sup> The Hague Child Support Convention uses language that is different from that typically used in the U.S. This manual section will use Hague terminology when talking about a Hague case. For instance, when discussing a Hague case, this manual section will use the term "creditor" and not "CP."

Terminology Used in the U.S.	The Hague Child Support Convention Equivalent
Treaty	Convention
Obligee/Custodial Party	Creditor
Obligor/Non-Custodial Parent	Debtor
Country	State
Support	Maintenance
Order	Decision
Intergovernmental Referral	Application
Transmittal	Annex
Initiating State	Requesting State
Responding State	Requested State
Registration	Recognition
Maintenance Agreement	Foreign Support Order
Limited Service Request	Request for Specific Measures

Note: The Michigan IV-D program uses the term “application” to discuss an application for IV-D services. The Hague Child Support Convention uses the term “application” to discuss an intergovernmental referral. For the purposes of this manual section, when discussing an intergovernmental referral under The Hague Child Support Convention, the term “application” will be used.

## 2.2 When The Hague Child Support Convention Applies

Many countries have ratified The Hague Child Support Convention, but residence in and/or having an existing support order from a fellow Hague Contracting State is not always sufficient for a case to fall under The Hague Child Support Convention. Also, how the applicant applies for services is a determining factor. The following are core requirements of a Hague Child Support Convention case:

- The applicant must reside in the requesting Hague Contracting State;
- If there is an existing order, the order must have been issued by a Hague Contracting State;
- The application<sup>9</sup> must have been made through the Central Authority<sup>10</sup> of the Hague Contracting State of residence; and
- The child(ren) in question is under 21 years of age.

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<sup>9</sup> This could be an application for recognition, enforcement, or modification, or a combination of these.

<sup>10</sup> Hague Child Support Convention Article 4

### 2.3 Central Authority

The [Hague Child Support Convention](#) requires Hague Contracting States to designate a Central Authority.<sup>11</sup> Central Authorities are required to cooperate with each other to achieve The Hague Child Support Convention's purposes, and they must try to resolve conflicts that arise in its implementation. The federal Office of Child Support Enforcement (OCSE) is the Central Authority for the U.S. However, because child support programs are administered at the state level in the U.S., OCSE has delegated many of the duties of the Central Authority to the state child support agencies. This means that applications under The Hague Child Support Convention will be received and transmitted at the state level. The main duties that have been delegated to state child support agencies are as follows:

- Transmitting and receiving applications for child support services<sup>12</sup> under The Hague Child Support Convention; and
- Initiating or facilitating the institution of proceedings in respect of such applications.<sup>13</sup>

Both the Michigan Interstate Central Registry (ICR) and Michigan county IV-D offices will act as the Central Authority in a Hague Child Support Convention case. The sending and receiving of applications under The Hague Child Support Convention will be similar to existing intergovernmental procedures. Applications received from another Hague Contracting State will be sent to Michigan ICR staff, who will confirm that the application is complete and will send the application to the appropriate county. Applications sent from Michigan to another Hague Contracting State will be prepared and sent by the county where the applicant resides as in a typical intergovernmental case.

OCSE retains limited locate functions under The Hague Child Support Convention. OCSE will only provide a requesting country the state in which the creditor or debtor lives and will not provide address or employment information by using the Federal Parent Locator Service (FPLS).<sup>14</sup> OCSE's duty is merely to provide the requesting country with an appropriate state-level contact to begin case processing.<sup>15</sup>

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<sup>11</sup> Hague Child Support Convention Article 5

<sup>12</sup> Hague Child Support Convention Article 6(1)

<sup>13</sup> Hague Child Support Convention Article 6(2)

<sup>14</sup> Ref: [Locate](#) documentation on mi-support.

<sup>15</sup> In this manual section, the "requesting" Central Authority or country is the Hague Contracting State that submits the application to request child support services (initiating state). The Hague Contracting State that receives the application is the "requested" Central Authority or country (responding state).

### 2.3.1 Responsibilities of the Requesting Central Authority<sup>16</sup>

The Michigan IV-D worker will complete the application and ensure it includes all the necessary information and documents.<sup>17</sup> IV-D workers will reference the [Hague Child Support Convention Country Profiles](#) to identify the forms and information needed by the requested country.<sup>18</sup> The Michigan IV-D worker will also review the application and ensure it complies with The Hague Child Support Convention. This review is limited to compliance with The Hague Child Support Convention and is not a determination of the merits of the case. Michigan IV-D workers will confirm the following prior to sending an application:

- The applicant has completed the appropriate application;
- The support obligation is within the scope of The Hague Child Support Convention;
- The remedy sought is available to the applicant (only some applications are available to debtors under The Hague Child Support Convention); and
- All mandatory documents are included with the application.

When the Michigan IV-D worker is satisfied that all requirements under The Hague Child Support Convention have been met with regard to the application in question, the IV-D worker will transmit the application to the other country on behalf of the applicant.<sup>19</sup> Certified documents are not typically required, but the IV-D worker will refer to the [Country Profile](#) on The Hague Child Support Convention website to confirm that they are not required.

### 2.3.2 Responsibilities of the Central Authority Delegated to the Michigan IV-D Program

As delegated by OCSE, the Michigan IV-D agency will do the following when Michigan is the requested state:

- Receive Hague Child Support Convention applications;
- Initiate or facilitate proceedings based on Hague Child Support Convention applications received;
- Help locate the creditor(s) and/or debtor(s);

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<sup>16</sup> The recipient of services could have submitted an application for IV-D services or could have been referred to the IV-D program from another agency. Ref: [Section 2.05, "Referrals and Applications," in the Michigan IV-D Child Support Manual.](#)

<sup>17</sup> Hague Child Support Convention Article 12

<sup>18</sup> Hague Child Support Convention Article 6; Ref: IV-D Memorandum 2016-040 for information on the Hague Child Support Convention forms.

<sup>19</sup> Hague Child Support Convention Article 6

- Help obtain relevant financial information about the debtor or creditor, including income and location of assets;
- Encourage amicable solutions for obtaining voluntary payment of support. Examples include the use of mediation, conciliation, or similar processes;
- Facilitate the ongoing enforcement of support orders, including arrears;
- Facilitate the collection and expeditious transfer of support payments;
- Facilitate the acquisition of documentary or other evidence;
- Provide assistance in establishing parentage where necessary to recover support;
- Initiate or facilitate the institution of proceedings to obtain any necessary provisional measures that are territorial in nature and the purpose of which is to secure the outcome of a pending child support application;<sup>20</sup> and/or
- Facilitate the service of documents.<sup>21</sup>

Note: There are a lot of terms in this list that are subjective, such as “help,” “encourage,” and “facilitate.” Michigan IV-D workers will treat subjective terms as obligations as long as they are appropriate.

## 2.4 Competent Authority

The Hague Child Support Convention frequently uses the term “competent authority.” There is no definition of this term within The Hague Child Support Convention because the identity of the competent authority will vary depending on the situation. For example, The Hague Child Support Convention requires the competent authority in the requested state to declare without delay whether an *Application for Recognition and Enforcement* is in fact enforceable.<sup>22</sup> Depending on the country, the competent authority may be the court, an administrative agency, or both. Essentially, whoever is allowed by law to complete the service in question is the competent authority under The Hague Child Support Convention.

## 2.5 Mandatory Timeframes Under The Hague Child Support Convention

Article 12 of The Hague Child Support Convention requires the requested Central Authority to acknowledge the receipt of the application within six weeks of receipt. Michigan IV-D workers will return the mandatory *Acknowledgement form under Article 12(3)* to the requesting state and will provide an update on

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<sup>20</sup> This means that Michigan IV-D workers may be asked to use enforcement measures, such as freezing assets, pending the outcome of a proceeding. These measures must be temporary, and the effects will be confined to the U.S. or its territories.

<sup>21</sup> Hague Child Support Convention Article 6

<sup>22</sup> Hague Child Support Convention Article 23(3)



any actions taken, identify any further needed documents, and provide contact information for the local tribunal, if applicable.

However, the ICR is held to a stricter standard by federal regulations. The ICR will comply with the timeframe required by the federal regulations and will send the *Acknowledgement form under Article 12(3)* within 10 days of receipt of the application in the Michigan tribunal.<sup>23</sup>

Further, after a complete application is received, the requested state must provide a status update to the requesting country within three months.<sup>24</sup> All applications under The Hague Child Support Convention include a *Status of Application* form. Michigan IV-D workers will use this form to provide case updates to the respective Central Authority. Michigan IV-D workers will set up adequate reminders to ensure that this three-month update is provided to the requesting country. Michigan IV-D workers receiving an application at the county level will provide this status update.

## 2.6 Residency Requirement

The applicant must reside in a Hague Contracting State to receive services under The Hague Child Support Convention. Even if the applicant has an order issued by a Hague Contracting State, residency in a Hague Contracting State at the time of the application is still required because the applicant must go through the Central Authority of his/her residence.<sup>25</sup> The applicant is not required to reside in the order-issuing country.

### **Example 1: Residency Requirement Under The Hague Child Support Convention**

A creditor has an order issued by a Michigan court establishing a support obligation over a debtor in France. The creditor resides in Mexico, which at the time of this writing is not a Hague Contracting State. The creditor calls a Michigan IV-D worker to file an *Application for Recognition and Enforcement of a Decision* to request the Michigan IV-D child support program's help in getting France to enforce the order.

The Michigan IV-D worker informs the creditor that his/her case does not fall under The Hague Child Support Convention because (s)he is not a resident of a Hague Contracting State; therefore, the Michigan IV-D worker will not be able to process the case under The Hague Child Support Convention. The Michigan IV-D worker will review the case and determine if there are enforcement options outside of The Hague Child Support Convention.

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<sup>23</sup> 45 Code of Federal Regulations (CFR) 303.7(b)(2)(iii)

<sup>24</sup> Hague Child Support Convention Article 12(4)

<sup>25</sup> Hague Child Support Convention Article 9

**Example 2: Residency Requirement Under The Hague Child Support Convention**

A creditor has an order issued by a Michigan court establishing a support obligation over a debtor in France. The creditor resides in Germany, which is a Hague Contracting State. The creditor can apply for services under The Hague Child Support Convention through Germany's Central Authority. The Hague Child Support Convention does not require the applicant to live in the order-issuing country to submit an *Application for Recognition or Recognition and Enforcement*; it only requires residency in a Hague Contracting State.

2.7 Issuing Tribunal of the Foreign Support Order

The Hague Child Support Convention only recognizes orders issued by Hague Contracting States. If a resident of a Hague Contracting State contacts a Michigan tribunal and wants it to recognize and enforce a foreign support order issued by a non-Hague Contracting State, it has to be done outside of The Hague Child Support Convention procedures. Michigan IV-D workers will not use The Hague Child Support Convention forms and will look to FRC agreements or comity<sup>26</sup> to register and enforce the support order.

2.8 Applications Versus Direct Requests

The Hague Child Support Convention distinguishes between an application and a direct request. An *application* is made through the Central Authority of the applicant's resident Hague Contracting State. A *direct request* is made directly to the tribunal of the responding country.<sup>27</sup>

Individuals who reside in a Hague Contracting State can send an application through the Central Authority of their Hague Contracting State or apply for services directly to a Michigan tribunal.<sup>28</sup> Applicants will be provided IV-D services if they choose to go through their Hague Contracting State's Central Authority.<sup>29</sup> In contrast, the Michigan IV-D child support program has discretion to provide services to direct applicants, or those who apply directly to a Michigan tribunal.<sup>30</sup> The Michigan tribunal will reject a direct request only if the case would be facilitated more easily through the Hague Contracting State's Central Authority due to language differences or other difficulties that may arise

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<sup>26</sup> Ref: Subsection 11 of this manual section for more information on comity.

<sup>27</sup> The term "responding" is used here because Hague terminology does not apply if a case is outside the scope of The Hague Child Support Convention.

<sup>28</sup> Ref: Subsection 8, "DHS-1201 Applications From Individuals Outside of the U.S.," of this manual section.

<sup>29</sup> MCL 522.2307(1)(b)

<sup>30</sup> MCL 552.2307(1)(c)

from a direct request. The Michigan IV-D worker will advise the applicant to file through his/her respective Central Authority. If that is not possible, Michigan IV-D staff will accept the direct request as long as it is complete and the IV-D worker has sufficient information to proceed with the IV-D case.

If a Michigan tribunal accepts a direct request, the following Hague Child Support Convention provisions will apply:

- Article 14(5);
- Chapter V – Recognition and Enforcement;
- Chapter VI – Enforcement by the State Addressed; and
- Chapter VII – General Provisions.

For information on the procedures for recognition of a support order under The Hague Child Support Convention, reference Subsection 2.14 of this manual section.

### **Example 3: Application vs. Direct Request**

A French resident is in the U.S. for an extended study program at the University of Michigan. Her stay in the U.S. is 12 months. During that time, she conceives and gives birth to a child. The father of the child signs and files an *Affidavit of Parentage*. Shortly after giving birth to the child, the couple break up because the mother (the creditor) will be returning to France. Prior to leaving, the creditor goes to the Washtenaw County Prosecuting Attorney's (PA's) office to see if she can get a child support order established.

During the interview, the Michigan IV-D worker realizes the creditor will be returning to France in less than a month and, because France is a Hague Contracting State under The Hague Child Support Convention, this could be a Hague Child Support Convention case. However, because the creditor did not go through the Central Authority of her resident country, this is a direct request. If the Michigan IV-D worker processes the case, it will not be processed using The Hague Child Support Convention procedures or forms.

The Michigan IV-D worker advises the creditor to apply for services with the French Central Authority so the case can proceed under The Hague Child Support Convention procedures.

When the creditor returns to France, she applies for services with the French Central Authority. The French Central Authority will process the case using Hague Child Support Convention forms, and the Washtenaw County PA's office will establish an order when it receives a completed *Application for Establishment of a Decision* from the French Central Authority.

## 2.9 Services Available Under The Hague Child Support Convention

The Hague Child Support Convention has different services available for the creditor and debtor. Creditors may apply for a full range of services, while debtors are only eligible to apply for services related to an order that has already been established.

### 2.9.1 Services Available to a Creditor

Under The Hague Child Support Convention, the creditor may apply for the following services:<sup>31</sup>

- Recognition of a decision;<sup>32</sup>
- Recognition and enforcement of a decision;
- Establishment of a decision in the requested country, including parentage establishment, if necessary;
- Establishment of a decision in the requested country where recognition and enforcement of a prior decision is not possible or is refused; and/or
- Modification of a decision.

#### **Example 4: Application for Recognition and Enforcement of a Decision**

A Michigan resident applies for IV-D services. The applicant has a Mississippi order obligating the debtor, a resident of Sweden, to pay for support.

The Michigan IV-D worker first confirms Sweden is a Hague Contracting State under The Hague Child Support Convention. The IV-D worker then looks at the available applications for a creditor under The Hague Child Support Convention and determines she will use the *Application for Recognition and Enforcement*. The IV-D worker confirms the child is under the age of 21, so the child is not beyond the mandatory age under The Hague Child Support Convention. The order was issued by Mississippi, a tribunal of the U.S., so it was issued by a Hague Contracting State.

To prepare the application, the Michigan IV-D worker references Sweden's Country Profile on The Hague Child Support Convention website. She sees that all applications and communications must be in Swedish, so she collects all the documentation listed in the section of Sweden's Country Profile dealing with an *Application for Recognition and Enforcement* and has it translated into Swedish.

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<sup>31</sup> Hague Child Support Convention Article 10(1)

<sup>32</sup> The Hague Child Support Convention allows for recognition only and no enforcement. This will likely be rare, but will typically occur when the debtor is making payments and the creditor is satisfied, but the creditor asks Michigan to recognize (register) the order in case enforcement is needed at a later date.

The Michigan IV-D worker then mails the completed application, both in English and Swedish, along with the *Transmittal Form under Article 12(2)* to the Swedish Central Authority designated in the Country Profile.

### 2.9.2 Services Available to a Debtor

A debtor may apply for the following services:<sup>33</sup>

- Recognition of a Decision, or an equivalent procedure, leading to the suspension or limitation on the enforcement of a previous decision; or
- Modification of a Decision.

### 2.9.3 Requests for Specific Measures Available to a Hague Contracting State

A Hague Contracting State may also send requests for specific measures, which are similar to the limited service requests used in a standard intergovernmental case.<sup>34</sup> Requests for specific measures may be made only with reference to parties or cases that fit within the scope of The Hague Child Support Convention. Examples of requests for specific measures include:

- Help completing an application;
- Help determining if an application is necessary;
- Help with an existing case in the requesting country;
- Locate services;
- Parentage establishment;
- Service of documents; and
- Obtaining evidence.

Michigan IV-D workers making specific requests to the Central Authority of a Hague Contracting State must include the reasons for making the request. Specific requests will be made only when necessary to assist in the decision to apply for services under The Hague Child Support Convention.

The Central Authority in the requested Hague Contracting State has the discretion to refuse assistance if it determines the requested measures are not necessary. When a requested Central Authority is satisfied that the request is necessary, it is required to respond.<sup>35</sup>

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<sup>33</sup> Hague Child Support Convention Article 10(2)

<sup>34</sup> Ref: [Section 7.01, "Intergovernmental Overview," of the Michigan IV-D Child Support Manual](#) for information on limited service requests.

<sup>35</sup> Hague Child Support Convention Article 7

## 2.10 Determining What Law Applies in a Hague Child Support Convention Case

The laws of the country that issued the order govern the nature, extent, amount, and duration of the current support payments as well as the calculation of arrears and the accumulation of interest. The laws of the requested country govern enforcement procedures and remedies. The laws of the country that has the longest statute of limitations on arrears govern the statute of limitations on collecting past-due arrears.<sup>36</sup>

## 2.11 Translation of Documents and Communications

The Hague Child Support Convention has rules that govern when documents and communications need to be translated.<sup>37</sup>

### 2.11.1 Applications and Documents

The Hague Child Support Convention requires all applications and accompanying documents to be translated into the official language of the requested state or a language designated in the Country Profile.<sup>38</sup>

Michigan IV-D workers will refer to the Country Profile of the requested country to determine if translation is needed and, if so, what language to translate the application into. Michigan IV-D workers will have the entire application translated, including any accompanying documents, unless otherwise stated in the Country Profile.

### 2.11.2 Other Communications

Any communications between Central Authorities in countries with regard to an application under The Hague Child Support Convention must occur in:

- A. The designated language of the requested Contracting State;
- B. English;
- C. French; or
- D. A language agreed upon by both the requesting and requested Contracting State.

Other communications between Central Authorities will be in the official language of the requested state or in English or French.<sup>39</sup> The U.S. has objected to the use of French in official communications, so all

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<sup>36</sup> MCL 552.2604

<sup>37</sup> Hague Child Support Convention Article 44

<sup>38</sup> Hague Child Support Convention Article 44(1)

<sup>39</sup> Hague Child Support Convention Article 44(3)

communications when Michigan is the requested tribunal will be in English.<sup>40</sup>

Michigan IV-D workers will consult the Country Profile of the requested Hague Contracting State to see its language preferences and will have communications translated if English is not an accepted language. Michigan IV-D workers will make arrangements to have documents translated. Translation costs are IV-D-reimbursable.

## 2.12 Review of an Application Received Under The Hague Child Support Convention

Applications sent by requesting Hague Contracting States under The Hague Child Support Convention will go to the ICR for review. If a county tribunal directly receives an application under The Hague Child Support Convention, Michigan IV-D workers will send it to the ICR.

### 2.12.1 Applications That Need Additional Documentation

Michigan IV-D workers cannot reject an application solely because additional documents are needed. The Hague Child Support Convention allows for the suspension of processing until requested information is received, but the application cannot be rejected because more documentation is needed. Michigan IV-D workers in the ICR will consult the U.S. Country Profile to determine what documents are required with a given application.

If an application is received and ICR staff determine further documentation is needed, the application will be treated the same as a typical intergovernmental referral.<sup>41</sup> ICR staff will return the *Acknowledgement Form under Article 12(3)* and inform the requesting Hague Contracting State what is needed to fully process the case. If appropriate, based on the information that was submitted in the application, ICR staff will forward the incomplete application to the applicable county and indicate that more documentation has been requested. Michigan IV-D workers are still bound by federal regulations,<sup>42</sup> so they must process the case to the fullest extent possible with what information was received.<sup>43</sup> Once the additional information is received, the IV-D worker will complete the case processing.

The Michigan IV-D worker in the ICR will put the county-level contact information on the *Acknowledgement Form under Article 12(3)*. If the

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<sup>40</sup> Hague Child Support Convention Article 62

<sup>41</sup> Ref: [Section 7.10, "Responding Cases," in the Michigan IV-D Child Support Manual](#) for information on the ICR review of incoming intergovernmental referrals.

<sup>42</sup> 45 CFR 303.7(d)(2)(iii)

<sup>43</sup> 45 CFR 303.7(b)(3)

Michigan IV-D worker at the county level does not receive the information the ICR requested in the *Acknowledgement Form under Article 12(3)* after 90 calendar days, the IV-D worker will contact the Central Authority in the requesting Hague Contracting State for a status update.

#### 2.12.2 Denial of Application Received Under The Hague Child Support Convention

Michigan IV-D workers can refuse an application filed under The Hague Child Support Convention only if the requirements are not met.<sup>44</sup> This would be a situation where the application is so flawed it is clear on its face that processing it further would be useless even if further documentation was requested. If there is any question as to whether to refuse an application, Michigan IV-D workers will defer to requesting more information and processing the case. If an application is refused, IV-D workers must give prompt notice to the requesting Hague Contracting State using the *Acknowledgement form under Article 12(3)* and include a detailed reason for denial.

##### **Example 5: Denying an Already Adjudicated<sup>45</sup> Application Under The Hague Child Support Convention**

The ICR receives a Hague *Application for Establishment of a Decision* including a request for the establishment of parentage from the French Central Authority. ICR staff review the documents, confirm all necessary information is present, and forward the application to the appropriate PA office for establishment.

The Michigan IV-D worker reviews the application and notices the same creditor filed the same application two years prior through the Belgian Central Authority, alleging the same debtor as the father. It was determined in the previous case that the alleged non-custodial parent (NCP) was not the biological father, and the case was dismissed.

The Michigan IV-D worker can refuse to process this case because the creditor filed an application that has already been fully adjudicated. The IV-D worker will send the *Acknowledgement form under Article 12(3)* to the requesting authority indicating in question 5 on the form that the IV-D worker is refusing to process the application. Because the IV-D worker has all the needed documentation to send to the requesting authority to show this case has already been adjudicated, the Michigan

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<sup>44</sup> Hague Child Support Convention Article 12(8)

<sup>45</sup> “Adjudicated” means that another Hague Contracting State has made a formal judgment or decision over the same request.



IV-D worker will include the original application and the resulting order as supporting documentation.

**Example 6: Denying an Application Outside the Scope of The Hague Child Support Convention**

The ICR receives an *Application for Establishment of a Decision* from the German Central Authority. The application seeks the establishment of a custody determination only.

ICR staff send the *Acknowledgement form under Article 12(3)* to the requesting Central Authority indicating in question 5 on the form that they are refusing to process the case because custody determinations are not within the scope of The Hague Child Support Convention.

### 2.13 Establishment Procedures Under The Hague Child Support Convention

Establishment of a new order is necessary under The Hague Child Support Convention when no order exists. Establishment of a new order is also needed when recognition and enforcement of an existing order is not possible or a Michigan tribunal has refused to recognize the order.<sup>46</sup> Establishment applications, *Annex C – Application for Establishment of a Decision* of the Hague Child Support Convention forms,<sup>47</sup> are only available to the creditor in a Hague proceeding.<sup>48</sup> The Hague Child Support Convention does not allow for parentage establishment only. An application to establish parentage must accompany an application to establish a support order.<sup>49</sup>

After reviewing the application for completeness,<sup>50</sup> ICR staff will forward it to the PA office in the county where the debtor resides by mailing a court action referral (CAR) and the application packet.<sup>51</sup> Michigan IV-D workers in the PA office will review the application for completeness as well. If any documentation is missing that the ICR did not note, the Michigan IV-D worker will inform the requesting Central Authority what is missing via email or by mailing the *Status of Application Report – Article 12*.<sup>52</sup>

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<sup>46</sup> Ref: Subsection 2.14.2 of this manual section for an example of when enforcement of an existing order is not possible, or a Michigan tribunal has refused to recognize the order.

<sup>47</sup> Ref: IV-D Memorandum 2016-040 for more information on the Hague Child Support Convention forms.

<sup>48</sup> Hague Child Support Convention Article 10

<sup>49</sup> Hague Child Support Convention Article 10

<sup>50</sup> Ref: Subsection 2.3 of this manual section for information on the ICR review process for Hague applications.

<sup>51</sup> Ref: [Section 2.20, “Court Action Referrals \(CARs\),” of the Michigan IV-D Child Support Manual](#) for information on the CAR process.

<sup>52</sup> Ref: IV-D Memorandum 2016-040 for more information on the Hague Child Support Convention forms.

When a completed application is received, Michigan IV-D workers will proceed with establishment just as they would in a Michigan-only case. Michigan laws and procedures for establishment will apply.<sup>53</sup>

#### 2.13.1 Establishment of a Hague Child Support Convention Support Order Where No Prior Order Exists

When a Michigan tribunal is establishing a support order where no order previously exists, Michigan laws and procedures apply with regard to:

- Establishment of a duty of support;
- The duration of support; and
- The application of the Michigan child support guidelines.

Michigan IV-D workers will seek establishment of support in U.S. dollars. The order-issuing Hague Contracting State will determine the duration of the order; therefore, if the Michigan ICR receives an application from a jurisdiction whose emancipation age is 21 and the child is over 18, the Michigan tribunal will not establish that order.<sup>54</sup>

#### 2.13.2 Establishment of a Hague Child Support Convention Support Order When an Existing Convention Order Is Not Recognized

A tribunal may refuse to recognize an existing order in one of the following ways:

- By its own ruling without a contest by the respondent; or
- By ruling that the order not be recognized after an objection by the respondent.<sup>55</sup>

If the Michigan tribunal refuses to recognize an order and the creditor resides in Michigan, Michigan IV-D workers will review the case to determine if a support order needs to be requested.<sup>56</sup> If additional information is needed, the IV-D worker will request the information from the Central Authority where the debtor resides. If a new order needs to be established, the Michigan tribunal will establish the order as if no prior order existed.<sup>57</sup>

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<sup>53</sup> MCL 552.2105

<sup>54</sup> Ref: [Explanatory Report, Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance](#) (Hague Explanatory Report), paragraph 275.

<sup>55</sup> Ref: Subsection 2.14.2 of this manual section for an example of when enforcement of an existing order is not possible or a Michigan tribunal has refused to recognize the order.

<sup>56</sup> MCL 552.2708(3)(b)

<sup>57</sup> Ref: Subsection 2.13.1 of this manual section for rules on establishing an order when no prior order exists.

### 2.13.3 Michigan Asking Another Hague Contracting State to Establish an Order

If a creditor residing in Michigan requires establishment of an order and the debtor lives in a Hague Contracting State, Michigan IV-D workers who process the referral or DHS-1201 will determine if establishment of an order using long-arm jurisdiction is available and/or appropriate.<sup>58</sup>

If the Michigan IV-D worker in the PA office determines the most appropriate course of action is a Hague Child Support Convention application, the worker will consult the requested state's Country Profile to determine what documents and forms are needed.<sup>59</sup> The Michigan IV-D worker will have all the documents translated as indicated in the Country Profile.<sup>60</sup>

Once the Annex C is complete and all required documents the requested country needs are gathered (and translated, if needed), the Michigan IV-D worker in the PA office will mail both the original and translated application to the Central Authority of the country where the debtor resides. The Michigan IV-D worker will receive an acknowledgement of receipt of the application and an update three months after the Central Authority receives the application. A tribunal in the requested country will establish the order using the country's laws, and will set the order in its own currency.

Michigan IV-D workers will allow for sufficient time for the requested country to establish the order. It may take considerably longer than when dealing with another jurisdiction within the U.S. The Michigan IV-D worker will set up a tickler notification in the Michigan Child Support Enforcement System (MiCSES) for 120 days after receiving the acknowledgement of receipt of the application to check the status of the case.

### 2.14 Recognition Procedures for Orders Under The Hague Child Support Convention

The recognition<sup>61</sup> of a support order under The Hague Child Support Convention has requirements that differ from the recognition procedures in a typical intergovernmental case. If a Michigan IV-D worker receives an application for recognition and/or enforcement of a Hague Child Support Convention support order, the following rules apply:

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<sup>58</sup> Ref: Section 7.01 of the *Michigan IV-D Child Support Manual* for information on long-arm jurisdiction.

<sup>59</sup> Ref: IV-D Memorandum 2016-040 for information on forms.

<sup>60</sup> Ref: Subsection 2.11 of this manual section for information on translation requirements in a Hague case.

<sup>61</sup> The equivalent term for "registration" under The Hague Child Support Convention is "recognition." "Registration" is used here because it is used in the UIFSA sections that deal specifically with registration of support orders under The Hague Child Support Convention.

#### 2.14.1 Inclusion of Applicable Forms in an Application for Recognition of a Decision

For an application for the recognition of a Hague Child Support Convention support order, Michigan IV-D workers must include all applicable forms in Annex A: *Application for Recognition of a Decision*.<sup>62</sup> Michigan IV-D workers will accept either the full text of the foreign support order (translated if not in English) or a fully completed *Abstract of a Decision*.<sup>63</sup>

#### 2.14.2 Contesting the Recognition of a Hague Child Support Convention Support Order

The debtor must contest the recognition of a Hague Child Support Convention support order within 30 days of the notice of recognition unless the party does not reside in the U.S. If the party resides outside the U.S., the contest must occur within 60 days of the notice of recognition.<sup>64</sup> If the party does not contest the recognition of the order in the specified time, the order will be enforceable.<sup>65</sup>

A. A Michigan tribunal can refuse to recognize a Hague Child Support Convention support order if, on its own motion, it finds that:<sup>66</sup>

1. The issuing tribunal did not have adequate personal jurisdiction over the parties to issue the order as required by UIFSA;<sup>67</sup>
2. The order was obtained through fraud; or
3. The respondent did not appear nor was (s)he represented at the hearing because the respondent did not have proper notice.

B. If a Hague Child Support Convention support order is recognized, the Michigan tribunal is bound by the findings of fact on which the foreign tribunal established its jurisdiction, and the Michigan tribunal may not review the merits of the order.<sup>68</sup> A contest to the recognition of a Hague Child Support Convention support order is limited to the following grounds:<sup>69</sup>

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<sup>62</sup> Ref: IV-D Memorandum 2016-040 for more information on The Hague Child Support Convention forms.

<sup>63</sup> MCL 552.2706(2)(a). Ref: IV-D Memorandum 2016-040 for information on accessing The Hague Child Support Convention forms.

<sup>64</sup> MCL 552.2707(2)

<sup>65</sup> MCL 552.2707(3)

<sup>66</sup> MCL 552.2708(3)

<sup>67</sup> MCL 552.2201

<sup>68</sup> MCL 552.2707(5)

<sup>69</sup> MCL 552.2708(2)

1. The recognition and enforcement of the order is incompatible with public policy,<sup>70</sup> including that the respondent was not served and his/her due process rights were violated;
2. The issuing tribunal lacked adequate personal jurisdiction;<sup>71</sup>
3. The order is not enforceable in the issuing country;
4. The order was obtained by fraud;
5. The filed *Application for Recognition of a Decision* lacks authenticity of integrity;
6. A proceeding between the same parties and having the same purpose is already pending in a Michigan tribunal;
7. The order is incompatible with a more recent order involving the same parties and having the same purpose, as long as the more recent order is entitled to recognition and enforcement in the Michigan tribunal;
8. In an arrears-only case, the respondent shows that (s)he has paid in full;
9. The order was improperly modified; or
10. The foreign support order was issued without the opportunity to be heard or represented in one of the following ways:
  - a. The law of the issuing country provides for prior notice of proceedings, and the respondent did not receive prior notice or the opportunity to be heard; or
  - b. The law of the issuing country does not provide for proper notice of proceedings, and the respondent did not have proper notice of the order or the opportunity to be heard through an appeal.

**Example 7: Contest to the Recognition of a Hague Child Support Convention Support Order**

The Michigan ICR receives an *Application for Recognition and Enforcement of a Decision* from France. The debtor is a Michigan resident. After reviewing the application and confirming it is complete, ICR staff forward the application to the county Friend of the Court (FOC) office where the debtor resides. The Michigan IV-D worker provides notice to the debtor of the proceedings. Within 30 days of receiving notice, the debtor challenges the recognition of the order on the basis that the order is not certified.

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<sup>70</sup> The “incompatible with public policy” exception will apply in very rare circumstances. It is not enough to show that an order is contrary to local or federal laws. Ref: Hague Explanatory Report, paragraphs 478-479.

<sup>71</sup> Ref: Section 7.01 of the *Michigan IV-D Child Support Manual* for what constitutes adequate personal jurisdiction.

The Michigan IV-D worker notes The Hague Child Support Convention does not require orders to be certified, but given the debtor's arguments, the Michigan IV-D worker has reason to believe the order may be forged. The Michigan IV-D worker can request the production of a certified order to show that the order is in fact authentic.

**Example 8: Contest to the Recognition of a Hague Child Support Convention Support Order for Lack of Personal Jurisdiction**

The Italian Central Authority has requested that a Michigan tribunal recognize and enforce an Italian support order. The debtor is a Michigan resident. Within 30 days of receiving notice of the proceedings, the debtor files a challenge to the recognition of the Italian order.

The debtor presents credible evidence showing the child was conceived in Switzerland while he and the creditor were study-abroad students in the same program. He produces his passport showing that he has never been to Italy. Italy uses creditor-based jurisdiction, which does not require the respondent to have contacts with Italy to exercise jurisdiction. Within 30 days of receiving notice of the proceedings, the debtor files a challenge to the recognition of the Italian order.

The Michigan tribunal can refuse to recognize the order based on a lack of personal jurisdiction as defined by UIFSA section 201, which is the long-arm statute Michigan applies.

However, the Michigan tribunal must allow the creditor a reasonable amount of time to submit a new application to establish an order under The Hague Child Support Convention before closing the case.

**Example 9: Contest to the Recognition of a Hague Child Support Convention Support Order Because the Order Is Incompatible With Public Policy**

The French Central Authority has requested a Michigan tribunal recognize and enforce a French support order. The debtor is a Michigan resident. Within 30 days of receiving notice of the proceedings, the debtor files a challenge to the recognition of the French order.

The debtor presents convincing evidence that the child was removed from the U.S. against his/her wishes, and the debtor reported the child was kidnapped by the creditor soon after the child left the U.S. Even though the French Central Authority views the order as a valid order and it follows French child support law, the Michigan tribunal can refuse to recognize the

order because it would be incompatible with public policy to enforce an order for a child who was kidnapped and taken outside of the U.S.

## 2.15 Modification of a Hague Child Support Convention Support Order

There are specific requirements that must be met for a Michigan tribunal to modify an international support order under The Hague Child Support Convention. If the debtor still resides in the foreign country that issued the order, a Michigan tribunal cannot modify the order unless:

- The debtor submits to Michigan jurisdiction by appearing in a Michigan proceeding without objecting to the jurisdiction at the first available opportunity to object; or
- The foreign tribunal that issued the order lacks or refuses to exercise jurisdiction to modify its support order or issue a new order.<sup>72</sup>

The Hague Child Support Convention allows a Hague Contracting State to modify an order issued by a non-Hague Contracting State.<sup>73</sup> If a Michigan tribunal is asked to modify an order issued by a non-Hague Contracting State, the modification rules under non-Hague international cases apply, but the procedure is still governed by The Hague Child Support Convention.<sup>74</sup> Michigan IV-D workers will follow Hague procedures with regard to application and communication requirements, but when the tribunal makes a determination as to whether to recognize and modify the order, Michigan IV-D workers will follow the rules outlined in Subsection 10, “Modification of an Order in an International Child Support Case,” of this manual section.

## 2.16 Foreign Support Agreements Under The Hague Child Support Convention

In some Hague Contracting States, the court will approve support agreements rather than a support order issued by a tribunal. These support agreements are binding and are treated much like a support order issued by a judge in Michigan.

### 2.16.1 Definition

A foreign support agreement is one that has a defined support obligation and is in a record<sup>75</sup> that:

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<sup>72</sup> MCL 552.2711(1)

<sup>73</sup> Hague Explanatory Report, paragraph 262

<sup>74</sup> Hague Explanatory Report, paragraph 263

<sup>75</sup> A record is “information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.” Ref: MCL 552.2102(t).

- A. Is enforceable as a support order in the issuing country;
- B. May be reviewed and modified by a foreign tribunal;<sup>76</sup> and
- C. Has been either:
  - 1. Formally drawn up or recognized as authenticated by a foreign tribunal; or
  - 2. Authenticated by, recognized, or filed with a foreign tribunal.

## 2.16.2 Enforcement

Foreign support agreements are fully enforceable under The Hague Child Support Convention, but are treated differently than foreign support orders in the following ways:

### A. Recognition of a Foreign Support Agreement

An application or direct request for recognition and enforcement of a foreign support agreement must be accompanied by the complete text of the agreement and a record stating that the foreign support agreement is fully enforceable as an order in the issuing country.<sup>77</sup>

### B. Challenging the Recognition of a Foreign Support Agreement

#### 1. Michigan Tribunal Refusing to Recognize on Its Own Order

A Michigan tribunal may refuse to recognize a foreign support agreement without a creditor contest, if it determines that recognition and enforcement of the foreign support agreement would be incompatible with public policy.<sup>78</sup>

#### 2. Defenses Available for the Respondent

The respondent can contest the recognition and enforcement of the foreign support agreement. The Michigan tribunal may refuse recognition and enforcement if it finds:

- a. Recognition and enforcement of the foreign support agreement would be incompatible with public policy;
- b. The agreement was obtained by fraud or falsification;
- c. The agreement is incompatible with a support order involving the same parties and having the same purpose as long as the support order is entitled to recognition and enforcement; or

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<sup>76</sup> MCL 552.2701(f)

<sup>77</sup> MCL 552.2710(2)

<sup>78</sup> MCL 552.2710(3)



- d. The application submitted for recognition of the support agreement lacks authenticity and/or integrity.<sup>79</sup>

## 2.17 Family Violence

At the end of all the recommended Hague Child Support Convention forms is a page titled *Restricted Information on the Applicant*. This is similar to the *Child Support Agency Confidential Information Form* in the standard intergovernmental forms used in a non-Hague intergovernmental case.<sup>80</sup> Whenever a case is flagged for family violence and coded for information to be suppressed, the Michigan IV-D worker must complete this page and send it to the Central Authority of the requested Hague Contracting State.

When a Michigan IV-D worker receives an application under The Hague Child Support Convention accompanied by the *Restricted Information on the Applicant* page, the personal information of the applicant must not be disclosed or confirmed for the protection of the health, safety, and/or liberty of a party to the case.

The Hague Child Support Convention does not require any supporting documentation with the *Restricted Information on the Applicant* page. There are very limited circumstances where the requested Central Authority can refuse to honor the determination that information is to be suppressed.

There may be instances where the laws of a country require an address to be included in the application. If a requested Central Authority indicates an address is required, the Michigan IV-D worker will submit the address of the Michigan tribunal as an “in care of” address or an alternate address provided by the creditor. If a personal address is required by the law of the requested country, the IV-D worker will consult with the applicant, and the applicant can choose to submit a personal address or refrain from pursuing the application.<sup>81</sup> Even if the address is required to be submitted to the Central Authority or a competent authority, the Michigan IV-D worker will include in communications that this information must not be disclosed to the respondent because it would cause danger to the applicant.

Michigan IV-D workers who receive or send an application that includes a *Restricted Information on the Applicant* page must verify the *Family Violence Indicator* field in MiCSES is set to “Yes.” In the *Family Violence CD* field on the *Member Demographics (DEMO)* screen, the family violence code will be set to

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<sup>79</sup> MCL 552.2710(4)

<sup>80</sup> Ref: Section 7.01 of the *Michigan IV-D Child Support Manual* for information on UIFSA forms.

<sup>81</sup> Hague Explanatory Report, paragraph 612

“FW – Foreign Personal Protection Order with confidential address” to ensure the information is suppressed.<sup>82</sup>

## 2.18 Signature of the Authorized Representative of the Central Authority

Applications under The Hague Child Support Convention are not signed under penalty of perjury like typical UIFSA forms. A signature from the authorized representative of the Central Authority is required. The signature of the authorized representative of the Central Authority attests that:

- The application complies with The Hague Child Support Convention requirements;<sup>83</sup>
- The application and accompanying documents are the same as those that the applicant provided to the requesting Central Authority; and
- The applicant has consented to the forwarding of the application to the requested Central Authority.

Michigan IV-D workers are authorized representatives who can sign Hague Child Support Convention forms and all parts of the application that require a signature prior to sending the application to the requested Central Authority.<sup>84</sup>

## 3. Countries With Reciprocal Agreements

The U.S. government has the power to form agreements with foreign jurisdictions for the purposes of support enforcement.<sup>85</sup> These agreements are called “foreign reciprocal agreements,” and the foreign jurisdictions that form these agreements with the U.S. are known as “foreign reciprocating countries (FRCs).” Reciprocal agreements establish procedures under which residents of the U.S. and the FRC can establish parentage and establish and enforce support orders over their respective residents. Cases handled under a reciprocal agreement are IV-D cases and have no fees for costs or services charged to a party for bringing a case in the U.S.<sup>86</sup>

States are also given the power to set up reciprocal agreements with foreign jurisdictions.<sup>87</sup> The Office of Child Support (OCS) with the help of OCSE and/or the Michigan Attorney General and the Michigan Department of Health and Human Services (MDHHS) may consider approaching a foreign government regarding the

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<sup>82</sup> Ref: [IV-D Memorandum 2017-020, Updates to Family Violence Functionality](#), and [IV-D Memorandum 2009-017, REVISED: Family Violence Indicator \(FVI\) Enhancement](#), for more information on the family violence indicator.

<sup>83</sup> Hague Child Support Convention Article 12

<sup>84</sup> MCL 552.2704(1)

<sup>85</sup> The U.S. will seek out agreements only with countries that are not members of The Hague Child Support Convention because international treaties override agency agreements. Ref: Subsection 2 of this manual section for information about The Hague Child Support Convention.

<sup>86</sup> MCL 552.2313(1)

<sup>87</sup> MCL 552.2308(2)

establishment of a reciprocal agreement. A state reciprocal agreement is appropriate when there is an identified need to take action for or against a citizen of that nation, and that nation's body of family law is determined to be reasonably similar to Michigan state law. IV-D staff are encouraged to contact the Michigan ICR when they are required to work with a foreign nation that has no reciprocal agreement with the federal government or Michigan, or is not a Hague Contracting State.

### 3.1 Federal Reciprocal Agreements

In 1996, Congress passed the Personal Responsibility and Work Opportunity Act (PRWORA).<sup>88</sup> This legislation contained many changes to the child support program, one of which allowed the State Department to declare a country as an FRC if it met certain requirements.

In order for the U.S. to establish a country as an FRC, that country must have in effect procedures available to U.S. residents for the establishment of parentage, the establishment and enforcement of support orders for children and custodial parties (CPs), and the collection and distribution of support.

OCSE is the "Central Authority" as required by PRWORA.<sup>89</sup> As part of its requirements as the central authority, OCSE maintains a list of FRCs on its website. It develops country-specific profiles and provides case processing materials for each country. For information on processing a case with an FRC, visit [OCSE's International Page on FRC Caseworker Guides](#).<sup>90</sup>

If a IV-D case is opened under a federal reciprocal agreement between the U.S. government and a foreign country, and that country is or becomes a Hague Contracting State, IV-D staff will continue operating under the agreement until a major case action<sup>91</sup> is needed on the case. IV-D staff will use The Hague Child Support Convention procedures to execute the major case action and all case events going forward.

### 3.2 State Reciprocal Agreements

Michigan has the authority to establish reciprocal agreements with foreign countries and Canadian provinces.<sup>92</sup> These countries and provinces are referred to as State Reciprocating Countries (SRCs). State reciprocal

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<sup>88</sup> Public Law 104-193

<sup>89</sup> Central Authorities in FRCs and as defined by The Hague Child Support Convention are slightly different. Ref: Subsection 2.3 of this manual section for more information on the Central Authority as defined by The Hague Child Support Convention.

<sup>90</sup> Some bilingual forms are also available.

<sup>91</sup> A major case action is something that changes the course of action on a case. Examples include establishment of an order, modification, registration for enforcement, case closure, etc. OCSE has not defined what a major case action is, but it is interpreted as anything that would require a new application under The Hague Child Support Convention.

<sup>92</sup> MCL 552.2308(2)

agreements are limited in scope and will be relied on as a last resort. Michigan has agreements with:

- Austria;
- Canadian province of Quebec;
- Canadian province of Prince Edward Island;
- France;
- Germany; and
- Sweden.

If a IV-D case is opened under a state reciprocal agreement between Michigan and a foreign country, and that country is or becomes a Hague Contracting State, IV-D staff will continue operating under the agreement until a major case action is taken on the case. IV-D staff will use The Hague Child Support Convention procedures to execute the major case action and will use The Hague Child Support Convention rules and procedures for all case events going forward.

IV-D workers will rarely use state reciprocating agreements to facilitate an international IV-D case. New IV-D cases will be processed using a federal reciprocating agreement or The Hague Child Support Convention whenever possible.

### 3.3 Timeframes in Cases Involving Foreign Countries With Reciprocal Agreements

Michigan IV-D workers must treat requests for assistance from foreign and state reciprocating countries the same as requests from other states with regard to timeframes and deadlines.<sup>93</sup> However, because the actions of the FRCs are not governed by U.S. federal or state law, they are not held to these timeframes. Michigan IV-D workers will allow sufficient time for communication and case processing, particularly where translation is needed, and they will not close a case until it is clear the recipient of communications is not responsive.

## 4. Determining What Rules to Apply When Dealing With an International Case

When dealing with an international case, Michigan IV-D workers need to determine which set of rules applies. This will depend on when the Michigan IV-D case is/was opened, where the foreign party resides, and/or where the foreign order was entered. The Michigan IV-D worker will proceed differently depending on whether the jurisdiction is a “foreign country” as defined by UIFSA,<sup>94</sup> and, if so, what classification of a foreign country the jurisdiction falls under. If a jurisdiction outside the U.S. is not a foreign country as defined by UIFSA, there are other options to consider.

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<sup>93</sup> Ref: Section 7.10 in the *Michigan IV-D Child Support Manual* for federal and state timeframes.

<sup>94</sup> Ref: Subsection 1, “Overview: International Support Cases,” of this manual section for more information on properly classifying a country outside of the U.S.

#### 4.1 Cases Involving Foreign Countries As Defined by UIFSA

If the Michigan IV-D worker determines a IV-D case is an intergovernmental case involving a country outside the U.S., the IV-D worker will follow these guidelines to determine what rules apply:

##### 4.1.1 Hague Child Support Convention Countries

If another jurisdiction involved in a support case is a Hague Contracting State of The Hague Child Support Convention, the following rules apply:<sup>95</sup>

- A. If both countries are Hague Contracting States to The Hague Child Support Convention when the case is opened, the case will be processed under the rules for processing Hague Child Support Convention cases;
- B. If the Hague Contracting State is also an FRC or SRC and there is already an open support case being enforced under the reciprocal agreement, the case will continue to be processed under the rules set forth in the reciprocal agreement; and
- C. If there is a major case action while the case is operating under the reciprocal agreement and both the U.S. and the FRC are now Hague Contracting States, the major case action and all other case events going forward will be processed using the rules and procedures set forth in The Hague Child Support Convention.<sup>96</sup>

##### 4.1.2 Federal Reciprocal Agreement Is in Place

If another jurisdiction involved in the support case is an FRC, the following rules apply:

- A. If the case is opened when the country is also a Hague Contracting State of The Hague Child Support Convention, the case will be processed under The Hague Child Support Convention procedures;
- B. If the FRC is not a Hague Contracting State or the IV-D case was opened before the FRC or the U.S. was bound by The Hague Child Support Convention, the case will be processed under the country-

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<sup>95</sup> The U.S. became a Hague Contracting State on January 1, 2017.

<sup>96</sup> Ref: IV-D Memorandum 2016-040.

specific rules found in the federal OCSE FRC Caseworker Guides;<sup>97</sup>  
and

- C. If there is a major case action<sup>98</sup> while the case is operating under the reciprocal agreement, and both the U.S. and the FRC are now Hague Contracting States of The Hague Child Support Convention, the major case action and all other case events going forward will be processed under The Hague Child Support Convention procedures.<sup>99</sup>

#### 4.1.3 State Reciprocal Agreement Is in Place

If the other jurisdiction involved in the support case is an SRC, the following rules apply:

- A. If the IV-D case is opened when the SRC is also a Hague Contracting State of The Hague Child Support Convention, the case will be processed under Hague Child Support Convention procedures;
- B. If the IV-D case is opened when either the U.S. or the SRC is not a Hague Contracting State, the case will be processed under the procedures defined by the reciprocal agreement; and
- C. If there is a major case action while the case is operating under the reciprocal agreement and both the U.S. and the SRC are now Hague Contracting States of The Hague Child Support Convention, the major case action and all other case events going forward will be processed under The Hague Child Support Convention procedures.<sup>100</sup>

#### 4.1.4 Countries With Rules Substantially Similar to UIFSA

There may be an argument that a Michigan tribunal should register a foreign support order issued by a country that is not an FRC, SRC, or Hague Contracting State for enforcement because the issuing country has rules and procedures that are substantially similar to those of the U.S. A judge or referee in the FOC office will make this determination after reviewing the issuing country's support laws. If the judge or referee determines the other country in question has laws and procedures that are substantially similar to UIFSA, the case will be processed like a case with an FRC. Because there is not an OCSE FRC Caseworker Guide that determines what documents are needed, Michigan IV-D workers will process the case as closely to a standard intergovernmental case as

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<sup>97</sup> Ref: Subsection 3.1 of this manual section for a link to the OCSE FRC Caseworker Guides.

<sup>98</sup> Ref: Subsection 3.1 of this manual section for information on major case actions.

<sup>99</sup> Ref: IV-D Memorandum 2016-040.

<sup>100</sup> Ref: IV-D Memorandum 2016-040.

possible. The Michigan IV-D worker may have to work with the caseworker in the other country to determine what documents are needed and, if necessary, what documents need translation.

If there is a major case action after the case is opened and both the U.S. and the foreign country are now Hague Contracting States of The Hague Child Support Convention, the major case action and all other case events going forward will be processed using the rules and procedures required by The Hague Child Support Convention.<sup>101</sup>

**Example 10: Processing a Case Already Opened Before the U.S. Was Bound by The Hague Child Support Convention**

In 2012, Ireland asked a Michigan tribunal to establish an order for a case where the CP lived in Ireland and the NCP lived in Michigan. The case was processed and established using the procedures outlined in the OCSE FRC Caseworker Guide for cases with Ireland and was enforced without issue.

Ireland and the U.S. became Hague Contracting States on August 1, 2014, and January 1, 2017, respectively. In 2017, the NCP (now debtor) requests modification of the order because he is now disabled and unable to work. The Michigan IV-D worker in the FOC office prepares the request for modification on The Hague Child Support Convention forms in Annex D because modification of a support order is considered a major case action. The Michigan IV-D worker reviews Ireland's Country Profile with The Hague Child Support Convention to make sure all required documents are included in the application. The Michigan IV-D worker will send the completed application for modification to the Central Authority for Ireland. The case will be processed under The Hague Child Support Convention going forward, and the FRC procedures will no longer apply.

**Example 11: Continuing to Process a Case Under an FRC After Both Countries Are Contracting States to The Hague Child Support Convention**

In 2012, Ireland asked a Michigan tribunal to establish an order for a case where the CP lived in Ireland and the NCP lived in Ingham County. The case was processed and established in Ingham County using the procedures outlined in the OCSE FRC Caseworker Guide for cases with Ireland, and was enforced without issue.

The Hague Child Support Convention became effective in Ireland on August 1, 2014, and in the U.S. on January 1, 2017. In 2017, the NCP moves to Bay County. The FOC worker in Ingham County sends the case to Bay County with the permission of the court using the MiCSES *Case Reassignment* (CRAS) screen. The Michigan IV-D worker in Ingham County sends the updated address to the caseworker in Ireland using the procedures outlined in the OCSE FRC Caseworker Guide for cases with

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<sup>101</sup> Ref: IV-D Memorandum 2016-040.

Ireland. The case will continue to be processed using the FRC procedures even though both the U.S. and Ireland are now Hague Contracting States. It would not be a major case action to change an address that does not require an order to be registered in a new jurisdiction.

## 4.2 Cases Involving Non-UIFSA Countries

When an intergovernmental case involves a country that does not meet the UIFSA definition of a foreign country,<sup>102</sup> the Michigan tribunal may refuse to offer services.<sup>103</sup> The goal will be to offer IV-D services whenever possible, but Michigan IV-D workers will encounter instances where there are no legal options for enforcement. Michigan IV-D workers will review cases involving non-UIFSA countries. They will proceed if Michigan can exercise jurisdiction for establishment and/or enforcement and has adequate communication with the child support agency in the other country. IV-D workers will request that all transmittals be submitted to the ICR on UIFSA forms.

A foreign support order that a non-UIFSA country issued may be enforced through the principle of comity, if appropriate.<sup>104</sup> If the order does not fit the requirements for comity, the Michigan IV-D office will have to establish its own order for enforcement. If there is not an existing order and Michigan cannot exercise long-arm jurisdiction over all the parties, an order cannot be established, but Michigan IV-D workers can try to work with the other country, if possible.

There may be some circumstances where IV-D services cannot be offered. If a IV-D worker determines IV-D services cannot be offered, the Michigan IV-D worker will close the case using the case closure reason code “WF – NCP in a Foreign Country” and enter a detailed note on the MiCSES *Notes Processor* (NOTE) screen.<sup>105</sup>

If the other country becomes a Hague Contracting State while the case is ongoing, all case events after that point will be processed using the rules and procedures set forth in Articles 1-7 of UIFSA and The Hague Child Support Convention.

## 4.3 Determining What Law Applies to the Support Order

The law of the issuing government covers the terms of the order. This includes how much is owed, how the payments are disbursed, the duration of the

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<sup>102</sup> Ref: Subsection 1, “Overview: International Support Cases,” of this manual section for more information on properly classifying a country outside of the United States.

<sup>103</sup> MCL 552.2307(2)(c)

<sup>104</sup> Ref: Subsection 11 in this manual section for information about comity.

<sup>105</sup> Ref: [Section 3.50, “Case Closure,” of the Michigan IV-D Child Support Manual.](#)



obligation, and when the obligation is satisfied.<sup>106</sup> A Michigan tribunal cannot modify the terms of an international support order if the order was issued by another state within the U.S.<sup>107</sup>

Note: An order from another country may have a much longer duration than any state in the U.S. would allow. The Michigan FOC must enforce an international order for the stated duration as long as it is not in violation of the laws of the issuing jurisdiction.

If a Michigan tribunal can assume continuing, exclusive jurisdiction (CEJ),<sup>108</sup> Michigan rules will govern the modification of the order. Modifiable portions of the order will be modified under Michigan law as if the order were issued by a Michigan court.

Note: Most of the time, a Michigan order modified in another country will be modified using the laws of that jurisdiction. Some countries will apply Michigan law, while others will apply only their own laws and may modify terms such as the emancipation date.

## 5. Forms in International Child Support Cases

Different forms may be needed, depending on what type of international case is processed.

### 5.1 Foreign Reciprocating Country (FRC) Cases

Michigan IV-D workers are required to use UIFSA forms when sending cases to an FRC unless the country has provided alternate forms. IV-D staff will check the OCSE FRC Caseworker Guides<sup>109</sup> for the FRC involved before initiating or responding to a case to see if alternate or extra forms are required. If OCSE has not provided guidance for what documents are needed, IV-D staff will use the UIFSA forms for an intergovernmental case with translations where applicable.

FRCs are not required to use UIFSA forms. Many FRCs use similar forms and have worked with OCSE in developing the procedures to process an international support case. Michigan IV-D workers will be as flexible as possible in providing any requested documentation.

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<sup>106</sup> MCL 552.2604

<sup>107</sup> Ref: Section 7.01 in the *Michigan IV-D Child Support Manual* for more information on determining the governing law.

<sup>108</sup> Ref: Section 7.01 in the *Michigan IV-D Child Support Manual* for more information on CEJ.

<sup>109</sup> Ref: Subsection 3.1 of this manual section for a link to the OCSE FRC Caseworker Guides.

## 5.2 Hague Child Support Convention Cases

The Hague has its own forms to use when working a Hague Child Support Convention case. There are mandatory and recommended forms. Hague Child Support Convention forms are referred to as Annexes.

Reference IV-D Memorandum 2016-040 for a list of The Hague Child Convention forms and links for accessing them.

## 5.3 Forms Used for Cases With a Non-UIFSA Country

If a case goes forward with a non-UIFSA country, Michigan IV-D workers are bound by the requirements laid out in UIFSA as much as applicable to the situation. UIFSA forms will be used when possible. Michigan IV-D workers will process the IV-D case as close to a case with a UIFSA-defined foreign country as possible. The Michigan IV-D worker will use his/her best judgment in proceeding with an international case with a non-UIFSA country and will contact the ICR for any guidance needed.

## 6. Electronic Transmission and Communication

UIFSA encourages tribunals and parties to take advantage of modern methods of communication. It authorizes the transmission of documents from outside the state by telephone, fax machine, or other electronic means. UIFSA requires tribunals to allow nonresident witnesses or parties to testify by telephone, audiovisual means, or other electronic means.

When IV-D workers communicate electronically, they will refer to [Section 1.10, "Confidentiality/Security," of the Michigan IV-D Child Support Manual](#) and ensure all encryption requirements are met.

## 7. Notarization

UIFSA allows for documents to be signed under penalty of perjury rather than requiring a person to swear under oath before a notary. Further, many foreign jurisdictions do not have notaries, and if they do, these services can be cost-prohibitive. It is acceptable for documents to be signed under penalty of perjury. It is also acceptable to have a signature witnessed before an official authorized to administer an oath. If there is any question about the validity of a form or document, IV-D staff will contact the ICR for clarification. Michigan IV-D workers must never request that a document be notarized by a country outside the U.S. as a requirement for IV-D services.

## 8. DHS-1201 Applications From Individuals Outside of the U.S.

There is no residency requirement for an individual to submit a DHS-1201 application for IV-D services. A resident of another country does not have to go through his/her respective country's Central Authority to pursue a child support case.<sup>110</sup> The IV-D applicant can apply directly for services in a Michigan jurisdiction. UIFSA provisions for registering a foreign support order<sup>111</sup> and special rules for evidence<sup>112</sup> and procedures apply.

For a Hague Child Support Convention-eligible case, Michigan IV-D workers will recommend the applicant go through the Central Authority of his/her resident country so the applicant can get the full protections the Convention provides. Direct requests to a tribunal are not covered by The Hague Child Support Convention. If it is not possible for the applicant to go through the Central Authority of his/her resident country, Michigan IV-D workers will default to offering services and will allow the order to be registered when possible.

## 9. Personal Jurisdiction

Most other countries have personal jurisdiction laws that differ from the rules governing long-arm jurisdiction laid out in UIFSA and required by the U.S. Constitution.<sup>113</sup> Countries may base personal jurisdiction on the residence of the child or his/her habitual residence. Jurisdiction in the U.S. is based on minimum contacts with the tribunal that seeks to assert control, even when enforcing another jurisdiction's order.<sup>114</sup>

An order from a reciprocating country must be registered, even if the jurisdiction under its law does not appear to meet the constitutional requirements of personal jurisdiction of notice and the opportunity to be heard. The responding party can challenge the jurisdiction after the order is registered. If more facts about the establishment of jurisdiction are needed, IV-D staff will contact the initiating agency, or, in the case of a DHS-1201 application filled out by an applicant residing in a country outside the U.S., IV-D staff will contact the applicant.

## 10. Modification of an Order in an International Child Support Case

Generally, under UIFSA, as long as one of the parties or the child resides in the order-issuing state, modification of the order must be done by the issuing state. If all

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<sup>110</sup> Ref: [OCSE Policy Interpretation Question \(PIQ\) 99-01, Direct Application for Title IV-D Services from International Residents.](#)

<sup>111</sup> MCL 552.2601

<sup>112</sup> MCL 552.2316

<sup>113</sup> MCL 552.2201; Ref: Section 7.01 in the *Michigan IV-D Child Support Manual* for information on long-arm jurisdiction.

<sup>114</sup> *Kulko v. Superior Court*, 436 U.S. 84 (1976)

parties have left the issuing state, the tribunal of the non-requesting party will have CEJ to modify the order.<sup>115</sup>

## 10.1 Exceptions to General CEJ Rules for International Support Orders

There are three exceptions to the general CEJ rules that are applicable when dealing with an international support order:

### 10.1.1 Consent to CEJ

If the CP, NCP, and child all move out of Michigan, Michigan can retain CEJ if the parties consent in a record or in open court to allow Michigan to modify the support order.<sup>116</sup>

### 10.1.2 One Party Moves Outside the U.S.

The issuing state can retain jurisdiction to modify an order if one party resides in another state as defined by UIFSA<sup>117</sup> and the other party moves to a location outside the U.S.<sup>118</sup>

### 10.1.3 Issuing Country Lacks or Refuses to Exercise Jurisdiction

If an issuing country outside of the U.S. lacks or refuses to exercise jurisdiction to modify its order, Michigan can assume CEJ and bind all parties who are subject to long-arm jurisdiction. This exception does not apply to an order issued by a Hague country. Michigan IV-D workers will communicate with the issuing jurisdiction and determine the reasons for the refusal to modify the order. Michigan will assume jurisdiction only after a Michigan tribunal determines that the reasons for refusal do not prevent a Michigan tribunal from modifying the order.<sup>119</sup>

## 10.2 Modification of a Michigan Order in a Foreign Country

A jurisdiction outside the U.S. may modify a Michigan order. If a Michigan IV-D worker is made aware of such a modification, (s)he will contact the jurisdiction and attempt to gather the information that was used to support the modification. A Michigan court will then have to modify the Michigan order so it will be enforceable as modified. The Michigan order will be modified as closely to the

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<sup>115</sup> Ref: Section 7.01 in the *Michigan IV-D Child Support Manual* for more information on CEJ.

<sup>116</sup> MCL 552.2205(1)(b)

<sup>117</sup> A state includes any state of the U.S., the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or any territory or insular possession subject to the jurisdiction of the U.S. "State" includes an Indian nation or tribe. MCL 552.2102(z)

<sup>118</sup> MCL 552.2611(6)

<sup>119</sup> MCL 552.2615

foreign modified order as possible. Both orders will likely be slightly different, but the differences will be lessened to the greatest extent possible.

## 11. Recognizing a Foreign Support Order Through Comity

An order that was issued by a non-UIFSA country and has no other basis for recognition can be recognized and enforced under the principle of comity.<sup>120</sup> Comity allows for the recognition of an order from a jurisdiction outside the U.S. if the parties have received a fair hearing on the merits of the case and have had an opportunity to appear in court.

To recognize an order through comity, there is a hearing after the order is registered. The Michigan IV-D worker will always register international orders, even those from non-UIFSA countries. If Michigan does not have jurisdiction to enforce the order, the party seeking registration of the order must argue for recognition under comity in front of the judge or referee if (s)he wants to proceed.

A support order will have a combination of the following features to be recognized under comity:

- The order was entered after a fair and full trial;
- The issuing court had jurisdiction over the parties that would not violate U.S. due process;<sup>121</sup>
- All parties appeared or had sufficient opportunity to appear in court;
- The issuing court set forth a system of jurisprudence likely to secure an impartial administration of justice; and
- There is nothing to suggest that the outcome was due to fraud.

There is no requirement to recognize an order under the principle of comity. A jurisdiction may refuse to recognize the order even after a showing of the above-mentioned features. The opposing party can argue reasons as to why the order should not be recognized, and if the court finds those reasons compelling, it could deny the recognition and enforcement of the order. If an order is recognized through comity, Michigan IV-D workers will process the case as closely to a standard intergovernmental case as possible. The Michigan IV-D worker may have to work with the caseworker in the other country to determine what documents are needed and, if necessary, what documents need translation.<sup>122</sup>

## 12. Health Care Costs

Many foreign jurisdictions have socialized health care and may have a standard rate for the health care of the child. To establish and enforce health care costs over a

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<sup>120</sup> *Gaudreau v. Kelly*, 298 Mich App 148 (2012)

<sup>121</sup> Ref: Subsection 9 in this manual section for information about personal jurisdiction and due process.

<sup>122</sup> Ref: [OCSE Informational Memorandum \(IM\)-16-02, 2008 Revisions to the Uniform Interstate Family Support Act.](#)

child in the U.S., the party must request a specific dollar amount for health care. The Michigan IV-D worker must get documentation justifying the amount requested when preparing the order.

### **13. Emancipation**

The law of the issuing jurisdiction determines the duration of support.<sup>123</sup> Some countries have an indeterminate duration, meaning the issuing court has to decide when support ends. If an order is registered in Michigan and does not have an emancipation date, the Michigan IV-D worker may contact the issuing jurisdiction to see if it will modify its order to include an emancipation date. If not, Michigan will continue to enforce the order until the issuing court rules that the obligation of support has ended.

### **14. Translations**

Any documents or correspondence to be used in court must be translated by a certified translator, unless the other country prefers documents in English. Correspondence will be translated as well, but correspondence outside of official court documents and filings does not need to be translated by a certified translator. The costs of translating documents are incurred to the transmitting tribunal and are reimbursable through the IV-D program.<sup>124</sup>

For Hague Child Support Convention rules on the translation of documents, reference Subsection 2.11, “Translation of Documents and Communications,” of this manual section.

Reference Subsection 3.1 of this manual section for a link to the OCSE FRC Caseworker Guides.

Michigan IV-D workers will work with child support programs in other countries that are not FRCs, SRCs, or Hague Contracting States in determining what documentation needs to be translated. Translation will not prevent the receipt of services, so any time a translation is required by another country, Michigan IV-D workers will have documents translated.

### **15. Documentation Not Otherwise Required by UIFSA**

A country outside of the U.S. may provide to or request from Michigan documents that are not normally issued or are never issued in a U.S. support case. Supplying documentation that is not required by UIFSA procedures is appropriate in international child support cases.<sup>125</sup> Different countries require different procedures in support cases, and UIFSA requires that requested documentation be provided to

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<sup>123</sup> MCL 552.2604(1)

<sup>124</sup> Hague Child Support Convention Articles 44 and 45

<sup>125</sup> MCL 552.2603(2)

foreign tribunals. Michigan IV-D workers will comply with any and all requests made by a country outside the U.S. to the greatest extent possible.

A provisional order is an example of a document that is not required by UIFSA. Provisional orders set forth the facts of the case as alleged by the requesting party. The initiating tribunal issues the provisional order to the responding tribunal who confirms the order if the tribunal finds it accurate. Once confirmed, the provisional order will become a standard support order. The responding tribunal may disagree and establish an order that is different than the provisional order.<sup>126</sup>

## 16. Currency Conversion

In both issuing and responding international cases, the currency type paid by the obligor may not match that required by the country where the obligee resides. There is no federal statute, policy, or guidance on how funds are converted or what date to apply to the conversion. It is up to each Michigan tribunal to develop its own practice to maintain conversion rates.

When registering or recognizing a foreign order in a foreign currency in a Hague Child Support Convention case, Michigan IV-D workers will add to the registration statement currency conversion language that states the U.S. dollar equivalent as of the registration date. Michigan IV-D workers will make a case note on the MiCSES NOTE screen of the currency conversion used.

### **Example 12: Registration Language for Currency Conversion**

A Michigan IV-D worker receives an *Application for Recognition and Enforcement* from Spain on October 1, 2017. The support amount owed is listed as 550.00 Euros (€) per month. The support order is registered in the Michigan tribunal on November 28, 2017. Prior to the registration, the Michigan IV-D worker conducts a currency conversion and sees that as of November 28, 2017, 550.00€ is the equivalent to \$651.91 as of the date of conversion.

The Michigan IV-D worker includes the following language in the registration statement:

“The amount of the current support and/or alleged arrears is 550.00€ per month as of October 1, 2017, which is the U.S. equivalent of \$651.91 as of November 28, 2017.”

Providing conversions does not modify the order or the actual amount owed, and using a conversion rate in a registration statement and/or a notice of obligation does not set the conversion rate for the duration of the case. The order-issuing country

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<sup>126</sup> Canada uses provisional orders in its child support procedures.

will be considered the official record keeper. Michigan IV-D workers will establish a schedule of how often conversions will occur to be sure the support paid is as close to the actual obligation as possible with the foreign currency.

Michigan IV-D workers will inform Michigan residents/obligors that their payment in U.S. dollars will likely not match the actual payment required by the order exactly if the obligation on the order is in a foreign currency, and penalties may come from inadvertent underpayment due to currency conversion. In the least, Michigan IV-D workers will update currency conversion rates when requested by the obligor, obligee, or the initiating jurisdiction. Whenever conversion rates are updated, the Michigan IV-D worker will notify the obligor of the new conversion rate and remind him/her that conversion rates, while reliable at the time the conversion is made, are fluid and fluctuate with the market.

When a currency conversion is made, a new income withholding order (IWO) must be issued. The IWO will reflect only the most current converted U.S. dollar amount.

## **17. Dates and Times**

Michigan IV-D workers will spell out dates in a way that is not confusing or ambiguous for jurisdictions outside the U.S. For instance, the standard shorthand for May 10, 2016 in the U.S. would be 05/10/2016. However, many other countries put the day first in their shorthand, making 05/10/2016 mean October 5, 2016. Michigan IV-D workers will spell out the entire date on every document in an international support case. The month will be spelled out fully, followed by the numeric day, then the numeric four-digit year with a comma in between the day and the year. For example: May 10, 2016.

If the date is ambiguous in a document received from a foreign jurisdiction, the Michigan IV-D worker will contact the foreign tribunal for clarification.

Michigan IV-D workers will take into consideration time differences when scheduling hearings and/or appearances by an individual who lives in a jurisdiction outside the U.S. Whenever possible, appointments will be scheduled when the international attendee can appear electronically during the time when the Michigan office is open and during, or as close to, normal business hours in the international location. If a time during business hours in both locations is not available, the Michigan tribunal will schedule the hearing and/or appearance as close to the business hours of the other jurisdiction as possible. The tribunal where the hearing and/or appearance occurs will determine the time of the proceedings.

## **18. Service of Process**

Service of process of an individual in a jurisdiction outside the U.S. is governed by both the laws of the jurisdiction in which the action is filed and the laws of the jurisdiction in which the individual is to be served. If service is ineffective and/or



improper, the order will be void and will not be enforced in the foreign jurisdiction in question, even if the individual has actual notice. A Michigan IV-D worker will ensure the methods used for service of process are acceptable within Michigan and also within the country in which the individual is being served.

### 18.1 Michigan Court Rules

Michigan courts are bound by the Michigan Court Rules as to what is acceptable service of process.<sup>127</sup>

### 18.2 Country-Specific Service of Process Rules

Different countries have different rules regarding service of process. For more information about country-specific service of process rules, reference the [Department of State website on International Service of Process](#).

Note: There is a Hague Convention that deals specifically with service of process. [The Hague Service of Process Convention](#) is a different treaty than The Hague Child Support Convention treaty that deals with support cases. A Michigan IV-D worker may have to use the Hague Convention on service in addition to the Hague Convention on support cases, so Michigan IV-D workers will keep the signatory countries of each separate. For example, China (the People's Republic of China) is a signatory on The Hague Service of Process Convention, but is not a signatory on The Hague Child Support Convention.

## 19. Obtaining Evidence From Jurisdictions Outside the U.S.

Michigan IV-D workers will do what they can to protect foreign parties from unnecessary and/or overly burdensome discovery that might place them in a harmful or unjust position.<sup>128</sup> For example, obtaining documents from a country at war may be dangerous or even impossible. Just because the court has the power to order the party to produce evidence does not mean it must do so in all cases. Evidence can be difficult or impossible to obtain in some cases, so Michigan IV-D workers will be flexible.

When international discovery is mandatory for the case, judges will supervise pre-hearing proceedings closely to prevent abuses and carefully consider objections to international discovery motions.

For country-specific rules on international discovery, see the [Department of State International Judicial Assistance](#) website.

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<sup>127</sup> Michigan Court Rule (MCR) 2.105; MCR 3.203; Ref: [Section 4.15, "Service of Process \(SOP\)," in the Michigan IV-D Child Support Manual](#).

<sup>128</sup> *Societe Nationale v. District Court*, 482 US 522 (1987)

## 20. International Child Abduction

Michigan IV-D workers may encounter a situation where the custody of a child is in dispute or a claim that a child has been wrongfully taken to a foreign jurisdiction. This complaint may come from a Michigan resident whose child is located in a foreign jurisdiction, or an individual in a foreign jurisdiction whose child is located in Michigan. Cases that may invoke international child abduction treaties are sensitive diplomatic issues and IV-D staff will contact the ICR. If necessary, OCS will contact the federal OCSE and/or the Department of State for assistance.

### SUPPORTING REFERENCES:

#### Federal

*The Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance*

Hague Child Support Convention Article 4  
Hague Child Support Convention Article 5  
Hague Child Support Convention Article 6(1)  
Hague Child Support Convention Article 6(2)  
Hague Child Support Convention Article 7  
Hague Child Support Convention Article 9  
Hague Child Support Convention Article 10  
Hague Child Support Convention Article 10(1)  
Hague Child Support Convention Article 10(2)  
Hague Child Support Convention Article 12  
Hague Child Support Convention Article 12(4)  
Hague Child Support Convention Article 12(8)  
Hague Child Support Convention Article 23(3)  
Hague Child Support Convention Article 44  
Hague Child Support Convention Article 44(1)  
Hague Child Support Convention Article 44(3)  
Hague Child Support Convention Article 45  
Hague Child Support Convention Article 62

Public Law 104-193

45 CFR 303.7(b)(2)(iii)

45 CFR 303.7(b)(3)

45 CFR 303.7(d)(2)(iii)

*Kulko v. Superior Court*, 436 U.S. 84 (1976)  
*Societe Nationale v. District Court*, 482 US 522 (1987)

Hague Explanatory Report, paragraph 275

Hague Explanatory Report, paragraph 478

Hague Explanatory Report, paragraph 479  
Hague Explanatory Report, paragraph 262  
Hague Explanatory Report, paragraph 263  
Hague Explanatory Report, paragraph 612

OCSE IM-16-02

OCSE PIQ 99-01

State

MCL 552.2101-552.2905

MCL 552.2105

MCL 552.2102(f)

MCL 552.2102(t)

MCL 552.2102(z)

MCL 552.2105

MCL 552.2201

MCL 552.2205(1)(b)

MCL 552.2307(1)

MCL 552.2307(1)(b)

MCL 552.2307(1)(c)

MCL 552.2307(2)(c)

MCL 552.2308(2)

MCL 552.2313(1)

MCL 552.2316

MCL 552.2601

MCL 552.2604

MCL 552.2604(1)

MCL 552.2603(2)

MCL 552.2611(6)

MCL 552.2615

MCL 552.2706(2)(a)

MCL 552.2701(f)

MCL 552.2704(1)

MCL 552.2707(2)

MCL 552.2707(3)

MCL 552.2707(5)

MCL 552.2708(3)

MCL 552.2708(3)(b)

MCL 552.2710(2)-(4)

MCL 552.2711(1)

MCR 2.105

MCR 3.203

*Gaudreau v. Kelly, 298 Mich App 148 (2012)*

**REVISION HISTORY:**

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