

# Good Practices for Caseworkers

Recovery of Maintenance in the  
European Union and Worldwide  
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## Answers to Your Frequently Asked Questions

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# Overview

- Forms
- Verification of forms and documents
- Evidence
- Translation
- Enforcement in the U.S. – personal jurisdiction

# Forms

- U.S. caseworkers use forms for all interjurisdictional cases and expect forms from our international partners
  - OCSE web site: [www.acf.hhs.gov/programs/css](http://www.acf.hhs.gov/programs/css)
    - Regular forms used by U.S. Caseworkers
    - Bilingual forms developed for use with reciprocating jurisdictions
  - NCSEA web site: [www.ncsea.org](http://www.ncsea.org)

# On the other hand.....

- Foreign applications are not required to be on the UIFSA forms
  - See 45 CFR 303.7(d)(2)(ii) and (iii); DCL 11-22
- Forms that are not exactly the same as UIFSA forms should be accepted
  - See FC § 4925(b), UIFSA § 311(b)

# Registration Forms

- Required when a U.S. agency is requested to enforce an existing order
    - Payment record and total accrued arrears must be provided in a verified affidavit
    - Judgment must be certified by the issuing tribunal, and a certified translation must be provided
- Some U.S. agencies may complete the form if it is not provided. Others will refuse services until the requesting agency or applicant provides the completed form.

# Verification

- Some of the forms and documents must be verified because they will be filed with the court: i.e., petition, general testimony, affidavit of paternity, declarations/affidavits.
- The document is evidence of the information provided.
- Verification means the person signing the document attests or affirms the truth of the information on the document.

# Verifying a Document

- U.S. agencies use notaries – “sworn to and signed before” a licensed notary public
  - U.S. forms used between U.S. agencies have only this option
- Foreign applicants are not required to have documents notarized
- **HOWEVER**, the document must be verified, and the U.S. agency may even demand all documents be notarized.

# Other Ways to Verify Documents

- Before any judge having a seal in the applicant's jurisdiction, or an authorized U.S. embassy or consulate agent (See, e.g., California Code of Civil Procedure section 2015)
- Under penalty of perjury (See, e.g., California Code of Civil Procedure section 2015.5)



# Evidence

- Verified affidavit or declaration
- Business records must have a verified declaration from the custodian of record attached
- Telephonic testimony is almost always available (not yet mandatory in all states, however)

# Translations

- All documents must either be in the language of the receiving jurisdiction, or accompanied by a translation. Cost is borne by applicant or agency assisting applicant.
  - Original judgment certified by issuing tribunal with a certified translation
  - To US: UIFSA forms in English or bilingual forms
  - Declarations may be done in the receiving language if the declarant is fluent in that language
  - Correspondence best in receiving language, but not as critical

# Enforcement in the U.S.

- Judgment issued in another country must meet the personal jurisdiction requirements of the U.S. Constitution in order to be enforced in the U.S.
  - Debtor must have sufficient contact with the issuing jurisdiction to support being “hailed into court”
  - Presence of the child or creditor in that jurisdiction is not enough – there must be more

# Personal Jurisdiction

- Although not necessarily important to the issuing tribunal, facts must be presented to U.S. court to support personal jurisdiction. (See UIFSA Section 201)
  - Service of process in the issuing jurisdiction, or
  - Debtor consented to jurisdiction, or
  - Resided with the child there, or resided in jurisdiction and provided prenatal care for mother or support for child, or

# Personal Jurisdiction, con't

- Child resides in jurisdiction as a result of acts or directives of debtor, or
- Debtor engaged in sexual relations in the jurisdiction and the child may have been conceived by that act, or
- Debtor has filed a declaration of parentage or other formal acknowledgment consistent with U.S. laws, or
- Any other factual basis consistent with the U.S. Constitution

# Conclusion

- Use forms if at all possible. New convention includes application forms
- Verify all documentation that will be used in court
- Provide admissible evidence of the facts
- Provide certified translations
- Provide evidence of facts supporting personal jurisdiction when asking U.S. to enforce your judgment

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