



## Child Support Enforcement

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### MEMORANDUM

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**Date:** May 16, 2014  
**To:** Sally Holewa, Supreme Court Administrator  
**From:** James C. Fleming, Director  
**CC:** Jim Ganje  
**Re:** Policy 505 – Section 9 – terminations of current support obligations

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As requested, Child Support has reviewed the current language in Paragraph 9(A) of Trial Court Administration Policy 505. As you noted to me, the existing provision for terminations of parental rights in paragraph 9(A) is out of date. Under current law, paragraph 9(A) is relevant only if parental rights have been terminated without specific judicial termination of the duty to support the child and the child is subsequently adopted. Only at that point is administrative termination of the current support obligation necessary and appropriate. Here is how we would suggest changing paragraph 9(A):

Adoption of Minor Child ~~or~~ Following Termination of Parental Rights.

~~The adoption of a minor child or the~~ Unless otherwise specified by the court in its order to terminate an obligor's parental rights toward a child, a termination of parental rights in accordance with N.D.C.C. §14-17-24(6) terminates does not terminate the obligor's current child support obligation until the child is adopted. N.D.C.C. § 14-09-08.21. The adoption of the child following a termination of parental rights terminates the obligor's current support obligation. A certified copy of ~~the~~ the adoption decree ~~or~~ and the order terminating parental rights in accordance with ~~§14-17-24(6)~~ must be placed in a sealed envelope in the case file.

In addition to the proposed changes to paragraph 9(A), Child Support would like to recommend the Administrative Council's consideration of the following new paragraph in Section 9:

Unless otherwise specified by court order, the current monthly support obligation will terminate when the obligor of the current support obligation has been awarded

primary residential responsibility of the child or children on whose behalf the obligation is owed. This paragraph applies whether primary residential responsibility has been changed in the same civil file or a separate civil file, even if venue is in a different county, as long as each order has been issued by a North Dakota court. If primary residential responsibility is changed in a separate civil file, a certified copy of the order awarding primary residential responsibility to the obligor must be filed with the prior established support order.

Currently, the parents are required to go back to court to terminate the ongoing obligation, which is understandably frustrating because the parents feel like the termination of the current child support obligation is a fairly obvious step given the fact that a court has awarded primary residential responsibility to the obligor and there is no longer a basis for the child support obligation.