

## **120211 Dismissals**

### **(a)**

The State Hearing Office shall dismiss a hearing request prior to the hearing when: (1) The hearing request has been withdrawn pursuant to Section 120212. (2) The issue is not within the jurisdiction of a state hearing as specified in Section 120201(a). (3) The request for state hearing is filed beyond the time limit set forth in Section 120201(d)(2). (4) The request for hearing raises a compliance issue, such as an allegation that the local child support agency and/or Department failed to comply with a previously adopted state hearing decision. (5) The issue is moot.

### **(1)**

The hearing request has been withdrawn pursuant to Section 120212.

### **(2)**

The issue is not within the jurisdiction of a state hearing as specified in Section 120201(a).

### **(3)**

The request for state hearing is filed beyond the time limit set forth in Section 120201(d)(2).

### **(4)**

The request for hearing raises a compliance issue, such as an allegation that the local child support agency and/or Department failed to comply with a previously adopted

state hearing decision.

**(5)**

The issue is moot.

**(b)**

Prior to dismissing a hearing for the reasons specified in subsection (a)(2) through (5), the State Hearing Office shall notify the complainant by mail of the reason(s) for the dismissal and that a dismissal shall occur 15 days after the notice is sent, unless the complainant sets forth further facts and/or arguments, orally or in writing, that would indicate the matter should not be dismissed. The procedure for dismissing a case prior to hearing based upon the complainant's withdrawal is set forth in Section 120212. (1) If the complainant presents information that may indicate the hearing request should not be dismissed in its entirety, a hearing shall be scheduled pursuant to Section 120203 after copies of the communications received have been mailed to the other party unless a partial dismissal is appropriate pursuant to subsection (c). (2) If the complainant presents information that fails to establish the hearing request should not be dismissed in its entirety, the State Hearing Office shall dismiss the hearing request and provide written notice to the complainant within 10 days of dismissing the hearing request. If the complainant fails to respond to notification sent by the State Hearing Office within 15 days, the State Hearing Office notice sent pursuant to subsection (b) shall serve as notice of dismissal.

**(1)**

If the complainant presents information that may indicate the hearing request should not be dismissed in its entirety, a hearing shall be scheduled pursuant to Section 120203 after copies of the communications received have been mailed to the other party unless a partial dismissal is appropriate pursuant to subsection (c).

**(2)**

If the complainant presents information that fails to establish the hearing request should not be dismissed in its entirety, the State Hearing Office shall dismiss the hearing request and provide written notice to the complainant within 10 days of dismissing the hearing request. If the complainant fails to respond to notification sent by the State Hearing Office within 15 days, the State Hearing Office notice sent pursuant to subsection (b) shall serve as notice of dismissal.

**(c)**

Notwithstanding subsection (b), if the hearing request includes more than one issue and some of the issues are not subject to dismissal, the State Hearing Office may issue a partial dismissal, toll the period to challenge the issues subject to its partial dismissal pending issuance of final decision by the Department in accordance with Sections 120217 and 120218, and cause a hearing to be scheduled pursuant to Section 120203 as to the remaining issue(s). When issuing a partial dismissal, the State Hearing Office shall: (1) Issue a written notice by mail that identifies which issue(s) are being dismissed, the reason(s) for dismissal, and that the period to challenge the dismissal of those issue(s) is tolled pending issuance of a final decision by the Department in accordance with Sections 120217 and 120218 as to the other issue(s) set for hearing; (2) Make communications submitted by either complainant or the local child support agency concerning the request for state hearing available to both parties with its partial dismissal notice; and (3) Require any such communications to be included in the administrative record subject to reconsideration by the Department pursuant to Section 120220.

**(1)**

Issue a written notice by mail that identifies which issue(s) are being dismissed, the

reason(s) for dismissal, and that the period to challenge the dismissal of those issue(s) is tolled pending issuance of a final decision by the Department in accordance with Sections 120217 and 120218 as to the other issue(s) set for hearing;

**(2)**

Make communications submitted by either complainant or the local child support agency concerning the request for state hearing available to both parties with its partial dismissal notice; and

**(3)**

Require any such communications to be included in the administrative record subject to reconsideration by the Department pursuant to Section 120220.

**(d)**

The Administrative Law Judge, in addition to the authority set forth in subsection (a), shall dismiss by proposed decision, a hearing request, or portion thereof, when: (1) The Administrative Law Judge determines the complainant or authorized representative is unwilling to present the complainant's case at the state hearing. This paragraph shall not apply to abandonments. Dismissal of hearing requests based upon abandonment by the complainant is set forth in Section 120213. (2) The Administrative Law Judge determines the issue(s) has/have been the subject of a previous state hearing involving the complainant. (3) The Administrative Law Judge determines the person who requests the state hearing does not have standing to request the state hearing. (4) The Administrative Law Judge fails to receive a written authorization following the hearing pursuant to Section 120222(b)(1).

**(1)**

The Administrative Law Judge determines the complainant or authorized representative is unwilling to present the complainant's case at the state hearing. This paragraph shall

not apply to abandonments. Dismissal of hearing requests based upon abandonment by the complainant is set forth in Section 120213.

**(2)**

The Administrative Law Judge determines the issue(s) has/have been the subject of a previous state hearing involving the complainant.

**(3)**

The Administrative Law Judge determines the person who requests the state hearing does not have standing to request the state hearing.

**(4)**

The Administrative Law Judge fails to receive a written authorization following the hearing pursuant to Section 120222(b)(1).