



Frequently Asked Questions

(And answers from the
State Court Administrative Office
Friend of the Court Bureau)

FAQ 2020-03

September 1, 2020

Friend of the Court Case Closure

This FAQ answers common questions and clarifies policy related to Administrative Memorandum 2020-01 on [Friend of the Court Case Closure](#) dated January 21, 2020. If court or friend of the court (FOC) staff have any questions or would like additional information or clarification on the case closure memorandum, please contact Tim Cole at colet@courts.mi.gov or 517-373-5975.

1. **Q.** Administrative Memorandum 2020-01 on case closure recommends the FOC file a motion to close the case if good cause is determined and the payer applies for IV-D services. How would this be done without violating the IV-D policy against disclosing to the payer that the IV-D case is closed because of the payee's request for good cause?
 - A. Filing a motion to close a FOC case is not a IV-D activity, so it is not governed by IV-D policy. However, federal IV-D regulations would determine if the case is eligible for IV-D services. If the case is no longer eligible for IV-D services, the FOC may decide to close the case ([MCL 552.503](#)) and ([MCR 3.208](#)). FOCs may choose to state in the motion to close the case either: "*the friend of the court is requesting the friend of the court case close because it is no longer eligible for IV-D services*" or "*it is in the best interest of the children to close the friend of the court case.*"
2. **Q.** The new certificate of inactivation policy suggests that custody and parenting time enforcement is available when the requesting party fills out a IV-D request. But IV-D workers are not permitted to reopen any IV-D case that is closed for good cause so what good does it do for the FOC to have a IV-D application from the requesting party for a non-IV-D service?
 - A. When good cause end services has been determined and the payer applies for IV-D services, the payer's IV-D application will be rejected, so a IV-D case cannot be opened and no federal funding will be available. In most circumstances, when no federal funding is available, the FOC is still obligated to enforce custody and parenting time. When a parenting time complaint has been filed and it has been determined that the payee and/or child is in danger, the FOC may consider filing a motion with the court to modify the parenting time order ([MCL 552.641](#)).
3. **Q.** What should the FOC do with a case when the IV-D case closes, charges have stopped, and balances are owing?

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- A. The FOCs can use their discretion when the IV-D has closed and balances are still owing. If the arrearages are less than \$500, the FOC can completely close the FOC case and waive any outstanding fees. If the balances are greater than \$500, the FOC can still use the MiCSES system for income withholding, credit reporting, show cause hearings, and license suspensions or seek a court order to have the balances removed from the FOC records.
- 4. Q. If the payer dies, what is the FOC’s duty to advise the payee about opening an estate?
 - A. The FOC should contact the payee as soon as possible after the payer’s death concerning the opportunity to file a claim against the payer’s estate, should one exist or be opened in the future. The FOC should also advise the payee of the option to open an estate if one is not open. Under most circumstances, someone (other than the FOC) should open an estate within 42 days after the payer dies. If the payee seeks additional information, he or she should speak to an attorney.
- 5. Q. What does the FOC do when an adoption occurs but child support arrears exist?
 - A. An adoption terminates the court’s jurisdiction over the child. Unless the order of adoption disposes of arrears, all orders adjudicating rights to support remain valid and the FOC can continue to enforce those obligations. FOCs may continue to use MiCSES for enforcement and payment processing.
- 6. Q. What is the purpose of the certificate of inactivation when arrears exist?
 - A. The certificate of inactivation notifies the court and the FOC that the case is no longer eligible for federal funding and the FOC is not required to perform activities under the Friend of the Court Act ([MCL 552.501](#), et seq.) or the Support and Parenting Time Enforcement Act ([MCL 552.601](#), et seq.). If arrears exist, the FOC can still enforce the order. If the FOC decides not to pursue the collection of arrears, the arrearage would remain as an FOC record until the FOC case closes (10 years after the last payment was due).