

Municipal Court Comprehensive Enforcement Program Guidelines

Directive #9-01
Issued by:

May 14, 2001
Richard J. Williams
Administrative Director

The Supreme Court on January 16, 2001 approved the attached program standards for conducting Comprehensive Enforcement Program (CEP) hearings on non-probation municipal court matters.¹ In terms of implementing these standards, the following points should be noted:

1. Participation by municipal courts in CEP is voluntary. As individual municipalities and municipal courts express an interest in participating in the program, they will be enrolled as promptly as that can be accomplished. That goal must be tempered by the administrative demands on those Superior Court judges who presently oversee CEP in each vicinage² as well as by any resource limitations, including central office CEP staff. Based on such demands, an Assignment Judge may limit the number of cases processed from the municipal courts through CEP in a particular vicinage.
2. The process for establishing CEP in a municipal court is as follows:
 - a. Initial contact with central office CEP staff indicating a municipal court's interest in participating in the program may occur through any of several means, including but not limited to:
 - i. representatives of the Municipal Court contact CEP directly;
 - ii. a municipality may be referred to CEP by an outside agency such as the Department of Treasury's Distressed Cities Unit;
 - iii. a request for a municipality's enrollment in CEP may be made by the vicinage, e.g., Assignment Judge, Superior Court Judges, Trial Court Administrator, Presiding Judge-Municipal Courts, or Municipal Division Manager.

¹ Section 1 of the approved Standards provides that the program will be under the oversight of a Superior Court judge. Legislative change is being sought so as to authorize Municipal Court Vicinage Presiding Judges to perform this oversight role as to CEP cases emanating from the municipal courts. Once such legislative change has been enacted, the Court will modify the Standards accordingly.

² The proposed legislative amendments referenced in the preceding footnote should alleviate the administrative demands that these Municipal Court CEP cases place on the Superior Court Liaison Judges.

No matter what the means of initial contact, however, CEP will not be implemented in any municipal court without prior approval of that municipal court and consultation with the vicinage's Presiding Judge-Municipal Courts and the Municipal Division Manager.

- b. The Municipal Division Manager in each vicinage will be the primary liaison between that vicinage's municipal court judges and staff and CEP staff.
- c. N.J.S.A. 2B:19-6b(1) provides that the municipal court may request the transfer to CEP of all matters that have not been resolved in accordance with an order of that court. A sample form of request is attached.
- d. Unless otherwise agreed to between the municipal court and CEP staff, the municipal court will assign a staff person to be present in the CEP hearing room for municipal court CEP hearings who will be responsible for overseeing the collection of any payments generated during the hearing, issuing receipts, and making sure that the payments are entered promptly in the ATS/ACS computer systems. Arrangement for collection, transportation, and security of payments must be made in advance. Any monies paid before the day of the CEP hearing (but after the notice of the hearing has issued) or paid after the day of the hearing also will be collected directly by the municipal court staff.
- e. To avoid misunderstandings, the logistical arrangements discussed in paragraphs 2.d and 2.e above, such as transportation and security of any monies collected and any staff sharing arrangements, should be reduced to writing.

Any questions about the Comprehensive Enforcement Program or this application of CEP can be directed either to Probation Services (609-292-1589) or Comprehensive Enforcement Program (609-633-7702).

EDITOR'S NOTE

The only change to the directive is the deletion of the names of the contact persons.

**APPROVED STANDARDS FOR CONDUCTING
COMPREHENSIVE ENFORCEMENT PROGRAM (CEP) HEARINGS
ON NON-PROBATION MUNICIPAL COURT MATTERS¹**

[Adopted by the Supreme Court January 16, 2001]

1. Judicial Oversight

In each county, the Assignment Judge, with the approval of the Chief Justice, shall designate a Superior Court judge to preside over the Comprehensive Enforcement Program.² This shall include the Municipal (non-probation) Comprehensive Enforcement Program. When the Enforcement Program judge approves and signs the recommendation of the hearing officer, it becomes an order of the court.

Discussion:

The Judge so designated will preside over matters involving the enforcement of court orders, oversee the collection of court-ordered financial assessments, and enter appropriate orders amending previously existing conditions of sentence, including cases arising out of the Municipal Courts where financial obligations have not been satisfied. Preliminary hearings presided over by a hearing officer will be held to facilitate the entry of consensual dispositions.

2. Jurisdiction

The Comprehensive Enforcement Program shall have jurisdiction over non-probation cases in matters in which there is a failure to comply with payment of court-ordered financial obligations arising out of Municipal Courts when a request to do so is made by the Municipal Court Judge, pursuant to N.J.S.A. 2B:19-6b(1).

¹ Adapted from the Standards for the Comprehensive Enforcement Program for the Superior Court adopted by the Supreme Court on January 30, 1995, as amended on July 12, 1995 and July 10, 1997.

² Section 1 of the these Standards provides that the program will be under the oversight of a Superior Court judge. Legislative change is being sought so as to authorize the Vicinage Presiding Judges-Municipal Courts to perform this oversight role as to CEP cases emanating from the municipal courts. Once such legislative change has been enacted, the Court will modify the Standards accordingly.

Discussion:

The case will proceed pursuant to N.J.S.A. 2C:46-2 (Consequence of non-payment; summary collection) insofar as the statute is applicable to the collection of the financial obligations on matters adjudicated in Municipal Court.

3. Staffing

Hearing officers, appointed by the Chief Justice, may take testimony, make findings of fact, and make recommendations to the judge designated to preside over the Comprehensive Enforcement Program. The Enforcement Program judge or other judge, as designated, shall review the hearing officer-s findings and recommendations and may accept, modify, or reject them.

Discussion:

Hearing officers, as staff of the Administrative Office of the Courts, will be supervised by the AOC Probation Services Division. Standards for qualifications, selection, and training will be established by the Administrative Office of the Courts, with the approval of the Chief Justice.

The hearing officer will refer cases to the Enforcement Program judge to be heard as soon as possible when the defendant objects to the proceeding, seeks a hearing before a judge, or controverts the hearing officer-s findings of fact or recommendations. A referral to the judge may also be made by the hearing officer when the case presents complicated legal issues.

4. Enforced Community Service

Pursuant to N.J.S.A. 2C:46-2a(2) and (4), the willful failure to pay a court-ordered financial obligation may result in the court imposing a term of imprisonment or participation in an enforced community service program (ECS) or labor assistance program (SLAP) to achieve the objective of the court-imposed financial obligation.

Enforced community service may also be employed in lieu of payment of a fine, pursuant to N.J.S.A. 2C:46-2a(2).

Discussion:

If, based on a preponderance of the evidence, the hearing officer finds that the defendant defaulted on payment of a court imposed financial obligation without good cause and finds that the default was willful, the defendant may be subject to those proceedings set forth in N.J.S.A. 2C:46-2 and 2B:19-1 through 9. During these proceedings, the defendant is advised of his/her right to counsel and his/her right to have

his/her case heard directly by a judge. The defendant is further advised that he may exercise these rights at any time during the course of the proceedings.

Upon enrollment in ECS or SLAP as provided by the enabling legislation, the appropriate agency running ECS/SLAP will collect from each person a \$25.00 enrollment fee and \$8.00 for each day originally sentenced to participate in SLAP or ECS. SLAP fees will be sent to the county treasurer, while ECS fees will be deposited in the Comprehensive Enforcement Program Fund. If the Municipal Court has its own program, it shall retain any monies collected.

5. Municipal Non-Probation CEP Sanction Alternatives

The consequences of willful failure to pay court-ordered financial obligations will be governed according to statutes applicable to the original offenses. However, no such disposition shall relieve a defendant of the obligation to pay the prescribed mandatory fines, penalties or restitution (except as under N.J.S.A. 2C:46-2a(3)). Those fines which are discretionary may be worked off at the rate of \$30.00 per day through SLAP, ECS or incarceration pursuant to N.J.S.A. 2C:46-2a(2).

Discussion

The term of imprisonment or enforced community service or participation in a labor assistance program shall not exceed one day for each \$30.00 of the fine nor 40 days if the fine was imposed upon conviction of a disorderly persons offense nor 25 days for a petty disorderly persons offense nor one year in any other case, whichever is the shorter period. In no case shall the total period of imprisonment in the case of a disorderly persons offense for both the sentence of imprisonment and for failure to pay the fine exceed six months.

6. Case Screening

Once the Municipal Court Judge has requested CEP to enforce court orders on non-probation cases for that Municipal Court and has agreed to the eligibility criteria set forth in this document, further case screening and final selection will be done by CEP staff.

Discussion:

Any case is subject to a hearing in the Comprehensive Enforcement Program if the case is (1) at least thirty days in arrears of the court-ordered payment schedule and (2) the court has issued an arrest warrant or suspended the defendant's privilege to drive. Selection of cases for a particular hearing day may be based on any reasonable set of

criteria which narrows the pool of all eligible cases as defined above. CEP staff will prepare all paperwork, case summaries, calendars, and notices.

7. Notice to Appear

Those delinquent in paying financial obligations required by the court shall receive notice of their delinquency and be given an opportunity to comply before being ordered to appear in the Comprehensive Enforcement Program. This delinquency notice will be the first contact from CEP to the person not complying with the court order. If compliance is still not forthcoming, the Comprehensive Enforcement Program judge may issue orders to show cause (before a CEP hearing officer) why court-ordered financial obligations should not be enforced.

Discussion:

The first Enforcement Program notice will consist of a letter informing the individual of the delinquency in payment. Compliance within two weeks will be demanded or an order to show cause may be issued by the Comprehensive Enforcement Program Judge. The order to show cause will be served by the Comprehensive Enforcement Program in accordance with the provisions of R. 4:4-4.

8. Failure to Appear

In the event of failure to respond to the order to show cause, either a bench warrant will be issued by the Comprehensive Enforcement Program judge or the case will be processed for a Summary Collection hearing before that judge. The bench warrant may contain conditions which, if satisfied, may result in the warrant being vacated prior to execution. The bench warrant may set forth a bail amount. The bench warrant may also contain conditions for release from incarceration on that particular bench warrant upon satisfaction of those conditions.

Discussion:

The course of action to be taken for failure to appear will be determined by the Comprehensive Enforcement Program judge. An amount to be paid by the defendant will be set by the Comprehensive Enforcement judge. Upon payment of that amount, the warrant will be vacated and/or the individual released from custody. If the defendant exercises the right to post bail, the defendant will be advised of their next appearance date for court and that if the defendant fails to appear at that hearing, bail may be forfeited and applied to the outstanding court-ordered financial obligations.

9. Conduct of Hearings

Comprehensive Enforcement Program hearings shall be based on the alternative dispute resolution model so that an amicable agreement may be reached.

Discussion:

The aim of the hearing is to achieve agreement between the defendant and the court as to how payment of the monetary penalties will be accomplished. Insofar as possible, hearings will be informal and non-confrontational.

Every effort will be made to help the defendant understand that the amount of time or money owed is not in dispute. The court will attempt to avoid additional punishment by setting and structuring conditions favorable to compliance.

10. Negotiated Settlements

(a) Those individuals ordered to show cause shall have the opportunity to correct non-compliance with financial obligations ordered prior to the hearing.

Discussion

Defendants will be advised how to contact appropriate CEP staff for the opportunity to correct deficiencies in compliance with financial obligations prior to the hearing. In the event a defendant contacts the municipal court instead of CEP, the municipal court shall direct the defendant to contact CEP or do so on behalf of the defendant.

(b) On the day of the hearing, the defendant shall be given the opportunity to meet with staff officials and discuss a plan of action for payment or compliance. In no event shall the amount of the court-ordered financial obligation be reduced except as permitted by N.J.S.A. 2C:46-2a(3).

Discussion:

The purpose of this conference will be to attempt to reach a mutually agreeable settlement in a way to ensure satisfactory compliance with the conditions of sentence of the court orders. Using this form of alternative dispute resolution, staff will strive to develop a plan for payment of the money.

Although the hearing officer is not obligated to accept any agreement reached before the case gets in front of the hearing officer, reasonable proposals should be accommodated. However, the hearing officer may seek greater compliance, recommend other alternatives, or refer the case for further review and action by the Enforcement Program judge.

11. Staff Involvement

A presenter shall appear at each hearing and present matters to the CEP hearing officer. While not required, Municipal Court staff may participate in these hearings.

Discussion

A presenter shall present the cases to the hearing officer. The presenter may be either a member of the municipal court staff or a member of the CEP staff who is not a part of the hearing officer unit. The hearing officer will direct payments and will record a recommendation to be sent to the CEP liaison judge for signature. Thereafter, CEP staff will enter the modified status of the case in the CEP computer system, monitor cases for compliance, re-list cases as appropriate, and generate additional paperwork as appropriate including: income withholding, civil judgments, license suspensions and bench warrants, as well as statistical reports.

12. Physical Facilities

All Comprehensive Enforcement Program hearings shall be conducted within a courtroom setting and with the same level of security and other amenities as other court proceedings.

Discussion:

All hearings shall be conducted in a regular court room.

Appropriate security -- whether by Sheriff-s officers or by other means -- shall be provided.

All hearings shall be sound-recorded or videotaped. If sound recorded, an electronic sound recording technician shall be present.

13. Comprehensive Enforcement Program Fund

(a) A percentage of the collections attributable to the Enforcement Program activity will be deducted in accordance with the enabling legislation and deposited in the Comprehensive Enforcement Program Fund.

Discussion:

This practice will commence on the effective date of the legislation and will begin with the 25 percent maximum allowed in the statute.

Collections which are applied to VCCB assessments and for restitution to victims are exempt from these deductions as are monies collected in connection with the enforcement of orders related to parking violations.

(b) Collections attributable to Enforcement Program activity shall commence with any monies collected on a case following the initial delinquency notice which informs the defendant that payments are delinquent and financial obligations must be made current. Any and all payments made in compliance with any disposition in effect at the commencement of Enforcement Program intervention shall be subject to the deduction and paid to the Comprehensive Enforcement Program Fund.

All payments will be made through the Municipal Courts and disbursed to the appropriate agencies. CEP will bill the municipality by invoice for 25% of the monies to which CEP is entitled pursuant to N.J.S.A. 2B:19-4a and 2B:19-6b(1).

Discussion:

It will be the responsibility of CEP staff involved in the Municipal Comprehensive Enforcement Program process to track the payments attributable to Comprehensive Enforcement Program activity, calculate the proper percentage, bill the municipal courts by invoice and process the proceeds to the Comprehensive Enforcement Program Fund.

The Administrative Office of the Courts will calculate the amount of money thus received and the costs of operating the Enforcement Program and other collection functions for which this money is being used. On that basis and pursuant to the requirements of N.J.S.A. 2B:19-4a, the AOC will issue annually a schedule of deductions to be made from Enforcement Program collections indicating the percentage to be retained in the Comprehensive Enforcement Program Fund.

[approved by the Supreme Court 1/16/01]

[Optional Sample Form of Request]

WHEREAS, the _____ Municipal Court would like to implement a program, through the New Jersey Administrative Office of the Courts, called the **A**Comprehensive Enforcement Program (CEP),**A** designated by the State Judiciary to enforce orders for payment of fines and penalties pursuant to N.J.S.A. 2B:19-1 to 19-9 and 2C:46-2; and

WHEREAS, the Comprehensive Enforcement Program would collect fines and penalties on behalf of the _____ Municipal Court and would retain 25% of monies collected through the efforts of CEP, excluding Victims of Crime Compensation Board (VCCB) penalties, parking violations and restitution; and

WHEREAS, payments received on other mandatory or discretionary penalties will incur a 25% fee to the Comprehensive Enforcement Program Fund (although the Municipal Court will not be required to make up the 25% withheld from these penalties to satisfy the total amount due on these accounts); and

WHEREAS, it is understood and agreed that _____ Municipal Court will be responsible for the following:

1. whenever possible, hearings will be held in the Superior Court; arrangements for facilities, security, and a court reporter will be handled either by CEP or Municipal Court staff communicating with the Trial Court Administrator or the TCA's designee;
2. the Municipal Court will have a staff person present in court on the day of the hearing who will be responsible for collecting the money, issuing receipts, and making sure payments received in court are promptly entered in the ATS/ACS computer systems; all monies paid before or after the day of court will also be collected directly by the Municipal Court.

NOW THEREFORE IT IS HEREBY REQUESTED that CEP accept the transfer of all matters which have not been resolved in accordance with an order of this court.

_____ Date	_____ Signature of Municipal Court Judge	_____ Signature of Court Administrator/Director
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ACCEPTANCE OF TRANSFER

The above request of the _____ Municipal Court regarding the transfer of cases to CEP is approved subject to the conditions outlined in the attached continuation page(s) commencing on _____ (Date) _____.

Name and Title of Authorized CEP Representative

Signature of Authorized CEP Representative

Date