



## NEW JERSEY STATE BAR ASSOCIATION

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February 27, 2024

Hon. Glenn A. Grant  
Administrative Director of the Courts  
Hughes Justice Complex / P.O. Box 037  
Trenton, NJ 08625-0037

RE: Proposal for Amendments to Child Support Guidelines

Dear Judge Grant:

Establishing appropriate and adequate child support obligations in Family Part matters is a critical, yet controversial, task. The Child Support Guidelines contained in the Court Rules are designed to assist judges in that process. Members of the New Jersey State Bar Association (NJSBA) who practice family law, however, have expressed long-standing concerns about whether the Guidelines provide adequate support for children living in separate households, particularly for families whose income levels are at the higher and lower ranges of the tables contained in the Guidelines.

To address some of those concerns, the NJSBA's Family Law Section created a Child Support Task Force to study the Guidelines and develop recommendations for improvement. I am pleased to enclose the final report and recommendations of the Task Force, which have been adopted by the NJSBA Board of Trustees. The NJSBA urges the Judiciary to refer the thoughtful proposals in the Task Force Report to the Family Practice Committee for consideration.

The enclosed report primarily focuses its recommendations on addressing those situations where deviation from the Guidelines is warranted, particularly where the parents enjoy a true 50/50 custody arrangement resulting in each parent incurring standard costs for the children. It is recommended that the Court Rules *require*, instead of permit, deviation from the Guidelines in certain situations to arrive at appropriate child support obligations.

The recommendations are:

1. Add stronger language to the Guidelines to direct courts to focus on the adequacy of the Guideline award and, if found lacking, to compel deviation instead of merely allowing it;
2. Add language requiring deviation or requiring that the Guidelines be disregarded if one of a number of financial factors (such as equitable distribution, income taxes, significant medical expenses, multiple children, foster care placement, special needs of a child, extraordinarily high income of a child, substantial financial obligations related to care of a family member, etc.) is found to impact the award under consideration, and clarify the burden of proof is on the moving party, who is entitled to discovery and a plenary hearing once a *prima facie* case is made;
3. Utilize hearing officers for recommendations where deviations are determined to be necessary;
4. For cases involving a 50/50 shared parenting schedule, use the Guidelines as a base, but make appropriate adjustments based on the facts;
5. For cases involving 50/50 shared custody, require child-only controlled expenses to be reported on the Case Information Statement and add categories to address costs not covered by the base child support award; and
6. Where the parties' income falls outside of the Guidelines, make a specific determination of the children's expenses and allocate them between the parties based on their respective incomes.

Each of these recommendations is discussed more fully in the attached Report, and specific language is proposed for amendments to the Court Rules.

The NJSBA thanks the Judiciary for considering this proposal, and remains ready to provide any additional information, analysis or assistance that is needed.

Sincerely,



Timothy F. McGoughran, Esq.  
President

cc: William H. Mergner Jr., Esq., NJSBA President-Elect  
Angela C. Scheck, NJSBA Executive Director

## **CHILD SUPPORT TASK FORCE REPORT**

**OCTOBER 31, 2023**

In May 2022, the Chair of the Family Law Section of the New Jersey Bar Association, Derek Freed, Esq., created the Family Law Section Child Support Task Force (“CS Task Force”) as part of his initiative to review the issue of child support in New Jersey. The CS Task Force is chaired by Sheryl J. Seiden, Esq. Members of the CS Task Force include Samuel Berse, Esq., Daniel Burton, Esq., Phyllis Klein, Esq., Jennifer Millner, Esq., Christopher Musulin, Esq., Rotem Peretz, Esq., Richard Russell, Esq., Barbara Ulrichsen, Esq., and Raquel Vallejo, Esq.<sup>1</sup> The CS Task Force was specifically charged with examining child support in New Jersey to determine whether child support awards are appropriate and sufficient to provide support for children when parents are separated or divorced in several unique factual scenarios not contemplated by the Guidelines.

There have been long-standing concerns, since the adoption of the Child Support Guidelines in 1986, that the Guidelines do not provide adequate support for a child/children living in separate households. By way of example, in 2013, the American Academy of Matrimonial Lawyers, New Jersey Chapter, and the Family Law Section of the New Jersey State Bar Association submitted a joint report to the New Jersey Supreme Court to address similar concerns. A copy of this report is

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<sup>1</sup> The CS Task Force would also like to acknowledge Christina Groves, Esq., partner at Musulin Law Firm, for her assistance with the Report.

attached hereto as **Exhibit A**. The adequacy of the Guidelines has been a frequent topic of seminars, articles, and caselaw authority, both in New Jersey and in other jurisdictions that utilize child support guidelines. These remain lingering and unresolved issues.

The CS Task Force focused on the following specific unique factual scenarios:

- Under what circumstances should a deviation from the Child Support Guidelines occur;
- Do Guideline awards adequately address expense-sharing in pure 50-50 residential custody situations;
- How can child support awards properly provide for additional recurring expenses; and
- Lacking social science, what is just and appropriate in high income cases.

### **THE WORK OF THE CS TASK FORCE**

Over the course of more than a year, the CS Task Force met monthly to address the issues discussed above. The CS Task Force consists of family law attorneys in private practice and an attorney employed by the Legal Services of New Jersey. As part of their efforts, several committee members met with Laura Morgan, Esq., a national expert on Guidelines. They received and reviewed several materials

provided to the CS Task Force by Ms. Morgan, as well as significant social science, peer-reviewed publications, and legal authority demonstrating how other states address these issues.

### **PRELIMINARY STATEMENT**

The CS Task Force has been given a complex and Herculean task. Before presenting findings and recommendations, we believe it is critical to understand several stealthy yet enormously significant structural realities that present obstacles to potential reforms.

First, a child support award – the actual resulting number on the worksheet – is a figure determined by an army of economists and statisticians, who engaged in a labyrinth of intellectual engagement far beyond the skills and training of most attorneys. The State of New Jersey has invested millions of dollars over 40 years to create and periodically review the award structure. The CS Task force does not have the funds to retain its own expert to review and potentially challenge the data, social science, methodologies and conclusions underlying the award schedule. While compromising our ability to challenge the award structure, this should not prevent us from raising and addressing concerns.

In addition, there is a myriad of national and state political and public policy forces at work that permeate the entire system of child support awards. New Jersey

adopted Child Support Guidelines in 1986. Prior to that time, courts and litigators utilized the statutory factors contained within N.J.S.A. 2A:34-23, which were adopted in 1971 as the Uniform Marriage and Divorce Reform Act, as well as relevant caselaw authority. The previous approach of utilizing the statutory factors and cases resulted in wide variations in child support awards.

Title IV-D and public assistance have historically been closely related to the child support system.<sup>2</sup> Public assistance awards have been calibrated to the number of children in a family unit. During the first administration of President Ronald Regan, powerful political forces sought reduction in federal spending, and targeted governmental entitlements, including public assistance and welfare. To rein in discretion and therefore reduce public spending, the federal government required all state governments to adopt a more predictable guideline award structure based on social science as a condition of receiving block grants and funding for many public endeavors, including public assistance.

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<sup>2</sup> Title IV-D of the Social Security Act was enacted in 1974 to establish state child support offices to better monitor and collect recoupment of public assistance spending from absent parents, as a means of reducing spending on public assistance. (Social Security Amendments of 1974, Pub. L. No. 93-647, 88 Stat. 2348, codified at 42 U.S.C. §§ 651 – 665.) Child Support Guidelines, in the form a uniform mathematical formula, were initially required by 1984 amendments to Title IV-D of the Social Security Act. The requirement was tied to threats of loss of federal funding child support collection programs. The Family Support Act of 1988, required states to make their child support guidelines presumptive in setting child support awards. (Pub. L. No. 100-485, § 103 (a)(3); codified at 42 U.S.C. § 667(b)(2)). Accordingly, New Jersey adopted child support guidelines in 1986. The implementation of the Child Support Guidelines in New Jersey resulted in significant increases in the average child support award across the state.

There is still a massive federal presence and an auditing structure to determine if New Jersey awards deviate from federal established norms. Any deviation or aberration can place federal funding in jeopardy. These public policy realities cause great trepidation whenever efforts are made to potentially challenge or revise the child support system.

It is within these realities – lack of funding for our own expert and the public policy concerns – that the CS Task Force accepted its charge. In addition to having members of the CS Task Force with significant institutional and historic knowledge of the New Jersey Child Support Guidelines, we were fortunate enough to interface with Laura Morgan, Esq., a nationally recognized expert on child support, who provided us with assistance and suggestions to facilitate our efforts.

### **HOW CHILD SUPPORT IS CURRENTLY CALCULATED**

In the State of New Jersey, both parents have a mutual duty to support their child/children. Child support is the right of the child/children, not of the parent. In most cases, child support is calculated using the New Jersey Child Support Guidelines (“Guidelines”) per R. 5:6A. The Guidelines can be found in Appendix IX of the New Jersey Court Rules. The Guidelines only apply to parties who make a combined net income that does not exceed \$187,200 per year, or when the combined gross income of the parties does not exceed approximately \$250,000,

depending upon tax assessment. When the parties' combined income is higher than this cap, the actual needs of the children and the parents' ability to pay prevail in setting the child support award.

The Courts have the authority to deviate from the Guidelines upon good cause shown. Good cause is defined as “a) the considerations set forth in Appendix IX-A, or the presence of other relevant factors which may make the guidelines inapplicable or subject to modification, and b) the fact that injustice would result from the application of the guidelines.”<sup>3</sup> If the Court, within its discretion, finds that there is good cause to deviate from the Guidelines due to an excess of parental income over the cap, it will determine a child support award by considering a series of factors set forth in N.J.S.A. 2A:34-23(a). The Court will consider, but is not limited to, the following factors:<sup>4</sup>

1. Needs of the child;
2. Standard of living and economic circumstances of each parent;
3. All sources of income and assets of each parent;
4. Earning ability of each parent, including education background, training, employment skills, work experience, custodial responsibility for children

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<sup>3</sup> R. 5:6A.

<sup>4</sup> N.J.S.A. 2A:34-23(a).



- including the cost of providing childcare and the length of time and cost of each parent to obtain training or experience for appropriate employment;
5. Need and capacity of the child for education, including higher education;
  6. Age and health of the child and each parent;
  7. Income, assets and earning ability of the child;
  8. Responsibility of the parents for the court-ordered support of others;
  9. Reasonable debts and liabilities of each child and parent; and
  10. Any other factors the court may deem relevant.

When “the parties earn in excess of \$187,200, the court must apply the child support guidelines up to that amount, then supplement the guidelines-based award with a discretionary amount based upon the remaining family income and the factors set forth in N.J.S.A. 2A:34-23I.”<sup>5</sup> In order to determine a discretionary child support award,

the maximum [guidelines-based] child support amount... should be subtracted from the [total child-related expenses] to determine the remaining children’s needs to be allocated between the parties. Then the court must analyze the factors outlined in N.J.S.A. 2A:34-23 and determine each party’s responsibility for satisfying those remaining needs.<sup>6</sup>

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<sup>5</sup> Elrom v. Elrom, 439 N.J. Super. 424, 443 (App. Div. 2015).

<sup>6</sup> E.H. v. J.L., 2018 N.J. Super. Unpub. LEXIS 884 (App. Div. 2018) (citing Caplan v. Caplan, 364 N.J. Super. 68, 90 (App. Div. 2003)).

It is important to note that whereas the parties can agree to child support based on the extrapolation method,<sup>7</sup> the trial court is not authorized to use this methodology to determine the additional child support in an above-Guideline case.<sup>8</sup> Unfortunately, the Guidelines are silent when addressing specific factual situations. This includes not only high income scenarios, but also pure 50-50 residential custody situations and assessing responsibility for regularly reoccurring child-only expenses. These situations form the focus of the present report.

### **FINDINGS OF THE CS TASK FORCE**

#### **UNDER WHAT CIRCUMSTANCES SHOULD A DEVIATION FROM THE CHILD SUPPORT GUIDELINES OCCUR**

The CS Task Force notes consensus among members of the practicing Family Bar that the awards tables in Appendix IX-F of the New Jersey Rules of Court are in far too many cases producing child support amounts deemed inadequate to meet the costs of raising children in New Jersey. This is particularly the case in the higher and lower income ranges of those tables. Without having the resources to employ their own economist and without being permitted access to the economist hired by the

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<sup>7</sup> The extrapolation method adds a supplemental child support award to the child support award determined by the child support guidelines. In order to determine the supplemental amount, the child support award is divided by the payor's income up to the child support guideline cap. That percentage is then applied to the payor's income over the child support guideline cap to determine the supplemental child support award.

<sup>8</sup> Caplan v. Caplan, 364 N.J. Super. 68, 85 (App. Div. 2003) (trial courts "should not extrapolate above the threshold using the respective percentages of total combined net income because extrapolation undermines the statistical basis of the guidelines").

State of New Jersey who provides the data that establishes the child support awards, the CS Task Force is not in a position to quantify the specific shortcomings of the actual expenses used to compute the Guidelines.

It is clear to the practitioners, however, as well as to the litigants who are intimately familiar with the details of their family's spending, that the "science" used to create the table of awards needs to be modified to align to the current expenses incurred by families. This is especially true in an era of historic inflation and residence in the State of New Jersey with one of the highest costs of living in America. Whether it is a function of the economic theories employed by the experts upon whom New Jersey relies to acquire these tables, or whether there is some failure in the manner in which national research data on family spending is used, the Child Support Subcommittee of the Supreme Court Family Practice Committee should consider revising these tables to address the inadequacies and shortcomings that result from implementing the award tables in their present state.

Until the Family Practice Committee can undertake such an inquiry, it is understood that fairness in court awards of child support can only be achieved through renewed advocacy in cases where the Guidelines are perceived to fall short of the mark. The CS Task Force believes the exercise of sound judicial discretion will help achieve the fair result to which New Jersey children are entitled. However,

there has been growing frustration among practitioners when attempts to persuade the court to deviate from the Guidelines have been met with resistance often resulting in a hesitation to implement any deviation. Rule 5:6A clearly provides that “[t]he guidelines may be modified or disregarded by the court only where good cause is shown.” They are, after all, only “guidelines” which were never intended to replace the sound discretion of the court. For members of the CS Task Force that were practicing when the Guidelines were adopted, there is a clear recollection that the deviation provision of the Rule would be liberally applied, which has proven untrue in the reality of the practice of family law.

In this regard, the CS Task Force recognized that attention must be focused upon those sections of Appendix IX-A which *already* address in general the right to deviate from, or to disregard completely, the Guidelines. The operative provisions are found in paragraph 3 of Appendix IX-A which outlines the general principles of deviation or disregard of the Guidelines, and in paragraph 21, which provides a detailed, non-exclusive list of specific factors the court can rely upon to justify disregarding or deviating from the Guidelines. Even though each of these sections has always provided the same clear guidance for deviation or disregard of the Guidelines since their initial adoption in 1986, these sections have been almost entirely overlooked in daily application. It is time for that to change.

## RECOMMENDATION OF CS TASK FORCE NO. 1

The CS Task Force recommends that stronger compulsory language needs to be added to paragraphs 3 and 21 of Appendix IX-A to provide courts with the direction to focus on the adequacy or inadequacy of Guidelines awards and, if found lacking, to compel deviation. To that end, the following amendments are being recommended.

Amendments to paragraph 3 of Appendix IX-A would provide that the court “shall” either deviate or disregard completely the Guidelines if the calculated amount is deemed inappropriate for any reason. Linkage to Rule 5:6A and to paragraph 21 has also been added. The proposed changes are as follows:

### **3. Deviating from the Guidelines**

If the court finds that the guidelines are inappropriate in a specific case, it ~~may~~ **shall** either disregard the guidelines or adjust the guidelines-based award to accommodate the needs of the children or the parents' circumstances **as permitted by R. 5:6A**. If the support guidelines are not applied in a specific case or the guidelines-based award is ~~adjusted~~ **increased or decreased**, the reason for the deviation and the amount of the guidelines-based award (before any adjustment) must be specified in writing on the guidelines worksheet or in the support order **pursuant to R. 1:7-4 and consistent with the procedures set forth in Paragraph 21 of this Appendix**. Such findings clarify the basis for the support order if appealed or modified in the future. If the guidelines are found to be inapplicable in a particular case, the court should consider the factors set forth in N.J.S.A. 2A:34-23 or N.J.S.A. 9:17-53 when establishing the child support award.

## RECOMMENDATION OF CS TASK FORCE NO. 2

Amendments to paragraph 21 are similarly proposed to require deviation or disregard of the Guidelines if one of the enumerated factors is found to impact the case under consideration. Language at the end of the listed factors has been strengthened to require consideration of any other unlisted factor that the court finds to be of impact upon the award of child support. Finally, language has been added to clearly establish the burden of proof by the moving party and the need for consideration as to discovery and a plenary hearing once a prime facie case is made. This is entirely consistent with similar standards established by our Supreme Court in other areas of Family Law (e.g., Lepis). Once again, linkage to the standards established in Rule 5:6A and paragraph 3 has also been included. The proposed changes to paragraph 21 are as follows:

### **21. Other Factors that May Require an Adjustment to Requiring Deviation from a Guidelines-Based Award**

~~At the courts discretion, t~~The following factors may ~~may~~ **shall** require an adjustment to **either disregard of the guidelines or an increase or decrease of** a guidelines-based child support award, **consistent with Paragraph 3 of this Appendix and R. 5:6A:**

- a. equitable distribution of property **to the extent it may not have been considered in determining income;**
- b. income taxes **incurred and/or paid which deviate from those calculated by the guidelines;**
- c. **the absence of** fixed direct payments (e.g., mortgage payments);

- d. **significant** unreimbursed medical/dental expenses **and health insurance costs** for either parent;
- e. **significant** tuition for children (i.e., for private, parochial, or trade schools, or other secondary schools, or post-secondary education);
- f. educational expenses for either parent to improve earning capacity;
- g. single family units (i.e., one household) having more than six children;
- h. cases involving the voluntary placement of children in foster care;
- i. special needs of gifted or disabled children;
- j. ages of the children **where deviations may be outside the guidelines parameters**;
- k. hidden costs of caring for children such as reduced income, decreased career opportunities, loss of time to shop economically, or loss of savings;
- l. extraordinarily high income of a child (e.g., actors, trusts);
- m. substantiated financial obligations for elder care;
- n. substantiated financial obligations for a disabled family member;
- o. the tax advantages of paying for a child's health insurance **as this may cause a deviation from the basic guidelines calculation that addresses the marginal cost of the premium**;
- p. one **or two** obligors owing support to more than one family (e.g., multiple prior support orders);
- q. a motor vehicle purchased or leased for the intended primary use of a child subject to the support order;
- r. parties sharing equal parenting time **where alternative guidelines calculations may not be viable**;
- s. overnight adjustment for multiple children with varying parenting time schedules; and
- t. **the necessity to include an adjustment to accommodate reasonably incurred extra controlled expenses on behalf of the children not covered by 25% of the Basic Child Support Amount on worksheet Line 8 (from Appendix IX-F Schedule) for such**

items as are more particularly listed in the CIS as Child-Only controlled expenses.

**In addition to the factors set forth in a-t, T**the court may **shall** consider other factors that could, in a particular case, cause the child support guidelines to be inapplicable or require an adjustment to **increase or decrease of** the **guidelines-based** child support award. In all cases, the decision to ~~deviate from the guidelines~~ **disregard the guidelines, or to increase or decrease the guidelines-based award,** shall be based on the best interests of the child.

All ~~deviations from~~ **Any increase or decrease of** the guidelines-based award, and the amount of the guidelines-based award ~~must be stated in writing in the support order or on the guidelines worksheet~~ **or decision to disregard the guidelines, shall be supported by findings of fact and conclusions of law pursuant to R. 1:7-4.**

**A party seeking to disregard the guidelines or to increase or decrease the guidelines-based award shall have the burden of proof to establish a prima facie entitlement to relief. As part of any such application, the moving party shall submit probative evidence addressing any of the asserted factors. Upon good cause shown, the court shall permit additional discovery and, at the discretion of the court, order a plenary hearing prior to making a final decision.**

### RECOMMENDATION OF CS TASK FORCE NO. 3

The CS Task Force recognizes that the foregoing proposed amendments will require more work of our judges in determining child support. Recognizing the backlog of the court systems, the CS Task Force proposes that in cases where a Court determines there shall be a deviation from the Guidelines, the case may be assigned to a hearing officer to make a recommendation on the amount of child support to be paid in the case. Similar to the use of a domestic violence hearing officer who



operates as a “first line of defense” to absorb an already overburdened docket, referral to the existing child support hearing officers can serve a similar purpose with deviation applications. The CS Task Force proposes that the determination of whether the case shall deviate from the Guidelines should be made at the initial case management conference or upon motion to the Court.

**THE GUIDELINE AWARDS DO NOT ADEQUATELY ADDRESS  
EXPENSE-SHARING IN PURE 50-50 RESIDENTIAL CUSTODY  
SITUATIONS**

A second area of concern addressed by the CS Task Force are situations in which the parties exercise a pure 50-50 residential custody arrangement and the incomes fall within the Child Support Guidelines. As the Guidelines did not anticipate such a situation, the development of appropriate legal standards was left to caselaw authority. It is the consensus of the CS Task Force that the caselaw authority, while well-intended, is substantially incorrect.

Wunsch-Deffler v. Deffler, 406 N.J. Super. 505 (Ch. Div. 2009) elaborated on Benisch v. Benisch, 347 N.J. Super. 393, (App. Div. 2002), which identified a circumstance wherein a mechanical application of the Guidelines would be unfair when two parents share equal custody. Specifically, the Benisch court noted that when two parents share equal custody, they both naturally incur “Controlled Expenses” for the child, but the Guidelines calculation assumes that only the payee parent (typically the parent with the PPR designation) is incurring these costs. Thus,

the payor parent was effectively paying these costs twice: once as child support to the payee, and again when these costs were incurred during the payor's (typically the PAR) parenting time. For example, clothing is the quintessential example of a Controlled Expense. It is common for both parents in a shared 50-50 residential custody arrangement to each have a set of clothing at their respective homes. The Appellate Division in Benisch remanded the case to the trial court to make an adjustment to the payor's child support obligation to account for this, but there was no resulting published opinion to provide guidance or assistance to the bench or bar.

Wunsch-Deffler took the step of devising a more specific formula. In the 2013 Quadrennial Review of the Child Support Guidelines, the Child Support Subcommittee rejected the formula approach in Wunsch Deffler, finding a formula fails to acknowledge that each case is fact sensitive. Likewise, the present CS Task Force has respectfully concluded the use of a formula as suggested by Wunsch-Deffler is flawed.

Under the basic premise of the Guidelines, the child's needs are calculated and divided between the parents based upon income share (i.e., the percentage that each party earns of the total family income), and with certain types of expenses it also considers the parties' time-share. The Guideline formulas incorporate the child's needs by way of three consumption categories: Fixed Expenses, Variable Expenses and Controlled Expenses, allocated as follows:

- Fixed Expenses represent 38% of the Basic Child Support. They are those incurred even when the child is not residing with the parent, generally housing-related expenses (e.g., dwelling, utilities, household furnishings and household care items).
- Variable Expenses represent 37% of the Basis Child Support. They are incurred only when the child is with the parent because they follow the child, generally transportation and food.
- Controlled Expenses represent 25% of the Basic Child Support, over which the PPR is presumed to have direct control, such as clothing, personal care, entertainment, and miscellaneous expenses.

The apportionment of responsibility for these expenses is handled differently in the Sole Parenting and Shared Parenting worksheets. In the ***Sole Parenting*** setting, all three consumption categories are apportioned with consideration to income share. Variable Expenses, the ones that follow the child and are incurred by both parents, are apportioned with consideration to both income share and time share.

In the ***Shared Parenting*** setting, when the PAR has more than 28% of the overnights, the Guidelines recognize that the other parent also has Fixed (housing) Expenses (which represent 38% of the child support award). To address this, the formula adjusts at Line 11, by doubling the Fixed Expense 38% in recognition of the

fact that these costs are incurred in both parents' households. The doubled Fixed Expense percentage is then added to the Fixed + Variable + Controlled Basic Child Support number. This increases the total Basic Child Support Amount, now called the Shared Parenting Basic Child Support Amount, assuring that both parties' housing expenses are considered and apportioned by income share, which makes sense.

Likewise, the Guidelines recognize the PPR has no Variable (transportation and food) Expenses (which represent 37% of the child support award) while the child is with the PAR. To address this, the formula adjusts at Line 14 to calculate what portion of the Variable Expenses are being incurred by PAR. The Basic Child Support Amount is multiplied by Variable Expense 37% (Line 8 x 0.37). This is then multiplied by the PAR's percentage of regular overnights with the child (Variable Expense x PAR Line 10). The Fixed Expense amount and Variable Expense amount incurred by the PAR during parenting time (Lines 11 and 14, respectively) are then subtracted from the PAR's share of the Shared Parenting Basic Child Support Amount to credit the PAR for expenses incurred during parenting time.

In Wunsch-Deffler, the court recognized in an equal custody setting, each parent incurs Controlled Expenses – clothing, personal care, entertainment and miscellaneous expenses. However, instead of following the Guidelines strategy employed in a Shared Parenting setting with Fixed Expenses by doubling and adding

the Controlled Expense 25% to the Basic Child Support and then allocating as described above, the Wunsch-Deffler formula subtracts the Controlled Expense, implicitly presuming the PAR is paying an income proportionate share of the Controlled Expenses which would otherwise be paid by the PPR. Furthermore, no consideration is given to the fact that additional Controlled Expenses are likely incurred in an equal custody situation.

Specifically, the Wunsch-Deffler formula sets forth a three-step process. First, the Basic Child Support Amount (Line 8) is multiplied by the PAR's income share (Line 7). That amount is then multiplied by 25% (for Controlled Expenses). This figure, representing the PAR's proportionate share of Controlled Expenses, is subtracted from the PAR's Adjusted Shared Parenting Basic Child Support Amount (Line 15). In subtracting the Controlled Expenses from the PAR's obligation, Wunsch-Deffler fails to consider the fundamental concept that a child spending equal time with each parent will likely have double the clothing, personal care items and other needs. Often the Controlled Expenses incurred by the parent in the PAR column are in addition to those incurred by the PPR, rather than as a substitution. Yet, Wunsch-Deffler does not double the Controlled Expenses in a similar fashion to the treatment of Fixed Expenses in the Shared Parenting Worksheet. The Wunsch-Deffler formula further automatically presumes the parent in the PAR column is paying a proportionate share of these expenses by direct purchase. If Parent 1 is a

lower wage earner responsible for meeting the majority of the child's Controlled Expense needs, Parent 1 no longer has the benefit of financial contribution from Parent 2.

Wunsch-Deffler is also directly inconsistent with Paragraph 14(i) of Appendix IX-A of the Guidelines, which provides that in Shared Parenting arrangements where a PAR routinely incurs Controlled Expenses either in addition to or as substitution for Controlled Expenses assumed to be incurred by the PPR, the PAR can rebut the Child Support award and the court is supposed to consider an adjustment. Applying the strict formula suggested by Wunsch-Deffler does not adequately address each family's circumstance.

#### RECOMMENDATION OF CS TASK FORCE NO. 4

If the parents exercise a truly shared, 50-50 parenting schedule, the CS Task Force recommends using the Guidelines as a base with appropriate adjustments made at the discretion of the Court considering the facts of each case. Using the Shared Parenting Worksheet, income information for the parent with the lower income should be placed in the PPR column of the Child Support Guidelines. The CIS would need to be amended to include a *Child-Only Controlled Expense* column as detailed on the Amended CIS Form attached as **Exhibit B**. The Court shall then quantify any additional *Child-Only Controlled Expenses*. The *Child-Only Controlled Expenses* will be identified in a separate section to be added to the Case

Information Statement as reflected on **Exhibit B**. The final child support Order will include an allocation of responsibility for all *Child-Only Controlled Expenses*. Said allocation may be to one parent entirely, proportionately shared between the parties, equally shared between the parties, or by way of other arrangement as the Court, in its discretion, deems appropriate for each family's circumstance based upon the financial circumstances of the parties and the best interests of the child(ren). The 25% of the Child Support Guidelines amount allocated for Controlled Expenses shall also be adjusted by the Court as appropriate in consideration of the apportionment of the *Child-Only Controlled Expenses*. The result may be a child support obligation higher or lower than the standard Guidelines award depending on responsibility for Controlled Expenses.

The CS Task Force reviewed protocols used in other jurisdictions and conferred with the national expert, Laura Morgan, Esquire, and we believe the proposal contained above to address *Child-Only Controlled Expenses* will achieve a more fair and realistic result than the Wunsch-Deffler formula.

**ENSURING THE CHILD SUPPORT AWARDS CAN PROPERLY  
PROVIDE FOR ADDITIONAL RECURRING EXPENSES**

Appendix IX(a), Paragraph 9 of the Child Support Guidelines, recognizes some child-related expenses represent larger variable expenditures that are not incurred by typical intact families. Accordingly, it was not appropriate to include

them in the basic child support awards and, therefore, they are to be added to the basic child support obligation. These expenses are as follows:

- a. Child-care expenses;
- b. Health insurance for the child;
- c. Predictable and recurring unreimbursed healthcare expenses in excess of \$250 per child per year;
- d. Other expenses approved by the Court, such as private elementary or secondary education, special needs of gifted or disabled children, and visitation/transportation expenses.

Such expenses should be shared by the parents in proportion to their relative incomes.

#### RECOMMENDATION OF CS TASK FORCE NO. 5

As pointed out in the Wunsch-Deffler discussion above, there are issues with Controlled Expenses which need to be allocated fairly between two households. Unfortunately, there are also issues in defining exactly what household expenditures fall within that “Controlled Expense” category. While it is understood that not all households have the same expenses, and that averaging expenses among the thousands of households which form the data pool for the awards tables (Appendix IX-F) takes place, there is still a very strong sense among members of the practicing bar that this category is being under-reported in the analysis performed by experts to



create the Guidelines awards. To address this issue, there is a need to amend the current Case Information Statement to require specific reporting of *Child-Only Controlled Expenses* beyond the basic “clothing, personal care, entertainment and miscellaneous expenses” which define the “Controlled” category. See App. IX-A, Para. 8 and 14(f). The CS Task Force recommends that in cases where parents’ income falls within the Guidelines, in addition to the Appendix IX-A, Paragraph 9 expenses that are to be added to the Basic Child Support obligation and shared in proportion to income, the following additional expenses in the “Controlled” category should be added provided they are either agreed upon, or deemed appropriate for inclusion by the court, giving due consideration to the needs of the child(ren) and the responsibility of the parents to contribute to these additional costs not covered by the basic child support award:

#### CHILD-ONLY CONTROLLED EXPENSES

- a. Extracurricular activities and associated equipment including, but not limited to, categories previously described as lessons, instructions, hobbies, photographic equipment, film processing, sports equipment, club dues and memberships;
- b. Summer camp;
- c. Mobile devices (cell phones and service plan);
- d. Electronic devices (computer, iPad, Kindle, sound equipment);

- e. Post high school preparation expenses (preparatory tests, test prep classes, college visits expenses, and application fees);
- f. Post high school education-related costs;
- g. Driver's education lessons and licensure;
- h. Religious expenses (including but not limited to school, required memberships, ceremonies and celebrations);
- i. School-related events (including but not limited to class trips and proms);
- j. Gifts for child's friend's birthday parties, religious celebrations and graduations);
- k. Automobile expenses (payment, insurance, gas, maintenance and repairs);
- l. Travel, other than travel with the parent

**LACKING SOCIAL SCIENCE, WHAT IS JUST AND  
APPROPRIATE IN HIGH INCOME CASES**

High income earners present a challenge to New Jersey family law judges and practitioners alike because the Guidelines are only applicable up to \$187,200 in combined net income for the parents, which roughly extrapolates to a gross annual income of between \$220,000 and \$250,000. While data suggests most New Jersey residents fall within this gross income threshold, the fact remains that a significant percentage do not. It is also the case that as many high income families with children separate or get divorced as do more modest income families, and the child support

system needs to address this fact. The CS Task Force examined caselaw authority and numerous sources of social science, and determined that a review of the treatment of high income families in other jurisdictions provided the most helpful information.

The CS Task Force turned to the State of California, a state which has a comparable number of high income families and which has created a methodology to address child support in high net worth and high income situations. The process in California is, on its face, a simpler approach, but it is not clear if it accurately determines child support in high income cases or can be adopted in the State of New Jersey. Despite this fact, it represents a methodology regularly used in another state with similar socio-economic demographics.

#### Brief Background of High Income Cases in New Jersey

“[W]here the parties have the financial where-withal to provide for their children, the children are entitled to the benefit of financial advantages available to them.” Isaacson v. Isaacson, 348 N.J. Super. 560, 579 (App. Div. 2002), certif. denied, 174 N.J. 364 (2002). See also, Connell v. Connell, 313 N.J. Super. 426, 430 (App. Div. 1998); Italiano v. Rudkin, 294 N.J. Super. 502, 506 (App. Div. 1996); Koelble v. Koelble, 261 N.J. Super. 190, 193 (App. Div. 1992); Walton v. Visgil, 246 N.J. Super. 642, 649 (App. Div. 1991); and Zazzo v. Zazzo, 245 N.J. Super. 124, 130 (App. Div. 1990). “Children are entitled to not only bare necessities, but a supporting

parent has the obligation to share with his children the benefit of his financial achievement.” Isaacson, supra, 348 N.J. Super. at 580. See also, Dunne v. Dunne, 209 N.J. Super. 559 (App. Div. 1986).

In the context of high-income parents whose ability to pay is not an issue, “the dominant guideline for consideration is the reasonable needs of the children, which must be addressed in the context of the standard of living of the parties. The needs of the children must be the centerpiece of any relevant analysis.” Isaacson, supra, 348 N.J. Super. At 581. The consideration of needs must include the age and health of the children—with the understanding that infants’ needs are less than those of teenagers—as well as any assets or income of the children. Ibid.

Determining a child’s “needs” in high-income earning families presents “unique problems.” Id. At 582. The panel in Isaacson set forth the following:

First, a balance must be struck between reasonable needs, which reflect lifestyle opportunities, while at the same time precluding an inappropriate windfall to the child or even in some cases infringing on the legitimate right of either parent to determine the appropriate lifestyle of a child. See Laura W. Morgan, Child Support and the Anomalous Case of the High-Income and Low-Income Parent: The Need to Reconsider What Constitutes “Support” in the American and Canadian Child Support Guideline Models, 13 Can. J. Fam. L. 161, 195 (1996). This latter consideration involves a careful balancing of interests reflecting that a child’s entitlement to share in a parent’s good fortune does not deprive either parent of the right to participate in the development of an appropriate value system for a child. This is a critical tension that may develop between competing parents. Id. Ultimately, the needs of a child in such circumstances also calls to the fore the best interests of a child.

Isaacson, supra, 348 N.J. Super. at 582. See also, Strahan v. Strahan, 402 N.J. Super. 298, 307-08 (App. Div. ch).

The courts have long suggested that “needs” accord with the current standard of living of both parents, which may reflect an increase in parental good fortune. Zazzo, supra, 245 N.J. Super. at 130. Yet, the promulgation of such “needs” is not an open-ended opportunity for a parent to develop a “wish-list” for a child that does not comport with the child’s best interests; “needs” is a relative factor in appropriate upbringing of a child and a reflection of the lifestyle of the parents. Isaacson, supra, 348 N.J. Super. at 583. By way of example, the fact that a parent may be driving a luxury vehicle does not mean that their child shall also automatically drive a luxury vehicle, but the supporting parent’s financial wherewithal may enable a child with a need for a vehicle to enjoy the luxury of a vehicle that is suitable and appropriate for his or her needs and age. Isaacson, supra, 348 N.J. Super. at 583.

“Judges must be vigilant in providing for ‘needs’ consistent with lifestyle without overindulgence.” Isaacson, supra, at 583. In Isaacson, the Appellate Division referred to the Kansas “Three Pony Rule,” which states that “no child, no matter how wealthy the parents, needs to be provided [with] more than three ponies.” Ibid. (quoting In re Patterson, 22 Kan. App. 2d 522 (1996)). The Appellate Division further referred to a ruling by the Florida Supreme Court where they:

[r]ecognized that a child has every right to share in the good fortune of his or her parents, however, this entitlement is tempered by the needs of the child in determining an appropriate amount of support. *Miller v. Schou*, 616 So. 2d 436, 437-38 (Fla. 1993). The Court noted ‘we do not mean to imply that the child of a multimillionaire should be awarded support to be driven to school each day in a chauffeured limousine. The child is only entitled to share in the good fortune of his parent consistent with an appropriate lifestyle.

Isaacson, supra, 348 N.J. Super. at 584.

Even with high-income parents, the court still must “determine needs of a child in a sensible manner consistent with the best interests of the child.” Isaacson, supra, at 584. “[T]he law is not offended if there is some incidental benefit to the custodial parent from increased child support payments.” Ibid. While “some incidental benefit” is not offensive, “overreaching in the name of benefiting a child is.” Id. At 585. “[A] custodial parent cannot[,] through the guise of the incidental benefits of child support[,] gain a benefit beyond that which is merely incidental to a benefit being conferred on the child.” Loro v. Del Colliano, 354 N.J. Super. 212, 225-26 (App. Div. 2002), certif. denied, 174 N.J. 544 (2002). That is especially true where the custodial parent is not entitled to alimony. Ibid. “The award of nonessential additions to child support requires a careful weighing and determination as to who is the primary and who is the incidental beneficiary of such support.” Ibid.

## How Child Support is Determined in High-Income Cases in California

Under the California Family Codes, child support obligations are always determined in uniformity with the Statewide Uniform Guideline (Uniform Guideline) (See Cal. Fam. Code §4050 through §4077). **Exhibit C**. Courts in California may only depart from same under special circumstances set forth within the Family Codes. Cal. Fam. Code §4052. (NOTE: **Exhibit C**, contains the full language of the relevant California Family Codes §4050 through §4077, which make up the Uniform Guidelines).

California has a strong public policy in favor of adequate child support. The Uniform Guideline formula seeks to place the best interests of children as the state's top priority. Id. Children should share in the standard of living of both parents and therefore child support may therefore appropriately improve the standard of living of the custodial household to improve the lives of the children. In re Marriage of Sorge (2012) 202 Cal. App. 4<sup>th</sup> 626, 640.

### Summary of New Jersey vs. California Laws in High-Income Child Support Awards

New Jersey requires the usage of the Guidelines to determine the amount of child support up to and including the first \$187,200 in combined net income of the parties and then requires application of the statutory factors contained in N.J.S.A. 2A:34-23.

California requires the usage of the statewide Uniform Guideline formula to determine the amount of child support in all cases and for all income levels. It is the supporting spouse's burden to rebut this presumption in the case where he or she has "extraordinarily high income," and the child support amount calculated would exceed the child's reasonable needs.

#### RECOMMENDATION OF CS TASK FORCE NO. 6

If the parties' income falls outside the Guidelines, after determining income (actual or imputed) and alimony, the CS Task Force recommends the parties calculate their cash flow and percentage of net income to the total net income, either using the Guidelines Worksheet or a cash flow program or by obtaining pro forma returns run by the parties' accountant with the parties as individual filers. Ultimately, and depending upon each party's ability to pay considering their individual expenses, we determine each party's percentage share of the children's expenses.

As to identifying and calculating the children's expenses, it is the CS Task Force's recommendation that the parents carve out from their individual budgets what they perceive to be the child-centered expenses. This can be accomplished by way of the *Child-Only Controlled Expense* column added to the Case Information Statement as otherwise suggested herein. Note these would include expenses which are incurred by the child only, such as extracurricular activities, driver's education lessons, school-related events, as well as expenses that are naturally shared with a



parent, such as food and household supplies, restaurants and housing and transportation expenses as detailed in the proposed list herein. Also note adjustments should be made in the event expenses on the proposed list of *Child-Only Controlled Expenses* actually shared with the parent, for example, a driving child who shares a vehicle with a parent.

An allocation of expenses shared with a parent will need to be thoughtfully determined. The CS Task Force recommends that by way of default before further consideration and adjustment, a parent's housing- and transportation-related expenses be assumed to be shared by the child or children at 50%. The CS Task Force recommends that by way of default before further consideration and adjustment, the personal shared expenses be assumed to be shared by the children at 50%, if one or two children, and at 67%, if three or more children.

The parents should further identify and segregate those expenses that are regular and recurring currently (e.g., clothing) or may be in the future (e.g., religious school, car expenses), are short term currently or may be in the future (e.g., driver's education lessons), and are irregular (e.g., tutoring) or may be one-off activities (e.g., bar/bat mitzvah, prom). Then, the parents need to consider how to budget and fund all of these expenses.

As to the mechanics of payment, to a large extent this depends upon the parents' relationship and the recurrence of the expenses. The parties can either agree

to a child support amount to cover certain expenses and share others proportionately or eliminate direct child support and share all expenses proportionately.

If the parties' relationship is amicable and trusting, we encourage the parties to maintain a joint account from which these expenses can be paid, depositing their respective contributions necessary to cover the expenses as they go, with an apportioned amount to be deposited monthly, in order to be sure there is a cushion.

If the relationship is not as amicable and trusting, it is still possible to use a joint account if there are levels above which the account cannot be used without permission, and/or by setting monthly or per item caps on certain expenses. As there is often so much difficulty when parties are required to reimburse each other, we recommend avoiding such an arrangement, if possible. Indeed, the CS Task Force recommends that the parents consider paying expenses via user-friendly applications for this purpose, such as Our Family Wizard or DComply.

If the parties enjoy a true 50/50 arrangement and their net incomes are similar (after adding alimony to the payee spouse and deducting it from the payor spouse), no child support may be necessary. Instead, the parents would share the child-centered expenses 50/50 with agreed upon caveats and conditions and neither party would have an obligation to pay child support to the other.

If the parents' net incomes demonstrate a significant disparity, the CS Task Force recommends the parties analyze the individual and shared child-related

expenses against their individual abilities to pay, and fashion a reasonable child support number and determine each party's respective percentage contribution toward the child support and the additional child-centered expenses referenced above and set forth in the list herein.

### **CONCLUSION**

The CS Task Force appreciates the opportunity to present its findings and hopes that its recommendations are seriously considered by the New Jersey State Bar Association and the New Jersey Supreme Court Family Practice Committee.

Respectfully submitted,

Sheryl J. Seiden

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Sheryl J. Seiden, Esquire

# Exhibit A

JOINT REPORT  
OF THE AMERICAN ACADEMY OF MATRIMONIAL LAWYERS,  
NEW JERSEY CHAPTER AND  
FAMILY LAW EXECUTIVE COMMITTEE  
OF THE NEW JERSEY STATE BAR ASSOCIATION  
CONCERNING THE FAMILY PRACTICE COMMITTEE 2011-2013  
SUPPLEMENTAL REPORT  
DATED MAY 8, 2013

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Exhibits

- A. Double chart comparison of IX-F schedule of child support awards.
- B. Comparison chart of guideline child support awards for family with combined gross income of \$130,000 per year.
- C. Consumer Price Index – Average Price Data.
- D. Comparison chart of treatment of derivative benefits for a child.

## INTRODUCTION

On April 10, 2013, the Family Practice Committee of the Supreme Court of the State of New Jersey released a Supplemental Report recommending that the Supreme Court adopt various proposed amendments to the Rules Appendix, primarily concerning the issue of child support.

On April 19, 2013, John P. Paone, Jr., Esquire, the President of the New Jersey Chapter of the American Academy of Matrimonial Lawyers, appointed a committee to review the Report and issue findings to the Board of Managers no later than May 13, 2013.

On April 22, 2013, the Family Law Executive Committee of the New Jersey State Bar Association (FLEC), chaired by Patrick Judge, Esquire, held its regular meeting at the Law Center in New Brunswick, New Jersey. Among important agenda items, members of FLEC discussed the Family Practice Committee Supplemental Report of April 10, 2013. During the meeting it was decided that the issues raised in the report were of such significance that the incoming Chair of FLEC, Brian Schwartz, Esquire, should create a committee to review the Report and offer comments before the expiration of the comment period on May 15, 2013.

During the week following the FLEC meeting, various communications occurred between Mr. Paone, Mr. Schwartz, and Christopher Rade Musulin, Esquire. Mr. Musulin was appointed by Mr. Paone to chair the AAML Subcommittee. It was agreed that the New Jersey Chapter of the American Academy and the Family Law Executive Committee would study the Family Practice Committee Supplemental Report in a cooperative manner, and would issue a single report. Accordingly, the joint AAML and FLEC committee will be referred to as the "Joint Committee."

On April 30, 2013, the AAML Subcommittee conducted a telephone meeting which included Carolyn Daly, Esquire; Jeralyn Lawrence, Esquire; Allison Williams, Esquire; and Christopher Rade Musulin, Esquire. Additional phone conferences and meetings occurred with various members of the AAML Subcommittee and members of FLEC. Jean Ramatowski, Esquire, also sent an email with extensive observations.

The New Jersey Chapter of the AAML and FLEC of the New Jersey State Bar Association issue the present joint report for review by the Honorable Court as part of its consideration of the Family Practice Committee Supplemental Report of April 10, 2013.

## DISCUSSION

The Joint Committee would first like to thank the Honorable Marie Lihotz, J.A.D., as well as the other members of the Family Practice Committee for their extraordinary efforts related to the Supplemental Report of April 10, 2013. We would also like to thank individual members of the Family Practice Committee for taking the time to discuss the Report with members of the Joint Committee.

The Supplemental Report of April 10, 2013, recommends the adoption of various changes to Appendix IX, all related to the issue of child support. The changes include the adoption of a new award schedule as well as amendments to paragraph 21, considerations in the use of the Child Support Guidelines.

### REVISED SCHEDULE OF CHILD SUPPORT AWARDS

The last review of the schedule of child support awards occurred in 2006. Pursuant to the Family Support Act of 1988, each state utilizing the Child Support Guidelines consistent with the provisions of Title IV-D must periodically review the awards as well as the protocols for calculating child support obligations. This federal mandate was the impetus for the present quadrennial review.

During each quadrennial period, the Family Practice Committee is one of several state and federal entities involved in the review process. Substantial information sharing and coordination of data occurs. Additionally, a lead expert is traditionally appointed, in this case Dr. William Rogers, III, an economist from Rutgers University.

Enormous amounts of data were reviewed by the various participants including information from the Consumer Expenditure Survey (CEX) as promulgated by the U.S. Department of Labor, as well as different estimation techniques formulated by economists used to determine expenditures for children in intact families. Much of the work has historically been predicated upon estimators created by Dr. David Betson of the University of Notre Dame, which in turn was based upon substantial research of other economists, some dating back to the 1970s. Of significant importance, Dr. Rogers and the other participants involved in the current review considered data gathered between 2000 and 2011 in an attempt to provide the most accurate estimators for costs specifically attributable to children. It was also suggested that data indigenous to New Jersey was considered. Through all of these efforts, a new schedule of child support awards was created.



Attached as Exhibit A is a chart containing a side-by-side comparison of the current awards contained in the 2013 New Jersey Court Rules and the recommended revised schedule of awards.

Attached hereto as Exhibit B is a chart containing a comparison of awards for a couple earning combined income of \$130,000 per year gross with a single child through six children, along with the attendant worksheets, to provide a concrete example of the differences in awards in a specific factual situation. In this example, the award would increase slightly for families with one child or six children (\$8 and \$4 per week, respectively), and would decrease \$3 to \$5 per week for families with three, four or five children. The greatest departure would occur in families with two children, where the revised schedule in this example resulted in a \$27 per week reduction in the award.

The Joint Committee was initially surprised as to the enormous reduction in support between the award for two children in the current schedule and that contained in the revised schedule. The Joint Committee is greatly troubled by this inexplicable aberration between the two schedules at nearly all income levels. The adjustments in the awards for one child, for three children through six children, are not as severe as the change in the award for two children. The Joint Committee also expressed great concern that child support awards will likely decrease as a result of the revised schedules.

The Joint Committee recognizes that the quadrennial review involved years of significant efforts by many individuals and entities. We further recognize that the award schedules were premised upon significant research and investigation. As neither the Academy nor the State Bar has had the opportunity to retain its own economic expert to analyze the data and offer learned commentary as to the awards, we are not in a position to offer any substantive commentary as to the revised schedules other than the concerns stated above.

That noted, the Bureau of Labor and Statistics releases reports on the Consumer Price Index - Average Price Data for various products. These statistics show a significant rise in the cost of commonly used products. As some examples, comparing January 2003 to January 2012 for U.S. Cities (average), the statistical data for specific products (Exhibit C) is as follows:

Product	January 2003	January 2012	change
Unleaded gasoline (per gallon)	\$1.473	\$3.399	131%
White bread (per pound)	\$1.042	\$1.423	37%
100% ground chuck beef (per pound)	\$2.131	\$3.292	55%
Whole chicken (per pound)	\$1.004	\$1.334	33%
Large Grade A eggs (per dozen)	\$1.175	\$1.939	65%

Clearly, then, the costs of commonly consumed items have increased fairly significantly over the past nine years; yet, the child support figures have remained stagnant (and, for two children, have decreased). This appears incongruous.

The Joint Committee was also concerned that the new schedules may be premised upon the CEX and not upon local data. It was suggested by members of the Family Practice Committee that Dr. Rogers considered both national data from the CEX as well as more localized information. However, no specific disclosure is contained within the report. As the cost of living in the State of New Jersey is among the highest in the nation, the Joint Committee believes that the Supreme Court should seek clarification as to the amount of localized data used in fashioning the new award schedule.

The Joint Committee also requests clarification that the adoption of any revised schedules will not, by itself, permit litigants to file motions to revise their child support awards in the absence of a substantial change of circumstance. Although this is explicitly provided for in the existing rules and addressed by case law authority, a specific statement will likely stem a potential flood of applications by self-represented litigants or others not properly informed as to the appropriate legal standard.

Section III B on page 13 of the report has a discussion about biennial review and cost of living adjustments (COLA) pursuant to Rule 5:6B. The discussion, in essence, states that biennial review are not appropriate and that COLA are not supported by the economic data. Nevertheless, the practice committee took no action. The Joint Committee would ask for clarification as to why no action was taken despite these findings.

#### REVISIONS TO PARAGRAPH 21, CONSIDERATIONS IN THE USE OF CHILD SUPPORT GUIDELINES

Appendix IX-A, Paragraph 21, as contained in the 2013 Edition of the New Jersey Court Rules provides as follows:

**21. Other Factors that May Require an Adjustment to a Guidelines-Based Award –**  
At the Court's discretion, the following factors may require an adjustment to a guidelines-based child support award:

- a. equitable distribution of property;
- b. income taxes;
- c. fixed direct payments (e.g. mortgage payments);
- d. unreimbursed medical/dental expense for either parent;
- e. educational expenses for children (i.e. for private, parochial, or trade schools, or other secondary schools, or post-secondary education);

- f. educational expenses for either parent to improve earning capacity;
- g. single family units (i.e., one household) having more than six children;
- h. cases involving the voluntary placement of children in foster care;
- i. special needs of gifted or disabled children;
- j. ages of the children;
- k. hidden costs of caring for children such as reduced income, decreased career opportunities, loss of time to shop economically, or loss of savings;
- l. extraordinarily high income of a child (e.g. actors, trusts);
- m. substantiated financial obligations for elder care that existed before the filing of the support action;
- n. the tax advantages of paying for child's health insurance; and
- o. one obligor owing support to more than one family (e.g., multiple prior support orders).

The Family Practice Committee has recommended the addition of three new subparagraphs (p, q and r) consisting of other factors that may require an adjustment to the guidelines-based award, as well as amendments to other related paragraphs.

Automobile expenses incurred for the intended primary use of the child:

The Family Practice Committee recommends the adoption of a new paragraph 21(p), as well as a nominal revision to paragraph 8, to clarify that the Appendix IX-F schedule does not include automobile expenses incurred for the intended primary use of the child.

The specific recommendation of the Family Practice Committee is that litigants can present evidence to the Court concerning the maintenance of an automobile exclusively used by a child. There is no recommendation that a specific amount be entered into the child support worksheet. Rather, the expense may be added onto the basic award as a discretionary determination made by the Trial Court.

The Joint Committee expressed numerous concerns with regard to the above-mentioned proposed revision. First, it is not clear why automobile insurance was specifically distinguished and excluded from consideration. By law, every child who receives a driver's license must likewise have automobile insurance. This obligation arises whether there is a specific vehicle titled in that child's name or that child is the user of another vehicle. Yet, the Family Practice Committee recommendation makes a distinction; that is, the Family Practice Committee proposes that only if the insurance cost is related to a vehicle exclusively utilized by the child may that cost be added to the basic child support. On the other hand, a parent of primary residence who adds a child to the policy as an occasional driver may not seek contribution from the parent of alternate residence toward this additional cost. It would seem that this distinction unreasonably favors wealthier parents, as wealthier parents can afford to purchase automobiles

for the exclusive use of their child and, therefore, seek contribution from the other parent. The Joint Committee believes that the additional cost of automobile insurance for newly licensed drivers should be an expense not included in the Appendix IX-F and, therefore, be allocated between the parents as an additional expense.

It is also not clear whether the expense considered should include merely the monthly purchase/lease expense alone, or should also include maintenance, gasoline, EZ Pass and other automobile-related expenses. Clarification should also be provided as to these expenses.

The Joint Committee also raised a concern with the level of proofs that should be presented to the Court in relation to this new consideration. The Joint Committee also questions the possibility of a Qac-like issue where a litigant unilaterally purchases a very expensive automobile without prior consultation or knowledge of the other parent and subsequently applies for contribution.

The Joint Committee also expressed concern with the imposition of discretion as many of these cases are presented to hearing officers as a matter of first impression. Unfortunately, it is the experience of the Joint Committee that the exercise of discretion by hearing officers often results in appeals to Superior Court Judges. Perhaps cases involving automobile expenses should be screened and sent directly to Superior Court Judges.

Determination of parenting time adjustment in situations with multiple children, each with a different parenting time schedule:

The Family Practice Committee recommends adopting new paragraph 21(r) to include multiple children with varying parenting time schedules as a reason for deviation from the Child Support Guidelines.

There is currently no clear provision in the Child Support Guidelines to address situations in which the non-custodial parent exercises a different number of annual overnights with children in the same family. For example, a non-custodial parent may exercise an alternating weekend schedule with a younger child, but have no fixed overnight parenting schedule with a teenage sibling. The Family Practice Committee's recommendation would allow for deviation from the guidelines support award in such circumstances at the discretion of the Court after a fact-sensitive review on a case-by-case basis.

It has been the experience of members of the Joint Committee that, in these situations, the overnights are apportioned between the children and treated as a percentage of overnights with all children in the family for the guidelines calculation. For example, in a family of two children

In which the non-custodial parent exercises 52 overnights (14% of the possible overnights) with one child and no overnights with the other, the non-custodial parent is given credit for 26 overnights (7% of the possible overnights).

The Joint Committee is once again concerned that this additional discretion will present problems for hearing officers. Perhaps cases involving multiple children with different parenting time schedules should be screened and sent directly to Superior Court Judges.

Equal 50% joint custody situations:

The Family Practice Committee recommends adopting new paragraph 21(q) in Appendix IX-A to include equal parenting time as a reason for deviation.

Based upon discussions between the committees, it would appear that the decision of Benisch v. Benisch, 347 N.J. Super. 397 (App.Div. 2002) is dispositive and should serve as the benchmark in deciding these issues, particularly as relates to the PPR and PAR designations, as well as the sharing of controlled expenses. The Benisch decision and Family Practice Committee report once again suggest that equal 50% joint custody situations involving child support determinations should rest with the sound discretion of the Trial Court.

ACCOUNTING FOR SOCIAL SECURITY DISABILITY DERIVATIVE BENEFITS

The Family Practice Committee recommends an amendment to Appendix IX-A, paragraph 10 to include government derivative benefits for a child as income to the disabled parent, with a deduction from the child support obligation for non-means-tested derivative benefits received by a non-custodial parent.

Under the current Child Support Guidelines, a derivative benefit paid to a child as a result of a parent's disability (e.g., Social Security Disability Income) is entered on line 12 of the guidelines and deducted from the total basic child support amount before the award is apportioned between the parties. This approach results in a reduction of both parents' support obligations, as each party is then responsible for a portion of a reduced amount.

The Family Practice Committee reviewed the existing approach in light of concerns that the current arrangement appears to have a disparate impact on disabled parent households, which statistics indicate are economically challenged. Specifically, the Family Practice Committee recommends a revised methodology whereby the derivative benefit is counted as income to the disabled parent, rather than deducted from the basic child support amount. A disabled non-custodial parent would then receive a dollar-for-dollar reduction of the child support obligation according to the amount of the derivative benefit.

The Joint Committee applied this new proposed methodology and has a concern with the impact on the support flowing into the custodial household. Specifically, the proposed revision has a disparate impact on the support paid to the custodial parent for the child depending upon which parent is disabled.

By way of example, we attach hereto as Exhibit D a comparison chart demonstrating the impact of the recommendation as to derivative benefits on the total support flowing to a child in a specific factual situation, along with the attendant worksheets.

Pursuant to the proposed methodology, the non-custodial parent's child support obligation would be reduced by the amount of the derivative benefit. In this example, because the amount of the derivative benefit exceeds the non-custodial parent's obligation, the non-custodial parent would pay \$0 support to the custodial parent for the child. Under the current methodology, on the other hand, the non-custodial parent would pay \$21 per week.

As to other concerns with the Report, the Joint Committee notes inconsistencies in the language pertaining to the line instructions. For example, attachment B-11 references line 13 and calls for the subtraction of government benefits received by the child at this point of the calculation. It appears that language should have been deleted. The same error exists on attachment B-28, referencing line 12. The language calling for the subtraction of government benefits should be deleted.

#### REVISIONS TO PARAGRAPH 21,

#### CONSIDERATIONS IN THE USE OF CHILD SUPPORT GUIDELINES

#### EXTRACURRICULAR ACTIVITIES

The Joint Committee also raised concerns with regard to Paragraph 8, Expenses Included in the Child Support Schedules. It is the experience of the Joint Committee members that spending for extracurricular activities varies throughout income levels. As just one example, the proliferation of "travel teams" has increased significantly the costs related to entertainment and miscellaneous expenses. These activities might not rise to the level of "special needs of gifted or disabled children," (which are excluded from the IX-F schedule per paragraph 21(i)), but many children are enrolled in relatively expensive activities.

It is the recommendation that extracurricular activities be treated in a manner similar to that of unreimbursed medical expenses. That is, expenses for extracurricular activities up to a certain level be included in IX-F schedules, with any agreed upon excess expense being allocated between the parties based upon line 6 (net income) percentages.

CONCLUSION

On behalf of the Joint Committee of the American Academy of Matrimonial Attorneys, New Jersey Chapter, and the Family Law Section of the New Jersey State Bar Association, we ask that the Court take into consideration the comments to the Family Practice Committee 2011-2013 Supplemental Report as set forth herein.

Respectfully,

Christopher Rade Musulin, Esquire on behalf of  
the New Jersey Chapter AAML,  
Brian Schwartz, Esquire, on behalf of  
the Family Law Executive Committee of the  
New Jersey State Bar Association,  
Carolyn Daly, Esquire,  
Jeralyn Lawrence, Esquire,  
Allison Williams, Esquire and  
Jay McManigal, Esquire

# Exhibit B



Appendix V  
Family Part Case Information Statement

All information and attachments are confidential pursuant to Rules 1:38-3(d)(1) and 5:5-2(f)

ID#:  
Address:  
Tel. No./Fax No.:

Attorney(s) for: Plaintiff

	Plaintiff,
vs.	
	Defendant.

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION, FAMILY PART  
\_\_\_\_\_ COUNTY

DOCKET NO. \_\_\_\_\_  
CASE INFORMATION STATEMENT  
OF \_\_\_\_\_

**NOTICE:** This statement must be fully completed, filed and served, with all required attachments in accordance with Court Rule 5:5-2 based upon the information available. In those cases where the Case Information Statement is required, it shall be filed within 20 days after the filing of the Answer or Appearance. Failure to file a Case Information Statement may result in the dismissal of a party's pleadings.

**INSTRUCTIONS:**

The Case Information Statement is a document which is filed with the court setting forth the financial details of your case. The required information includes your income, your spouse's/partner's income, a budget of your joint life style expenses, a budget of your current life style expenses including the expenses of your children, if applicable, an itemization of the amounts which you may be paying in support for your spouse/partner or children if you are contributing to their support, a summary of the value of all assets referenced on page 8 -- It is extremely important that the Case Information Statement be as accurate as possible because you are required to certify that the contents of the form are true. It helps establish your lifestyle which is an important component of alimony/spousal support and child support.

The monthly expenses must be reviewed and should be based on actual expenditures such as those shown from checkbook registers, bank statements or credit card statements from the past 24 months. The asset values should be taken, if possible, from actual appraisals or account statements. If the values are estimates, it should be clearly noted that they are estimates.

According to the Court Rules, you must update the Case Information Statement as your circumstances change. For example, if you move out of your residence and acquire your own apartment, you should file an Amended Case Information Statement showing your new rental and other living expenses.

It is also very important that you attach copies of relevant documents as required by the Case Information Statement, including your most recent tax returns with W-2 forms, 1099s and your three (3) most recent paystubs.

If a request has been made for college or post-secondary school contribution, you must also attach all relevant information pertaining to that request, including but not limited to documentation of all costs and reimbursements or assistance for which contribution is sought, such as invoices or receipts for tuition, board and books; proof of enrollment; and proof of all financial aid, scholarships, grants and student loans obtained.

**Part A – Case Information:**

Date of Statement \_\_\_\_\_  
 Date of Divorce, Dissolution of Civil Union;  
 or Termination of Domestic Partnership  
 (post-Judgment matters) \_\_\_\_\_  
 Date(s) of Prior Statement(s) \_\_\_\_\_

Your Birthdate \_\_\_\_\_  
 Birthdate of Other Party \_\_\_\_\_

Date of Marriage, or entry into Civil Union  
 or Domestic Partnership \_\_\_\_\_

Date of Separation \_\_\_\_\_  
 Date of Complaint \_\_\_\_\_

Does an agreement exist between the parties relative to any issue?  Yes  No.  
 If Yes, ATTACH a copy (of written) or a summary (if oral).

**Issues in Dispute:**

Cause of Action  \_\_\_\_\_  
 Custody  \_\_\_\_\_  
 Parenting Time  \_\_\_\_\_  
 Alimony  \_\_\_\_\_  
 Child Support  \_\_\_\_\_  
 Equitable Distribution  \_\_\_\_\_  
 Counsel Fees  \_\_\_\_\_  
 Anticipated College/Post-  
 Secondary Education \_\_\_\_\_  
 Expenses  \_\_\_\_\_  
 Other Issues (be specific) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**1. Name and Addresses of Parties:**

Your Name \_\_\_\_\_  
 Street Address \_\_\_\_\_ City \_\_\_\_\_ State/Zip \_\_\_\_\_  
 Other Party's Name: \_\_\_\_\_  
 Street Address \_\_\_\_\_ City \_\_\_\_\_ State/Zip \_\_\_\_\_

**2. Name, Address, Birthdate and Person with whom children reside:**

**a. Child(ren) From This Relationship**

Name	Address	Dob	Reside with

**b. Child(ren) From Other Relationship**

Name	Address	Dob	Reside with

**Part B – Miscellaneous Information:**

**1. Information about Employment (Provide Name & Address of Business, if Self-employed)**

Name of Employer/Business: \_\_\_\_\_ Address: \_\_\_\_\_  
 \_\_\_\_\_  
 Name of Employer/Business: \_\_\_\_\_ Address: \_\_\_\_\_  
 \_\_\_\_\_

2. Do you have Insurance obtained through Employment/Business?  Yes  No. Type of Insurance:

Medical  Yes  No; Dental  Yes  No; Prescription Drug  Yes  No; Life  Yes  No; Disability  Yes  No  
 Other (explain) \_\_\_\_\_

Is insurance available through Employment/Business?  Yes  No

Explain: \_\_\_\_\_

3. ATTACH Affidavit of Insurance Coverage as required by Court Rule 5:4-2(f) (See Part G)

**4. Additional Information:**

Confidential Litigant Information Sheet: Filed  Yes  No

5. ATTACH a list of all prior/pending family actions involving support, custody or Domestic Violence, with the Docket Number, County, State and the disposition reached. Attach copies of all existing Orders in effect.

**Part C – Income Information**

Complete this section for self and (if known) for other party

**1. Last Year's Income**

	Yours	Joint	Other Party
1. Gross Income earned last calendar (year) ( )	\$ _____	\$ _____	\$ _____
2. Unearned Income (same year)	\$ _____	\$ _____	\$ _____
3. Total Income Taxes paid on income (Fed, State, F.I.C.A., and S.U.I.). If Joint Return, use middle column.	\$ _____	\$ _____	\$ _____
4. Net Income (1 + 2 - 3)	\$ _____	\$ _____	\$ _____

ATTACH to this form a corporate benefits statement as well as a statement of all fringe benefits of employment. (See Part G)

ATTACH a full and complete copy of last year's Federal and State Income Tax Returns. ATTACH W-2 statements, 1099's, Schedule C's, etc., to show total income plus a copy of the most recently filed Tax returns. (See Part G)

Check if attached:     Federal Tax Return     State Tax Return     W-2     Other

**2. Present Earned Income and Expenses**

	Yours	Other Party (if known)
1. Average gross weekly income (based on last 3 pay periods -- ATTACH pay stubs) Commissions and bonuses, etc., are: <input type="checkbox"/> Included <input type="checkbox"/> not included* <input type="checkbox"/> not paid to you. *ATTACH details of basis thereof, including, but not limited to, percentage overrides, timing of payments, etc. ATTACH copies of last three statements of such bonuses commissions, etc.	\$ _____	\$ _____
2. Deductions per week (check all types of withholdings): <input type="checkbox"/> Federal <input type="checkbox"/> State <input type="checkbox"/> F.I.C.A. <input type="checkbox"/> S.U.I. <input type="checkbox"/> Other	\$ _____	\$ _____
3. Net average weekly income (1 - 2)	\$ _____	\$ _____

**3. Your Current Year to Date Earned Income**

Provide Dates: From \_\_\_\_\_ To \_\_\_\_\_

1. GROSS EARNED INCOME: \$ \_\_\_\_\_ Number of Weeks \_\_\_\_\_

2. TAX DEDUCTIONS: (Number of Dependents: \_\_\_\_)

- |  |       |       |
|--|-------|-------|
| a. Federal Income Taxes                            | a. \$ | _____ |
| b. N.J. Income Taxes                               | b. \$ | _____ |
| c. Other State Income Taxes                        | c. \$ | _____ |
| d. P.I.C.A.  | d. \$ | _____ |
| e. Medicare  | e. \$ | _____ |
| f. S.U.I. / S.D.I.                                 | f. \$ | _____ |
| g. Estimated tax payments in excess of withholding | g. \$ | _____ |
| h. _____   | h. \$ | _____ |
| i. _____   | i. \$ | _____ |
| TOTAL  | \$    | _____ |

3. GROSS INCOME NET OF TAXES \$ \_\_\_\_\_

4. OTHER DEDUCTIONS:

If mandatory, check box

- |                                      |       |       |                          |
|--------------------------------------|-------|-------|--------------------------|
| a. Hospitalization/Medical Insurance | a. \$ | _____ | <input type="checkbox"/> |
| b. Life Insurance                    | b. \$ | _____ | <input type="checkbox"/> |
| c. Union Dues                        | c. \$ | _____ | <input type="checkbox"/> |
| d. 401(k) Plans                      | d. \$ | _____ | <input type="checkbox"/> |
| e. Pension/Retirement Plans          | e. \$ | _____ | <input type="checkbox"/> |
| f. Other Plans -- specify _____      | f. \$ | _____ | <input type="checkbox"/> |
| g. Charity                           | g. \$ | _____ | <input type="checkbox"/> |
| h. Wage Exemption                    | h. \$ | _____ | <input type="checkbox"/> |
| i. Medical Reimbursement (flex fund) | i. \$ | _____ | <input type="checkbox"/> |
| j. Other _____                       | j. \$ | _____ | <input type="checkbox"/> |
| TOTAL                                | \$    | _____ |                          |

5. NET YEAR TO DATE EARNED INCOME: \$ \_\_\_\_\_

NET AVERAGE EARNED INCOME PER MONTH: \$ \_\_\_\_\_

NET AVERAGE EARNED INCOME PER WEEK: \$ \_\_\_\_\_

**4. Your Year to Date Gross Unearned Income From All Sources,**

(including, but not limited to, income from unemployment, disability and/or social security payments, interest, dividends, rental income and any other miscellaneous unearned income)

Source	How often paid	Year to date amount
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
TOTAL GROSS UNEARNED INCOME YEAR TO DATE		\$ _____

5. Additional Information:

1. How often are you paid? \_\_\_\_\_
2. What is your annual salary? \$ \_\_\_\_\_
3. Have you received any raises in the current year?  Yes  No  
If yes, provide the date and the gross/net amount. \_\_\_\_\_
4. Do you receive any bonuses, commissions, or other compensation, including distributions, taxable or non-taxable, in addition to your regular salary?  Yes  No  
If yes, explain. \_\_\_\_\_
5. Does your employer pay for or provide you with an automobile (lease or purchase), automobile expenses, gas, repairs, lodging and other.  Yes  No  
If yes, explain. \_\_\_\_\_
6. Did you receive bonuses, commissions, or other compensation, including distributions, taxable or non-taxable, in addition to your regular salary during the current or immediate past 2 calendar years?  Yes  No  
If yes, explain and state the date(s) of receipt and set forth the gross and net amounts received:  
\_\_\_\_\_
7. Do you receive cash or distributions not otherwise listed?  Yes  No  
If yes, explain. \_\_\_\_\_
8. Have you received income from overtime work during either the current or immediate past calendar year?  Yes  No  
If yes, explain. \_\_\_\_\_
9. Have you been awarded or granted stock options, restricted stock or any other non-cash compensation or entitlement during the current or immediate past calendar year?  Yes  No  
If yes, explain. \_\_\_\_\_
10. Have you received any other supplemental compensation during either the current or immediate past calendar year?  Yes  No  
If yes, state the date(s) of receipt and set forth the gross and net amounts received. Also describe the nature of any supplemental compensation received.  
\_\_\_\_\_
11. Have you received income from unemployment, disability and/or social security during either the current or immediate past calendar year?  Yes  No  
If yes, explain and state the date(s) of receipt and set forth the gross and net amounts received:  
\_\_\_\_\_
12. List the name of the dependents you claim: \_\_\_\_\_
13. Are you paying or receiving any alimony?  Yes  No  
If yes, how much and from or to whom? \_\_\_\_\_
14. Are you paying or receiving any child support?  Yes  No  
If yes, list the names of the children, the amount paid or received for each child and to whom paid or from whom received.  
\_\_\_\_\_
15. Is there a wage execution in connection with support?  Yes  No  
If yes, explain. \_\_\_\_\_
16. Does a Safe Deposit Box exist and if so, at which bank?  Yes  No  
\_\_\_\_\_
17. Has a dependent child of yours received income from social security, SSI or other government programs during either the current or immediate past calendar year?  Yes  No  
If yes, explain the basis and state the date(s) of receipt and set forth the gross and net amounts received.  
\_\_\_\_\_
18. Explanation of Income or other Information:  
\_\_\_\_\_

**Part D - Monthly Expenses (computed at 4.3 wks/mo.)**

Joint Marital or Civil Union Life Style should reflect standard of living established during marriage or civil union. Current expenses should reflect the current lifestyle. Do not repeat those income deductions listed in Part C - 3.

**SCHEDULE A: SHELTER**

**If Tenant:**

Rent \_\_\_\_\_ \$  
 Rent (if not furnished) \_\_\_\_\_ \$  
 Electric & Gas (if not furnished) \_\_\_\_\_ \$  
 Renter's Insurance \_\_\_\_\_ \$  
 Parking (at Apartment) \_\_\_\_\_ \$  
 Other charges (Itemize) \_\_\_\_\_ \$  
 \_\_\_\_\_ \$  
 \_\_\_\_\_ \$  
 \_\_\_\_\_ \$

**If Homeowner:**

Mortgage \_\_\_\_\_ \$  
 Real Estate Taxes (if not included w/mortgage payment) \_\_\_\_\_ \$  
 Homeowners Ins. (if not included w/mortgage payment) \_\_\_\_\_ \$  
 Other Mortgages or Home Equity Loans \_\_\_\_\_ \$  
 \_\_\_\_\_ \$  
 Rent (unless Electric or Gas) \_\_\_\_\_ \$  
 Electric & Gas \_\_\_\_\_ \$  
 Water & Sewer \_\_\_\_\_ \$  
 Garbage Removal \_\_\_\_\_ \$  
 Snow Removal \_\_\_\_\_ \$  
 Lawn Care \_\_\_\_\_ \$  
 Maintenance/Repairs \_\_\_\_\_ \$  
 Condo, Co-op or Association Fees \_\_\_\_\_ \$  
 Other Charges (Itemize) \_\_\_\_\_ \$  
 \_\_\_\_\_ \$  
 \_\_\_\_\_ \$  
 \_\_\_\_\_ \$

**Tenant or Homeowner:**

Telephone \_\_\_\_\_ \$  
 Mobile/Cellular Telephone \_\_\_\_\_ \$  
 Service Contracts on Equipment \_\_\_\_\_ \$  
 Cable TV \_\_\_\_\_ \$  
 Plumber/Electrician \_\_\_\_\_ \$  
 Equipment & Furnishings \_\_\_\_\_ \$  
 Internet Charges \_\_\_\_\_ \$  
 Home Security System \_\_\_\_\_ \$  
 Other (Itemize) \_\_\_\_\_ \$  
 \_\_\_\_\_ \$  
 \_\_\_\_\_ \$  
 \_\_\_\_\_ \$

**TOTAL** \_\_\_\_\_ \$

Joint Life Style  
Family, including  
\_\_\_\_\_ children

Current Life Style  
Yours and  
\_\_\_\_\_ children

*Children's  
Expenses*









6. Pension, Profit Sharing, Retirement Plan(s), 401(k)s, etc. (Identify each institution or employer)

_____	_____	_____	<input type="checkbox"/>	_____
_____	_____	_____	<input type="checkbox"/>	_____
_____	_____	_____	<input type="checkbox"/>	_____
_____	_____	_____	<input type="checkbox"/>	_____
_____	_____	_____	<input type="checkbox"/>	_____

7. IRAs

_____	_____	_____	<input type="checkbox"/>	_____
_____	_____	_____	<input type="checkbox"/>	_____
_____	_____	_____	<input type="checkbox"/>	_____
_____	_____	_____	<input type="checkbox"/>	_____
_____	_____	_____	<input type="checkbox"/>	_____

8. Businesses, Partnerships, Professional Practices

_____	_____	_____	<input type="checkbox"/>	_____
_____	_____	_____	<input type="checkbox"/>	_____
_____	_____	_____	<input type="checkbox"/>	_____
_____	_____	_____	<input type="checkbox"/>	_____
_____	_____	_____	<input type="checkbox"/>	_____

9. Life Insurance (cash surrender value)

_____	_____	_____	<input type="checkbox"/>	_____
_____	_____	_____	<input type="checkbox"/>	_____
_____	_____	_____	<input type="checkbox"/>	_____
_____	_____	_____	<input type="checkbox"/>	_____
_____	_____	_____	<input type="checkbox"/>	_____

10. Loans Receivable

_____	_____	_____	<input type="checkbox"/>	_____
_____	_____	_____	<input type="checkbox"/>	_____
_____	_____	_____	<input type="checkbox"/>	_____
_____	_____	_____	<input type="checkbox"/>	_____
_____	_____	_____	<input type="checkbox"/>	_____

11. Other (specify)

_____	_____	_____	<input type="checkbox"/>	_____
_____	_____	_____	<input type="checkbox"/>	_____
_____	_____	_____	<input type="checkbox"/>	_____
_____	_____	_____	<input type="checkbox"/>	_____
_____	_____	_____	<input type="checkbox"/>	_____

TOTAL GROSS ASSETS: \_\_\_\_\_  
TOTAL SUBJECT TO EQUITABLE DISTRIBUTION: \_\_\_\_\_  
TOTAL NOT SUBJECT TO EQUITABLE DISTRIBUTION: \_\_\_\_\_



**Part F -- Statement of Special Problems**

Provide a Brief Narrative Statement of Any Special Problems Involving This Case: As an example, state if the matter involves complex valuation problems (such as for a closely held business) or special medical problems of any family member, etc.

**Part G -- Required Attachments**

**Check If You Have Attached the Following Required Documents**

- 1. A full and complete copy of your last federal and state income tax returns with all schedules and attachments, (Part C-1)
- 2. Your last calendar year's w-2 statements, 1099's, K-1 statements.
- 3. Your three most recent pay stubs.
- 4. Bonus information including, but not limited to, percentages overrids, timing of payments, etc.; the last three statements of such bonuses, commissions, etc. (Part C)
- 5. Your most recent corporate benefit statement or a summary thereof showing the nature, amount and status of retirement plans, savings plans, income deferral plans, insurance benefits, etc. (Part C)
- 6. Affidavit of Insurance Coverage as required by Court Rule 5:4-2(f) (Part B-3)
- 7. List of all prior/pending family actions involving support, custody or Domestic Violence, with the Docket Number, County, State and the disposition reached. Attach copies of all existing Order in effect. (Part B-5)
- 8. Attach details of each wage execution (Part C-5)
- 9. Schedule of payments made for a spouse or civil union partner and/or children not reflected in Part D.
- 10. Any agreements between the parties.
- 11. An Appendix IX Child Support Guideline Worksheet, as applicable, based upon available information.
- 12. If a request has been made for college or post-secondary school contribution, all relevant information pertaining to that request, including but not limited to documentation of all costs and reimbursements or assistance for which contribution is sought, such as invoices or receipts for tuition, board and books; proof of enrollment; and proof of all financial aid, scholarships, grants and student loans obtained. A list of the information as promulgated by the Administrative Director of the Courts can be found on the Judiciary website.

I certify that, other than in this form and its attachments, confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

I certify that the foregoing information contained herein is true. I am aware that if any of the foregoing information contained therein is willfully false, I am subject to punishment.

DATED: \_\_\_\_\_ SIGNBD: \_\_\_\_\_

# Exhibit C

Statewide Uniform Guidelines  
California Family Codes (4050 through 4077)

4050.

In adopting the statewide uniform guideline provided in this article, it is the intention of the Legislature to ensure that this state remains in compliance with federal regulations for child support guidelines.

*(Repealed and added by Stats. 1993, Ch. 219, Sec. 138, Effective January 1, 1994.)*

4052.

The court shall adhere to the statewide uniform guideline and may depart from the guideline only in the special circumstances set forth in this article.

*(Repealed and added by Stats. 1993, Ch. 219, Sec. 138, Effective January 1, 1994.)*

4052.5.

(a) The statewide uniform guideline, as required by federal regulations, shall apply in any case in which a child has more than two parents. The court shall apply the guideline by dividing child support obligations among the parents based on income and amount of time spent with the child by each parent, pursuant to Section 4053.

(b) Consistent with federal regulations, after calculating the amount of support owed by each parent under the guideline, the presumption that the guideline amount of support is correct may be rebutted if the court finds that the application of the guideline in that case would be unjust or inappropriate due to special circumstances, pursuant to Section 4057. If the court makes that finding, the court shall divide child support obligations among the parents in a manner that is just and appropriate based on income and amount of time spent with the child by each parent, applying the principles set forth in Section 4053 and this article.

(c) Nothing in this section shall be construed to require reprogramming of the California Child Support Enforcement System, a change to the statewide uniform guideline for determining child support set forth in Section 4055, or a revision by the Department of Child Support Services of its regulations, policies, procedures, forms, or training materials.

*(Amended by Stats. 2016, Ch. 474, Sec. 9, (AB 2882) Effective January 1, 2017.)*

4053.

In implementing the statewide uniform guideline, the courts shall adhere to the following principles:

- (a) A parent's first and principal obligation is to support the parent's minor children according to the parent's circumstances and station in life.
- (b) Both parents are mutually responsible for the support of their children.
- (c) The guideline takes into account each parent's actual income and level of responsibility for the children.
- (d) Each parent should pay for the support of the children according to the parent's ability.
- (e) The guideline seeks to place the interests of children as the state's top priority.
- (f) Children should share in the standard of living of both parents. Child support may therefore appropriately improve the standard of living of the custodial household to improve the lives of the children.
- (g) Child support orders in cases in which both parents have high levels of responsibility for the children should reflect the increased costs of raising the children in two homes and should minimize significant disparities in the children's living standards in the two homes.
- (h) The financial needs of the children should be met through private financial resources as much as possible.
- (i) It is presumed that a parent having primary physical responsibility for the children contributes a significant portion of available resources for the support of the children.
- (j) The guideline seeks to encourage fair and efficient settlements of conflicts between parents and seeks to minimize the need for litigation.
- (k) The guideline is intended to be presumptively correct in all cases, and only under special circumstances should child support orders fall below the child support mandated by the guideline formula.
- (l) Child support orders shall ensure that children actually receive fair, timely, and sufficient support reflecting the state's high standard of living and high costs of raising children compared to other states.

*(Amended by Stats. 2019, Ch. 115, Sec. 44. (AB 1817) Effective January 1, 2020.)*

4054.

(a) The Judicial Council shall periodically review the statewide uniform guideline to recommend to the Legislature appropriate revisions.

(b) The review shall include all of the following:

- (1) Economic data on the cost of raising children.
- (2) Labor market data, such as unemployment rates, employment rates, hours worked, and earnings, by occupation and skill level for the state and local job markets.
- (3) The impact of guideline policies and amounts on custodial and noncustodial parents who have family incomes below 200 percent of the federal poverty level.
- (4) Factors that influence employment rates among custodial and noncustodial parents and compliance with child support orders.
- (5) An analysis of case data, gathered through sampling or other methods, on the actual application of, and deviations from, the guideline after the guideline's operative date, as well as the rates of orders entered by default, orders entered based on presumed income and earning capacity, and orders determined using the low-income adjustment.
- (6) An analysis of guidelines and studies from other states, and other research and studies available to or undertaken by the Judicial Council.
- (7) A comparison of payments on child support orders by case characteristics, including whether the order was entered by default, based on earning capacity or presumed income, or determined using the low-income adjustment.
- (8) Any additional factors required by federal regulations.

(c) Any recommendations for revisions to the guideline shall be made to ensure that the guideline results in appropriate child support orders, to limit deviations from the guideline, or otherwise to help ensure that the guideline is in compliance with federal law.

(d) The Judicial Council may also review and report on other matters, including, but not limited to, the following:

- (1) The treatment of the income of a subsequent spouse or nonmarital partner.
- (2) The treatment of children from prior or subsequent relationships.
- (3) The application of the guideline in a case where a payer parent has extraordinarily low or extraordinarily high income, or where each parent has primary physical custody of one or more of the children of the marriage.
- (4) The benefits and limitations of a uniform statewide spousal support guideline and the interrelationship of that guideline with the state child support guideline.
- (5) Whether the use of gross or net income in the guideline is preferable.
- (6) Whether the guideline affects child custody litigation or the efficiency of the judicial process.
- (7) Whether the various assumptions used in computer software used by some courts to calculate child support comport with state law and should be made available to parties and counsel.



(e) The initial review by the Judicial Council shall be submitted to the Legislature and to the Department of Child Support Services on or before December 31, 1993, and subsequent reviews shall occur at least every four years thereafter unless federal law requires a different interval.

(f) In developing its recommendations, the Judicial Council shall consult with a broad cross-section of groups involved in child support issues, including, but not limited to, the following:

- (1) Custodial and noncustodial parents.
- (2) Representatives of established women's rights and fathers' rights groups.
- (3) Representatives of established organizations that advocate for the economic well-being of children.
- (4) Members of the judiciary, district attorney's offices, the Attorney General's office, and the Department of Child Support Services.
- (5) Certified family law specialists.
- (6) Academicians specializing in family law.
- (7) Persons representing low-income parents.
- (8) Persons representing recipients of assistance under the CalWORKs program seeking child support services.
- (9) Persons representing currently or formerly incarcerated parents.

(g) In developing its recommendations, the Judicial Council shall seek public comment and shall be guided by the legislative intent that children share in the standard of living of both of their parents.

*(Amended by Stats. 2022, Ch. 573, Sec. 3. (AB 207) Effective September 27, 2022.)*

4055.

(a) The statewide uniform guideline for determining child support orders is as follows:  $CS = K[HN - (H\%)(TN)]$ .

(b) (1) The components of the formula are as follows:

(A) CS = child support amount.

(B) K = amount of both parents' income to be allocated for child support as set forth in paragraph (3).

(C) HN = high earner's net monthly disposable income.

(D) H% = approximate percentage of time that the high earner has or will have primary physical responsibility for the children compared to the other parent. In cases in which parents have different time-sharing arrangements for different children, H% equals the average of the approximate percentages of time the high earner parent spends with each child.

(E) TN = total net monthly disposable income of both parties.

(2) To compute net disposable income, see Section 4059.

(3) K (amount of both parents' income allocated for child support) equals one plus H% (if H% is less than or equal to 50 percent) or two minus H% (if H% is greater than 50 percent) times the following fraction:

Total Net Disposable Income Per Month	K
\$0-800	$0.20 + TN/16,000$
\$801-6,666	0.25
\$6,667-10,000	$0.10 + 1,000/TN$
Over \$10,000	$0.12 + 800/TN$

For example, if H% equals 20 percent and the total monthly net disposable income of the parents is \$1,000,  $K = (1 + 0.20) \times 0.25$ , or 0.30. If H% equals 80 percent and the total monthly net disposable income of the parents is \$1,000,  $K = (2 - 0.80) \times 0.25$ , or 0.30.

(4) For more than one child, multiply CS by:

2 children	1.6
3 children	2
4 children	2.3
5 children	2.5
6 children	2.625

7 children	2.75
8 children	2.813
9 children	2.844
10 children	2.86

(5) If the amount calculated under the formula results in a positive number, the higher earner shall pay that amount to the lower earner. If the amount calculated under the formula results in a negative number, the lower earner shall pay the absolute value of that amount to the higher earner.

(6) In any default proceeding where proof is by affidavit pursuant to Section 2336, or in any proceeding for child support in which a party fails to appear after being duly noticed, H% shall be set at zero in the formula if the noncustodial parent is the higher earner or at 100 if the custodial parent is the higher earner, where there is no evidence presented demonstrating the percentage of time that the noncustodial parent has primary physical responsibility for the children. H% shall not be set as described in paragraph (3) if the moving party in a default proceeding is the noncustodial parent or if the party who fails to appear after being duly noticed is the custodial parent. A statement by the party who is not in default as to the percentage of time that the noncustodial parent has primary physical responsibility for the children shall be deemed sufficient evidence.

(7) In all cases in which the net disposable income per month of the obligor is less than one thousand five hundred dollars (\$1,500), adjusted annually for cost-of-living increases, there is a rebuttable presumption that the obligor is entitled to a low-income adjustment. The Judicial Council shall annually determine the amount of the net disposable income adjustment based on the change in the annual California Consumer Price Index for All Urban Consumers, published by the California Department of Industrial Relations, Division of Labor Statistics and Research. The presumption may be rebutted by evidence showing that the application of the low-income adjustment would be unjust and inappropriate in the particular case. In determining whether the presumption is rebutted, the court shall consider the principles provided in Section 4053, and the impact of the contemplated adjustment on the respective net incomes of the obligor and the obligee. The low-income adjustment shall reduce the child support amount otherwise determined under this section by an amount that is no greater than the amount calculated by multiplying the child support amount otherwise determined under this section by a fraction, the numerator of which is 1,500, adjusted annually for cost-of-living increases, minus the obligor's net disposable income per month, and the denominator of which is 1,500, adjusted annually for cost-of-living increases.

(8) Unless the court orders otherwise, the order for child support shall allocate the support amount so that the amount of support for the youngest child is the amount of support for one child, and the amount for the next youngest child is the difference between that amount and the amount for two children, with similar allocations for additional children. However, this paragraph does not apply to cases in which there are different time-sharing arrangements for different children or where the court determines that the allocation would be inappropriate in the particular case.

(c) If a court uses a computer to calculate the child support order, the computer program shall not automatically default affirmatively or negatively on whether a low-income adjustment is to be applied. If the low-income adjustment is applied, the computer program shall not provide the amount of the low-income adjustment. Instead, the computer program shall ask the user whether or not to apply the low-income adjustment, and if answered affirmatively, the computer program shall provide the range of the adjustment permitted by paragraph (7) of subdivision (b).

*(Amended (as amended by Stats. 2017, Ch. 730, Sec. 1) by Stats. 2020, Ch. 36, Sec. 28. (AB 3364) Effective January 1, 2021.)*

4056.

(a) To comply with federal law, the court shall state, in writing or on the record, the following information whenever the court is ordering an amount for support that differs from the statewide uniform guideline formula amount under this article:

- (1) The amount of support that would have been ordered under the guideline formula.
- (2) The reasons the amount of support ordered differs from the guideline formula amount.
- (3) The reasons the amount of support ordered is consistent with the best interests of the children.

(b) At the request of any party, the court shall state in writing or on the record the following information used in determining the guideline amount under this article:

- (1) The net monthly disposable income of each parent.
- (2) The actual federal income tax filing status of each parent (for example, single, married, married filing separately, or head of household and number of exemptions).
- (3) Deductions from gross income for each parent.
- (4) The approximate percentage of time pursuant to paragraph (1) of subdivision (b) of Section 4055 that each parent has primary physical responsibility for the children compared to the other parent.

*(Amended (as added by Stats. 1993, Ch. 219, Sec. 138) by Stats. 1993, Ch. 1156, Sec. 2, Effective January 1, 1994.)*

4057.

(a) The amount of child support established by the formula provided in subdivision (a) of Section 4055 is presumed to be the correct amount of child support to be ordered.

(b) The presumption of subdivision (a) is a rebuttable presumption affecting the burden of proof and may be rebutted by admissible evidence showing that application of the formula would be unjust or inappropriate in the particular case, consistent with the principles set forth in Section 4053, because one or more of the following factors is found to be applicable by a preponderance of the evidence, and the court states in writing or on the record the information required in subdivision (a) of Section 4056:

(1) The parties have stipulated to a different amount of child support under subdivision (a) of Section 4065.

(2) The sale of the family residence is deferred pursuant to Chapter 8 (commencing with Section 3800) of Part 1 and the rental value of the family residence where the children reside exceeds the mortgage payments, homeowner's insurance, and property taxes. The amount of any adjustment pursuant to this paragraph shall not be greater than the excess amount.

(3) The parent being ordered to pay child support has an extraordinarily high income and the amount determined under the formula would exceed the needs of the children.

(4) A party is not contributing to the needs of the children at a level commensurate with that party's custodial time.

(5) Application of the formula would be unjust or inappropriate due to special circumstances in the particular case. These special circumstances include, but are not limited to, the following:

(A) Cases in which the parents have different time-sharing arrangements for different children.

(B) Cases in which both parents have substantially equal time-sharing of the children and one parent has a much lower or higher percentage of income used for housing than the other parent.

(C) Cases in which the children have special medical or other needs that could require child support that would be greater than the formula amount.

(D) Cases in which a child is found to have more than two parents.

*(Amended by Stats. 2013, Ch. 564, Sec. 4. (SB 274) Effective January 1, 2014.)*

4057.5.

(a) (1) The income of the obligor parent's subsequent spouse or nonmarital partner shall not be considered when determining or modifying child support, except in an extraordinary case where excluding that income would lead to extreme and severe hardship to any child subject to the child support award, in which case the court shall also consider whether including that income would lead to extreme and severe hardship to any child supported by the obligor or by the obligor's subsequent spouse or nonmarital partner.

(2) The income of the obligee parent's subsequent spouse or nonmarital partner shall not be considered when determining or modifying child support, except in an extraordinary case where excluding that income would lead to extreme and severe hardship to any child subject to the child support award, in which case the court shall also consider whether including that income would lead to extreme and severe hardship to any child supported by the obligee or by the obligee's subsequent spouse or nonmarital partner.

(b) For purposes of this section, an extraordinary case may include a parent who voluntarily or intentionally quits work or reduces income, or who intentionally remains unemployed or underemployed and relies on a subsequent spouse's income.

(c) If any portion of the income of either parent's subsequent spouse or nonmarital partner is allowed to be considered pursuant to this section, discovery for the purposes of determining income shall be based on W2 and 1099 income tax forms, except where the court determines that application would be unjust or inappropriate.

(d) If any portion of the income of either parent's subsequent spouse or nonmarital partner is allowed to be considered pursuant to this section, the court shall allow a hardship deduction based on the minimum living expenses for one or more stepchildren of the party subject to the order.

(e) The enactment of this section constitutes cause to bring an action for modification of a child support order entered prior to the operative date of this section.

*(Amended by Stats. 1994, Ch. 1269, Sec. 47.5. Effective January 1, 1995.)*

4058.

(a) The annual gross income of each parent means income from whatever source derived, except as specified in subdivision (c) and includes, but is not limited to, the following:

(1) Income such as commissions, salaries, royalties, wages, bonuses, rents, dividends, pensions, interest, trust income, annuities, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, social security benefits, and spousal support actually received from a person not a party to the proceeding to establish a child support order under this article.

(2) Income from the proprietorship of a business, such as gross receipts from the business reduced by expenditures required for the operation of the business.

(3) In the discretion of the court, employee benefits or self-employment benefits, taking into consideration the benefit to the employee, any corresponding reduction in living expenses, and other relevant facts.

(b) (1) The court may, in its discretion, consider the earning capacity of a parent in lieu of the parent's income, consistent with the best interests of the children, taking into consideration the overall welfare and developmental needs of the children, and the time that parent spends with the children.

(2) When determining the earning capacity of the parent pursuant to this subdivision, the court shall consider the specific circumstances of the parent, to the extent known. Those circumstances include, but are not limited to, the parent's assets, residence, employment and earnings history, job skills, educational attainment, literacy, age, health, criminal record and other employment barriers, and record of seeking work, as well as the local job market, the availability of employers willing to hire the parent, prevailing earnings levels in the local community, and other relevant background factors affecting the parent's ability to earn.

(3) Notwithstanding any other law, the incarceration or involuntary institutionalization of a parent shall not be treated as voluntary unemployment in establishing or modifying support orders regardless of the nature of the offense. "Incarcerated or involuntarily institutionalized" has the same meaning as subdivision (e) of Section 4007.5.

(c) Annual gross income does not include any income derived from child support payments actually received, and income derived from any public assistance program, eligibility for which is based on a determination of need. Child support received by a party for children from another relationship shall not be included as part of that party's gross or net income.

*(Amended by Stats. 2022, Ch. 573, Sec. 4, (AB 207) Effective September 27, 2022.)*

4059.

The annual net disposable income of each parent shall be computed by deducting from the parent's annual gross income the actual amounts attributable to the following items or other items permitted under this article:

(a) The state and federal income tax liability resulting from the parties' taxable income. Federal and state income tax deductions shall bear an accurate relationship to the tax status of the parties (that is, single, married, married filing separately, or head of household) and number of dependents. State and federal income taxes shall be those actually payable (not necessarily current withholding) after considering appropriate filing status, all available exclusions, deductions, and credits. Unless the parties stipulate otherwise, the tax effects of spousal support shall not be considered in determining the net disposable income of the parties for determining child support, but shall be considered in determining spousal support consistent with Chapter 3 (commencing with Section 4330) of Part 3.

(b) Deductions attributed to the employee's contribution or the self-employed worker's contribution pursuant to the Federal Insurance Contributions Act (FICA), or an amount not to exceed that allowed under FICA for persons not subject to FICA, provided that the deducted amount is used to secure retirement or disability benefits for the parent.

(c) Deductions for mandatory union dues and retirement benefits, provided that they are required as a condition of employment.

(d) Deductions for health insurance or health plan premiums for the parent and for any children the parent has an obligation to support and deductions for state disability insurance premiums.

(e) Any child or spousal support actually being paid by the parent pursuant to a court order, to or for the benefit of a person who is not a subject of the order to be established by the court. In the absence of a court order, child support actually being paid, not to exceed the amount established by the guideline, for natural or adopted children of the parent not residing in that parent's home, who are not the subject of the order to be established by the court, and of whom the parent has a duty of support. Unless the parent proves payment of the support, a deduction shall not be allowed under this subdivision.

(f) Job-related expenses, if allowed by the court after consideration of whether the expenses are necessary, the benefit to the employee, and any other relevant facts.

(g) A deduction for hardship, as defined by Sections 4070 to 4073, inclusive, and applicable published appellate court decisions. The amount of the hardship shall not be deducted from the amount of child support, but shall be deducted from the income of the party to whom it applies. In applying any hardship under paragraph (2) of subdivision (a) of Section 4071, the court shall seek to provide equity between competing child support orders. The Judicial Council shall develop a formula for calculating the maximum hardship deduction and shall submit it to the Legislature for its consideration on or before July 1, 1995.

*(Amended by Stats. 2019, Ch. 115, Sec. 45. (AB 1817) Effective January 1, 2020.)*



4060.

The monthly net disposable income shall be computed by dividing the annual net disposable income by 12. If the monthly net disposable income figure does not accurately reflect the actual or prospective earnings of the parties at the time the determination of support is made, the court may adjust the amount appropriately.

*(Repealed and added by Stats. 1993, Ch. 219, Sec. 138, Effective January 1, 1994.)*

4061.

The amounts in Section 4062 shall be considered additional support for the children and shall be computed in accordance with the following:

(a) If there needs to be an apportionment of expenses pursuant to Section 4062, the expenses shall be divided one-half to each parent, unless either parent requests a different apportionment pursuant to subdivision (b) and presents documentation which demonstrates that a different apportionment would be more appropriate.

(b) If requested by either parent, and the court determines it is appropriate to apportion expenses under Section 4062 other than one-half to each parent, the apportionment shall be as follows:

(1) The basic child support obligation shall first be computed using the formula set forth in subdivision (a) of Section 4055, as adjusted for any appropriate rebuttal factors in subdivision (b) of Section 4057.

(2) Any additional child support required for expenses pursuant to Section 4062 shall thereafter be ordered to be paid by the parents in proportion to their net disposable incomes as adjusted pursuant to subdivisions (c) and (d).

(c) In cases where spousal support is or has been ordered to be paid by one parent to the other, for purposes of allocating additional expenses pursuant to Section 4062, the gross income of the parent paying spousal support shall be decreased by the amount of the spousal support paid and the gross income of the parent receiving the spousal support shall be increased by the amount of the spousal support received for as long as the spousal support order is in effect and is paid.

(d) For purposes of computing the adjusted net disposable income of the parent paying child support for allocating any additional expenses pursuant to Section 4062, the net disposable income of the parent paying child support shall be reduced by the amount of any basic child support ordered to be paid under subdivision (a) of Section 4055. However, the net disposable income of the parent receiving child support shall not be increased by any amount of child support received.

*(Amended by Stats. 2010, Ch. 103, Sec. 2, (SB 580) Effective January 1, 2011.)*

4062.

(a) The court shall order the following as additional child support:

- (1) Child care costs related to employment or to reasonably necessary education or training for employment skills.
- (2) The reasonable uninsured health care costs for the children as provided in Section 4063.

(b) The court may order the following as additional child support:

- (1) Costs related to the educational or other special needs of the children.
- (2) Travel expenses for visitation.

*(Amended by Stats. 1994, Ch. 466, Sec. 1. Effective January 1, 1995.)*

4063.

(a) When making an order pursuant to paragraph (2) of subdivision (a) of Section 4062, the court shall:

(1) Advise each parent, in writing or on the record, of the parent's rights and liabilities, including financial responsibilities.

(2) Include in its order the time period for a parent to reimburse the other parent for the reimbursing parent's share of the reasonable additional child support costs subject to the requirements of this section.

(b) Unless there has been an assignment of rights pursuant to Section 11477 of the Welfare and Institutions Code, when either parent accrues or pays costs pursuant to an order under this section, that parent shall provide the other parent with an itemized statement of the costs within a reasonable time, but not more than 30 days after accruing the costs. These costs shall then be paid as follows:

(1) If a parent has already paid all of these costs, that parent shall provide proof of payment and a request for reimbursement of that parent's court-ordered share to the other parent.

(2) If a parent has paid the parent's court-ordered share of the costs only, that parent shall provide proof of payment to the other parent, request the other parent to pay the remainder of the costs directly to the provider, and provide the reimbursing parent with any necessary information about how to make the payment to the provider.

(3) The other parent shall make the reimbursement or pay the remaining costs within the time period specified by the court, or, if no period is specified, within a reasonable time not to exceed 30 days from notification of the amount due, or according to any payment schedule set by the health care provider for either parent unless the parties agree in writing to another payment schedule or the court finds good cause for setting another payment schedule.

(4) If the reimbursing parent disputes a request for payment, that parent shall pay the requested amount and thereafter may seek judicial relief under this section and Section 290. If the reimbursing parent fails to pay the other parent as required by this subdivision, the other parent may seek judicial relief under this section and Section 290.

(c) Either parent may file a noticed motion to enforce an order issued pursuant to this section. In addition to the court's powers under Section 290, the court may award filing costs and reasonable attorney's fees if it finds that either party acted without reasonable cause regarding the party's obligations pursuant to this section.

(d) There is a rebuttable presumption that the costs actually paid for the uninsured health care needs of the children are reasonable, except as provided in subdivision (e).

(e) Except as provided in subdivision (g):

(1) The health care insurance coverage, including, but not limited to, coverage for emergency treatment, provided by a parent pursuant to a court order, shall be the coverage to be utilized at all times, consistent with the requirements of that coverage, unless the other parent can show that the health care insurance coverage is inadequate to meet the child's needs.

(2) If either parent obtains health care insurance coverage in addition to that provided pursuant to the court order, that parent shall bear sole financial responsibility for the costs of that additional coverage and the costs of any care or treatment obtained pursuant thereto in excess of the costs that would have been incurred under the health care insurance coverage provided for in the court order.

(f) Except as provided in subdivision (g):

(1) If the health care insurance coverage provided by a parent pursuant to a court order designates a preferred health care provider, that preferred provider shall be used at all times, consistent with the terms and requirements of that coverage.

(2) If either parent uses a health care provider other than the preferred provider inconsistent with the terms and requirements of the court-ordered health care insurance coverage, the parent obtaining that care shall bear the sole responsibility for any nonreimbursable health care costs in excess of the costs that would have been incurred under the court-ordered health care insurance coverage had the preferred provider been used.

(g) When ruling on a motion made pursuant to this section, in order to ensure that the health care needs of the child under this section are met, the court shall consider all relevant facts, including, but not limited to, the following:

(1) The geographic access and reasonable availability of necessary health care for the child that complies with the terms of the health care insurance coverage paid for by either parent pursuant to a court order. Health insurance shall be rebuttably presumed to be accessible if services to be provided are within 50 miles of the residence of the child subject to the support order. If the court determines that health insurance is not accessible, the court shall state the reason on the record.

(2) The necessity of emergency medical treatment that may have precluded the use of the health care insurance, or the preferred health care provider required under the insurance, provided by either parent pursuant to a court order.

(3) The special medical needs of the child.

(4) The reasonable inability of a parent to pay the full amount of reimbursement within a 30-day period and the resulting necessity for a court-ordered payment schedule.

*(Amended by Stats. 2019, Ch. 115, Sec. 46, (AB 1817) Effective January 1, 2020.)*

4064.

The court may adjust the child support order as appropriate to accommodate seasonal or fluctuating income of either parent.

*(Repealed and added by Stats. 1993, Ch. 219, Sec. 138, Effective January 1, 1994.)*

4065.

(a) Unless prohibited by applicable federal law, the parties may stipulate to a child support amount subject to approval of the court. However, the court shall not approve a stipulated agreement for child support below the guideline formula amount unless the parties declare all of the following:

- (1) They are fully informed of their rights concerning child support.
- (2) The order is being agreed to without coercion or duress.
- (3) The agreement is in the best interests of the children involved.
- (4) The needs of the children will be adequately met by the stipulated amount.
- (5) The right to support has not been assigned to the county pursuant to Section 11477 of the Welfare and Institutions Code and no public assistance application is pending.

(b) The parties may, by stipulation, require the child support obligor to designate an account for the purpose of paying the child support obligation by electronic funds transfer pursuant to Section 4508.

(c) A stipulated agreement of child support is not valid unless the local child support agency has joined in the stipulation by signing it in any case in which the local child support agency is providing services pursuant to Section 17400. The local child support agency shall not stipulate to a child support order below the guideline amount if the children are receiving assistance under the CalWORKs program, if an application for public assistance is pending, or if the parent receiving support has not consented to the order.

(d) If the parties to a stipulated agreement stipulate to a child support order below the amount established by the statewide uniform guideline, no change of circumstances need be demonstrated to obtain a modification of the child support order to the applicable guideline level or above.

*(Amended by Stats. 2000, Ch. 808, Sec. 35, Effective September 28, 2000.)*

4066.

Orders and stipulations otherwise in compliance with the statewide uniform guideline may designate as "family support" an unallocated total sum for support of the spouse and any children without specifically labeling all or any portion as "child support" as long as the amount is adjusted to reflect the effect of additional deductibility. The amount of the order shall be adjusted to maximize the tax benefits for both parents.

*(Repealed and added by Stats. 1993, Ch. 219, Sec. 138, Effective January 1, 1994.)*

4067.

It is the intent of the Legislature that the statewide uniform guideline shall be reviewed by the Legislature at least every four years and shall be revised by the Legislature as appropriate to ensure that its application results in the determination of appropriate child support amounts. The review shall include consideration of changes required by applicable federal laws and regulations or recommended from time to time by the Judicial Council pursuant to Section 4054.

*(Repealed and added by Stats. 1993, Ch. 219, Sec. 138, Effective January 1, 1994.)*

4068.

(a) The Judicial Council may develop the following:

- (1) Model worksheets to assist parties in determining the approximate amount of child support due under the formula provided in subdivision (a) of Section 4055 and the approximate percentage of time each parent has primary physical responsibility for the children.
- (2) A form to assist the courts in making the findings and orders required by this article.

(b) The Judicial Council, in consultation with representatives of the State Department of Social Services, the California Family Support Council, the Senate Judiciary Committee, the Assembly Judiciary Committee, the Family Law Section of the State Bar of California, a legal services organization providing representation on child support matters, a custodial parent group, and a noncustodial parent group, shall develop a simplified income and expense form for determining child support under the formula provided in subdivision (a) of Section 4055, by June 1, 1995. The Judicial Council, also in consultation with these groups, shall develop factors to use to determine when the simplified income and expense form may be used and when the standard income and expense form must be used.

*(Amended by Stats. 1994, Ch. 953, Sec. 1, Effective January 1, 1995.)*

4069.

The establishment of the statewide uniform guideline constitutes a change of circumstances.

*(Amended (as added by Stats. 1993, Ch. 219, Sec. 138) by Stats. 1993, Ch. 1156, Sec. 5, Effective January 1, 1994.)*

4070.

If a parent is experiencing extreme financial hardship due to justifiable expenses resulting from the circumstances enumerated in Section 4071, on the request of a party, the court may allow the income deductions under Section 4059 that may be necessary to accommodate those circumstances.

*(Added by Stats. 1993, Ch. 219, Sec. 138, Effective January 1, 1994.)*

4071.

(a) Circumstances evidencing hardship include the following:

- (1) Extraordinary health expenses for which the parent is financially responsible, and uninsured catastrophic losses.
- (2) The minimum basic living expenses of either parent's natural or adopted children for whom the parent has the obligation to support from other marriages or relationships who reside with the parent. The court, on its own motion or on the request of a party, may allow these income deductions as necessary to accommodate these expenses after making the deductions allowable under paragraph (1).

(b) The maximum hardship deduction under paragraph (2) of subdivision (a) for each child who resides with the parent may be equal to, but shall not exceed, the support allocated each child subject to the order. For purposes of calculating this deduction, the amount of support per child established by the statewide uniform guideline shall be the total amount ordered divided by the number of children and not the amount established under paragraph (8) of subdivision (b) of Section 4055.

(c) The Judicial Council may develop tables in accordance with this section to reflect the maximum hardship deduction, taking into consideration the parent's net disposable income before the hardship deduction, the number of children for whom the deduction is being given, and the number of children for whom the support award is being made.

*(Amended (as added by Stats. 1993, Ch. 219, Sec. 138) by Stats. 1993, Ch. 1156, Sec. 6, Effective January 1, 1994)*

4072.

(a) If a deduction for hardship expenses is allowed, the court shall do both of the following:

- (1) State the reasons supporting the deduction in writing or on the record.
- (2) Document the amount of the deduction and the underlying facts and circumstances.

(b) Whenever possible, the court shall specify the duration of the deduction.

*(Added by Stats. 1993, Ch. 219, Sec. 138, Effective January 1, 1994)*

4073.

The court shall be guided by the goals set forth in this article when considering whether or not to allow a financial hardship deduction, and, if allowed, when determining the amount of the deduction.

*(Added by Stats. 1993, Ch. 219, Sec. 138, Effective January 1, 1994)*

4074.

This article applies to an award for the support of children, including those awards designated as "family support," that contain provisions for the support of children as well as for the support of the spouse.

*(Added by Stats. 1993, Ch. 219, Sec. 138, Effective January 1, 1994.)*

4075.

This article shall not be construed to affect the treatment of spousal support and separate maintenance payments pursuant to Section 71 of the Internal Revenue Code of 1954 (26 U.S.C. Sec. 71).

*(Added by Stats. 1993, Ch. 219, Sec. 138, Effective January 1, 1994.)*



4076.

(a) When the court is requested to modify a child support order issued prior to July 1, 1992, for the purpose of conforming to the statewide child support guideline, and it is not using its discretionary authority to depart from the guideline pursuant to paragraph (3), (4), or (5) of subdivision (b) of Section 4057, and the amount of child support to be ordered is the amount provided under the guideline formula in subdivision (a) of Section 4055, the court may, in its discretion, order a two-step phase-in of the formula amount of support to provide the obligor with time for transition to the full formula amount if all of the following are true:

- (1) The period of the phase-in is carefully limited to the time necessary for the obligor to rearrange the obligor's financial obligations in order to meet the full formula amount of support.
- (2) The obligor is immediately being ordered to pay not less than 30 percent of the amount of the child support increase, in addition to the amount of child support required under the prior order.
- (3) The obligor has not unreasonably increased their financial obligations following notice of the motion for modification of support, has no arrearages owing, and has a history of good faith compliance with prior support orders.

(b) When the court grants a request for a phase-in pursuant to this section, the court shall state the following in writing:

- (1) The specific reasons why (A) the immediate imposition of the full formula amount of support would place an extraordinary hardship on the obligor, and (B) this extraordinary hardship on the obligor would outweigh the hardship caused the supported children by the temporary phase-in of the full formula amount of support.
- (2) The full guideline amount of support, the date and amount of each phase-in, and the date that the obligor must commence paying the full formula amount of support, which shall not be later than one year after the filing of the motion for modification of support.

(c) When the court orders a phase-in pursuant to this section, and the court thereafter determines that the obligor has violated the phase-in schedule or has intentionally lowered the income available for the payment of child support during the phase-in period, the court may order the immediate payment of the full formula amount of child support and the difference in the amount of support that would have been due without the phase-in and the amount of support due with the phase-in, in addition to any other penalties provided for by law.

*(Amended by Stats. 2019, Ch. 115, Sec. 47. (AB 1817) Effective January 1, 2020.)*

4077.

The Department of Child Support Services and the Judicial Council shall meet and confer, no later than November 21, 2022, and each entity shall submit its own report to the Assembly Committee on Budget and the Senate Committee on Budget and Fiscal Review and the Assembly and Senate Committees on Judiciary on what additional legislative changes are required to comply with the federal child support regulations revised in 81 Federal Register 93492 (Dec. 20, 2016), if any, which shall consider the most recent review of the statewide child support guideline completed pursuant to Section 4054, and identify any points of agreement and any difference of interpretation, perspective, or opinion between the entities regarding the legislative changes required.

*(Added by Stats. 2022, Ch. 573, Sec. 5. (AB 207) Effective September 27, 2022.)*