

Child Support Guidelines Committee

Date: 1/6/2023 Time: 1:00 p.m. – 4:00 p.m. Meeting location: Zoom	Attendees:	Y	N		Y	N
	Hon. Keven O’Grady, chair	X		Marc White	X	
	Hon. Constance Alvey	X		Richard Samaniego	X	
	Hon. Eric Godderz	X		Ryan Brady	X	
	Charlie Harris	X		Sara Beezley	X	
	Sherri Loveland		X	Marcie Martinez	X	
	Doni Mooberry	X		Susan Mayer	X	
	Michelle Slinkard	X		OJA Staff:		
				Amy Raymond	X	

Minutes

1	<p>Welcome</p> <ul style="list-style-type: none"> • February meeting will be held by Zoom; March meeting will be in person in the Kansas Judicial Center • Judge K. O’Grady mentioned Bradley Software reached out to him about attending presentations; Bradley representatives have acknowledged that in their upcoming presentations, they will not be discussing any prospective changes in the KSGC. Bradley indicated they are willing to help with notification for public comment; It was agreed that while members of the KSGC Committee may attend the Bradley presentations, they will avoid commenting or giving the appearance that the Committee is endorsing the Bradley program. • D. Mooberry reported here discussions with Randy Spivey concerning tax issues. She confirmed that Bradley is confused about the issue of refundability and is requesting assistance. The Committee agreed that it does not want to get into the business of giving Bradley tax advice. D. Mooberry and C. Harris will meet soon to try to complete the updating of the cheat sheet. After it is updated, they will submit it to the A. Raymond for circulation to the Committee. If no objections are made, the Committee agreed that after it is approved by the Committee the updated version of the cheat sheet can be shared with Bradley. As part of the updating process, C. Harris and D. Mooberry will look at the Bradley tax calculator.
2	<p>General Language/Forms/Appendices – Judge Keven O’Grady</p> <ul style="list-style-type: none"> • Discussion and vote on proposed changes • Results of the vote are attached
3	<p>Adjustments – Marcie Martinez</p> <ul style="list-style-type: none"> • Discussion and vote on proposed changes • Results of the vote are attached
4	<p>Income Considerations – Charlie Harris</p> <ul style="list-style-type: none"> • Discussion and vote on proposed changes • Results of the vote are attached
5	<p>Tax Considerations – Doni Mooberry</p> <ul style="list-style-type: none"> • Discussion and vote on proposed changes • Results of the vote are attached
6	<p>Other items for discussion</p>

Agenda

- C. Harris reported that he had reviewed Kansas appellate cases issued from January 1, 2020, to the present pertaining to child support. Only a few cases were seemed significant. A list was sent to A. Raymond, who has included them in the Committee materials. Committee members were encouraged to review those cases.

Next Meeting

Date: 2/24/2023

Time: 9:30 a.m. – 12:30 p.m.

Meeting location: Zoom

Kansas Child Support Guidelines Committee
Topics for discussion and vote
January 6, 2023

Attendees: Judge Keven O’Grady, Judge Constance Alvey, Judge Eric Godderz, Marcie Martinez, Susan Mayer, Marc White, Michelle Slinkard, Sara Beezley, Ryan Brady, Richard Samaniego, and Charlie Harris

General Language/Forms/Appendices

Reorganization

1. Should the guidelines be reorganized?

Agree: 11
Disagree: 0

Plain language

2. Should the guidelines be revised using plain language?

Agree: 9
Disagree: 2

Domestic Relations Affidavit

3. Should additional lines and terms be added to existing Long and Short Form DRA?

Agree: 11
Disagree: 0

4. Should KSGl adopt a DRA for Use in Child Support Cases in lieu of current short form DRA?

Agree: 2
Disagree: 9

General Language

5. Should III.B.6. be clarified as follows:

“In situations where the parties have multiple children, some of which are on a shared residency arrangement and some which are on a primary residency arrangement, two worksheets should be used, with one worksheet using the shared formula for the number of children in that arrangement and the second worksheet using the primary formula for the number of children in the primary arrangement. The

two resulting amounts are then compared using the divided formula, with the high child support parent paying the low child support parent the difference.”

Agree: 11

Disagree: 0

Military

6. Does the current military appendix need to be updated?

Agree: 2

Disagree: 9

Adjustments

Sword and Shield

7. Should language of the second line of III.B.6 be modified to indicate that the court has discretion as to the application of the sword and shield provision? Proposed language:

“The court has discretion to allow the use of multiple family application regardless of whether the noncustodial parent files a motion to modify child support.”

OR

The multiple–family application may be used **at any time** to adjust the child support obligation of the parent not having primary residency when that parent has legal financial responsibility for the support of other children who reside with that parent. **(Second sentence deleted)** If using the multiple-family application will result in a gross child support obligation (Line D.3 in the Child Support Worksheet) below the poverty level as shown on the child support schedules, the use of the multiple-family application is discretionary.

Language in first option: 8

Language in second option: 1

No modification: 2

Multiple Family Adjustment

8. Should language be added to III.B.6 to indicate that if the Multiple Family Application is applicable in a shared situation, that two worksheets should be utilized, one for each parent? Proposed language:

“In shared situations, if one of the parents is entitled to use the Multiple Family Application, two worksheets should be utilized, with the Multiple Family Application

being applied to one worksheet and not on other worksheet, and that the Line F.6.b amounts from the respective worksheets will then be used in the shared calculation.”

Agree: 6

Disagree: 5

Health Insurance

9. Should language be added to clarify how health insurance costs and child care costs are to be handled in situations where both parents are providing amounts of either costs?

Agree: 11

Disagree: 0

10. Should language be added to IV.D.4 addressing situations where both parents are paying for child related health insurance and/or work related child care? Proposed language:

“In instances where both parents are paying for child related health care and/or work related child care, the respective amounts being paid should be entered on Line D-7 and Line D-9 and the totals be subjected to the income shares % and entered on Lines D-8 and Line D-20. Each party should then be given a credit for the respective amounts of insurance and child care they are paying, by entering that total amount on Line D-12.”

Agree: 0

Disagree: 11

Cost of Living Differential

11. Should language be added to II.B.9 to clarify that in military situations the Cost of Living Differential formula should normally not be utilized? Proposed language:

”In situations involving a payor who is in the military, the cost of living calculation shall generally not be utilized, because the payor’s cost of living has already been adjusted with additional BAS (subsistence) or BAH (housing).”

Agree: 11

Disagree: 0

12. Should the current Cost of Living Differential Appendix be replaced with the following language?

“Cost of Living Differential

To adjust for differences in costs of living between Kansas and different states, use the following method, which utilizes the Regional Price Parties (RPP) measures that are provided by the U.S. Bureau of Economics Analysis (BEA). The BEA produces estimates of the differences in price levels across states and metropolitan areas on an annually updated basis.

The Cost of Living Differential is used to adjust the Gross Income of out of state non custodial parent paying child support. The adjusted amount is entered on line A-1 or B-3 of the Child Support Worksheet. Because, it is not possible to ascertain if the Line A-1 or B-3 Line has been adjusted for the Cost of Living Differential, it is important to check the box at the bottom of the first page of the Child Support Worksheet to indicate that the Differential has been used. It is also important to attach to the Child Support Worksheet a copy of the calculation. It is recommended to indicate the date of the RPP chart utilized. The RPP amounts for each state are published by the BEA and can be found on line at the following link:

<https://www.bea.gov/data/prices-inflation/regional-price-parities-state-and-metro-area>

***RPP values are adjusted annually. Practitioner must use figures from most recent BEA chart available at the internet link shown above.**

The Cost of Living Differential Calculation can be used in situations where the RPP of the payor’s state is **higher or lower** than the RPP of Kansas.

COST OF LIVING DIFFERENTIAL CALCULATION

If a parent moves to California, the 2020 RPP for California is 110.4. The 2020 RPP for Kansas is 92.4. California therefore has a higher Cost of Living than Kansas, in which case the true value of the payor’s income is **less** than the monetary amount of their monthly gross income

Example A Cost of Living is Higher than Kansas

Noncustodial income monthly gross income \$4,500; noncustodial/payor lives in California.

California 2020 RPP is 110.4. Kansas 2020 RPP is 92.4.

$92.4 - 110.4 = -.18 \times \$4,500 = \underline{\$-810}$ amount of cost of living differential

$\underline{\$4,500 - 810 = \$3,690}$ ← Insert this figure at line A-1 (if wage earner) or B-3(if self employed) of Child Support Worksheet

Example B Cost of Living is lower than Kansas

If a parent moves to Mississippi, the 2020 RPP for Mississippi 87.4. The 2020 RPP for Kansas is 92.4. Mississippi therefore has a lower Cost of Living than Kansas, in which case the true value of the payor’s income is greater than the monetary amount of their monthly gross income

Noncustodial income \$4,500; noncustodial lives in Mississippi
Mississippi 2020 RPP is 87.8. Kansas 2020 RPP is 92.4.

$92.4 - 87.8 = +4.6 \times \$4,500 = +207$ amount of cost of living differential
 $\$4,500 + 207 = \$4,707$ ← Insert this figure at line A-1(if wage earner) or B-3 (if self employed) of Child Support Worksheet

In calculating the RPP, the BEA factors expenditures of families on items such as apparel, food, transportation, education, recreation, medical, rent/housing. When the RPP for a particular state is greater than 100, that is an indication that the price levels in that state are above the national average. Conversely, when the RPP for a particular state is less than 100, that is an indication that the price levels in that state are below the national average.

The KSGI utilizes the Cost of Living Differential to compare the RPP for Kansas with the RPP in other states for the purpose of calculation of child support. Use of the Cost of Living Differential is discretionary with the court setting child support. The Cost of Living Differential should not be used in cases involving payors, who are in the military, as the cost of living is already considered in BAS and BAH for the servicemember.

Agree: 10
Disagree: 1

Income

Definition of income

13. Should II.D definition of income be clarified? Proposed language:

“Generally, gifts and inheritance are not considered income for child support purposes when received.”

Agree: 11
Disagree: 0

Extended Income Formula

14. Should language be added to III.B.3 that clarifies that the extended formula is not presumptive? Proposed language:

“If the combined child support income exceeds the highest amount shown on the schedules, the court should exercise its discretion by considering what amount of child support should be set in addition to the highest amount on the child support schedule. The amounts determined by the extended formula are not presumptive as are the amounts of child support shown on the child support tables.”

Agree: 9
Disagree: 2

Imputing Income based on prevailing local wage

15. Should the first paragraph of IV.F.2 be modified to encourage judges to impute income based on prevailing local wages rather than federal minimum wage? Proposed language:

“Judges have discretion to impute income and are encouraged to impute income at the prevailing wage level in their community for persons who are unemployed.”

Agree: 1

Disagree: 10

Inclusion of bonuses as income

16. Should a new II.E be added? Proposed language:

“In situations where a party receives bonuses, the bonus income may be included in the income utilized for calculation of child support. If the court is including the bonus income, the percentage of bonus formula should be utilized. In situations where a parent receives a periodic bonus that is not guaranteed, it is not appropriate to add to the parent’s annual income the gross amount of the bonus for purpose of determining the paying parent’s average monthly income.”

Agree to continue the conversation: 10

Disagree: 1

Proposed formula – percentage of bonus

17. Should a new appendix be added to incorporate the percentage of bonus formula?

Proposed language

“PERCENTAGE OF BONUS FORMULA

CALCULATION OF PERCENTAGE OF BONUS FORMULA

Line F 6.b child support amount of parent receiving bonus ÷ Line A-1 or B-3 monthly gross income of paying parent receiving bonus = percentage of bonus x total amount of bonus to be paid as additional child support.

EXAMPLE

\$750 (Line F 6.b child support amount) ÷ \$6,000 (Line A-1 or B-3 monthly gross income) = **12.5%**

\$8,500 bonus is paid to paying parent. **\$8,500 x 12.5% = \$1,063** (amount of additional amount of percentage of bonus to be paid as additional child support).

CAVEAT: As part of the order establishing a percentage of bonus, courts/practitioners should include language that requires the recipient of the bonus to disclose to the custodial parent the gross amount of the bonus, within seven days of receipt to include some documentary verification of the gross amount of the bonus. The payor should also be required to pay the percentage of bonus amount through the Kansas Payment Center, along with one half of the percentage of the current court trustee fee. **The order pertaining to the percentage of bonus shall include the**

following language: “When the bonus is paid to the KPC, the amount shall not be credited against current child support or any existing arrearage.”

Agree to continue the conversation: 10

Disagree: 1

Tax Considerations

18. Should IV.E.3 pertaining to income tax adjustments be clarified? Proposed language:

“In situations where the payor lives in another state, Kansas state income tax rates should be utilized in the calculation of income tax adjustments but the Court has discretion to make adjustments on a case by case basis to address those differences.”

Agree: 11

Disagree: 0