

Child Support Guidelines Committee

Date: 9/30/2022

Time: 9:30 a.m. – 12:30 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	

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1 Welcome

2 Subcommittee report - General Language/Forms/Appendices

- There was a general discussion of the need to break up the example appendix; simplify instructions, and attempt a restructured version of the KSGL. Judge K. O’Grady suggested contacting Kansas Legal Service to see if there were any instructional videos available. He also suggested the possibility of having fillable forms. R. Samaniego noted that some people are actually able to fill in the phones by phone. C. Harris urged that the index and table of contents be expanded. R. Samaniego suggested the possibility of setting the index and table of contents so that it was searchable by hyperlink. Judge K. O’Grady suggested employing a plain language specialist to review the final version of our work.
- The committee discussed the need to meet between review sessions to monitor changes in tax rates and other matters that come up during the four years before the next review.
- The committee discussed C. Harris’s proposed changes to the DRA to direct the parties what income figure should be carried over from the DRA to lines A-1 and Lines B-3 of the Child Support Worksheet.
- The committee reviewed and made suggested changes to C. Harris’s draft of a proposed DRA for Calculation of Child Support that would replace the current short form DRA. He will revise the proposed DRA based on comments of the committee and it will be reviewed at the October meeting. M. Martinez agreed to compare the proposed DRA for Calculation of Child Support with the existing Short Form DRA to see if there is any information that may be needed to comply with Federal Office of Child Support Enforcement requirements. M. Slinkard inquired if it would be possible to set up the DRA so that it would autofill into a Child Support Worksheet.
- There was discussion on whether it is necessary to have the full social security numbers for the parties and the children as well as dates of birth for the children on the DRA. M. White noted the issue when parents do not have a social security number. He has arranged a special exception with KPC based on an order from a district court to bypass the issue. S. Loveland pointed out that the income tax returns include the social security numbers of the parties and the children claimed as dependents.

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| 3 | <p>Subcommittee report – Tax Considerations</p> <ul style="list-style-type: none">• C. Harris stated that he and D. Mooberry are looking at problems with the Bradley tax calculations and the tax cheat sheet. They will continue to work on this and report back to the committee. There may be a need to have a meeting with representatives of Bradley Software to understand some of their formulas.• There was discussion about how the Bradley program displays maintenance on the Child Support Worksheet but no action was recommended. Judge K. O’Grady and M. Slinkard discussed that some local rules deal with maintenance and Tax Considerations.• The committee discussed how to correctly credit an income tax adjustment in a shared situation. This will require the preparation of two worksheets, one showing the appropriate tax adjustment and one without the adjustment.• D. Mooberry will review the Child Care Credit table now contained in the Example Appendices.• The committee discussed whether to add instructions in the tax consideration adjustment when the payor resides in a different state that either has different or no state income tax. The committee decided this is not a frequent problem and no action is needed. |
| 4 | <p>Subcommittee report – Parenting Time</p> <ul style="list-style-type: none">• The committee discussed that the Bradley Software program sometimes results in a negative number when using the equal parenting time (EPT) formula. The committee agreed that it was never contemplated that the EPT would result in a negative number. It was suggested that the language used in the 2012 KSGL that specified a zero should be used rather than a negative number. C. Harris will attempt to draft language that will incorporate the 2012 language. |
| 5 | <p>Subcommittee report – Income Considerations</p> <ul style="list-style-type: none">• The committee discussed the Ability to Pay Formula. C. Harris stated out that the Ability to Pay formula defeats the income shares approach that is a core principal of the KSGL. However, the federal regulations still require some type of income reservation for low income persons. C. Harris suggested moving the Ability to Pay calculation above the Shared Calculation on the Child Support Worksheet. There was discussion that although our child support tables contain a poverty line figure of \$1050 that number has risen to \$1143. Bradley is using the current figure in its program. The committee discussed adding language to the schedules that would indicate that the poverty line changes annually and the parties need to use the current figure.• The committee discussed whether a formula for situations where a noncustodial parent was not exercising parenting time allowed under the parenting plan. The consensus of the committee was that this was an infrequent situation and should be handled by the Courts on a case by case basis.• The committee discussed concerns about the current Cost of Living Differential appendix. C. Harris believes that the current appendix is hard to read and will provide a revised appendix which members will review before the October meeting.• The committee discussed proposed language to be added to the Cost of Living text that states it should not be used in cases involving military personnel because their cost of living has already been adjusted by BAH and BAS. The committee agreed with this added language.• The committee discussed the use of Federal Minimum Wage of \$7.25 per hour or \$1257 per month for imputation to unemployed persons. It was noted that in the current economy, especially in the urban areas starting wages at fast food restaurants are frequently \$10 or \$12 per hour. Judge E. Godderz noted that in rural areas the federal minimum wage is often the prevailing wage. Judge |

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C. Alvey noted that she focuses on employment history when faced with an unemployed person. The committee agreed it should be handled on a case by case basis. C. Harris pointed out that Sedgwick County has a form for the court to use in imputing income and will share that with the committee. There was also discussion about judicial education, focused on encouraging judges to determine a prevailing wage in their community and using that amount versus the federal minimum wage. M. White noted that he has encountered worksheets that have a zero for a person's income. C. Harris noted that about the only time he has used an amount less than imputed minimum wage was in situations where a person was on disability and received less than the federal minimum wage.

- The committee discussed income from federal stimulus payments during the COVID pandemic. C. Harris noted substantial litigation occurred because the payments were issued to the person that previously claimed the children regardless of the current situation. Motions were required to get the money divided or paid to the custodial parent. The committee agreed that these payments were not currently being paid and that language should not be added to the guidelines.
- The committee discussed and approved language regarding gifts and inheritance. This would still give the courts that ability to use discretion in unusual cases and any interest accruing on the gifts and inheritance after receipt would be income.
- The committee discussed C. Harris's suggestion that the income language change to include the court should consider bonuses as income for child support purposes and provide the "Percentage of Bonus Formula" in the appendices to assist in the calculation. C. Harris stated it prevents the recipient from having the bonus averaged into child support necessitating subsequent motions to modify and allows the custodial parent to receive the bonus when it is received just as they would if the family was intact. Members will review the proposed language and Percentage of Bonus Formula for further discussion at the October meeting.
- C. Harris raised the issue of using the Extended Formula in sanction situations. A recent Court of Appeals affirmed a trial court's use of the extended formula in a sanction case. He believes out that child support under the cap is presumptive and the extended formula is not. He also stated that in adopting the sanction provision the committee never considered use of the extended formula in a sanction situation. He suggested language to be added that would limit use of the extended in sanction situations and also confirm that only the support under the cap is presumptive. The committee will take up his suggested language at the October meeting.

6 Subcommittee report – Adjustments

- There was discussion that parties are using the Overall Financial Circumstances Adjustment to achieve results that reflect an agreement of the parties for child support less than the guideline amount. Judge K. O'Grady objected to using the overall financial circumstances adjustment to achieve the agreed amount since the parties can't agree to a child support amount without a supporting worksheet and a best interest of the child finding. S. Loveland noted that this approach has helped reduce litigation. The committee agreed that no change to existing language was needed.
- The committee discussed the issue of using the Multiple Family Application (MFA) in a shared context, that two worksheets are required so that the person receiving the MFA gets the benefits. C. Harris sent an email and example worksheets to the committee to be discussed at the October meeting.
- The committee discussed situations where the parties have multiple children on shared and primary residency basis. The Court of Appeals has held that in that situation two worksheets need to be used. The committee agreed to include language in the guidelines as this is a situation that is becoming more and more common.

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	<ul style="list-style-type: none">The committee discussed whether the child support worksheets used in the next version of the guidelines should use two rather than three age brackets. The economist will be asked to provide a recommendation.
7	<p>Other items for discussion</p> <ul style="list-style-type: none">Economist report: A. Raymond discussed the scope of work. The committee suggested several additions to the list. A. Raymond will send the list to Dr. J. Pelkowski for review.

Next Meeting

Date: 10/28/2022

Time: 9:30 a.m. – 12:30 p.m.

Meeting location: Zoom

<https://us02web.zoom.us/j/86119491942>

Meeting ID: 861 1949 1942

Passcode: 485069