

ARIZONA SUPREME COURT
CHILD SUPPORT GUIDELINES REVIEW COMMITTEE
MINUTES
April 25, 2008
Supreme Court Building, Phoenix, Arizona

MEMBERS PRESENT:

Mr. Robert L. Barrasso, Esq.
Honorable Bruce R. Cohen, Chair
Ms. Helen Davis
Professor Ira Ellman
Ms. Kim Gillespie
Ms. Cele Hancock
Mr. David Horowitz
Ms. Gloria Pearson
Honorable Rhonda Repp
Honorable Michala Ruechel
Honorable Sarah Simmons
Honorable Kevin White

GUESTS:

Holly Todd
Don Vert
Elsa McGrath
Theresa Barrett

STAFF:

Kathy Sekardi
Lorraine Nevarez

MEMBERS ABSENT:

MS. Rebecca Albrecht

Call to Order

Judge Cohen called the meeting to order at 10:05 a.m. and welcomed the members to the first meeting. Judge Cohen gave a brief history of the committee and explained the political process by which the committee will function. All members introduced themselves and staff explained the structure of the binders and the information provided therein.

Structure of Committee Work

Judge Cohen invited Committee members to share their past experiences regarding committee work that will make the process run smoother or more functional. It is important to have open dialog and bring concerns or issues for discussion to the group.

Staff highlighted the importance of adhering to proper communication protocols in order to comply with Open Meeting Laws. Emails containing information may be distributed to the committee members from staff; however, an exchange of emails from committee member can constitute a meeting, which would be in violation of the Open Meeting Laws. Staff reminded members to utilize the committee website to view committee documents and to RSVP for future meetings. Judge Cohen explained the importance for submitting documents to staff in a timely manner (1 week prior to the meeting date) for printing and posting to the website.

Committee Meeting Scheduling

The Committee decided on the following committee meeting dates:

- May 27, 2008-Teleconference, 12:15 PM -1:15 PM
- June 27, 2008-Meeting held at the AOC in conference room 119A/B 10:00AM -2:00PM
- August 8, 2008-Meeting location to TBD, 10:00 AM -2:00 PM
- September 2, 2008-Teleconference, 12:15 PM – 1:15PM
- September 26, 2008-Meeting location TBD, 10:00 AM -2:00 PM
- October 24, 2008-Meeting held at the AOC in conference room 119A/B, 10:00AM -2:00PM
- December 9, 2008-Meeting held at the AOC in conference room 119A/B, 10:00AM -2:00PM

Subject Matter Review

Staff reviewed with the Committee Administrator Order No. 2008-22 which delineates the committee's mandate. There are two phases involved with reviewing the Guidelines:

PHASE I:

The Committee shall review updated information regarding economic data on the cost of raising children, and conduct case file review and analysis to determine if adjustments to the current child support schedule are needed. The Committee shall then report its recommendations for changes to clarify and/or simplify the guidelines.

PHASE II:

Contingent upon available funding as determined by the Administrative Director, the Committee shall investigate and report its findings and recommendations on the advantages and disadvantages of implementing a forward-looking method of calculating child support and its potential impact on the courts. Issues to be considered may include costs of implementation, training, and programming changes or costs associated with the development of a child support calculator.

Judge Cohen recommended the Committee read Professor Ira Ellman's article "*The Theory of Child Support.*" The article will be posted to the committee website at <http://www.supreme.state.az.us/csgrc/>.

A committee member suggested that Ira and Tara Ellman present to the committee a PowerPoint production that was presented to the Interim Economic Study Workgroup regarding the guidelines.

Discussion Regarding Workgroups

The Committee created four different workgroups. The first workgroup will look at inclusion or revision of case law from the appellate courts, legislative updates since the last review, and the new Arizona Rules of Family Law Procedure. The IV-D workgroup will focus on issues that impact the guidelines from the IV-D world, while the Income Determination workgroup will concentrate on Section 5 of the Child Support Guidelines. The Adjustments to Support workgroup is to examine child care, medical insurance, extraordinary child, extra education, and parenting time adjustments. The workgroups established are as follows:

Case Law/Leg. Updates/ARFLP

Bob Barrasso – Group Facilitator
Sally Simmons
Cele Hancock

IV-D

Rhonda Repp-Group Facilitator
Kim Gillespie
Gloria Pearson
Rebecca Albrecht

Income Determination

Ira Ellman-Group Facilitator
David Horowitz
Helen Davis
Kevin White
Michala Ruechel

Adjustments to Support

Kevin White-Group Facilitator
David Horowitz
Cele Hancock
Bob Barrasso
Helen Davis

Ideas for Agendas

The committee discussed thoughts, future topics and/or issues to discuss further, such as:

- There seems to be disagreement about how to address situations where the decision-making authority is vested in one parent who makes choices regarding schooling, child care, and extracurricular activities, with which the paying parent may not necessarily agree.
- Addressing situations in the guidelines when one parent works a second job and the income is not included in the amount of child support.
- The extraordinary child adjustment is lacking direction in a number of ways.
- School lunches and school fees, distinguishing which parent pays for lunches and receiving parenting time adjustment.
- When a child is removed from the home for a long period of time (child takes a trip or is hospitalized). The guidelines are silent regarding this situation.
- Section concerning deviations from the guidelines should be more explanatory.
- Stock grant dates and vesting dates.
- Clarify health insurance where multiple families are involved.
- Rounding off income and child support orders.
- Prepayment of future child support.
- Higher artificial child support orders.
- Suspension of child support and modifications.
- Emancipation of children.
- Entitlement of child support overpayments.

Discuss Overlap of Issues in Other Committees

Bob Barrasso, Chairman of the Child Support Statute Review Workgroup, shared a list of topics that the workgroup would like to see examined:

- Address the cost of living when a parent is working and living in a different town.
- Discuss the number of children or other people in the home.
- Split custody issue.
- Define true 50/50 custody.
- Simplify or eliminate the child tax credit.
- Adjustments for other children.

- Adjust language regarding daycare, “may” versus “shall”.
- Eliminate Table B visitation adjustments.
- Examine A.R.S. § 25-320 to make consistent with the mandatory guidelines.
- Travel adjustments need to be more definite with better direction as to application.

Develop Agenda for Next Meeting

Items to be discussed for the May 27, 2008 teleconference:

- Confirm workgroups are on track for the June meeting.
- Prepare a detailed agenda for June meeting.
- Discuss long term goals.
- Set schedule for 2009.

Call to the Public

Holly Todd, OB-GYN nurse practitioner, recommended the Committee consider situations where parents have joint custody with equal parenting time, both parents either work or are capable of working and one parent is awarded child support. Ms. Todd believes detrimental effects are caused to children when one of parents pays child support when there is an equal parenting time order. In these situations Ms. Todd suggests no child support monies should be exchanged unless one parent can prove extenuating circumstances to justify being awarded money from the other parent and how that money would directly benefit the children.

Adjourn

The meeting was adjourned at 2:00 p.m.

**ARIZONA SUPREME COURT
CHILD SUPPORT GUIDELINES REVIEW COMMITTEE
TELEPHONIC MEETING**

MINUTES

May 27, 2008

Supreme Court Building, Phoenix, AZ

MEMBERS PRESENT:

Mr. Robert L. Barrasso, Esq.
Honorable Bruce R. Cohen, Chair
Ms. Helen Davis
Professor Ira Ellman
Ms. Kim Gillespie
Ms. Cele Hancock
Mr. David Horowitz
Ms. Gloria Pearson
Honorable Rhonda Repp
Honorable Michala Ruechel
Honorable Sarah Simmons
Honorable Kevin White

STAFF:

Kathy Sekardi
Lorraine Nevarez

MEMBERS ABSENT:

Ms. Rebecca Albrecht

Call to Order

Judge Cohen, Chair, called the meeting to order at 12:20 p.m. The Chair welcomed the members.

Approval of the Minutes

The minutes of the April 25th meeting were moved and approved without modification.

Reports from Workgroups Regarding Progress

Case Law/Leg. Updates/ARFLP - The workgroup is discussing issues the group can focus on such as new case law and legislation that would impact the guidelines. The workgroup will not cover HB2505, as that bill will get full coverage in the IV-D workgroup. Group facilitator, Bob Barrasso asked the members to email any case law or legislative updates to the workgroup.

Income Determination - The workgroup is discussing issues to focus on and will present issues to the full committee.

IV-D -The workgroup is discussing legislative bill HB2505. Kim Gillespie, group facilitator, will summarize and draft some considerations for the Committee to review at the next meeting.

Adjustment to Income- The workgroup discussed the list of issues from the first meeting and is working on narrowing down the list so the full committee can reasonably address.

Discuss Deadline Date for Comments

The Committee discussed including a phrase on the Committee comment webpage informing the public of the importance of submitting comments soon to ensure full Committee consideration. Staff and Chair will draft language and upload to the webpage.

Review, Discuss and Assign Website Comments

The Committee will review, discuss and assign comments to the appropriate workgroups for further discussion as comments arise. Workgroups will present information and recommendations to the full Committee. This will be a reoccurring agenda item.

Discuss Long-term Goals

The Committee will review the consultants work regarding the model of calculation, update guidelines and discuss restructuring the format of the guidelines for simplification.

Discuss Other Items to Add to Agenda List

The Chair reminded members to assist in identifying issues and/or bring forward any issues to the Committee for discussion. This will be a reoccurring agenda item.

Develop June 27, 2008 Agenda

Member Professor Ira Ellman and his wife will give a presentation for the first part of the agenda. The second part of the agenda will include other business the Committee needs to review.

Set Meeting Schedule for 2009

Staff reviewed the set meeting dates for the rest of **2008**:

- June 27, 2008 - Meeting held at the AOC in conference room 119A/B 10:00 a.m. - 2:00 p.m.
- August 8, 2008 - Meeting location in conference room 331, 10:00 a.m. - 2:00 p.m.
- September 2, 2008 - Teleconference, 12:15 p.m. – 1:15 p.m.
- September 26, 2008 - Meeting location in conference room 331, 10:00 a.m. - 2:00 p.m.
- October 24, 2008 - Meeting held at the AOC in conference room 119A/B, 10:00 a.m. - 2:00 p.m.
- December 9, 2008 - Meeting held at the AOC in conference room 119A/B, 10:00 a.m. -2:00 p.m.

The Committee decided on the following dates for **2009**:

- January 23, 2009 - Meeting held at AOC in conference room 119A/B, 10:00 a.m. - 2:00 p.m.
- February 27, 2009 - Meeting held at AOC in conference room 119A/B, 10:00 a.m. - 2:00 p.m.
- March 27, 2009 - Meeting held at the AOC in conference room 119A/B, 10:00 a.m. - 2:00 p.m.
- April 24, 2009 - Meeting held at the AOC in conference room 119A/B, 10:00 a.m. - 2:00 p.m.

Call to the Public

Public was not present at the meeting.

Adjourn

The meeting was adjourned at 12:55 PM.

**ARIZONA SUPREME COURT
CHILD SUPPORT GUIDELINES REVIEW COMMITTEE
MEETING
MINUTES
June 27, 2008
Arizona State Courts Building
Phoenix, Arizona**

MEMBERS PRESENT:

Mr. Robert L. Barrasso, Esq.
Honorable Bruce R. Cohen, Chair
Ms. Helen Davis
Professor Ira Ellman
Ms. Kim Gillespie
Ms. Cele Hancock
Mr. David Horowitz
Ms. Gloria Pearson
Honorable Rhonda Repp
Honorable Michala Ruechel
Honorable Sarah Simmons
Honorable Kevin White

STAFF:

Kathy Sekardi
Lorraine Nevarez

MEMBERS ABSENT:

Ms. Rebecca Albrecht

Call to Order

Judge Cohen, Chair, called the meeting to order at 10:10 p.m. The Chair welcomed the members.

Approval of the Minutes

The minutes of the May 27th, 2008 meeting were moved and approved without modification.

Constructing Support Guidelines, Part 1 & 2

A presentation on “*Understanding Child Support Guidelines*” was given by Professor Ira Ellman. Please see attachment for summary of presentation.

Reports from Workgroups Regarding Progress

This section has been tabled for the August 8, 2008 meeting.

Review, Discuss, Assign Website Comments

Judge Cohen asked members to read the public comments that have been received and discuss with their workgroups. The committee will discuss as a whole for the August 8, 2008 meeting.

Discuss Other Items to Add to Agenda List

This section has been tabled for the August 8, 2008 meeting.

Develop August 8, 2008 Agenda

Tara Ellman will give a presentation in the first part of the agenda. The items that have been tabled will be placed on the agenda.

Call to the Public

Public was not present at the meeting.

Adjourn

The meeting was adjourned at 2:00 PM.

Understanding Child Support Guidelines

A presentation by Ira and Tara Ellman entitled "Understanding Child Support Guidelines" addressed three questions in detail: What do our current guidelines really do? What should the guidelines do? Why do the current guidelines do what they do? In addition, the presentation briefly discussed a fourth question-- What is the alternative?-that will be considered in more detail in a second presentation at the committee's August meeting. The charts and tables of the presentation, which set forth, supporting data, are necessarily omitted from the summary below.

I. What do current guidelines really do?

Most states, including Arizona, employ a guideline model usually called "Income Shares". About ten states employ a model called Percentage of Obligor Income, often identified by the acronym POOI. The usual understanding of the difference between these two models is that Income Shares considers the incomes of both parents in setting the support amount, while POOI looks only at the income of the support obligor. The key difference, however, is that POOI states typically employ a flat percentage, while Income Shares systems usually employ a declining percentage. For example, Wisconsin, a POOI state, requires the obligor to pay 17% of his gross income in child support for one child, without regard to the income of the custodial parent. If an Income Shares state required the parents to pay 17% of their total income for one child, and then followed the normal procedure of allocating the resulting total child support amount between them in proportion to their income, it would reach the identical support amount as Wisconsin. The only reason that the support amounts called for under Income Shares and POOI guidelines differ is that Income Shares states typically employ a declining rate structure, rather than the flat rate structure of POOI states. For example, the percentage of parental gross income the current Arizona guidelines require for the support of one child declines from about 25%, for parents with the lowest incomes, to just 10% once total parental income reaches \$10,000 monthly. The rate of decline is much steeper when there are more children. The Arizona rates for two children, for example, decline from about 35% to about 12% over that same income range, in contrast to a POOI system like Wisconsin which applies a flat rate of 25% for two children.

It thus becomes clear that a key question for any guideline committee is the rate structure of the guidelines. Both the POOI system and the Income Shares system present difficulties. Applying a flat rate structure to obligor income, without regard to the custodial parent income, may produce support amounts that seem too high for cases with higher custodial parent incomes. On the other hand, some may think it unfair that obligors with the same income pay different support amounts, as they do under an Income Shares guideline when the custodial parent income is different. Perhaps of greater concern in an Income Shares system is that the regressive rates structure means that high income obligors pay relatively low support amounts to low-income custodial parents, yielding a very large decline in the child's living standard when the intact family breaks up. In addition, in both POOI and Incomes Shares states, but especially in the latter, children from intact families with the same total income can come out very differently after their families break up, depending upon whether they live primarily with the higher or lower income parent.

II. What should the guidelines do? A. Policy Considerations
A. Policy Considerations

To decide on the proper rate structure for support guidelines requires, it helps to know what one's goals for the guidelines are. Four possible goals are suggested. The first (the Well-Being Principle) is protection of the child's well-being. This goal is especially important when the custodial parent has a low income, as the child support dollars may then be crucial in providing the child with essentials necessary for a minimally adequate living standard. Therefore, the lower the income of the custodial parent, the more we can appropriately ask of the obligor. It seems likely that as custodial parent income goes up, the child well-being return on each additional dollar of income declines.

The second (the Dual Obligation Principle) recognizes that both parents have a moral obligation to contribute to their child's support, even when the child lives primarily with one of them. This "dual obligation principle" explains why we require support payments even when the custodial parent has the financial resources to alone provide the child with all that's needed. It recognizes that the child support system must care about fairness to the custodial parent, who should not have to shoulder the entire burden, as well as protection of the child's well-being. The dual obligation principle thus requires each parent to pay their fair share of the amount necessary to ensure the child's well-being, even when the custodial parent is capable of paying it alone. We might begin by assuming that each parent's share should be proportional to that parent's share of the total parental income, but nominal support amounts might also be thought sufficient to vindicate the dual obligation principle when the support obligor has a low income.

The third (the Gross Disparity Principle) calls for avoiding gross disparities in the living standard of the child and the support obligor. This goal is different than the Well-Being Principle because it vindicates a fairness claim on the child's behalf, rather than a claim for protection of the child's well being. The heart of the fairness claim is that the child, as an innocent victim of the family breakup, should not suffer a disproportionate loss in living standard on account of it, and thus should not live less well after the breakup than either of the parents. This claim may seem stronger when the child had in fact lived with the intact family for some time, and would therefore experience a living standard loss as a result of the breakup. At the same time, it is not possible to provide the child with the obligor's living standard without also conferring that living standard on the custodial parent. The obligor may reasonably object to providing such a windfall benefit for the custodial parent under the rubric of child support. A compromise between the child's fairness claim, and the obligor's objections to this windfall, is therefore necessary. The Gross Disparity Principle identifies such a compromise by restating the child's claim as the avoidance of gross disparities in living standard, rather than the avoidance of any disparity.

The fourth (the Earner's Priority Principle) reflects the common understanding that everyone is entitled to keep their own earnings unless there's some good reason to take it from them. The EPP explains why obligor objections to windfall benefits for the custodial parent require consideration. It also explains why the child support guidelines of virtually all states, including Arizona, have some form of self-support reserve, which limits the support obligation that may be imposed on a poor obligor, even when the custodial parent is also poor and child well-being is thus endangered. The EPP justifies

limiting support awards to nominal amounts in the case of impoverished obligors, and avoiding support amounts that would reduce obligor income below poverty levels.

B. What policies do Arizona citizens prefer?

A scientific survey of Pima County citizens examined the principles implied by the child support awards they believed appropriate in a series of cases involving 9 different income combinations. It found they reject POOL, in that they believe that the NCPs should pay a higher rate when the CP's income is lower. They thus believe one must look at the CP's income to determine the rate that the NCP should pay. They also reject Income Shares, however, because they believe that for any given CP income, the rate paid by the NCP should not change as NCP income goes up, but should rather remain flat. This view about the rate structure was shared by men and women. The median rate favored by survey respondents was higher than provided by the Arizona guidelines, especially when CP income was low relative to NCP income. The median rate of women respondents was slightly higher than the median of men.

Arizona's guidelines set support amounts that are lower than the average for income shares states. The amounts favored by survey respondents can also be compared to Iowa's guidelines, which call for support awards that are closer to the median level among income shares states. That comparison shows that the survey median amount was very similar to the Iowa amounts for cases in which the two parents had relatively similar incomes. However, when the support obligor has a significantly higher income than the custodial parent, survey respondents favor larger support awards that are provided in Iowa's typical income shares guideline. On the other hand, when the CP parent's income is high, survey respondents favored support amounts that are lower than provided for in Iowa. The respondents' answers follow from the Well-Being and EPP principles, and are consistent with the Dual Obligation principle. Further research asking about cases with higher parental incomes is necessary to determine whether respondents also follow the Gross Disparity principle.

III. Why Do Our Current Guidelines Provide Different Numbers?

Contrary to what many people think, the current guidelines are not based on what children cost, because that question cannot be answered. What children cost depends upon the living standard one wishes to buy for them. The methodology employed to generate current guideline numbers is instead based on estimates of what parents in intact families, at various income levels, spend on their children. While this idea for constructing support guidelines seems simple and straightforward, there are necessarily many complications in implementing it. Those complications largely arise because the idea cannot be implemented without answering two fundamental questions: What counts as a child expenditure? (The definition question). How can one measure child expenditures, once you have defined them. (The measurement question.)

A. The definition question

The answer to the definition question implicitly adopts a child support policy. For example, if child support policy called for support amounts that gave the child the same living standard as the child enjoyed when the family was intact, then one should seek to measure all expenditures by the intact family that conferred a benefit on the child. Current guidelines are based on a methodology that defines the relevant expenditures as the marginal expenditures on the child—the additional expenditures a family must incur in order to retain the same living standard when a child is added to their household, as they enjoyed when childless. It thus excludes from the definition of child expenditures any expenditure the parents would have made when childless, which might be called their base expenditures. For example, if parents spend the same amount on transportation before and after they have a child, then none of their transportation costs would be counted. If the addition of a child causes them to move from a two-bedroom apartment to a three bedroom apartment, then the additional cost of the added bedroom is part of the marginal expenditure, but none of the base expenditure necessary for the rest of the apartment—bathrooms, kitchen, living room, etc-- would be counted.

The typical income shares guideline is thus based on a method that seeks to allocate between the parents their respective shares of the marginal expenditures made on children in intact families of the same income level. When the parents have the same income as one another, this system produces plausible results, because the parents have the same capacity to provide the base expenditures to which these marginal expenditures are added. If parents' incomes are very disparate, however, one sees the results presented above: the support award may provide the low income custodial parent the funds needed to pay for the apartment's extra bedroom, but the CP lacks the base income required to afford the rest of the apartment in the first place. The CP and child thus experience a large reduction in living standard, while the NCP, who retains all of his contribution to intact family's base expenditures, continues to enjoy the living standard it provided. On the other hand, if it is the NCP whose income is much lower than the CP's, then upon separation the NCP's living standard may be lower than that of the child and CP before payment of any child support, and requiring this NCP to pay just his proportionate share of the marginal expenditures may impose a difficult and even unreasonable burden on him.

B. The measurement question.

The design flaws in a marginal-expenditure income shares guideline are exacerbated by difficulties in answering the measurement question, difficulties which are probably insurmountable. The difficulties are of two kinds. First, in order to identify the marginal expenditures on children, the method requires use of an equivalence scale, which is a device for measuring when two households of different composition have the same living standard. The economics literature contains many equivalent scale candidates, although within the child support community attention has focused on two of them, Engel and Rothbarth. The difficulty is that different equivalence scales yield different results, and there is no theoretical or empirical method for establishing which if any of them is correct. Arizona's guidelines are based on the Rothbarth scale, which consistently yields lower estimates of child expenditures than the Engel scale. As applied here, the Rothbarth scale assumes that the childless couple, and the couple with children, enjoys the same living standard if the two households spend the same total dollar amount for alcohol,

tobacco, and adult clothing. Whatever theoretical questions one may raise with this scale, it is also clear that the only available source of data for these expenditures figures, the consumer expenditure survey, is quite inaccurate with respect to expenditures for these particular items. Moreover, small fluctuations in these questionable expenditure estimates can have a large impact on the resulting child support calculations.

More general inaccuracies in the Consumer Expenditure Survey (CES) provide the second kind of measurement difficulty. The survey relies on the ability of consumers to remember what they have spent over the past three months, and it has been established that higher income survey respondents--those in the upper third of the survey's income distribution--consistently under-report their expenditures. This inaccuracy yields lower support amounts for the upper third of the income distribution than would result from accurate data. At the same time, it has long been known that consumers in the lower forty percent of the income distribution consistently under-report their income. This inaccuracy yields higher support amounts for the lower forty percent of the income distribution than would result from accurate data. In combination, therefore, it appears that the regressive rate pattern found in income shares guidelines are, to an important extent, an artifact of CES data problems rather than a reflection of parental behavior.

IV. Conclusion

Current guidelines show rapidly declining rates. This rate structure produces problematic results when parents have disparate incomes. It seems inconsistent with both goal of protecting child well-being, and the views of Arizona citizens as measured in a scientific survey of Pima County respondents. Moreover, the current numbers are based on a method that relies on a questionable assumption, that support amounts should be based on marginal expenditures in intact families, and then necessarily relies on faulty data to estimate these marginal expenditures.

Child support amounts should be based on the reality confronting both post-separation households, rather than on estimates of marginal expenditures on children in intact families that no longer exist or never existed. In estimating the appropriate amounts, the committee must decide on a proper balance of the competing policy concerns: Child well-being, the avoidance of gross disparities between the child's living standard and either parent's, a fair allocation of the support burden between the parents, and protecting the obligor from unreasonable demands on his earnings.



ARIZONA SUPREME COURT
Child Support Guidelines Review Committee
MEETING MINUTES
August 8, 2008
Supreme Court Building, Phoenix, Arizona

MEMBERS PRESENT:

Hon. Rebecca Albrecht
Mr. Robert L. Barrasso
Hon. Bruce R. Cohen, Chair
Ms. Helen Davis
Prof. Ira Ellman
Ms Kim Gillespie
Ms Cele Hancock
Mr. David Horowitz
Comm. Rhonda Repp
Hon. Michala Ruechel
Hon Kevin White

STAFF:

Kathy Sekardi
Lorraine Nevarez

MEMBERS ABSENT:

Ms Gloria Pearson
Hon. Sarah Simmons

GUESTS PRESENT:

Tara Ellman
Patricia Madsen
Don Vert

Call to Order

Judge Cohen, Chair, called the meeting to order at 10:17 a.m. and welcomed the members.

Judge Cohen made the following announcements:

1. The December 9th meeting date has been rescheduled to December 16, 2008 with the location still to be determined.
2. A memo was distributed to all the Presiding Judges and Court Administrators asking for input or suggestions they may have for the Guidelines.

Approval of the Minutes

Professor Ira Ellman suggested replacing the minute language describing the "Constructing Support Guidelines, Part 1" with an attachment he prepared. The minutes were approved and seconded as modified.

MOTION: To modify the June 27, 2008 minutes by replacing the minute language with Ira Ellman's attachment and approve as modified.

Presentation by Tara Ellman

Tara Ellman's presentation, entitled "A Tool for Creating Child Support Guidelines," explained the design and use of an Excel spreadsheet program she wrote and plans to make available to the committee members for their use. The purpose of the program is to make it practical to evaluate a variety of child support guidelines approaches. The user can fairly easily specify assumptions about the guidelines, and the program then computes outcomes for the post-separation custodial and non-custodial households. Users can change assumptions and evaluate the outcomes as often as desired. The input of the program is flexible, so that a variety of different approaches can be evaluated.

The current version of the program computes two types of outcomes; (1) the child support payment as a proportion of the NCP's income and (2) the standards of living of both the CP and NCP households. Measuring standards of living presents theoretical and practical issues which Ms Ellman discussed in detail. Benchmarks need to be established for minimally adequate incomes and middle class incomes for different size households. Possible benchmark sources are the official federal poverty levels, budget-based standards such as those created by the Economic Policy Institute (EPI), and the results of the Pima County July Pool Surveys recently conducted by Professors Ira Ellman and Sanford Braver of Arizona State University. Ms Ellman emphasized that, since none are perfect, it is important that users understand whatever benchmarks are used. A consultant has already been hired to help the committee choose standard of living benchmarks.

Ms Ellman went on to explain briefly how to input assumptions into the spreadsheets and to interpret the output. All of the examples she displayed used the current Arizona guidelines. She pointed out the patterns of outcomes the income-shares model, including Arizona's current guidelines, produce.

Questions from Dr. Burt Barnow

Staff explained that Dr. Barnow has started work on phase II and he has proposed a few questions regarding the details of Task 1. Dr. Barnow is requesting guidance from the committee regarding the following issues:

- (1) Is it okay to use the EPI data?
- (2) To get data for larger families, the plan is to use the equivalence scales from the National Academy of Sciences poverty study. We could use one of the Census Bureau variations, but might want to use the NAS unless there are other suggestions.
- (3) To get state data, we either need to use a high-cost area such as Phoenix or take a weighted average. Is there a preference?

The Committee voted in the affirmative as to questions (1) and (2) and prefers to use a weighted average based upon population for question (3).

Deviation definition/calculations for case file review

Judge Cohen informed the committee the Consultant will be assessing the number of deviation cases in the case file review. Judge Cohen asks the committee to consider the proposed definition for what constitutes a deviation. Should there be two standards/calculations? One standard or calculation would be to calculate the total number of deviations under the present standard. Then, the second standard or calculation would be for a deviation that is greater than x%.

This will allow the committee to examine the hypothesis that there have been a low number of true deviations. The committee would like to know if the Consultant in Phase I would conduct two calculations:

- (1) Measure of total percentage of cases that deviate from application of the guidelines, and
- (2) Of the cases that have been determined to be deviations, what percentage are a deviation by the greater of $\pm 5\%$ or \$25.

Reports from Task Groups

- A. **Case Law/Legislative Updates/ARFLP**: Task group member Cele Hancock will be speaking at the State Bar Arizona Rules Family Law Procedure Committee meeting to discuss any concerns they may have with the Guidelines.
- B. **Income Determination**: The task group has nothing to report at this time.
- C. **IV-D**: The task group has been discussing medical support and how much information is factored into the worksheet. There is a new statute regarding cash medical support and new federal regulations that need to be followed. The task group will determine where the state has options and how these options get incorporated into the guidelines.
- D. **Adjustments to Income**: The task group has nothing to report at this time.
- E. The Committee has established a new task group entitled “**Spreadsheet Study Task Group**.” The following members will form this task group:
 - Ira Ellman – Task Group Facilitator
 - Kim Gillespie
 - Gloria Pearson
 - Hon. Rebecca Albrecht
 - Tara Ellman
 - David Horowitz

Since Prof. Ellman is Group Facilitator of the Spreadsheet Study Task Group, committee member David Horowitz will become the Group Facilitator for the Income Determination task group.

Review, Discuss and Assign Website Comments

(To review the entire comments visit: <http://www.supreme.state.az.us/csgrc/>)

1. Public comments on webpage:
 - a. Guideline Section 1. Purpose

Question: “How can Arizona’s child support guidelines be appropriately applied across international boundaries, especially to an economy so profoundly different from the U.S. economy s the Mexican economy?”

Question: How can Arizona assume jurisdiction over persons, particularly children, who are not citizens, do not reside in the U.S., and never have?”

Committee response: This issue is addressed already by way of statute and UIFSA. This is not a guideline issue.
 - b. Guideline Section 2. Premises

Comment: “The income brackets need to go much higher. It would be good to see a clear child support amount that took into account income for one of the party’s at over \$400,000 a year or \$35,000 a month.”

Committee response: The Committee will examine this issue and assign to an appropriate task group.
 - c. Guideline Section 4. Duration of Child Support

Comment: “I recently suggested to a client that he contact his employer and point out the automatic termination language in the order of assignment for purposes of ceasing withholding of child support...apparently the employer responded that the company will still require a termination order from the Superior Court. Is this something we need to address more specifically with the Order of Assignment form and/or the instruction/cover letter that goes to employers when they are served with the Order?”

Committee response: It appears as though there are two issues regarding: 1. A legal obligation, and 2. Terminating a child support order. A suggestion was made to include a statement in the guidelines that state something to the effect that even if there is a “presumptive termination date” the person paying child support must still take steps to terminate the underlying child support order. The fact that the child emancipates doesn’t mean child support won’t be garnished from paychecks. The Committee discussed placing instructions on wage assignment orders. No final consensus on this issue.
2. Ronald Somner’s comment:
 - a. Guideline Section 12 Equal Custody

Comment: “...many support orders are being calculated by people acting in pro per, with no small disadvantage to the lower-income parent when there is an argument whether Table A or B of § 11 applies.”

Committee response: The Committee is considering the submitted comment.
 - b. Guideline Section 26 Income or Benefits Received by a Child

Comment: “...I think it might be helpful to clarify with regard benefits received by the parent receiving support by striking the phrase in the

current 26© “and not on behalf of a child,” so as to eliminate any implication that benefits received “on behalf of a child” are not to be counted as part of the custodial parent’s income....”

Committee response: The Committee will consider the submitted comment.

3. Roger Hartsell’s comments:

a. Spousal maintenance awards

Committee response: The issue concerning spousal maintenance awards will be assigned to an appropriate task group which will speak to an overall modification as information and education to guideline users.

b. Taxable vs. non-taxable income

Committee response: The issue concerning taxable versus non-taxable income for purposes of calculating child support will be assigned to the *Income Determination Task Group* to consider, not necessarily implement.

Discuss Other Items to Add to Agenda List

The Chair reminded members to assist in identifying issues and/or bring forward any issues to the Committee for discussion. This will be a reoccurring agenda item.

Develop September 2, 2008 Agenda

The Committee task groups will report to the full committee, the September 26th agenda will be developed, and the Committee will finish reviewing public and on-line comments.

Call to the Public

Public member Patricia Madsen, Senior Family Law Attorney, Community Legal Services introduced herself and volunteered to be of assistance to the Committee. Patricia Madsen joined the Adjustments to Income task group.

Adjourn

The meeting was adjourned at 2:00 p.m.



ARIZONA SUPREME COURT
Child Support Guidelines Review Committee
MEETING MINUTES
September 2, 2008
Supreme Court Building, Phoenix, Arizona

MEMBERS PRESENT:

Hon. Rebecca Albrecht
Mr. Robert L. Barrasso
Hon. Bruce R. Cohen, Chair
Ms. Helen Davis
Prof. Ira Ellman
Ms. Kim Gillespie
Ms. Cele Hancock
Ms. Gloria Pearson
Comm. Rhonda Repp
Hon. Kevin White

STAFF:

Kathy Sekardi
Lorraine Nevarez

GUESTS PRESENT:

Tara Ellman
Theresa Barrett

MEMBERS ABSENT:

Mr. David Horowitz
Hon. Michala Ruechel
Hon. Sarah Simmons

Call to Order

Chairman, Judge Cohen, called the telephonic meeting to order at 12:22 p.m. and welcomed the members.

Approval of the Minutes

To approve the August 8, 2008 minutes.

MOTION: The August 8, 2008 minutes were approved and seconded as submitted.

Reports from Task Groups

Judge Cohen asked the workgroups to report on their progress:

- A. *Case Law/Legislative Updates/ARFLP:* Cele Hancock reported she met with the State Bar ARFLP Committee and asked them to review comments made by Tom Alongi and Mark Armstrong. Ms. Hancock also reported the ARFLP Committee discussed the new cash medical support law (HB2505) and that collaboration will need to take place to ensure that any references or new language in the guidelines is consistent with the language added to the ARFLP to address this issue.

- B. ***Income Determination:*** The task group has nothing to report at this time.
- C. ***IV-D:*** The task group has been discussing the new statute (HB2505) regarding cash medical support and the new federal regulations that need to be followed. The task group has been determining how to approach these regulations and address those affected by the requirements. The task group will discuss and formulate recommendations to the full committee suggesting ways to incorporate this information and make it functional. Task member Kim Gillespie will give a presentation discussing the issues and concerns of this new law at the next committee meeting.

The task group also discussed orders that allocate responsibility for uninsured medical expenses. Enforcing these orders is problematic as a large percentage of people fail to provide appropriate documentation when they come to court to enforce these orders and the system is not setup to efficiently process these issues. The task group will further their discussion and make recommendations to the Committee regarding this matter.

- D. ***Adjustments to Income:*** The task group has been reviewing the applicable guideline sections, assigned responsibilities, and will have some proposed changes prepared for the next meeting.
- E. ***Spreadsheet Study Task Group:*** The task group has scheduled two meetings in September and will provide a report at the next Committee meeting.

The Committee agreed to extend the next meeting to 2:30 p.m. and to include an agenda item discussing public comments and assigning issues to the appropriate task groups. The task groups will meet at the September 26, 2008 meeting and report to the whole committee.

Review, Discuss and Assign Website Comments

This agenda item was tabled to next committee meeting scheduled for September 26, 2008.

Discuss Other Items to Add to Agenda List

The Committee identified discussing the Medical Support bill.

Develop September 26, 2008 Agenda

The Committee proposed the following agenda items:

1. Call to Order
2. Minutes
3. Kim Gillespie to give presentation on Medical Support bill
4. Breakout session for Task groups
5. Reports from Task groups
6. Committee to resume as a whole

Call to the Public

Public did not comment.

Adjourn

The meeting was adjourned at 1:15 p.m.



ARIZONA SUPREME COURT
Child Support Guidelines Review Committee
MEETING MINUTES
September 26, 2008
Supreme Court Building, Phoenix, Arizona

MEMBERS PRESENT:

Hon. Rebecca Albrecht
Mr. Robert L. Barrasso
Hon. Bruce R. Cohen, Chair
Ms. Helen Davis
Prof. Ira Ellman
Ms. Kim Gillespie
Ms. Cele Hancock
Mr. David Horowitz
Ms. Gloria Pearson
Comm. Rhonda Repp
Hon Kevin White

STAFF:

Kathy Sekardi
Lorraine Nevarez

GUEST PRESENT:

Tara Ellman
Theresa Barrett
Cheri Clark
Roger L. Hartsell
Patricia Madsen

MEMBERS ABSENT:

Hon. Michala Ruechel
Hon. Sarah Simmons

Call to Order

Judge Cohen, Chair, called the meeting to order at 10:10 a.m. and welcomed the members.

Approval of the Minutes

To approve the September 2, 2008 minutes.

MOTION: The September 2, 2008 minutes were approved and seconded as submitted.

New Medical Support Law Requirements

Kim Gillespie, Asst. Attorney General, explained the effects of the new medical support law. The primary changes are as follows:

- Creation of a cash medical support order.
- New definitions on when it is appropriate to order private medical insurance. A parent should be required to obtain private medical insurance when it is **accessible** to the child and **available at a reasonable cost** of no more than 5% of the obligated parent's gross income.
- Federal regulations impose requirements on states to enforce medical support and broadened the definition of medical support.
- Arizona introduced legislation in January 2008 to comply with the basic provision of the proposed federal regulation. (HB2505)

- HB 2505 requires the court to order a parent to provide insurance when it is accessible to the child and available at a reasonable cost; defines insurance as accessible when it is available in the geographic area where the child resides; defines a reasonable cost for medical insurance as not exceeding 5% of obligor's gross income or an alternative numeric standard as set by guidelines.

There still needs to be further clarification regarding OCSE's (Office of Child Support Enforcement) interpretation of its regulations. Additional changes to Arizona's law may be needed once guidance is available from OCSE. By consensus the committee believes the best approach to revise the guidelines is to deal with the medical insurance (cash medical support order) as a separate item rather than as an adjustment.

A handout of the PowerPoint presentation was provided to the members during the meeting and uploaded to the Guidelines Review Committee webpage post-meeting.

Reports from Task Groups

Judge Cohen asked the workgroups to report on their progress:

- A. ***Case Law/Legislative Updates/ARFLP***: Task group is currently reviewing information.
- B. ***Income Determination***: The task group has nothing to report at this time. The committee thought the task group could review the case *Jenkins v. Jenkins*. Judge Cohen offered a few areas that the task group could focus on:
 1. Simplify and clarify the income language in order to make it less ambiguous.
 2. Deal with non-discretionary withholdings that do not produce income.
 3. Consistencies regarding benefits from business/employment.
 4. *Jenkins v. Jenkins* case
- C. ***IV-D***: Task member Kim Gillespie gave a presentation discussing the issues and concerns of this new medical support law. The task group will begin to develop a summary sheet that would have direct links in the worksheet to the appropriate sections in the guidelines. The task group also will develop a definition of what constitutes an IV-D case for inclusion in the guidelines.
- D. ***Adjustments to Income***: The task group will be discussing the *Harrington* case and determining what applies to the guidelines. The task group is close to proposing changes which mostly include elimination of language in the guidelines.
- E. ***Spreadsheet Study Task Group***: The task group met and reviewed the spreadsheet Ira and Tara Ellman have developed. The task group discussed possible enhancements to the spreadsheets based on the outputs of the different scenarios and benchmarks. The task group would also like to incorporate several other states into the spreadsheet to facilitate comparisons between the outcomes under the Arizona guidelines. The task group would like to present to the full

committee a recommendation using the spreadsheet at the next committee meeting.

Review, Discuss and Assign Website Comments

(To review the entire comments visit: <http://www.supreme.state.az.us/csgrc/>)

This agenda item was tabled to next committee meeting scheduled for October 24, 2008.

Discuss Other Items to Add to Agenda List

The Committee identified sections 3, 4, and 5 of the guidelines they will be discussing. The Spreadsheet the task group will also present their enhancements to the committee.

Develop October 24, 2008 Agenda

The Committee proposed the following agenda items:

1. Call to Order
2. Approve draft minutes from September 26, 2008
3. Discuss/review Guidelines Sections 3, 4, and 5
4. Review spreadsheet study task group information and create 16-cell matrix.

Call to the Public

Public did not comment.

Adjourn

The meeting was adjourned at 2:15 p.m.



ARIZONA SUPREME COURT
Child Support Guidelines Review Committee
MEETING MINUTES
October 24, 2008
Supreme Court Building, Phoenix, Arizona

MEMBERS PRESENT:

Hon. Rebecca Albrecht
Mr. Robert L. Barrasso
Hon. Bruce R. Cohen, Chair
Ms. Helen Davis
Prof. Ira Ellman
Ms. Kim Gillespie
Ms. Cele Hancock
Mr. David Horowitz
Hon. Michala Ruechel
Hon. Sarah Simmons
Hon. Kevin White

STAFF:

Kathy Sekardi
Tama Reily

GUEST PRESENT:

Tara Ellman
Don Vert
Patricia Madsen

MEMBERS ABSENT:

Ms. Gloria Pearson
Comm. Rhonda Repp

Call to Order

Judge Cohen, Chair, called the meeting to order at 10:17 a.m. and welcomed the members.

Approval of the Minutes

To approve the September 26, 2008 minutes.

MOTION: The September 26, 2008 minutes were unanimously approved and seconded as submitted.

Review Spreadsheet Study Task Group Information and Create 16-cell matrix

Prof. Ira Ellman explained the process the task group used for generating numbers for a 16-cell matrix that is representative of all combinations of four incomes, and the principles employed in the process.

Prof. Ellman further explained that the group revisited initial estimates that were approved at an earlier task group (September 26) meeting using an updated version of the spreadsheet and presented its recommendations for this initial 16-cell grid to the full committee in October. The consultant will be asked to employ that 16-cell grid to produce an 8 by 8 (64-cell grid) for the approval of the committee. Once a 64-cell grid is approved by the full committee, Phase II consultant, Dr. Barnow, will be able to extrapolate from it to prepare a complete set of guidelines.

At the end of the process, the group compared their recommendations with the current Arizona guidelines and found:

1. That they generally produced lower support amounts when the obligor has a low-income and the custodial parent has a high income;
2. That higher amounts were produced when the obligor was high-income and the obligee was low-income;
3. They were closest to current guidelines when parents had equal income. (They believe these results were consistent with the recommendation given to them by the interim economic study committee.)

Benchmarks were created as reflected in each cell:

1. The “% middle income” benchmark is the after-tax income of the target household divided by the after-tax income required for that family to have the standard of living (SOL) of the median Arizona two adult, two child family. (This Arizona number was calculated by the consultant, Dr. Burt Barnow.) This is calculated for the intact family and both post-separation household.
2. The “SOL ratio: post-separation” is the ratio of the custodial parent’s (CP’s) “% middle income” to the non-custodial parent (NCP).
3. The “% of minimally adequate income” used figures that were produced by the Pima County jury pool. This figure turned out to be 170% of the poverty threshold, which is a very plausible amount to use. Dr. Barnow calculated equivalent amounts for different household compositions and the number here is the family’s after-tax income, as a percentage of the “minimally adequate income.”

Prof. Ellman explained the principles that were applied by the workgroup: (The members differed a bit as to the weight given each benchmark.)

1. The living standard of the CP households compared to the intact family living standard, which provides a measure of the impact of the separation on the child - “child’s well-being.”
2. The living standard of the CP and NCP households compared to one another. (For the equal earner diagonal, the group believed this ratio should generally be about 1, or equal.)
3. The support rate maximum should be 50% which was reached in the 6-child table. For one child the maximum was 32%, for two children the maximum was 37%.
4. The living standard of the NCP was looked at as a separate matter which was mainly relevant for low-income NCP’s. The task group also looked at the “minimally adequate” benchmark. Overall, the group demanded more of the NCP in cell one in each of the grids. Cell one reflects very little money for both CP and NCP; however, even there, limits were set based on the current self-support reserve test. The group imposed a symbolic payment sufficient to vindicate the “dual-obligation” principle.
5. The living standard of the child in the CP household was looked at as a separate matter because the group wanted to get the child’s living standard near or above

the minimally adequate, as a minimum, unless it is cell one, which is nearly impossible.

Prof. Ellman reported that the members came to a consensus on all the numbers in the grids.

Lastly, the group included an assumption that *“the parents’ income is the only income available to provide for the child or which in fact provides for the child. A deviation may be appropriate when that assumption is not accurate.”*

Prof. Ellman explained that this was in response to the challenging situations the judiciary faces when the child’s standard of living has been greatly enhanced by a step-parent’s income being spent on the new blended family and/or those situations where one of the parent’s have unlimited financial resources. The committee decided that any guidelines generated by this method should extend to at least \$20,000 in monthly income for each parent.

The full committee approved the workgroups’ proposal using the 16-cell matrix including directing the consultant to add information with regard to the gaps in the number of children, specifically, three, four, and five children.

Judge Cohen informed the committee members that he presented a preliminary report to the Arizona Judicial Council on October 22. Judge Cohen stated the final report would need to be completed by May 25, 2009. Staff reviewed the Committee’s charge pursuant to Administrative Order No. 2008-22.

The committee will begin to discuss guideline sections that will not be impacted by either Phase I or Phase II until the completed work has been submitted by the consultants. The committee plans to develop a summary sheet to assist users when applying different section of the guidelines.

Discuss/review Guidelines Sections 3, 4, and 5

The committee reviewed section three of the guidelines and revised it to read as follows:

SECTION 3

THESE GUIDELINES APPLY TO ALL ACTIONS INVOLVING ESTABLISHMENT OF CURRENT OR PAST CHILD SUPPORT OR MODIFICATION OF CHILD SUPPORT. THE COURT SHALL ORDER THE AMOUNT DETERMINED UNDER THESE GUIDELINES ABSENT A DEVIATION (PURSUANT TO SECTION 20).

MOTION: The committee approved and seconded the change as written.

The committee made the aforementioned change for simplification and to ensure continued compliance with federal law.

Develop December 16, 2008 Agenda

The Committee proposed the following agenda items:

1. Call to Order
2. Minutes
3. Continue to discuss and review guideline sections.
4. Reports from Task groups
 - Review and vote on updated spreadsheet
5. Discuss consultant's activities and timelines

Call to the Public

Public did not comment.

Adjourn

The meeting was adjourned at 2:09 p.m.



ARIZONA SUPREME COURT
Child Support Guidelines Review Committee
MEETING MINUTES
December 16, 2008
Downtown Justice Center, Phoenix, Arizona

MEMBERS PRESENT:

Hon. Rebecca Albrecht
Mr. Robert L. Barrasso
Hon. Bruce R. Cohen, Chair
Ms. Helen Davis
Prof. Ira Ellman
Ms. Kim Gillespie
Mr. David Horowitz
Comm. Rhonda Repp
Hon. Sarah Simmons
Hon. Kevin White

STAFF:

Kathy Sekardi
Lorraine Nevarez

GUEST PRESENT:

Tara Ellman
Patricia Madsen

MEMBERS ABSENT:

Ms. Gloria Pearson
Ms. Cele Hancock
Hon. Michala Ruechel

Call to Order

Judge Cohen, Chair, called the meeting to order at 10:17 a.m. Judge Cohen welcomed the members and reviewed the meeting materials.

Approval of the Minutes

To approve the October 24, 2008 minutes.

MOTION: The October 24, 2008 minutes were approved and seconded as submitted.

Review Spreadsheet Study Task Group Information and Create 16-cell matrix

Prof. Ellman reviewed the minutes from the Spreadsheet Task Group with the whole committee. The task group met on December 10, 2008 to fulfill the GRC's request to extend the grid to income amounts up to \$20,000 per parent. The spreadsheet committee had previously reported recommended support levels to the full committee for incomes up to \$10,000 per parent, and for 1, 2, and 6 children. Professor Barnow derived recommendations for 3, 4, and 5 children from the task group's numbers for other size families.

Prof. Ellman reported that anomalies were discovered, such as lumpiness in the tax data which led to odd results at the higher incomes, for five children families, in the

conversion of incomes from gross to net. The data has been smoothed to eliminate this problem.

Prof. Ellman reported there was very little data available for either families larger than three children, or for families in the higher income ranges and stated the consultant would formulate a proposal and provide this to the spreadsheet committee before its next meeting. In the interim, the task group would proceed on the basis of two working factual assumptions.

The first assumption is that the increase in child support required as children are added is less for each additional child than for the preceding child. The second assumption as we go to the higher incomes we are now adding to the chart, it is less important to try to achieve equal outcomes along the equal earner diagonal, because the outcome benchmarks become less useful at these higher incomes, and in any event the child's situation would be more comfortable in either households. The Committee also agreed to Burt's suggested changes.

Prof. Ellman reported the task group discussed possible strategies for dealing with the paucity of data with respect to the largest families and especially for higher incomes. One solution the committee found intriguing was to limit the official guidelines to lower incomes, and 3 or 4 children. While a grid would be provided for higher incomes and more children, they would not carry the same force as the official guidelines, allowing more flexible exercise of discretion by judges for these cases. Task group members were given handouts that reviewed the work so far on several dimensions, showing (as a temporary placeholder) linear interpolations prepared by Burt for three, four, and five children. Among other things, the handouts showed both support rates (against NCP net income) and outcomes (as measured against the middle class benchmark) for both the task group figures and current Arizona guidelines. Task group members examined these materials and reaffirmed their recommendations.

The spreadsheet task group then began the task of recommending support amounts for higher incomes, as requested by the full committee. As agreed at its prior meeting, it addressed the task by converting the prior 4 x 4 matrix to a 6 x 6 matrix, with these six income values for each parent: \$1000, \$3,000, \$6,000, \$10,000, \$15,000, and \$20,000. The task group worked with the worksheets in which the initial 16-cell matrix was now supplemented with two additional columns and two additional rows of blank cells, representing the 20 additional income combinations that resulted from this expansion. In addressing how to fill these new blank cells, the task group agreed that as one moved to the southeast portion of the expanded matrix—the portion with the highest parental incomes—the purpose of requiring child support shifted because the high incomes of both parents meant that there was reduced concern that support was necessary to ensure child well-being. Instead, the dual-obligation principle increased in importance as the explanation for the support amounts required in this portion of the matrix. This conclusion meant that one would expect to have support amounts that declined, as a percentage of the NCP's income, as one moved to the southeast corner of the equal-earner diagonal. Task group members filled in all the cells at the perimeter of the 6 x 6

expanded grid, as well as several interior cells, for 1 and 2 children. The understanding was that with the perimeter cells filled, Professor Barnow could complete the remaining empty cells in the grid's interior. The results were provided to the GRC members at the December 16, 2008 meeting.

NEXT STEPS

The committee met after the full committee meeting to review these numbers and complete the task for 6 children. The committee will review this work further at its next meeting. The task groups' expectations are that Professor Barnow will assist the committee to prepare for the February meeting of the full committee. Before the next task group meeting, Professor Barnow will send the spreadsheet task group his suggested method for dealing with the interpolations for different family sizes, and the committee will review the method with him at the meeting.

The committee examined a grid that Prof Barnow supplied extrapolating the committee's prior recommendations for 1, 2, and 6 children to now include 3, 4, and 5 children. Professor Barnow pointed out that this grid, doing a simple linear extrapolation, revealed anomalies in the 2 children recommendations that the committee had approved. The committee therefore revised its 2 children recommendations.

Report of Phase I:

Dr. Venohr will provide a final version of the updated schedule by December 31, 2008. The committee has requested that staff contact Dr. Venohr and ask her to be available telephonically for the January 23, 2009 meeting in order to answer any questions the committee may have regarding the final review products.

The committee broke into task groups to work on revising language in their designated sections. The task groups will bring their proposed changes to the next full committee.

Develop January 23, 2009 Agenda

The Committee proposed the following agenda items:

1. Call to Order
2. Minutes
3. Discuss Phase II Report
4. Breakout session for Task groups
5. Continue to discuss/review guideline sections.
6. Reports from Task groups
7. Committee to resume as a whole

Call to the Public

Public did not comment.

Adjourn

The meeting was adjourned at 2:09 p.m.

ARIZONA SUPREME COURT
Child Support Guidelines Review Committee
MEETING MINUTES
January 23, 2009
State Courts Building, Phoenix, Arizona

MEMBERS PRESENT:

Hon. Rebecca Albrecht
Mr. Robert L. Barrasso
Hon. Bruce R. Cohen, Chair
Ms. Helen Davis
Prof. Ira Ellman
Ms. Kim Gillespie
Ms. Cele Hancock
Mr. David Horowitz
Comm. Rhonda Repp
Hon. Michala Ruechel
Hon. Sarah Simmons
Hon. Kevin White

STAFF:

Kathy Sekardi
Lorraine Nevarez

GUEST PRESENT:

Tara Ellman
Patricia Madsen
Dr. Jane Venohr

MEMBERS ABSENT:

None

Call to Order

Judge Cohen, Chair, called the meeting to order at 10:17 a.m. Judge Cohen welcomed the members and reviewed the meeting materials.

Approval of the Minutes

To approve the December 16, 2008 minutes.

MOTION: The December 16, 2008 minutes were tabled prior to approval to allow time for incorporation of recommended changes from Ira Ellman.

Developing questions regarding Phase 1

The Committee members reviewed the draft of the final product for Phase I. Jane Venohr, Ph.D., and consultant from the Center for Policy Research will join the meeting shortly in order to answer the Committee's questions regarding Phase I. The Chair reminded the Committee that Phase I and Phase II are not competing goals, they are options.

The Committee proposes to discuss the following with Dr. Venohr:

- What data is relied upon and what methodology is used?
- The Committee recognizes that the support numbers are too high in the low-income areas and too low with higher-incomes. As disparity increases the

custodial parent's income becomes less adequate, in other words the children who live with a custodial parent with low-income are worse off than living with the higher income parent. Is there a solution to high disparity situations?

- Were Betson's most current findings (taken into consideration) regarding there being no significant decline in the percentage of child support when total spending increased? Is the outcome the same when considering the current economy?

Discuss Arizona 2008 Case File Review and Schedule:

Dr. Venohr appeared telephonically to answer committee questions and to provide historical information on prior reviews.

Questions and comments were as follows:

Q/C: Some of the people on the committee have different levels of knowledge of how the chart is constructed and what the underlying assumptions are that the report is based upon.

A: From the late 1980's child support guidelines were required and at the same time legislation authorized a committee to assist states develop guidelines. The committee developed principles that state models should include such as being gender neutral, requiring both parents to share in the financial responsibility of the children, recognizing that guidelines generated should be more than the poverty amount, the child should share in the life style the parents can afford, the notion that payment of child support should not expose the other parent to poverty, and the other spouse's income shouldn't be considered. The committee looked at a few states that were using various types of guidelines. Specifically, they looked at Washington State which was using the Income Shares Model. The Income Shares Model was based on estimates of expenditures of intact families.

Arizona's first child support guidelines were based on the Income Shares Model. In the late 1980's Arizona relied on Espenshade's estimates of total child rearing expenditures. Today, however, the Betson/Rothbarth estimates are used in Arizona's Income Shares Model as Betson's studies, estimating child-rearing expenditures, are based on more current data. Both methodologies used a "marginal cost approach" which looks at two families that are both equally well-off, one family without children, and one family with children. To separate the child expenditures from the adult expenditures, the difference between the two families spending is regarded as the child rearing expenditure. The Engle methodology relies upon food shares, while the Rothbarth methodology relies upon "adult goods."

Q/C: What are total family expenditures?

A: The Engle methodology uses food shares to determine equally well off families. The Rothbarth methodology uses expenditures on adult goods. Some estimates focus on luxury items such as alcohol and tobacco, while other surveys use adult clothing.

Q/C: The data did not look at all expenditures it just compared what the equally well off families with no children spend on food and they compared that?

A: They look at total family expenditures, which would include food, clothing, shelter, electric bills, and vehicle.

Q/C: What data was used to update?

A: The data was updated from the consumer price index. It is a percentage that gets applied to income.

Q/C: What is included in the savings other than the traditional use of savings?

A: It includes 401(K) contributions, net vehicle outlays, savings, rent or mortgage interest, property taxes, electric bills, gas, dues to HOA, vehicle finance charges, maintenance, public transportation, life insurance and there may be a few more.

Q/C: Is the market basket data in the consumer price index consistent with the same market baskets that were used in the original index?

A: Probably not, it has to change because things go out of style.

Q/C: One general observation is that the basic child support obligation in the 2003 update was reduced in the higher-income families and in this current update it is increased. Also, the child support increased for low-income earners in 2003 as well as in this new update. What contributes to the fact that higher income people in 2003 receive a reduction of child support and this current report suggests the amount increases for the lower income people?

A: Dr. Venohr discussed Exhibit 1, page 2 of the draft final indicating that price levels have increased which results in increases across the board. Child care and health insurance have caused dramatic changes, as well as double-digit interest rates and 401-(K)'s were new. The tax rates from the eighties and nineties make some difference in addition to tax reform in 2003 and 2004.

Q/C: If we look at a family that has one child versus a family that has two children with the same amount of income, there is a slight decrease in the child support for one child. Why is that?

A: This is an anomaly. Part of the problem is with families earning less than \$35,000 per year, the family spends more than what is earned so the income is capped at 100% rather than at 150%. For example, in this situation the number decreases when converted.

Q/C: As we understand it, Dr. Betson reported that as income increases a percentage of family spending on the child decreases. Is this notion still embraced?

A: Not aware of this information in the 2006 report. Total expenditures on the child are looked at. There are some studies that suggest this notion may be consistent but when the numbers are converted to gross income guidelines, there may be confusion with progressive tax rates. There may also be some confusion as the Arizona guidelines are based on gross income.

Q/C: Assume a situation where there is \$7,000 combined income for a family. Where both parents earn equally (\$3,500/month) the child lives in households that are essentially well off. Now consider the same combined income of \$7000/month, however, the custodial parent earns \$1,000/month, while the non-custodial parent earns \$6,000/month. Or, the custodial parent earns \$6,000/month and the non-custodial parent earns \$1,000/month. The child in the physical custody of the higher income parent is financially better off in these economically disparate situations. The inadequacy of a child support order at these low-income levels may be aggravated if there is a significant adjustment for parenting time. The consensus of the committee members is that deviations are not being requested with these large disparity situations.

A: Other states are doing things different than Arizona. For example, New Jersey does not trigger a time sharing adjustment unless the obligee has more than 200% of the poverty level income. Arizona may want to consider a minimum order, or may want to consider that each additional child will be X amount of dollars.

Dr. Venohr stated she will send to staff to distribute to the committee members a report that details, step by step, an explanation of the data process.

Report from Spreadsheet Study Task Group

Ira Ellman and Judge Cohen discussed the results from the last Spreadsheet Study Task Group meeting. Ira Ellman explained next steps:

- Dr. Barnow will look at incomes below \$1000 for the NCP and will build in a zero support amount when the incomes are below \$1000. (To reconcile with the self-support reserve test.)
- The GRC should think about those cases where the CP's income is truly zero, guidelines say the court can impute income. The committee will decide if this section requires more in-depth clarification for imputing income in these cases.
- Need to extend NCP incomes and push the chart out to \$30,000 per month.
- The consensus of the committee is to keep some kind of parenting time adjustment; however, the parenting time adjustment cannot just be incorporated or laid right into Phase II grids. Judge Cohen asked the task group to discuss ideas regarding incorporation of a parenting time adjustment such as the solutions offered by Dr. Venohr.
- The task group was also asked to look at equal parenting time, situations where there are two or more children with different parenting time schedules, and split custody.

Discuss and review Phase II findings

Judge Cohen, Chair, reminded the members that transparency is critical in the review process as it relates to Phase II findings. Is the process clear enough so updates can be done easily and future reviews are provided with a method to update?

Discuss/review Guidelines Sections

The Committee made changes to the following sections:

Section 5: Added headings for ease of use. Also, the Committee reorganized the language within new section “C” for clarity. Replaced words “attribute” and “consider” with the word “include” for clarity.

Kim Gillespie will inform the committee about the Bradley Amendment and its impact on retroactive modification. Bob Barrasso will report on the Hetherington v. Hetherington.

Develop February 27, 2009 Agenda

The Committee proposed the following agenda items:

1. Call to Order
2. Approval of Minutes
3. Bradley Amendment
4. Hetherington v. Hetherington
5. Discuss Phase II Report
6. Continue to discuss/review guideline sections.

Call to the Public

An email was sent to Staff by Joseph Campbell regarding equal parenting time. The Committee reviewed the comment and will forward the comment to the appropriate task group for further discussion and review.

Adjourn

The meeting was adjourned at 2:09 p.m.

ARIZONA SUPREME COURT
Child Support Guidelines Review Committee
MEETING MINUTES
February 27, 2009
Downtown Justice Center, Phoenix, Arizona

MEMBERS PRESENT:

Mr. Robert L. Barrasso
Hon. Bruce R. Cohen, Chair
Prof. Ira Ellman
Ms. Kim Gillespie
Ms. Cele Hancock
Mr. David Horowitz
Comm. Rhonda Repp
Hon. Michala Ruechel
Hon. Sarah Simmons
Hon. Kevin White

STAFF:

Ms. Kathy Sekardi
Ms. Annette Mariani

PRESENT:

Ms. Tara Ellman
Ms. Patricia Madsen
Ms. Cari Gerchick
Ms. Theresa Barrett

MEMBERS ABSENT:

Hon. Rebecca Albrecht

Call to Order

Judge Cohen, Chair, called the meeting to order at 10:11 a.m. Judge Cohen welcomed the members and reviewed the meeting materials. He then informed members the focus for the meeting would involve discussion on Phase I and Phase II, work on clarifying language, and reorganizing the guidelines. It was noted the Cash Medical Support Order would need to be addressed at a later meeting.

Approval of the Minutes

MOTION: The December 16, 2008 minutes were moved and seconded without modification.

MOTION: The January 23, 2009 minutes were moved and seconded without modification.

Review Spreadsheet Study Task Group

A summary of the task group's recommendations were disseminated to the group in order to begin discussion on the grid comparisons. Summary information was taken from all the detailed tables.

DISCUSSION POINTS THAT ENSUED:

- Consider adoption of Phase II. Burt Barnow will extrapolate from the task group's grids and set his tables with a full set of income combinations.

- Goal/Operating Principle: The families wherein the two parents are equal earners, the numbers should come out about the same. Due to a steep declining rate structure once the higher incomes are obtained, one would reach a disparity even though they are earning the same amount. A clarification should be made that when looking at these numbers *equal* means equal to each other, not to what the current guidelines are.
- The committee reviewed the task group's output grids and tables that compared child support amounts against the current guideline amounts and CPR's proposed amounts *without* any parenting adjustments.
- A question was raised as to whether the full committee will want to apply the self support reserve that the current guidelines use. The task group recommendation assumes a self support reserve of \$903. The current guidelines in effect use \$775 as a self support reserve.
- The committee questioned how much income shifting is appropriate in those circumstances where one of the parents has no income, which is reflected by a "0" amount in the grids. Where is the balance? These are situations where the court has decided income should not be imputed to this parent. The members discussed "0" income compared to the benchmark. There was a general perception that in most of these cases, the assumption is that the custodial parent will re-marry and will contribute a reasonable amount of income.
- The committee discussed *Cummings v. Cummings* and the cost deferral concept. Should recurring gifts that benefit the child be taken into account? (From new stepparents or from grandparents?) There could be problems determining the appropriate amount to apportion.
- The proposed changes in output numbers raised some concerns for members. Changes of 15% or more could mean child support orders that currently stand will need to be re-worked. Taking a lesson from Phase I and re-working the Phase II numbers with adjustments in the corners may be a direction to consider. How do we look at scaling down across the board? How is the comparison made to the current system so that all the work accomplished so far is not completely undone?
- If there are living expenses reduced by a third party source should these be taken into consideration? (i.e. Issue of deferred expenses.) Are these to be considered in cases when a parent is working below their earning capacity? It was clarified that the standard of living benchmark was consistent with Arizona economics rather than nationwide numbers. The middle income standard of living benchmark referred to in Phase II is based on the median income for a family of four in Arizona.

- The task group believes that there should not be adjustments for child care because child care costs are one of the expenses that a household has in proportion to the time they have the child. This adjustment would be part of the parenting adjustment. It was noted the guidelines are not age sensitive. A discussion regarding infants versus 12-year old children ensued. Should an additional age adjustment be added for toddlers that require pre-school or all day child care? Should child care be phased out at certain income levels?
- As an alternative for the decision makers, it was suggested to offer a “Plan B” which would include the same general principles, with less significant changes, and the addition of child care expenses.

Summary of Consensus (No Official Vote Taken)

1. Phase II is favored over Phase I.
2. The recommendations of the task group have been embraced with some minor exceptions and change in some policy issues.
3. The committee is cognizant of the political implementation aspects of the information presented.
4. Members are to think about the issue of child care expenses. Specifically, whether or not it should be eliminated or included, or perhaps presented in a different form. It was acknowledged the answer depends on which model the committee will recommend.

Review Guideline Sections

Section 5B - After much discussion regarding no substantive changes occurred in this section. The question was raised whether these issues remain in this section or be moved into the deviation section.

An informal vote was taken to determine the following: “How many people would be in favor of „may” language going into Section 5 (being an income determination issue versus deviation statement in Section 20)?” *Results:* 6 in favor of the language remaining in Section 5 and 2 in favor of relocating language to Section 20.

NEXT MEETING

- There will be discussion regarding the approach, process, and ramifications of scaling down. What numbers to consider (75%)? A decision will be made next meeting to advocate one version or present an alternative.
- Robert Barasso offered to do a few state comparisons and will report the findings of his comparison study. He plans to seek child support amounts for the following states: Massachusetts as a high child support amount state, Iowa to

represent a medium child support amount state, and Oregon to represent a low child support amount state. Each child support amount will be based on a 10-year old child with 100 days of visitation. Recommended cells represent: CP \$3000/NCP \$3000; CP \$3000/NCP \$1000; CP \$1000/NCP \$3000; CP \$6000/NCP \$3000; and CP \$3000/NCP \$6000.

- Cari Gerchick, Public Information Officer, AOC, suggested that the committee completely finish their work prior to presenting to the Arizona Judicial Council.
- Helen Davis will work with David Horowitz on drafting language to Section 5 and Section 20 of the guidelines. Judge Sally Simmons and Robert Barrasso offered to meet with members of the State Bar and the Family Court Bench to ascertain their input, while Judge Cohen will poll other judges for their feedback.
- Due to the amount of work that needs to be accomplished, it was agreed that longer meeting timeframes would be necessary. The next meeting would then be scheduled from 10:00 a.m. to 4:00 p.m.

Call to the Public

Patricia Madsen from Community Legal Services was present. She would like to see the language regarding the “reduction in personal living expenses” moved to the deviation section. She believes that false numbers could occur if there is an assumption that a third party moving in with a parent will reduce personal living expenses.

The committee agreed that this will be taken into consideration.

Adjourn

The meeting was adjourned at 2:07 p.m.

ARIZONA SUPREME COURT
Child Support Guidelines Review Committee
MEETING MINUTES
March 27, 2009
State Courts Building, Phoenix, Arizona

MEMBERS PRESENT:

Hon. Rebecca Albrecht
Hon. Bruce R. Cohen, Chair
Prof. Ira Ellman
Ms. Kim Gillespie
Ms. Cele Hancock
Mr. David Horowitz
Comm. Rhonda Repp
Hon. Michala Ruechel
Hon. Sarah Simmons
Hon. Kevin White

STAFF:

Ms. Kathy Sekardi
Ms. Lorraine Nevarez

PRESENT:

Ms. Tara Ellman
Ms. Patricia Madsen
Mr. Don Vert

MEMBERS ABSENT:

Mr. Robert Barrasso
Ms. Helen Davis

Call to Order

Judge Cohen, Chair, called the meeting to order at 10:11 a.m. Judge Cohen welcomed the members and reviewed the meeting materials. A passage from the Massachusetts Child Support Guidelines Task Force Report was highlighted which recognizes one of the challenges faced by this committee - that establishing child support guidelines ultimately requires policy decisions, not purely economic decisions, as well as the end result for the child.

Approval of the Minutes

MOTION: The February 27, 2009 minutes were moved and seconded as submitted.

Review Spreadsheet Study Task Group

A summary of the task group's recommendations were disseminated to the group in order to begin discussion on the grid comparisons. The task group explained the following:

- The current guidelines support amounts are very low.
- The examples in the charts constitute 38% of all cases.
- The workgroup focused on the cases that were most common.
- Used most of the one child cases.
- Discussed and focused on the outcomes and benchmarks to use.

THE COMMITTEE COMMENTS INCLUDED SOME OF THE FOLLOWING:

- It was suggested that an additional benchmark may be needed to measure the non custodial parent's household that includes a child, prior to the support payment being made. This measure would address both parents living with a child a certain amount of the time.
- The Committee questioned the use of negative child support amounts. If the child support amount is a negative number; how should it be modified? It was suggested that a presumption regarding negative child support amounts be incorporated into the guidelines. Another member voiced that the committee may want to recognize there may exist situations where it is important for the custodial parent to pay the non custodial parent. These situations may generate more negative numbers than what are in the current guidelines. There was concern that unintended consequences would arise for all the different situations that could exist. There may be some situations where a negative child support amount should be paid; however, most important to consider is the child's well-being. There was general consensus that as parenting time gets closer to an equal parenting time arrangement, and where a disparity of income increases as a result, the child support amount should increase.
- Prof. Ellman discussed the proposed parenting time adjustment, which include "variable" and "fixed costs" components. It is anticipated that this method will eliminate the problem of litigating over "cliff" parenting time adjustments.
- The Committee discussed a change in implementation of child care costs. Members discussed the "cost of generating income" that is required for parents with young children and agreed that this adjustment should be made to the income of the parent rather than an addition to the child support amount. Child care has been included in the Phase II standard of living benchmarks.
- The Committee also discussed adding a definition of childcare similar to the Massachusetts definition, which embraces the "totality of circumstances."
- The Simplified Application of the Guidelines issue was identified by a Committee member and all agreed to table the discussion to the next committee meeting.

Approval of Phase II

MOTION: The Committee approved recommending the Phase II Model to the Arizona Judicial Council in June 2009. The Committee recognized that there were two members not present at the meeting and offered to update them via teleconference. Staff will schedule this meeting.

The Committee was asked to provide potential names to call the Phase II model. The members will vote on their favorite name at the next meeting.

Approval of Parenting Time Adjustment

MOTION: The Committee moved and seconded to adopt the proposed parenting time adjustment method described by Prof. Ellman

Approval of the Child Care Adjustment

MOTION: The Committee moved and seconded to accept the reasonable and necessary child care costs as an adjustment to gross income of the parent paying those costs.

Review Guideline Sections 1-25

The Committee reviewed guidelines sections and voted to approve the following changes, except for Section 24(C):

SECTIONS

21. Third-Party Care Givers

When a child lives with a third-party caregiver by virtue of a court order, administrative placement by a state agency or under color of authority, the third-party caregiver ~~is~~ MAY BE entitled to receive child support payments from each parent on behalf of the child.

22. Court's Findings

The court shall make findings in the record as to: Gross Income, Adjusted Gross Income, Basic Child Support Obligation, Total Child Support Obligation, each parent's proportionate share of the child support obligation, and the child support order. FOR EASE OF ADMINISTRATION, THE COURT MAY ROUND OFF THE CHILD SUPPORT ORDER AMOUNT TO THE APPROPRIATE INTERVAL WITHOUT THE ORDER SUCH BEING DEEMED A DEVIATION FROM THE GUIDELINE AMOUNT.

The findings may be made by incorporating a worksheet containing this information into the file.

~~If the court attributes income above minimum wage income, the court shall explain the reason for its decision.~~

The child support order shall be set forth in a sum certain and start on a date certain. A new child support order shall be filed upon any change in the amount or due date of the child support obligation.

23. Exchange of Information

(No substantive changes at this time.) Move to Section III(B)

24. Modification

B(1) PROCESS FOR MODIFICATION

CHILD SUPPORT ORDERS CAN ONLY BE MODIFIED BY COURT ORDER. AN ORDER TO MODIFY CHILD SUPPORT CAN BE OBTAINED THRU ANY OF THE FOLLOWING PROCEDURES:

~~A.~~ a. Standard Procedure

Pursuant to Arizona Revised Statutes Sections 25-327 and 25-503, either parent or the state Title IV-D agency may ask the court to modify a child support order upon a showing of a substantial and continuing change of circumstances.

~~B.~~ b. Simplified Procedure

Either parent or the state Title IV-D agency may request the court to modify a child support order if application of the guidelines results in an order that varies 15% or more from the existing amount. A ~~fifteen~~ 15% ~~percent~~ variation in the amount of the order will be considered evidence of substantial and continuing change of circumstances. A request for modification of the child support amount must be accompanied by a completed and sworn "Parent's Worksheet for Child Support Amount," and documentation supporting the incomes if different from the court's most recent findings regarding income of the parents. If the party requesting the modification is unable to provide documentation ~~supporting~~ REFLECTING the other party's income, the requesting party shall indicate that the income amount is attributed/ OR estimated and ~~state~~ SHALL SET FORTH the basis for the amount listed. The state Title IV-D agency may submit a parent's worksheet.

~~The simplified procedure also may be used by either parent or the state Title IV-D agency to modify a child support order to assign or alter the responsibility to provide medical insurance for a child who is the subject of a child support order. A modification of the medical assignment or responsibility does not need to vary by 15% or more from the existing amount to use the simplified procedure.~~

A copy of the request for modification of child support and the "Parent's Worksheet for Child Support Amount," including supporting documentation, showing that the proposed child support amount would vary 15% or more from the existing child support order shall be served on the other parent, or on both parents if filed by the state Title IV-D agency, pursuant to Rules 41 AND 42, ARIZONA RULES OF FAMILY LAW PROCEDURE. ~~4.1 and 4.2, Rules of Civil Procedure.~~

If the requested modification is disputed, the parent receiving service must request a hearing within 20 days of service. If service is made outside the state, as provided in Rule 42, ARIZONA RULES OF FAMILY LAW PROCEDURE ~~4.2, Rules of Civil Procedure,~~ the parent receiving service must request a hearing within 30 days of service.

A party requesting a hearing shall file a written request for hearing accompanied by a completed and sworn "Parent's Worksheet for Child Support Amount." Copies of the documents filed, together with the notice of hearing, shall be served on the other party and, if appropriate, the state Title IV-D agency by first class mail not less than 10 judicial days prior to the hearing.

Upon proof of service and if no hearing is requested within the time allowed, the court will review the request and enter an appropriate order or set the matter for hearing.

If any party requests a hearing within the time allowed, the court shall conduct such hearing. No order shall be modified without a hearing if one is requested.

The notice provision of Rule 44, ARIZONA RULES OF FAMILY LAW PROCEDURE ~~55, Rules of Civil Procedure~~, does not apply to this simplified modification procedure.

A request to modify child support, request for a hearing and notice of hearing, "Parent's Worksheet for Child Support Amount" and child support order filed or served pursuant to this subsection must be made using forms approved by the Arizona Supreme Court or substantially similar forms.

Approved forms are available from the Clerk of the Superior Court.

c. BY AGREEMENT

THE PARTIES MAY AGREE TO MODIFY A CHILD SUPPORT ORDER. TO BECOME EFFECTIVE, THE AGREEMENT MUST BE IN WRITING, SIGNED BY ALL PARTIES, FILED WITH THE CLERK OF COURT, AND APPROVED BY THE COURT. IF THE AGREED UPON AMOUNT IS DIFFERENT FROM THE AMOUNT CALCULATED UNDER THE GUIDELINES, IT MUST BE EXPLAINED AS REQUIRED BY SECTION 4A ABOVE.

2. LIMITATIONS

a. EFFECT OF EMANCIPATION

IF CHILD SUPPORT IS ORDERED FOR MORE THAN ONE CHILD, THE AMOUNT OF CHILD SUPPORT DOES NOT AUTOMATICALLY CHANGE IF ONE OF THE CHILDREN GRADUATES FROM HIGH SCHOOL, REACHES THE AGE OF MAJORITY, OR IS OTHERWISE EMANCIPATED. To obtain a modification ~~to~~ OF the child support order, a request, PETITION OR AGREEMENT must be made in writing to the court to recalculate the child support obligation pursuant to these guidelines. ~~TO SEEK A CHANGE OF THE CHILD SUPPORT A PARENT MAY SEEK TO MODIFY MAY FILE A PETITION FOR MODIFICATION.~~

b. TERMINATION OF SUPPORT

ARIZONA LAW PROVIDES THAT A CHILD SUPPORT ORDER TERMINATES WHEN THE CHILD OR CHILDREN HAVE GRADUATED FROM HIGH SCHOOL, REACHED THE AGE OF MAJORITY, OR ARE OTHERWISE EMANCIPATED.

UPON ENTRY OF AN INITIAL OR MODIFIED CHILD SUPPORT ORDER, THE COURT SHALL, OR IN ANY SUBSEQUENT ACTION RELATING TO THE CHILD SUPPORT ORDER, THE COURT MAY, ESTABLISH A PRESUMPTIVE DATE FOR THE TERMINATION OF THE CURRENT CHILD SUPPORT OBLIGATION. THE PRESUMPTIVE TERMINATION DATE SHALL BE THE LAST DAY OF THE MONTH OF THE 18TH BIRTHDAY OF THE YOUNGEST CHILD INCLUDED IN

THE ORDER UNLESS THE COURT FINDS THAT IT IS PROJECTED THAT THE YOUNGEST CHILD WILL NOT COMPLETE HIGH SCHOOL BY AGE 18. IN THAT EVENT, THE PRESUMPTIVE TERMINATION DATE SHALL BE THE LAST DAY OF THE MONTH OF THE ANTICIPATED GRADUATION DATE OR AGE 19, WHICHEVER OCCURS FIRST. THE ADMINISTRATIVE INCOME WITHHOLDING ORDER ISSUED BY THE DEPARTMENT OR ITS AGENT IN TITLE IV-D CASES AND AN ORDER OF ASSIGNMENT ISSUED BY THE COURT SHALL INCLUDE THE PRESUMPTIVE TERMINATION DATE. THE PRESUMPTIVE DATE MAY BE MODIFIED UPON CHANGED CIRCUMSTANCES. AN EMPLOYER OR OTHER PAYOR OF FUNDS HONORING AN ORDER OF ASSIGNMENT OR AN ADMINISTRATIVE INCOME WITHHOLDING ORDER THAT INCLUDES THE PRESUMPTIVE TERMINATION DATE AND IS FOR CURRENT CHILD SUPPORT ONLY, SHALL DISCONTINUE WITHHOLDING MONIES AFTER THE LAST PAY PERIOD OF THE MONTH OF THE PRESUMPTIVE TERMINATION DATE. IF THE ORDER OF ASSIGNMENT OR ADMINISTRATIVE INCOME WITHHOLDING ORDER INCLUDES CURRENT CHILD SUPPORT AND ARREARAGE PAYMENT, THE EMPLOYER OR OTHER PAYOR OF FUNDS SHALL CONTINUE WITHHOLDING THE ENTIRE AMOUNT LISTED ON THE ORDER OF ASSIGNMENT OR ADMINISTRATIVE INCOME WITHHOLDING ORDER UNTIL FURTHER ORDER. FOR PURPOSES OF DETERMINING THE PRESUMPTIVE TERMINATION DATE, IT IS FURTHER PRESUMED:

- i. THAT A CHILD NOT YET IN SCHOOL WILL ENTER 1ST GRADE IF THE CHILD REACHES AGE 6 ON OR BEFORE SEPTEMBER 1 OF THE YEAR IN WHICH THE CHILD REACHES AGE 6; OTHERWISE, IT IS PRESUMED THAT THE CHILD WILL ENTER 1ST GRADE THE FOLLOWING YEAR; AND,
- ii. THAT A CHILD WILL GRADUATE IN THE MONTH OF MAY AFTER COMPLETING THE 12TH GRADE.

EVEN IF YOUR CHILD SUPPORT OBLIGATION HAS STOPPED, ANY ORDER OF ASSIGNMENT MAY NOT TERMINATE. IF YOUR ORDER OF ASSIGNMENT DOES NOT STOP, YOU MUST GO TO COURT TO GET A SPECIFIC ORDER STOPPING THE WAGE ASSIGNMENT IN A IV-D CASE, YOU MAY STOP THE WAGE ASSIGNMENT BY CONTACTING THE IV-D AGENCY.

c. RETROACTIVE MODIFICATION

ARIZONA LAW LIMITS RETROACTIVE MODIFICATION OF CHILD SUPPORT. IF THERE IS A SUBSTANTIAL AND CONTINUING CHANGE IN CIRCUMSTANCES THAT A PARTY BELIEVES WOULD WARRANT MODIFICATION OF THE CHILD SUPPORT ORDER, THE PARTY IS REQUIRED TO FILE FOR THE NECESSARY RELIEF FROM THE COURT.

d. GROUNDS FOR MODIFICATION

A substantial variance between an existing child support order and an amount resulting from application of the ~~new guidelines~~ MOST RECENTLY ENACTED GUIDELINES

may be considered evidence of a substantial and continuing change of circumstances for purposes of a modification. A variance of at least 15% would be evidence of a substantial and continuing change of circumstances.

25. -Effect of Cessation of Child Support for One Child

b. ~~If THE child support ORDER IS for more than one child was ordered under these guidelines and thereafter the duty to support one of the children stops, the order is not automatically reduced by that child's share. To obtain a modification to the child support order, a request must be made in writing to the court to recalculate the child support obligation pursuant to these guidelines. The procedure specified in Section 24 may be used for this purpose.~~

~~EXAMPLE: The child support order for a Combined Adjusted Gross Income of \$1,500, with four children is \$600. One child graduates from high school and turns 18. In determining the new child support amount, do not deduct one fourth of the order for a new order of \$450. Instead, determine a new child support order by applying the guidelines. (NOTE: This method varies from the one used in Section 9.B.4.).~~

The Committee Chair assigned guidelines sections to the members. The committee will discuss potential changes to the rest of the sections at the next committee meeting. The assignments are as follows:

- Judge Ruechel-sections 5, 6, 7, 18
- Kim Gillespie, Judge Albrecht and David Horowitz-sections 8 -15
- Cele Hancock-sections 22, 23, 19, 27
- Kim Gillespie- Medical Insurance/Cash Medical section 17
- Judge Repp- section 20
- Judge Cohen-section 16
- Judge White-section 21 and 28
- Judge Albrecht-section 24
- David Horowitz-section 7

Develop Proposed April 24, 2009 Agenda

1. Call to Order
2. Minutes
3. Discuss naming the Phase II child support model
4. Discuss cash medical support orders
5. Discuss proposed revisions to the remaining Guideline Sections
6. Discuss the simplified application of the guidelines
7. Negative child support orders
8. Discuss an interim committee to serve
9. Discuss May meeting date
10. Call to the Public
11. Adjourn

Call to the Public

Public did not comment.

Adjourn

The meeting was adjourned at 3:30 p.m.

ARIZONA SUPREME COURT
Child Support Guidelines Review Committee
MEETING MINUTES
April 24, 2009
State Courts Building, Phoenix, Arizona

MEMBERS PRESENT:

Hon. Rebecca Albrecht
Mr. Robert L. Barrasso
Hon. Bruce R. Cohen, Chair
Ms. Helen Davis
Prof. Ira Ellman
Ms. Kim Gillespie
Ms. Cele Hancock
Mr. David Horowitz
Comm. Rhonda Repp
Hon. Michala Ruechel
Hon. Sarah Simmons
Hon. Kevin White

STAFF:

Ms. Kathy Sekardi
Ms. Lorraine Nevarez

PRESENT:

Ms. Tara Ellman
Ms. Patricia Madsen
Mr. Don Vert

CALL TO ORDER

Judge Cohen, Chair, called the meeting to order at 10:10 a.m. Judge Cohen welcomed the members and reviewed the meeting materials. Judge Cohen acknowledged and thanked Tara Ellman for the time, effort, and expertise she has contributed to the committee.

Judge Cohen discussed considerations that were suggested by the Executive Office of the AOC regarding the Committee's report and recommendations presentation to the Arizona Judicial Council. A few of those suggestions entailed:

- Looking at how the courts will perceive structure and implementation of the guidelines.
- Determine the basic needs to review the guidelines in the future.
- Identify and improve upon any critical process glitches in the system that may need to be addressed.

The Committee made some of the following comments:

- The Committee will take the considerations and continue to review, adjust and develop guidelines that are comprehensible and useful by improving on the process of the current system.
- The Committee also discussed designing guidelines that reflect 95% of the child support orders and adjusting the chart to reflect those cases. Those cases that fall within the remaining 5% may be tied to a presumption that could allow the parties an opportunity to advocate for their interests. Most of these cases lack accurate data on which to base realistic child support amounts.

- Strictly follow the statutory mandates.
- The possibility of using a smaller architecture, less amount of grids

MOTION: Reducing the spreadsheet of the child support guideline grid to a number from a maximum of \$20,000 per parent. The committee will determine the exact cut-off number on the grid later in further discussion. The motion was moved and seconded.

- The Committee agreed upon extending the Committees' term to allow for additional time to fully address new issues, allow public comments, and vetting process within the State Bar and judicial community.

MOTION: A request for an extension of the Committee was moved and seconded.

APPROVAL OF THE MINUTES

MOTION: The March 27, 2009 minutes were moved and seconded without modification.

MOTION: The Amended January 23, 2009 minutes were moved and seconded without modification.

DISCUSS IMPACT OF CASH MEDICAL SUPPORT ORDERS

Janet Sell and Kim Gillespie, Attorney General's Office, discussed suggestions regarding medical support being included in the child support guidelines. They were as follows:

- To continue with the current guidelines which includes insurance but does not include cash medical support and add the cash medical support to the base amount of the child support.
- Take cash medical support and factor it in the same way premiums are included. For example, include the cash medical support by inserting 5% into the worksheet, which results in the amount being divided by both parents.
- Insert a 5% amount for both parents at the top of the worksheet and then apply the percentages.
- Determine the amount of medical insurance first, whether it is the premium or cash amount, then have it taken off the gross income of the parent paying it.

The Committee made some of the following comments:

- It is consistent with other ways some items are factored into the worksheet.
- Should we deal with cash medical separate and apart---is it necessary to take out of the child support equation?
- Allocate the cost of insurance in proportion to incomes.
- Can the cash amount be entered as a separate cash amount?

MOTION: To calculate the insurance premium in the manner that it is currently being calculated. Add to the guidelines section on non-covered medical expenses a provision stating that cash medical support money, when no insurance exists or is

lost, will be credited against non-covered medical expenses. When the cash medical amount is exhausted it will be credited proportionately against any non-covered medical expenses.

DISCUSS NAMING PHASE II MODEL

The Committee discussed names for the Phase II model and agreed on the name "Child Outcome Based Support."

MOTION: To adopt the Phase II model name Child Outcome Based Support. It was moved and seconded.

DISCUSS/REVIEW GUIDELINE SECTIONS 1-29

The Committee reviewed section II and made the following changes:

GROSS INCOME

A. 1. Gross income includes income from any source, and may include, but is not limited to, income from salaries, wages, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, social security benefits (subject to Section-IV (E) ~~26~~), **RECEIVED DIRECTLY BY EITHER PARENT AND NOT ON BEHALF OF A CHILD**, worker's compensation benefits, unemployment insurance benefits, disability insurance benefits, recurring gifts, prizes, and spousal maintenance. **SEASONAL OR FLUCTUATING INCOME SHALL BE ANNUALIZED. INCOME FROM ANY SOURCE THAT IS NOT CONTINUING OR RECURRING IN NATURE NEED NOT NECESSARILY BE INCLUDED AS GROSS INCOME FOR CHILD SUPPORT PURPOSES.**

~~1.~~ 2. Cash value ~~shall~~ **MAY** be assigned to in-kind or other non-cash benefits or to recurring contributions from any source that reduce living expenses. Seasonal or fluctuating income shall be annualized. Income from any source which is not continuing or recurring in nature need not necessarily be deemed gross income for child support purposes. (moved to "1".)

~~2.~~ 3. Only income of persons having a legal duty of support shall be treated as income under the guidelines. For example, income of a parent's new spouse is not treated as income of that parent.

~~3.~~ 4. Gross income does not include sums received as child support or benefits received from means-tested public assistance programs including, but not limited to, Temporary Assistance to Needy Families (TANF), Supplemental Security Income (SSI), Food Stamps and General Assistance.

~~H.~~ 5. The court shall not take into account the impact of the disposition of marital property except as provided in Arizona Revised Statutes Section 25-320.A.6. ("Excessive or abnormal expenditures, destruction, concealment or fraudulent disposition of community, joint tenancy and other property held in common") or to the extent that such property generates income to a parent.

INCOME BEYOND FULL-TIME EMPLOYMENT

~~3-~~ 6. EACH PARENT SHOULD HAVE THE CHOICE OF WORKING ADDITIONAL HOURS THROUGH OVERTIME OR AT A SECOND JOB WITHOUT AFFECTING THE CHILD SUPPORT AWARD.

Generally, the court should not ~~attribute~~ INCLUDE income greater than what would have been earned from full-time employment. The court may, however, ~~consider~~ INCLUDE income actually earned that is greater than would have been earned by full-time employment if that income was historically earned from a regular schedule and is anticipated to continue into the future. The court should generally not INCLUDE ~~attribute~~ additional income to a parent if that would require an extraordinary work regimen. Determination of what constitutes a reasonable work regimen depends upon all relevant circumstances including the choice of jobs available within a particular occupation, working hours and working conditions.

~~B-~~

SELF-EMPLOYMENT, ~~;~~ ~~AND~~ BUSINESS OWNERS AND REIMBURSEMENTS

~~C- 5-~~ 1. For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, gross income means gross receipts minus ordinary and necessary expenses required to produce income. Ordinary and necessary expenses do not include amounts determined by the court to be inappropriate for determining gross income for purposes of child support. Ordinary and necessary expenses include one-half of the self-employment tax actually paid.

~~D- 6-~~ 2. Expense reimbursements or benefits received by a parent in the course of employment or self-employment or operation of a business ~~shall~~ MAY be counted as income if they ~~are significant and~~ reduce personal living expenses.

UNEMPLOYMENT AND UNDER-EMPLOYMENT

~~E- 7-~~ 7. If a parent is unemployed or working below full earning capacity, the court may consider the reasons. If earnings are reduced as a matter of choice and not for reasonable cause, the court may attribute income to a parent up to his or her earning capacity. If the reduction in income is voluntary but reasonable, the court shall balance ~~that~~ the benefits of that parent's decision and ~~benefits there from~~ AGAINST the financial detriment, if any, to the child. the impact the reduction in that parent's share of child support has on the children's best interest. In accordance with Arizona Revised Statutes Section 25-320, income of at least minimum wage shall be attributed to a parent. ~~ordered to pay child support. If income is attributed to the parent receiving child support, appropriate childcare expenses may also be attributed.~~ The court may decline to attribute income to either parent. Examples of cases in which it may be inappropriate to attribute income include, but are not limited to, the following circumstances:

- ~~1-~~ a. A parent is physically or mentally disabled,
- ~~2-~~ b. A parent is engaged in reasonable career or occupational training to establish basic skills or reasonably calculated to enhance earning capacity, or

3. c. Unusual emotional or physical needs of a natural or adopted child require that parent's presence in the home. ✕

~~4. d. The parent is a current recipient of Temporary Assistance to Needy Families.~~

WORKGROUP TO REVIEW GUIDELINES

The following committee members will review the rest of the guidelines and bring the comments and suggestions to the next full committee.

- Judge Cohen
- Judge Rebecca Albrecht
- Kim Gillespie
- Prof. Ira Ellman

DEVELOP MAY 29, 2009 AGENDA

1. Call to Order
2. Minutes
3. Finalize all sections
4. Work on the Grid
5. Discussion on the final report.
6. Call to the Public
7. Adjourn

CALL TO THE PUBLIC

Public did not comment.

ADJOURN

The meeting was adjourned at 4:00 p.m.

ARIZONA SUPREME COURT
Child Support Guidelines Review Committee
MEETING MINUTES
May 29, 2009
State Courts Building, Phoenix, Arizona

MEMBERS PRESENT:

Hon. Rebecca Albrecht
Mr. Robert L. Barrasso
Hon. Bruce R. Cohen, Chair
Ms. Helen Davis
Prof. Ira Ellman
Ms. Kim Gillespie
Ms. Cele Hancock
Mr. David Horowitz
Comm. Rhonda Repp
Hon. Michala Ruechel
Hon. Sarah Simmons
Hon. Kevin White - telephonically

STAFF:

Ms. Kathy Sekardi
Ms. Lorraine Nevarez

PRESENT:

Ms. Tara Ellman

CALL TO ORDER

Judge Cohen, Chair, called the meeting to order at 10:10 a.m. Judge Cohen welcomed the members and reviewed the meeting materials. Judge Cohen made three announcements:

1. The Chief Justice signed an Administrative Order extending the committee to December 2009.
2. Judge Cohen reported that he presented the draft guidelines to the Committee on Superior Court (COSC) on May 15, 2009. COSC members appeared supportive of the reorganization of the guidelines. COSC established an ad-hoc workgroup that will review the "Draft Final Report and Recommendations" and offer comments, input and feedback to the GRC prior to the September COSC meeting. Additionally, they will assist the GRC with disseminating the report and directing stakeholders to the GRC comments website.
3. A presentation will be made to Arizona Judicial Council (AJC) on June 17, 2009.

Judge Cohen discussed creating a highlights page from Professor Ira Ellman's report to share with stakeholders. Committee member David Horowitz agreed to develop a highlights page of the report.

The committee also discussed other ways to conduct outreach.

APPROVAL OF THE MINUTES

MOTION: To approve the April 24, 2009 minutes. Motion was seconded and unanimously approved without modification.

DISCUSS JUDGE NORMAN DAVIS' COMMENTS

Discussion was tabled.

DISCUSS NEW CALCULATOR

Janet Sell, Attorney General's Office, discussed concerns resulting from using the childcare costs adjustments that are being considered in the proposed child support guidelines. Using the proposed guidelines method seems to generate higher child support amounts.

The committee discussed many scenarios with different calculations and decided more discussion was needed to fully examine the childcare issue, especially in those circumstances where there is a large disparity between parents' incomes. The committee decided to retain the current method being used for allocating childcare costs while the proposed guidelines are being vetted within the community.

DISCUSS SELF-SUPPORT RESERVE

Discussion was tabled.

ENGEL v. LANDMAN

Discussion was tabled.

DISCUSS AND REVIEW ALL SECTIONS IN DRAFT GUIDELINE

It was suggested that a paragraph should be included in the beginning of the guidelines which outline the method used to calculate child support.

MOTION: To adopt the amended "Purposes" section. Motion was seconded and unanimously approved.

MOTION: To adopt Section II, Determination of Guidelines Support Obligation, sections A, B, C(2), C(3), and D1. Motion seconded and approved.

MOTION: To adopt Section II, Determination of Guidelines Support Obligation, sections E, F, and G. Motion seconded and approved.

(Proposed Guidelines Legend: Current proposed changes in blue font. Previous changes in red font.)

The Committee reviewed the draft guidelines and made the following changes:

I. General Information

~~**BACKGROUND:** The Arizona Child Support Guidelines follow the Income Shares Model. The model was developed by the Child Support Guidelines Project of the National Center for State Courts. The total child support amount approximates the amount that would have been spent on the children if the parents and children were living together. Each parent contributes his/her proportionate share of the total child support amount.~~

~~Information regarding development of the guidelines, including economic data and assumptions upon which the Schedule of Basic Support Obligations is based, is contained in the February 6, 2003 report of Policy Studies, Inc., entitled Economic Basis for Updated Child Support Schedule, State Of Arizona.~~

~~**1.A. PURPOSES**~~

- ~~A. 1. To establish a standard of support for children consistent with the reasonable needs of children and the ability of parents to pay.~~
- ~~B. 2. To make child support orders consistent for persons in similar circumstances-
AND SET CHILD SUPPORT AMOUNTS BASED ON THE FACTORS IN A.R.S. §25-320.~~
- ~~C. 3. To give parents and courts guidance in establishing child support orders and to promote settlements.~~
- ~~D. 4. To comply with state law (Arizona Revised Statutes (A.R.S.) Section §25-320) and federal law (42 United States Code, Section §651 et seq., 45 Code of Federal Regulations, Section §302.56) and any amendments **IF ANY** thereto.~~

~~**2.B. PREMISES**~~

- ~~A. 1. These guidelines apply to all natural children, whether born in or out of wedlock, and to all adopted children.~~
- ~~B. 2. The child support obligation has priority over all other financial obligations; the existence of non-support-related financial obligations is generally not a reason for deviating from the guidelines.~~
- ~~C. 3. The fact that a ~~custodial~~ parent **PAYS OR** receives child support does not mean that he or she may not also be entitled to spousal maintenance. If the court is establishing both child support and spousal maintenance, the court shall determine the appropriate amount of spousal maintenance first.~~

~~The receipt or payment of spousal maintenance shall be treated in accordance with sections 5.A and 6.A. The addition to or adjustment from gross income under these sections shall apply for the duration of the spousal maintenance award.~~

- ~~D. 4. A parent's legal duty is to support his or her natural or adopted children. The "support" of other persons such as stepchildren or parents is ~~deemed voluntary~~ and is not a reason for an adjustment in the amount of child support determined under the guidelines.~~

~~E. In appropriate cases, a custodial parent may be ordered to pay child support.~~

~~F. Monthly figures are used to calculate the child support obligation. Any adjustments to the child support amount shall be annualized so that each month's child support obligation is increased or decreased in an equal amount, instead of the obligation for particular months being abated, increased or decreased.~~

~~EXAMPLE: At a child support hearing in a paternity action a custodial parent requests an adjustment for childcare costs (Section 9.B.1.). The parent incurs childcare costs of \$150 per month but only for nine months of the year. The adjustment for childcare costs must be annualized as follows: Multiply the \$150 monthly cost times the nine months that the cost is actually paid each year, for an annual total of \$1,350. Divide this total by 12 months to arrive at an annualized monthly adjustment of \$112.50 that may be added to the Basic Child Support Obligation when determining the child support order.~~

~~G. When determining the Basic Child Support Obligation under Section 8, the amount derived from the Schedule of Basic Child Support Obligations shall not be less than the amount indicated on the Schedule:~~

~~1. _____ For six children where there are more than six children.~~

~~2. _____ For the Combined Adjusted Gross Income of \$20,000 where the actual Combined Adjusted Gross Income of the parents is greater than \$20,000.~~

~~b.~~ **5. CHILD SUPPORT IS SET IN EQUAL MONTHLY AMOUNTS. THEREFORE, Monthly figures are used to calculate the child support obligation. AVERAGE MONTHLY FIGURES SHOULD BE USED WHEN INCOME OR EXPENSE AMOUNTS FLUCTUATE OVER THE COURSE OF A YEAR.**

~~6. The Schedule of Basic~~ **THE CHILD SUPPORT CALCULATION** ~~Obligations is based on net income and converted to gross income, for ease of application. The impact of income taxes has been considered in the Schedule (Federal Tax including Earned Income Tax Credit, Arizona State Tax, and FICA).~~

3.C. PRESUMPTION

~~In any action to establish or modify child custody, and in any action to establish child support or past support or to modify child support, whether temporary or permanent, local or interstate, the amount resulting from application of these guidelines shall be the amount of child support ordered. These include, without limitation, all actions or proceedings brought under Title 25 of the Arizona Revised Statutes (including maternity and paternity) and juvenile court actions in which a child support order is established or modified. However, if application of the guidelines would be inappropriate or unjust in a particular case, the court shall deviate from the guidelines in accordance with Section 18-20.~~

THESE GUIDELINES APPLY TO ALL ACTIONS INVOLVING ESTABLISHMENT OF CURRENT OR PAST CHILD SUPPORT OR MODIFICATION OF CHILD SUPPORT. THE COURT SHALL ORDER THE AMOUNT DETERMINED UNDER THESE GUIDELINES ABSENT A DEVIATION PURSUANT TO SECTION IV(A).

IF THE PARENTS DO NOT HAVE SUBSTANTIALLY EQUAL PARENTING TIME, AND THE CALCULATION RESULTS IN THE PARENT WITH GREATER PARENTING TIME PAYING CHILD SUPPORT TO THE OTHER PARENT (REFLECTED BY A NEGATIVE NUMBER IN THE SUPPORT CALCULATION), NO CHILD SUPPORT SHALL BE ORDERED UNLESS:

1. THE GROSS MONTHLY INCOME OF THE PARENT WITH GREATER PARENTING TIME APPROACHES OR IS GREATER THAN 300% OF THE OTHER PARENT'S INCOME; AND

2. THE GROSS MONTHLY INCOME OF THE PARENT WITH GREATER PARENTING TIME APPROACHES OR IS GREATER THAN \$6,000; AND

3. THE OTHER PARENT'S PARENTING TIME APPROACHES OR IS GREATER THAN 130 DAYS.

D. THE ARIZONA CHILD SUPPORT GUIDELINES ARE BASED ON THE FINANCIAL RESOURCES AND NEEDS OF THE CHILD AND OF EACH PARENT, THE STANDARD OF LIVING THE CHILD WOULD HAVE ENJOYED IN A TWO-PARENT HOUSEHOLD, AND THE ALLOCATION OF PARENTING TIME, AS CONTEMPLATED BY A.R.S. SECTION 25-320(D). THEY REFLECT A SYSTEMATIC CONSIDERATION OF THE IMPACT OF PARENTAL SEPARATION ON THE PARENTS AND THEIR CHILDREN TO ACHIEVE OUTCOMES THAT ARE FAIR TO THE CHILD AND BOTH PARENTS.

II. Determining the Guideline Support Obligation

~~4. **DURATION OF CHILD SUPPORT**~~

~~Duration of child support is governed by Arizona Revised Statutes, Sections 25-320 and 25-501, except as provided in Arizona Revised Statutes, Section 25-648.~~

~~Upon entry of an initial or modified child support order, the court shall, or in any subsequent action relating to the child support order, the court may, establish a presumptive date for the termination of the current child support obligation. The presumptive termination date shall be the last day of the month of the eighteenth birthday of the youngest child included in the order unless the court finds that it is projected that the youngest child will not complete high school by age 18. In that event, the presumptive termination date shall be the last day of the month of the anticipated graduation date or age 19, whichever occurs first. The administrative income withholding order issued by the department or its agent in a title iv d case and an order of assignment issued by the court shall include the presumptive termination date. The presumptive date may be modified upon changed circumstances.~~

~~An employer or other payor of funds honoring an order of assignment or an administrative income withholding order that includes the presumptive termination date and is for current child support only, shall discontinue withholding monies after the last pay period of the month of the presumptive termination date. If the order of assignment or administrative income withholding order includes current child support and arrearage payment, the employer or other payor of funds shall continue withholding the entire amount listed on the order of assignment or administrative income withholding order until further order.~~

~~For purposes of determining the presumptive termination date, it is further presumed:~~

~~A. That a child not yet in school will enter first grade if the child reaches age six on or before September 1 of the year in which the child reaches age six; otherwise, it is presumed that the child will enter first grade the following year; and,~~

~~B. That a child will graduate in the month of May after completing the 12th grade.~~

~~5. **DETERMINATION OF THE GROSS INCOME OF THE PARENTS**~~

NOTE: Terms such as "Gross Income" and "Adjusted Gross Income" as used in these guidelines do not have the same meaning as when they are used for tax purposes.

A. INCOME CONSIDERED

ONLY INCOME OF PERSONS HAVING A LEGAL DUTY OF SUPPORT SHALL BE TREATED AS INCOME UNDER THE GUIDELINES. FOR EXAMPLE, INCOME OF A PARENT'S NEW SPOUSE IS NOT TREATED AS INCOME OF THAT PARENT.

B. INCLUSIONS TO GROSS INCOME OF PARTIES

A. 1. Gross income includes income from any source, and may include, but is not limited to, income from salaries, wages, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, social security benefits (subject to Section 26 IV(E)) **received directly by either parent and not on behalf of a child**, worker's compensation benefits, unemployment insurance benefits, disability insurance benefits, recurring gifts, **and prizes**. Seasonal or fluctuating income shall be AVERAGED. Income from any source which that is not continuing or recurring in nature need not be included as income for child support purposes.

2. Cash value ~~shall~~ **may** be assigned to in-kind or other non-cash benefits **or to recurring contributions from any sources that reduce living expenses**. ~~Seasonal or fluctuating income shall be annualized. Income from any source which is not continuing or recurring in nature need not necessarily be deemed gross income for child support purposes. Generally, the court should not attribute income greater than what would have been earned from full-time employment. Each parent should have the choice of working additional hours through overtime or at a second job without increasing the child support award. The court may, however, consider income actually earned that is greater than would have been earned by full-time employment if that income was historically earned from a regular schedule and is anticipated to continue into the future.~~

~~The court should generally not attribute additional income to a parent if that would require an extraordinary work regimen. Determination of what constitutes a reasonable work regimen depends upon all relevant circumstances including the choice of jobs available within a particular occupation, working hours and working conditions.~~

~~B. Gross income does not include sums received as child support or benefits received from means tested public assistance programs including, but not limited to, Temporary Assistance to Needy Families (TANF), Supplemental Security Income (SSI), Food Stamps and General Assistance.~~

~~C. 3. For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, gross income means gross receipts minus ordinary and necessary REASONABLE expenses required to produce income. Ordinary and necessary expenses do not include amounts determined by the court to be inappropriate for determining gross income for purposes of child support. Ordinary and necessary REASONABLE expenses include one-half of the self-employment tax actually paid.~~

~~D. 4. Expense reimbursements or benefits received by a parent in the course of employment or self-employment or operation of a business shall be counted as income if they are significant and reduce personal living expenses.~~

~~E. 5. If a parent is unemployed or working below full earning capacity, the court may consider the reasons. If earnings are reduced as a matter of choice and not for reasonable cause, the court may attribute income to a parent up to his or her earning capacity. If the reduction in income is voluntary but reasonable, the court shall balance THE BENEFITS OF THAT PARENT'S DECISIONS AGAINST THE FINANCIAL DETRIMENT, IF ANY, TO THE CHILD, that parent's decision and benefits therefrom against the impact the reduction in that parent's share of child support has on the children's best interest. In accordance with Arizona Revised Statutes Section 25-320, income of at~~

~~least minimum wage shall be attributed to a parent ordered to pay child support. .~~ IF THERE IS NO AVAILABLE INCOME INFORMATION THE COURT SHALL PRESUME THAT EACH PARENT IS CAPABLE OF EARNING AT LEAST THE APPLICABLE MINIMUM WAGE AND ATTRIBUTE THAT AMOUNT TO THE PARENT. If income is attributed to the parent receiving child support, appropriate childcare expenses may also be attributed. HOWEVER, ~~the~~ court may decline to attribute income to either parent. Examples of cases in which it may be inappropriate to attribute income include, but are not limited to, the following circumstances:

- ~~1-~~ **a.** A parent is physically or mentally disabled,
- ~~2-~~ **b.** A parent is engaged in reasonable career or occupational training to establish basic skills or reasonably calculated to enhance earning capacity,
- ~~3-~~ **c.** ~~Unusual~~ Emotional or physical needs of a natural or adopted child require that parent's presence in the home, or
- ~~4-~~ **d.** The parent is a current recipient of Temporary Assistance to Needy Families. **A parent is incarcerated.**

~~F. — Only income of persons having a legal duty of support shall be treated as income under the guidelines. For example, income of a parent's new spouse is not treated as income of that parent.~~

~~G. — The court shall not take into account the impact of the disposition of marital property except as provided in Arizona Revised Statutes Section 25-320.A.6. ("...excessive or abnormal expenditures, destruction, concealment or fraudulent disposition of community, joint tenancy and other property held in common.") or to the extent that such property generates income to a parent.~~

~~H. The Schedule of Basic Child Support Obligations is based on net income and converted to gross income for ease of application. The impact of income taxes has been considered in the Schedule (Federal Tax including Earned Income Tax Credit, Arizona State Tax, and FICA).~~

C. EXCLUSIONS FROM GROSS INCOME

1. Gross income does not include sums received as child support or benefits received from means-tested public assistance programs including, but not limited to, Temporary Assistance to Needy Families (TANF), Supplemental Security Income (SSI), Food Stamps and General Assistance.

2. Except as otherwise provided in section 5.b, any Gross income does not include benefits received directly, and not on behalf of a child, by either the custodial parent or the parent paying child support as a result of his or her own contributions, shall be included as part of that parent's gross income ON BEHALF OF A CHILD.

3. EACH PARENT SHOULD HAVE THE CHOICE OF WORKING ADDITIONAL HOURS THROUGH OVERTIME OR AT A SECOND JOB WITHOUT increasing AFFECTING THE CHILD SUPPORT AWARD. Generally, the court should not ~~attribute~~ **INCLUDE** income greater than what would have been earned from full-time employment. The court may, however, ~~consider~~ **INCLUDE** income actually earned that is greater than would have been earned by full-time employment if that income was historically earned from a regular schedule and is anticipated to continue into the future. The court should generally not ~~attribute~~ **INCLUDE** additional income to a parent IF EARNING that ADDITIONAL INCOME would require an extraordinary work regimen. Determination of

what constitutes an reasonable EXTRAORDINARY work regimen depends upon all relevant circumstances including the choice of jobs available within a particular occupation, working hours and working conditions.

6.D. ADJUSTMENTS TO GROSS INCOME

~~For purposes of this section, “children of other relationships” means natural or adopted children who are not the subject of this particular child support determination.~~

~~Adjustments to gross income for other support obligations are made as follows:~~

~~A.1. The court-ordered amount of spousal maintenance resulting from this or any other marriage, if actually being paid, shall be deducted from the gross income of the parent paying spousal maintenance. **The court-ordered amount of spousal maintenance resulting from this or any other marriage, if actually being paid, shall be added to the gross income of the parent receiving spousal maintenance.** Court-ordered arrearage payments shall not be included as an adjustment to gross income.~~

~~B. The court ordered amount of child support for children of other relationships, if actually being paid, shall be deducted from the gross income of the parent paying that child support. **Court ordered arrearage payments shall not be included as an adjustment to gross income.**~~

~~C. An amount shall be deducted from the gross income of a parent for children of other relationships covered by a court order for whom they are the custodial parent. The amount of the adjustment shall be determined by a simplified application of the guidelines (defined in example below).~~

~~D.2. An amount **(MAY/SHALL)** be deducted from the gross income of a parent for support of natural or adopted children of other relationships. ~~not covered by a court order. The amount of any adjustment shall not exceed the amount arrived at by a simplified application of the guidelines (defined in example below).~~ **For purposes of this section, “children of other relationships” means natural or adopted children of either party who are not the subject of this particular child support determination. The deducted amount shall be:**~~

~~a. The amount ordered to be paid if actually paid by that parent. Court-ordered arrearage payments shall not be included as an adjustment to gross income; or,~~

~~b. An amount calculated by the court not to exceed the amount arrived at by simplified application of the Child Support Guidelines if the parent is not ordered to pay child support.~~

~~EXAMPLE: A parent having gross monthly income of \$2,000 supports natural or adopted minor child who is not the subject of the child support case before the court and for whom no child support order exists. To use the Simplified Application of the Guidelines, locate \$2,000 in the Combined Adjusted Gross Income column of the Schedule. Select the amount in the column for one child, \$420. The parent's income may be reduced up to \$420, resulting in an Adjusted Gross Income of \$1,580.~~

~~3. Reasonable childcare costs for the child(ren) covered by the order shall be deducted from the gross income of the party who pays the cost if the childcare is necessary for gainful employment or for training and education reasonably necessary to obtain gainful employment. If the childcare expense varies per month, the average monthly expense shall be deducted.~~

~~EXAMPLE: At a child support hearing in a paternity action a custodial parent requests an adjustment for childcare costs (Section 9.B.1.). The~~ A parent incurs childcare costs of \$150 per month but only for nine months of the year. The adjustment for childcare costs must be ~~annualized~~ **averaged** as follows: Multiply the \$150 monthly cost times the nine months that the cost is actually paid each year, for an annual total of \$1,350. Divide this total by 12 months to arrive at ~~an annualized~~ **a monthly adjustment of to income of \$113.** ~~\$112.50 that may be added to the Basic Child Support Obligation when determining the child support order.~~

7.E. DETERMINING THE ADJUSTED GROSS INCOME OF THE PARENTS

~~Adjusted Gross Income~~ is gross income minus the adjustments provided in Section 6 II(B) of these guidelines. The ~~Adjusted Gross Income~~ for each parent shall be established. ~~These amounts shall be added together. The sum is the Combined Adjusted Gross Income.~~

8. DETERMINING THE BASIC CHILD SUPPORT OBLIGATION

8.F. CASES BEYOND THE SCOPE OF THE GUIDELINE CALCULATOR

~~Locate the income closest to the parents' Combined Adjusted Income figure on the Schedule of Basic Child Support Obligations and select the column for the number of children involved. This number is the Basic Child Support Obligation. The child support guideline calculator goes up to six~~ **four** ~~children and an individual adjusted gross income of \$20,000~~ **12,000** ~~per month. If there are more than six~~ **four** ~~children, the amount derived from the Schedule Of Basic Support Obligations~~ **calculator** ~~for six~~ **four** ~~children shall be the presumptive amount. The party seeking a greater sum shall bear the burden of proof that the needs of the children require a greater sum. If the combined adjusted gross income of the either parties~~ **y** ~~is greater than \$20,000~~ **12,000** ~~per month, the amount set forth for combined adjusted gross income of \$20,000 shall be the presumptive Basic Child Support Obligation~~ **in calculating child support, that party's income is presumed to be \$12,000 per month.** ~~The amount resulting from this calculation shall be the presumptive child support order. If a~~ **The party seeks** ~~a sum greater than this presumptive amount shall a higher support order for more than four children or income of the other party exceeds \$12,000 per month, that party bears~~ **the burden of proof to establish that a higher amount is in the best interest of the children, taking into account such factors as the standard of living the children would have enjoyed** **IN A TWO-PARENT HOUSEHOLD,** ~~the needs of the children in excess of the presumptive amount, consideration of any significant disparity in the respective percentages of gross income for each party and any other factors which, on a case by case basis, demonstrate that the increased amount is appropriate.~~

9.G. DETERMINING THE TOTAL CHILD SUPPORT OBLIGATION ADDITIONS TO SUPPORT

DISCUSS ESTABLISHING AN INTERIM COMMITTEE TO SERVE

Discussion was tabled.

DISCUSS FINAL REPORT

The Committee suggested holding a telephonic meeting for June 2, 2009 from 12:15 – 1:30PM to discuss any further comments regarding the draft guidelines before their informational presentation to Arizona Judicial Council (AJC) in June. The Committee also suggested holding a meeting in August to finalize the guidelines to present for a recommendation from Arizona Judicial Council (AJC) in October 2009.

DISCUSS NEED FOR FURTHER MEETINGS

This discussion was tabled.

CALL TO THE PUBLIC

Public did not comment.

ADJOURN

The meeting was adjourned at 3:50 p.m.

ARIZONA SUPREME COURT
Child Support Guidelines Review Committee
Meeting Minutes
TELEPHONIC MEETING
June 2, 2009
State Courts Building, Phoenix, Arizona

MEMBERS PRESENT:

Hon. Rebecca Albrecht
Mr. Robert L. Barrasso
Hon. Bruce R. Cohen, Chair
Ms. Helen Davis
Prof. Ira Ellman
Ms. Kim Gillespie
Ms. Cele Hancock
Mr. David Horowitz
Comm. Rhonda Repp
Hon. Michala Ruechel
Hon. Sarah Simmons
Hon. Kevin White

STAFF:

Ms. Kathy Sekardi
Ms. Lorraine Nevarez

CALL TO ORDER

Judge Cohen, Chair, called the meeting to order at 12:30 p.m. Judge Cohen welcomed the members.

DISCUSS AND REVIEW COMMENTS REGARDING SECTIONS IN DRAFT GUIDELINES

The Committee reviewed the comments submitted and made changes to the following sections:

- Table of Contents
- Section II-subsection D(2)
- Section II-subsection F
- Section II-subsection H
- Section II-subsection G
- Section II-subsection J
- Section IV-subsection A(2)
- Section IV-subsection F(2)and (4)
- Section V-subsection A
- Section V-subsection B(1)(b)
- Section V-subsection B(2)(b)
- Section V-subsection B(2)(d)

Due to split opinions, the Committee is inviting comments regarding the language and content in Section V(B)(2)(d) "Relief From A Child Support Judgment" and Section V(B)(2)(e) "Grounds for Modification," second paragraph.

Staff will make revisions to the draft guidelines and submit to the Arizona Judicial Council in time for the June 17, 2009 meeting. The updated version of the Guidelines reflecting all the Committee approved revisions will be available on the Child Support Guidelines Review website located at:
<http://www.supreme.state.az.us/CSGRC/>.

REVIEW COBS SECTION

The task group developed language to explain the approach the committee is using to determine the calculation of child support. The language includes a step by step process along with examples that explain the calculation. This change was include in Section II, subsection F.

SCHEDULE AUGUST MEETINGS

The Committee agreed to hold two meetings in August. Staff will gather proposed dates and set the meetings.

CALL TO THE PUBLIC

Members of the public were not present.

ADJOURN

The meeting was adjourned at 1:45 p.m.

ARIZONA SUPREME COURT
Child Support Guidelines Review Committee
MEETING MINUTES
August 21, 2009
State Courts Building, Phoenix, Arizona

MEMBERS PRESENT:

Hon. Rebecca Albrecht
Mr. Robert L. Barrasso
Hon. Bruce R. Cohen, Chair
Ms. Helen Davis
Prof. Ira Ellman
Ms. Kim Gillespie
Ms. Cele Hancock
Mr. David Horowitz
Comm. Rhonda Repp
Hon. Michala Ruechel
Hon. Kevin White

STAFF:

Ms. Kathy Sekardi
Ms. Tama Reily

GUESTS PRESENT:

Ms. Tara Ellman
Ms. Janet Sell
Ms. Patricia Madsen
Mr. Don Vert

MEMBERS ABSENT:

Hon. Sarah Simmons

CALL TO ORDER

Judge Bruce R. Cohen, Chair, called the meeting of the Child Support Guidelines Review Committee to order at 10:09 a.m.

Judge Cohen announced the recent appointment of David Horowitz to the Domestic Relations Committee.

APPROVAL OF THE MINUTES

MOTION: To approve the minutes from the May 29, 2009 meeting as presented. Motion seconded. Motion approved unanimously.

MOTION: To approve the minutes from the June 2, 2009 meeting as presented. Motion seconded. Motion approved unanimously.

REPORT ON COBS CALCULATOR

Professor Ellman reported the COBS calculator reflects different support amounts for custodial and noncustodial parents when equal parenting time exists. Professor Ellman proposed using a system that brings the support amounts to the same point for both custodial and noncustodial parents. Professor Ellman prepared a series of charts demonstrating the appropriate payment at equal and nearly equal parenting times for the members to review. Professor Ellman explained that resolution of the problem is an interpolated process wherein the two end points that anchor the line (referring to Example 1 of the charts) will be 120 and 182.5 days so that when there is a

lower earning non-custodial parent, COBS would begin to calculate a negative support amount. This method will adjust payments by setting payments at equal parenting time and interpolating between equal time and some other number of days.

Members questioned why the calculator should be programmed to begin interpolation at 120 days, versus 130 or more days where there would be even fewer cases. In response, a member explained the Task Group took a combination of the parenting time adjustment in the parenting time days and considered when it would approach equal custody. As the number of days increase, the impact it causes becomes more significant. Staying at around 120 days would ease the transition and lessen the overall impact of this change and make the interpolation more logical. The member also noted that the difference it would make to the few cases falling above 120 would be negligible under the rule being contemplated.

MOTION: To use the interpolation method to calculate cases with large income disparities between the parents. Motion seconded. Motion approved unanimously.

MOTION: To use 120 parenting days as the demarcation point at which the COBS calculator begins interpolation. Motion seconded. Motion approved unanimously.

DISCUSS AND REVIEW COSC COMMENTS REGARDING DRAFT GUIDELINES

The committee reviewed and discussed comments received on the [Draft Guidelines](#) and made the following changes:

- Section I(C)
- Section II(A)
- Section II (D)(2)(b)
- Section II(F)
- Section II(G)
- Section II(H)
- Section II(K)
- Section II(L)
- Section IV(A)(3)
- Section IV(C)

There was lengthy discussion on comments received from attorney, Mick LaVelle, regarding situations where a substantial part of a parent's income is tax-free. He proposed adding language to section II(D) giving the court the authority to adjust the income of either party in such a situation. The committee concluded this should be addressed under *Deviations* in Section IV(A).

MOTION: To amend Section IV(A) to include language for "extraordinary income tax circumstances." Motion seconded. Motion approved. Vote: 9-2-0.

An additional comment was received from the public concerning altering the definition of gross income to include retirement assets. The committee agreed that these types of situations may fall within the deviation section; however, it was impossible to address every deviation scenario. The public comment also remarked on the need to update the child support worksheets to reflect separate calculations for children on differing parenting time schedules. The committee has already addressed this issue. Lastly, the public comment requested that parents choose which financial institution the child support monies are deposited into. The committee remarked that parents may have support payments directly deposited into their accounts. No further recommendations regarding this request will be considered as this issue is governed by contract between the Clearinghouse, DES, and financial institutions.

Comments from the Pima County judiciary were then reviewed. One of their concerns was the whether or not the guidelines will take into consideration the new case on private school tuition and if the standard of “agreement or order of the court” will remain the same in the guidelines. The committee members asked member Helen Davis to review the case and report back to the committee next meeting.

Another concern was how income (SSI or other benefits), such as in the *Hamblen* case (concerning the allocation of adoption subsidies) will be handled in the guidelines. Member Kim Gillespie will research and report back to the committee at the next meeting.

Comments regarding the guidelines having the unintended consequence of unfairness to the custodial parent suggested that the guidelines instructions are unclear in this area. Assistant Attorney General, Janet Sell, volunteered to draft clear, instructive language regarding proportionate division.

Another comment focused on clarifying language in Section IV(C). The comment described this section as being unclear as to whether the range of child support to be awarded is based on the actual parenting time days for each child based on a percentage or based on an average. The committee decided on the following language: “The two resulting figures of \$796 and \$479 provide the range for the child support award. Any amount within this range is considered consistent with the guidelines and it is not a deviation.”

Comments and suggestions from the COSC Child Support Advisory Workgroup were discussed and resulted in changes to the following:

Section I(C) Presumption – tabled until next meeting.

Section II(A) Income Considered and Section II(B)

MOTION: To amend Section II(A) to read “included as income” rather than “treated as income,” and leave Section II(B)(2) as it is currently written. Motion seconded. Vote: 8-2-0.

Section II(D)(2)(b) Adjustments to Income

Based on today's discussion, Judge Cohen volunteered to assist staff with updating and reviewing this section for accuracy prior to the next meeting.

Section II(F) Parenting Time and Other Costs Adjustments

Member Kim Gillespie will work on drafting an introduction for the step-by-step methodology and forward it to David Horowitz for review. This draft will be ready to present at the next meeting.

Section II(G) Preliminary Support Obligation

The committee agreed to develop a manual calculation method and approved development of look-up tables for manual users.

Section II(H)(1)(b) Step 2

COBS workgroup will review and propose new language for this section.

Section II(I) When there are More than Four Children

Committee agreed that the COBS calculator should give a support amount for four children. When five or more children are the subject of the support order, the court may increase the amount from the amount derived utilizing four children if it finds that a higher amount is appropriate, after considering the factors in A.R.S. § 25-320(D).

Section II(J)(3) Extraordinary Child

The committee removed the word "increase" from the section.

Section II(K) Guideline Support Amount

This section will need more work to clarify language.

Section II(M) Travel Expenses

Committee member Robert Barrasso will develop language for this section.

Section III(D) Dependency Exemption

The committee decided to adopt the suggestion that the dependency exemption should be rounded to a fraction with a denominator no larger than 5, as proposed by Judge Davis.

MOTION: Develop the calculator in accordance with Judge Davis' recommendation of appropriate rounding of the dependency exemptions. Motion seconded. Motion approved unanimously.

GUIDELINE SECTIONS

Feedback from the COSC Advisory Workgroup regarding guideline Section II(H) was discussed. The Advisory Workgroup's concern pertained to further clarification of "Step Two." Currently, "Step Two" is necessitated by the standards for basic Excel programs. During a previous meeting with the Advisory Workgroup, Judge Norman Davis questioned the reasoning behind \$50 increments versus \$100 increments in calculating the support. It was explained that increasing the increments to \$100 will cut down on the size of printed versions of the guidelines, and eliminate the need for "Step Two."

Discussion ensued as to what would be the result if increments were increased. Members considered whether interpolation of the numbers would complicate the manual process and agreed there should be a smaller increment, such as \$50, available at lower incomes. In addition, it was agreed that a manual calculator is crucial for unrepresented litigants and those individuals who do not have computer access. There was strong consensus that the public and the Supreme Court would consider a manual calculator a basic necessity. Discussion continued to explore whether or not a manual calculation process would produce a different outcome than the online process due to automated interpolation. The committee discussed what, if any, ramifications would occur if they were to eliminate the interpolation.

The committee also discussed the option of producing print versions of the tables for manual reference. They discussed, for example, creating separate pamphlets for differing number of children: one pamphlet for a single child, another pamphlet for two children, etc. Members agreed that limiting the pamphlets to 75 – 80 pages would be user-friendly. It is expected that the printed versions would capture about 90 percent of cases, with the remaining cases being captured in the online table version.

MOTION: To develop a manual calculator. Motion seconded. Motion approved unanimously.

MOTION: To produce printed pamphlets in four separate versions; a version for one child, a version for two children, another for three children, and one for four children. The goal is to make each pamphlet under 80 pages. Motion seconded. Motion approved unanimously.

MOTION: To have an online table version that will track with the online calculator. Motion seconded. Motion approved unanimously.

MOTION: To eliminate interpolation between increments in the calculator. Motion seconded. Motion approved unanimously.

Members agreed that the change in increments should allow for a basic method of calculation and ensure the spreadsheet is kept simple. In addition, it was agreed that the COBS Task Group would be tasked with developing additional increments in order to reduce the number of cells in the table.

MOTION: To adopt the concept of reducing the number of increments, tasking the COBS Task Group to develop increments the basic Excel program can accommodate, up to \$20,000, thereby replacing the “Step 2” in Section II(H). Motion seconded. Motion approved unanimously.

MOTION: To strike all of Section II(H)(2) and (3), and replace with amended language, “if either parent’s income exceeds \$20,000 per month...” Motion seconded. Motion approved unanimously.

Members agreed it is important to clarify in the guidelines that \$20,000 per month, per parent, is the highest calculated guideline amount and amounts that exceed this amount would be considered a deviation that is not addressed by the guidelines. Member, Kim Gillespie volunteered to work on the language in Section II(H).

Judge Cohen discussed timeline goals. He noted that although the document has been effectively vetted and presented to other Arizona Judicial Council (AJC) committees, the calculator itself has not. He suggested the committee request permission to delay its final presentation to AJC by as much as six months. Judge Cohen and Kathy Sekardi will meet on September 11th to review and refine the current draft, and if the Task Group can complete the calculator by the end of September, then the draft and the calculator can be posted on the website for review and comments. The committee could then meet to review the feedback received and make any changes.

The Chair noted that Judge Davis has offered to assist with the completion of the COBS calculator so that the program will resemble the current child support calculator that he originally developed.

MOTION: To request an extension of the Guidelines Review Committee through February 2010 to allow for additional time to vet the guidelines and calculator. Motion seconded. Motion approved unanimously.

Discuss Next Meeting

Judge Cohen advised that the goal of the next meeting will be to review the guidelines document starting with Section 1(A) to the end.

Call to the Public

No comments offered.

Adjourn

Meeting adjourned at 4:15pm.

ARIZONA SUPREME COURT
Child Support Guidelines Review Committee
MEETING MINUTES
August 28, 2009
10:00 a.m. – 4:00 p.m.
State Courts Building, Phoenix, Arizona

MEMBERS PRESENT:

Hon. Rhonda Repp
Mr. Robert L. Barrasso
Hon. Bruce R. Cohen, Chair
Ms. Helen Davis
Prof. Ira Ellman
Ms. Kim Gillespie
Ms. Cele Hancock
Hon. Kevin White
Hon. Michala Ruechel
Hon. Sarah Simmons

Staff:

Ms. Kathy Sekardi
Ms. Joanne Tucker
Ms. Tama Reily

MEMBERS ABSENT:

Hon. Rebecca Albrecht
Mr. David Horowitz

GUESTS:

Ms. Tara Ellman
Ms. Janet Sell
Mr. Don Vert
Ms. Patricia Madsen

CALL TO ORDER

Judge Cohen, Chair, called the meeting to order at 10:09 a.m. Judge Cohen welcomed the members and reviewed the agenda. Judge Cohen made two announcements:

1. A request for an extension of the life of the committee was routed by staff to the Chief Justice at the Supreme Court for consideration. The committee was still waiting for feedback at the time of the meeting.
2. Judge Norman Davis has agreed to assist the AOC IT staff with the development and modification of the COBS calculator so that the calculator will be similar to the one currently used in Maricopa County and a few rural counties.

APPROVAL OF THE MINUTES

Approval of the August 21, 2009 minutes was tabled to the next GRC meeting. Staff informed the members they will be informed when the draft minutes are posted to the website.

DISCUSS AND REVIEW ALL SECTIONS IN DRAFT GUIDELINES

The Committee reviewed the draft guidelines section by section and made the following changes:

I. General Information

A. Purposes:

No changes recommended; approved unanimously.

B. Premises:

No changes recommended; approved unanimously.

C. Presumption:

The Committee discussed the need for further clarification regarding negative child support payments and made the following observations:

- Negative child support amounts result when the custodial parent has a higher income than the non-custodial parent.
- A negative child support amount is affected by:
 1. The number of parenting days.
 2. The income of both the custodial and non-custodial parents.
 3. The childcare expenses of each parent.
- The greater the negative child support order, the greater the standard of living difference is in the custodial and non-custodial parents' households.

Prof. Ellman provided several COBS outcome measurements which indicated where negative child support payments would fall using 100, 120, and 130 parenting time days. Members suggested inserting at least 120 parenting time days as one criterion for determining a negative support payment. The Committee discussed inserting criteria for both parents, rather than just the parent with greater parenting time. It was also suggested that the trigger for gross monthly income be increased from \$3,000 to \$4,000.

Motion: To change the number referring the gross monthly income of the parent with greater parenting time from \$3,000 to \$4,000 or less. Motion was seconded. **9-1-0.** The motion carried.

Motion: If the resulting negative payment amount is \$150.00 or less, the support amount will be zero. Motion was seconded. There was no discussion. **9-1-0.** The motion carried.

Motion: If the gross monthly income of the parent with less parenting time is \$5,000 or more the support amount will be zero. The motion was not seconded.

Motion: If the gross monthly income of the parent with less parenting time is \$4,000 or more the support amount will be zero. Motion was seconded.

Discussion: A member mentioned that even if the guidelines used a \$4,000 cap and it results in equality; it does not accomplish the goal of the committee. **8-2-0.** The motion carried.

Motion: The number of parenting days that would equal a zero payment amount will be less than 120 days. Motion was seconded. No discussion. The motion was approved unanimously.

Motion: Move this portion of the guidelines to section II(K), (Guideline Support Amount). The motion was seconded. No discussion. The motion was approved unanimously.

D. Basis of Guidelines:

The chair advised the members that this portion of the guidelines is a matter of statute (A.R.S. § 25-320(D)) regarding “the standard of living the child would have enjoyed had the marriage not been dissolved.” The issue should be referred to the legislative Child Support Committee to determine an appropriate standard that takes children of non-married parents into consideration.

Motion: To acknowledge the GRC debated the issue of non-married and married standard of living statutory language, and to acknowledge this issue is outside the scope and authority of this committee. Further, to refer this issue to the legislative Child Support Committee. The motion was seconded. No discussion. The motion was approved unanimously.

II. Determining the Guideline Support Obligation

A. Income Considered:

No discussion or changes were made to the guidelines.

B. Inclusions to Gross Income of Parties:

No discussion or changes were made to the guidelines.

C. Exclusions from Gross Income:

No discussion or changes were made to the guidelines.

D. Adjustments to Income:

- The committee discussed proposed language regarding calculating the support for children of other relationships.
- The committee discussed the language regarding the instructions of how to use the table.
- The chair suggested that a small group of committee members submit additional ideas for language in this section.

Additional discussion ensued and included the following:

Tara Ellman requested the committee to review a range of parenting time days that will be treated as essentially equal parenting time in the COBS calculator. Later, there was discussion as to whether or not 170 days constitutes equal parenting time or would increasing the days to 175 be a better trigger point. A member suggested that the court should make the determination of the amount based on the facts in each case and that all cases be treated the same.

Motion: The number of days that would be considered equal parenting time is 175 or more. The motion was seconded. No discussion. **8-2-0**

Although voted upon, discussion continued regarding this issue, specifically questioning if a lower parenting time days number would allow a wider range in the calculator.

Motion: The range of the number of days that would be considered essentially equal parenting time is 170 to 182.5. The motion was seconded. No discussion. The motion was approved unanimously.

After much debate on the language in this section, the Chair determined that the committee had previously fully vetted and decided on the issue in section II(D)(2) (a) and (b).

Motion: To adopt new language to Section II(D). The motion was seconded. No discussion. The motion was approved unanimously.

E. Adjusted Gross Income- No discussion or changes were made to this section of the guidelines.

F. Parenting Time and Other Costs Adjustments

- The committee recognized a need for introducing or summarizing the new method for calculating the parenting time adjustment in the guidelines. Prof. Ellman and Kim Gillespie volunteered to draft language and distribute to staff prior to the next meeting for the committee's review.

H. When a Parent's Income is More than \$20,000 Monthly

- The committee discussed language revisions for Steps 1 and 2 in order to remove ambiguities in the instructions.

Motion: To replace the phrase “that such a higher amount will benefit the child or children to whom the order applies” with “that a higher/lower amount is appropriate.” The motion was seconded. No discussion ensued. The motion was approved unanimously.

I. More than Four Children

No discussion or changes were made to this section of the guidelines.

J. Adjustments to Support

Members discussed and approved changing “preliminary child support obligation” to “preliminary support amount” throughout the guidelines. The committee then discussed whether or not to capitalize common terms, such as “preliminary support amount” or “adjusted gross income.”

Motion: To adopt the revised language to Sections II(J)(1), (2), and (3).

Discussion: To choose a replacement for the words “obligee” and “obligor” throughout the guidelines. The motion was amended and seconded. The motion was approved unanimously; however, no decision was made regarding replacement words for “obligee” and “obligor.”

- The members discussed issues in Section II(J)(4), Medical Support, regarding the language which cites the statutes addressing medical insurance. It was recommended that medical insurance should be changed to medical support or cash medical support.

Motion: To adopt the changes in the language discussed in Section (4). The motion was seconded. No discussion ensued. The motion was approved unanimously.

K. Guideline Support Amount

The committee members discussed whether or not to capitalize phrases such as “preliminary support amount” and “guideline support amount.”

Motion: To capitalize the phrases in the guidelines that refer to particular phrases used in the child support guidelines. The motion was seconded.

Discussion: Staff reported that it is not grammatically necessary to capitalize phrases that are not proper nouns and gave examples used in legislative drafting. **9-2-0.** Motion carried.

Motion: To capitalize the phrase “Guideline Support Amount” whenever it appears in the guidelines. Motion was seconded.

Discussion: A member mentioned that the words must be used consecutively in order to be defined properly. The motion was approved unanimously.

- The committee discussed issues surrounding negative support amounts and whether or not the adjustments to support will be reduced from the negative payment amount, or a zero amount. The committee reached consensus. It was decided that the negative support amount doesn't come into play until after the adjustments (such as child care, medical support) are factored in.

L. Self Support Reserve

Motion: To leave Section (L) intact, with no changes or additions. The motion was seconded. No discussion regarding the motion. The motion was approved unanimously.

M. Travel Expenses

Motion: To adopt the changes the committee suggested in Section II(M). The motion was seconded. The motion was approved unanimously.

Motion: To relocate this to Section (III)(F). The motion was seconded. No discussion regarding the motion. The motion was approved unanimously.

III. Guideline Support Order

Motion: To adopt the this section in its entirety. The motion was seconded. No discussion ensued. The motion was approved unanimously.

IV. Special Circumstances:

A. Deviation:

The committee already approved language. No further discussion ensued.

B. Multiple Children Divided Physical Custody:

The committee already approved language. No further discussion ensued.

Judge Cohen suggested that the committee continue with Section (IV) via a teleconference meeting tentatively scheduled for September 11th from 12:15 p.m. to 1:15 p.m.

CALL TO THE PUBLIC

There was no public present.

ADJOURN

The meeting was adjourned at 4:10 p.m.

The updated version of the Guidelines reflecting all the Committee approved revisions can be viewed on the Child Support Guidelines Review website located at: <http://www.supreme.state.az.us/CSGRC/>

ARIZONA SUPREME COURT
Child Support Guidelines Review Committee
Meeting Minutes
TELEPHONIC MEETING
September 11, 2009
12:00 p.m. to 2:00 p.m.
State Courts Building, Phoenix, Arizona

MEMBERS PRESENT:

Hon. Rebecca Albrecht
Hon. Bruce R. Cohen, Chair
Prof. Ira Ellman
Ms. Kim Gillespie
Ms. Cele Hancock
Comm. Rhonda Repp
Hon. Kevin White

STAFF:

Ms. Kathy Sekardi
Ms. Tama Reily

GUESTS:

Don Vert
Janet Sell

MEMBERS ABSENT:

Mr. Robert L. Barrasso
Ms Helen Davis
Mr. David Horowitz
Hon. Michala Ruechel
Hon. Sally Simmons

CALL TO ORDER

With a quorum present, Judge Cohen, Chair, called the meeting of the Child Support Guidelines Review Committee to order at 12:00 p.m.

Judge Cohen announced that he will be presenting at the Committee on Superior Court (COSC) and the Arizona Judicial Council. The COBS calculator will be available to the public on the webpage soon, and that the GRC will meet again to discuss comments that are being collected regarding the proposed guidelines and COBS calculator.

APPROVAL OF MINUTES

Minutes from the August 21, 2009 meeting were not available for presentation at today's meeting.

PROPOSED INCREMENT CHANGE TO TABLE

Professor Ira Ellman detailed the increment changes the spreadsheet task group developed to reduce the size of the guidelines table. He noted that the changes keep the matrix within the capacity of the older version of Excel.

MOTION: To adopt the proposed changes to the guidelines table as presented. Motion seconded. Motion was approved unanimously.

REVIEW PRESCOTT ATTORNEY COMMENTS

Ms. Cele Hancock reported on some of the main concerns voiced during her meeting with Prescott family law attorneys. One of the primary concerns regarded the phase-in approach to increases in support using the COBS method and this will be addressed later during review of Section V(B) of the guidelines.

REPORT ON PARENTING TIME SUMMARY

Professor Ellman and Kim Gillespie presented the introduction they drafted for the *Parenting Time Adjustment*, Section II(F) of the proposed guidelines. The committee discussed whether the example provided in the introduction should be included in the report or the guidelines.

MOTION: To adopt the proposed parenting time adjustment language with changes made today, and incorporate at the beginning of Section II(F). Motion seconded. Motion approved unanimously.

MOTION: To place the proposed language, without the example, in the report only and not in the guidelines section. Motion seconded.
Vote: 6-1-0

REPORT ON SSDI BENEFITS

Kim Gillespie discussed the treatment of SSDI benefits in calculating support. The committee determined that the guidelines need not specifically address the matter. Judge Cohen added that several comments received on the draft guidelines have concerned the fact that if disability benefits are received for an adult disabled child in addition to child support, the benefit amount could be reduced. Members agreed that the possibility of reduced benefits should be noted in the guidelines.

MOTION: To add language as discussed to section IV(F)(4). Motion seconded. Motion was approved unanimously.

REVIEW GUIDELINES DRAFT

The committee continued review of the draft guidelines with changes to the following:

Section IV(A)
Section IV(D)
Section IV(E)
Section IV(F)(4)
Section V(B)(1)(b)
Section V(B)(2)(d)

MOTION: To adopt changes to section IV(A) as discussed. Motion seconded. Motion was approved unanimously.

MOTION: If the numbers in Section IV(B) do not accurately reflect what would have been derived from the COBS calculator, they can be changed to reflect the COBS calculation. Motion seconded. Motion was approved unanimously.

MOTION: To adopt Section IV(D) as written. Motion seconded. Motion was approved unanimously.

MOTION: To adopt Section IV(E) as amended today. Motion seconded. Motion was approved unanimously.

MOTION: To adopt Section IV(F)(4) with language added today. Motion seconded. Motion was approved unanimously.

MOTION: To adopt Section IV(G) in its entirety as written. Motion seconded. Motion was approved unanimously.

Members discussed Section V(A) and the process involved in stopping a wage assignment. The committee previously added a statement to this section advising that a wage assignment may not stop automatically and may require a motion to stop the wage assignment. However, in terms of providing further guidance on the policy, the consensus was that this may be a statutory issue as the process in the state is inconsistent. Staff is to bring this issue to the attention of the legislative Child Support Committee.

MOTION: To recommend Section V(A) be reviewed by the legislative Child Support Committee. Motion seconded. Motion was approved unanimously.

MOTION: To adopt Section V(B)(1)(b) as amended today, on an interim basis subject to further review. Motion seconded. Motion was approved unanimously.

MOTION: To include previously stricken language in Section V(B)(1)(b). Motion seconded. Motion was approved unanimously.

MOTION: To adopt Section V(B)(2) as amended. Motion seconded. Motion was approved unanimously.

There was lengthy discussion on Section V(B)(2)(d), relief from a child support judgment, and whether it should be included in the draft. Some members voiced concerns that the language could be construed as giving advice as to remedies that may be available. Due to a lack of consensus, Judge Cohen recommended the language remain in the draft during the vetting process in order to receive feedback and to encourage dialogue as to the propriety of this language.

MOTION: To add the sentence “or as otherwise provided by law” to Section V(B)(2)(d). Motion seconded. Motion was approved unanimously.

The committee addressed the phase-in, or step-approach to increases in child support, Ms. Hancock report Section V(B)(2)(e) was not well-received during the Prescott attorneys meeting. The committee agreed to leave the phase-in language during the vetting and comment period in order to receive additional feedback and discussion on the matter.

MOTION: To retain the phase-in, or step-approach to child support increases draft for further vetting. Motion seconded. Motion was approved unanimously.

MOTION: To adopt all of Section V as amended and agreed to today. Motion seconded. Motion was approved unanimously.

REVIEW STAFF SUGGESTED REVISIONS

Members discussed staff’s suggested changes, which are mainly non-substantive suggestions. Judge Cohen and Kathy Sekardi will continue working on finalizing the draft guidelines after today’s meeting, members agreed that they be allowed to incorporate changes that do not affect intent such as typographical and grammatical errors.

MOTION: To authorize Judge Cohen and Kathy Sekardi to make non-substantive revisions to the draft guidelines as discussed today. Motion seconded. Motion was approved unanimously.

Judge Cohen noted that the current draft guidelines, with today’s revisions, will be the working version for the vetting process; it will be posted to the committee website, along with the report and the new calculator. It will also be presented to the Committee on Superior Courts on September 25th, and the Arizona Judicial Council on October 21st.

MOTION: To request an effective date of September 1, 2010 for the new guidelines. Motion seconded. Motion was approved unanimously.

CALL TO THE PUBLIC

No public present.

ADJOURN

The meeting was adjourned at 2:08 p.m.

ARIZONA SUPREME COURT
Child Support Guidelines Review Committee
Meeting Minutes
January 22, 2010
State Courts Building, Phoenix, Arizona

MEMBERS PRESENT:

Hon. Rebecca Albrecht
Mr. Robert L. Barrasso
Hon. Bruce R. Cohen, Chair
Ms. Helen Davis
Prof. Ira Ellman
Ms. Kim Gillespie
Ms. Cele Hancock
Comm. Rhonda Repp
Hon. Michala Ruechel
Hon. Sarah Simmons
Hon. Kevin White

MEMBERS ABSENT:

Mr. David Horowitz

STAFF:

Ms. Kathy Sekardi
Ms. Lorraine Nevarez
Ms. Tama Reily

GUESTS PRESENT:

Ms. Janet Sell
Ms. Theresa Barrett
Ms. Patricia Madsen
Mr. Don Vert
Ms. Tara Ellman

CALL TO ORDER

Judge Bruce R. Cohen, Chair, called the meeting of the Child Support Guidelines Review Committee to order at 10:15 a.m.

Judge Cohen discussed the recent vetting process outcome over the past few months. The draft proposed guidelines received positive feedback from the Arizona Judicial Council (AJC) in October and again in December. The Council's concerns centered around the COBS calculator and analysis of the comparisons of child support amounts using different models. The Council was also concerned that a manual process to calculate child support using the proposed method was available. Staff has been developing a user guide that includes step-by-step instructions and income tables for those people who want to calculate child support without the assistance of the computer calculator.

Judge Cohen explained that today's committee meeting work needs to focus on reviewing the guidelines for substance and creating a task group to review the guidelines for punctuation and grammatical errors.

APPROVAL OF THE MINUTES

MOTION: To approve the minutes from the August 21, 2009 meeting as presented. Motion seconded. Motion approved unanimously.

MOTION: To approve the minutes from the August 28, 2009 meeting as presented. Motion seconded. Motion approved unanimously.

MOTION: To approve the minutes from the September 11, 2009 meeting as presented. Motion seconded. Motion approved unanimously.

DISCUSS PULLEN v. PULLEN

Committee member Kim Gillespie gave a brief synopsis of the Pullen v. Pullen case. Ms. Gillespie indicated the issues raised and the court's ruling does not affect language in the proposed guidelines.

DISCUSS JUDGE NORM DAVIS' SUGGESTED REVISIONS

The committee decided to discuss Judge Davis' suggested revisions while that specific section was being reviewing by the committee.

DISCUSS AND REVIEW REVISIONS REGARDING DRAFT GUIDELINES

Prior to discussing the specific sections, discussion ensued regarding whether to include a phase-in approach to the Child-Outcome Based Support Model (COBS). Based on concerns raised by AJC members regarding the current state of the economy and the effect of any significant increases in child support payments it was suggested that the committee might want to consider alternative approaches they would be willing to offer to gain consensus. If deemed necessary, the Chair would then be prepared to offer acceptable options to address any concerns raised during the final presentation which, if left unanswered, might negatively impact support of the committee's recommendations.

Chair Judge Cohen acknowledged the committee should be responsive to concerns and encouraged the members to proactively address this issue. Committee members discussed this in length and agreed that further development of the phase-in section was required.

MOTION: To approve the Chair, in consultation with the subcommittee that he appoints, draft new language for the phase-in provision that is consistent with the committee's discussion today. Motion seconded. Motion approved unanimously.

The committee also established a Style subcommittee in order to review the proposed guidelines for punctuation, typographical and grammatical errors.

- The committee reviewed and discussed comments received on the draft guidelines and voted on the following sections:

Section I(A), (B), (C) and (D)

MOTION: To approve Section I(A), (B), (C) and (D) as written. Motion seconded. Motion approved unanimously.

Section II(A), (B) and (C)

MOTION: To approve Section II(A), (B) and (C) as written. Motion seconded. Motion approved unanimously.

Section II(D)

MOTION: To approve in Section II(D), moving the table up in the same section and include the example drafted by Ms. Gillespie, and to remove the two examples at the end of the section. Motion seconded. Motion approved unanimously.

Section II(E) and (F)

MOTION: To approve in Section II(E) and (F), moving the first example language under the General Provisions, striking “The noncustodial parent’s” and inserting “per year” at the end of the first sentence under “Calculating Parenting Time”. Motion seconded. Motion approved unanimously.

Section II(G)

MOTION: To approve changes to Section II(G) in the first paragraph. Motion seconded. Motion approved unanimously.

Section II(H)

MOTION: To approve changes to Section II(H) that designates what to do when calculating child support by using the calculator or when calculating manually. Motion seconded. Motion approved unanimously.

Section II(I)

MOTION: To approve Section II(I) as written. Motion seconded. Motion approved unanimously.

Section II(J), (J)(1), (2), (3), (4) and (5)

MOTION: To approve changes made to Section II(J), (J)(1), (2), (3), (4) and (5). Motion seconded. Motion approved unanimously.

Section II(J)(6)

MOTION: To approve as written Section II(J)(6). Motion seconded. Motion approved.

Section II(K)

MOTION: To approve Section II(K) as written. Motion seconded. Motion approved unanimously.

Section II(L) and (M)

MOTION: To approve Section II(L) and the addition of Section (M) with the discussed changes. Motion seconded. Motion approved unanimously.

Section III(A), (B) and (C)

MOTION: To approve Section III(A), (B) and (C) as written. Motion seconded. Motion approved unanimously.

Section III(D)(1) and (2)

MOTION: To approve Section III(D)(1) and (2) as modified. Motion seconded. Motion approved unanimously.

Section III(E) and (F)

MOTION: To approve Section III(E) and (F) as written. Motion seconded. Motion approved unanimously.

Section IV(A)(1), (2), and (4)

MOTION: To approve Section IV(A)(1), (2), and (4) as written. Motion seconded. Motion approved unanimously.

Section IV(A)(3)

MOTION: To approve that Section IV(A)(3) be removed. Motion seconded. Motion approved unanimously.

Section IV(B),(C),(D),(E) and (F)

MOTION: To approve Section IV(B), (C), (D), (E) and (F) as written. Motion seconded. Motion approved unanimously.

Section IV(G)

MOTION: To approve Section IV(G) by inserting new paragraph “4.” Motion seconded. Motion approved unanimously.

Section V(A)

MOTION: To approve Section V(A) by inserting language that instructs what to do in Title IV-D cases. Motion seconded. Motion approved unanimously.

Section V(B)

MOTION: To approve Section V(B) as written. Motion seconded. Motion approved unanimously.

Section V(C)

MOTION: To approve Section V(C) in concept. Motion seconded. Motion approved unanimously.

CORRELATION TABLE

The committee tabled this discussion until another meeting could be scheduled.

DISCUSS AND REVIEW FINAL REPORT

The committee tabled this discussion until another meeting could be scheduled.

OPTIONS/ALTERNATIVES

The committee tabled this discussion until another meeting could be scheduled.

OTHER CONSIDERATIONS

The committee tabled this discussion until another meeting could be scheduled.

NEXT STEPS

The committee tabled this discussion until another meeting could be scheduled.

CALL TO THE PUBLIC

No comments offered.

ADJOURN

Meeting adjourned at 4:15pm.

ARIZONA SUPREME COURT
Child Support Guidelines Review Committee
Teleconference Meeting Minutes
February 10, 2010
State Courts Building, Phoenix, Arizona

MEMBERS PRESENT:

Mr. Robert L. Barrasso
Hon. Bruce R. Cohen, Chair
Prof. Ira Ellman
Ms. Kim Gillespie
Ms. Cele Hancock
Mr. David Horowitz
Comm. Rhonda Repp
Hon. Michala Ruechel
Hon. Kevin White

STAFF:

Ms. Kathy Sekardi
Ms. Lorraine Nevarez

GUESTS PRESENT:

Ms. Janet Sell
Mr. Don Vert

MEMBERS ABSENT:

Hon. Rebecca Albrecht
Ms. Helen Davis
Hon. Sarah Simmons

CALL TO ORDER

Honorable Bruce R. Cohen, chair, called the meeting of the Child Support Guidelines Review Committee to order at 12:40 p.m.

Judge Cohen reported that the draft guidelines received approval from the Committee on Superior Court (COSC) with one vote opposed. The opposing COSC member did not think the proposed changes in the guidelines were significant enough, with the exception of a small percentage of higher-earning families, to warrant changing to a new model.

Judge Cohen explained that child support guidelines need to address all families. Each case is different and the proposed guidelines will address those situations individually and appropriately.

The proposed guidelines were also presented at the State Bar Family Law Institute. There were approximately 250 people attending the presentation. The proposed guidelines received many comments. The group was invited to submit their comments to the committee website. Judge Cohen will present the proposed child support guidelines to the Arizona Judicial Council (AJC) on March 25, 2010.

CORRELATION TABLE

Committee member Cele Hancock presented on the correlation table. Committee consensus was needed to determine if Section II(J) in the proposed guidelines had a correlation with Section 10 in the current guidelines. The committee agreed Section II(J) has a correlation with Section 10 and agreed to leave it in the table.

MOTION: To approve the correlation table. Motion seconded.
Motion approved unanimously.

DISCUSS AND REVIEW REVISIONS REGARDING DRAFT GUIDELINES

The committee agreed to approve the guidelines with the understanding that the subcommittee may make changes regarding grammatical, clerical and spelling errors.

MOTION: To adopt the draft guidelines allowing the subcommittee to correct grammatical, typographical, spelling and clerical errors. Motion seconded.
Motion approved unanimously.

REVIEW OF COMMENTS RECIEVED

Staff reported on two comments that were received from the committee website. The comments are as follows:

1. The first comment addresses Section 10 in the current guidelines, with regards to determining expenses covered by child support. After considerable discussion, the committee determined there was no one-size-fits-all answer. If parents are not properly sharing expenses, the situation could be a basis for deviation. Generally, the guidelines already calculate these expenses because of the parenting time adjustment. A deviation may be appropriate when facts vary from what the guidelines already assume.
2. The second comment was regarding the example in Section II(J)(4) to be written in a step-by-step format instead of its original narrative form. The Style subcommittee will revise the wording and layout.

DISCUSS RATIFICATION OF ADDENDUM A PROPOSED GUIDELINES

The committee agreed to allow the subcommittee to review “Addendum A” for grammatical, typographical, spelling and to simplifying language.

DISCUSS FINAL REPORT

The committee discussed including an executive summary in the final report.

MOTION: To adopt including an executive summary in the final report. Motion seconded. Motion approved unanimously.

OPTIONS/ALTERNATIVES

The committee discussed developing Section V(C)(3)-Determining Phase-In Eligibility. After considerable discussion, the committee decided to revise the procedure in order for obligors to qualify for the phase-in approach when financial hardship may be suffered.

NEXT STEPS

Judge Cohen discussed recommending to AJC the possibility of implementing a subcommittee in order to continue resolving issues during the implementation phase of the guidelines.

MOTION: To approve recommending a continuing subcommittee to AJC to resolve

issues concerning implementation of the guidelines. Motion seconded.
Motion approved unanimously.

CALL TO THE PUBLIC

No comments offered.

ADJOURN

Meeting adjourned at 1:45pm.

ARIZONA SUPREME COURT
Child Support Guidelines Review Committee
Teleconference Meeting Minutes
February 26, 2010
State Courts Building, Phoenix, Arizona

MEMBERS PRESENT:

Mr. Robert L. Barrasso
Hon. Bruce R. Cohen, Chair
Prof. Ira Ellman
Ms. Kim Gillespie
Mr. David Horowitz
Hon. Michala Ruechel
Hon. Kevin White
Hon. Sarah Simmons

STAFF:

Ms. Kathy Sekardi
Ms. Lorraine Nevarez

GUESTS PRESENT:

Ms. Theresa Barrett
Ms. Tara Ellman
Ms. Janet Sell
Mr. Don Vert

MEMBERS ABSENT:

Hon. Rebecca Albrecht
Ms. Helen Davis
Ms. Cele Hancock
Hon. Rhonda Repp

CALL TO ORDER

Honorable Bruce R. Cohen, chair, called the meeting of the Child Support Guidelines Review Committee to order at 12:20 p.m.

DISCUSS AND REVIEW REVISIONS REGARDING DRAFT GUIDELINES

Judge Cohen reported he met with Honorable Norman Davis, Kathy Sekardi, Professor Ira Ellman and Tara Ellman to discuss suggestions for improving the proposed guidelines and possible changes that may require further committee deliberation.

Professor Ellman explained the group discussed making changes to the parenting time adjustment method and gave an overview of suggestions made by Judge Davis. One suggestion is to simplify the calculation of the parenting time adjustment by changing the interpolation method for the range of parenting days that fall between 120 and 170 days. Additionally, this change would simplify the manual calculation.

Judge Davis also discovered in Section II(K) "When The Custodial Parent Would Be The Guideline Support Obligor," that some cases could reduce the support amount to zero when support would otherwise be paid by the custodial parent (CP) to the noncustodial parent (NCP). The unintended result is that the reimbursement that a low-income NCP would otherwise receive from a high-income CP for the CP's share of health insurance premiums paid by the NCP, would be eliminated. Although these cases are uncommon, they do arise on occasion. Tara Ellman reported that upon further examination, additional anomalies were found that resulted in unacceptable cliffs in payment amounts that the committee did not intend.

Professor Ellman reported that one suggestion is to eliminate Section II(K) in its entirety, or remove all provisions with the exception of the 120-day rule. The advantage of retaining the single 120-day rule is that it can be implemented as part of the COBS calculator, and incorporated in the Preliminary Support Amount calculation. This would make the process simpler and understandable for manual calculation users.

Professor Ellman provided examples to demonstrate the difference between the simplified method and original COBS method. The examples revealed the effects it has on the CP who has the higher income. Professor Ellman reports this change has no effect at all when the NCP has the higher income.

Professor Ellman explained that if using the above changes, the NCP is always the Preliminary Support Obligor when he has 0 to 120 parenting days, unless there is no support obligation. Professor Ellman suggested generating a transition from 120 to 170 days that avoids cliffs when the equal custody amount kicks in at 170 days. He suggests that the higher-earning CP pays the NCP 2% of the equal custody amount per month for each day over 120 days parenting time, unless the NCP is the Preliminary Support Obligor.

COMMITTEE COMMENTS/QUESTIONS

The following committee comments were presented:

- C: Members would like an in-person meeting to further discuss this substantive change to the COBS calculation. Members requested more time to test the simplified COBS calculator with numerous scenarios and further analysis.

Response: Professor Ellman acknowledged the time constraints; however, the suggestions given by Judge Davis indicate that there are challenges with the current COBS calculation because the cliffs produce results and therefore, significant changes that the committee did not intend. An example of the unintended cliff was explained for the members:

Currently, in Section II(K), when the CP would be the Guideline Support Obligor and earns less than \$4000, then the CP's payment should be changed to zero. That means that a lower-earning NCP receives no child support up through 169 parenting days, but receives the full calculated amount at 170 days (equal custody) when everything suddenly changes. For example, if the NCP Mother earns \$1500 per month and CP Father earns \$3900, Mother would not receive any support at 169 days but nearly \$500 for one child at 170 days. Even though there are not a large number of these cases, it may give an incentive to manipulate the system.

- C: What is the 2% of the equal custody amount?

Response: The purpose of the 2% is for a gradual transition and it simplifies calculating the parenting adjustment. At 170 days, the higher-earner parent is the Preliminary Support Obligor, as these are all considered equal custody cases.

When each parent has 170 days this is considered equal parenting time. If each parent has equal parenting time the calculator will generate a child support amount where the higher earner pays the lower earner. In order to generate a transition from 120 days and 170 days that avoids a cliff where the equal custody amount kicks in at 170 days it is easier and more comprehensible to use the simple method. For example, at 130 days the higher earning CP would pay the NCP 20% of the equal custody amount applicable at 170 days. (Note that one day is 2% of the 50 day period from 120 to 170 days). Overall, this is a simpler interpolation and can be done easier manually or with a calculator.

Judge Cohen explained that the simplified method gives the same results if the NCP is the higher income earner. The results change if the NCP is the lower income earner. The simplified method for calculating the parenting time adjustment is beneficial for users.

Professor Ellman provided additional examples to demonstrate the simplified calculation method. After much discussion, Judge Cohen proposed three motions:

MOTION: Move to adopt the simplified method and strikeout the other provisions of Section II(K).

MOTION: Move to adopt a modified method in that if the CP income is less than \$4000 it would be built into the calculator to trigger a zero amount.

MOTION: Move to leave the current system as it is currently written.

Due to time constraints, the motions were unresolved. The committee will schedule another meeting to further discuss the simplified method for calculating parenting time adjustments.

CALL TO THE PUBLIC

No comments offered.

ADJOURN

Meeting adjourned at 1:15 pm.

ARIZONA SUPREME COURT
Child Support Guidelines Review Committee
Meeting Minutes
March 05, 2010
Judicial Education Center, Phoenix, Arizona

MEMBERS PRESENT:

Mr. Robert L. Barrasso
Hon. Bruce R. Cohen, Chair
Ms. Helen Davis
Prof. Ira Ellman
Mr. Don Aden proxy for Ms. Kim Gillespie
Mr. David Horowitz
Hon. Rhonda Repp
Hon. Michala Ruechel
Hon. Kevin White
Hon. Sarah Simmons

STAFF:

Ms. Kathy Sekardi
Ms. Lorraine Nevarez

GUESTS PRESENT:

Ms. Theresa Barrett
Ms. Tara Ellman
Ms. Rena Selden
Mr. Don Vert

MEMBERS ABSENT:

Hon. Rebecca Albrecht
Ms. Cele Hancock

CALL TO ORDER

Honorable Bruce R. Cohen, chair, called the meeting of the Child Support Guidelines Review Committee (GRC) to order at 3:06 p.m.

The committee approved the GRC minutes from January 22, February 10, and February 26, 2010.

MOTION: To approve the GRC minutes from January 22, February 10, and February 26, 2010 as presented. Motion seconded. Motion approved unanimously.

Judge Cohen withdrew his previous motions that were unresolved at the meeting on February 26, 2010.

DISCUSS AND REVIEW REVISIONS to the DRAFT GUIDELINES

Judge Cohen briefed the committee about the discussion at the last GRC meeting on February 26, 2010 regarding the parenting time adjustment within Section II(K). He summarized the concerns members had about the process of the simplified COBS calculation. Professor Ira Ellman continued the discussion by reiterating concerns identified by Judge Norman Davis and how to eliminate resulting “cliffs” in the calculations. Professor Ellman explained to the committee how a simple change to the way the interpolation is done between 120 and 170 days smoothes out the “cliffs.” He provided the committee with examples from a graph to assist explanation of the impact of the changes to Section II(K). After much discussion, the committee voted on the following motion:

MOTION: To approve a 2% incremental change for parenting days between 120 and 170 days. Motion seconded. Motion approved unanimously.

The committee members discussed changing paragraph one in Section II(K) and removing subsections a.), b.), and c.).

MOTION: To approve the changes to Section II(K). Motion seconded. Approved with one opposed vote.

The committee reviewed and approved the changes that the subcommittee completed regarding grammatical, typographical and clerical errors in the proposed guidelines.

MOTION: To approve the changes made by the subcommittee, such as a definition for Parenting Time Adjustment and Phase-in Support Order. Motion seconded. Motion approved unanimously.

All final versions of the proposed guidelines will be presented to the Arizona Judicial Council (AJC) on March 25, 2010.

CALL TO THE PUBLIC

Attorney. Rena Selden, Selden Law, made the following comments regarding changes to the guidelines:

- Clarification of the effective date.
- Clarification in Section II(B)(2) and (B)(4).
- Clarification in Section II(D).
- Additional language requiring parent to notify other parent when medical insurance changes.
- Clarification regarding notices.
- Clarification regarding travel expenses.
- Utilizing “custodial parent” or parenting time language.
- Clarification as to whether 10 days or 10 court days is meant.
- Realistic approach to “other children.”

ADJOURN

Meeting adjourned at 5:32 pm.

ARIZONA SUPREME COURT
Child Support Guidelines Review Committee
Public Hearing and Meeting Minutes
June 04, 2010
9:00 a.m. to 5:30 p.m.
Arizona Supreme Court, Phoenix, Arizona

MEMBERS PRESENT:

Hon. Rebecca Albrecht
Mr. Robert L. Barrasso
Ms. Cele Hancock
Hon. Bruce R. Cohen, Chair
Prof. Ira Ellman
Kim Gillespie
Mr. David Horowitz
Hon. Rhonda Repp
Hon. Michala Ruechel
Hon. Kevin White
Hon. Sarah Simmons

STAFF:

Ms. Kathy Sekardi
Ms. Lorraine Nevarez

MEMBERS ABSENT:

Ms. Helen Davis

GUESTS IN ATTENDANCE:

David Alger	Karen Duckworth	Gina Kash
Sandra Balch	Tara Ellman	Kendra Leiby
Theresa Barrett	Timothy Frank	Patricia Madsen
Shannon Branham	Mary E. Frank	Amber O'Dell
Harold Brister	Denise Gallegos	Rena Selden
Brain Caloway	Ingrid Garvey	Crystal Stapely
Cheri Clark	David Hamu	Don Vert
Jeff Deiley	Brad Hendricks	Kevin Wasson
Sarah Dodge	Chris Isaac	Alric Yunitz

Call to order and introduction from the Chair

Honorable Bruce R. Cohen, Chair, called the Child Support Guidelines Review Committee (GRC) Public Hearing meeting to order at 9:12 a.m.

In May, Judge Cohen updated the Arizona Supreme Court Justices' regarding presentations made to various groups and the feedback received, since the committee's last meeting in March.

Judge Cohen explained the events that transpired since the last GRC meeting. Staff received word that certain members of the public felt uninformed and unaware of the child support review the GRC was conducting. Judge Cohen, along with staff, subsequently met with members of the public in a series of five separate meetings to explain the review process, methodology of the

Child Outcome Based Support model, to solicit input comments and recommendations, and to answer their questions.

As a result of these meetings, several issues were raised which necessitated a meeting of the whole committee. In order for the committee to actively listen to the concerns, issues and comments others may have regarding the proposed guidelines, a public hearing was scheduled. Memos outlining the issues were developed by Judge Cohen and Professor Ellman for the committee members to review and discuss later in this meeting.

Initially, Judge Cohen informed members of the public that their comments would be limited to three minutes to allow time for everyone to voice their issues. After learning there were 16 individuals who had asked for the opportunity to address the committee, Judge Cohen increased the public comment time from three to five minutes.

A summary of the public comments are as follows:

- David Hamu: Mr. Hamu addressed the committee regarding the proposed child support guidelines, the unintended consequences, and problematic outcomes he opined they produce. Mr. Hamu provided the committee with a handout entitled “Trouble with COBS.” Some of the comments are as follows:
 - The process has not been democratic.
 - COBS is a new concept that has not been reviewed, vetted or tested.
 - Judiciary cannot establish substantive law.
 - Nature of this policy is not within the realm of the court system due to the doctrine of separation of powers.
 - Lack of review will lead to legal challenges.
 - COBS analysis is based on economic data from the 2007 “bubble.”
 - The obligor is treated unfairly in the COBS model.

- Terry Decker: Mr. Decker addressed the committee regarding COBS. Mr. Decker provided the Committee with a handout entitled “Definitions.” Some of the comments are as follows:
 - Duplicated expenses need to be addressed in their entirety.
 - Need to have 100% testing and have results in graph form to identify problems.
 - A.R.S. §25-500 defines child support as a cost-based system.
 - The COBS model is an income-based system of determining child support, and any income-based system of child support is a violation of statute.
 - The Supreme Court is unauthorized to consider this system.
 - The COBS calculator has not been finalized so the final product has not been tested.
 - This model is a vehicle for spousal maintenance which is synonymous with standard of living.
 - This model could bankrupt people.
 - Not a finished product.

The Chair informed the public at this point that the calculator cannot be completed until the guidelines have been finalized, although there is a functioning version thereof but not in final form.

- Mary Frank: Ms. Frank addressed the committee regarding COBS. Some of the comments are as follows:
 - The COBS model is unfair.
 - Equalizing the standard of living is ridiculous.

The Chair agreed with Ms. Frank that it would indeed be ridiculous to attempt to equalize the standards of living and that COBS is not designed to equalize standards of living. As he had pointed out during the prior meetings, there is no component of COBS that serves to equalize standards of living or focus on this measure. The claims to the contrary have been erroneous. Another GRC member clarified that COBS does not attempt to equalize the standards of living, rather it attempts to narrow the gap in those disparity of income cases.

- Kevin Wasson: Mr. Wasson addressed the committee regarding COBS. Some of the comments are as follows:
 - To equalize or minimize the gap between households should not be attempted.
 - Giving more money to child support will not benefit the children in many cases.
 - Need to create a system of accountability for child support money spent by the recipient parent.
- Timothy Frank: Mr. Frank addressed the committee regarding concerns about trust issues, financial issues, and COBS. Mr. Frank provided the committee with a handout entitled “Citizen Input-Suggestions for Improvement.” Some of the comments are as follows:
 - Violation of public trust when adjusting the financial aspect of child support.
 - Income shares currently uses the marginal cost of the child, while COBS reflects the standard of living the child experiences in each home.
 - Would like social research provided which would indicate what harm is suffered by a child if there is a large decline in living standard.
 - Duplicated costs are fully borne by both parents.
- Sandra Balch: Ms. Balch, a step-mother, addressed the committee regarding concerns with the COBS child support system. Some of the comments are as follows:
 - It will affect both families.
 - Her husband should not be punished for getting an education and good paying job.
 - COBS will increase her husband’s child support by \$1000.
 - Accountability issues for the recipient parent.
- Brian Caloway: Mr. Caloway addressed the committee regarding concerns with COBS. Some of the comments are as follows:
 - No one knows what it really costs to raise a child.
 - Committee should review cost shares model.

- Marriage is a business merger with economic incentives. When broken, shared income stops; however, with the COBS model the lifestyles continue.
 - Changing or minimizing the disparity of income can change one's lifestyle. There is a constitutional right to the pursuit of happiness.
- Jeff Deiley: Mr. Deiley addressed the committee regarding concerns with COBS model and committee process. Mr. Deiley provided the committee with a handout entitled "COBS Model Initial Impressions." Some of the comments are as follows:
- COBS narrows the disparity between households.
 - If the noncustodial parent continues to earn more money, then the child support payment increases. This is unfair.
 - The methodology is a socialist approach to managing child support.
 - There are other factors that go into what people spend.
 - Professor Ellman was a main contributor to ALI model that was developed 10 years ago and every state has rejected that model in last 10 years.
 - COBS is a rebranded image of the ALI model and no one has accepted it.
 - Professor Ellman is a voting member of the committee and has a vested interest in having his model accepted.
- Rena Selden: Ms. Selden, attorney, addressed the committee regarding her letter that was submitted to the committee. Her comments centered around 2005 guideline omissions, spousal maintenance concerns, forms, services, and terminology. Some of the comments are as follows:
- To reconsider allowing the exercise of discretion by judicial officers in some areas of the guidelines.
 - Sanctions need to be tougher. There are no consequences for failure to disclose.
 - Need to grandfather in the 2005 guidelines cases for medical expenses.
 - Clearer explanations for modifications of child support.
 - Committee could look at altering some sort of language for tax benefits regarding spousal maintenance.
 - Review the guidelines for plain language.
- Karen Duckworth: Ms. Duckworth addressed the committee regarding terminology in the COBS model and disadvantaged population of fathers versus mothers who take advantage of the system to raise child support. Some of the comments are as follows:
- Fair doesn't mean equal.
 - COBS equalizes households.
 - Not enough sanctions in the courtroom for people that lie about their income.
 - There is a higher percentage of mothers who manipulate situations.
 - Husband should not be punished for bettering his life.
 - IV-D courts cannot manage more cases.

The Chair stated many of Ms. Duckworth's comments indicate a need for societal change and believes Arizona took that first step when the legislature passed SB1314 this session. SB1314 amended statute to express a policy that is consistent with the notion Ms. Duckworth expressed;

namely, that both parents should be significantly involved with their children and both parents have decision-making authority. Judge Cohen further stated that some of these concerns may be referred, with recommendations, to the legislative Child Support Committee or the Domestic Relations Committee to look at more systematically. Judge Cohen invited the public members to address their concerns at these legislative committee meetings. A question was posed by a public member inquiring as to whether or not a report regarding these comments would be received by the Arizona Judicial Council members. Judge Cohen indicated a report would be submitted that outlined all actions taken by the GRC, as well as issues that were not recommended, and referrals to other committees.

- David Alger: Mr. Alger addressed the committee regarding the GRC considering an opinion paper by Ira and Tara Ellman entitled “The Theory of Child Support.” Some of the comments are as follows:
 - This is an issue that will affect real people and should not be taken lightly.
 - His attorney had no idea that revisions were being made to the guidelines.
 - COBS equalizes incomes in households and this is very problematic.
 - Changes to the guidelines were not well publicized.
 - The “Theory of Child Support” paper has not been reviewed or vetted.
 - Professor Ellman is a voting member of the committee and has a vested interest in having his model accepted.
 - COBS is anti-marriage.

- Crystal Stapley: Ms. Stapley, a step-mother, addressed the committee regarding the proposed child support guidelines. Some of the comments are as follows:
 - Guidelines should look at costs versus expenses and determine child support on the cost of raising a child.
 - Use foster care subsidy figures to determine the cost of raising a child.
 - Noncustodial parents are being discouraged and punished if they better their lives.
 - COBS allows the custodial parent to receive an inflated amount of income which gives them a sense of entitlement. After the child support ends they will then look to the government to support them.

- Brent Miller: Mr. Miller addressed the committee regarding a deliberate cloak of secrecy, conflict of interest, separations of powers, and vetting of COBS. Some of the comments are as follows:
 - Judicial side of government should not be making substantive law without the process of vetting.
 - There was zero public input and no impact studies.
 - Administrative Order 2008-22 directs the committee to review Income Shares model which the committee has failed to do.
 - COBS model has not been vetted or reviewed by outside sources to learn about its weakness.
 - Committee member Ira Ellman has a vested interest in the COBS model. He should not be a voting member on the committee.

- Brad Hendricks: Mr. Hendricks addressed the committee about the child support guidelines. Some of the comments are as follows:
 - COBS is unfair.
 - Taking additional money from him is not going to make a difference to the child.

- Denise Gallegos: Ms. Gallegos, a custodial parent, addressed the committee about the proposed child support guidelines. Some of comments are as follows:
 - Single mother who works two jobs to provide for her children. Her children would benefit greatly from increased child support.
 - When she did receive child support it was at a minimum amount \$35/week.
 - They have equal parenting time, but there is a big difference in what the father earns and what she earns.
 - She always provides what is needed for her children through working extra hours and reducing living expenses. Some of that burden would be alleviated if she received an adequate amount for child support.

- Janna Glenn: Ms. Glenn addressed the committee about the proposed child support guidelines. Some of the comments are as follows:
 - The calculator needs to be reformed.
 - The proposed guidelines are not going to work, something else can be done.
 - Questioned how fiancé's ex-spouse can get married again and get credit, while her fiancé gets no credit.

- Rena Selden: Ms. Selden addressed the committee again about the guidelines. Some of her comments are as follows:
 - Just learned about this process.
 - Have not seen this publicized and meetings are held during working hours.
 - Data has not been vetted.
 - Major policy shift.
 - This needs more public scrutiny.
 - Lower compliance rates.

- David Hamu: Mr. Hamu addressed the committee again regarding Ms. Selden's comments. Mr. Hamu wanted to emphasize that the proposed guidelines will create great motivation for litigation.

- Terry Decker: Mr. Decker addressed the committee again regarding statistics. He stated that 95% of the cases in Maricopa County are negotiated to settlement. Mr. Decker is concerned that a lot of the negotiations will no longer take place.

A committee member asked where this contingency of the public has been, as he has been trying to inform others of these proposed guidelines. He stated the guidelines will not drastically change child support in more common cases and that the guidelines do not just affect fathers but mothers, too.

- Brent Miller: Mr. Miller addressed the committee again regarding committee members comment. Mr. Miller emphasized the lack of awareness to members of the public.
- Public Member: Another public member addressed the committee stating she located a class description online for at the National Child Support Attorney College and the presenter was Professor Ellman. She read the description which asserted “Arizona has adopted a ground breaking new method for generating child support guidelines...” She believes this message is disrespectful to the public and misrepresents that the Supreme Court has already approved this new model.

Professor Ellman explained the description was drafted many months ago when the expectation was the court would be deciding approval of the proposed guidelines sometime in March. Prof. Ellman also explained the message to the class participants was very clear at the training - that the guidelines were not approved.

Judge Cohen concluded the public hearing by thanking all the members of the public for taking time out of their day to join in the process and engage in the discussion of the proposed child support guidelines. He confirmed that the Committee would now address the substantive issues that were identified during the five prior meetings.

GRC Meeting - Call to order and introduction from the Chair

Honorable Bruce R. Cohen, chair, called the GRC meeting to order at 11:09 a.m. Judge Cohen explained separate memos were submitted for committee members to review, discuss, possibly draft additional guidelines language, and vote if necessary regarding concerns of the COBS model.

Approval of draft minutes from March 5, 2010

The committee approved the GRC minutes from March 5, 2010.

MOTION: To approve the GRC minutes from March 5, 2010 as presented. Motion seconded. Motion approved unanimously.

Professor Ellman prepared a chart that summarized the differences between existing final support orders from a representative sample of actual cases and the final support orders that the COBS approach would produce for the same cases. However, cases with deviations or split custody were excluded. Out of 416 cases from 2007 support orders, the chart displayed the following:

PERCENT DIFFERENCES (Difference between COBS and existing order as a percent of the existing order)	Percent of cases in range*	DOLLAR DIFFERENCES (COBS amount less existing order)	Percent of cases in range*
COBS amount is same or less**	49.4		49.1
Percent decrease under COBS		Dollar decrease under COBS	
0%	3.8	\$0	5.3
1% - <15%	15.4	\$1 - <\$50	14.2
15% - <25%	5.5	\$50 - <\$100	9.6
25% - <50%	12.5	\$100 - <\$200	15.4
50% - <100%	9.6	\$200+	4.6
100% (zero payment)	2.6		
 COBS amount is more **	 50.6		 51.0
Percent increase under COBS		Dollar increase under COBS	
1% - <15%	16.1	\$1 - <\$50	10.1
15% - <25%	7.0	\$50 - <\$100	9.6
25% - <50%	12.3	\$100 - <\$200	13.2
50% - <100%	6.3	\$200 - <\$500	11.1
100% - <200%	3.6	\$500 - <\$1000	5.3
200%+	2.9	\$1000+	1.7
cannot be computed***	2.4		

* Percent of 416 cases.

** Discrepancy in totals is caused by rounding errors in some cases with very small dollar differences.

*** Percent difference cannot be computed because the existing order amount is zero. Percent change is considered to be 0% when both methods produce \$0 orders.

Review and discuss adjustments to support memo issues

Judge Cohen explained the percentage of income applied to support adjustments. Adjustments are made for child-related expenses such as childcare, medical insurance, and education expenses in proportion to the gross income for each party. Judge Cohen explained when there is redistribution of income due to spousal maintenance, the percentages allocated to each parent is altered. Judge Cohen asked if there is any rationale for not doing the same, when the preliminary support obligation serves to transfer that portion of the income from one parent to the other. Judge Cohen suggested to revise the proposed guidelines to Section II(J) with the following language:

Page 2 of memo: The following child-related expenses are generally shared by the parents in proportion to the parents' incomes. For the purpose of this calculation, the adjusted gross income of each parent is adjusted to reflect the preliminary support amount. Thus, the preliminary support obligor's adjusted gross income is reduced by the preliminary support amount, and the preliminary obligee's adjusted gross income is increased by the preliminary support amount. Dividing a parent's income, so calculated, by the two parents' combined adjusted gross income, yields that parent's proportion of these child-related expenses.

Professor Ellman noted that the committee did consider including childcare expenses as an adjustment to income of the two parents; however, the committee discovered there were a set of cases with very low-income custodial parents that produced an unfair result. After much discussion, it was determined that under the current guidelines (where child care is an add-on when child care is attributed along with income being attributed), was not appropriate for the COBS model and there was agreement that inclusion of childcare expenses as a straight percentage is not necessary.

A motion was made to approve the proposed language on page 2 of Professor Ellman's memo. The motion was amended to provide a prefatory sentence in the beginning of the paragraph.

Proposed amended motion: To approve the concept to redistribute the percentages for those adjustments in calculating the child support obligation and the adjustments for childcare, medical insurance premiums and other expenses detailed in Section II(J), the gross income of the paying parent shall be reduced by, and the gross income of the recipient parent shall be increased by, the amount of the Preliminary Support Amount.

MOTION: To approve the concept and methodology. Motion seconded. Motion approved unanimously.

The committee approved the following change to the language:

The following child-related expenses are generally shared by the parents in proportion to the parents' incomes. To calculate the parents' proportions:

1. Subtract the Preliminary Support Amount from the Preliminary Obligor's adjusted gross income.
2. Add the Preliminary Support Amount to the Preliminary Obligee's adjusted gross income.
3. The proportion of expenses each parent pays is that parent's income as calculated in steps 1 and 2, divided by the parents' combined adjusted gross income.

The committee also agreed to provide an example.

MOTION: To approve the proposed language and to also include an example. Motion seconded. Motion approved.

Review and discuss income attribution and childcare expense attribution memo issues

Judge Cohen explained that generally, the court must weigh the child's best interests against the parent's decision to reduce earnings. Holding a parent to an income producing level must also take into account the childcare costs commensurate with that earning capacity. It is asserted by some that courts have over-applied the income attribution component. The claim is that the section has been applied in a fashion that holds a party to their highest level of past earnings, regardless of current circumstances.

The committee reviewed two of the following phrases in Section II(B)(5):

1. "...the court may attribute income to a parent up to his or her earning capacity."

2. "...appropriate childcare expenses may also be attributed."

The committee discussed that judgment has always been necessary in the attribution of income. It was noted that the language in the current guidelines is already legally and philosophically correct.

The committee discussed putting a reference regarding today's economic times. However, it was pointed out that having the guidelines reflect a single period of time in history is not necessary.

It was the consensus of the committee to add (e) to Section II(B)(5):

"Any other factors beyond the parent's current control that suggest the parent's earning history is not a good indication of that parent's current ability to earn income."

MOTION: A motion was made to amend the current language of the proposed guidelines to add language making a new Section II(B)(5)(e) from Prof. Ellman's proposed language. Motion was seconded. Motion passed unanimously.

When discussing the second phrase, it was noted that the *Engle vs. Landman* case would address this issue. It was the consensus of the committee to add the following language to the bottom of Section II(B):

"The court may reduce the amount of income attributed to a parent by the reasonable childcare costs that would be necessary to earn that income."

MOTION: To add additional language to Section II(B). Motion seconded. Motion passed unanimously.

The committee also agreed to include the following provision to Section II(J)(1):

"If the court finds that the child support is sufficient to provide for childcare costs, the court may decline to include all or part of childcare expense."

MOTION: To adopt the proposed language to include in Section II(J)(1). Motion seconded. Motion passed unanimously.

The committee notes this issue should be addressed in training efforts and will refer the issue to Education Services for guideline training.

Review and discuss dependency exemption memo issues

Judge Cohen explained that the federal government deferred the issue of allocating the federal dependency exemption to the state courts. The language in the guidelines was thereafter included in the Arizona guidelines. The purpose of the current language was to create an additional incentive for a parent to remain current with child support. It would be inequitable for a parent who has not paid support to nonetheless derive an economic tax benefit. However, the denial of the right to claim the exemption is viewed by some to be overly punitive in its application, since

the arrears amount could be nominal and the “value” of the transfer of the exemption could be significant.

Ms. Gillespie noted that in 2009 the IRS updated the guidelines regarding form 8332. Ms. Sell pointed out that effective 2009, a pre- or post-decree cannot be conditional under the new regulations. The purpose of inclusion in the guidelines was to create an incentive for a person to pay their child support on time.

It was the consensus of the committee to remove the last two paragraphs in Section III(D) from the proposed guidelines.

MOTION: To remove the language from the guidelines that deals with the allocation of the dependency exemption. Motion seconded. Motion passed by a vote of 8-2-0.

The committee also determined to add language to Section III(D) as follows:
“The court may deny the right to present or future tax exemptions to an obligor if there is a history of substantial non-payment of child support.”

MOTION: To approve adding additional language to Section III(D). Motion seconded. Motion passed by a vote of 8-1-1.

The committee will refer this issue to the training team and Child Support Committee (CSC) to review for possible statutory changes.

It was noted that in Section II(D)(2)(b) there was a clerical error with the word “is.” The committee changed the word to “may be.”

MOTION: To correct the clerical error. Motion seconded. Motion passed unanimously.

Review and discuss re-marriage memo issues

Judge Cohen explained that state law does not allow consideration of income from a new spouse. Case law does, however, allow a court to consider the economic benefit derived from cost sharing or contributions toward living expenses. This is supported under *Cummings v Cummings* and *Marriage of Pacific*. Consideration of the economic benefit is consistent with the overall framework of COBS, which is designed to protect the outcome for children. The committee could consider a principle or method to address these cases to be provided within the guidelines that recognize the economic benefit that arises from sharing of expenses without violating the notion that the new spouse’s income is not to be considered.

Including language from *Cummings v Cummings* and *Pacific* case would clarify that remarriage could impact the consideration of income in the child support amount. It was the consensus of the committee to add further language.

MOTION: To approve including additional language regarding the Cummings and Pacific case. Motion seconded. Motion passed unanimously.

The committee approved the following language:

“For example, while the court may not consider the income of a new spouse, the court may consider the extent to which contributions from a new spouse, or others, reduce expenses and, if the court finds that regular or substantial contributions from a new spouse, or others, reduce living expenses, the court may determine the value of the reduced expenses and add that amount to the income of that party.”

MOTION: To approve the additional language to be included in Section II(B)(2). Motion seconded. Motion passed unanimously.

Review and discuss retroactive support modification memo issues

Judge Cohen explained that the guidelines do not specify the restrictions on retroactive modification other than referring generally to A.R.S. § 25-327. State law does not authorize retroactive modification prior to notice. There are numerous examples of situations where a party does not seek modification of child support despite there being changed circumstances that would call for a review and possible modification. This can at times create unfair results without the court being able to remedy the circumstances. Prof. Ellman reiterated that equitable defenses are not currently available in Arizona law which are available in other jurisdictions and that the Bradley amendment may not be able to preclude an equitable defense argument.

It was consensus of the committee that this issue is outside the charge of the GRC and may require statutory action. The committee will forward this issue along with the memos that were prepared by GRC members to the legislative Child Support Committee.

MOTION: To forward this issue to the appropriate legislative committees and strongly recommend this issue be addressed. Motion seconded. Motion passed unanimously.

Report from the Spreadsheet Study Workgroup-Review and discuss high disparity and high income cases memo issues

Judge Cohen explained the issues concerning the curve of high disparity and high income cases. Professor Ellman provided charts for members to see COBS results in varied situations. The charts provide information on the differences between the current child support guidelines and the COBS model.

The committee adopted the proposed new “Subsection O: Additional Review in Certain Exceptional Cases” language without the example in Section II. The example was not included because it does not help to clarify the language.

MOTION: To adopt the proposed language without the example. Motion seconded. Motion passed by a vote of 9-0-1.

AMENDED MOTION: To change the word “should” in Section II(O)(5) to the word “may.” Motion seconded. Motion passed unanimously.

The GRC will forward this issue to the training team and to the legislative Child Support Committee to address further.

Consideration of issues raised during the public hearing and GRC members' final suggested edits

Judge Cohen commented on additional issues that were raised by members of the public. He noted that some of the issues are outside the authority of the committee. The issues include:

Phase-in section: Judge Cohen commented about the discussion of the phase-in section of the proposed guidelines. He noted that the committee in the beginning did not favor the phase-in section; however the provision was included because it recognized the impact the new order may have on some obligors, and as an accommodation for discretion left to the court. Comments have been received to lengthen the phase-in period to longer than 18 months. A GRC member noted that criticism of extending the time line only looks at half the equation, as the phase-in period delays the child from benefitting from the appropriate amount of child support.

The committee agreed that the eighteen months' timeframe is feasible to allow for the accommodation of the new child support payment.

Accountability for the payment of child support: Arizona State law does not require a parent to report how they expend child support monies. This issue is outside the authority of this committee.

Temporary orders: Comments were received about temporary orders and how it affects final orders. This is a systemic issue and not one the committee can resolve.

Economic bubble: Judge Cohen reported that comments were received regarding the data information that was used to configure the COBS model. The COBS system uses two benchmarks; the Arizona median income (middle-class income) and minimally adequate income, which were based on 2007 data. When the sub-committee looked at 2008 data the median benchmark was essentially the same as the 2007 information. The methodology of COBS is a comparative method.

Other issues: Other issues were raised such as child custody and tax issues; however, authority to address these issues is outside of this committee.

Further delay of COBS: Those who voiced concerns about COBS advocated for further delay in its adoption. They assert that it has not been fully vetted. The GRC did consider delaying recommendation of COBS to AJC; however, with only one dissenting vote, the committee was steadfast in its belief that the guidelines should be adopted, as presented. There were various reasons in support for this position:

- These guidelines have been subjected to a vetting process.
- Stakeholders throughout the state have been involved in dialogue since the start of the review over two years ago.
- The committee has considered a variety of structures and methods being used throughout the country.

- The committee has met at least 20 times over the past 2 years not including subcommittee meetings.
- Delaying recommendations to the Arizona Supreme Court will not have any salutary effect.
- Children and families will continue to suffer if there is further delay.
- Those in opposition have been provided with over twenty cumulative hours of direct meetings to address and consider concerns.

The GRC therefore recommended that the guidelines be adopted. However, with one member opposed, a motion was made to delay the presentation to AJC until September 2010.

MOTION: To recommend delaying the presentation to AJC until September 2010. Motion does not carry due to lack of a second.

Call to the Public

Rena Selden, attorney, Selden Law, addressed the committee with regards to delaying the guidelines with some of the following comments:

- Remarriage section needs further attention.
- How are the guidelines going to be practically implemented with regards to IV-D cases?
- A plain language review of the guidelines is needed.

Terry Decker addressed the committee with some of the following comments:

- When there are multiple ex-spouses, each child will have substantially different child support amounts.
- The child support calculator is not available.

Judge Cohen clarified that the calculator is a tool used to calculate child support and is not the guidelines. Prior reviews did not include a corresponding calculator. The committee was charged with creating the guidelines and it is impossible to create a final calculator without guidelines that are completed.

David Hamu addressed the committee with some of the following comments:

- The committee heard from three custodial parents.
- Professor Ellman's charts that analyze Dr. Venohr's data do not explain the vast number of cases that will be impacted by COBS.
- The equal parenting time is being excluded from the sampling described in the chart.
- The guidelines still need more time to be vetted.

Jeff Deiley addressed the committee with some of the following comments:

- Professor Ellman is a voting member of the committee and has a vested interest in having his model accepted.
- Not enough information regarding the outcome of using this system.

Judge Cohen noted that Professor Ellman does not have a vested interest in COBS. He has been a source of information regarding theory, research, and data. Tara Ellman's only compensation has been in the form of a plaque thanking her for time and effort she has contributed, which was

purchased solely by Judge Cohen from his personal funds. Furthermore, Tara Ellman gifted the AOC with a license to use the Childshare tool in perpetuity, free of charge.

Timothy Frank addressed the committee with the some of the following comments:

- Making a claim on someone's income is wrong.
- No social research has been done to support this theory.
- The committee has flagrantly ignored social issues which lead to a disincentive for marriage.
- It directly allows a new spouses' income to be considered.
- Standard of living as criteria for child support is not a good idea.
- The committee needs to request a delay to continue the vetting process.

Adjourn

Meeting adjourned at 5:33pm.

ARIZONA SUPREME COURT
Child Support Guidelines Review Committee
Public Hearing Minutes
September 10, 2010
1:30 p.m. – 3:30 p.m.
Arizona Supreme Court, Phoenix, Arizona

MEMBERS PRESENT:

Mr. Robert L. Barrasso (telephonic)
Hon. Bruce R. Cohen, Chair
Prof. Ira Ellman (telephonic)
Ms. Kim Gillespie
Mr. David Horowitz
Hon. Rhonda Repp (telephonic)
Hon. Michala Ruechel

STAFF:

Ms. Kathy Sekardi
Ms. Lorraine Nevarez

MEMBERS ABSENT:

Hon. Rebecca Albrecht
Ms. Helen Davis
Ms. Cele Hancock
Hon. Kevin White
Hon. Sarah Simmons

GUESTS IN ATTENDANCE:

David Alger	Terry Decker	Kendra Leiby
Dianne Baker	Jeff Deiley	Kathleen McGuinness
Ken Barker	Karen Duckworth	Brent Miller
Theresa Barrett	Eric Ehst	Amber O'Dell
Harold Brister	Timothy Frank	Bray Pike
Susan Bulfinch	Cindy Guerra	Rena Seldom
Brain Caloway	David Hamu	Janet Sell
Shelia Clemons	Carey Hyatt	Robert Southwick
Joi Serota-Davenport	Karen Kondej	Don Vert
		Damian White

GUESTS APPEARING TELEPHONICALLY:

Tara McNabb	Jen Sacks	Rebecca Terry
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Call to order and introduction from the Chair

Honorable Bruce R. Cohen, Chair, called the Child Support Guidelines Review Committee (GRC) Public Hearing meeting to order at 1:30 p.m.

Judge Cohen explained this second public hearing was scheduled in order for the committee to actively listen to the concerns, issues and comments others may have regarding the proposed guidelines.

Judge Cohen informed members of the public that their comments would be limited to three minutes to allow time for everyone to voice their issues.

A summary of the public comments are as follows:

- Joi Serota-Davenport: Ms. Serota-Davenport addressed the committee regarding COBS. Some of the comments are as follows:
 - Ms. Serota-Davenport is a mother of two children.
 - The change in the current guidelines would ease her financial burden.
 - Their intact family used to live in an upper-class lifestyle that Ms. Serota-Davenport contributed to until the divorce. Now, she and the children live near the poverty level.
 - Without the extra assistance that would be expected under the COBS guidelines, the children cannot participate in extracurricular activities, enjoy a movie outing, go shopping, bowling, or eating out with friends.
 - Older daughter cannot obtain a driver's license because funds are limited and reports that the father won't contribute financially for this purpose.
 - There is no money for college.
 - Ms. Serota-Davenport is in nursing school in order to obtain employment that pays more than what she is currently earning, which in turn will provide a better living standard for her children.

- Karen Duckworth: Ms. Duckworth addressed the committee regarding COBS. Ms. Duckworth decided to ask the committee questions. Some of the questions are as follows:
 - How much will it cost to implement COBS?
 - How much will it cost for judges training?
 - How or who will fix the problem regarding the inaccurate Affidavit Financial Information form?
 - Why not just use a flat rate of (15 %?) increase to Income Shares Model?
 - Is there an exit plan if (when) COBS goes into effect and has disastrous results?

The Chair informed the public that responses to any questions would follow at a later date.

- Eric Ehst: Mr. Ehst addressed the committee regarding COBS. Some of the comments are as follows:
 - Mr. Ehst is the Arizona State President of the National Organization for Women.
 - Child Support determination is often a delicate situation and courts need clear and fair guidelines, however, paramount consideration should be given to the child's best interest.
 - There are numerous studies that indicate that the current Income Shares Model does not adequately serve in cases of high income disparity.

- Children should not be forced to suffer for the mistakes of their parents.
 - The proposed guidelines do a better job of keeping children above the poverty level.
 - Arizona courts need a child support determination system that gives consideration to the needs of the child. This seems to be the intent of the COBS model.
 - The Arizona National Organization for Women supports moving forward with the COBS model.
- Terry Decker: Mr. Decker addressed the committee regarding COBS. Some of the comments are as follows:
- Mr. Decker noted at the Domestic Relations Committee (DRC), a presentation was given regarding the Income Shares Model being inadequate to children's needs. However, no evidence has been given to support this claim.
 - Mr. Decker referenced a handout provided by public member Jeff Deiley to the committee. He referenced a statement that the COBS model shifts the income from the non-custodial parent until the custodial parent becomes the high earner; it also protects the custodial parent's income difference. Mr. Decker found this statement to be offensive and stated that any orders that reflect below 120 parenting time days, the higher earning custodial parent pays nothing. He believes that the cost of having a child for 40 parenting time days is virtually the same as having them for 120 days.
 - He noted that pre-divorce levels of living cannot be calculated. He asked the committee how many households really have a savings rate of 80% or 90%. He noted that it could not be more than 10%.
- Ken Baker: Mr. Baker addressed the committee regarding COBS. Some of the comments are as follows:
- Mr. Baker has lived in his home for 10-plus years, has owned the same cars and motorcycles for 10-plus years.
 - He pays his and his ex-wife's mortgage.
 - He noted that there is no way to keep pre-divorce lifestyles.
 - The only persons who win in child support litigations are attorneys.
 - There needs to be training for judges regarding deviations from the guidelines.
 - This is not the 1940's where fathers' left the home leaving their children poor and alone. He said the mind-set needs to change.
- Kendra Leiby: Ms. Leiby addressed the committee regarding COBS. Some of the comments are as follows:
- Ms. Leiby represents the Arizona Coalition Against Domestic Violence and supports the COBS guidelines.
 - Primary mission is to lead, advocate, educate, and collaborate to end domestic violence in Arizona.
 - She reported that 85% of domestic violence victims are women.
 - According to the 2009 US Census, 84% of single parents are mothers and 80% of those mothers are working.

- Ms. Leiby noted that these mothers are not relying entirely on the government or the fathers of their children to support them.
 - The child support that single parents receive supplements their income, assists in providing the essentials it takes to provide a safe home and ensures their children are cared for in order to go to work.
 - Ms. Leiby noted that the responsibility to care for your child to your absolute ability starts with your decision to have that child.
 - The Arizona Coalition Against Domestic Violence organization feels this committee has done an exceptional job.
- David Hamu: Mr. Hamu addressed the committee regarding COBS. Some of the comments are as follows:
- COBS will not solve the bitterness between two parents.
 - Mr. Hamu noted his discussion with Dr. Jane Venohr, Center for Policy Research, regarding the data that was used in the 2008 Case File Review. The data was collected to determine if there was any statistically relevant or significant deviation in the number of guidelines relevant to prior guideline reviews. However, the committee has applied that data to find outcomes at different combinations of family scenarios. The problem is the data was never intended for that purpose.
- Karen Kondej: Ms. Kondej addressed the committee regarding the COBS. Some of the comments are as follows:
- Ms. Kondej is the National Organization for Women Vice-President, for the Phoenix and Scottsdale chapters.
 - Ms. Kondej speaks in favor of the COBS model.
 - One of the purposes of COBS is to lessen the extreme differences in living standards a child experiences when one parent has a low income and another parent has a significantly higher income. The child is entitled to share in the benefits of the higher living standard.
 - Ms. Kondej noted that when parents chose to live separately the economic and emotional impact on the victim child should be minimized as much as possible.
- David Alger: Mr. Alger addressed the committee regarding COBS. Some of the comments are as follows:
- Mr. Alger is a joint custodial parent.
 - He is involved with his children lives.
 - The COBS model is fundamentally flawed. It proceeds from assumptions that are not true.
 - The money will not guarantee that domestic violence will not happen, children are not left alone. It will not fix anything.
 - The COBS model is untested and has not been reviewed by an independent third party.
 - The COBS model will destroy families.

- Brian Caloway: Mr. Caloway addressed the committee regarding COBS. Some of the comments and questions are as follows:
 - What is the justification for the exchange of money? The committee should consider the Cost Shares Model.
 - The Cost Shares Model is an equal ratio for how much support should be given.
 - Child support is meant to support the child.
 - How can COBS be considered outcome based when there has been no long term study to show the effects?

- Rena Selden: Ms. Selden addressed the committee regarding COBS. Ms. Selden provided a letter to the committee regarding her concerns. Some of the comments are as follows:
 - The data provided to the committee so far, pursuant to Honorable Norman Davis' motion made at the last Arizona Judicial Council (AJC) is inadequate to enable an assessment of the actual outcome of the transfers of money in COBS from one parent to another parent in any other time arrangement other than 100 parenting days, multiple child situations of the applicable parenting pair and multiple child situations of other families.
 - Ms. Selden is requesting that the data be completed and provided for the public to view before any final recommendations are made to the AJC.
 - Ms. Selden noted that she does not agree with the middle-income standard of living theory. Especially, since COBS compares a 4 person family to a 2 person family. Data for the standard of living for the applicable family size should be reviewed.
 - There should be caps on changes and more deviations allowed by judges for increases and the implementation of those increases.
 - Child support amounts will decrease with this new model and there is not a phase-in process for those families that will be affected.
 - Ms. Selden would appreciate it if the committee would publish the data from Dr. Burt Barnow that was used by Professor Ellman to develop the COBS tables.

- Brent Miller: Mr. Miller addressed the committee regarding COBS. Some of comments are as follows:
 - Mr. Miller stated that he is a single father with three children. He has raised one child exclusively by himself. The other two children he has approximately 50/50 parenting time.
 - Mr. Miller noted he has asked committee members how this model would improve his children's life. He stated he has yet to receive an answer.
 - Mr. Miller stated that the COBS model has been developed in the "cloak of secrecy." Historically, child support guidelines have been reviewed with open public legislative input.
 - He reported the committee does not have experience in accounting, accounting models, economics, economic models, and economic formulas and testing theories.
 - He stated COBS model is a way to transfer billions of dollars over a child's life until the age of 18 and yet, there has been no testing to verify this model will help children.

- Mr. Miller stated the committee needs to get public members involved and voting.
- Kathleen McGuinness: Ms. McGuinness addressed the committee regarding COBS. Some of the comments are as follows:
- Ms. McGuinness noted that she is a mother and a step-mother to her husband's child.
 - She perceives the extraordinary increase in COBS creates hidden alimony.
 - The extra child support does not guarantee a better standard of living.
 - Ms. McGuinness acknowledged more should be done for parents that do not receive child support payments and for families that are living near poverty level. However, the responsible people that have been paying their child support should not be penalized.
 - She has lived in other states such as New York, Connecticut, Washington, and Massachusetts and believes Arizona would result in the highest of child support payments. These other states have a higher cost of living than Arizona.
 - Children are affected when their parents go back to court. There is nothing in place to protect the children.
- Sarah McNabb: Ms. McNabb addressed the committee regarding COBS. Some of the comments are as follows:
- The COBS model is not fair.
 - Ms. McNabb noted that having an additional review should be done to consider the examination of the living standards in both homes.
 - She noted that additional expenses should be divided equally among both parties.
 - Ms. McNabb noted that healthcare premiums should not be an add-on to child support.
 - Tax exemptions should be split based on the percentage of income. There should be a provision in the guidelines allowing the person that will benefit the most from the deduction, to receive the deduction.
 - What about kids in college? There is no money for college with the higher child support amounts.
- Jen Sacks: Ms. Sacks addressed the committee regarding COBS. Some of the comments are as follows:
- Ms. Sacks noted that her spouse spends a lot of time with the kids.
 - She would like to know how paying extra child support will benefit the kids.
 - The general public is not aware of this process.
- Rebecca Terry: Ms. Terry addressed the committee regarding COBS. Some of the comments are as follows:
- Ms. Terry noted that divorce is devastating for everyone.
 - Child support is support for the children. It costs a certain amount of money to raise a child. She noted that kids in divorced families seem to get spoiled more.
 - Divorce is a packaged deal. Families make agreements regarding child support and alimony. The COBS model is just going to cause havoc.

- With the COBS model the parent that is paying the support will be worse off after this model is implemented.
- Robert Southwick: Mr. Southwick addressed the committee regarding COBS. Some of the comments are as follows:
- Mr. Southwick noted that only snippets of information have been given to the public.
 - The information that has been provided has been recent. Not allowing enough time for public review.
 - Professor Ellman’s work is great for the academic field. However, his work has not been peer reviewed although it has been published.
 - Mr. Southwick asks the committee to move the deliberation back in time to allow for full independent peer review. Also, to discontinue the illogical fallacies published on the committee website.
 - He asks the committee to consider a broader membership to include a non-custodial parent, custodial parent, parent and a member of the public with no interest in child support.
 - Mr. Southwick also asked for Professor Ellman’s resignation as member of this committee due to a conflict of interest.
- Dianne Barker: Ms. Barker addressed the committee regarding COBS. Some of the comments are as follows:
- Ms. Barker noted she is a mother.
 - Ms. Barker stated there needs to be a program in place to help support the children.
 - Even with an education it is still hard for a woman to make as much money as a man.
 - She would like the committee to move forward with COBS.
- Sheila Clemons: Ms. Clemons addressed the committee regarding COBS. Some of the comments are as follows:
- Ms. Clemons noted that she has no children and is no direct interests in child support.
 - Ms. Clemons does not see a lot of logic between the requirements, the needs of the public, and the solution of COBS.
 - She agrees there needs to be child support reform. However, the COBS model is not the right model.
 - The data and the process need to be reviewed.
 - This committee needs to find a solution that actually meets the needs of the people.
- Jeff Deiley: Mr. Deiley addressed the committee regarding COBS. Some of the comments are as follows:

- Mr. Deiley noted that at the June AJC meeting the public was invited to assess the results to the COBS model. He has spent hundreds of hours reviewing the COBS model, CPR data, and Child Support Models in other states.
- The COBS model does equalize incomes in some cases, however, in most cases (89%) it results in the custodial parent having a higher net income than the non-custodial parent.
- The COBS model ignores the well-being of the non-custodial parent that earn less than the custodial parent if they have less than 120 parenting days.
- The COBS model will have an impact on half the public.
- The COBS model will result in a higher child support amount than any other state in the nation.
- COBS will cause child support to go down in at least half the cases.
- Mr. Deiley noted he is willing to give hundreds of hours as a gift to the state to work on finding a solution.
- A solution is needed and COBS is not the solution.

Judge Cohen noted the letters received from members of the public that will be reviewed by the GRC committee.

Judge Cohen concluded the public hearing by thanking all the members of the public for taking time out of their day to join in the process and engage in the discussion of the proposed child support guidelines. He announced that the committee would meet next Friday, September 17 from 1:00 – 3:00 p.m. to address the issues that were identified during this meeting. Judge Cohen also noted the AJC meeting would be held on October 21, 2010. Please check the website to find out more details about the upcoming AJC meeting.

Rena Selden asked if any further data will be posted on the website for review. She would like to see the committee look at computations for multiple family compositions with multiple combinations of parenting days. Ms. Selden would like to see examples that show what the support amount would be under COBS and to figure a true tax withholding net income for payer and payee. Judge Cohen asked if Ms. Selden wants new data. Ms. Selden is asking for new data. She noted to date, that the information that has been provided is limited to one child, 100 parenting days' scenarios. She would also like to see the committee provide the following case scenario examples, (1) equal time (2) scenarios with 120 parenting time (3) either payer or payee has other children (4) corrected withholding figures (5) net outcome to income shares (6) add-on for respective shares of child care and medical premium costs (7) survey what child care costs are for preschoolers (8) sample of premium costs, and (9) compare a family of two.

Jeff Deiley asked to have the data from Dr. Barnow be posted to the website.

The hearing was adjourned.

ARIZONA SUPREME COURT
 Child Support Guidelines Review Committee
 Minutes
 September 17, 2010
 1:00 p.m. – 3:00 p.m.
 Arizona Supreme Court, Phoenix, Arizona

MEMBERS PRESENT:

Mr. Robert L. Barrasso (telephonic)
 Hon. Bruce R. Cohen, Chair
 Ms. Kim Gillespie
 Mr. David Horowitz
 Hon. Rhonda Repp (telephonic)
 Hon. Michala Ruechel (telephonic)
 Hon. Sarah Simmons
 Hon. Kevin White (telephonic)

STAFF:

Ms. Kathy Sekardi
 Ms. Lorraine Nevarez

MEMBERS ABSENT:

Hon. Rebecca Albrecht
 Professor Ira Ellman
 Ms. Helen Davis
 Ms. Cele Hancock

GUESTS PRESENT

Ruth Baxter	Joseph Koehler
Kristen Caswell	Patricia Madsen
Karen Duckworth	Brent Miller
Timothy Frank	Amber O'Dell
David Hamu	Rena Selden
Ana Jabkowski	Ryan Weeks
Kendra Leiby	Don Vert

Call to order and introduction from the Chair

Honorable Bruce R. Cohen, Chair, called the Child Support Guidelines Review Committee (GRC) meeting to order at 1:30 p.m. (Technical difficulties and lack of quorum delayed expected start time.)

Judge Cohen noted that members of the public questioned the authority this committee has to develop child support guidelines. Judge Cohen read into the record a letter received from legislative counsel on this issue as well as other information as follows:

- U.S. Code, Title 42; Chapter 7; Subchapter IV; Part D; § 667(a), states “Each State, as a condition for having its State plan approved under this part, must establish guidelines for child support award amounts within the State. The guidelines may be established by law or by judicial or administrative action, and shall be reviewed at least once every 4 years to ensure that their application results in the determination of appropriate child support award amounts.”
- The Arizona Revised Statutes § 25-320(D), the Supreme Court shall establish guidelines for determining the amount of child support and review the guidelines at least once every four years to ensure that their application results in the determination of appropriate child support amounts.
- Administrative Order No. 2008-22 ordered by the former Chief Justice Ruth V. McGregor.

Judge Cohen informed members of the public that any additional comments or concerns regarding the committee's authority to develop guidelines should be addressed to AJC or Chief Justice Rebecca White Berch.

Call to the Public/Report and discuss public comments/issues received at 9/10/2010 Public Hearing

Judge Cohen stated that on September 10, 2010 a second public hearing was held for the committee to consider further the concerns, issues, and comments others may have regarding the proposed guidelines. It was an opportunity for members of the public to express their thoughts regarding the proposed child support guidelines. Today's meeting is a continuation of last week's meeting, specifically for the committee to address any issues, questions, comments or concerns members of the public may have shared regarding COBS. Judge Cohen noted that the committee is willing to listen to other comments, if there are any for today's meeting that have not already been communicated.

A summary of the public comments are as follows:

- Karen Duckworth: Ms. Duckworth addressed the committee regarding COBS. Ms. Duckworth asked the committee questions at the last public hearing. The committee responded to the proposed questions. The responses are as follows:

- How much will it cost to implement COBS?

Kathy Sekardi, staff to the GRC, stated that the Arizona Supreme Court's Education Services Division (ESD) would be responsible for conducting training as part of the required judicial training. Potentially there might be some minimal cost for discs that will house a stand-alone guidelines calculator and the income tables for those courts that don't have internet access. Judge Cohen explained that the development of the calculator will be provided to the state at no cost by Judge Davis.

- How much will it cost for judges training?

Judge Cohen explained that judges attend training throughout the year and various subjects are scheduled for the training. The child support guidelines would be one of those subjects.

- Could there be a simultaneous training for all judges to attend at one time due to the volume of changes COBS will have on child support?

Judge Cohen explained that ideas for the training included a webcast for the judiciary and court staff to view throughout the state. Another opportunity for training would be at annual judicial conferences which are attended by all judges in the state.

- When was the last time a major revision has been done that all judges had to be retrained?

Judge Cohen noted that there are not major revisions in the proposed guidelines. Judges will still use the same method as they do now, which is to plug numbers into a calculator. Judges are already familiar with the proposed guidelines by way of presentations that have already been given in many counties. The proposed guidelines include a step-by-step description of how to manually calculate child support. The underlying method of doing a child support calculation would not be changing.

Note: Ms. Duckworth corrected her question as stated in the previous meeting minutes with the following question.

- How or who will enforce that the Affidavit of Financial Information form is filled out accurately?

Judge Cohen noted that this is a systemic issue rather than a guideline issue. If the court determines that false evidence has been provided by one or both of the parties, it is up to the court to handle the issue during that proceeding.

- Why not just use a flat rate of a 15 % increase to the income shares model?

Judge Cohen noted that the income shares model does not recognize differences between the disparities of the two incomes. Just adding a flat percentage will cause inappropriate results on both ends of the spectrum. Also, just adding a flat rate would increase child support for all paying parents, without regard to the other statutory factors.

- Is there an exit plan if (when) COBS goes into effect and has disastrous results?

Judge Cohen explained that GRC has proposed that an oversight committee be established following the effective date of the guidelines. The oversight committee would receive input, address issues and make recommendations prior to the next review.

- Will this oversight committee have authority to set benchmarks or review points if people are not paying their child support?

Judge Cohen noted that committees are in place to make recommendations regarding their proposals on whatever issues they have been tasked with researching. The Supreme Court has authority to accept or deny those recommendations.

Ms. Duckworth noted that the guidelines should list the consequences if a person filling out the Affidavit of Financial Information form does not provide accurate information to the court. Judge Cohen noted that there are consequences for not providing accurate information throughout the entire court system. Furthermore, the Affidavit of Financial Information form already provides consequential language if accurate information is not provided.

➤ Rena Selden: Ms. Selden addressed the committee regarding COBS. Ms. Selden provided a letter to the committee regarding her concerns. Some of the comments are as follows:

- Requesting additional data be provided to the members of the public regarding different cases scenarios.
- Would the committee consider having another meeting to review that data before presenting to AJC?

Judge Cohen noted that additional data has been developed and prepared from the case examples that were suggested at the last public hearing meeting. The data provides examples of situations at various income levels, parenting days from zero to equal, and including child care expenses and without those expenses. The scenario examples were calculated using the current income shares model, COBS and the income share model updated for economic circumstances in accordance with the CPR report. This information will be posted on the website as soon as all 1500 cases are completed.

- Will this include multiple family scenarios?

Ms. Janet Sell, Attorney General's Office, noted her interest in the process of the Child Support Guidelines. Ms. Sell noted that she provided the 1500 calculations showing the difference between the current guidelines, COBS and, the updated income shares model.

She noted that the guideline calculator is on the GRC website for public review. Ms. Sell encourages others to utilize it by testing any type of scenario to see the results. Ms. Sell included examples with incomes ranging from minimum wage up to \$6,000. Additionally tax ramifications were not included in the examples.

Judge Cohen also encouraged everyone to use the calculator to look at different computations. If there are certain computations that raise questions he asked that those be submitted to the committee via the committee comment page.

David Horowitz noted that Ms. Duckworth's comments were thoughtful, deliberate, and appropriate. The comments are appreciated and taken very seriously. As a representative of the public, the comments are illustrative of the specific kinds of questions others may have about the proposed guidelines.

Mr. Horowitz noted that never before has there been the kind of opportunity for public vetting regarding the proposed child support guidelines in previous reviews. The amount of time that went into the development of the income tables exceeds the analysis that has been done previously. Furthermore, the committee had the opportunity to analyze data received from the Arizona Department of Revenue regarding after-tax implications. Ms. Gillespie noted that guidelines are not science, they are rules that judges need to follow to make decisions and this has been the focus of the committee.

- Ruth Baxter: Ms. Baxter addressed the committee regarding COBS. She is reporting on behalf of her employer. Some of comments are as follows:
 - She works for a small biotech firm. There are only 20 employees. Annual salaries range from \$40,000 to \$250,000.
 - COBS will affect nine of the 20 employees. There are three custodial parents that will lose \$75 – \$230 a month under the COBS guidelines. Two other custodial parents will pay their ex-spouse \$50 - \$100 a month. There are four top-earning employees who would pay \$1000 – \$2050 a month in child support.
 - Currently the employer is deciding whether or not to leave Arizona because of COBS.
 - The COBS model equalizes households. Taxes between the two households should be split proportionately.

Judge Cohen noted that the percentages of the other included expenses such as childcare and health insurance premiums have been updated since the June 2010 meeting.

- Kristen Caswell: Ms. Caswell addressed the committee regarding COBS. Some of the comments are as follows:
 - Her husband shares 50/50 custody and visitation with his ex-spouse. He pays his child support on time.
 - He pays for all the extracurricular activities. If COBS goes into effect their family will no longer be able to support his daughter's extracurricular activities.
 - If COBS goes into effect, she will not be able to care for their child that has medical issues.

- She encourages the committee to take more time to review the proposed process.
- Brent Miller: Mr. Miller addressed the committee regarding COBS. Some of the comments are as follows:
- Does the committee have the ability to make dynamic policy changes? The committee needs to have statutes to support their work. There is Arizona case law that states grave, dynamic changes violate the current process.
 - Mr. Miller noted that Ira Ellman is a state employee of Arizona State University, a voting member of this committee and author of the COBS model. Will the committee ask the Attorney General's Office or Arizona Bar to determine if there is a conflict of interest for Professor Ellman to be on the committee?
 - Mr. Miller noted that there have been men and women speaking from the perspective of a custodial parent at these meetings.
 - He noted that this is a science and this model needs to be vetted.
- David Hamu: Mr. Hamu addressed the committee regarding COBS. Some of the comments are as follows:
- He noted his concerns about the statistics used incorrectly. Also, that the Tucson jury pool statistics are not accurate.
 - Mr. Hamu noted there is no data to show that disparity cases are causing harm.
 - There are many concerned and caring parents who work together to ensure their child gets what their child needs.
 - He also noted the potential conflict of interest for a member of the committee who has authored COBS to be a voting member.
 - Professor Ellman has been a chief proponent of the COBS model. Generally, proponents of a particular methodology have been kept at arm's length. Isn't it possible that the reason that the committee or public has not been provided an in-depth look at the data, is because Policy Studies and CPR have been kept at arm's length. So, why wasn't Professor Ellman kept at arm's length?
- Ryan Weeks: Mr. Ryan addressed the committee regarding COBS. Some of the comments are as follows:
- He noted his child is being horribly abused and he is not able to afford an attorney.
 - He noted the guidelines need to put restrictions on judicial discretion.
 - The committee needs to recognize the disparities regarding resources for men.
 - Money matters for what happens in court.
- Vanessa Rice: Ms. Rice addressed the committee regarding COBS. Some of the comments are as follows:
- She noted that her husband shares custody with his ex-spouse.
 - Both have a degree but his ex-spouse chooses not to use her education to its full potential.
 - Ms. Rice noted that her husband pays his child support and pays for all extracurricular activities.

- Under the COBS model the child support payment would increase four times the amount it is today.
- With the extra amount, her husband will no longer be able to support the child's extracurricular activities.
- Why is Professor Ira Ellman on the committee? Why does the committee feel there is not a conflict of interest for Professor Ellman to be on the committee?

Judge Cohen noted that Professor Ellman will not be profiting from these guidelines.

- Mr. Joseph Koehler appeared at the meeting and offered his comments via a letter to the GRC. Some of the comments are as follows:
 - Believes the courts should notify every parent paying or receiving child support that major revisions to the guidelines are being considered.
 - COBS model is long-term alimony in disguise.
 - COBS model does not ensure the money paid in high income disparity scenarios will go to the benefit of the children.
 - COBS model does not do enough to account for re-marriage and children born of the re-marriage.
 - The income shares system is not broken, may need some adjustments to ensure fairness in support orders.

Meeting materials can be viewed at:

<http://www.azcourts.gov/cscommittees/ChildSupportGuidelinesReviewCommittee.aspx>

Review and discuss suggestions for revising the tentatively approved guidelines

Judge Cohen explained that Judge Davis submitted recommendations for language changes to mirror the way the calculator will operate. The suggestions are as follows:

A.	<i>Section II(O) – Additional Review in Certain Exceptional Cases</i>	* Are the “parental incomes” gross or adjusted incomes? (Currently programmed as gross incomes.)
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HOW THE GUIDELINES CURRENTLY READ:

O. ADDITIONAL REVIEW IN CERTAIN EXCEPTIONAL CASES

1. This section applies to any case in which the Guideline Support Amount has been determined on the basis of parental incomes that both fall within the ranges indicated by any row in the following table:

Options for proposed language:

1. This section applies to any case in which the Guideline Support Amount has been determined on the basis of **ADJUSTED GROSS INCOME** as defined herein parental incomes that both fall within the ranges indicated by any row in the following table:

MOTION: Motion to approve the proposed revision as amended. Motion seconded.
Motion passes unanimously.

B.	Section II(O) – <i>Additional Review in Certain Exceptional Cases</i>	* Need to clarify what the category cutoffs are, what to do with numbers that fall between one category and the next?
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Income of the Guideline Support Obligor	Income of the Guideline Support Obligee
\$10,000 to \$13,000	\$1,000 to \$3,000
\$13,001 to \$15,000	\$1,000 to \$5,000
\$15,001 to \$16,000	Zero to \$5,000
\$16,001 to \$22,000	Zero to \$7,000

HOW THE GUIDELINES CURRENTLY READ:

A gap exists in programming a calculator when a number falls between one category and the next. For example, the Support Obligor’s income is \$13,000.50 (first row). The table does not describe that number. Suggest defining the number as less than or equal to \$13,000 in the first row and greater than \$13,000 in the second row. A narrative will assist with the mathematical formulation as the computer will either ignore something that shouldn’t be or generate an error.

Proposed language:

Income of the Guideline Support Obligor	Income of the Guideline Support Obligee
\$10,000 to less than or equal to \$13,000	\$1,000 to \$3,000
Greater than \$13,000 to less than or equal to \$15,000	\$1,000 to \$5,000
Greater than \$15,000 to less than or equal to \$16,000	Zero to \$5,000
Greater than \$16,000 to less than or equal to \$22,000	Zero to \$7,000

MOTION: Motion to approve the proposed revision as submitted. Motion seconded.
Motion passes unanimously.

C.	Section II(N) – <i>Rounding the Final Support Order</i>	*Suggestion made to simplify the calculator by changing language to say “child support shall be presumptively rounded to the nearest \$10 period or to the nearest \$10 unless the judicial officer wishes to exercise discretion to
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	use an exact number or round to the nearest dollar”.
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HOW THE GUIDELINES CURRENTLY READ:

N. ROUNDING THE FINAL SUPPORT ORDER

1. When the Final Support Order is insignificant, the court may round it to zero.
2. In all cases the court may round the Guideline Support Amount to the nearest ten dollars.
3. A rounded amount reached by the application of Paragraphs 1 and 2 is not a deviation.

Proposed language:

1. When the Final Support Order is insignificant, the court may round it to zero.
2. ~~In all cases the court may round the Guideline Support Amount to the nearest ten dollars.~~ **CHILD SUPPORT SHALL BE PRESUMPTIVELY ROUNDED TO THE NEAREST \$10. PERIOD OR TO THE NEAREST \$10 UNLESS THE JUDICIAL OFFICER WISHES TO EXERCISE DISCRETION TO USE AN EXACT NUMBER OR ROUND TO THE NEAREST DOLLAR.**
3. A rounded amount reached by the application of Paragraphs 1 and 2 is not a deviation.

MOTION: Motion to approve the proposed revision as amended. Motion seconded. Motion passes unanimously.

D.	Section II(J) – <i>Adjustments to Support</i>	*Suggestion is to reverse the most recent change to this section. Deducting the preliminary support amount from the payor and adding to the payee is illogical and will disadvantage the obligee. The obligee is likewise spending an amount to support the children in their care, but this amount is not seen within the worksheet, like it was in the income shares calculator.
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HOW THE GUIDELINES CURRENTLY READ:

J. ADJUSTMENTS TO SUPPORT

The following child-related expenses are generally shared by the parents in proportion to the parents’ incomes. To calculate the parents’ proportions:

1. Subtract the Preliminary Support Amount from the Preliminary Obligor’s adjusted gross income.

2. Add the Preliminary Support Amount to the Preliminary Obligee's adjusted gross income.
3. The proportion of expenses each parent pays is that parent's income as calculated in steps 1 and 2, divided by the parents' combined adjusted gross income.

EXAMPLE:

The parties have one minor child. Father is the noncustodial parent and is entitled to 100 parenting days per year. Father earns \$6,000 per month and Mother earns \$1,500 per month. The Preliminary Support Amount is calculated to be \$1,104 per month. To determine the respective percentages of responsibilities for "Adjustments to Support," the sum of \$1,104 is subtracted from Father's income and added to Mother's income. Father's proportionate share for "Adjustments to Support" is 65% ($\$6,000 - \$1,104 = \$4,896$; $\$4,896$ divided by the combined income of $\$7,500$ is .65) and Mother's proportionate share is 35% ($\$1,500 + \$1,104 = \$2,604$; $\$2,604$ divided by the combined income of $\$7,500$ is .35).

MOTION: Motion to disapprove this proposed revision as submitted. Motion seconded. Motion passes with 2 opposed.

E.	Section II(G) – <i>Preliminary Support Amount</i>	Although the 120-day rule is programmed into the calculator and is notated in the manual worksheets, the GRC should consider including the specific language in the body of the Guidelines so the user is aware of this rule.
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THE PARENTING TIME ADJUSTMENT WORKSHEET FOR UNEQUAL CUSTODY CASES CURRENTLY READS:

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|---|---|
|  | 1. If the amount on line (11) is positive, this is the Preliminary Support Amount and the noncustodial parent is the Preliminary Support Obligor. In this case, go to line (20) in Step 5 and enter the appropriate values. This completes your parenting time adjustment calculation. |
|  | 2. If the amount on line (11) is negative AND the number of parenting days is 120 or less, the Preliminary Support Amount is zero. In this case, go to line (20) in Step 5 and enter zero. |
|  | 3. If the amount on line (11) is negative AND the number of parenting days on line (2) is between 120 and 170, the Preliminary Support Amount is equal to 2% of the Equal Custody Support Amount for each parenting day over 120 days. In this special case, continue to follow the instructions starting with line (12) below. |

Proposed change:

Add similar language narrating the 120-day rule to Section II(G) Preliminary Support Amount.

MOTION: Motion to approve this proposed revision as submitted. Motion seconded. Motion passes unanimously.

F.	Calculator and Manual Forms	Child Support Order IV-D Paternity Judgment & Order New Medical Support Order form Changes to manual calculation forms
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Committee decided to table this recommendation. Forms are not the work of the committee.

Workgroup Report

Judge Cohen reported that there had been discussion about adjusting the numbers that the committee is currently using to lower the angle of the income tables. There is a method that can be implemented to lower the numbers across the board. This will be reported to AJC.

Judge Cohen noted the task given to the committee at the last AJC meeting was to conduct another public hearing which the committee has done. Judge Cohen noted that the AOC has been in contact with the National Center for State Courts (NCSC) to seek input on the proposed guidelines. The AOC will report about their discussions with other entities to AJC.

Minority Report

Robert Barrasso, committee member, noted his thoughts regarding the COBS model. Mr. Barrasso suggested presenting as a member of the public to AJC to discuss much of the opposition that has been heard. His report would include informing the AJC of (1) the potential of increased litigation using COBS model, (2) the number of high-disparity cases resulting in numbers that are too high, and (3) to dispel the notion there exists a conflict of interest regarding Professor Ellman.

Judge Repp stated she struggles with the complexity of the process. She also noted the volume of information that people are expected to understand and the amount of work this process will require of the public which has not been adequately taken into consideration by the committee.

Judge Cohen reminded the committee that everyone has the right to represent themselves and as member of the public to address AJC. It was also noted that there were many discussions the committee had regarding the proposed changes and not all members agreed at every juncture; however, the committee as a whole developed these guidelines. Mr. Horowitz suggested having Judge Cohen note as part of his report to AJC that the committee has had discussions and concern about the complexity of the process, and that additional fact finding may be necessary.

Judge Cohen suggested the committee recommend the following to AJC: (1) adopt the proposed guidelines, (2) wait a year to implement them, and (3) forward the guidelines to the legislative Child Support Committee for review. After much discussion, the committee decided not to include this suggestion.

Adjourn

The meeting was adjourned.