

Frequently Asked Questions on Georgia's Child Support Guidelines

Updated: October 2014

1. When did Georgia's income shares guidelines take effect?

Georgia's Child Support Guidelines found at O.C.G.A. § 19-6-15 were revised to an income shares model that took effect January 1, 2007. The guidelines are applied to all temporary and final child support orders.

2. Where do I get the Worksheet and Schedules?

All calculators are available at <http://www.georgiacourts.gov/csc/>.

3. I'm not very good at math. Will it be hard for me to fill out the Worksheet and Schedules?

No. The electronic versions of the Worksheet and Schedules will do the math and calculations for you. The Data Entry Form will walk through the whole process by asking you a series of questions. Then, it will fill out the forms for you. As you are answering the questions and providing all of the information you have available, you should save your Data Entry Form every few minutes to save your work. There's nothing more frustrating than a computer crash when you haven't saved your document!

4. What happens if I start to fill out the Excel electronic worksheet and do not have all of the information I need to finish it at all at once?

You should save your worksheet, as discussed above. While a [Uniform Superior Court Rule](#) requires you to file your Worksheet and Schedules with the court clerk's office at least five (5) days before any temporary or final hearing, you may not have yet discovered all of the information about both parties. For the purpose of filing with the clerk's office, fill in all of the information you have and turn in a hard copy of the Worksheet and Schedules. You can later update all versions with newly discovered information about the other party.

5. Where can I go to see the child support table and read the Child Support Guidelines?

You can see the Basic Child Support Obligation Table in the Official Code of Georgia Annotated at Section 19-6-15(o). The Basic Child Support Obligation Table is a part of the Child Support Guidelines. If you are using the electronic Worksheet and Schedules or the Data Entry Form, the program will automatically insert the amount from the table on your Worksheet after you provide income information and the number of children for whom child support is being calculated.

You can also access the Child Support Obligation Table, Child Support Guidelines, and the Worksheet and Schedules, through the Child Support Commission website: <http://www.georgiacourts.gov/csc>.

6. Why do I need to include the names of the children in my court action in the worksheet?

The names and year of birth of each child in your court action must be entered in the worksheet as well as in the child support order. The judge needs to see this information to ensure the correct minor children are included.

7. What is a non-parent custodian and when is that person included in a worksheet?

A non-parent custodian is an individual who is not the mother or father of a child but has a legal right to seek, modify, or enforce a child support order.

8. What if I don't know the other parent's income, will I still get a calculation?

The electronic, Excel version will calculate with only one salary and number of children entered. However, if you do not have any financial information regarding the other party, the calculations will not be accurate or ready for the judge to review.

Fill out the information you have available and save the worksheet. After an exchange of information between the parties, or by imputing the other parent's income or earning potential (see #10 below), you should have enough information to fill in the other parent's financial information to obtain an accurate calculation.

Be sure to print the Worksheet and Schedules to submit the information you have to the court.

9. What do I do if the other parent is intentionally hiding their income?

Ask the court to impute income (see #10 below) based on the earning ability of that party. This could be based on their education or their previous earnings. If the court imputes income that the parent believes is too high, O.C.G.A. § 19-6-15(f)(4)(C) allows them to provide the court with evidence necessary to determine the appropriate amount of child support based upon evidence within 90 days. Once the evidence is provided to the court with a motion for rehearing, a hearing will be scheduled. The judge may then consider the new evidence of income, and may change the child support award.

10. Why is it important for me to enter the civil action case number exactly as it was issued by the Clerk?

The Clerk of Court will issue a unique civil action case number for the county in which you file your legal pleadings. The judge will use the clerk of court's calendar or docket to find your civil action case number.

11. When a non-custodial parent receives a disability check from the Social Security Administration for their own disability, where is this income entered on the worksheet?

This income is entered on Line 31 on the Data Entry Form, and on Line 13 of Schedule on the Standard Worksheet under the column for the non-custodial parent.

12. When a child receives a check because the non-custodial parent is receiving a disability check from the Social Security Administration because that parent is disabled, where is this check amount entered so the non-custodial parent can receive credit on the worksheet?

The amount of the check paid to the custodial or non-parent custodian for the benefit of the child is entered on Line 16 on the Data Entry Form, and on Line 12 of the standard Worksheet under the column for the non-custodial parent.

13. What is split custody and how does it differ from shared custody?

In a split custody arrangement, one parent has primary physical custody of at least one child of the parties to the case, and the other parent has primary physical custody of one or more children. Split custody is anticipated by the statute, and there is a definition and a specific subsection devoted to it. For the definition, please review O.C.G.A. Section 19-6-15 (a) (21). To submit worksheets in a case involving split parenting, see subsection (l), which states that "[i]n cases of split parenting, a worksheet shall be prepared separately for the child for whom the father is the

custodial parent and for the child for whom the mother is the custodial parent, and those worksheets shall be filed with the clerk of court.”

There is not a definition or a subsection devoted to “shared custody” in the statute. A shared custodial arrangement is usually referred to in a situation when the parents share physical custody of their children, i.e., each parent would have custody of all of the children approximately fifty percent (50%) of the time. The only reference to a shared custody arrangement in the statute is under the definitions of “custodial parent” and “noncustodial parent.” You will find those definitions in the Child Support Guidelines (O.C.G.A. § 19-6-15) under subsection (a), paragraphs (9) and (14) respectively. Under each of those definitions, it states that “[w]here a custodial parent has not been designated or where a child resides with both parents an equal amount of time, the court shall designate the custodial parent as the parent with the lesser support obligation and the other parent as the noncustodial parent.” However, in a situation in which each parent has equal income and expenses, and the court cannot determine which parent would have the greater support obligation, the court will make the determination which parent to appoint as the noncustodial parent for the purpose of paying child support.

Shared parenting is also mentioned under the deviation subsection found in the Child Support Guidelines. The specific provision, found in subsection (i)(2)(K) of the Child Support Guidelines, says that the court may order a deviation of the presumptive amount of child support when the child resides an equal amount of time with each parent. The noncustodial parent’s child support obligation would be reduced in that instance by a deviation known as a parenting time deviation. If the court orders any deviation from the presumptive amount of child support, findings justifying this deviation must be included both on the child support worksheets and in the court order.

14. What is “imputed” income?

Imputed income in the guidelines statute is addressed under Reliable Evidence of Income found at O.C.G.A. 19-6-15(f)(4)(A). If a parent fails to produce reliable evidence of income, such as tax returns from prior years, check stubs and other information for determining current ability to pay child support or ability to pay child support in prior years, income *shall* be imputed at minimum wage for a 40 hour workweek. In determining the parent’s ability to pay, the court may also look at the parent’s capacity to earn income or income potential. Evidence of earning potential or capability could be considered reliable evidence of income, including evidence of past and present employment and education and training. See (f)(4)(d)(i)(ii).

15. I have another child for whom I pay child support. Do I get any kind of adjustment for that?

A preexisting child support order is the basis for an adjustment to a parent's Gross Income. For a parent to be eligible to deduct preexisting child support order amounts from his or her Gross Income, an order from another case must show that the parent has a duty to make current child support payments for another child and the parent is actually paying that current support. (See O.C.G.A. § 19-6-15(a)(18); and (f)(5)(B).) Payments made by the parent on any arrearages cannot be included.

For a preexisting child support order to qualify, the date and time of filing of the initial order in such other case must precede the date and time of filing of the initial order in the current case before the court. If either case has been modified, the court must determine that the date and time of the initial order was prior to the initial date and time of the order in the present case.

The maximum credit allowed for a preexisting child support order is an average of the amount of current child support actually paid under the preexisting order . Proof must be presented to the court which shows that the preexisting child support order is actually being paid under an order of support for a period of not less than twelve consecutive months immediately prior to the date of hearing or such period that an order has been in effect, if less than twelve months prior to the date of the hearing in the present case.

Explanation of Initial Date and Time of Filing:

The first child support order for a party was entered in 2004. A second child support order for the same party was entered in 2008, and then a third child support order was entered for that same party in 2014. These orders were entered for different children. The 2008 order is now being modified in 2014. The only order which will be considered as a pre-existing order is the 2004 order. This is because the 2004 order is the only order with an initial date and time of filing of the order that pre-exists the 2008 order. The 2014 order does not pre-exist the 2008 order. The court rendering the decision in a modification must make a specific finding in the new modified order of the date of the initial order. (The time will identify a preexisting order when two or more orders for the same noncustodial parent were filed with the court on the same date.)

16. I am supporting another child in my home. Am I entitled to an adjustment since I am supporting that child as well as the children in this case?

The court has discretion to consider an adjustment to income for qualified children for the purpose of reducing a parent's gross income, if failure to consider an adjustment would cause substantial hardship to the parent. In addition to the substantial hardship test, the parent seeking the adjustment of his or her Gross Income for other children in the home must also show why this adjustment is in the best interest of the child in the current case for which support is being determined. This adjustment is at the court's discretion. (See O.C.G.A. § 19-6-15(a)(20) and (22); and (f)(5)(C).) Basically, the parent must prove that it would pose a substantial hardship to the parent not to consider the other children in the home as a means for reducing that parent's income.

The party must show to the court that (a) The parent is legally responsible for the qualified child (step children do not qualify); (b) The qualified child lives in the parent's home; (c) The parent is actually supporting the qualified child; (d) The qualified child is not subject to a pre-existing child support order; and (e) The qualified child is not currently before the court to set, modify or enforce child support.

To calculate the adjustment, a "Theoretical Support Order" is created as if a child support order existed for the other Qualified Child in the parent's home. The steps in calculating are as follows:

- (1) Take the Gross Income of the parent of the Qualified Other Child;
- (2) Go to the Child Support Obligation Table and find the Basic Child Support Obligation for that one parent, using only the parent's own income and the number of children considered as "Qualified Other Children;"
- (3) The Basic Child Support Obligation amount for such parent and the Qualified Children is multiplied by 75%;
- (4) The resulting amount may, *at the discretion of the court*, be subtracted from the parent's monthly Gross Income and entered on the Child Support Schedule B—Adjusted Income.

17. If we have a family health insurance policy, how can we figure out the cost to cover just the children?

The Child Support Obligation Table does not include the cost of Health Insurance premiums. Therefore, the additional expense for the child's Health Insurance premium is to be included in the calculations. The amount that is, or will be, paid by either parent or the non-parent custodian, for Health Insurance premiums for the child in the case before the court shall be included in the worksheet.

Proof of what those actual costs will be must be presented to the court before the court includes such payment in its consideration. Health Insurance premium costs paid by a nonparent custodian are to be considered when determining the amount of this expense. (While the nonparent custodian's expenses are figured in on Schedule D, the nonparent custodian is neither responsible nor will be ordered to pay child support.) Health coverage through PeachCare for Kids Program and Medicaid will not prevent a court from ordering either or both parents to obtain other or additional Health Insurance.

When a child for whom support is being determined is covered by a family policy, only the health insurance premium actually attributable to that child is to be included.

Here is an example:

The cost for just the father is \$150/month and the cost for three children is \$150/month, totaling \$300/month. The \$150/month "family" portion of the premium covers just the three children, one of which is a qualified child and not a child of the case before the court. Divide the sum of \$150/month, which does not include father, by three total children, and then multiply that sum by the two children in the case before the court. The calculations will look like this: \$150/month divided by three = \$50/month per child, and then multiplied by two children = \$100/Month. The sum of \$100 will be entered on Schedule D under father's column.

If information regarding the premium amount attributable to the child is not available, then a simple calculation can be made to determine the amount. Divide the total amount of the insurance premium by the total number of persons covered by the insurance policy. Multiply the resulting amount by the number of children covered by the insurance policy that are included in the case before the court. Enter that sum on Schedule D of the worksheet.

Payments made by a parent's employer for Health Insurance and not deducted from the parent's wages, cannot be included in this calculation.

18. What is the difference between an adjustment and a deviation?

An adjustment is made from the basic child support obligation (BCSO) when calculating the support award as "additional expenses" and is prorated between the parents based upon their respective incomes. Adjustments included in the guidelines statute are found at O.C.G.A. 19-6-15(f)(5) and include self-employment taxes, preexisting child support orders, and qualified children in theoretical orders. Adjustments to gross income are entered on Schedule B of the child support worksheet and reduce the amount of gross income for each parent.

A deviation represents an expense related to the children in the case that is subtracted from or added to the presumptive amount of child support. All deviations are entered on Schedule E of the Worksheet and display on Line 10 of the Child Support Worksheet. All deviations are subject to judicial discretion and, if applied, must be supported by required findings of fact and by the application of the best interest of the child standard. A nonparent custodian's expenses may be the basis for a deviation. No deviation can be made which seriously impairs the ability of the custodial parent to maintain minimally adequate housing, food, and clothing for the children being supported in the order and to provide other basic necessities, as determined by the court or the jury.

19. Who can request a deviation?

A deviation may be requested by a party in the case, to include the mother, father or nonparent custodian, and also by an attorney representing a party. The court may also identify and include a deviation in a child support worksheet. All deviations included are subject to judicial discretion to approve, change or disapprove to ensure that the deviation from the presumptive amount of child support is in the best interest of child in the case before the court. All deviations must be supported by the required findings of fact and application of the best interest of the child standard.

20. What is a low income deviation? Am I entitled to ask for it?

In considering a request for a low-income deviation, the court or the jury will weigh the income, assets, and benefits and all reasonable expenses actually paid by each parent (including the nonparent custodian's expenses for the children), the relative hardship that a reduction in the amount of child support paid to the custodial parent would have on the custodial parent's household, the needs of each parent, the needs of the child for whom child support is being determined, and the ability of the noncustodial parent to

pay child support. The court will also take into account each parent's basic child support obligation adjusted by health insurance and work related child care costs and the relative hardships on the parents and the child.

If the noncustodial parent can provide evidence sufficient to demonstrate no earning capacity or that his or her pro rata share of the presumptive amount of child support would create an extreme economic hardship for such parent, the court may consider a low-income deviation. All deviations included are subject to judicial discretion to approve, change or disapprove to ensure that the deviation from the presumptive amount of child support is in the best interest of child in the case before the court. All deviations must be supported by the required findings of fact and application of the best interest of the child standard.

Who can request?

The court or the jury, upon request by either party (includes the nonparent custodian) or upon the court's initiative, may consider a downward deviation to attain an appropriate award of child support which is consistent with the best interest of the child.

For the purpose of calculating a low-income deviation, the noncustodial parent's minimum child support for one child shall be not less than \$100.00 per month, and such amount shall be increased by at least \$50.00 for each additional child for the same case for which child support is being ordered.

If a low-income deviation is granted, this does not prohibit the court or jury from granting an increase or decrease to the presumptive amount of child support by the use of any other specific or nonspecific deviation.

21. How does the parenting time deviation work? Is there a formula?

A Parenting Time deviation means a deviation from the presumptive amount of child support allowed for the noncustodial parent based upon the noncustodial parent's court ordered visitation with the child, and allowed at the court's or the jury's discretion. A Parenting Time deviation must be supported by the required findings of fact and application of the best interest of the child standard.

The child support obligation table is based upon expenditures for a child in intact households, and therefore, there is no consideration for costs associated with court ordered visitation. Costs associated with visitation, *exceeding the standard visitation period*, may make the Presumptive Amount of Child Support excessive or inadequate. The court may order or the jury may find by special interrogatory for a deviation from the

presumptive amount of child support when special circumstances make the presumptive amount of child support excessive or inadequate due to extended parenting time as set forth in the order of visitation or when the child resides with both parents equally.

There is no formula provided in the statute for the calculation of a parenting time deviation, but the amount you will specify for this deviation must be based on an order of visitation. The amount of the noncustodial parent's parenting time deviation is entered or displays on Schedule E, Line 13 and is treated as a deduction from the presumptive amount of child support.

22. I don't have any extraordinary medical or educational expenses for my children, but I sure do pay a lot for music and sports. Can I get any credit for that on the worksheet?

Special expenses incurred for child rearing may be a basis for a deviation from the presumptive amount of child support. Such expenses include, but are not limited to, summer camp; music or art lessons; travel; school sponsored extracurricular activities, such as band, clubs, and athletics; and other activities intended to enhance the athletic, social, or cultural development of a child. Also, special expenses may include food, clothing and hygiene of children which could vary due to different age levels. Examples would be diaper costs for the very young child and clothing costs for the teenager.

A portion of the basic child support obligation already covers the *average* amounts of special expenses incurred in the rearing of a child. Special Expenses included as a deviation are in excess of this *average*. In order to determine if a deviation for special expenses is warranted, a formula is used. The court or the jury will consider the full amount of the special expenses and when the special expenses exceed 7 percent of the basic child support obligation, the additional amount of special expenses shall be considered as a deviation to cover the full amount of the special expenses. The court or jury will apply discretion when considering this deviation. A deviation for special expenses must be supported by the required findings of fact and application of the best interest of the child standard.

To calculate the deviation, multiply .07 (7%) times the Basic Child Support Obligation. The court or jury will then consider the full amount of the special expenses to be applied as a Deviation. When those special expenses exceeds 7% of the Basic Child Support Obligation amount, then the amount exceeding the 7% will be considered as the Deviation amount, and prorated between the parents. This is to take into account the 7% which is built into the Child Support Obligation Table for these expenses. All deviations

included are subject to judicial discretion to approve, change or disapprove to ensure that the deviation from the presumptive amount of child support is in the best interest of child in the case before the court. All deviations must be supported by the required findings of fact and application of the best interest of the child standard.

Example of Special Expenses Deviation:

The Basic Child Support Obligation for one child, based on the Combined Adjusted Income of the child's parents (\$7200) is \$1083. The child has been singing with her school choirs since elementary school. She has tried out for her high school "Show Choir" and has been accepted. This group travels in-state to various competitions, and stages two scheduled concerts per school year. The cost is averaged over the school year to equal \$175 per month. The custodial parent seeks a Deviation for special expenses. To calculate, take the Basic Child Support Obligation amount of \$1083 x 7% (.07), which equals \$75.81, the minimum amount needed to consider special expenses. Since the actual expense exceeds \$75.81, the court may consider the additional amount as a special expenses Deviation. In this case, the court may subtract \$75.81 from \$175, which equals \$99.19. That amount, if granted as special expense Deviation, is prorated between the parties based on their percentage of income.

23. At question 50 on the Data Entry Form, I want to enter a deviation for an expense for the child that I pay. Under which column do I enter this expense?

Follow these rules: Enter the deviation amount (not the cost of the expense) in the column of the parent who is the non-custodial parent in the case; **never** enter the deviation in the column of the custodial parent or non-parent custodian. Enter a downward (negative) amount, if the non-custodial parent pays the expense, and enter an upward (positive) amount, if the custodial or non-parent custodian pays the expense. A downward (negative) amount entered will decrease the non-custodial parent's final child support amount, while an upward (positive) amount entered will increase the non-custodial parent's final child support amount.

24. Do I need to file Schedule E with the clerk of superior court even if I do not include any deviation in my worksheet?

No, you do not. You must file the final Worksheet with the clerk of superior court, and Schedule E only if deviations are included.

25. How does income deduction and withholding for child support work?

STEPS TO INITIATE INCOME DEDUCTION AND WITHHOLDING

Step 1: Obtain a court order establishing child support.

Step 2: If the court orders child support to be paid by income deduction, the judge will sign a separate “*Income Deduction Order*” (IDO). *O.C.G.A. §19-6-32(a)(1), (b), & (e)*. A sample IDO to be filed in Court may be found here: <http://www.georgiacourts.gov/csc/iwo/>. (See Step 8 below.)

Step 3: The Georgia Family Support Registry (FSR) is an office of the Georgia Department of Human Services (DHS) that receives and processes child support payments from employers, individuals and other states. Either parent or their attorney will obtain the FSR registration form from <http://www.georgiacourts.gov/csc/iwo/>. A completed copy of this form and a copy of the IDO must be mailed or faxed to the FSR. (FSR address and fax number is provided on the registration form.) *O.C.G.A. §19-6-33.1(c) & 19-6-32(a.1)(3)*.

Step 4: Once the case is registered with FSR, on the Division of Child Support Services (DCSS) database, letters are mailed to both parents indicating that income withholding is expected to begin. These steps do not establish a case with DCSS, but rather make it possible for the FSR to receipt and distribute child support collected by IWO.

Step 5: Either parent or their attorney will obtain and complete the federal form “*Income Withholding Order for Support*” (IWO) found here: <http://www.georgiacourts.gov/csc/iwo/>. This form is required by federal law to be sent to the employer who will be withholding the child support payments from the paying parent’s wages. The IWO is NOT a court document and will NOT be signed by a judge and filed in court.

Step 6: The completed IWO and a copy of the IDO must be mailed to the paying parent’s employer, along with a Notice To Payor required by state law which contains information necessary for the employer to comply with the IDO. Either parent or their attorney will obtain and complete the Notice to Payor found here: <http://www.georgiacourts.gov/csc/iwo/>. *O.C.G.A. §19-6-33(a) & (e)*.

Step 7: The employer will deduct the amounts specified by the IDO and the IWO from the paying parent’s wages. The funds will be forwarded to the FSR. The employer may also withhold up to an additional \$25 from the paying parent’s wages to set up the initial income withholding, and up to an

additional \$3 after that for every pay period that child support is deducted by income withholding. *O.C.G.A. § 19-6-33(e)(5)*.

Step 8: FSR will charge a fee in the amount of 5% of the amount deducted for current or past due child support, or a maximum fee of \$1.50, whichever is less. This fee will be taken out of the amount sent by the employer to FSR. This fee is to be included in the IDO. *O.C.G.A. §19-6-33.1(j)*.

Step 9: FSR will distribute the money it receives from the employer to the parent that is receiving child support within two days of receipt. FSR will issue a debit card to the parent used to access the funds, unless the custodial parent has set up Direct Deposit through the DCSS Portal. Information on setting up direct deposit may be obtained at <http://ocss.dhs.georgia.gov/portal/site/DHS-OCSE/> (At Your Service→Debit Card and Direct Deposit). *O.C.G.A. § 19-6-33.1(i)(2)*.

Step 10: Steps (5) and (6) must be repeated if the paying parent changes employers or if a court modifies the child support amount and issues a new child support order and IDO.

Step 11: If the parent paying child support separates from an employer, the employer must fill out that part of the IWO indicating termination and mail a copy of the IWO to the parent receiving child support. *O.C.G.A. § 19-6-33(k)*.

Step 12: It is the parents' responsibility to notify the employer and FSR when it is time to terminate the income withholding. Employers are notified by sending a new IWO with the appropriate boxes marked indicating termination. See instructions found here: <http://www.georgiacourts.gov/csc/iwo/>. *O.C.G.A. § 19-6-32(d)*.

26. Why does my child support payment that is deducted from my wages by my employer have to go through the Family Support Registry?

All Income Deduction Orders that order an employer to withhold child support payments, and alimony payments when owed in conjunction with child support, must direct payments to the state disbursement unit (SDU). In Georgia, pursuant to *O.C.G.A. § 19-6-33.1*, the SDU is the Family Support Registry (FSR). The intention of this statute is to make available in Georgia one location for the payment of support. This requirement is mandatory when the payment of support involves income deduction. The only exception is if the payment is for alimony only, and in that event, the payment must be sent by the employer directly to the obligee as the person to receive the alimony.