

Child Support Schedule Workgroup Minutes

Location:	Seattle DCS Office, 500 1st Ave S, Seattle, WA – 6 th floor, All Staff Room Meeting also available by webinar: Click this link: Join WebEx meeting and reference the below access info Meeting number (access code): 809 737 695 Meeting password: CSSWG2019
Date:	Friday, February 22, 2019
Time:	9:00 am – 3:00 pm (room will be open at 8:30 am)
Note:	Coffee and light refreshments will be provided for the workgroup – starting at 8:30 am Lunch will be provided for the workgroup

Members appearing by phone	Crissy Anderson
Members appearing in person	Kris Amblad, Tami Chavez, James Chott, Ann Farnsworth, Sandra Johnston, Shelby LeBret-McCrea, Jeff Manson, Sharon Redmond, Anneliese Vance-Sherman, Janelle Wilson
Members not appearing	Representative Jeremie Dufault, Keoki Kauano, Representative Christine Kilduff, Tara Miller, Richard Okrent, Terry Price, Senator Maureen Walsh
Division of Child Support staff	Tom Atkinson, Kimberly Curtis, Nicole Enlow, Mindy Houx, Matt Parascand
Public attendees	Jim Clark, Joe Corum, Richard Schilling

Agenda details:

1. Welcome (9:00 – 9:30 am)

a. Workgroup member introductions

Member	Role
Kris Amblad	Legal Services
Tami Chavez	Court Commissioner
James Chott	Non-custodial Parent
Ann Farnsworth	Representative for the Bar Association
Sandra Johnston	Custodial Parent
Shelby LeBret-McCrea	Custodial Parent
Jeff Manson	Administrative Law Judge
Sharon Redmond	DCS Director
Anneliese Vance-Sherman	Economist
Janelle Wilson	Washington Association of Prosecuting Attorneys Support Enforcement Project

- b. Ice-breaker: the workgroup split in to three groups and each group was tasked with coming up with at least five things they have in common. They reported out and discussed their approach for finding their commonalities.
- c. February meeting agenda review – spotlight goals: reviewed primary workgroup goals
- Review the child support guidelines and the child support review report and determine if the application of the child support guidelines results in appropriate support orders
 - Report workgroup findings and recommendations to the legislature, including recommendations for legislative action, if necessary, by October 1, 2019

- i. Clarify and discuss ideas for workgroup focus
- ii. Prioritize ideas and identify workgroup focus
- iii. Create sub-groups based on workgroup focus

2. January meeting - summary (9:30 – 9:45 am)

- a. January 2019 meeting minutes – feedback, questions and agreement
Tami Chavez is spelled incorrectly in the minutes. With this correction, the group agreed that the January meeting minutes are final.
- b. Guiding documents – review
 - i. [Workgroup Member Roles and Responsibilities](#)
 - ii. [Workgroup Member Agreements](#)
 - iii. [Consensus Guide](#)
- c. Pending items:
 - i. Areas for further research/additional information
 - ii. In-person meeting schedule changes

Break (9:45 – 10:00 am)

3. Clarify and discuss ideas for workgroup focus (10:00 – 11:15 am)

- a. Federal 'Flex Rule'
 - i. Impacts, labor trends and income imputation
- The Flexibility, Efficiency, and Modernization rule was published on December 20, 2016 to strengthen the child support enforcement program and update current practices. The goals are to:
 - o Increase state and employer flexibility to better serve families
 - o Improve program effectiveness, efficiency, and innovation
 - o Improve customer service
 - o Remove barriers identified by employers, states, and families that impede efficient and timely child support payments
- This is an important topic as there are items the federal government states must be implemented while some items need to be considered by the workgroup
- This rule indicates items the workgroup needs to consider including imputation (local job market, record of seeking work) and the median net income chart
- The Division of Child Support (DCS) will hopefully bring these items to the workgroup's attention by the next meeting and will be interested in ideas of how these requirements may be met
- The workgroup is already discussing some of the items in the rule
- b. OAH and the courts – comparison: discussion of how the schedule is applied in the court system versus the Office of Administrative Hearings (OAH)
 - From the OAH perspective
 - o DCS and most Administrative Law Judges (ALJs) seem to impute to full time if a parent is working part time
 - o Some ALJs don't view 40 hours per week as full time
 - o Seems the approach is to consider parent as voluntary unemployed or underemployed as long as there is no disability
 - o OAH ALJs will look at hierarchy but don't necessarily follow it strictly
 - From the court perspective
 - o Finding that people aren't working 40 hours per week with the higher minimum wage unless they have a second job

- Employers aren't giving minimum wage employees over 30 to 35 hours per week as it triggers other benefits the employer has to provide the employee
- Having an advocate on the other side may impact the decision
- Further imputation discussion
 - Statute gives hierarchy
 - Not supposed to get to minimum wage if parent is not employed – supposed to look at mean standard but it needs updating so many want to skip it
 - Default seems to be to impute to full time at minimum wage
 - Some courts are open to imputing at less than full time for reasons other than recent incarceration or Temporary Assistance for Needy Families (TANF)
 - Seems some skip the step of determining voluntary unemployment to see if actual income should be used and go straight to imputing to full time
- Questions raised during this discussion
 - What about dental hygienists who are never given 40 hours per week?
 - OAH: 32 hours per week usually not imputed to 40 hours per week but the service industry working around 25 hours per week would usually be imputed to 40 hours per week
 - Is there a threshold below which it won't be considered full time?
 - Superior court: seems about 30 hours per week is the floor and anything below would likely be imputed to full time
 - What about childcare costs?
 - Multiple viewpoints on this topic – parent can't work due to child care costs, parent may claim this but other parent is paying for childcare
 - Saying custodial parent (CP) should be at \$0 income affects the percentages of parents in the worksheets (increases NCPs percentage)
 - Should the median net income table be used? If so, when? What should it be based on (education versus age)? – Most rarely use the median table
 - How is historical income used including how far back to consider?
- Other items
 - Statute doesn't define voluntary unemployed, voluntary underemployed, or unemployment and the interpretation is inconsistent
 - Broaden definition in statute of voluntary underemployed, voluntary unemployed, and unemployed
 - Statute doesn't define when you impute
 - Flip the hierarchy? Could say the following shall not be considered when imputing?
 - Remember to look at both sides: non-custodial parent and custodial parent
 - Try to make it so the inequities that are occurring are addressed
 - Define when minimum wage is applied and imputed to
 - There may be a law/statute/policy against using geographical data (treating Spokane differently than Seattle) – Title 7?
 - Schedule should be statewide but could bring in local market rate (as a deviation?)
 - There is concern around creating a definition or statement within the statute that states full time means less than 40 hours per week
 - Could it refer to Department of Labor Statistics?

- Employment Security Department has median wages by different occupations and geography
- c. [Child Support Order Review](#) – additional questions and discussion: no questions or comments on the order review that was presented on at the January meeting
- d. Residential Credit – current status and historical context: accounting for the time a child spends with the paying parent when determining the child support obligation
 - OAH – many hearings have the CP receiving TANF which means no residential credit is allowed
 - Courts
 - Difficult to get 50/50 plan, it is a factor but not a guarantee (a shared plan is not enough to reach the threshold, need more to deviate if parties have similar income)
 - Same issue as OAH where one person is receiving TANF so residential credit is not allowed
 - DCS – hard to address administratively unless it is referred to the prosecutors
 - Historically public policy around no residential credit when a parent is receiving TANF is because the tax payers are helping to support the TANF program
 - Legal aid has concerns surrounding residential credit
- e. [Tax law changes](#) – then and now: how this is handled has been overhauled
- f. Other questions/discussion from list of ideas?
 - Shouldn't cap income (over \$12,000)
 - Per the order review report this is a small number of parties
 - OAH ALJ has never seen over \$12,000
 - Standard living of findings in the financial declaration

Lunch – break/preparation (11:15 – 11:30 am)

4. Evaluate and prioritize ideas (11:30 am – 12:15 pm) – working lunch

Input from workgroup member on item 5 as they had to leave early

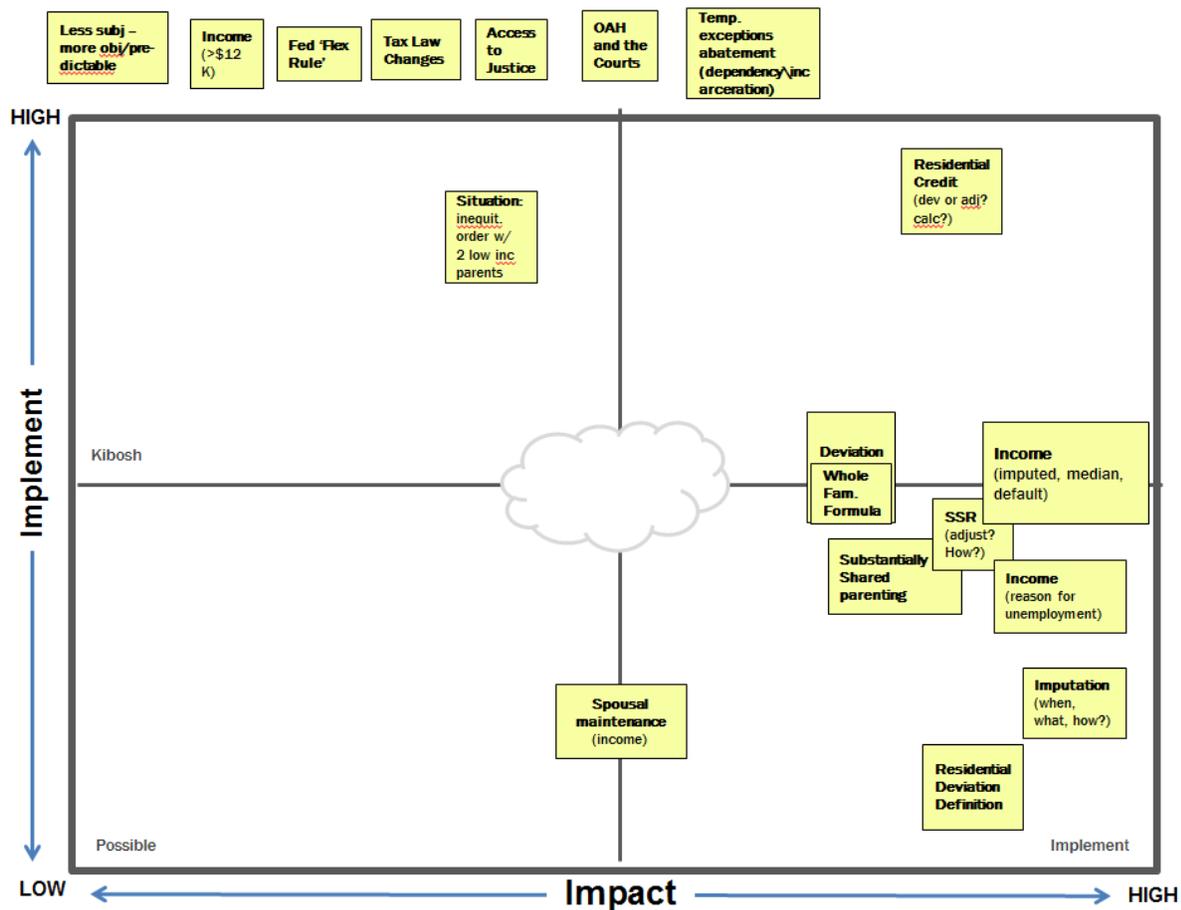
- Residential credit would have a high impact but high difficulty
 - Stakeholders won't go for it to not be a deviation (above line credit)
 - Easier/higher option would be to narrowing it to 50/50
- Children from other relationships (high on both) but less hard than residential credit
- High impact/better agreement on income/imputation
- Would disregard maintenance issue that was brought up at prior meeting – not a high impact on families
- Self-support reserve is high on impact, but unsure of difficulty – imputation may impact this

Lunch – break/wrap-up (12:15 – 12:30 pm)

5. Identify workgroup focus and priorities (12:30 – 1:10 pm):

- Why does the workgroup have a tight timeline when the appointment is four years? The report must be submitted by October 2019. The members have a four year term as legislation takes time and members may be asked to get back together.
- PICK chart with difficulty to implement and impact on families as the defining criteria

Difficulty to implement	Impact on families
Not measureable	Number of families affected
Outside of our authority (federal law doesn't allow)	Fairness/equitability (burden evenly applied)
Outside of the scope of workgroup (TANF requirements, parenting plans)	Balance between discretion and legislative direction
Not enough time for workgroup to reach consensus (high complexity/emotions, time to research, by 10/01/19 deadline)	Consistency
Cost	Whole family lens
Reliance on interagency cooperation	Easily understood
Technology ↑	
Mixed stakeholder position – controversial topic	
Complicated for an unrepresented party (workability)	



Discussion surrounding the above chart prioritization:

- Define barriers – why you would not impute (addiction, etc.)
- What could the workgroup do to be more visible to the legislature? Will need to educate them on this meeting and the legislative members on the workgroup may be more able to attend if meeting is in Olympia.
- Maybe maintenance could be as a deviation
- Less subjectivity/more objectivity and access to justice were not placed in the PICK chart as they are to be considered on all items as an overall lens
- Pass-through – group agreed that this topic doesn't fall within scope or fit within guidelines review
- Group agreed that dependency doesn't go along with self-support reserve
- Self-support reserve – high minimum wage has a correlation with self-support reserve
- Will the workgroup address Arvey? Each parent has custody of a different child. Pro Se parties don't apply whole family formula or Arvey split. Arvey is on pattern forms. This is different than 50/50 and is case law driven. Workgroup agreed this is out of scope.
- Taxes – some parties are unable to get the childcare tax credit. It only applies to CP even if NCP pays most of the childcare. There is a process to get reimbursement from DCS from the other party.
- Dependency cases – these are sometimes paying TANF and/or paying the state for foster care. There would need to be research including around the IV-D programs. Maybe address as abatement? Abate support if party is working through dependency issues but include exclusion for parent who isn't participating.

Implement quadrant:

- Substantially shared parenting
- Self-support reserve
- Income (reason for unemployment)
- Imputation (when, what, how)
- Residential deviation definition

On the cusp

- Deviation/whole family formula
- Income (imputed, median, default)
- Spousal maintenance – group agreed more information as it relates to income and Kaplan would be beneficial

6. Establish sub-groups (1:10 – 1:30 pm)

- a. Identify sub-group members
- b. Next steps

Break (1:30 – 1:45 pm)

7. Workgroup logistics (1:45 – 2:05 pm)

- a. Travel and Dropbox: check-in and reminders
 - Send email you want to use for Dropbox to Kimberly Curtis

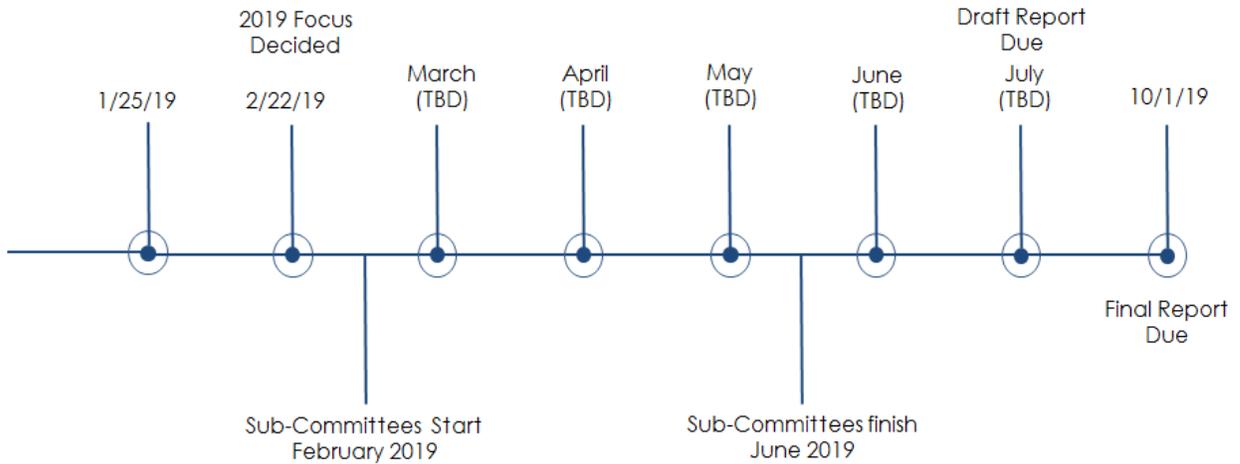
- Travel – apologies for the issues so far, went over forms and travel information
- b. In-person meeting schedule – proposal
 - March: 03/15, 03/22 (currently scheduled), or 03/25
 - April: 04/12, 04/26, 04/29
 - May: 05/17, 05/20

8. Public comment (2:05 – 2:30 pm)

- James Clark – shared his experience being a parent with a 50/50 parenting plan and paying undifferentiated support and spousal maintenance.

9. Closing (2:30 – 3:00 pm)

- Accomplishments and decisions
- Timeline review



- Group feedback
- Next steps and action items