SUPREME COURT OF PENNSYLVANIA
DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE
RECOMMENDATION 146

Rule 1910.16-4. Support Guidelines. Calculation of Support Obligation, Formula.

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(d)   *Divided or Split Physical Custody. When Each Party **[Has Primary Custody of One or More of the Children]**Owes Child Support to the Other Party*. *Varied **Partial or Shared** Custodial Schedules.*

        (1)   *Divided or Split Physical Custody. When Each Party **[Has Primary Custody of One or More of the Children]**Owes Child Support to the Other Party*. When calculating a child support obligation, and **[one or more of the children reside primarily with each party]**each party owes child support to the other party as a result of the custodial arrangement**, the court shall offset the parties' respective child support obligations and award the net difference to the obligee as child support. **[For example, if]**

        Example 1. **If** the parties have three children, one **[of whom]**child resides with **[Father]**the higher income party** and two **[of whom]**children reside with **[Mother]**the lower income party**, and their net monthly incomes are $2,500 and $1,250 respectively, **[Father's]**the higher income party's** child support obligation is calculated as follows. Using the schedule in **[Rule]**Pa.R.C.P. No.** 1910.16-3 for two children at the parties' combined net monthly income of $3,750, the amount of basic child support to be apportioned between the parties is $1,200. As **[Father's]**the higher income party's** income is 67% of the parties' combined net monthly income, **[Father's]**the higher income party's** support obligation for the two children living with **[Mother]**the lower income party** is $804. **The lower income party's** child support obligation is calculated as follows. Using the schedule in **[Rule]**Pa.R.C.P. No.** 1910.16-3 for one child, **[Mother's]**the lower income party's** support obligation for the child living with **[Father]**the higher income party** is $276. Subtracting $276 from $804 produces a net basic support amount of $528 payable to **[Mother]**the lower income party** as child support.

        Example 2. **If the parties have two children, one child resides with the higher income party and the parties share custody (50% - 50%) of the other child, and the parties' net monthly incomes are as set forth in Example 1, the child support obligation is calculated as follows. Using the schedule in Pa.R.C.P. No. 1910.16-3 for the one child primarily residing with higher income party at the parties' combined net monthly income of $3,750, the amount of basic child**

support to be apportioned between the parties is $836. The lower income party's income is 33% of the parties' combined net monthly income, and the support obligation for the child living with the higher income party is $276. For the higher income party's obligation for the child with the 50% - 50% shared custody arrangement, using the schedule in Pa.R.C.P. No. 1910.16-3 for one child at the parties' combined net monthly income of $3,750, the amount of basic child support to be apportioned between the parties is $836. The higher income party's proportionate share of the combined net incomes is 67%, but is reduced to 47% after applying the shared parenting time adjustment for 50% custody under Pa.R.C.P. No.1910.16-4(c). The higher income party's child support obligation for the shared custody child is $393 ($836 X 47%). As the higher income party's obligation is greater than the lower income party's obligation, the lower income party is the obligee and receives the net of the two obligations by subtracting $276 from $393, or $117.

When calculating a combined child support and spousal or alimony **[pendente lite]***pendente lite* obligation, and one or more children reside with each party, the court shall offset the obligor's spousal and child support obligation with the obligee's child support obligation and award the net difference to the obligee as spousal and child support. When one or more of the children resides with each party then, in calculating the spousal support or alimony **[pendente lite]***pendente lite* obligation, the court shall deduct from the obligor's income both the support owed for the child or children residing with the obligee, as well as the direct support the obligor provides to the child or children living with the obligor, calculated in accordance with the guidelines as if the child or children were not living with the obligor.

[(2) *Varied Custodial Schedules.* **When the parties have more than one child and each child spends different amounts of partial or shared custodial time with the obligor income party, the trier of fact shall add the percentage of time each child spends with the obligor and divide by the number of children to determine the obligor's percentage of custodial time. If the average percentage of time the children spend with the obligor is 40% or more, the provisions of subdivision (c) above apply.]**

(2) *Varied Partial or Shared Custodial Schedules.* **When the parties have more than one child and each child spends:**

(a) **different amounts of partial or shared custodial time with the higher income party; or**

(b) **different amounts of partial custodial time with the lower income party**

the trier of fact shall add the percentage of time each child spends with that party and divide by the number of children to determine the party's percentage of custodial time. If the average percentage of custodial time the children spend with the party is 40% or more, the provisions of subdivision (c) apply.

Example 1.   The parties have two children and one child spends 50% of the time with the **[obligor]higher income party** and **[another]the other child** spends 20% of the time with the **[obligor]higher income party**. Add those percentages together and divide by the number of children (50% plus 20% = 70% divided by 2 children = 35% average of the time with the **[obligor]higher income party**). Pursuant to subdivision (c), the **[obligor]higher income party** does not receive a reduction in the support order for substantial parenting time.

Example 2.   The parties have three children. Two children spend 50% of the time with the **[obligor]higher income party** and **the** third child spends 30% of the time with the **[obligor]higher income party**. Add the percentages of custodial time for all three children together and divide by the number of children (50% plus 50% plus 30% = 130% divided by three children = 43.33% average percentage of time with the **[obligor]higher income party**). Pursuant to subdivision (c), the **[obligor]higher income party** receives a reduction in the support order for substantial parenting time.

***Example 3.* The parties have three children, the higher income party has primary custody (60% - 40%) of one child, the lower income party has primary custody (60% - 40%) of one child, and the parties share custody (50% - 50%) of the third child. The parties net monthly incomes are $2,500 and $1,250. As a result of the custodial arrangement, the lower income party owes support for the child in the primary custody of the higher income party and the higher income party owes support for the child in the primary custody of the lower income party and for the child shared equally between the parties. The lower income party's child support obligation is calculated as follows. Using the schedule in Pa.R.C.P. No. 1910.16-3 for one child at the parties' combined net monthly income of $3,750, the amount of basic child support to be apportioned between the parties is $836. The lower income party's proportionate share of the combined net incomes is 33%, but is reduced to 23% after applying the shared parenting time adjustment for 40% custody under Pa.R.C.P. No.1910.16-4(c). The lower income party's child support obligation for this child is $192 ($836 X 23%). The higher income party's child support obligation is calculated as follows. Using the schedule in Pa.R.C.P. No. 1910.16-3 for two children at the parties' combined net monthly income of $3,750, the amount of basic child support to be apportioned between the parties is $1,200. The higher income party has varying partial or shared custody of the two children (40% and 50%). Under subdivision (d)(2), the custodial time is averaged or in this case 45%. The higher income party's proportionate share of the combined net incomes is 67%, but is reduced to 52%**

after applying the shared parenting time adjustment for 45% custody under Pa.R.C.P. No.1910.16-4(c). The higher income party's child support obligation for these children is $624 ($1,200 x 52%). Offsetting the support amounts consistent with subdivision (d)(1), the higher income party's obligation is greater than the lower income party's obligation, and the lower income party is the obligee receiving the net of the two obligations by subtracting $192 from $624, or $432.

Note: In cases with more than one child and varied partial or shared custodial schedules, it is not appropriate to perform a separate calculation for each child and offset support amounts as that method does not consider the incremental increases in support for more than one child built into the schedule of basic child support.

In some of the examples, the terms "higher income party" and "lower income party" are used rather than the more usual "obligor" and "obligee." In circumstances similar to the examples, it is often not immediately apparent which party will be the "obligor" or the "obligee" until after completing the calculation.

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