

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 1910]

Proposed Amendments to Rules 1910.16-1—1910.16-5 Relating to the Support Guidelines; Recommendation 48

The Domestic Relations Procedural Rules Committee proposes the following amendments to the Rules of Civil Procedure governing the Support Guidelines. This proposal has not been submitted for review by the Supreme Court of Pennsylvania. The Committee solicits comments and suggestions from all interested persons prior to submission of these proposed amendments to the Supreme Court. Written comments relating to the proposed amendments must be received no later than Friday, May 8, 1998 and must be directed to: Sophia P. Paul, Esquire, Counsel, Domestic Relations, Procedural Rules Committee, 429 Forbes Avenue, Suite 300, Pittsburgh, Pennsylvania 15219, fax (412) 565-2336, e-mail spaul.supremecourt.state.pa.us.

The notes and explanatory comments following each Rule have been inserted to distinguish between the major changes that are being proposed by the Committee and the many technical changes that are also being proposed as part of an overall reorganization of the Rules relating to the support guidelines. A Committee Report has been included to highlight and explain the major changes that are being proposed. The explanatory comments and notes and the Committee Report do not constitute part of the rules. Nor will they be officially adopted or promulgated by the Court.

Introductory Comment

For the convenience and benefit of the practitioner, the Committee has reorganized all of the provisions in these Rules so that they more logically follow the sequence for calculating the overall support obligation. For example, since calculation begins with the computation of the parties' net incomes, Rule 1910.16-2 has been created to consolidate into one rule all of the income provisions that are currently scattered throughout Rule 1910.16-5. Rule 1910.16-2 is then followed by Rule 1910.16-3, the basic child support schedule; Rule 1910.16-4, the formula used in conjunction with the schedule to arrive at obligor's basic support obligation; Rule 1910.16-5, which sets forth the factors that the court must consider to determine if there should be a deviation from the basic support obligation; and Rule 1910.16-6, which consolidates into one rule all of the existing provisions for additional expenses that are typically added to the basic support obligation.

Although this reorganization constitutes a technical change only, publication of these proposed amendments requires that these changes be boldfaced in the same manner as the more substantive changes. Explanatory comments following each Rule have been inserted, therefore, to distinguish between the major changes that are being proposed by the Committee and the technical changes that have been made as part of the overall reorganization. A Committee Report follows these pro-

posed amendments to highlight and explain the more substantive changes that are being proposed.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1910. ACTIONS FOR SUPPORT

Rule 1910.16-1. Amount of Support. Support Guidelines.

(a) *Applicability of the Support Guidelines.* The support guidelines set forth the amount of support which a spouse or parent should pay on the basis of both parties' net monthly incomes as defined in Rule 1910.16-2 and the number of persons being supported. The support of a spouse or child is a priority obligation, so that a party is expected to meet this obligation by adjusting his or her other expenditures.

[(a)] (b) The amount of support (child support, spousal support or alimony pendente lite) to be awarded pursuant to the procedures under Rules 1910.11 and 1910.12 shall be determined in accordance with the support guidelines which consist of the guidelines expressed as **[grids set forth in Rule 1910.16-2 and as a formula in Rule 1910.16-3]** the child support schedule set forth in Rule 1910.16-3 and the formula set forth in Rule 1910.16-4 and the operation of the guidelines as set forth in **[Rule 1910.16-5]** these rules.

[Official Note: Orders for spousal support and alimony pendente lite shall not be in effect simultaneously.]

(c) Orders for spousal support and alimony pendente lite shall not be in effect simultaneously.

[(b)] (d) If it has been determined that there is an obligation to pay support, there shall be a rebuttable presumption that the amount of the award determined from the guidelines is the correct amount of support to be awarded. **The support guidelines are a rebuttable presumption and must be applied taking into consideration the special needs and obligations of the parties. The trier of fact must consider the factors set forth in Rule 1910.16-5.** The presumption shall be rebutted if the trier of fact makes a written finding, or a specific finding on the record, that an award in the amount determined from the guidelines would be unjust or inappropriate.

[(c)] (e) The guidelines shall be reviewed at least once every four years to insure that their application results in the determination of appropriate amounts of support.

Explanatory Comment to Rule 1910.16-1—1998

As part of the overall reorganization of the Rules relating to the support guidelines, the Committee proposes to amend this Rule only to incorporate the language which currently appears in Rule 1910.16-5(a) relating to the general applicability of the support guidelines. No substantive changes are intended by this change. The note which previously appeared in subdivision (a) has been made part of the actual rule to clarify that the prohibition on concurrent spousal support and alimony pendente lite orders is binding.

Rule 1910.16-2. Support Guidelines [Grids] Calculation of Net Income.

The amount of support to be awarded is based in large part upon the parties' monthly net income.

(a) *Monthly Gross Income.* Monthly gross income is ordinarily based upon at least a six-month average of all of a party's income. The term "income" is defined by the support law, 23 Pa.C.S. § 4302, and includes income from any source. The statute lists many types of income including, but not limited to:

- (1) wages, salaries, bonuses, fees and commissions;
- (2) net income from business or dealings in property;
- (3) interest, rents, royalties, and dividends;
- (4) pensions and all forms of retirement;
- (5) income from an interest in an estate or trust;
- (6) social security benefits, temporary and permanent disability benefits, workers' compensation and unemployment compensation;
- (7) alimony if, in the discretion of the trier of fact, inclusion of part or all of it is appropriate; and

Official Note: Since the reasons for ordering payment of alimony vary, the appropriateness of including it in the recipient's gross income must also vary. For example, if obligor is paying \$1,000 per month in rehabilitative alimony for the express purpose of financing obligee's college education and related child care expenses, it would be inappropriate to consider that alimony as income from which the obligee could provide child support. However, if alimony is intended to finance obligee's general living expenses, inclusion of the alimony as income is appropriate.

(8) other entitlements to money or lump sum awards, without regard to source, including lottery winnings, income tax refunds, insurance compensation or settlements; awards and verdicts; and any form of payment due to and collectible by an individual regardless of source.

(b) *Treatment of AFDC and SSI Benefits.* Neither public assistance nor Supplemental Security Income (SSI) benefits shall be counted as income for purposes of determining support.

Official Note: Care must be taken to distinguish Social Security from Supplemental Security Income (SSI) benefits. Social Security benefits are income pursuant to subdivision (a) of this Rule.

(c) *Monthly Net Income.*

(1) Unless otherwise provided in this Rule, the court shall subtract only the following items from monthly gross income to arrive at net income:

- (A) federal, state, and local income taxes;
- (B) F.I.C.A. payments and non-voluntary retirement payments;
- (C) union dues; and
- (D) alimony paid to the other party.

(2) The court shall subtract from gross monthly income any child support paid pursuant to a pre-existing order for the benefit of prior children. For purposes of this subsection, prior children are

those born before the children who are the subject of the support action or, in computing a spousal support or alimony pendente lite obligation, children born before the marriage.

Official Note: Where there is no pre-existing order for prior children, but a party presents verification of an established pattern of direct payments for the benefit of these children, the court may consider those payments as a reduction from gross income if the party agrees to formalize the arrangement for the prior children through the entry of a new court order.

(3) In computing a spousal support or alimony pendente lite obligation, the court shall subtract from monthly gross income the amount of alimony or alimony pendente lite paid to a former spouse who is not the subject of the support action.

(4) In computing a child support obligation, the court may subtract from monthly gross income the amount of alimony, spousal support or alimony pendente lite paid to a spouse or former spouse who is not the subject of the support action.

(d) *Reduced or Fluctuating Income.*

(1) *Voluntary Reduction of Income.* Where a party voluntarily assumes a lower paying job, there generally will be no recomputation of the support payment. A party will ordinarily not be relieved of a support obligation by voluntarily quitting work or by being fired for misconduct.

(2) *Involuntary Reduction of Income.* No adjustments in support payments will be made for normal fluctuations in earnings. However, appropriate adjustments will be made for substantial continuing involuntary decreases in income.

(3) *Seasonal Employees.* Support orders for seasonal employees, such as construction workers, shall ordinarily be based upon a yearly average.

(4) *Income Potential.* Ordinarily, a party who willfully fails to obtain appropriate employment will be considered to have an income equal to the party's earning capacity. Age, education, training, health, work experience, earnings history and child care responsibilities are factors which shall be considered in determining earning capacity.

(e) *Net Income Affecting Application of the Child Support Guidelines.*

(1) *Low Income Cases.*

(A) When the obligor's monthly net income and corresponding number of children fall into the shaded area of the Schedule set forth in Rule 1910.16-3, the basic child support obligation shall be calculated using the obligor's income only. For example, where obligor has monthly net income of \$700, his or her basic monthly support obligation for three children is \$184. This amount is determined directly from the schedule in Rule 1910.16-3.

(B) In computing a basic spousal support or alimony pendente lite obligation pursuant to the formula in Rule 1910.16-4, the presumptively correct amount of support shall not reduce the obligor's net income below \$500 per month. For example, if obligor earns \$600 per month and obligee earns \$300 per month, the presumptively correct amount of spousal support is calculated as follows. Using the formula, multiply the net difference between

the parties' incomes (\$300) by .40 to arrive at \$120 per month. Since this amount leaves the obligor with only \$480 per month, it must be adjusted (reduced by \$20) so that obligor retains \$500 per month. The presumptive minimum amount of spousal support, therefore, is \$100 per month.

(C) When the obligor's monthly net income is \$500 or less, the court may award support, but only after consideration of the obligor's actual living expenses.

(2) High Income Child Support Cases.

When the parties' combined net income exceeds \$15,000 per month, child support shall be calculated pursuant to *Melzer v. Witsberger*, 505 Pa. 462, 480 A.2d 991 (1984). The presumptive minimum amount of child support shall be obligor's percentage share of the highest amount of support which can be derived from the schedule for the appropriate number of children and using the parties' actual combined income to determine obligor's percentage share of this amount. The court may award an additional amount of child support based on the remaining combined income and the factors set forth in *Melzer*.

For example, where obligor and obligee have monthly net incomes of \$17,000 and \$4,000 respectively, the presumptive minimum amount of child support for three children is calculated as follows: using the formula in Rule 1910.16-4, determine the parties' percentage shares of income based on their actual combined income—81% and 19% respectively of \$21,000. Using the schedule in Rule 1910.16-3, find the highest possible combined child support obligation for three children—\$3,480. Obligor's percentage share of the combined obligation is 81% of \$3,480, or \$2,818. This is the presumptive minimum amount of child support that he or she must pay for three children. Since this amount is derived from the schedule in Rule 1910.16-3, which is limited to combined household income of \$15,000, the court may award an additional amount of support based on the parties' remaining income of \$6,000 and the factors set forth in *Melzer*.

Explanatory Comment to Rule 1910.16-2—1998

As part of the overall reorganization of the support guidelines, the Committee proposes to rescind current Rule 1910.16-2 as it relates to the Grids and substitute it with new Rule 1910.16-2 Calculation of Net Income. For the most part, this Rule simply consolidates all of the income provisions that are currently scattered throughout Rule 1910.16-5. See the Committee Report. Given the many other issues that had to be addressed in the four-year guideline review, the Committee plans to conduct a more comprehensive and substantive review of these income provisions at a later time.

1. *Monthly Gross Income.* New subdivision (a) incorporates existing Rule 1910.16-5(b) specifying what is gross income for purposes of calculating support. Only two substantive changes have been made to this existing provision, both of which were necessary so that the rule conforms to the recently expanded definition of "income" in 23 Pa.C.S. § 4302. The two changes are: 1) the addition of bonuses to the items of gross income that must be considered in establishing a support obligation; and 2) the inclusion of lottery winnings, income tax refunds, insurance compensation or settlements, awards or verdicts and any form of payment due and collectible

regardless of source. The two changes appear in subsections (1) and (8) respectively and merely track the statutory language in this regard.

2. *Treatment of AFDC and SSI Benefits.* New subdivision (b) incorporates verbatim existing Rule 1910.16-5(p). No changes have been made here.

3. *Monthly Net Income.* (See the Committee Report). New subdivision (c) substantially incorporates existing Rule 1910.16-5(b) specifying the deductions that may be taken from gross income to arrive at net income. Several substantive changes have been made with respect to deductions. First, the deduction of health insurance premiums has been eliminated in accordance with the Committee's proposal that the cost of the premium be treated as an additional expense subject to allocation between the parties under Rule 1910.16-6.

Second, subsections (2) through (4) reflect the Committee's proposal to change the current multiple family calculation under Rule 1910.16-5(n) and (o) to an approach which gives priority to first born children and prior spouses. Subsection (2) requires a mandatory deduction from gross income of any child support paid pursuant to a pre-existing court order. This applies to both child and spousal support cases. When calculating a spousal support or APL obligation only, subsection (3) requires a further deduction from gross income of alimony or APL being paid to a former spouse who is not the subject of the support action. When calculating a child support obligation, however, subsection (4) provides that the court "may" deduct alimony, spousal support or APL payments being made to a former spouse. When construed together, these two provisions reflect the priority that a prior spouse must receive over subsequent spouses, and the priority that a prior spouse should, but may not always, receive over later born children.

4. *Reduced or Fluctuating Income.* New subdivision (d) incorporates existing Rule 1910.16-5(c). The only change here is the elimination of the provision permitting courts to exercise their discretion in determining whether bonuses should be included in gross income. This change is consistent with the recent amendment to the definition of "income" under 23 Pa.C.S. § 4302 to include bonuses as income that must be considered in establishing a support obligation.

5. *Net Income Affecting Application of the Guidelines.* (See the Committee Report). New subdivision (e) is a modified version of existing Rule 1910.16-5(d) with the following changes. Subsection (1)(A) reflects the incorporation of the Computed Allowance Minimum (CAM) in low-income child support cases. When the obligor's net monthly income falls into the shaded area of the schedule, the basic child support obligation can be derived directly from the schedule in Rule 1910.16-3. There is no need to use the formula in Rule 1910.16-4 to calculate obligor's support obligation because the CAM keeps the amount of the obligation the same regardless of obligee's income. Obligee's income is a relevant factor, however, in determining whether to deviate from the basic guideline obligation pursuant to Rule 1910.16-5 and in considering whether to require the obligor to contribute to any additional expenses under Rule 1910.16-6.

Since the support schedule in Rule 1910.16-3 reflects child support only, subsection (1)(B) is necessary to reflect the operation of CAM in spousal support and alimony pendente lite cases. It adjusts the basic guideline obligation that is calculated under the formula in Rule 1910.16-4 so that the obligor does not fall below \$500 per month in these cases.

When the obligor has net income of only \$500 per month or less, subsection (1)(C) provides that the court must consider the parties' actual living expenses before awarding support. The guidelines assume that at this income level the obligor is barely able to meet basic personal needs. In these cases, therefore, entry of a minimal order is appropriate. In some cases, it may not be appropriate to order support at all.

Subsection (2) reflects the limited application of *Melzer v. Witsberger*, 505 Pa. 462, 480 A.2d 991 (1984) to cases in which the guidelines cannot be used to establish the child support obligation because the parties' combined income exceeds \$15,000 per month. The court must continue, however, to establish a presumptive minimum amount of child support using the guidelines to arrive at that amount. The formula for calculating the presumptive minimum amount has been modified slightly to clarify that the parties' percentage shares should be calculated using their actual combined income rather than (as the examples which are currently set forth in the guidelines suggest) theoretical combined income of only \$15,000. This change eliminates many of the inequities and inconsistencies that arise in some cases from the application of the current method.

In addition, subsection (2) includes specific language directing the court to consider awarding an additional amount of support based on the parties' remaining com-

bined income and the *Melzer* case. In considering the remaining income, the court must use the factors set forth in *Melzer*. It would be improper to apply the formula in Rule 1910.16-4 to this income and award the obligor's percentage share as additional support. Additional support, if any, may be more or less than the percentage share and must, therefore, be determined in accordance with the factors set forth in *Melzer*.

Rule 1910.16-3. Support Guidelines. [Formula] Basic Child Support Schedule.

[(a)] Rescinded and moved to new Rule 1910.16-4(a).

[(b) Chart of Proportional Expenditures.] Rescinded.

The following schedule sets forth the amounts spent on children in intact families by combined income and number of children. Combined income is on the vertical axis of the schedule and number of children is on the horizontal axis of the schedule. This schedule is used to find the basic child support obligation. Unless otherwise provided in these Rules, the obligor's share of the basic support obligation shall be computed using the formula set forth in Rule 1910.16-4.

<i>Combined Net Monthly Income</i>	<i>One Child</i>	<i>Two Children</i>	<i>Three Children</i>	<i>Four Children</i>	<i>Five Children</i>	<i>Six Children</i>
0-600	50	60	70	80	90	100
650	135	137	138	140	141	143
700	171	182	184	186	188	190
750	183	220	230	233	235	238
800	196	238	262	279	282	285
850	208	255	283	302	318	333
900	220	273	304	325	343	360
950	232	291	325	348	369	387
1000	244	308	346	371	394	414
1050	256	326	367	394	419	441
1100	268	391	463	511	554	593
1150	279	407	482	532	577	617
1200	291	423	501	553	600	642
1250	302	440	520	575	623	667
1300	313	456	539	596	646	691
1350	325	472	558	617	669	716
1400	336	489	578	638	692	740
1450	347	505	597	659	715	765
1500	359	521	616	681	738	789
1550	370	538	635	702	761	814
1600	381	554	654	723	784	839
1650	393	571	674	744	807	863
1700	404	587	693	766	830	888
1750	415	603	712	787	853	913
1800	427	620	731	808	876	937
1850	438	636	751	829	899	962
1900	449	652	770	851	922	987
1950	461	668	788	871	944	1010
2000	472	684	807	891	966	1034
2050	483	700	825	911	988	1057
2100	494	716	843	932	1010	1081

THE COURTS

<i>Combined Net Monthly Income</i>	<i>One Child</i>	<i>Two Children</i>	<i>Three Children</i>	<i>Four Children</i>	<i>Five Children</i>	<i>Six Children</i>
2150	505	732	862	952	1032	1104
2200	516	748	880	972	1054	1128
2250	528	763	898	993	1076	1151
2300	539	779	917	1013	1098	1175
2350	550	795	935	1033	1120	1198
2400	560	811	954	1054	1143	1223
2450	571	827	973	1075	1165	1247
2500	582	842	991	1095	1187	1271
2550	593	858	1010	1116	1210	1295
2600	603	874	1029	1137	1232	1319
2650	614	889	1048	1158	1255	1343
2700	625	905	1066	1178	1277	1367
2750	635	921	1085	1199	1300	1391
2800	641	929	1095	1209	1311	1403
2850	647	937	1104	1220	1322	1415
2900	653	945	1113	1230	1333	1427
2950	658	953	1122	1240	1345	1439
3000	664	961	1132	1251	1356	1451
3050	670	969	1141	1261	1367	1463
3100	676	977	1150	1271	1378	1474
3150	681	986	1160	1282	1389	1486
3200	686	993	1167	1289	1398	1496
3250	690	998	1172	1295	1404	1502
3300	693	1004	1177	1301	1410	1509
3350	697	1010	1182	1306	1416	1515
3400	700	1016	1187	1312	1422	1522
3450	704	1022	1192	1318	1428	1528
3500	708	1028	1197	1323	1434	1535
3550	711	1034	1203	1329	1440	1541
3600	715	1040	1208	1335	1447	1548
3650	724	1052	1223	1351	1465	1567
3700	733	1063	1238	1368	1483	1586
3750	742	1075	1252	1384	1500	1605
3800	750	1086	1267	1400	1518	1624
3850	759	1098	1282	1417	1536	1643
3900	768	1109	1297	1433	1553	1662
3950	777	1121	1311	1449	1571	1681
4000	786	1132	1326	1465	1588	1700
4050	794	1143	1339	1480	1604	1717
4100	801	1153	1351	1493	1619	1732
4150	808	1163	1363	1506	1633	1747
4200	815	1174	1375	1520	1647	1763
4250	822	1184	1387	1533	1662	1778
4300	829	1194	1399	1546	1676	1793
4350	836	1204	1411	1559	1690	1809
4400	843	1215	1423	1573	1705	1824
4450	850	1225	1435	1586	1719	1840
4500	857	1235	1447	1599	1734	1855
4550	864	1245	1459	1612	1748	1870
4600	872	1255	1471	1626	1762	1886
4650	879	1266	1483	1639	1777	1901
4700	886	1276	1495	1652	1790	1916
4750	892	1285	1506	1664	1804	1930
4800	899	1295	1518	1677	1818	1945
4850	906	1305	1529	1690	1832	1960
4900	913	1315	1541	1702	1845	1975

<i>Combined Net Monthly Income</i>	<i>One Child</i>	<i>Two Children</i>	<i>Three Children</i>	<i>Four Children</i>	<i>Five Children</i>	<i>Six Children</i>
4950	920	1325	1552	1715	1859	1989
5000	927	1335	1564	1728	1873	2004
5050	934	1344	1575	1740	1887	2019
5100	941	1354	1586	1753	1900	2033
5150	948	1364	1598	1766	1914	2048
5200	954	1374	1609	1778	1928	2063
5250	961	1384	1621	1791	1941	2077
5300	968	1394	1632	1804	1955	2092
5350	975	1404	1644	1816	1969	2107
5400	982	1413	1655	1829	1983	2121
5450	989	1423	1667	1842	1996	2136
5500	996	1433	1678	1854	2010	2151
5550	1003	1443	1690	1867	2024	2166
5600	1010	1453	1701	1880	2038	2180
5650	1016	1463	1713	1893	2052	2195
5700	1023	1473	1724	1905	2065	2210
5750	1030	1483	1736	1918	2079	2225
5800	1037	1492	1747	1931	2093	2240
5850	1044	1502	1759	1944	2107	2254
5900	1051	1512	1771	1956	2121	2269
5950	1058	1522	1782	1969	2135	2284
6000	1065	1532	1794	1982	2148	2299
6050	1071	1542	1805	1995	2162	2314
6100	1078	1552	1817	2008	2176	2328
6150	1085	1561	1828	2020	2190	2343
6200	1092	1571	1840	2033	2204	2358
6250	1099	1581	1851	2046	2218	2373
6300	1106	1591	1863	2059	2232	2388
6350	1113	1601	1875	2071	2245	2403
6400	1120	1611	1887	2085	2260	2418
6450	1126	1621	1899	2099	2275	2434
6500	1133	1632	1912	2112	2290	2450
6550	1140	1642	1924	2126	2305	2466
6600	1147	1652	1937	2140	2320	2482
6650	1153	1662	1949	2154	2334	2498
6700	1160	1672	1961	2167	2349	2514
6750	1167	1682	1974	2181	2364	2530
6800	1174	1693	1986	2195	2379	2546
6850	1181	1703	1998	2208	2394	2561
6900	1187	1713	2011	2222	2409	2577
6950	1194	1723	2023	2236	2424	2593
7000	1201	1733	2036	2249	2438	2609
7050	1208	1744	2048	2263	2453	2625
7100	1215	1754	2060	2277	2468	2641
7150	1221	1764	2073	2290	2483	2657
7200	1228	1774	2085	2304	2497	2672
7250	1231	1779	2091	2311	2505	2680
7300	1235	1784	2098	2318	2513	2689
7350	1238	1790	2104	2325	2521	2697
7400	1242	1795	2111	2333	2529	2706
7450	1245	1800	2117	2340	2536	2714
7500	1249	1806	2124	2347	2544	2722
7550	1252	1811	2131	2354	2552	2731
7600	1256	1816	2137	2362	2560	2739
7650	1260	1822	2144	2369	2568	2748
7700	1263	1827	2150	2376	2576	2756

THE COURTS

<i>Combined Net Monthly Income</i>	<i>One Child</i>	<i>Two Children</i>	<i>Three Children</i>	<i>Four Children</i>	<i>Five Children</i>	<i>Six Children</i>
7750	1267	1832	2157	2383	2584	2764
7800	1270	1838	2163	2391	2591	2773
7850	1274	1843	2170	2398	2599	2781
7900	1277	1848	2177	2405	2607	2790
7950	1281	1854	2183	2412	2615	2798
8000	1284	1859	2190	2420	2623	2806
8050	1288	1865	2197	2428	2632	2816
8100	1296	1877	2211	2443	2648	2834
8150	1304	1888	2224	2458	2664	2851
8200	1312	1900	2238	2473	2680	2868
8250	1320	1911	2251	2487	2696	2885
8300	1328	1923	2265	2502	2712	2902
8350	1336	1934	2278	2517	2729	2920
8400	1344	1945	2291	2532	2745	2937
8450	1352	1957	2305	2547	2761	2954
8500	1360	1968	2318	2562	2777	2971
8550	1368	1980	2332	2576	2793	2988
8600	1376	1991	2345	2591	2809	3006
8650	1384	2003	2358	2606	2825	3023
8700	1392	2014	2372	2621	2841	3040
8750	1400	2026	2385	2636	2857	3057
8800	1408	2037	2399	2651	2873	3074
8850	1416	2049	2412	2665	2889	3092
8900	1424	2060	2426	2680	2905	3109
8950	1432	2072	2439	2695	2921	3126
9000	1440	2083	2452	2710	2937	3143
9050	1448	2095	2466	2725	2954	3160
9100	1456	2106	2479	2739	2970	3177
9150	1464	2117	2493	2754	2986	3195
9200	1472	2129	2506	2769	3002	3212
9250	1480	2140	2519	2784	3018	3229
9300	1488	2152	2533	2799	3034	3246
9350	1496	2163	2546	2814	3050	3263
9400	1504	2175	2560	2828	3066	3281
9450	1512	2186	2573	2843	3082	3298
9500	1520	2198	2586	2858	3098	3315
9550	1528	2209	2600	2873	3114	3332
9600	1536	2221	2613	2888	3130	3349
9650	1544	2232	2627	2903	3146	3367
9700	1552	2244	2640	2917	3162	3384
9750	1560	2255	2654	2932	3179	3401
9800	1568	2267	2667	2947	3195	3418
9850	1576	2278	2680	2962	3211	3435
9900	1584	2289	2694	2977	3227	3453
9950	1592	2301	2707	2991	3243	3470
10000	1600	2312	2721	3006	3259	3487
10050	1608	2324	2734	3021	3275	3504
10100	1616	2335	2747	3036	3291	3521
10150	1624	2347	2761	3051	3307	3539
10200	1632	2358	2774	3066	3323	3556
10250	1640	2370	2788	3080	3339	3573
10300	1648	2381	2801	3095	3355	3590
10350	1656	2393	2815	3110	3371	3607
10400	1664	2404	2828	3125	3387	3625
10450	1672	2416	2841	3140	3403	3642
10500	1680	2427	2855	3155	3420	3659

<i>Combined Net Monthly Income</i>	<i>One Child</i>	<i>Two Children</i>	<i>Three Children</i>	<i>Four Children</i>	<i>Five Children</i>	<i>Six Children</i>
10550	1688	2439	2868	3169	3436	3676
10600	1695	2448	2879	3181	3449	3690
10650	1698	2453	2886	3188	3456	3698
10700	1702	2459	2892	3196	3464	3707
10750	1706	2464	2899	3203	3472	3715
10800	1710	2470	2905	3210	3480	3723
10850	1713	2475	2912	3217	3487	3732
10900	1717	2481	2918	3224	3495	3740
10950	1721	2486	2925	3232	3503	3748
11000	1725	2492	2931	3239	3511	3757
11050	1728	2497	2938	3246	3519	3765
11100	1732	2503	2944	3253	3526	3773
11150	1736	2508	2951	3260	3534	3782
11200	1740	2513	2957	3268	3542	3790
11250	1743	2519	2964	3275	3550	3798
11300	1747	2524	2970	3282	3558	3807
11350	1751	2530	2977	3289	3565	3815
11400	1755	2535	2983	3296	3573	3823
11450	1758	2541	2990	3303	3581	3832
11500	1762	2546	2996	3311	3589	3840
11550	1766	2552	3003	3318	3597	3848
11600	1770	2557	3009	3325	3604	3857
11650	1773	2563	3016	3332	3612	3865
11700	1777	2568	3022	3339	3620	3873
11750	1781	2574	3029	3347	3628	3882
11800	1785	2579	3035	3354	3635	3890
11850	1788	2585	3042	3361	3643	3898
11900	1792	2590	3048	3368	3651	3907
11950	1796	2596	3055	3375	3659	3915
12000	1800	2601	3061	3382	3667	3923
12050	1803	2607	3068	3390	3674	3932
12100	1807	2612	3074	3397	3682	3940
12150	1811	2618	3081	3404	3690	3948
12200	1815	2623	3087	3411	3698	3957
12250	1818	2628	3094	3418	3706	3965
12300	1822	2634	3100	3426	3713	3973
12350	1826	2639	3107	3433	3721	3982
12400	1830	2645	3113	3440	3729	3990
12450	1833	2650	3120	3447	3737	3998
12500	1837	2656	3126	3454	3745	4007
12550	1841	2661	3133	3462	3752	4015
12600	1845	2667	3139	3469	3760	4023
12650	1848	2672	3145	3475	3767	4031
12700	1852	2678	3152	3483	3776	4040
12750	1856	2684	3159	3491	3784	4049
12800	1860	2689	3166	3499	3793	4058
12850	1864	2695	3174	3507	3801	4067
12900	1868	2701	3181	3515	3810	4077
12950	1872	2707	3188	3523	3818	4086
13000	1876	2713	3195	3530	3827	4095
13050	1880	2718	3202	3538	3835	4104
13100	1884	2724	3209	3546	3844	4113
13150	1888	2730	3216	3554	3853	4122
13200	1892	2736	3223	3562	3861	4131
13250	1896	2742	3231	3570	3870	4141
13300	1900	2747	3238	3578	3878	4150

<i>Combined Net Monthly Income</i>	<i>One Child</i>	<i>Two Children</i>	<i>Three Children</i>	<i>Four Children</i>	<i>Five Children</i>	<i>Six Children</i>
13350	1904	2753	3245	3586	3887	4159
13400	1908	2759	3252	3593	3895	4168
13450	1912	2765	3259	3601	3904	4177
13500	1916	2771	3266	3609	3912	4186
13550	1920	2776	3273	3617	3921	4195
13600	1924	2782	3280	3625	3929	4205
13650	1928	2788	3288	3633	3938	4214
13700	1932	2794	3295	3641	3947	4223
13750	1936	2800	3302	3649	3955	4232
13800	1940	2805	3309	3656	3964	4241
13850	1944	2811	3316	3664	3972	4250
13900	1948	2817	3323	3672	3981	4259
13950	1952	2823	3330	3680	3989	4268
14000	1956	2829	3338	3688	3998	4278
14050	1960	2834	3345	3696	4006	4287
14100	1964	2840	3352	3704	4015	4296
14150	1968	2846	3359	3712	4023	4305
14200	1972	2852	3366	3719	4032	4314
14250	1976	2858	3373	3727	4040	4323
14300	1980	2863	3380	3735	4049	4332
14350	1984	2869	3387	3743	4058	4342
14400	1988	2875	3395	3751	4066	4351
14450	1992	2881	3402	3759	4075	4360
14500	1996	2887	3409	3767	4083	4369
14550	2000	2892	3416	3775	4092	4378
14600	2004	2898	3423	3783	4100	4387
14650	2008	2904	3430	3790	4109	4396
14700	2012	2910	3437	3798	4117	4406
14750	2016	2916	3444	3806	4126	4415
14800	2020	2921	3452	3814	4134	4424
14850	2024	2927	3459	3822	4143	4433
14900	2028	2933	3466	3830	4152	4442
14950	2032	2939	3473	3838	4160	4451
15000	2036	2945	3480	3846	4169	4460

Explanatory Comment to Rule 1910.16-3—1998

The Committee proposes to replace the existing grids and chart of proportional expenditures with this child support schedule. The schedule shows the amounts spent on children in intact families by combined income and number of children. It is used to find the parties' combined basic child support obligation. In turn, the obligor's share of this obligation is computed using the existing income shares formula in Rule 1910.16-4 which allocates the obligation in proportion to the parties' net incomes. (See the Committee Report).

Rule 1910.16-4. Support Guidelines. [**Deviation**] **Calculation of Support Obligation. Formula.**

(a) **The following formula shall be used to calculate the obligor's share of the basic guideline child support, spousal support and/or alimony pendente lite obligation:**

Child Support

	<i>Obligor</i>	<i>Obligee</i>
1. Total Gross Income per pay period	_____	_____
2. Less Deductions	_____	_____
3. Net Income	_____	_____
4. Conversion to Monthly Amount (if pay period is other than monthly)	_____	_____
5. Combined Total Monthly Net Income	_____	_____
6. BASIC CHILD SUPPORT OBLIGATION (Determine from Schedule in Rule 1910.16-3 based on number of children and the line 5 Combined Monthly Net Income)	_____	_____
7. Total Support	_____	_____

	<i>Obligor</i>	<i>Obligee</i>
	%	%
8. Net Income Expressed as a Percentage Share of Income (Divide line 3 (or 4) by line 7)	_____	_____
9. Each Parent's Monthly Share of the Basic Child Support Obligation (Multiply line 7 and line 8)	_____	_____

Spousal Support or APL

With Dependent Children		
10. Obligor's Monthly Net Income (Line 3 or 4)	_____	
11. Less Obligee's Monthly Net Income (Line 3 or 4)	(_____)	
12. Difference	_____	
13. Less Obligor's Total Child Support Obligation	(_____)	
14. Difference	_____	
15. Multiply by 30%	x .30	
16. AMOUNT OF MONTHLY SPOUSAL SUPPORT OR APL	_____	
Without Dependent Children		
17. Obligor's Monthly Net Income (Line 3 or 4)	_____	
18. Less Obligee's Monthly Net Income (Line 3 or 4)	(_____)	
19. Difference	_____	
20. Multiply by 40%	x .40	
21. AMOUNT OF MONTHLY SPOUSAL SUPPORT OR APL	_____	

(b) *Shared Custody.* When the child spends an equal amount of time with both parties, the obligor shall be the party with the higher net income.

(c) *Order For More Than Six Children.* When there are more than six children who are the subject of a single order, the child support obligation shall be calculated as follows. First, determine the appropriate amount of support for six children under the guidelines. Using the same income figures, subtract the support amount for five children from the amount for six children. Multiply the difference by the number of children in excess of six and add the resulting amount to the guideline amount for six children.

(d) *Divided or Split Custody.*

(1) When calculating a child support obligation, and one or more children reside with each party, the court shall offset the parties' respective child support obligations and award the net difference to the obligee as child support. For example, if the parties have three children, one of whom resides with Husband and two of whom reside with Wife, and their net monthly incomes are \$1,500 and \$800 respectively, Husband's child support obligation is calculated as follows. Using the schedule in Rule 1910.16-3 for two children and the formula, Husband's support obligation for the two children living with Wife is \$508. Using the schedule in Rule 1910.16-3 for one child and the formula, Wife's support obligation for the child living with Husband is \$188. Subtracting \$188 from \$508 produces a net support amount of \$320 payable to Wife as child support.

(2) When calculating a combined child support and spousal or APL 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. In the example above, Husband's spousal and child support obligation to Wife and two children is \$564. Wife's child support obligation for one child is \$188. Subtracting \$188

from \$564 produces a net support amount of \$376 payable to Wife as spousal and child support.

(3) The procedures set forth in this subdivision should not necessarily be followed where one party's income is minimal and the other party's income is significantly greater. For example, where the non-custodial parent's income is \$2,000 and custodial parent has no income, the guideline for one child is \$472. If the same numbers are used, but each parent has custody of one child, the guideline is still \$472 because the parent without income is not liable for support which would reduce the \$472 order. This result is inequitable, and therefore the formula set forth above should not be used in similar situations.

(e) *Support Obligations When Custodial Parent Owes Spousal Support.* Where children are residing with the spouse obligated to pay spousal support (custodial parent) and the other spouse (non-custodial parent) has a legal obligation to support these children, the guideline amount of spousal support shall be determined by offsetting the non-custodial parent's obligation for support of the children and the custodial parent's obligation of spousal support, and awarding the net difference to the non-custodial parent as spousal support.

The following example uses the formula to show the steps followed to determine the amount of the non-custodial parent's support obligation to the children and the effect of that obligation upon the custodial parent's spousal support obligation. The example assumes that the parties have two children and the non-custodial parent's net monthly income is \$1,000 and the custodial parent's net monthly income is \$2,600. First, determine the spousal support obligation of the custodial parent to the non-custodial parent based upon their net incomes from the formula for spousal support without dependent children, i.e., \$640. Second, recompute the net income of the parties assuming the payment of the spousal support so that \$640 is subtracted from the custodial parent's net income, now \$1,960, and added to the non-custodial parent's net income,

now \$1,640. Third, determine the child support obligation of the non-custodial parent based upon the recomputed net incomes in Step 2 from the schedule and formula for two children, i.e., \$468. Fourth, determine the recomputed support obligation of the custodial parent to the non-custodial parent by subtracting the non-custodial parent's child support obligation from Step 3 (\$468) from the original support obligation determined in Step 1 (\$640). The recomputed spousal support is \$172.

(f) *Allocation. Consequences.* An order awarding both spousal and child support may be unallocated or state the amount of support allocable to the spouse and the amount allocable to each child. However, the formula provided by these rules assume that an order will be unallocated. Therefore, if the order is to be allocated, the formula set forth in this Rule shall be utilized to determine the amount of support allocable to the spouse. If allocation of an order utilizing the formula would be inequitable, the court shall make an appropriate allocation. Also, if an order is to be allocated, an adjustment shall be made to the award giving consideration to the federal income tax consequences of an allocated order as may be appropriate under the circumstances.

When the parties are in higher income brackets, the income tax considerations are likely to be a more significant factor in determining an award of support. A support award for a spouse and children is taxable to the obligee while an award for the children only is not. Consequently, in certain situations an award only for the children will be more favorable to the obligee than an award to the spouse and children. In this situation, the trier of fact should utilize the guidelines which result in the greatest benefit to the obligee.

When the obligee's net income is equal to or greater than the obligor's net income, the guideline amount for spouse and children is identical to the guideline amount for children only. Therefore, in cases involving support for spouse and children, whenever the obligee's net income is equal to or greater than the obligor's net income, the guideline amount indicated shall be attributed to child support only.

Explanatory Comment to Rule 1910.16-4—1998

As part of the overall reorganization of the support guidelines, the Committee proposes to rescind the Chart of Proportional Expenditures, which is currently used in conjunction with the income shares formula to establish the support obligation, and substitute it with the new schedule in Rule 1910.16-3. The formula itself is modified only to conform to the new schedule. Rule 1910.16-4 also consolidates the following provisions relating to use of the formula in special situations which currently appear throughout existing Rule 1910.16-5.

1. *Shared Custody.* (See the Committee Report). Subdivision (b) reflects the Committee's recommendation for establishing the basic support obligation in a 50-50 shared custody situation. When the child spends half of the time living with one parent and the other half living with the other parent, then for purposes of establishing the basic support obligation, the obligor is the party with the higher net income. If the parties' incomes are identical and custody time is equal, there should be no basic guideline amount awarded except in unusual circum-

stances. In these cases, however, either party may still seek contribution from the other party for any of the additional expenses that he or she incurs on behalf of the children (e.g., health insurance premiums, private school tuition and/or any other additional expenses which are not reflected in the amounts shown in the schedule).

2. *Order for More than Six Children.* Subdivision (c) incorporates existing Rule 1910.16-5(e). It has been changed only to reflect the expanded application of the guidelines from four to six children and the new schedule. No substantive changes are intended here.

3. *Divided or Split Custody.* New subdivision (d) incorporates existing Rule 1910.16-5(h). It has been rewritten only to update the examples so that they reflect the new levels of child support and the new schedule. No substantive changes are intended here.

4. *Support Obligations When Custodial Parent Owes Spousal Support.* New subdivision (e) incorporates existing Rule 1910.16-5(j). It has been rewritten only to update the examples so that they reflect the new levels of child support and the new schedule. No substantive changes are intended here.

5. *Allocation. Consequences.* New subdivision (f) incorporates verbatim existing Rule 1910.16-5(f). No changes were made here.

Rule 1910.16-5. Support Guidelines. [Operation] Deviation.

(a) If the amount of support deviates from the amount of support determined by the guidelines, the trier of fact shall specify, in writing, the guideline amount of support, and the reasons for, and findings of fact justifying, the amount of the deviation.

Official Note: The deviation applies to the amount of the support obligation and not to the amount of income.

(b) In deciding whether to deviate from the amount of support determined by the guidelines, the trier of fact shall consider:

- (1) unusual needs and unusual fixed obligations;
- (2) other support obligations of the parties;
- (3) other income in the household;
- (4) ages of the children;
- (5) assets of the parties;
- (6) medical expenses not covered by insurance;
- (7) standard of living of the parties and their children;
- (8) in a spousal support or alimony pendente lite case, the length of the marriage; and
- (9) other relevant and appropriate factors, including the best interests of the child or children.

(c) [*Reduced or Fluctuating Income.*] Moved to Rule 1910.16-2(e). No deviation from the support obligation shall be made for the amount of time that each parent spends with the child or children.

[(d) *Net Income Affecting Application of the Guidelines.*] Moved to Rule 1910.16-2(f).

[(e) *Orders for More Than Four Children.*] Moved to Rule 1910.16-4(b).

[(f) *Allocation; Consequences.*] Moved to Rule 1910.16-4(e).

[(g) *Mortgage Payment.*] Moved to Rule 1910.16-6(e).

[(h) *Divided or Split Custody of Minor Children.*] Moved to Rule 1910.16-4(c).

[(i) *Child Care Expenses.*] Moved to Rule 1910.16-6(a).

[(j) *Support Obligations When Custodial Parent Owes Spousal Support.*] Moved to Rule 1910.16-4(d).

[(k) *Determination of Post-Secondary Educational Expenses.*] Rescinded. See *Curtis v. Kline*, 542 Pa. 249, 666 A.2d 265 (1995).

[(l) *Private School Tuition. Summer Camp. Other Needs.*] Moved to Rule 1910.16-6(d).

[(m) *Direct Contributions of Noncustodial Parent.*] Moved to Rule 1910.16-5(c).

[(n) *Awards of Child Support When There are Multiple Families.*] Rescinded. See 1910.16-2(c)(1)(D) and (2).

[(o) *Awards of Spousal Support When There are Multiple Families.*] Rescinded. See Rule 1910.16-2(c)(1)(D) and (2).

[(p) *Unreimbursed Medical Expenses.*] Moved to Rule 1910.16-6(c).

[(q) *Treatment of AFDC and SSI Benefits.*] Moved to Rule 1910.16-2(b).

Explanatory Comment to Rule 1910.16-5—1998

As part of the overall reorganization of the rules relating to the support guidelines, new Rule 1910.16-5 incorporates existing Rule 1910.16-4 setting forth the factors for deviation. The Committee proposes that two substantive changes be made to this provision. Subdivision (b)(8) is added to permit the court to consider the length of the marriage in a spousal support or alimony pendente lite case. Subdivision (c) is added to expressly prohibit deviation based on the amount of time that each parent spends with the child or children. The Committee's rationale for recommending these changes is set forth in detail in the Report. (See the Committee Report).

Rule 1910.16-6. Support Guidelines. Adjustments to the Basic Support Obligation.

(a) *Child care expenses.* Reasonable child care expenses paid by the custodial parent, if necessary to maintain employment or appropriate education in pursuit of income, are the responsibility of both parents. These expenses shall be allocated between the parties in proportion to their net incomes and obligor's share added to his or her basic support obligation.

(1) Except as provided in subsection (2), the total child care expenses shall be reduced by 25% to reflect the federal child care tax credit available to the custodial parent, whether or not the credit is actually claimed by that parent, up to a maximum annual cost of \$2,400 per year for one child and \$4,800 per year for two or more children. For example, where the custodial parent incurs \$7,000

per year of reasonable child care expenses for two children, the net child care expenses subject to allocation between the parties is calculated as follows. Multiply the first \$4,800 of these expenses by .75—\$3,600. Add the remaining child care expenses of \$2,200 to this amount for a total of \$5,800. Divide this amount by 12 months for a total of \$483 per month of net child care expenses that are subject to allocation between the parties in proportion to their net incomes.

(2) The federal child care tax credit shall not be used to reduce the child care expenses subject to allocation between the parties if the custodial parent's gross income (before considering any support) falls below \$1,200 per month for one child, \$1,600 per month for two children, \$1,800 per month for three children, \$2,000 per month for four children, \$2,300 per month for five children and \$2,500 per month for six children.

(b) *Health Insurance Premiums.*

(1) A party's payment of a premium to provide health insurance coverage on behalf of the other party or the children shall be allocated between the parties in proportion to their net incomes, including the portion of the premium attributable to the party who is paying it. If the obligor is paying the premium, then obligee's share is deducted from the obligor's basic support obligation. If the obligee is paying the premium, then obligor's share is added to his or her basic support obligation. Employer-paid premiums are not subject to allocation.

(2) When the health insurance covers other persons or children who are not the subject of the support action, the portion of the premium attributable to them must be excluded from allocation. In the event this portion is not known or cannot be verified, it shall be calculated as follows. First, determine the cost per person by dividing the total cost of the premium by the number of persons covered under the policy. Second, multiply the cost per person by the number of persons who are not the subject of the support action. The resulting amount is excluded from allocation.

For example, if Husband pays \$200 per month for a health insurance policy which covers himself, Wife, the parties' child, and two additional children from a previous marriage, the portion of the premium attributable to the additional two children, if not otherwise verifiable or known with reasonable ease and certainty, is calculated by dividing \$200 by five persons and then multiplying the resulting amount of \$40 per person by the two additional children, for a total \$80 to be excluded from allocation. Subtract this amount from the total cost of the premium to arrive at the portion of the premium to be allocated between the parties—\$120. Since Husband is paying the premium, Wife's percentage share of \$120 is deducted from Husband's support obligation. If Wife had been providing the coverage, then Husband's percentage share would be added to his basic support obligation.

Official Note: Pursuant to 23 Pa.C.S. § 4326, the non-custodial parent bears the initial responsibility of providing health care coverage for the children if it is available at a reasonable cost on an employment-related or other group basis.

(c) *Unreimbursed Medical Expenses.* Unreimbursed medical expenses of the obligee or the

children shall be allocated between the parties in proportion to their respective net incomes and obligor's share added to his or her basic support obligation.

(1) For purposes of this subdivision, medical expenses are annual unreimbursed medical expenses in excess of \$250 per person which are recurring and can be reasonably predicted by the court at the time of establishment or modification of the support order. Medical expenses include insurance co-payments and deductibles and all expenses incurred for reasonably necessary medical services and supplies, including but not limited to surgical, dental and optical services, and orthodontia. Medical expenses do not include cosmetic, chiropractic, psychiatric or psychological services unless specifically directed in the order of court.

(2) If there are annual medical expenses in excess of \$250 per person which are unpredictable or non-recurring, the court may order that such expenses, if incurred, be allocated in proportion to the parties' net incomes. The court may direct obligor to pay his or her share either to the obligee or directly to the health care provider.

(3) An annual limitation may be imposed when the burden on the obligor would otherwise be excessive.

Official Note: If the trier of fact determines that the obligee acted reasonably in obtaining services which were not specifically set forth in the order of support, payment for such services may be ordered retroactively.

(d) *Private School Tuition. Summer Camp. Other Needs.* The support schedule does not take into consideration expenditures for private school tuition or other needs of a child which are not specifically addressed by the guidelines. If the court determines that one or more such needs are reasonable, the expense thereof shall be borne by the parties in reasonable shares. The obligor's reasonable share may be added to his or her basic support obligation.

(e) *Mortgage Payment.* The guidelines assume that the spouse occupying the marital residence will be solely responsible for the mortgage payment, real estate taxes, and homeowners' insurance. Similarly, the court will assume that the party occupying the marital residence will be paying the items listed unless the recommendation specifically provides otherwise. If the obligee is living in the marital residence and the mortgage payment exceeds 25% of the obligee's net income (including amounts of spousal support, APL and child support), the court may direct the obligor to assume up to 50% of the excess amount as part of the total support award.

Explanatory Comment to Rule 1910.16-6—1998

As part of the overall reorganization of the rules, New Rule 1910.16-6 consolidates the existing provisions in Rule 1910.16-5 relating to the additional expenses that warrant an adjustment to the basic support obligation. Substantive changes are noted as follows.

1. *Child Care Expenses.* (See the Committee Report). New subdivision (a) substantially incorporates existing subdivision (i) of Rule 1910.16-5 with two substantive changes. First, it changes the method of allocation from

one of equal shares to proportionate shares based on the parties' net incomes. Second, it reflects the federal child care tax credit that is available to the custodial parent. Although this tax credit ranges from 20-30% depending on the custodial parent's income, the Committee has chosen to simplify the calculation for purposes of establishing or modifying a support obligation by adopting the average of 25%. At higher income levels, the court should consider that the credit gradually begins to decrease to the point where it reaches the minimum rate of 20%. In terms of reducing the overall support obligation, however, the difference is negligible.

There are two important limitations on the use of this tax credit. First, it applies only to the first \$2,400 per year (\$200 per month) for one child or \$4,800 per year (\$400 per month) for two or more children. Only child care expenses incurred up to these amounts, therefore, are reduced by 25% before allocating them between the parties. Any remaining expenses are allocated between the parties without adjustment. Second, since the tax credit may be taken only against taxes owed, it cannot be used when the custodial parent does not incur sufficient tax liability to fully realize the credit. For this reason, subsection (2) provides that no adjustment to the total child care expenses may be made if the custodial parent's gross income falls below the thresholds set forth therein. The income thresholds are based on 1997 tax rates.

2. *Health Insurance Premiums.* (See the Committee Report). New subdivision (b) reflects the Committee's proposal to treat the cost of health insurance premiums as an additional expense to be allocated between the parties in proportion to their net incomes. In addition, the Committee proposes to permit allocation of the portion of the premium attributable to the party who is paying it as well as the portion attributable to the other party or children. Subsection (2) provides for proration of the premium when the health insurance covers other persons who are not the subject of the support action.

3. *Unreimbursed Medical Expenses.* (See the Committee Report). New subdivision (c) substantially incorporates existing Rule 1910.16-5(p) with four changes. First, since the first \$250 of medical expenses per year per child is built into the basic guideline amount in the child support schedule, only medical expenses in excess of \$250 per year per child are subject to allocation under this Rule as an additional expense to be added to the basic support obligation. Second, the Committee has chosen to draw this same line with respect to spousal support so that the obligee-spouse is expected to assume the first \$250 per year of these expenses and may seek contribution under this Rule only for unreimbursed expenses which exceed \$250 per year. The third proposed change is to amend the definition of "medical expenses" to include insurance co-payments, deductibles and orthodontia, and to exclude chiropractic services. The fourth proposed change is to distinguish between medical expenses which are recurring and predictable and those which are not. When the expenses are recurring and predictable, the court may establish a monthly amount for these expenses and add it to the basic support obligation so that it is collectible through a wage attachment.

4. *Private School Tuition. Summer Camp. Other Needs.* New subdivision (d) incorporates existing Rule 1910.16-5(l) and modifies the language only to conform to the new schedule.

5. *Mortgage Payment.* New subdivision (e) substantially incorporates existing Rule 1910.16(g), and has been changed only to provide some uniformity on what consti-

tutes an unusually high mortgage payment that may justify an upward adjustment to the basic support obligation. The change is intended only for the benefit of the obligee living in the marital residence. There is no adjustment if the obligor is living there.

Committee Report

The Family Support Act of 1988 [P. L. 100-485, 102 Stat. 2343 (1988)] requires that the child support guidelines be reviewed every four years to ensure that their application results in the determination of an appropriate child support award. With the assistance of Dr. Robert Williams, the developer of the Income Shares model, the Committee reviewed the most recent economic studies on child-related expenditures in intact households and assessed State guideline adjustments for low income, additional dependents, shared custody, child care, medical expenses and other factors that are considered in establishing or modifying a support award. Based on this review, the Committee proposes to recommend to the Supreme Court that it approve these proposed amendments to Pennsylvania Rules of Civil Procedure 1910.16-1 through 1910.16-5 relating to the support guidelines.

This Report highlights the major changes being proposed by the Committee.

1. *Updating the Levels of Child Support*¹

The current levels of child support are based on economic estimates of intact household expenditures derived from national data dating back to the 1972-1973 Consumer Expenditure Survey conducted by the U. S. Bureau of Labor Statistics. In 1990, more recent economic estimates became available. These estimates are reflected in the proposed child support schedule in Rule 1910.16-3 and, pursuant to Federal and State law, must be adopted to ensure that children continue to receive adequate levels of support.

The more recent studies now consider households of up to six children. The support guidelines have been expanded, therefore, from four to six children. The newer studies also consider households with combined monthly net income of up to \$12,600. Allowing for inflation, the model can be extended to families with monthly net income of up to \$15,000. The Committee has chosen to do this so that the support guidelines will apply to more cases.

2. *Elimination of the Grids and Chart of Proportional Expenditures*²

In lieu of the existing grids and chart set forth in Rules 1910.16-2 and 1910.16-3(b) respectively, the Committee proposes to adopt a basic child support schedule as the method for presenting the new economic estimates. The schedule is a step between grids and a chart, but has significant advantages over both in its accommodation of the proposed amendments to the guidelines. While the grids may be easier to use and reflect amounts for both child and spousal support, they have limited coverage of combined income ranges. Further expansion of these ranges would produce grids that are too unwieldy and cumbersome to work with, particularly in light of the extension of the guidelines to combined monthly net income of \$15,000.

Although the chart of proportional expenditures is more comparable to the schedule, the schedule provides a smoother mechanism for eliminating the gaps in support obligations that would otherwise exist as the result of the

economic studies indicating that the proportion of net income spent on children declines as income increases, even though the level of spending (i.e., actual dollars) on children increases as income increases. The schedule also has the advantage of eliminating two steps in the calculation of support pursuant to the formula in Rule 1910.16-4.

3. *Incorporation of a Computed Allowance Minimum (CAM)*³

The Committee proposes to incorporate a Computed Allowance Minimum (CAM) so that low-income obligors retain sufficient income to meet their basic needs and maintain the incentive to continue working so that support can be paid. The CAM is built into the child support schedule in Rule 1910.16-3 and adjusts the basic support obligation so that obligor's net income does not fall below \$500 per month. Since the schedule does not reflect amounts of spousal support or APL, proposed Rule 1910.16-3(e)(1)(B) requires a similar adjustment in these cases so that the obligor's net income does not fall below \$500 per month in these cases.

The 1997 Federal poverty guideline is \$658 per month. Income levels set by other states range from as little as \$430 in Colorado to as much as \$710 in Vermont. The Committee chose \$500 per month as the level necessary to maintain a minimum standard of living, and invite comment on whether this is too high or too low.

4. *Multiple Families*⁴

The Committee proposes to simplify the calculation of support obligations in multiple-family situations. The premise of existing Rule 1910.16-5(n) governing multiple child support obligations is that all of the party's children should have equal access to his or her resources. While this may be a laudable goal, the Rule has proven extremely difficult in practice because it requires separate calculations for each family before an order can be established for the children who are the subject of the support action. It does not result in an accurate order, therefore, unless all of the families are present at the same hearing. This is not feasible in many cases, particularly when one or more families reside in different states. Nor does it work well in cases where a pre-existing child support order for other children has already been entered by another county or state and the amount of the order does not conform to the amount which would be theoretically calculated under the Rule.

To address these problems, the Committee proposes to rescind Rule 1910.16-5(n) and to recommend what is commonly described as the "first mortgage, second mortgage" approach. This approach requires a deduction from the party's gross income for any child support being paid pursuant to a pre-existing court order entered on behalf of first born children who are not the subject of the support action. While it gives some priority to these children over later born children, many Committee members felt strongly that a parent should be required to meet his or her obligations to the first family before incurring new ones, and that children from a prior marriage or relationship should be protected from the adverse financial consequences of the parent's decision to remarry or to have more children. Essentially, the second family takes the obligor as they find him or her—with an existing obligation. While it is true that the children of this second family had no choice in the matter, the majority of Committee members felt that these children

¹ See Proposed Rule 1910.16-3.

² See Proposed Rule 1910.16-3.

³ See Proposed Rules 1910.16-2(e)(1) and 1910.16-3.

⁴ See Proposed Rule 1910.16-2(c)(2)—(3).

are entitled only to the standard of living established by their two parents, and not the standard of living that may have existed earlier in the first family.

For many of these same reasons, the Committee also proposes to rescind Rule 1910.16-5(o) relating to multiple spousal support obligations and to recommend deducting from gross income the amount of alimony, spousal support or alimony pendente lite being paid to a prior spouse. Under the existing Rule, second and subsequent spouses do not receive priority over any children, including children born outside of or after the marriage. The Rule provides no guidance on the priority between a first spouse and later children. In examining the stated rationale for (o)—“unlike children who have no choice about the family situation into which they were born, these later spouses had an opportunity to investigate a potential spouse before committing themselves”—the Committee concluded that this rationale did not apply to the first spouse, whose “investigation” before the marriage would not have revealed these children. If, however, this spouse were to receive priority over later children then, for the same reasons, second and subsequent spouses should also receive priority over children born outside of or after their marriages as well.

The proposed approach reorders the priorities in multiple-family situations. First born children subject to a pre-existing order receive priority over later born children and later spouses. A spouse receives priority over later spouses and may receive priority over children born after the marriage. This approach, which is used by the majority of Income Shares states, eliminates the practical problems associated with multiple-family calculations under Rule 1910.16-5(n) and (o). Since it effectively transforms the calculation into an issue of net income, it appears in proposed Rule 1910.16-2(c)(2) and(3) relating to the calculation of net income.

5. Shared Custody⁵

Under the existing guidelines, there is no formula or procedure for deviating from the basic support guideline when custody is shared equally or the non-custodial parent has substantial partial custody. Rule 1910.16-5(m) provides that a non-custodial parent's support obligation should be reduced only if that parent spends “an unusual amount of time with the children.” There have been several decisions rejecting deviation even if the non-custodial parent spends almost 50% of the time with the children. See e.g., *Anzalone v. Anzalone*, 449 Pa. Super. 201, 673 A.2d 377 (1996)(40% of time spent with father was not an unusual amount of time justifying deviation absent evidence of additional expenditures incurred as a result of that time with the child); *Dalton v. Dalton*, 409 Pa. Super. 258, 597 A.2d 1192 (1991) (average of 43% of time was not sufficient to warrant deviation).

The general assumption, however, is that in a case of 50-50 shared custody, there would be some reduction in the support obligation. Courts and hearing officers struggling with this issue have adopted various approaches, some on an ad-hoc basis, with varying degrees of success. While there is no reliable survey of the various methods being used, anecdotal evidence suggests that the most common method for addressing support in shared custody cases is to use the offset method for split or divided custody cases under Rule 1910.16-5(h), which involves determining what each parent would owe if the other parent were the primary custodian and then subtracting the difference. A common additional step is to then divide

that difference in half. While this has the beauty of simplicity, it often produces inequitable, sometimes absurd, results. For example, under the present guidelines, if obligor has net income of \$4,300 per month and obligee has net income of \$2,900 per month, obligor's support obligation for three children is \$1,114 per month. If, however, the parties shared custody 50-50, and support was calculated under the divided custody rule, and then further divided in half, the support payment drops to \$181 per month.

As one can see, an increase in the non-custodial parent's time by as little as 7% (i.e., from 43% to 50%) can result in a reduction in the support obligation by almost 85%. Although not all income scenarios provide an example as stark as this one, in virtually every case the support reduction under this method is out of proportion to the increase in custody time.

The Committee has frequently been asked to provide some kind of guidance for a uniform approach to shared custody cases. The issue, however, is far from simple. Around the country, only 28 states have addressed support obligations in the context of shared custody. Some states are silent (like Pennsylvania has been until now). The states that do address it approach it in many different ways. None of the methods are mathematically simple and some are extremely complex and confusing. All of them produce anomalous results under some income or custody scenarios.

With the assistance of Dr. Williams, the Committee spent considerable time and effort examining seven separate methods. The Committee felt strongly that if there was to be an adjustment to the support obligation for an unusual amount of time spent with the child—for example, beginning at 30% and up to 50% of the time—the method must recognize that the custodial parent continues to incur fixed costs for the child even when the child is with the other parent. The Committee also felt strongly that the method should not create a strong financial incentive for the non-custodial parent to seek shared custody. If there was to be an adjustment, it must be a gradual one that is rationally tied to the gradual increase in time spent with the child and one which does not produce the enormous reduction in support at some point in time. Unfortunately, none of the models met all of these objectives. Some were better at some income levels or income differentials between the parties while others were better under other circumstances. All of them, however, resulted in inconsistencies or anomalies under some scenarios.

The Committee rejected the option of concluding that there was no perfect solution and that the rules should remain unchanged. If at all possible, guidance should be provided for shared custody situations.

The last option, and the one selected for recommendation by the Committee, is not to permit any deviation from the basic support obligation based on the amount of time that each parent spends with the children. This option eliminates the strong financial incentive to seek shared custody. While we considered that this option may also have the opposite effect of discouraging a party from seeking shared custody, even when it may be in the best interests of the children, we concluded that there is little difference between the parent who seeks shared custody in order to reduce the support obligation and the parent who is unwilling to spend more time with the children unless it means a reduction in the support obligation (or the parent who is reluctant to let the children spend more time with the other parent if it means a reduction in the

⁵ See Proposed Rules 1910.16-4(b) and 1910.16-5(c).

support obligation). Financial considerations should not be relevant to a parent's decision to spend more or less time with the children. The proposed approach accomplishes this by removing the financial incentive altogether so that it doesn't factor either way into this decision.

Even in the vast majority of cases in which parties are not motivated by financial incentives, the Committee considered that the amount of time spent with the non-custodial parent, even if substantial, results in little savings to the custodial parent, who continues to incur fixed expenses relating to the children—e.g., housing, furniture, and school-related expenses—even when the children are spending time with the other parent. Conversely, even though the non-custodial parent may incur additional costs as the result of more time spent with the children, many of these costs merely duplicate the costs already being incurred by the custodial parent.

In reaching a determination that there will be no deviation from the basic support obligation, the Committee had to determine who should be the obligor for purposes of support in a 50-50 shared custody situation. The Committee recommends that the obligor be the parent with the higher income so that the total available income is more evenly distributed between the two households. If the parties' incomes are identical, there should be no basic support obligation except in unusual circumstances. In these cases, however, either party may still seek contribution from the other party for any additional expenses incurred on behalf of the children which are typically added to the basic support obligation—e.g., health insurance premiums, child care, private tuition and other expenses that are not built into the basic support amounts set forth in the schedule.

This is a very short synopsis of a very lengthy, difficult and complex analysis. We do not expect this recommendation to be received with unanimous acceptance, but we believe it to be better than the present void. We recognize the possibility that there may be better solutions. The Committee invites comment from the bench and bar and all interested persons. Specific suggestions, formulas, and mathematical models are welcome. Expressions of general dissatisfaction, without more, are also welcome but are not helpful to an ultimate resolution of the problem.

6. Calculation of the Presumptive Minimum Amount of Child Support in High Income Cases⁶

Under the existing guidelines, the presumptive minimum amount of the child support obligation in high income cases is calculated as if the parties' only had \$10,000 combined income. The parties' percentage shares of the obligation are also based on this theoretical income. The Committee proposes to alter the calculation so that the parties' percentage shares are calculated using their actual income rather than theoretical income.

There are several problems with calculating the parties' percentage shares using theoretical rather than actual combined income. For example, in the second illustration which appears in existing Rule 1910.16-5(a), where the obligor and obligee have monthly net incomes of \$15,000 and \$3,000 respectively, the presumptive minimum amount of support of \$2,410 for three children is calculated using only \$8,000 of obligor's income and \$2,000 of obligee's income. The obligor's obligation of \$1,948 is calculated as if his or her percentage share is 80% of \$10,000 when, in reality, his or her percentage share is 83% of \$18,000. This is economically unfair to the obligee

and the three children, and is remedied by using actual combined income to determine the parties' percentage shares.

Another problem with using theoretical income is that the calculation uses only 53% of obligor's actual income (\$8,000 of \$15,000) while using 66% of obligee's monthly income (\$2,000 of \$3,000). This is also unfair to the obligee and the three children, and would be corrected by using all of the parties' income to determine their respective shares.

A third problem is that the income limitation of \$2,000 per month for obligee results in the same presumptive amount of support for a family in which obligee earns only \$2,000 as it does for a family in which the obligee earns substantially more than that, all other things being equal. This is unfair to the obligor and would be remedied as well by using the parties' actual combined income. If, for example, in the above illustration the obligee earned \$9,000 rather than only \$2,000, the obligor's percentage share would be reduced to 62% of \$2,410, which effectively reduces the obligor's obligation to \$1,494.

7. Calculation of Spousal Support⁷

Pursuant to the existing guidelines formula in Rule 1910.16-4, the presumptively correct amount of spousal support or APL is calculated as a straight percentage of the net difference between the parties' incomes (after considering child support). If no children are involved, the percentage is 40%; if children are involved, the percentage is 30%. The Committee has been asked repeatedly to clarify whether this formula is intended to apply to all spousal support and APL cases or whether, in cases where the parties' combined net income exceeds \$15,000 per month, the court may disregard the formula and use a reasonable needs analysis like the one used in *Melzer v. Witsberger*, 505 Pa. 462, 480 A.2d 991 (1984) for child support. The issue has received even greater attention recently in light of *Karp v. Karp*, ___ Pa. Super. ___, 686 A.2d 1325 (1996), which analyzed the needs and lifestyle of the parties in fashioning an appropriate APL and child support order, and *Terpak v. Terpak*, ___ Pa. Super. ___, 697 A.2d 1006 (1997), which implicitly approved York County's use of the formula for calculating a spousal support obligation even though the parties' combined income exceeded the guideline amount, and held that a lack of need on the part of the obligee was not a basis for deviation (*Terpak* did not address the obligor's needs because it was not an issue raised in the case).

Neither the existing rules nor the case law provide any authority for going outside of the guidelines formula and using *Melzer* to calculate a spousal support or APL obligation. The Committee considered, however, whether the rules should permit this in cases where the parties' combined income exceeds \$15,000 per month. Ultimately, however, we concluded that drawing a line at this income level, or any income level, would be purely arbitrary. The only reason that a court must shift from the guidelines to *Melzer* in child support cases is because the economic studies underlying the Income Shares model for child support do not, and cannot, consider intact households with combined income beyond \$12,600 per month. There are no statistically significant numbers available for these households to support an extension of the model beyond this income level (inflation allows extension only to \$15,000). In the absence of any comparable model for spousal support based on studies of spousal-related spending in intact households, there is no economic or

⁶ See Proposed Rule 1910.16-2(e)(2).

⁷ See Proposed Rules 1910.16-1(d), 1910.16-3 (formula) and 1910.16-5(b)(8) (deviation).

theoretical basis to warrant the same shift from the guidelines to *Melzer* in spousal support cases when the parties' combined income reaches a certain level.

Of course, it is precisely the lack of any theoretical model for spousal support that has prompted some members of the bench and bar to question the fairness of using a formula which calculates the support obligation as a straight percentage of income. This raises a very different issue altogether, however,—namely, whether the formula should be used at all in any spousal support case. It is not just an issue which affects only high income cases because if, as the theory goes, a flat percentage of income bears no relationship to the parties' actual needs and circumstances, then it would be just as unfair to award it in lower and middle income cases as well. A family's needs and financial resources should be given the same consideration by the court regardless of whether that family has combined income of \$5,000 per month or \$15,000 per month.

The Committee concluded that the formula itself is not inherently unfair because it is used only to establish the presumptively correct amount of spousal support or APL. Proposed Rule 1910.16-1(d) clearly states that the support guidelines create a rebuttable presumption only and must be applied taking into consideration the special needs and obligations of the parties and the deviation factors set forth in Rule 1910.16-5. Any unfairness, therefore, results from the failure to consider unusual factors in arriving at an appropriate amount of support, and not from the use of the formula in establishing a presumptive amount of support.

Although the presumption is always susceptible to becoming the rule itself when mechanically applied without regard to the permitted deviations, this is true of any presumption and merely reflects an erroneous application of the support guidelines. When they are properly applied, they essentially provide a *Melzer*-type model for spousal support and APL. The Committee is not aware of a better model that would not involve an elaborate and complicated restructuring of the support guidelines. The alternative—no formula at all—does not address the existing problem in larger counties which are confronted daily with a large number of these cases. While there appears to be no better solution, the Committee invites comment on ways to improve the guidelines so that there is more meaningful deviation from the presumptive formula in spousal support and APL cases.

The Committee recommends that courts be permitted to consider the length of the marriage as a factor for deviation in spousal support or APL cases. The purpose of this provision is to prevent the perceived unfairness that arises in a short-term marriage when the obligor is required to pay support over a substantially longer period of time than the parties were married. The Committee considered more specific language which would have limited the duration of the support order to a period of one year or less in cases where the parties had been married for less than two years. We ultimately rejected this language as arbitrary and somewhat unrealistic in light of the fact that some divorce proceedings last much longer than two years. We invite comment on this issue as well.

8. *Child Care Expenses*⁸

Current Rule 1910.16-5(i) provides for equal sharing of child care expenses. The Committee proposes to adopt proportionate sharing based on the parties' net incomes so

that child care expenses are divided in the same manner as other expenses which are typically added to the basic support obligation. The proposed Rule also reflects the availability of the Federal child care tax credit which can be claimed by the custodial parent. This credit essentially reduces the total expenses subject to allocation. For tax purposes, the actual credit can range anywhere from 20 to 30 percent depending on the custodial parent's income. For support purposes, the Committee has chosen to simplify the calculation by assuming an average tax credit of 25 percent. Although the court may always look at the actual tax rate that applies in a particular case, it will have very little impact on the overall support award.

The explanatory comment also sets forth the limitations on the use of this credit. First, the credit applies only to the first \$2,400 per year for one child or \$4,800 per year for two or more children. Thus, only child care expenses incurred up to these amounts are reduced by 25%. The remaining child care expenses, if any, are allocated between the parties without adjustment.

Since the tax credit may be taken only against taxes owed, it cannot be used when the custodial parent does not incur sufficient tax liability to fully realize the credit. For this reason, the proposed Rule does not permit any adjustment to child care expenses if the custodial parent's gross income falls below the income thresholds set forth in the Rule.

9. *Health Insurance Premiums*⁹

Current Rule 1910.16-5(b) permits a deduction from gross income of the portion of health insurance premiums benefitting the other party or the children. The Rule provides little incentive for either party to obtain or maintain health insurance coverage for the benefit of the other family members. If the obligor is paying for the insurance, it reduces the basic support award only marginally. If obligee is paying for the insurance, he or she receives virtually no financial credit at all in terms of a higher support award. Given the importance of health insurance coverage, the Committee proposes to maximize the value for the party paying the premium by treating it as an additional expense subject to allocation between the parties in proportion to their net incomes. This more accurately reflects the costs of carrying such insurance and also ensures that the obligee receives some financial credit for carrying the insurance.

The proposed Rule also permits allocation of the entire premium, including the party's portion of the premium, when the insurance benefits the other party or the children. This provides further incentive for parties to obtain health insurance for the benefit of the other party and the children.

10. *Unreimbursed Medical Expenses*¹⁰

The Committee proposes several changes to the treatment of unreimbursed medical expenses. Since the first \$250 per year per child of these expenses is already built into the basic child support obligation reflected in the schedule, only medical expenses which exceed this amount are subject to allocation between the parties as an additional expense to be added to the basic support obligation. The proposed Rule reflects this distinction.

The Committee has also chosen to draw this same distinction with respect to spousal support so that the obligee-spouse is expected to meet the first \$250 per year of his or her own unreimbursed expenses before seeking contribution from the obligor for any additional expenses.

⁸ See Proposed Rule 1910.16-6(a).

⁹ See Proposed Rule 1910.16-6(b).

¹⁰ See Proposed Rule 1910.16-6(c).

To reduce the number of contempt cases involving unreimbursed medical expenses, the Committee proposes further to distinguish between those expenses which are predictable and recurring and those which are not. When the expenses are predictable and recurring, the court may establish a monthly amount for those expenses and add it to the basic support obligation. This permits the monthly amount to be collected more easily through wage attachment. When the expenses are not predictable or recurring, and thus not conducive to routine wage attachment, the court may nonetheless order the defendant to pay his or her percentage share of these expenses.

Finally, the Committee also proposes to amend the definition of "medical expenses" to include insurance co-payments and deductibles, and to include orthodontia and exclude chiropractic services.

HON. MAX BAER,
Chairperson
Domestic Relations Procedural
Rules Committee

[Pa.B. Doc. No. 98-370. Filed for public inspection March 6, 1998, 9:00 a.m.]

Title 255—LOCAL COURT RULES

SCHUYLKILL COUNTY

Amendment to Civil Rules of Procedure and Orphans' Court Rule

And Now, this 18th day of February, 1998, at 1:20 p.m., the Court hereby amends Schuylkill County Civil Rules of Procedure 14 I. D. (2) and 1920.42, and Schuylkill County Orphans' Court Rule 2.4B for use in the Court of Common Pleas of Schuylkill County, Pennsylvania (21st Judicial District). These rules shall be effective thirty days after publication in the *Pennsylvania Bulletin*.

The Prothonotary of Schuylkill County is Ordered and Directed to do the following:

1) File ten (10) certified copies of this Order and Rule with the Administrative Office of Pennsylvania Courts.

2) File two (2) certified copies of this Order and Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3) File one (1) certified copy of this Order and Rule with the Pennsylvania Civil Procedural Rules Committee.

4) Forward one (1) copy to the Schuylkill County Law Library for publication in the *Schuylkill Legal Record*.

5) Keep continuously available for public inspection copies of this Order and Rule.

By the Court

WILLIAM E. BALDWIN,
President Judge

Rules of Civil Procedure

Rule 14. Appeals from Zoning Board and Governmental Agencies.

D. Submission to Court.

2. Upon receiving notice of the return on certiorari, any party may submit the appeal to the court for disposition by praecipe pursuant to Sch.R.C.P. 205.3. The submitting party shall contemporaneously file a brief supporting that party's position and an affidavit of service on all other parties or their counsel. The briefs of all other parties shall be filed within 20 days of such service. If any party believes that the proper consideration of the appeal requires the presentation of additional evidence, that party shall, on or before the date when that party's brief is due, file a written motion, in compliance with Sch.R.C.P. 206A, and shall be accompanied by the praecipe mandated by Sch.R.C.P. 205.3, setting forth specifically the nature of the proposed additional testimony and the reasons why such testimony is necessary for the proper consideration of the appeal.

Rule 1920.42. Affidavit and Decree under Section 3301(c) or 3301(d) of the Divorce Code. (*Amendment to title only*)

Orphans' Court Rules

Rule 2.4B. Audits and Continued Audits.

(a) New accounts shall be called for audit on the first Wednesday of each month, at the time and place advertised pursuant to Sch. Co. O. C. Rule 6.6A.

[Pa.B. Doc. No. 98-371. Filed for public inspection March 6, 1998, 9:00 a.m.]