

# Flexibility, Efficiency and Modernization

## Child Support Guidelines



**YOUR CHILDREN  
OUR PRIORITY**



# FEM Final Rule: Child Support Guidelines

## **HOW IT STARTED - DECEMBER 20, 2016**

This final rule strengthens and updates the child support program by amending existing rules, some of which are 35 years old, to:

- Set accurate child support obligations based on the noncustodial parents' ability to pay;
- Increase consistent, on-time payments to families;
- Move nonpaying cases to paying status;
- Increase the number of noncustodial parents supporting their children;
- Improve child support collection rates;
- Reduce the accumulation of unpaid and uncollectible child support arrearages; and
- Incorporate technological advances and evidence-based standards that support good customer service and cost-effective management practices.

# FEM Final Rule: Child Support Guidelines

## **Federal Requirement: 45 CFR Sec. 302.56(c)(1)(ii)**

- State guidelines must provide that the child support order is based on the obligor's earnings, income, and other evidence of ability to pay that:
- "Takes into consideration the basic subsistence needs of the noncustodial parent (and at the State's discretion, the custodial parent and children) who has a limited ability to pay by incorporating a low-income adjustment, such as a self-support reserve or some other method determined by the State."

# FEM Final Rule: Child Support Guidelines

## **2021 Quadrennial Review Recommendations:**

- Modify the bottom income bands for the K-factor table so the total net disposable income of low-income parents does not put them in a band that assigns the highest percentage of income to support.
- Update low-income adjustment (LIA) threshold but continue to allow for cost-of-living increases.
- Address adverse impact of the multiplier by capping support or providing a deviation factor for support exceeding a threshold.

# FEM Final Rule: Child Support Guidelines

## **SB 343 was signed into law on September 22, 2023:**

- Amends Family Code §4055(b)(3) by updating all income bands and the K factor applicable to each income band;
- Amends Family Code §4055(b)(7) by increasing the LIA threshold to gross income earned from full-time minimum wage;
- Amends Family Code §4055(c) regarding support calculators to codify the current practice of showing the LIA range in every calculation where the net income of the obligor is under the LIA threshold.

# FEM Final Rule: Child Support Guidelines

## CHANGES AS ENACTED

### FC 4055

(a) The statewide uniform guideline for determining child support orders is as follows:  $CS = K[HN - (H\%)(TN)]$ .

(b) (1) The components of the formula are as follows:

(A) CS = child support amount.

(B) K = amount of both parents' income to be allocated for child support as set forth in paragraph (3).

(C) HN = high earner's net monthly disposable income.

(D) H% = approximate percentage of time that the high earner has or will have primary physical responsibility for the children compared to the other parent. In cases in which parents have different time-sharing arrangements for different children, H% equals the average of the approximate percentages of time the high earner parent spends with each child.

(E) TN = total net monthly disposable income of both parties.

(2) To compute net disposable income, see Section 4059.

(3) K (amount of both parents' income allocated for child support) equals one plus H% (if H% is less than or equal to 50 percent) or two minus H% (if H% is greater than 50 percent) times the following fraction:

# FEM Final Rule: Child Support Guidelines

Total Net Disposable Income Per Month	K
\$0 – <del>800</del> 2,900	<del>0.20</del> 165 + TN/ <del>16,000</del> 82,857
<del>\$801</del> – <del>6,666</del> 2,901–5,000	<del>0.25</del> 131 + TN/42,149
\$5,001–10,000	0.250
<del>\$6,667</del> –10,001–15,000	0.10 + <del>1,000</del> 499/TN
Over <del>\$10</del> 15,000	0.12 + <del>800</del> 1,200/TN

For example, if H% equals 20 percent and the total monthly net disposable income of the parents is \$1,000,  $K = (1 + 0.20) \times (0.25\text{ or }0.30 - 165 + 1,000/82,857)$ , or 0.21. If H% equals 80 percent and the total monthly net disposable income of the parents is \$1,000,  $K = (2 - 0.80) \times (0.25\text{, or }0.30 - 165 + 1,000/82,857)$ , or 0.3021.

# FEM Final Rule: Current K-Factor Table

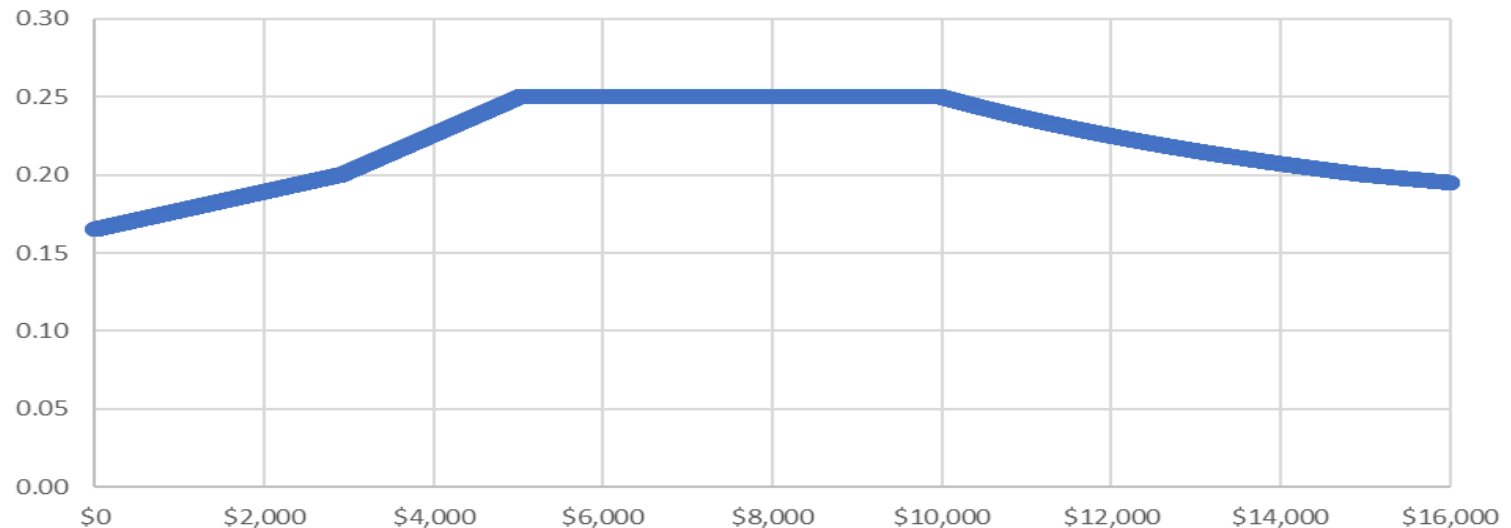
Total Net Disposable Income Per Month	K
\$0-800	$0.20 + TN/16,000$
\$801-6,666	0.25
\$6,667-10,000	$0.10 + 1,000/TN$
Over \$10,000	$0.12 + 800/TN$





# FEM Final Rule: SB 343 K-Factor Table

Total Net Disposable Income Per Month	K
\$0-2,900	$0.165 + TN/82,857$
\$2,901-5,000	$0.131 + TN/42,149$
\$5,001-10,000	0.250
\$10,001-15,000	$0.10 + 1,499/TN$
Over \$15,000	$0.12 + 1,200/TN$



# FEM Final Rule: Child Support Guidelines

## Sample Child Support Calculations

- ▶ Reminder:  $CS = K[HN - (H\%)(TN)]$
- ▶ Assumptions: \$0 income for PRS; H = 0%; 1 child

<u>HN/TN</u>	<u>K (Current)</u>	<u>CS (Current)</u>	<u>K (SB 343)</u>	<u>CS (SB 343)</u>	<u>% Diff</u>
\$11,243	0.1912	\$2,149	0.2333	\$2,623	<b>+22.06</b>
\$7,659	0.2306	\$1,766	0.2500	\$1,915	<b>+8.44</b>
\$5,101	0.2500	\$1,275	0.2500	\$1,275	<b>0</b>
\$3,921	0.2500	\$980	0.2240	\$878	<b>-10.41</b>
\$3,197	0.2500	\$799	0.2068	\$661	<b>-17.27</b>
<b><u>\$2,266</u></b>	<b><u>0.2500</u></b>	<b><u>\$567</u></b>	<b><u>0.1923</u></b>	<b><u>\$368**</u></b>	<b><u>-35.10</u></b>
\$1,346	0.2500	\$221*	0.1812	\$122**	<b>-44.80</b>

# FEM Final Rule: Child Support Guidelines - LIA

## **Amendments to FC 4055(b)(7):**

- Ties LIA to amount of gross income earned from full-time minimum wage as established by Labor Code 1182.12
- Benefits:
  - ✓ Adjusted by the Legislature at predictable intervals
  - ✓ Increases efficiency for LIA updates

# FEM Final Rule: Child Support Guidelines - LIA

## CHANGES AS ENACTED

FC 4055(b)(7) In all cases in which the net disposable income per month of the obligor is less than ~~one thousand five hundred dollars (\$1,500), adjusted annually for cost-of-living increases~~ the amount of monthly gross income earned from full-time minimum wage, established by Section 1182.12 of the Labor Code, at 40 hours per week, 52 weeks per year, there is a rebuttable presumption that the obligor is entitled to a low-income adjustment. ~~The Judicial Council shall annually determine the amount of the net disposable income adjustment based on the change in the annual California Consumer Price Index for All Urban Consumers, published by the California Department of Industrial Relations, Division of Labor Statistics and Research.~~ The presumption may be rebutted by evidence showing that the application of the ~~low-income adjustment-lowest amount of child support permitted pursuant to this paragraph~~ would be unjust and inappropriate in the particular case. In determining whether the presumption is rebutted, the court shall consider the principles provided in Section 4053, and the impact of the contemplated adjustment on the respective net incomes of the obligor and the obligee. The low-income adjustment shall reduce the child support amount otherwise determined under this section by an amount that is no greater than the amount calculated by multiplying the child support amount otherwise determined under this section by a fraction, the numerator of which is ~~1,500, adjusted annually for cost~~ the amount of ~~living increases~~ monthly gross income earned from full-time minimum wage, established by Section 1182.12 of the Labor Code, at 40 hours per week, 52 weeks per year, minus the obligor's net disposable income per month, and the denominator of which is ~~1,500, adjusted annually for cost~~ of ~~living increases~~ the amount of monthly gross income earned from full-time minimum wage, established by Section 1182.12 of the Labor Code, at 40 hours per week, 52 weeks per year.

# FEM Final Rule: Child Support Guidelines - Deviation

## **Amendments to FC 4057(b)(5):**

- When obligor receives an LIA, this allows deviation from guideline to cap support at 50% of net disposable income.
- The amount of any adjustment shall not be greater than the amount exceeding 50 percent of the support obligor's net disposable income.

# FEM Final Rule: Child Support Guidelines – Multiple Cases

## **AMENDMENTS TO FC 4057(c)**

- If the court is made aware that a parent is subject to multiple court orders to pay child support arising from a different case or cases, the court may take steps to determine how to allocate the parent's income and support obligation appropriately across the cases.
- A court that continues a hearing based on a party's representation that it will file an appropriate request to modify support in a related case may issue a temporary support order.

# FEM Final Rule: Child Support Guidelines – Earning Capacity

## **AMENDMENTS TO FC 4058**

- Adds severance pay, veterans' benefits that are not based on need, military allowances for housing and food to income sources identified.
- Also provides that the court **shall** consider the earning capacity of the parent when the parent's annual gross income is unknown and may consider the earning capacity when the parents annual gross income is known.

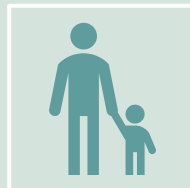
## SB 343: Additional Changes



FC 4061: changes default apportionment of expenses to in proportion to the parents' net incomes unless a party requests or the court finds on its own motion expenses should be divided differently.



FC 4062: requires the court to order actually incurred childcare costs related to employment or to reasonably necessary education or training for employment skills, unless they are specifically included in the guideline calculation.



FC 4063: costs actually incurred for childcare that is for employment or education are presumed reasonable.



# FEM FINAL RULE

ORDER ESTABLISHMENT

EFFECTIVE 1/1/2026

# FEM Final Rule: Order Establishment - Federal Requirements

45 CFR Sec. 303.4(b)(1)-(4): requires reasonable steps to develop a sufficient factual basis for the support obligations through investigations, conferencing, interviews, and electronic data sources.

"It is critical for the integrity of the order-setting process that IV-D agencies put resources into case specific investigations and contacting both parents in order to gather information regarding earnings, income, or other specific circumstances of the noncustodial parent when evidence of earnings and income is nonexistent or insufficient."

Federal Register, Vol. 81, No. 244, p. 93521

Response to Comment #2

# FEM Final Rule: Order Establishment - Federal Requirements

- 45 CFR 302.56(c)(1)(iii): when imputing income, guidelines must take into consideration specific circumstances of the PPS (and at the State's discretion, PRS) to the extent known, including:

○ Assets	○ Health
○ Residence	○ Criminal record/barriers
○ Employment/earnings history	○ Record of seeking work
○ Job skills	○ Local job market
○ Educational attainment	○ Availability of employers
○ Literacy	○ Prevailing earnings levels
○ Age	○ Other relevant factors

# FEM Final Rule: Order Establishment - Income Pled

**\*\*SB 343 changes operative January 1, 2026\*\***

**FC 17400(d)(2)**

Three ways to plead based on income:

- Actual Income
- Earning capacity in lieu of actual income when actual income is known
- Earning capacity when actual income is not known

# FEM Final Rule: Order Establishment - Earning Capacity

## **FC 17400(d)(2)(A)(iii) (earning capacity with unknown actual income)**

Parameters for use:

Complaint shall set forth steps first taken to determine actual income, including:

- Attempting to contact obligor at least three times
- Seeking info from party seeking support
- Searching available databases for employment and/or income information

## FEM Final Rule: Order Establishment - Earning Capacity

### **Procedural Requirements for Complaint (FC 17400(d)(2)):**

- **Must** inform the obligor of the basis for the proposed support amount. If based on earning capacity, must inform of the factors considered. (FC 17400(d)(2)(B).)
- **Must** be accompanied by a proposed judgment. (FC 17400(d)(2)(C).)
- If the proposed judgment is based on earning capacity, the LCSA **must** file a motion for judgment under FC17404(b). (FC 17400(d)(2)(D).)

FEM Final Rule:  
Order  
Establishment  
-  
Earning  
Capacity

## FC 17430(b): Motion for Judgment Hearing

Both parents permitted to appear and offer evidence. (FC17430(b)(2).)

Obligor need not have filed an answer. (FC17430(b)(2).)

If obligor does not appear and does not file an answer, the court shall proceed by default:

- Court must consider earning capacity factors and make findings.
- Court required to order a lower support amount than that pled if findings support a lower guideline amount. (FC 17430(b)(3).)

FEM Final Rule:  
Order  
Establishment  
-  
Earning  
Capacity

## **FC 17430(b): Motion for Judgment Hearing**

If obligor either files an answer or appears at the MFJ hearing, court has discretion to enter an order according to the evidence.  
(FC 17430(b)(3).)



# FEM Final Rule: Order Establishment - Earning Capacity

## **FC 17430(e): Mandatory Follow-up**

On earning capacity orders under FC 17400(d)(2)(A)(iii)

Within one year of judgment and annually thereafter until a modified order is entered, LCSAs must:

- Review a case for sufficient additional evidence of income or earning capacity to:
  - ✓ Establish an actual income order; or
  - ✓ Establish a different earning capacity order

# FEM Final Rule: Order Establishment - Earning Capacity

If review finds sufficient additional evidence, the LCSA must file a motion to modify prospectively within 60 days:

- Additional evidence constitutes a change in circumstances.
- LCSA may file a motion to modify prior to the expiration of any annual review period.

**NOTE:** FC 17430(e)(2) offers a similar, optional process for either parent upon discovery of sufficient additional evidence.

# FEM Final Rule: Order Establishment - Set-Asides

## FC 17432

- Applicable to all earning capacity orders (and still to presumed income order) entered by default.
- Clarifies that the LCSA can file a set-aside motion.
- Extends time to file the motion from one year to two years after the first collection received via earnings assignment order or an income withholding order.
- LCSA must notify both parties of the first collection, including source, and the commencement of the two-year time window.

# FEM Final Rule: Order Establishment - Set-Asides

## **FC 17432**

- Set aside applies only to the amount of support ordered and not that portion of the judgment or order concerning the determination of parentage.
- The court may set aside and reinstate child support for all or partial relevant periods of time depending on available information. Partial set aside does not preclude a subsequent review within the timeframe provided under FC 17432(g).



QUESTIONS?

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