

A “Simplified” Method to Determine Child Support for Equal Parenting  
Under the 2012 Kansas Child Support Guidelines, Revised (Admin Order 261)

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*RWN Comment:*

*On March 26, 2012, the Kansas Supreme issued revisions to the 2012 Kansas Child Support Guidelines (which had been issued December 23, 2011). These revisions were made after some practicing Kansas attorneys (and others) found the December revisions confusing, contradictory, and in some cases, leading to situations in which a lower-earning parent was paying the higher-earning parent and unable to afford basic expenses while the child was with that lower-earning parent.*

*The primary change to child support for parents with equal (or near equal) time from the 2010 Kansas Child Support Guidelines made by the December 2011 Guidelines was the elimination of the 20% discretionary credit given to a parent paying child support if the parents did not have a shared expense plan.*

*The plan to eliminate the 20% credit was spurred by some who believed that percentage was too little considering the expense incurred for sharing time with the children. There were also complaints that the 20% did not have a statistical basis. In fact, the 20% “discount” had been a compromise decision made within the Kansas Child Support Guidelines committee.*

*After further discussions about the problems noted by the December 2011 Guidelines, the committee submitted revisions to the Supreme Court, which issued the Revised 2012 Kansas Child Support Guidelines on March 26, 2011.*

*The Revised 2012 Kansas Child Support Guidelines made significant revisions to the December 2011 Version of the Equal Parenting Formulas for child support.*

*The first significant change is at the beginning of the Section addressing child support in equal parenting arrangements. (2012-CSG-R-III.B.7.) The Revision states:*

*“Use of this section is discretionary with the court.”*

*In other words, the court doesn’t have to use it (presumably). But that discretion may have its bounds. The Guidelines initial comments on equal parenting child support calculations continues to state that:*

*“Parents who share the children’s time equally or nearly equally may be eligible for one of the following:*

*“the Shared Expense Formula (Section III.B.7.a)[which requires an agreed, written ‘shared expense plan’ or*

*“the Equal Parenting Time Formula (Section III.B.7.b) [which appears to be the “default” when parents do NOT have a written “shared expense plan”].”*

*Although there does not appear to be any other alternative (since only the two are mentioned), one may exist. That is not only because the lead-in sentence to 2012-CSG-R-III.B.7. states that the section may be used in the court’s discretion, but also because of other provisions within the section and subsections.*

*First, the 2012 Guidelines specifically provide (as have previous Guidelines) that the parents must agree to a “shared expense plan.” The court cannot order that the parents have a shared expense plan on its own motion – or on request of either parent without the consent of the other. (2012-CSG-R-III.B.7.a(1)(a). Therefore, if the parents do not agree, and cannot be forced to do so by the court, the only alternative listed is the “equal parenting time formula.”*

*Second, the “equal parenting time formula” revision provides that it “is discretionary with the court. . . .” (2012-CSG-R-III.B.7.b., ¶2).*

*Third, the “equal parenting time formula” revision provides conditions under which the court “may” use the formula in its discretion. (2012-CSG-R-III.B.7.b., ¶2 (1),(2), and (3), (i) or (ii) or (iii).)*

*It seems apparent, therefore, that if the court has discretion to use the formula and cannot use the “shared expenses formula” because the parents do not have a written expense sharing agreement, then the courts must have another alternative – one not specifically addressed by the Revised 2012 Guidelines, but which is addressed by previous Kansas appeals court decisions:*

*“Where a case falls factually outside the child support guidelines, the Guidelines do not limit the authority of the district court. . . .”*

*In re Marriage of Branch, 37 Kan.App.2d 334, 338, 152 P.3d 1265 (2007)*

*This question will have to be determined in the course of litigation over the guidelines.*

*Dissecting what the revised equal parenting formula means is another challenge, which I’ve attempted to simplify (perhaps) with the following analysis:*

### III.B.7.b. Equal Parenting Time Formula

**Applying the Equal Parenting Time Formula eliminates the need for parents to exchange receipts for the purpose of dividing their share of the direct expenses.**

*RWN Comment:*

*The 'equal parenting time formula' is NOT used if the parents have a "shared expense plan" and use the "shared expense formula." (2012-CSG-III.B.7.a.).*

*If the parents have a written "shared expense formula," (approved by the court after meeting the 6 criteria stated in 2012-SCS-III.B.7.), child support is ½ of the difference between the child support amount that each parent would owe the other. The "shared expense plan" requires that the parents meet periodically to share receipts and "tally-up" their respective expenses, and deciding if an amount is due one or the other parent.*

The Equal Parenting Time Formula **is discretionary with the court and** may be used to set child support when the court determines that: 1) a shared residential custody arrangement is in the best interest of the minor child, 2) the parents share the child's time equally or nearly equally, and 3) **one or more of the following conditions apply:**

- i. the parties either do not agree to use the shared expense formula, or
- ii. applying the Shared Expense Formula would **place the parent who would otherwise be designated to pay the direct expenses without sufficient funds to be responsible for all direct expenses, or**
- iii. applying the Shared Expense Formula is not in the best interests of the child **for other reasons.**

*RWN Comment:*

*The equal parenting time formula under this section is discretionary. The court "may use" the equal parenting time formula "when the court determines that":*

1. *equal parenting time is in the child's best interests; AND*
2. *the parents actually have equal parenting time; AND*
3. *EITHER:*
  - a. *the parents do not have a written shared expense plan (so they do not qualified to use the "shared expense formula"); OR*

- b. *the parents DO have a “shared expense plan,” but applying the “shared expense formula” would leave a parent insufficient funds to pay the child’s direct expenses\*;* OR
- c. *the parents DO have a “shared expense plan,” but applying the “shared expense formula” would not be in the child’s best interests.\**

*\* This “simple explanation” may not be correct. The use of the term “shared expense formula” in Section III.B.7.b(3) seems out of place.*

Appendix XI provides **a worksheet and** an example. [Note: The Equal Parenting Time Formula replaces the Equal Parenting Time Adjustment (the 80/20 Rule) formerly found in Kansas Child Support Guidelines ~~Section IV.E.2.c adopted in 2008.~~]

*RWN Comment:*

*The Revised 2012 Child Support Guidelines provides a sample worksheet, filled out to show how the committee understood this formula would apply in a particular situation. There are, of course, thousands of other possibilities.*

*What is clear is that for a parenting arrangement that is equal or nearly equal, the 80/20 Rule is abolished. But know that the 10% and 15% adjustments for less than equal parenting time remains in effect.*

**Unless otherwise ordered by the Court,** if the Equal Parenting Time formula is used to set child support, the parent **with the lower net child support obligation from Line F.6, (the parent receiving support),** shall be responsible for all direct expenses. ~~Applying the Equal Parenting Time Formula eliminates the need for parents to exchange receipts for the purpose of dividing their share of the direct expenses.~~

*RWN Comment:*

*Generally, the parent with the lower income is responsible for the child’s direct expenses under the Revised 2012 Child Support Guidelines. “Direct expenses” retains its previous “definition.”<sup>1</sup> What is clear is that for a parenting arrangement that is equal or nearly equal, the 80/20 Rule is abolished. But know that the 10% and 15% adjustments for less than equal parenting time remains in effect.*

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<sup>1</sup> “Direct expenses” is “defined” in the Kansas Child Support Guidelines by example only: “Direct expenses include, but are not limited to, clothing and education expenses, but do not include transportation, housing, or utilities.” 2012-CSG-R-III.B.7.a.(1)(b).

*The Revised Guidelines provide, however, that the court can switch this responsibility from the lower-earning parent to the higher-earning parent. The bases upon which the court can – or should – make this shift are not set out in the Guidelines. Because the basis is not set out in the Guidelines, the basis lies in the court’s discretion.*

The **Equal Parenting Time Formula** calculation shall consist of three steps:

*RWN Comment:*

*Applying the “shared parenting time formula” requires three steps – and multiple steps within each of those three steps.*

*To begin, start with STEP 1:*

Step 1: A child support worksheet shall be prepared. The **amount of the** lower amount of the adjusted subtotal on Line F.3 shall be subtracted from the higher adjusted subtotal on Line F.3. The resulting figure shall be divided by two and the remaining amount shall constitute the first portion.

*RWN Comment:*

*The first step in Step 1 is to prepare a standard child support worksheet.*

*The second step in Step 1 is to determine the “Line F.3” amount for each parent. “Line F.3” is the “adjusted child support obligation” for each parent after “discretionary adjustments” are deducted from each parent’s “basic child support obligation.”<sup>2</sup>*

*Assume Parent A’s Adjusted Child Support Amount is \$1500  
Assume Parent B’s Adjusted Child Support Amount is \$500*

*The third step is to deduct the lower of the two adjusted child support amounts from the higher adjusted child support amount.*

*Parent A’s (\$1500) minus Parent B’s (\$500) = \$1,000*

*The fourth step is to divide the dollar amount that results from the third step of Step 1 by 2 (A/2 or 0.50 times A)*

*\$1,000 divided by 2 = \$500*

*\$500 is the “first portion.”*

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<sup>2</sup> “Line F.3” is a derivative of “Line D.9” of the standard child support worksheet. “Line D.9” contains the “Basic Parental Child Support Obligation” for each parent. (That is, the basic child support amount that each parent would pay to the other if the other parent had a majority of the parenting time.) “Line D.9” is the same thing as “Line F.1.”

*MOVE TO STEP 2:*

Choose *either* Step 2.a. or 2.b. depending on whether the parents have a written agreement that they each provide clothing for the child in their own home.

*RWN Comment:*

*The first step of Step 2 (the fifth step overall) is to determine if the parents have a written agreement regarding the children's clothing.*

*The "written agreement" referenced may be, but is not necessarily, the Parents' written, "shared expenses sharing agreement" referenced in 2012-CSG-R-III.B.7.a. The parents may have a written agreement "that they each provide clothing in their own home."*

*If the parents do NOT have a written agreement about how "they each provide clothing for the child in their own home," use the following provision:*

**IF THERE IS NO WRITTEN AGREEMENT:**

Step 2.a: **Absent a written agreement for each parent to provide the child's clothing in their own home**, ~~Using the same child support worksheet,~~ the Line D.3., child support obligation **amount** figure, will be multiplied by one of the following percentages:

- 13% ~~of~~ **if** total combined monthly **child support** income on **Line D.1. is of equal to or less than \$4,690** ~~from Line A1;~~
- 15% ~~of~~ **if** total combined monthly **child support** income on **Line D.1. is between more than \$4,690 and less than \$8,125** ~~from line A1;~~
- 18% of **if** total combined monthly **child support** income on **Line D.1. is equal to or greater than \$8,125** ~~from line A1, or;~~

*RWN Comment:*

*If the parents do NOT have a "written agreement" stating "that they each provide clothing in their own home," the "Line D.3" child support obligation (not the "Line F.3" amount). "Line D.3" is the "Total Gross Child Support Obligation" (for both parents combined).*

*This is an "add-on."*

*The second step of Step 2 is to determine which of 3 percentages applies.*

*In this paper's example, the total child support obligation for both parents*

together is: \$2,000 (\$1,500 + \$500). Because \$2,000 is less than \$4,690, the applicable "add on" percentage is 13%.

The third step of Step 2 is to multiply the Total Gross Child Support Amount by the applicable percentage.

Thus,  $13\% \times \$2,000 = \$260$

### IF THERE IS WRITTEN AGREEMENT:

Step 2.b: ~~In the event that~~ **If the direct sharing plan directs each parents have a written agreement to each** provide clothing for the child in their own home, ~~then in that event,~~ the Line D.3 child support obligation figure will be multiplied by one of the following percentages:

- 11% ~~of~~ **if total combined monthly child support income on Line D.1. is of equal to or less than \$4,690 from line A1; 13% of if total combined monthly child support income on Line D.1. is between more than \$4,690 and less than \$8,125 from line A1;**
- 16% **of if total combined monthly child support income on Line D.1. is equal to or greater than \$8,125 from line A1, or;**

*RWN Comment:*

*If the parents DO have a "written agreement" stating that "each [parent will] provide clothing in their own home," the "Line D.3" child support obligation (not the "Line F.3" amount) is multiplied by a different, lower amount than if they DO NOT have a written agreement.*

*This is either "add-on" OR "subtract from" number, depending on the parents' respective incomes.*

*The alternative second step of Step 2 is to determine which of 2 percentages applies: 11% or 16%*

*In this paper's example, the total child support obligation for both parents together is: \$2,000 (\$1,500 + \$500). Because \$2,000 is less than \$4,690, the applicable "add on" percentage is 11%.*

*The alternative third step of Step 2 is to multiply the Total Gross Child Support Amount by the applicable percentage.*

*Thus,  $11\% \times \$2,000 = \$220$  (\$40 less than if the parents did NOT have a written agreement)*

*RWN Comment:*

*MOVE TO STEP 3:*

**Choose either Step 3.a or 3.b. depending on which parent is designated to pay the direct expenses for the child.**

*RWN Comment:*

*The first step of Step 3 (the eighth step overall) is to determine which of the two parents is designated to pay the child's direct expenses – the lower-earning parent or the higher-earning parent.*

*Remember that the lower-earning parent is presumed to pay for the child's direct expenses "unless the court determines otherwise." So the "default" should be Step 3a:*

*IF LOWER-EARNING PARENT PAYS ALL DIRECT EXPENSES, THEN:*

**Step 3.a. If the parent with the lower adjusted subtotal from Line F.3 of the child support worksheet (the parent receiving support) is responsible for paying all direct expenses of the child, the resulting figure from Step 1 shall be added to the resulting figure from either Step 2.a or Step 2.b. This result shall be the amount the higher income parent pays to the lower income parent before the child support enforcement fee is calculated. ~~parent's child support amount.~~ This amount is entered on Line F.4 of the child support worksheet. The Equal Parenting Time worksheet, or a worksheet in substantially the same form, shall be filed with the child support worksheet.**

*RWN Comment:*

*In the "default" situation, the lower-earning parent will pay the child's "direct expenses," the figure in 2a or 2 b is ADDED from the adjusted child support amount. Therefore:*

*Obtain the figure from Step 1 = \$500*

*Determine the amount from EITHER Step 2a or 2b:*

*2a (No written agreement regarding clothing) = \$260*

*2b (Written agreement that each parent will provide in own home = \$220*

*Add the appropriate amount from either 2a or 2b*



2a:  $\$500 + \$260 = \$760$  Paid by HIGHER INCOME Parent to Lower  
2b:  $\$500 + \$220 = \$720$  Paid by HIGHER INCOME Parent to Lower

*One of these two amounts is the amount paid by the HIGHER-earning parent to the LOWER-earning parent.*

*RWN Comment:*

**IF HIGHER-EARNING PARENT PAYS ALL DIRECT EXPENSES, THEN:**

**Step 3.b. If the parent with the higher adjusted subtotal from Line F.3 (the parent paying support) is responsible for purchasing paying all the direct expenses of the child, the resulting figure from either Step 2.a or Step 2.b shall be subtracted from the resulting figure from Step 1. This result, which shall not be less than zero, shall be the amount the higher income parent pays to the lower income parent before the child support enforcement fee is calculated. This amount is entered on Line F.4 of the child support worksheet. The Equal Parenting Time worksheet, or a worksheet in substantially the same form, shall be filed with the child support worksheet.**

*RWN Comment:*

*In the "non-default" situation, where the higher-earning parent pay the child's "direct expenses," the figure in 2a or 2 b is SUBTRACTED from the adjusted child support amount. Therefore:*

*Obtain the figure from Step 1 = \$500*

*Determine the amount from EITHER Step 2a or 2b:*

*2a (No written agreement regarding clothing) = \$260*

*2b (Written agreement that each parent will provide in own home = \$220*

*SUBTRACT the appropriate amount from either 2a or 2b*

*2a:  $\$500 - \$260 = \$240$  paid by HIGHER INCOME Parent to Lower*

*2b:  $\$500 - \$220 = \$280$  paid by HIGHER INCOME Parent to Lower*

*One of these two amounts is the amount paid by the HIGHER-earning parent to the LOWER-earning parent.*