

Title 9. Family Law

Chapter I. Office of Child Support Enforcement, Department of Finance and Administration

Subchapter A. Generally

Part 6. Office of Child Support Enforcement Policy Manual — Modification

Subpart 1. Review and Adjustment

9 CAR § 6-101. Review.

(a)(1) Child support obligations may be reviewed and adjusted, if appropriate, once every thirty-six (36) months at the request of either party or a state in an intergovernmental case.

(2) There must be a change in the noncustodial parent's gross income in an amount equal to or more than twenty percent (20%) or more than one hundred dollars (\$100) per month in order to petition the court for modification of the obligated child support amount based on the Family Support Chart.

(3) The order must be an Arkansas order or an order that Arkansas can assume continuing exclusive jurisdiction (CEJ) to modify.

(b)(1) TEA cases will be reviewed and adjusted, if necessary, once every thirty-six (36) months.

(2) A request from a party is not required.

(3) Each TEA case will be reviewed at the time of referral to determine if review and adjustment is appropriate.

(c)(1) Review and adjustment may be requested more often than once every thirty-six (36) months if a significant change in circumstances exists.

(2) The burden of proof is on the requesting party.

(3) A review more often than once every thirty-six (36) months may be appropriate if one (1) or more of the following circumstances exist:

(A) Support was set at the chart minimum because the noncustodial parent was unemployed or underemployed at the time, and new evidence shows that he or she is employed or more gainfully employed;

(B) The noncustodial parent is unemployed or has experienced a reduction in pay or hours worked through no fault of his or her own and the situation is likely to continue for an extended period of time;

(C)(i) The noncustodial parent is or will be incarcerated for at least one hundred eighty (180) days.

(ii) Incarceration is defined as a conviction resulting in a sentence of confinement to a local jail, state, or federal correctional facility, or state psychiatric hospital for at least one hundred eighty (180) days excluding credit for time served prior to sentencing;

(D)(i) The noncustodial parent becomes permanently disabled which is medically verified by a doctor's statement and/or Social Security Disability benefits determination form.

(ii) When modifying support based on disability benefits being paid, the spouse and dependent benefits, whether in the home of the obligor, assignor, or a third party, will be taken into account in determining the noncustodial parent's income.

(iii) For example, the noncustodial parent's benefit amount plus any separate awards made to the disability recipient's spouse and children equals the total income for the noncustodial parent as defined by the guidelines for setting support;

(E) The noncustodial parent has provided income information to the Office of Child Support Enforcement at the request of the custodial party and otherwise meets the criteria for a review as outlined in state law;

(F) One (1) or more of the dependents have turned eighteen (18) or otherwise emancipated and one (1) of the parties requests review of the support amount for the remaining children;

(G) The medical needs of the child need to be addressed due to a change in healthcare coverage; or

(H) All of the dependents have emancipated and a significant change in the noncustodial parent's income has occurred.

Authority. Arkansas Code § 9-14-206.

9 CAR § 6-102. Notices.

(a)(1) Notice of the right to request review and adjustment will be provided to both parties not less than once every three (3) years.

(2) Parties requesting a review must sign the Request for Review and Adjustment form.

(3) The nonrequesting party will receive notification that a review will be conducted.

(4) Both parties will receive a Notice of Review Determination upon completion of the review.

(b) **Incarcerated noncustodial parents.** If a noncustodial parent is or will be incarcerated for at least one hundred eighty (180) days, as defined in 9 CAR § 6-101, notice of the right to request review and adjustment will be provided to both parties within fifteen (15) business days of the date on which the office receives verification of the conviction resulting in the incarceration.

Authority. Arkansas Code § 9-14-206.

9 CAR § 6-103. Review and adjustment of intergovernmental cases.

Intergovernmental cases will be reviewed and adjusted upon the request of another state or either party in another state only if the order is an Arkansas order, or if Arkansas can assume continuing exclusive jurisdiction.

Authority. Arkansas Code § 9-14-206.

9 CAR § 6-104. Review and adjustment when a child emancipates.

(a) The three-year limit on requests for review and adjustment does not apply in cases where:

(1) A child is emancipating, unless the support amount was reviewed within the last three (3) years; and

(2) The issue of adjusting the support amount for the remaining minor children was addressed at that time.

(b) When one (1) child emancipates and there are remaining children on the case, both parties will be given an opportunity to request a review and adjustment of support.

(c) A review will not be conducted when the:

(1) Child emancipating is the last or only child on a case; and

(2) Child support obligation will end when the child emancipates.

(d) Any remaining child support owed at the time of emancipation will continue to be enforced and the amount due will remain at the current amount until the past due support is paid in full.

Authority. Arkansas Code § 9-14-206.

Subpart 2. Adjustment of Support for Visitation

9 CAR § 6-201. Overview.

(a)(1) Arkansas law provides that the noncustodial parent is to provide written notification to the clerk of the court within ten (10) calendar days when abatement or reduction of child support should occur due to extended visitation.

(2) The noncustodial parent is to provide copies of this notice to:

(A) His or her employer, if income withholding is in effect; and

(B) The Office of Child Support Enforcement, if applicable.

(3) The law specifically provides that it is the responsibility of the noncustodial parent to provide this notification.

(b)(1) It is the responsibility of the noncustodial parent to inform the employer:

(A) To abate or reduce child support in accordance with the court order;

and

(B) When to resume the payment of child support.

(2) If an employer requires a new income withholding before making any adjustment to the withholding, the office may issue a new income withholding form for open enforcement cases at the request of the NCP or employer if the support order specified such abatement.

(3) Once the visitation period is over, the office will issue another income withholding notice to the employer for the full amount of support ordered.

(c)(1) Arkansas law does not require that the noncustodial parent is responsible to notify the custodial party of abatement or reduction of child support due to the visitation.

(2) However, in order to ensure that arrearage balances remain accurate, if a notice is received indicating that the child support obligation should be reduced for the period of the visitation, the caseworker should verify with the custodial party that the noncustodial parent has had custody of the dependents for the time specified.

(3) Any necessary adjustments to the child support obligation should be made in accordance with the court order.

(4) If it is revealed that the noncustodial parent did not have the dependents for the time reported, any failure to pay the correct amount of support may be addressed in a future court proceeding.

Authority. Arkansas Code § 9-14-206.

Codification Notes. "NCP" means noncustodial parent.