

Report on the 2024 Hawaii Child Support Guidelines Review

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OVERVIEW OF FEDERAL REQUIREMENTS

In 2017, the Department of Health and Human Services issued the Final Rule: Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs which updated various sections of the Code of Federal Regulations (CFR). The goal of the update was to ensure that child support orders were based on the noncustodial parent's ability to pay, ultimately increasing reliable child support for children. To achieve this goal, several changes were made to the guidelines for setting child support orders at 45 CFR §302.56.

First, the updated rule codified the Office of Child Support Services'¹ longstanding interpretation that child support orders should be based on the noncustodial parent's earnings, income, and other evidence of ability to pay. This principle aligns with the federal child support guidelines statute, which requires state guidelines to result in income-based orders. The regulation that guidelines must consider all earnings and income of the noncustodial parent remained unchanged.

Secondly, the new rule required child support guidelines to consider the basic subsistence needs of the noncustodial parent with a limited ability to pay by incorporating a low-income adjustment, such as a self-support reserve or another method determined by the state. States were given the flexibility to determine the best approach to meet this requirement, although nearly all states had already incorporated a self-support reserve or low-income adjustment into their child support guidelines.

Lastly, if income imputation was authorized under a state's child support guidelines, the rule required the specific circumstances of the noncustodial parent to be taken into account when determining the amount of imputed income. A standard amount could not be used in lieu of fact-gathering in a specific case. This change prevented the use of fictitious income and ensured that orders were based on the noncustodial parent's ability to pay.

Additionally, the rule revised the "establishing support obligations" regulations at 45 CFR §303.4(b) by requiring child support agencies funded under title IV-D of the Social Security Act to base support obligations or recommended support obligation amounts on the earnings and income of the noncustodial parent whenever available. In cases where evidence of earnings and income was unavailable or insufficient, the recommended support obligation amount was based on available information about the specific circumstances of the noncustodial parent.

¹ The Office of Child Support Services announced on June 2, 2023, that it changed its name from the Office of Child Support Enforcement and that this change “reflects the program’s commitment to serving the whole family and promoting family self-sufficiency.” *ACF Announces New Name for Federal Child Support Office to Reflect Family-Centered Approach*, Admin. for Children & Families, <https://www.acf.hhs.gov/media/press/2023/acf-announces-new-name-federal-child-support-office-reflect-family-centered>, (June 2, 2023) (last visited July 3, 2023).

ECONOMIC DATA

Per 45 CFR §302.56(h)(1), when a State reviews its child support guidelines, it must take into account various economic data, including the cost of raising children, labor market data (such as unemployment rates, employment rates, hours worked, and earnings) by occupation and skill-level for the state and local job markets, the impact of guidelines policies and amounts on custodial and noncustodial parents who have family incomes below 200 percent of the federal poverty level, and factors that influence employment rates among noncustodial parents and compliance with child support orders.

[Economic Data On The Cost Of Raising Children](#)

Hawaii's children and youth ranked 44th for their economic well-being, according to the 2023 Kids Count Data Book by the Annie E. Casey Foundation. 39% of all children in the state, or 117,000 children, lived in families that spent more than 30% of their income on housing, ranking Hawaii at 49th place out of 50 states.²

² "2023 Kids Count Data Book." The Annie E. Casey Foundation, 2023, <https://assets.aecf.org/m/resourcedoc/aecf-2023kidscountdatabook-2023.pdf>, Appendix B, p. 34.

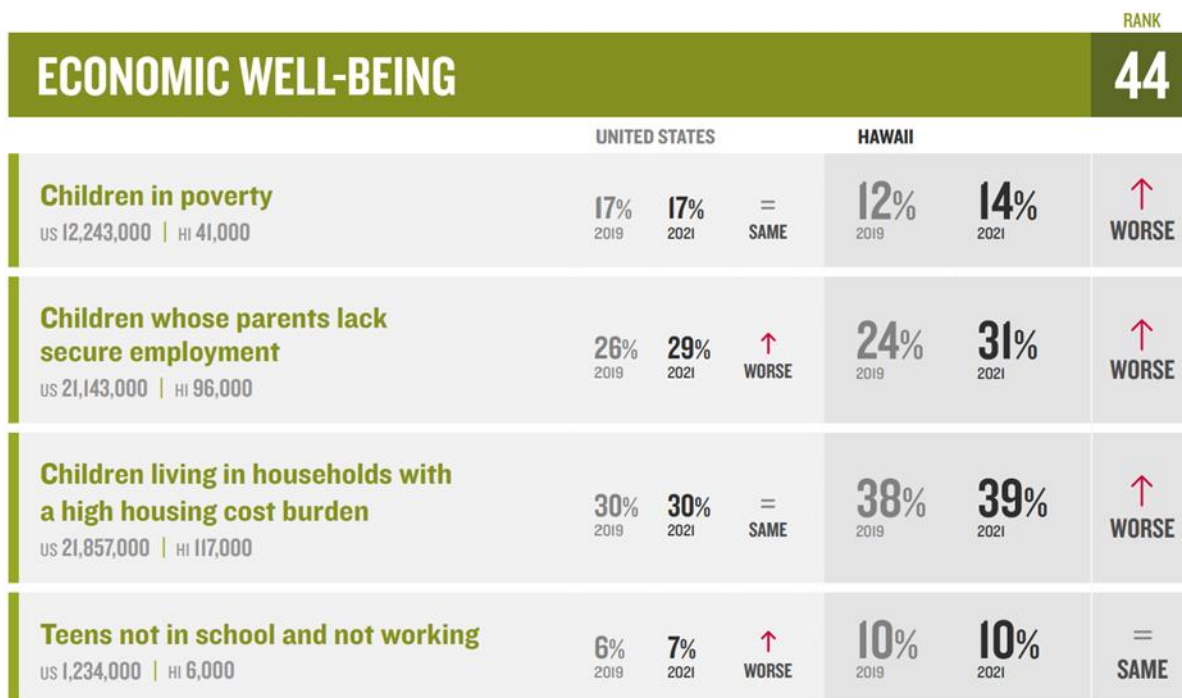


Figure 1. State of Hawaii 2023 Kids Count Data Profile on Child Well-Being, based on data from the Kids Count Data Book (The Annie E. Casey Foundation, 2023).

The United States Department of Agriculture (USDA) released the 2015 Expenditures on Children by Families report, also known as “The Cost of Raising a Child,” in 2017, which is the most recent report. The report, developed by economists at USDA’s Center for Nutrition Policy and Promotion, estimates that for a child born in 2015, a middle-income married-couple family will spend between \$12,350 and \$13,900 annually, or \$233,610 from birth through age 17, on child-rearing expenses.³ Families with lower incomes are expected to spend \$174,690, while families with higher incomes are expected to spend \$372,210 during the same period.⁴ This

³ Lino, Mark, et al. "Expenditures on Children by Families." PDF, U.S. Department of Agriculture, March 2017, p. 10, <https://www.fns.usda.gov/sites/default/files/resource-files/crc2015-march2017.pdf>.

⁴ Ibid., p. 19.

report is used by many state governments to determine child support and foster care guidelines.

The Brookings Institute estimates that the total average family expenditures on a child born in 2015 to a middle-class family with two children, adjusted for higher expected future inflation, would be \$310,605.⁵ This represents a significant increase from the USDA's estimate of \$233,610 in 2015 dollars. The inflation rate has been high since 2020, reaching 8.5% as of July 2022, which has led to higher costs for families in raising a child. The cost increase is especially burdensome for low-income parents and families who already struggle to afford basic necessities such as food, housing, and transportation.

Labor Market Data

According to the Department of Business, Economic Development & Tourism's First Quarter 2023 report on the state of the economy, Hawaii's labor market conditions were mainly positive in the fourth quarter of 2022, with an increase of 25,600 non-agricultural wage and salary jobs.⁶ The private sector contributed to most of the job increase, with Food Services and Drinking Places adding the most jobs. In the third quarter of 2022, total annualized nominal gross domestic product and total non-farm private sector annualized earnings also increased. Honolulu's Consumer Price Index for Urban Consumers increased by 6.3% in the second half of 2022, with Transportation seeing the highest increase and Recreation being the only sector that declined.⁷

Impact of Guidelines for Family Incomes Below 200% of the FPL

The Child Support Guidelines Task Force must consider the effect of guidelines policies and amounts on custodial and noncustodial parents with family incomes below 200% of the federal poverty level.⁸ The federal poverty guidelines for Hawaii in 2022 are listed below:⁹

⁵ Sawhill, Isabel, et al. "It's Getting More Expensive to Raise Children. And Government Isn't Doing Much to Help." Brookings, August 30, 2022, [Web], <https://www.brookings.edu/blog/up-front/2022/08/30/its-getting-more-expensive-to-raise-children-and-government-isnt-doing-much-to-help/>.

⁶ "State of the Economy 1st Quarter 2023 Report." Department of Business, Economic Development & Tourism, March 2, 2023, [Research & Economic Analysis | State of the Economy \(hawaii.gov\)](https://www.hawaii.gov/dbedt/files/2023/03/Research-Economic-Analysis-State-of-the-Economy-2023-1st-Quarter-Report.pdf).

⁷ Ibid.

⁸ 45 CFR §302.56(h)(1).

⁹ "Federal Register. Vol. 87, No. 14, Friday, January 21, 2022." Federal Register, 2022, <https://aspe.hhs.gov/sites/default/files/documents/175e430d7dd4b1622d7245bc8664b3c2/HHS-Poverty-Guidelines-Fed-Register-2022.pdf>.

2022 POVERTY GUIDELINES FOR HAWAII	
Persons in family/household	Poverty guideline
1	\$15,630
2	\$21,060
3	\$26,490
4	\$31,920
5	\$37,350
6	\$42,780
7	\$48,210
8	\$53,640
For families/households with more than 8 persons, add \$5,430 for each additional person.	

Figure 2. 2022 Hawaii Federal Poverty Guidelines.

These poverty guidelines are issued annually by the U.S. Department of Health and Human Services. They are used as a basis for determining eligibility for various federal programs relating to families and children, including, but not limited to Medicaid, Temporary Assistance for Needy Families (TANF), Head Start and food stamps through the Supplemental Nutrition Assistance Program (SNAP).¹⁰

¹⁰ "Programs that Use the Poverty Guidelines as a Part of Eligibility Determination." HHS.gov, U.S. Department of Health & Human Services, 2019, <https://www.hhs.gov/answers/hhs-administrative/what-programs-use-the-poverty-guidelines/index.html>.

The poverty guideline for a particular household size is the annual income level below which a family of that size is considered to be living in poverty. The poverty guideline considers the size of the family and is adjusted annually for inflation.

For a noncustodial parent living alone, 200% of the federal poverty level (FPL) would be \$31,260 per year or \$2,605 per month. Research has revealed that Hawaii has the highest cost of living in the United States.¹¹ According to the Department of Business, Economic Development & Tourism's 2020 Hawaii Self-Sufficiency Income Standard report, the self-sufficiency budget for a single adult in Honolulu is \$3,230 per month, and a significant 43% of single adults have incomes below this level.¹² This suggests that a monthly income of \$2,605 falls short of meeting the self-sufficiency standard for a single adult in Hawaii, which can pose challenges for low-income one-person households to meet their basic needs.

Factors That Influence Employment Rates and Compliance

When reviewing child support guidelines, the Task Force must consider various factors that could impact noncustodial parents' employment rates and compliance with child support orders. Several factors can affect employment rates and compliance with child support orders. These include economic conditions such as job loss, underemployment, and recession, which can decrease parents' ability to pay. Parents with higher levels of education and marketable skills are likely to have better job prospects and higher incomes, making it easier for them to meet their child support obligations. The availability of jobs in a particular area can also impact employment rates and a parent's ability to find work. Another factor that can affect employment rates are noncustodial parents who quit working or turn to unreported employment (also called the underground economy) once wages are garnished for child support.

Moreover, lack of reliable transportation, health problems, and disabilities can also limit a parent's ability to work or maintain regular employment, which can impact their ability to pay child support. Additionally, childcare costs and availability can pose a significant obstacle to employment for parents, especially for low-income families. Finally, a criminal record can make it difficult for parents to find employment, particularly in certain fields.

¹¹ "Cost of Living Data Series." Missouri Economic Research and Information Center, n.d., <https://meric.mo.gov/data/cost-living-data-series>.

¹² "Self-Sufficiency Income Standard Estimates for Hawaii 2020." Hawaii State Department of Business, Economic Development & Tourism, n.d., https://files.hawaii.gov/dbedt/economic/reports/self-sufficiency/self-sufficiency_2020.pdf.

FINDINGS FROM THE ANALYSIS OF CASE FILE DATA

This report presents the results of the 2024 review of the Hawaii child support guidelines. The review was carried out in accordance with 45 CFR §302.56, which requires each state to review their child support guidelines at least once every four years.

To ensure the appropriateness of child support orders, the state's review of its guidelines must include gathering case data, through sampling or other methods, and analyzing it based on specific metrics outlined in 45 CFR §302.56(h)(2). These five metrics include:

1. The application of and deviations from the child support guidelines
2. The rates of default orders
3. The rates of imputed child support orders
4. The rates of orders determined using the low-income adjustment
5. A comparison of payments on child support orders based on case characteristics, including whether the order was:
 - a. Entered by default,
 - b. Based on imputed income, or
 - c. Determined using the low-income adjustment required under 45 CFR §302.56(c)(1)(ii).

The analysis of this data must be used in the State's review of the child support guidelines to ensure that any deviations from the guidelines are limited and that the guideline amounts are appropriate based on the criteria established by the State under 45 CFR §302.56 (g).

[Gathering of Case Data Through Sampling](#)

The Data Analysis Committee, which consists of representatives from the Hawaii Child Support Enforcement Agency (CSEA), Family Court, and Office of Child Support Hearings (OCSH), collected case data on orders from October 2021 that either established or modified child support. The Data Analysis Committee selected October 2021 for data sampling because Pandemic Unemployment Assistance benefits expired on September 6, 2021. The Committee believed that this would allow for more reliable data relating to parents' income and payment compliance.

In total, 111 orders that involved the establishment or modification of child support were compiled through sampling:

- CSEA's initial search yielded 68 orders issued by its administrative process filed in October 2021, from which a total of 41 orders involved the establishment or modification of child support.
- Family Court's search yielded a pool of 325 cases with potential child support orders or income withholding orders filed in October 2021, from which a random sample of 100 cases were identified using the Statistical Package for the Social Sciences (SPSS)

Random Sample utility.¹³ Of those 100 cases, a total of 46 involved orders that established or modified child support.

- OCSH's search yielded 37 orders that resulted from hearings held in October 2021. Of these, 23 were orders that established or modified child support.

Thereafter, CSEA, Family Court, and OCSH collected 42 points of data on these 111 cases, including whether the order established or modified child support, whether there were any deviations from the guidelines, whether or not the matter went to hearing, and how the parties' incomes were calculated. The data captured also included the court docket number, which was converted into the format used by CSEA's case management system (KEIKI). With this information, CSEA's Information Technology Office (ITO) generated two reports that displayed the payment history for each case.

Of the 111 cases, CSEA ITO did not have payment data on 25 cases because CSEA was not involved in the collection or enforcement of the order, likely because either the parties agreed and the Court ordered that direct payments should occur, or because the parties did not provide the order to CSEA for payment enforcement. In cases where orders were issued by the Family Court, a party would need to provide the order to CSEA for payment data to be available on the case, and if a party sought enforcement services, an application for services would need to be submitted to CSEA. For instance, in one case, the notice for income withholding was not filed until CSEA was requested to enforce the order. In other cases where CSEA had potential payment data but was not actively enforcing child support, it remains unclear whether the party or their attorney sent the Income Withholding Order to the noncustodial parent's employer. Additionally, it is uncertain whether the parties were aware that payments should be made through CSEA or if they opted to make direct payments between themselves.

As a result, CSEA ITO was able to provide payment data on 86 of the 111 orders, which accounts for 77.5% of the total orders. Of the 86 orders with payment data, 39 were issued by CSEA, 24 from the Family Court, and 23 from OCSH. The payment data reports included the following information for those 86 cases:

¹³ In order to identify all Family Court divorce and paternity cases in which child support orders were filed in October of 2021, the docket notes for such cases were searched for specific strings of keywords. These strings included words such as "Kids First," "Support" and "Order," and "Guidelines."

- KEIKI case number
- Docket number
- CSEA case type as of 4/3/2023
- Noncustodial parent's personal identification number
- Delinquency as of the date of the report
- File date of the order
- Delinquency at the time of filing of the order
- Delinquency at six months after filing
- Delinquency at twelve months after filing
- Payments collected by CSEA for the first 8 months after the order was filed
- Noncustodial parent's obligations for other children

After the data was collected, the Data Analysis Committee conducted a preliminary review and identified several errors in the data. These corrections included removing cases that fell outside the review period, correcting erroneous entries in the data fields, verifying docket numbers, and determining whether the order was entered by default or not. Cases which appeared on CSEA ITO's payment data report that did not have true payment information were removed, such as a direct pay order, a case opened by CSEA at the request of another jurisdiction that monitored payments, and an obligation that CSEA suspended because the noncustodial parent received public assistance.

In several cases, the data indicated that child support calculations were based on one parent having primary custody, while the corresponding orders reflected different scenarios, such as equal timesharing, split custody of two children, or extensive timesharing. To strive for a more accurate data analysis, CSEA conducted a detailed examination of the orders and circumstances surrounding the payments, but it is possible that not all errors were identified.

Metric 1: Application of and Deviations from the Child Support Guidelines

Among the compiled dataset of 111 cases, 42 cases (37.8% of the total) deviated from the Child Support Guidelines due to exceptional circumstances.¹⁴ These exceptional circumstances fell into the following categories:

- 20 cases where parties agreed to a lower amount
- 16 cases where the noncustodial parent was unable to earn income due to disability, incapacitation, incarceration, or involuntary unemployment, and of these, 11 were for incarceration

¹⁴ When considering the subset of 86 cases with available payment information, a total of 30 cases (34.9% of the subset) were observed to deviate from the guidelines.

- 3 cases where the noncustodial parent was making other court-ordered payments for the benefit of the children or the other parent
- 2 cases with other written reasons
- 1 case where the noncustodial parent supported additional children

Based on the data, it seems that deviations from the Child Support Guidelines for exceptional circumstances are not uncommon, with a deviation rate of 37.8%. In the future it would be helpful to compare the current deviation rate with the deviation rate from previous data studies. This comparison can help determine whether the current deviation rate is within an acceptable range or if there has been a significant change in the deviation rate over time. It can also help identify any trends or patterns in the deviations that may require further investigation or adjustments to the child support guidelines.

[Parties Agreeing to a Lower Amount](#)

The review revealed that most deviations occurred in cases where the parties mutually agreed to a lower amount of child support.

While the Task Force recommends highlighting in the Guidelines instructions that parties may mutually agree upon a reduced amount for child support, this would still be considered a deviation and would not lower the deviation rate. Because the Final Rule wants to ensure that deviations from the guidelines are limited, the guidelines may need to be adjusted. Any future consideration to do so on that basis should acknowledge the widespread promotion of alternative dispute resolution and the parties' right to independently make decisions that are in their children's best interests.

[Noncustodial Parent Unable to Earn Income](#)

The second most frequent deviation from the Child Support Guidelines occurred when the noncustodial parent was unable to earn income. 45 CFR §303.8 requires CSEA to either initiate a modification action or notify parents of their right to request a modification when the paying parent is incarcerated more than 180 days. When CSEA receives a referral or request to modify child support and the paying parent is incarcerated, a presumption of exceptional circumstance is created and CSEA may initiate administrative proceedings to set current child support at \$0 per month.¹⁵ This has contributed significantly to the deviations observed. Out of the 16 cases where the noncustodial parent was unable to earn income, 11 cases involved the incarceration of the noncustodial parent. Ten of those cases were CSEA administrative uncontested orders, indicating that the custodial parent did not object to setting the child support at \$0 per month.

Several states have implemented more comprehensive measures to automatically suspend child support payments during periods of incarceration. Other states have enacted policies that reduce child support during incarceration. If Hawaii enacted similar measures, removing the 11

¹⁵ Hawaii Administrative Rule §5-31-23.

cases where noncustodial parents were incarcerated would reduce the deviation rate from 37.8% to 27.9% (31 out of 111 cases).

\$0 Orders

Based on the circumstances of a particular case, the Court, CSEA, or OCSH may order no child support.¹⁶ In 12 cases, the child support orders were set at \$0 per month, with 11 of those cases due to the noncustodial parent's incarceration, which was considered an exceptional circumstance. The remaining case involved an agreement between the parties to set the child support obligation at \$0 per month, but it may not have been due to an exceptional circumstance as the order indicated that it was a split-custody situation.

Metric 2: Rates of CSEA Administrative Uncontested Orders and Family Court/OCSH Default Orders

A total of 47 CSEA administrative uncontested orders and Family Court/OCSH default orders were identified out of the 111 compiled cases. Of these, 39 involved the CSEA administrative process where parties did not request a hearing. Additionally, there were 8 hearings in which the Judge or Hearings Officer entered a default after a party's failure to appear during a hearing.

CSEA Administrative Orders Filed As Administrative Uncontested Orders

There were 39 CSEA administrative orders filed as administrative uncontested orders without a hearing taking place. This accounts for 35.14% of the total initial dataset of 111 cases. It should be noted that an administrative uncontested order does not necessarily mean that the party failed to respond to the administrative action. When CSEA establishes or modifies child support, it requests income information from the parties and reviews available information before sending out a proposed administrative order. CSEA also attempts to contact parties to confirm agreements. If the parties agree to the proposed administrative order and/or neither party objects to the proposed administrative order by requesting a hearing, it is processed, filed and entered as a CSEA administrative uncontested order.

Family Court or OCSH Hearing Orders Where One or Both Parties Defaulted

Additionally, there were 8 default orders entered by a Judge or Hearings Officer that accounted for 7.21% of the total initial dataset of 111 cases:

- Two orders were issued after the custodial parent defaulted: in one case, the paying parent's incarceration led to a \$0 per month order, while in the other case, the monthly order was reduced from \$4,755 to \$4,153 for three children.

¹⁶ 2020 Hawaii Child Support Guidelines, § II.B.2.b.vi, at page 9.

- Four orders were issued after the paying parent defaulted, with monthly amounts of \$486, \$83, \$428 for two children (paying parent's income was imputed), and \$2,099 for two children. It is unclear what the \$2,099 order was based on, but it was the only case in this category where the paying parent paid the obligation for the majority of the review period. For the other three default orders in this category, two of the paying parents made no payments at all, and the third made payments in only two of the six months.
- Two orders were issued after both the custodial and paying parent defaulted, and both cases involved children receiving state cash assistance. The monthly obligation was set at the minimum of \$83 per child.

It is important to note that if a party does not engage in the CSEA administrative process or participate in their Family Court/OSCH proceeding, that may have negative consequences for both parties involved. For example, if the paying parent fails to respond to a proposed administrative order or fails to participate in a hearing, they may end up with an obligation that is higher than what they can afford, leading to financial hardship. On the other hand, if the custodial parent fails to respond or participate, they may end up receiving less child support than what they need to adequately provide for their child.

Metric 3: Rates of Imputed Child Support Orders

Based on the data, it appears that only three out of the initial dataset of 111 cases, or 2.7% of all cases, involved the imputation of the noncustodial parent's income. In each of these three cases, the noncustodial parent's income was imputed at the minimum wage rate multiplied by 40 hours per week.

Metric 4: Rates of Orders Determined Using the Low-Income Adjustment

Pursuant to 45 CFR §302.56(c)(1)(ii), Hawaii's child support guidelines must consider the basic subsistence needs of the noncustodial parent who has a limited ability to pay by incorporating a low-income adjustment such as a self-support reserve or some other method. Every child support order in Hawaii that adheres to the child support guidelines incorporates a self-support reserve for obligors. This reserve serves as a low-income adjustment and ensures that the noncustodial parent has enough income to support their own basic needs, such as food, housing, and transportation. The self-support reserve under the 2020 Guidelines is the monthly amount of a one-person household under the federal poverty guidelines less federal, state, and FICA taxes, which comes out to \$900. The self-support reserve is subtracted from the obligor's income before calculating the child support obligation, which helps to ensure that child support orders are fair and reasonable.

Metric 5: Comparison of Payments by Case Characteristics

Under 45 CFR §302.56(h)(2), states must analyze payment data for cases where child support orders were entered by default, based on imputed income, or determined using a low-income adjustment. This data must be used in the review of the child support guidelines to ensure that deviations are limited and guideline amounts are appropriate.

In conducting this analysis, CSEA considered six months of payment information and focused on how often noncustodial parents made child support payments.

Reviewing Six Months of Payment Information

The CSEA ITO generated a report for the 86 cases with payment information.¹⁷ Initially, the report analyzed payments made during the first eight months following the file date of the child support order. However, upon careful consideration, CSEA determined that the payments made in the last six months (payments 3 through 8) provided a more accurate representation of the payment history. This adjustment was made because it often takes several months after the order's file date for an Income Withholding Order to be served on the noncustodial parent's employer and for the paycheck to reflect the amounts deducted for child support.

This adjustment allows for a more accurate representation of the payment history by capturing the actual payment behavior and adherence to the child support obligation after the initial implementation period. By excluding the initial months, which may be influenced by administrative processes and delays in paycheck deductions, the analysis can provide a clearer picture of the ongoing payment consistency.

Consistency Rates

The payment consistency in this analysis attempts to capture how consistently a noncustodial parent made child support payments, regardless of the amount. It represents the percentage of months where the noncustodial parent made at least a partial payment toward their obligation, regardless of whether it covered the full amount or not.

For example, if a noncustodial parent was ordered to pay \$100 of child support each month, and they made a payment of \$50 for that month, then their payment consistency rate for that month would be 100%, even though it was for less than the full amount. However, if they failed to make any payment at all, then the payment consistency rate would be 0%.

This analysis provides an indication of how consistently the noncustodial parent contributes financially towards child support. Reliable and consistent child support payments enable the custodial parent to plan their finances effectively and rely on a steady stream of income to

¹⁷ Payment data included money that CSEA received for child support through garnishment, directly to the agency by the obligor, and through CSEA collection efforts.

support their child’s upbringing. It reduces financial stress and uncertainty, enabling the custodial parent to provide a stable and nurturing environment for the child.

In contrast, irregular or sporadic larger payments may not provide the same level of financial security. While larger payments may be beneficial in the short term, they may not address ongoing financial needs or provide a reliable source of income over time.

Compliance Rates

While consistency is important, paying one’s obligation in full each month is also important. Therefore, CSEA looked at compliance rates, which refers to the percentage of cases in which noncustodial parents fulfilled their child support obligations in full. This rate provides an indication of the overall level of adherence to the child support obligations among the noncustodial parents in the dataset.

To determine compliance rates, CSEA compared the number of cases in which noncustodial parents paid their obligations in full to the total number of cases.

Payment Data For All Cases

Before we compare payments by case characteristics like default orders, orders based on imputed income, and orders determined using a low-income adjustment, it is beneficial to consider the data as a whole. By considering the data in its entirety, we can obtain a broader perspective and identify general patterns or trends before delving into specific case characteristics.

CSEA conducted an analysis of payment patterns for the subset of 86 cases that had available payment information. The review started with an examination of all 86 cases collectively. The analysis focused on two key aspects: how often a noncustodial parent made a payment (consistency rate), and how often the noncustodial parent paid their monthly obligations in full (compliance rate).

In summary, the data reveals that, on average, the baseline consistency rate for all cases is 66.5%, and the compliance rate is 57.0%.

All Orders (86 cases)
Six Months of Payments (Months 3 – 8)

	Consistency Rate	Compliance Rate
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All Orders (86 cases)

66.5%¹⁸

57.0%¹⁹

¹⁸ 343/516 months

¹⁹ 49/86 cases

Metric 5a: Payment Data For CSEA Administrative Uncontested Orders and Family Court/OCSH Default Cases

Next, CSEA conducted an analysis of payment patterns for the 39 CSEA administrative uncontested orders and 8 Family Court/OCSH default orders below.

CSEA Administrative Uncontested Orders (39 cases) Six Months of Payments (Months 3 – 8)

	Consistency Rate	Compliance Rate
<i>CSEA Administrative Uncontested orders (39 cases)</i>	62.4% ²⁰	59.0% ²¹
<i>\$0 Orders (10 cases)</i>	100% ²²	100%
<i>\$16 per month for 3 children order based on equal timesharing calculation (1 case)</i>	100%	100%
<i>Minimum Orders (\$83 per child) (15 cases)</i>	23.3% ²³	20.0% ²⁴
<i>Orders above \$83 (\$214 - \$1,552 per child per month) (13 cases)</i>	75.6% ²⁵	53.8% ²⁶

²⁰ 146/234 months

²¹ 23/39 cases

²² 60/60 months

²³ 21/90 months

²⁴ 3/15 cases

²⁵ 59/78 months

²⁶ 7/13 cases

**Family Court/OCSH Default Orders (8 cases)
Six Months of Payments (Months 3 – 8)**

	Consistency Rate	Compliance Rate
<i>Hearing default orders (8 cases)</i>	50% ²⁷	37.5% ²⁸
<i>Custodial parent defaulted (2 cases)</i>	100% ²⁹	50% ³⁰
<i>Noncustodial parent defaulted (4 cases)</i>	25% ³¹	25% ³²
<i>Custodial and noncustodial parents were defaulted (2 cases)</i>	50% ³³	50% ³⁴
<i>\$0 Orders (1 case)</i>	100%	100%
<i>Minimum Orders (\$83 per child) (3 cases)</i>	33% ³⁵	33% ³⁶
<i>Orders above \$83 (\$214 - 1,384.33 per child per month) (4 cases)</i>	50% ³⁷	25% ³⁸

²⁷ 24/48 months

²⁸ 3/8 cases

²⁹ 12/12 months

³⁰ 1/2 cases

³¹ 6/24 months

³² 1/4 cases

³³ 6/12 months

³⁴ 1/2 cases

³⁵ 6/18 months

³⁶ 1/3 cases

³⁷ 12/24 months

³⁸ 1/4 cases

Overall, there was a payment consistency rate of 62.4% for CSEA administrative uncontested orders and 50% for default orders issued by the Family Court or OCSH. However, a notable difference is observed when examining cases with minimum orders (\$83 per month per child, excluding \$0 orders) compared to cases with orders above the minimum. Noncustodial parents with orders above the minimum consistently made payments, with payments occurring in approximately 75.6% of the months for CSEA administrative uncontested orders and in approximately 50% of Family Court/OCSH default orders. In contrast, cases with minimum orders exhibited more irregular payment patterns, with payments made only around 23.3% of the time in CSEA administrative uncontested orders and in approximately 33% of the time in Family Court/OCSH default orders.

The ability to pay could be a factor in the differences in consistency observed between minimum orders and orders above the minimum in these cases. It's possible that noncustodial parents with minimum orders may have lower incomes and fewer resources to pay their child support obligations, while noncustodial parents with orders above the minimum may have higher incomes and more resources available to them. The ability to garnish income may also affect consistency and compliance rates.

Payment Patterns for Non-Default Orders

Within the subset of 86 cases with payment data, there were 39 cases where the child support obligations were not issued by either CSEA administrative uncontested order or by Family Court/OCSH default orders. Henceforth, these 39 cases will be referred to as “non-default orders.” For these 39 non-default orders,³⁹ payments were made 73.9% of the time. Minimum order cases had a payment rate of 83.3%, while orders above the minimum had a payment rate of 72.4%.

**Non-Default Orders (39 cases)
Six Months of Payments (Months 3 – 8)**

	Consistency Rate	Compliance Rate
<i>All Non-Default Orders (39 cases)</i>	73.9% ⁴⁰	64.1% ⁴¹
<i>\$0 Orders (1 case)</i>	100%	100%
<i>Minimum Orders (\$83 per child) (3 cases)</i>	83.3% ⁴²	100%
<i>Orders above minimum (35 cases)</i>	72.4% ⁴³	71.4% ⁴⁴

³⁹ These include Family Court and OCSH orders issued after a hearing. This category may also include stipulated orders that are issued without a hearing, such as child support orders issued as part of an uncontested divorce or other stipulated orders submitted for the Family Court’s approval that do not necessitate a hearing.

⁴⁰ 173/234 months

⁴¹ 25/39 cases

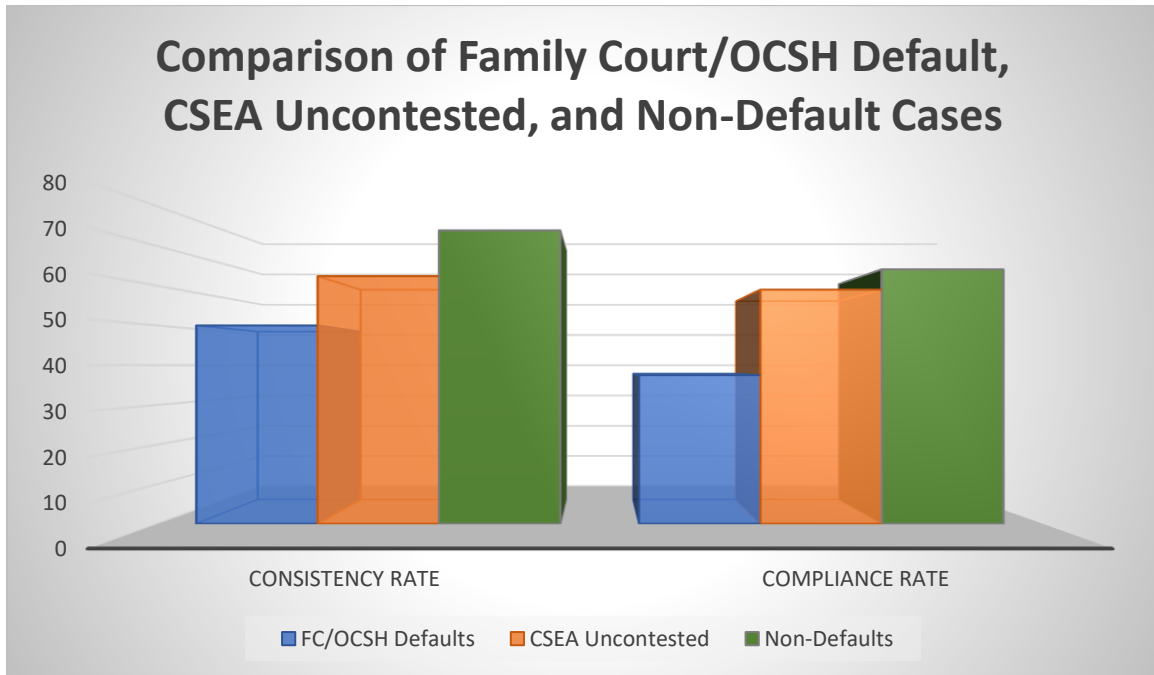
⁴² 15/18 months

⁴³ 152/210 months

⁴⁴ 25/35 cases

Comparison of Payment Patterns for Family Court/OCSH Default and CSEA Administrative Uncontested Orders Versus Non-Default Orders

A comparison of the Family Court/OCSH default cases and CSEA administrative uncontested cases with the 39 non-default cases shows that there is generally more reliable consistency and compliance in non-default cases.



Metric 5b: Payment Data for Imputed Income Cases

This analysis of the rates of imputed child support orders is mandated by the requirements of the Final Rule, which emphasize that child support orders be based on the noncustodial parent's ability to pay. Research shows that setting orders beyond a parent's financial capacity leads to lower compliance, increased debt, and limited contact with children.⁴⁵ Aligning the order with the parent's income improves payment consistency.^{46,47} Federal regulations emphasize basing the support obligation on earnings and income, or other available information about the parent's circumstances, rather than fictitious income.⁴⁸

There were three cases where orders were based on the imputed income of the noncustodial parent. In the first case, the imputation of income for the noncustodial parent did not affect the resulting monthly obligation, which remained at \$83 per month. In this case, the noncustodial parent paid the obligation in full every month.

However, in the other two cases, the noncustodial parents were ordered to pay \$428 per month:

- In the second case (NCP-2), the paying parent had income imputed at Hawaii's 2021 minimum wage of \$10.10 per hour, times 40 hours per week, or \$1,751 per month, despite being suspended from the union and unable to work due to financial constraints preventing him from rejoining the union. The custodial parent was a full-time student, and no income was imputed for her as the child was under 3 years old. Considering these income figures and a childcare credit of \$950, the child support was ordered at \$428 per month.
- In the third case (NCP-3), the paying parent was unemployed and was defaulted for failure to appear at the hearing; his income was also imputed Hawaii's 2021 minimum wage of \$10.10 per hour, times 40 hours per week, or \$1,751 per month.

⁴⁵ "Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs: Guidelines." Office of Child Support Enforcement, https://www.acf.hhs.gov/sites/default/files/documents/ocse/fem_final_rule_guidelines.pdf (last visited July 11, 2023).

⁴⁶ "How States Decide on the Right Amount of Child Support When Setting Orders for Low-Income Parents," Institute for Research on Poverty (IRP), <https://www.irk.wisc.edu/resource/how-states-decide-on-the-right-amount-of-child-support-when-setting-orders-for-low-income-parents/> (August 2021) (last accessed July 18, 2023).

⁴⁷ "Centering Child Well-Being in Child Support Policy," Ascend Aspen Institute, page 7, <https://ascend-resources.aspeninstitute.org/resources/centering-child-well-being-in-child-support-policy/> (last visited July 18, 2023).

⁴⁸ Final rule: Flexibility, efficiency, and modernization in child support enforcement programs, 81 Fed. Reg. 93492, 93516 Comment 1 in the Ability To Pay [§302.56(c)(1)] section of the final rule, the Office of Child Support Services (2016).

While these two noncustodial parents initially made some payments, they tended to stop making payments after a few months, and they never made a payment in full in any month.

IMPUTATION OF NCP'S INCOME

	NCP-2	NCP-3
Monthly Obligation	\$ 428.00	\$ 428.00
Payment 3	\$ 108.00	\$ 100.00
Payment 4	\$ 56.67	-
Payment 5	-	-
Payment 6	-	-
Payment 7	-	-
Payment 8	-	\$ 197.53
Total Due	\$2,568.00	\$2,568.00
Total Collected	\$ 164.67	\$ 297.53

While only three cases were clearly identified as cases that involved the imputation of income for the noncustodial parent, a fourth case was found where the party's income was potentially imputed, although it was not explicitly labeled as such. The order in this case reflected that the noncustodial parent had transitioned from full-time work (\$21 per hour) to light duty (\$11.75 per hour) due to a motorcycle accident, subsequent layoff, and receipt of unemployment insurance benefits. However, no documentation was provided for the unemployment benefits. Initially, child support was calculated based on the noncustodial parent's income of \$21 per hour, resulting in a monthly obligation of \$900 for two children. Over the following six months, the noncustodial parent made \$400 in payments towards their total obligation of \$5,400. After a modification to the order in June 2022, reducing the obligation to \$283 per month for two children, the noncustodial parent consistently met their monthly obligation and even made additional payments towards their outstanding balance.

Furthermore, out of the 86 cases with available payment data, an additional six cases revealed that income information for one party was unknown. Out of those six cases, three of them had a minimum monthly amount of \$83, whereas the other three cases ordered child support payments at higher than the minimum. A further review of the three orders that were set higher than minimum shows the following:

- 1) \$450 per month (one child): The order indicated that the paying parent testified that he does not have a job, has no job skills, but previously worked as a model and actor. The

order states that at a prehearing conference he reported that he receives \$500 per month in combat pay. The hearing officer ordered \$450 as the parties agreed to that amount, but it is unclear if that amount was based on the paying parent's income, imputed income, or the child support guidelines.

- 2) \$1650 (two children): The order only indicated the \$1650 amount, but an income statement was filed by both parents in October 2021.
- 3) \$2099 (two children): The order only included the \$2099 amount. A review of the court documents filed in that case do not indicate that an income statement by the paying parent or a child support guidelines worksheet was filed, the complaint and motion do not list the paying parent's income, and the minutes do not indicate the paying parent's income.

As a result, it remains uncertain whether income was imputed for these three cases or if the child support calculations or orders adhered to the Child Support Guidelines. Given that the law mandates child support orders to be based on the guidelines,⁴⁹ it would be advantageous for future reviews to include this information in every child support order.

⁴⁹ "The family court did not apply the Guidelines, and its failure to do so deprived Father of a calculation of his monthly support obligation using the 'wisdom of ... the Guidelines.' *Mack v. Mack*, 7 Haw.App. 171, 172, 749 P.2d 478, 479 (1988) (determining that family court's decision not to administer Guidelines in setting support amount because the children were partially self-sufficient adults was wrong). Additionally, the failure of the family court to apply the Guidelines rendered the child support award in essence unreviewable, as there is no meaningful way to evaluate how the amount was determined or whether it was correctly calculated. *See Gordon v. Gordon*, 135 Hawai'i 340, 350-51, 350 P.3d 1008, 1018-19 (2015) (family court's failure to make adequate findings on the record did not permit meaningful appellate review of family court's division of marital estate). Thus, the family court erred when it determined Father's monthly support obligation without using the Guidelines as required by statute." *P.O. v. J.S.*, 139 Hawai'i 434, 443, 393 P.3d 986, 995 (2017).

Imputed Income for Noncustodial Parent

There were three cases out of the subset of 86 cases where income for the paying parent was imputed. In each case, income was imputed at Hawaii's 2021 minimum wage of \$10.10 per hour, times 40 hours per week, or \$1,751 per month.

In the two cases where the child support order was larger than \$83 per month, the consistency and compliance rates were low. In both cases, the noncustodial parents were unemployed, and the guidelines worksheet calculated their monthly obligations at \$428 per month. These noncustodial parents made payments only 33.3% of the time. Unfortunately, they did not meet their obligation in full during any of the months (0% compliance rate). This suggests that, in these specific cases, the noncustodial parents struggled to consistently make payments and fulfill their child support obligations.

NCP Imputed Income Cases (3 cases) Six Months of Payments (Months 3 – 8)

	Consistency Rate	Compliance Rate
<i>All NCP Imputed Income Cases (3 cases)</i>	55.6% ⁵⁰	33.3% ⁵¹
<i>Minimum Orders (\$83 per child) (1 case)</i>	100%	100%
<i>Orders above minimum (\$214 and \$428 per child) (2 cases)</i>	33.3% ⁵²	0% ⁵³

⁵⁰ 10/18 months

⁵¹ 1/3 cases

⁵² 4/12 months

⁵³ 0/2 cases

Imputed Income for Custodial Parent

There were eight cases in the subset of 86 cases where income was imputed for the custodial parent. Although the data does not indicate how income was imputed for them, the resulting incomes for all but one were set at \$1,751 per month or less, suggesting that minimum wage was used. Income was not imputed for the noncustodial parents.

In these cases, all obligations were higher than the \$83 minimum orders. In half of the cases, no payments were made in any of the six months.

CP Imputed Income Cases (8 cases) Six Months of Payments (Months 3 – 8)

	Consistency Rate	Compliance Rate
<i>All CP Imputed Income Cases (8 cases)</i>	47.9% ⁵⁴	50% ⁵⁵

⁵⁴ 23/48 months

⁵⁵ 4/8 cases

Metric 5c: Payment Data for Cases Using the Low-Income Adjustment

As stated above, CSEA conducted an analysis of payment patterns for the subset of 86 cases that had available payment information. The review started with an examination of all 86 cases collectively. Then the cases were categorized into three groups: \$0 order cases (12 cases), minimum order cases (21 cases), and cases with orders set higher than the minimum (52 cases).

All Orders (86 cases) Six Months of Payments (Months 3 – 8)

	Consistency Rate	Compliance Rate
<i>All Orders (86 cases)</i>	66.5%	57.0%
<i>\$0 Orders (12 cases)</i>	100% ⁵⁶	100%
<i>Less than minimum Order (\$5.33 per child) (1 case)</i>	100%	100%
<i>Minimum Orders (\$83 per child) (21 cases)</i>	33.3% ⁵⁷	33.3% ⁵⁸
<i>Orders above minimum (52 cases)</i>	71.5% ⁵⁹	50.0% ⁶⁰

⁵⁶ 72/72 months

⁵⁷ 42/126 months

⁵⁸ 7/21 cases

⁵⁹ 223/312 months

⁶⁰ 26/25 cases

In summary, the analysis of the data reveals that, on average, child support payments were made in approximately 66.5% of the months. However, a notable difference is observed when examining cases with minimum orders (\$83 per month per child, excluding \$0 orders) compared to cases with orders above the minimum. Noncustodial parents with orders above the minimum consistently made payments, with payments occurring in approximately 71.5% of the months.

In contrast, cases with minimum orders exhibited more irregular payment patterns, with payments made only around 36.4% of the time. Of the 21 minimum support orders of \$83 per month per child:

- 13 paying parents had incomes of \$0 per month
- 6 paying parents had incomes under \$700 per month
- 1 paying parent had income of \$1257 per month
- 1 paying parent had income was not listed or known

It's difficult to determine the exact reasons why the trend shifts when orders are broken down by minimum orders and orders above the minimum without more information on the specific cases that were reviewed. However, it's possible that in cases with minimum child support orders, the noncustodial parent may have fewer financial resources available to make consistent payments, which could explain why payments were more sporadic. On the other hand, in cases with orders set above the minimum, noncustodial parents may have more financial resources available. It's also possible that other factors, such as changes in employment or income, could have contributed to the different payment rates.

Other Findings

[Payment Data for Cases with Deviations](#)

Of the subset of 86 cases with payment information, there were 29 cases where the amount of child support ordered deviated from the guidelines. In 11 of the cases, the noncustodial parent was incarcerated and the obligation was set at \$0 per month. For the other 18 cases, the reasons for deviations were as follows:

- In 10 cases, the parties agreed to a lower amount
- In 5 cases, an exceptional circumstance was granted because of the noncustodial parent's inability to earn income
- In 1 case, an exceptional circumstance was granted because the noncustodial parent supports other children
- In 1 case, an exceptional circumstance was granted because the noncustodial parent is making other payments required by law
- In 1 case, an exceptional circumstance was granted because of other written reasons

Overall, there was a consistency rate of 71.3%, with a compliance rate of 55.1%. For cases where the minimum amount was ordered, there was a 25% consistency rate and a 16.7% compliance rate. However, for orders above the minimum, the compliance rate was 33.3% although the consistency rate was much higher at 68.1%.

In the 10 cases where the parties mutually agreed upon a lower amount, the consistency rate was 45% and compliance was at 35%.

***Deviation Cases (29 cases)
Six Months of Payments (Months 3 – 8)***

	Consistency Rate	Compliance Rate
<i>All Cases with Deviations (29 cases)</i>	71.3% ⁶¹	55.1% ⁶²
<i>\$0 Orders (11 cases)</i>	100%	100%
<i>Minimum Orders (\$83 per child or less, excluding \$0 orders) (6 cases)</i>	25% ⁶³	16.7% ⁶⁴
<i>Orders above minimum (12 cases)</i>	68.1% ⁶⁵	33.3% ⁶⁶
<i>Cases where parties agreed to a lower amount (10 cases)</i>	45% ⁶⁷	35% ⁶⁸

⁶¹ 124/174 months

⁶² 16/29 cases

⁶³ 9/36 months

⁶⁴ 1/6 cases

⁶⁵ 49/72 months

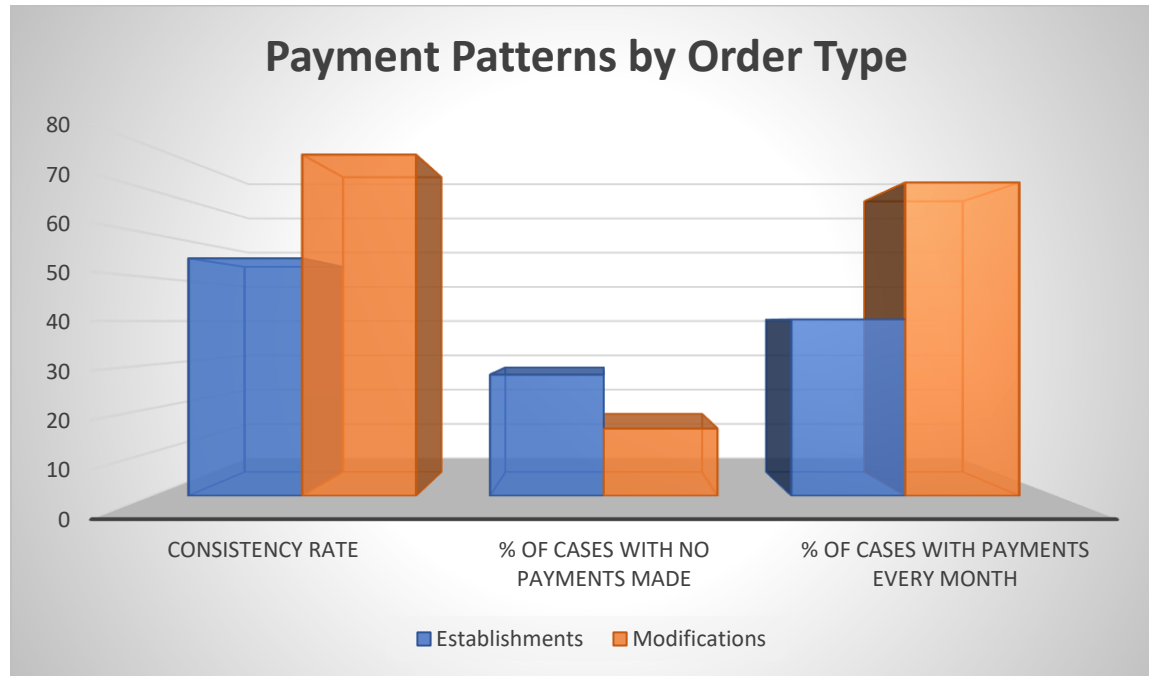
⁶⁶ 4/12 cases

⁶⁷ 27/60 months

⁶⁸ 21/60 months

Right Sizing the First Order: Establishments vs. Modifications

Out of the subset of 86 cases, 47 were establishments and 39 were modifications. The collected data indicates that payments were more reliable in the modification cases than in the establishment cases.



During the six-month timeframe, payments in establishment cases were recorded for 160 out of a total of 294 months, representing an average consistency rate of 54.4%. In comparison, payments in modification cases were made in 183 out of 234 months, indicating an average consistency rate of 78.2%.

Out of the 47 establishment cases, 13 cases (27.7%) did not have any payments made by the noncustodial parent. Similarly, among the 39 modification cases, six cases (15.4%) showed no payments made.

In 19 out of the 47 establishment cases, the noncustodial parent made a payment in all six months (40.4% of the cases), while 28 out of 39 modification cases saw the noncustodial parent make a payment in all six months (71.8% of the cases).

One possible explanation for the payment differences in modification versus establishment actions is that noncustodial parents in modification cases may have a better understanding of the consequences of not paying child support, having gone through the process of establishing a support order previously. Other factors, such as changes in employment or income, could also contribute to the different collection rates. Moreover, parents who seek to modify their orders may be more likely to comply with the modified order, leading to a higher degree of compliance in modification cases.

Nonpayments

Among the subset of 86 cases, it was found that in 19 instances with a child support order, representing 22.1% of the subset, no payments were made at all despite there being an order in place to pay a monthly child support amount above \$0. Of these 19 cases, six had child support orders set above the minimum amount as required under the Guidelines (31.6%) and 13 had child support orders set at the minimum amount required under the Guidelines (68.4%).

As CSEA wanted more information as to why the paying parents did not make a payment, it reviewed the paying parent's incomes as entered by CSEA, OCSH, or Family Court. Of the 19 cases that did not have payments:

- 10 indicated income for the paying parent of \$0 per month.
- 2 indicated income for the paying parent at low income (\$483 and \$652);
- 5 indicated income for the paying parent between \$3,000 - \$6,000 per month;
- 2 paying parents' incomes were unknown, but the order was the minimum \$83 per month.

CSEA took a deeper look into the circumstances of these 19 cases to review why the parties may not have made any payments during this period. In most of these cases (13 out of 19), the noncustodial parent was receiving government assistance from the State of Hawaii in the form of food stamps. This finding suggests a correlation between the lack of child support payments and the reliance on food stamps. In addition:

- According to the order of one case, both parties were not present at the hearing and defaulted and the paying parent was recently and possibly currently homeless.
- In one of those cases, the paying parent was incarcerated within 2 months of the order being filed, and subsequently, based on federal requirements, CSEA sent him a notice that he had a right to request to modify child support.

Additionally, it suggests that noncustodial parents with orders above the minimum may have had a higher income and therefore a greater ability to pay, reducing their payment failure rate. If there is a correlation between higher income and a reduced payment failure rate, it would underscore the importance of considering the financial capacity of noncustodial parents when establishing or modifying child support orders.

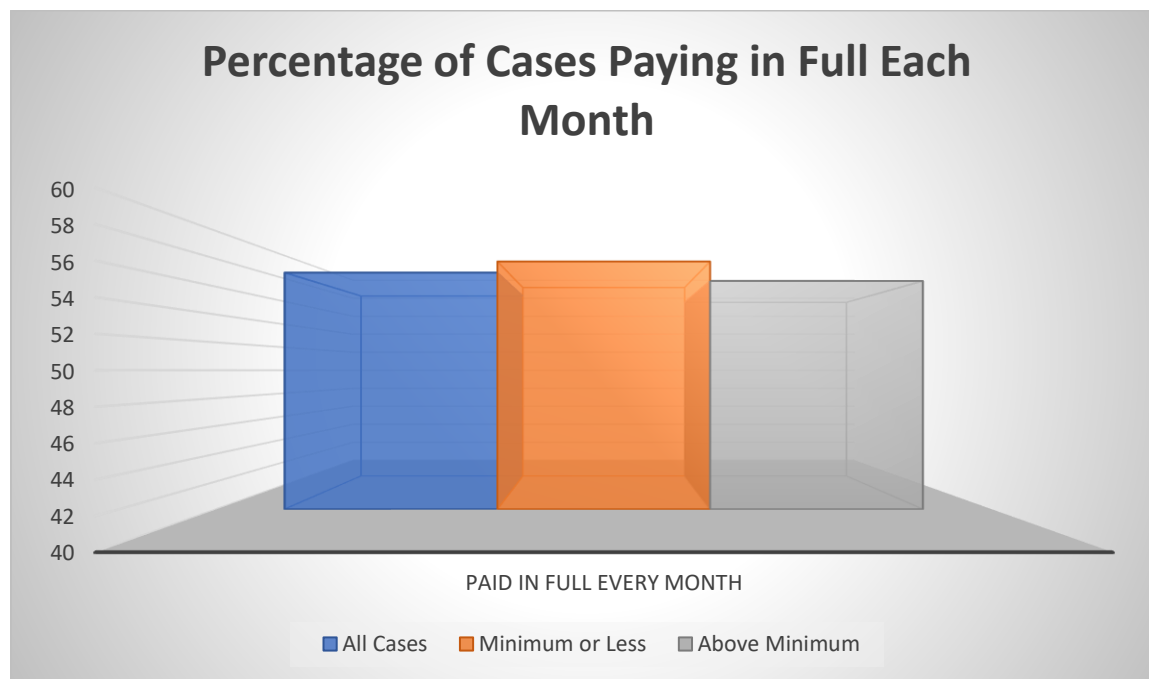
Which Cases Paid the Full Obligation Every Month?

The data indicates that in approximately 24% of the 86 cases reviewed, noncustodial parents made consistent payments of the ordered amount or more for all 6 months.

Looking at the cases where orders were set between \$0 and \$83 (the minimum amount), there was a consistency rate of 58.8%⁶⁹ and a compliance rate of 57.8%⁷⁰. In more than half of the cases, noncustodial parents were able to meet their obligations every month.⁷¹

In contrast, for cases with orders set above \$83, there was a consistency rate of 71.8%⁷² and a compliance rate of 56.4%. In less than half of the cases were noncustodial parents able to meet their obligations every month.⁷³

This may be because noncustodial parents have difficulty meeting higher payment obligations, which can lead to payment failures and arrears. In some cases, noncustodial parents may even choose to avoid payment altogether if they feel that the order is unreasonably high. It is important for child support orders to be set at an appropriate amount that considers the financial capabilities of both parents and the needs of the child.



⁶⁹ 120/204 months

⁷⁰ 118/204 months

⁷¹ 19/34 cases

⁷² 224/312 months

⁷³ 23/52 cases

CONCLUSIONS AND RECOMMENDATIONS

In addition to the above metrics, the analysis of case file data can also reveal trends in noncompliance and enforcement of child support orders. This can include examining the reasons for noncompliance, such as unemployment or other financial hardships, and identifying areas where enforcement efforts can be improved. The data can also shed light on the effectiveness of various enforcement measures, such as wage garnishment or license suspension, and highlight areas where additional resources or policy changes may be needed to improve compliance rates. Overall, the analysis of case file data is an essential component of the State's ongoing efforts to ensure that child support orders are fair and equitable, and that parents are held accountable for meeting their financial obligations to their children.

The data provided suggests that the amount of child support ordered can have a significant impact on payment behavior and that setting orders at or below the minimum may result in more sporadic payments but a higher proportion of the current support due being paid, while setting orders above the minimum may result in more consistent payments but a lower proportion of the total obligation being paid.

In addition, the Data Analysis Committee has the following recommendations:

[Emphasize the Importance of Worksheets](#)

To ensure the accuracy and appropriateness of Hawaii's child support guidelines, the Executive Committee emphasizes the importance of including parties' income information and attaching worksheets to child support orders. As this data is crucial for future evaluations of the guidelines, attorneys and adjudicators should make it a priority to include this information in every case to provide comprehensive and reliable data for future review committees.

[Emphasize the Process of Collecting Child Support](#)

CSEA was not able to analyze half of the Family Court orders because CSEA did not have payment information about these cases, likely due to the Family Court issuing direct payment orders or the parties not providing their child support orders to CSEA for processing. The Family Court and private attorneys may explain the child support process when child support orders are issued. They should ensure that income withholding orders are filed concurrently with the child support orders, and send them to the employer, so that income is appropriately withheld. In addition, they should explain that the orders must be sent to CSEA for their record keeping and to disburse payments as appropriate, and a CSEA application must be completed if they want enforcement services.