

Initial Pleading Practices (IPP)

The following Initial Pleading Practices (IPP) are in place and are to be followed to promote greater uniformity and consistency of child support orders throughout California. The goal is to have consistent and uniform practices statewide that take into consideration the unique circumstances of our customers and current child support laws and regulations in an effort to achieve accurate and reliable child support judgments.

The following IPP will address the following topics:

- [Determine Timeshare/Visitation](#)
- [Actual Income](#)
- [Earning Capacity](#)
- [Zero income \(i.e. \\$0.00 Judgments\)](#)

IMPORTANT NOTES REGARDING INITIAL PLEADING PRACTICES:

- When reviewing a case for an S&C you are to make reasonable diligent attempts to contact the appropriate parties on the case to gather relevant information. Collaboration with our customers is paramount. This includes speaking to customers about the importance of having accurate information for the purposes of calculating support.
- The totality of an individual's situation should be considered when determining the factors to be used to calculate child support, and the information considered must be clearly detailed in the case activity log.
- Make every reasonable effort to reach an agreement (i.e. Stipulation) with a customer(s).
- If the PPS does not agree with any of the factors used to calculate support (e.g. income used, timeshare, etc.), you are to inform the PPS of their right to file an Answer and appear in court to address the issue of support.
- If the PPS files an Answer, encourage the PRS to appear in court.
- If income is unknown, use actual income or earning capacity.
- **We will continue to use the 50/50 allocation of add-ons when using the Guideline Calculator.**
 - The Guideline Calculator is not currently designed to automatically do the proration calculation even when the radio button is selected. We are choosing not to perform manual calculating the proration based on both parties net disposable income.

- The calculator defaults to the Proration radio button. All staff using the calculator on and after 9/1/2024, and calculating add-ons, will need to manually change to the 50/50 radio button.
 - For more information please review the FEM Final Rule Presentation.
 - Additionally, the State has provided a quick 5-minute video which highlights the upcoming changes.

Determining Timeshare/Visitation Percentage [Back to Top](#)

Considerations regarding the calculation of timeshare:

- Timeshare is a percentage representing a parent's respective period of primary *physical responsibility* for the child(ren).
- A court order that awards custodial periods of time, or visitation, does not control the calculation of timeshare; rather, timeshare is based on what actually occurs. A court order that awards timeshare may be relevant in timeshare calculation if the order is recent and there has not been an opportunity to exercise the terms of the order.
- Telephone contact with a child does not establish or increase a parent's timeshare.
- Visitation that occurs at the PRS's residence may not establish or increase a parent's timeshare.
- If the PRS is receiving cash assistance, the maximum timeshare for the PPS is 49.99%.

| If | Then |
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| The amount of timeshare is unknown, or cannot be confirmed by the PRS... | Base guideline child support on a 0.00% timeshare. |
| The amount of timeshare is disputed, discuss the disputed timeshare with the parties and attempt to reach a compromise (i.e. run multiple guideline calculations, and inform the parents of the support factors) and... | <ul style="list-style-type: none"> • If they agree use the agreed upon timeshare to calculate child support. • If they cannot reach an agreement, use the timeshare provided by the PRS, encourage the PPS to file an Answer, and allow the court to resolve the dispute. <p>Note: The PRS does not have the option to file a response to the complaint; therefore, the parenting time is based on the PRS's claim.</p> |
| The amount of timeshare is confirmed by the PRS... | Base guideline child support on the timeshare verified by the PRS. |

Actual Income [Back to Top](#)

Considerations regarding known income:

- A complaint shall provide notice of the amount of child support that is sought based on:
 - Actual Income
- Actual income must be used if available (e.g. current pay stub, Wage and Insurance Verification received for current employer, etc.) and is an accurate representation of prospective (i.e. future) earnings. **Note:** All overtime should be included when calculating a parent's average monthly income unless overtime will be eliminated or reduced and we verify this with the employer.

- There are certain parameters pertaining to the use of reported earnings from sources including but not limited to the EDD on the Participant's Income List in CSE, The Work Number (TWN), or Statewide services Portal (SSP) NDNH report. Earnings reported by EDD can be one to two quarters behind).
- Reported income of 18 months or less can be considered if the facts seem to indicate that the reported income accurately reflects the prospective earnings of a party. Facts that would indicate the need to use a shorter period include, but are not limited to:
 - New Employment
 - Job change/Promotion/Demotion
 - Termination from employment
 - Report of a significant change of income that can be verified.

If

A party is currently employed (including self-employment) and their earnings/income is known, verified, and accurately represents the party's prospective earnings....

Examples of sources used to verify earnings/income:

- Current Paystubs
- Most recent year income tax return, profit & loss, and/or attached documents
- Wage and Insurance Verification Form
- The Work Number (TWN)
- Bank statements

Note: Consider the period of time that is represented in the verification provided (e.g. payroll year, hire date, etc.).

Then

Base guideline child support on the party's verified earnings.

If one of the following exists:

- A party receives SSI/SSP/*CAPI or CalWORKS **and** is reporting income (i.e. wages)...
or
- A party lives in a household receiving cash assistance from a Title IV-A agency **and** is not included in the cash grant, **and** is reporting income to DSS...

Base guideline child support on the additional income reported.

Note: Do not include the SSI/SSP/*CAPI or CalWORKS grant as income.

A party receives SSA benefits...

Base guideline child support on the party's SSA benefits and any other reported income, applicable.

Confirm that the Other Parent has applied for derivative benefits for the child(ren):

- See the [Procedure for Handling Derivative Benefits](#) for more

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| | <p>information on handling SSA Derivative Benefits.</p> <ul style="list-style-type: none"> • If the Other Parent is active aid, notify the Eligibility Worker (EW) of the Other Parent's potential eligibility to receive Derivative Benefits. |
| <p>A party receives one of the following Title II benefits:</p> <ul style="list-style-type: none"> • Social Security Disability (SSDI) • Railroad Retirement, or • Veteran's Administration (VA) Benefits... | <p>Base guideline child support on the party's Title II benefits and any other reported income, if applicable.</p> <p>Confirm that the Other Parent has applied for derivative benefits for the child(ren):</p> <ul style="list-style-type: none"> ○ See the Procedure for Handling Derivative Benefits for more information on handling SSA Derivative Benefits. • If the Other Parent is active aid, notify the Eligibility Worker (EW) of the Other Parent's potential eligibility to receive Derivative Benefits. |
| <p>A party is receiving SSDI benefits and states that they have been denied SSI/SSP due to excess income...</p> | <p>Base guideline child support on the party's current SSDI benefit.</p> <p>Confirm that the Other Parent has applied for derivative benefits for the child(ren):</p> <ul style="list-style-type: none"> ○ See the Procedure for Handling Derivative Benefits for more information on handling SSA Derivative Benefits. • If the Other Parent is active aid, notify the Eligibility Worker (EW) of the Other Parent's potential eligibility to receive Derivative Benefits. |
| <p>A party is employed seasonally and receives UIB during the off season(s)...</p> | <p>Base guideline child support on the party's average monthly wages and the average monthly UIB.</p> <ul style="list-style-type: none"> • For example, NCP earned a total of \$12,000.00 in wages for six months and \$6,000.00 in UIB for the other six months. The guideline calculation should show monthly earnings in wages of \$1,000.00 |

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| | (\$12,000.00 / 12 months) and monthly UIB of \$500.00 (\$6,000.00 / 12 months). |
| A party is confirmed to have voluntarily checked in to a rehabilitation or psychiatric facility, and they are currently employed. | Base guideline child support on the party's verified earnings. |
| The PPS's income, or self-employment income, is provided verbally by PPS. | Base guideline child support on the income provided verbally by PPS when the earnings are equal to or greater than 40 hours per week at the current minimum wage rate. |
| The PPS's income, or self-employment income, is provided by a verbal statement from both the PRS and PPS, and both the PPS's and PRS's statements support each other... | Base guideline child support on the income corroborated by both parties' verbal statements. |
| A PPS's current employer and/or earnings/income are unknown, but reported income is available. | <p>Base guideline child support on an average of the party's most recently reported income within the last 18 months assuming the earnings are indicative of the PPS's actual or prospective earnings.</p> <p>Calculate income using the following formula:</p> <ul style="list-style-type: none"> • Total income for the specific earning period divided by the number of months in which the income was earned, equals the monthly income based on the income history for the specific earning period. <p>Note: When analyzing CSE's Income List make a reasonable effort to verify the beginning and end date of the income period.</p> <p>If the facts seem to indicate that reported income falling within the last 18 months does not accurately reflect future prospective income for the PPS, review the details with a Supervisor/Attorney.</p> |

Earning Capacity [Back to Top](#)

Considerations regarding earning capacity:

- When actual income is unknown, earning capacity must be used. For initial pleadings, the amount pled for earning capacity will equal the current minimum wage rate at 40 hours per week.

- The S&C must identify which of the 14 earning capacity factors were known at the time of filing.
- Earning Capacity should not be used for the PRS.
- The absence of income or reported income does not mean someone's income is zero. This person could be self-employed or have income from sources that do not appear in CSE and is not reported to EDD.
- The "Earning Capacity" checkbox in the "Calculate Wages/Salary" section must be checked when generating an S&C based on earning capacity. The radio buttons for "some" or "all" need to be selected as applicable.
 - The income will need to be manually input in the guideline calculator based on 40 hours per week at current minimum wage.
- Inform the other parent about earning capacity orders and let them know that the judgment will be reviewed for accuracy annually and when the first child support payment is received.

If

The PPS's actual income is unknown.

Then

Calculate guideline child support based on earning capacity of 40 hours per week at the current minimum wage rate.

The PPS's income, or self-employment income, is provided by a verbal statement from both the PRS and PPS, and the PPS and PRS's statements do not support each other.

Calculate guideline child support based on earning capacity of 40 hours per week at the current minimum wage rate.

The PPS's income, or self-employment income, is provided verbally by PPS and falls below 40 hours per week at the current minimum wage rate.

Calculate guideline child support based on earning capacity of 40 hours per week at the current minimum wage rate when the earnings provided are less than 40 hours at the current minimum wage rate.

The PRS provides an unverified verbal or written statement of the PPS's earnings, and after due diligence and reviewing every statewide income reporting database cannot support the other parent's statement...

Calculate guideline child support based on earning capacity of 40 hours per week at the current minimum wage rate.

PPS lives in a household receiving cash assistance from a Title IV-A agency but is not included in the cash grant, is not the payee on the cash grant **and** has no other source(s) of income/asset...

Calculate guideline child support based on earning capacity of 40 hours per week at the current minimum wage rate.

Note: See the "Zero Income" section of this guide for a party who is in an aided home and is the payee of the cash grant.

Calculate guideline child support based on earning capacity of 40 hours per week at the current minimum wage rate.

PPS's earnings/employer are unknown, but the occupation is known...

PPS is being supported by their parent(s), spouse, sibling, significant other, etc., **and** there is no evidence of disability, drug addiction, alcoholism, or incarceration, **and** there is no employment or recent income history...

PPS resides in another jurisdiction (i.e. outside of CA) and we do not locate any current income or reported income and have conducted due diligence to find income and/or earnings...

Note: Consider involving the other state in the establishment process by contacting the other jurisdiction's Central Registry. The other jurisdiction may have income/earnings information that is not available to us.

Calculate guideline child support based on earning capacity of 40 hours per week at the current minimum wage rate.

Calculate guideline child support based on earning capacity of 40 hours per week at the current minimum wage rate for the other jurisdiction when there are no reported or verifiable earnings.

Zero income (i.e. \$0.00 Judgments) [Back to Top](#)

Considerations regarding no income:

- The totality of a PPS's situation should be considered when determining whether a \$0.00 judgment is appropriate.
- If no income or earnings information exists a \$0.00 judgment is not necessarily the appropriate action.
- A zero judgment should not be obtained based solely on a PPS's undocumented status.

If

Any of the following apply:

- The PPS is expected to be incarcerated for more than 90 days (including court-ordered/involuntary placement in a rehabilitation, or psychiatric facility) and has no other source(s) of income/assets from which to pay support; **or**
- A party is confirmed to have voluntarily checked in to a rehabilitation or psychiatric facility and is expected to be in the facility for more than 90 days, **and** they are not currently employed **or**
- A party is the payee of a cash assistance grant (including K1 and 3F aid codes) **or**
- A party lives in a household receiving cash assistance and is included in the grant for hardship children from a Title IV-A agency, and has no other source(s) of income/asset

Then

Base guideline child support on the party's zero income.

Note: See the "Earning Capacity" section of this guide for a party who is in an aided home

with a status of “excluded,” or “timed out” and is not the payee of the cash grant.

A party is the payee of a General Relief grant from a Title IV-A agency...

A party is medically verified totally and permanently disabled, and has no other source(s) of income...

Important notes about this process:

- The PPS may or may not provide documentation supporting their claim of total and permanent disability. Either way, we will verify the PPS's claim with the PPS's primary physician directly.
- Verify the PPS's physician's name, address, and phone number.
- Generate form set **FS-CIU-036: Disability and Medical Information Verification.**
 - Have the PPS complete SECTION I: Patient Information and Medical Release
 - Review Section I for completeness and accuracy.
 - Send the form directly to the PPS's physician. (Highlight important fields for the physician to complete.)
 - The form must be received directly from the PPS's physician.
- The information provided by the PPS's physician must clearly indicate the PPS is totally and permanently disabled **and** is unable to work.

The party to pay support is a minor, and is not legally emancipated...

Note: If a party receives SSI/SSP/Cash Aid Program for Immigrants (CAPI)* benefits and has no other source(s) of income/assets.

Base guideline child support on the party's zero income.

Review the Disability and Medical Information Verification form with a supervisor before generating an S&C to determine the validity of the form and to determine if support should be based on zero income.

Base guideline child support on the party's zero income.

If parentage has been established:

- Review the case for closure.

If parentage is at issue:

- Review for a parentage only S&C and then review for closure after the judgment is filed.

***Cash Aid Program for Immigrants (CAPI):** CAPI is a 100 percent state-funded program designed to provide monthly cash benefits to aged, blind, and disabled non-citizens who are ineligible for SSI/SSP solely due to their immigrant status. The welfare reform act of 1996 (P.L. 104-193) eliminated Supplemental Security Income/State Supplementary Payment (SSI/SSP) eligibility for most non-citizens. The aid code for CAPI is **6T** and it can be received from any

California county by anyone that is a naturalized citizen or a legal immigrant who otherwise qualifies for SSI/SSP.