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**Sent:** Tuesday, August 09, 2011 2:52 PM

**To:** Smylie, George (DSHS/DCS); Andrew McDirmid; Kathleen E Schmidt; Kathy Lynn; James Cox; ccGreg Howe

**Subject:** PSES Agenda 8/9/11

All,

The agenda for today's meeting is to discuss the attached with comments from Gary Bashor. He has made some good comments that we may be able to use to help us move forward on these issues to make a solid recommendation to the workgroup.

Tim

Postsecondary Educational Support current statute:  
Subcommittee recommended changes.

RCW 26.19.090

Standards for postsecondary educational support awards.

What are the recommended changes to the following sections of the statute?

(1) The child support schedule shall be advisory and not mandatory for postsecondary educational support.

**No suggested changes to section (1)**

(2) When considering whether to order support for postsecondary educational expenses, the court shall determine whether the child is in fact dependent and is relying upon the parents for the reasonable necessities of life. The court shall exercise its discretion when determining whether and for how long to award postsecondary educational support based upon consideration of factors that include but are not limited to the following: Age of the child; the child's needs; the expectations of the parties for their children when the parents were together; the child's prospects, desires, aptitudes, abilities or disabilities; the nature of the postsecondary education sought; and the parents' level of education, standard of living, and current and future resources. Also to be considered are the amount and type of support that the child would have been afforded if the parents had stayed together.

**0. PSES shall not exceed the costs to attend an in-state public educational facility. This does not mean the adult child has to attend an in-state or public educational facility.**

**I think this is a good guideline, but should not be set as an absolute limit. There may be cases where some other limit might be appropriate. We typically set a max of the UW in practice in cases where it is ordered.**

**2. The court shall consider all financial aid awarded to the child and that amount shall be deducted from the costs of attending an educational facility, including room and board, before determining the parents' share of expenses. (ex. the quarterly tuition is \$1400.00, room and board \$1200.00, books \$350.00, fees \$15.00 and transportation \$45.00 = \$3010.00. The child lives with dad and receives \$2900.00 for Pell and state grants.  $\$3010 - \$2900 = \$110$  for the quarter. The parents combined share is \$110.00 for the quarter.)**

**This seems reasonable, however the usual formula I have seen makes the child responsible for 1/3 and applies aid to that. The remaining 2/3 is generally divided between the parents based on their income percentages. The parent share would be less if the child's aid exceeds the 1/3 child share.**

**3. The court shall consider all pre-funding contributions from the parents and shall deduct such amounts from the contributing parent or parents' share of postsecondary support.**

**I really do not understand what item three is referring to.?**

(3) The child must enroll in an accredited academic or vocational school, must be actively pursuing a course of study commensurate with the child's vocational goals, and must be in good academic standing as defined by the institution. The court-ordered postsecondary educational support shall be automatically suspended during the period or periods the child fails to comply with these conditions.

- 1. Child must be enrolled on a full time/per term basis as determined by the educational facility.**
2. As stated, must be actively pursuing a course of study commensurate with the child's vocational goals (no change)
3. Must be in good academic standing as defined by the institution
4. The court-ordered postsecondary educational support shall be automatically suspended during the period or periods the child fails to comply with these conditions. **The court shall be specific when setting conditions as to when a parent or parents may suspend and re-start PSES should the situation arise. These conditions shall be documented in the court order.**
- 5. Should either parent make a motion to the Court asking that the payer's obligation for support for postsecondary educational expenses be terminated, the court shall consider the payer's motion and the court shall determine the reason the child failed to comply with the conditions set above, and shall take into account such factors as the child's injury or illness and failure of the educational facility to provide opportunity for the child to maintain eligibility.**
5. Should a parent move to terminate PSES and the motion to terminate support is brought frivolously, attorneys fees can be ordered.

**The above are pretty common. I am not sure they need to be spelled out, other than as a guideline.**

(4) The child shall also make available all academic records and grades to both parents as a condition of receiving postsecondary educational support. Each parent shall have full and equal access to the postsecondary education records as provided in RCW [26.09.225](#).

(5) The court shall not order the payment of postsecondary educational expenses beyond the child's twenty-third birthday, except for exceptional circumstances, such as mental, physical, or emotional disabilities.

(6) The court shall direct that either or both parents' payments for postsecondary educational expenses be made directly to the educational institution if feasible. If direct payments are not feasible, then the court in its discretion may order that either or both parents' payments be made directly to the child if the child does not reside with either parent. If the child resides with one of the parents the court may direct that the parent making the support transfer payments make the payments to the child or to the parent who has been receiving the support transfer payments.

**1. The last section allowing the court to award PSES payments to the parent who has been receiving the support transfer payments should be removed.**

**I suspect the last recommendation will have a bit of resistance, though it seems logical.**

**There are a lot of arguments that have been advanced on both sides of the pses issue, and I suspect consensus on a recommendation will be difficult to attain.**