

NEVADA CHILD SUPPORT GUIDELINES COMMITTEE PUBLIC MEETING TO REVIEW CHILD SUPPORT ENFORCEMENT GUIDELINES IN ACCORDANCE WITH ASSEMBLY BILL 278 OF THE 2017 LEGISLATIVE SESSION.

The public meeting to review child support enforcement guidelines was brought to order by committee chair Kim Surratt at 1:02 p.m. on Wednesday, January 17, 2018. This meeting was video-conferenced between the Division of Welfare and Supportive Services (DWSS), 1470 East College Parkway, Room 149, Carson City, NV 89706 and DWSS, Professional Development Center, 701 North Rancho Drive, Training Room 5, Las Vegas, NV 89106. The meeting was also accessible via teleconference.

MEMBERS PRESENT:

Kathleen Baker, Washoe County District Attorney's Office
Karen Cliffe, Clark County District Attorney's Office
Charles Hoskin, Family Division of the Eighth Judicial District Court
Nova Murray, Deputy Administrator, Division of Welfare and Supportive Services
Assemblyman Keith Pickard
Senator Michael Roberson
Joseph Sanford, Churchill County District Attorney's Association
Jim Shirley, Family Division of the Eleventh Judicial District Court
Kim Surratt, Family Law Section of the State Bar of Nevada
Dawn Throne, Family Law Section of the State Bar of Nevada

MEMBERS PRESENT VIA TELEPHONE:

Senator Patricia Farley

MEMBERS ABSENT:

Ellen Crecelius, Chief Financial Officer, Division of Health Care Financing and Policy
Assemblyman Ozzie Fumo
Bridget E. Robb, Family Division of the Second Judicial District Court
Lidia Stiglich, Justice, Nevada Supreme Court

STAFF PRESENT:

Jenelle Gimlin, Chief of Child Support Enforcement, Division of Welfare and Supportive Services (DWSS)
David Castagnola, Social Services Program Specialist III, DWSS
Melody Hall-Ramirez, Social Services Program Specialist I, DWSS
Danielle Loomis, Social Services Program Specialist III, DWSS
Joy Tomlinson, Administrative Assistant III, DWSS
Rebecca Lindelow, Family Services Supervisor, DWSS
Kiersten Gallagher, Social Services Manager, DWSS
Amy Crowe, Senior Deputy Attorney General

GUESTS PRESENT – NORTH

None

GUESTS PRESENT – SOUTH

Stephanie McDonald, Attorney

Agenda Item #1 – Call to Order and Roll Call

The public meeting to review child support enforcement guidelines was brought to order by committee chair Kim Surratt at 1:02 p.m.

Roll call was taken.

Agenda Item #2 – Public Comment

Ms. Surratt called for public comment over the telephone. Public comment was heard from Michael McDonald, stating he is putting together a report regarding child support and its effects and a report from other countries. He would like to send the report to this committee for consideration. In addition, he asked the committee to repeal Title 42 Section 666, The Child Support Enforcement Act Statute. Further,, Mr. McDonald asked the committee to consider custody and domestic violence. Mr. McDonald stated incarcerated parents’ child support should be reduced to \$100 per child per month and should automatically be changed.

Ms. Surratt called for public comment in the north: no public comment.

Ms. Surratt called for public comment in the south: no public comment.

Agenda Item #3 – Approval of Meeting Minutes (November 17, 2017 & December 13, 2017)

Assemblyman Pickard moved to approve the meeting minutes from December 29, 2017. Ms. Baker seconded motion. Motion passed unanimously.

Agenda Item #4 - In items 4a through and including 4i below, the reference to Exhibit 44 is the 2015 written report of Jane Venohr, Ph.D. to the State of Nevada Child Support Enforcement Program entitled, “Review of the Nevada Child Support Guidelines” (hereinafter “Exhibit 44”). A copy of the full written report is available online at https://dwss.nv.gov/Support/cs_meeting_agenda_materials/

No discussion or action was taken on this agenda item.

Agenda Item #4a - Discussion and recommendations as to what formula to use for child support after elimination of the presumptive maximum amounts (pursuant to items 2, 3 and 5 of Exhibit 44 and the Action Items from the September 26, 2017 meeting). Sample language drafted by Committee Member Judge Robb to be reviewed and discussed along with economic data to be provided by Committee Member Ellen Crecelius.

Assemblyman Pickard presented definition of income in relation to child support to the committee. See Exhibit A. The committee discussed changes to the definition of income.

- Remove “taxable” from definition of income.
- Add “any income” in place of “taxable” to definition.
- Redefine source income.
- Include “assets” as part of income definition.

- Include “money received from a third party” as part of definition.
- Add “income received from an asset” to definition.

Judge Hoskin and Mr. Pickard volunteered to redraft definition of income and present it at the next meeting.

Ms. Surratt suggested Agenda Item #4a be included on the next meeting’s agenda for further discussion and possible action.

Agenda Item #4b – Discussion and recommendations as to how to set a minimum order with a self-support reserve/low-income adjustment (pursuant to item 7 of Exhibit 44 and the Action Items from the September 26, 2017 meeting).

No discussion or action was taken on this agenda item.

Agenda Item #4c – Discussion and recommendations as to how to address the treatment of incarcerated parents or parent recently released from prison (pursuant to item 8 of Exhibit 44). Sample language drafted by Committee Chair Kimberly Surratt to be reviewed and discussed.

No discussion or action was taken on this agenda item.

Agenda Item #4d – Discussion and recommendations as to how to limit income imputation beyond a parent’s earning potential (pursuant to item 9 of Exhibit 44).

Ms. Surratt read item 9 from Exhibit 44:

Limit income imputation beyond a parent’s earning potential.

Why? There is national concern and at the federal OCSE level about the imputation of income beyond what a low-income, disadvantaged parent can reasonably earn (e.g., imputation at full-time minimum wage when the nonresidential parent is disabled and cannot work full time). Pending federal regulation encourages the use of actual income and to limit income imputation.

How? Review the best provisions of other states, including those newly adopted ones in response to federal concern and pending rule changes, and adapt, if appropriate, for Nevada.

Ms. Surratt then looked at AB 278 to make sure this discussion is within committee’s purview. Committee agreed this discussion is within their purview.

Ms. Surratt asked David Castagnola to discuss which Nevada Revised Statute (NRS) points to AB 278, section 2. Mr. Castagnola stated NRS 425 has a provision stating if the obligor’s income is unknown, his income should be based on state average wage which is calculated by the Department of Employment, Training and Rehabilitation (DETR). Also, he stated there is a state regulation that defines income including occupational wage. The Federal Regulations do not state income cannot be imputed. Imputation of income is based off several factors such as income earnings, assets, ability to earn, disabilities, etc. Ms. Surratt read page 93562 from the Federal Rule, Section 302.50 iii, which states:

(iii) If imputation of income is authorized, takes into consideration the specific circumstances of the noncustodial parent (and at the State's discretion, the custodial parent) to the extent known, including such factors as the noncustodial parent's assets, residence, employment and earnings history, job skills, educational attainment, literacy, age, health, criminal record and other employment barriers, and record of seeking work, as well as the local job market, the availability of employers willing to hire the noncustodial parent, prevailing earnings level in the local community, and other relevant background factors in the case.

Ms. Cliffe offered to provide Wisconsin's definition of income and imputation of income. Ms. Surratt also suggested committee compare Wisconsin's definition with the Federal Rule to ensure there is no contradiction.

Ms. Surratt suggested Agenda Item #4d be included on the next meeting's agenda for further discussion and possible action.

Agenda Item #4e – Discussion and recommendations as to how to develop and adopt an adjustment for additional dependents (pursuant to item 10 of Exhibit 44).

No discussion or action was taken on this agenda item.

Agenda Item #4f – Discussion and recommendations as to how to develop and adopt an adjustment for shared parenting time (pursuant to item 11 of Exhibit 44).

No discussion or action was taken on this agenda item.

Agenda Item #4g – Discussion and recommendations as to how to develop and adopt an adjustment for the child's health care expenses (pursuant to item 12 of Exhibit 44).

Ms. Throne presented draft medical support language. See Exhibit B. Mr. Pickard motioned to adopt language. Senator Farley seconded the motion. Motion passed unanimously.

Ms. Surratt then asked if vision and dental should be added to the language as well. Judge Hoskin suggested placing "medical, vision, and dental insurance" under 1B of the language. Assemblyman suggested adding "medical, vision, and dental" throughout language. Ms. Murray asked to change "insurance" to "coverage" under A since the State of Nevada public benefits are not considered an insurance.

Ms. Surratt stated she would put this agenda item to rest for future agendas.

Agenda Item #4h – Discussion and recommendations as to how to develop and adopt an adjustment for child care expenses (pursuant to item 13 of Exhibit 44).

Ms. Murray presented child care data in Nevada. She stated it is a representation of an all-state report showing how much the State of Nevada would pay for child care services. This report was broken down into different age groups and shows a 75 percentile. See Exhibit C.

Committee discussed changing the data to either reflect a monthly child care cost or an annual child care cost.

Committee then discussed how to deal with child care in the child support calculations.

- Do not tie child care with child support.
- Make child care mandatory like health insurance.

Mr. Pickard motioned to calculate child care costs separate and apart from calculated child support. Ms. Cliffe seconded motion. Motion passed unanimously.

Committee discussed how to deal with child care costs separately.

- Leave calculations for child care up to the courts.
- Make it mandatory for judges to consider child care costs.
- Create guidelines for the courts to review when considering child care costs.
- Add language “Court shall set an award based on party’s ability to pay” to the child support calculations.
- Allow courts to deviate with child care to create a right size order.
- Put a reasonable number on child care and work it into the calculations.
- Put a cap on child care like there is on health insurance.
- Add language “Child care costs related to employment or to reasonably necessary education or training for employment skills. Only actual costs paid by a parent or caretaker for child care that can be documented and determined may be used to compute an adjustment under these rules,” to the child support calculation.
- Split child care 50/50 between both parties like health insurance.
- Prorate the child care costs.
- Have different calculations for different age groups.
- Let child care costs be a case-by-case basis.
- Bake child care into the child support calculations.

Ms. Murray volunteered to have her staff look at other states who do not have an income share model and consider how these states are handling child care costs. In addition, staff will look at the language the other states use and solicit comments from the other states. She will provide this information at the next meeting.

Judge Hoskin motioned to deal with child care separately from the formula and draft parameters for child care for the next meeting. Ms. Murray seconded motion. Motion passed unanimously.

Judge Hoskin also volunteered to work on child care language if Ms. Murray would provide her information from the other states.

Ms. Surratt suggested Agenda Item #4g be included on the next meeting’s agenda for further discussion and possible action.

Agenda Item #4i – Discussion and recommendations as to how to review and revise the deviation criteria if deemed appropriate (pursuant to item 14 of Exhibit 44).

Judge Hoskin presented the proposed Child Support definition. See Exhibit D. This language was borrowed from four different jurisdictions. The second paragraph includes the presumptions for the courts to consider. The committee discussed different items they would like to be added or deleted from the proposed language.

- Make entertainment include extracurricular activities.
- Keep extracurricular activities separate from the language.
- Let the courts deal with extracurricular activities.
- Define extracurricular activities.
- Add “Child support does not include monetary contributions for a child care expenses, extracurricular expenses, and medical and dental expenses.”
- Add “vision expenses” to second sentence of first paragraph.
- Replace “correct” in first sentence of the second paragraph with “adequate” or “appropriate”.
- Add “to meet the needs of the child” at the end of first sentence of the second paragraph.
- Add “base/basic child support” into this definition.
- Add another paragraph defining child support and its components and basic child support.

Judge Hoskin stated he would make the suggested changes and forward the redraft to Judge Robb to add to previously approved language. Assemblyman Pickard motioned Judge Hoskin make suggested changes. Ms. Surratt seconded motion. Motion passed unanimously.

Ms. Surratt suggested Agenda Item #4i be included on the next meeting’s agenda for further discussion and possible action.

Agenda Item #5 – Discussion and recommendations regarding stipulated modification of child support.

No discussion or action was taken on this agenda item.

Agenda Item #6 – Discussion and recommendations regarding self-adjusting orders.

No discussion or action was taken on this agenda item.

Agenda Item #7 – Discuss and approve ideas for future agenda items.

No discussion or action was taken on this agenda item.

Agenda Item #8 – Discuss and approve future meeting dates calendar through July 2018

Ms. Surratt informed committee of next meeting date, February 9, 2018. She stated staff will check on the rooms at LCB and committee members will be notified if location changes.

Ms. Cliffe asked about the incarceration language. She stated the IV-D Program is required to review the order and modify the order to zero if need be. Ms. Surratt informed Ms. Cliffe the incarceration language is not finalized and was unable to have the language redrafted before this meeting. Ms. Surratt stated she would redraft the incarceration language and present it at the next meeting.

Ms. Throne volunteered to provide the Family Law’s Amicus Brief to staff and then staff will email the brief to the committee.

Ms. Cliffe volunteered to provide Wisconsin statutes on parenting time to staff and then staff will email the statutes to the committee.

Agenda Item #9 – Public Comment

Ms. Surratt called for public comment in the south: no public comment.

Ms. Surratt called for public comment over the telephone. Public comment was heard from Michael McDonald. Mr. McDonald stated he would like the committee to take into consideration both parties when dealing with child care. Also, he added the only time child support should be addressed is when the obligee does not want the obligor involved in the child's life or in cases where the obligee is a stay at home mom. Mr. McDonald also asked the committee to look into automatically setting child support at the minimum when the obligor is incarcerated. In addition, he asked the committee to consider tax laws and allow each party to claim one child.

Public comment was heard from Ron Hall. Mr. Hall stated his case gave temporary physical custody to his ex-fiancé and he was allowed visitation. However, Mr. Hall stated his ex-fiancé has only complied with visitation for a few Sundays. Mr. Hall stated it is a mental support issue not a child support issue. He is unable to pay for a lawyer to dispute the lack of visitation. He stated his frustration stems from the lack of visitation.

Public comment was heard from Lyuzmyla. She stated the committee should look into what income is. Ms. Lyuzmyla stated money in savings should not be considered income. She also stated insurance should be split between both parties. Ms. Lyuzmyla asked what the average income in Nevada is, and that the committee consider that.

Ms. Surratt called for public comment in the north: no public comment.

Agenda Item #10 – Adjournment

Ms. Surratt called for a motion of adjournment. Ms. Murray motioned for adjournment. Judge Shirley seconded motion. Meeting adjourned at 4:01 pm.

Exhibit A

AB 278 amended 125.150(12) to read:

For the purposes of this section, a change of 20 percent or more in the gross monthly income of a spouse who is ordered to pay alimony shall be deemed to constitute changed circumstances requiring a review for modification of the payments of alimony. As used in this subsection, “gross monthly income” ***means the total amount of income received each month from any source of a person who is not self-employed or the gross income from any source of a self-employed person, after deduction of all legitimate business expenses, but without deduction for personal income taxes, contributions for retirement benefits, contributions to a pension or for any other personal expenses.***

We have an opportunity to clarify the rule under the regulations. My thought is to add the word “taxable” in the first part, to make it ***“means the total amount of taxable income”*** and then add a sentence after the last reading ***“Taxable income does not include cash flow from savings, a prepaid annuity paid with wholly separate funds prior to the original child support award, or personal injury settlement where the proceeds are not considered income under the then-existing IRS Code.”***

To then clarify, the regulation would define income for purposes of obtaining child support as:

“Gross monthly income” means the total amount of ***taxable*** income received each month from any source of a person who is not self-employed or the gross income from any source of a self-employed person, after deduction of all legitimate business expenses, but without deduction for personal income taxes, contributions for retirement benefits, contributions to a pension or for any other personal expenses. ***“Taxable income” does not include cash flow from savings, a prepaid annuity paid with wholly separate funds prior to the original child support award, or personal injury settlement where the proceeds are not considered income under the then-existing IRS Code.***

Exhibit B

Medical Support Language

(c) Regardless of the income level of the payer, the obligation for support shall also include the cost of providing medical support for the child. In other words, the obligation for support of both low-income payers and high-income payers shall also include the cost of providing medical support for the child. The cost of medical support shall be borne equally by the parents, with each parent being responsible for 50% of the cost of medical support unless, in extraordinary circumstances, the Court determines that a basis exists to deviate from the parents equally sharing the cost of medical support.

(1) As used in this section, “medical support” includes, without limitation, the cost of coverage for health care under a plan of insurance that is reasonable in cost and accessible, including, without limitation, the payment of any premium, co-payment or deductible, and the payment of all necessary medical expenses that are not covered by insurance.

For the purpose of this subsection:

(A) The term “plan of insurance” includes the child being provided coverage under a public plan of insurance such as Medicaid or a reduced fee plan such as Nevada Check Up.

(B) Payments of cash for medical support or the cost of coverage for health care under a plan of insurance are “reasonable in cost” if:

(i) In the case of payments of cash for medical support, the cost to each parent who is responsible for providing medical support is not more than 5 percent of the gross monthly income of the parent; or

(ii) In the case of the costs of coverage for health care under a plan of insurance, the cost of adding a dependent child to any existing coverage for health care or the difference between individual and family coverage, whichever is less, is not more than 5 percent of the gross monthly income of each parent.

(C) Coverage for health care under a plan of insurance is “accessible” if the plan:

(i) Is not limited to coverage within a geographic area; or

(ii) Is limited to coverage within a geographic area and the child resides within that geographic area.

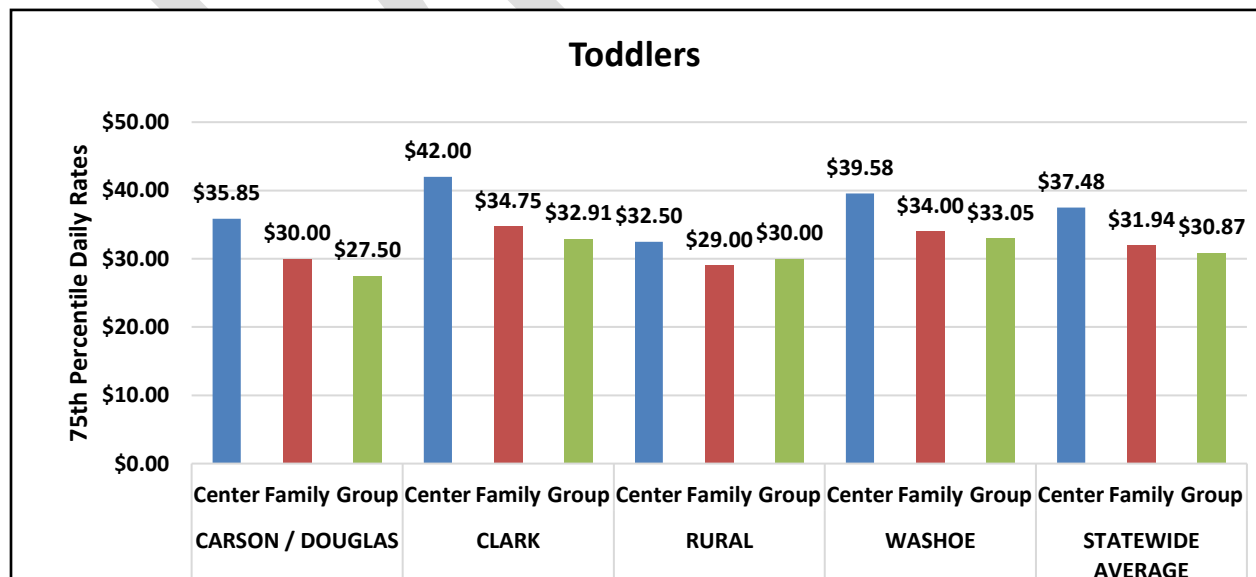
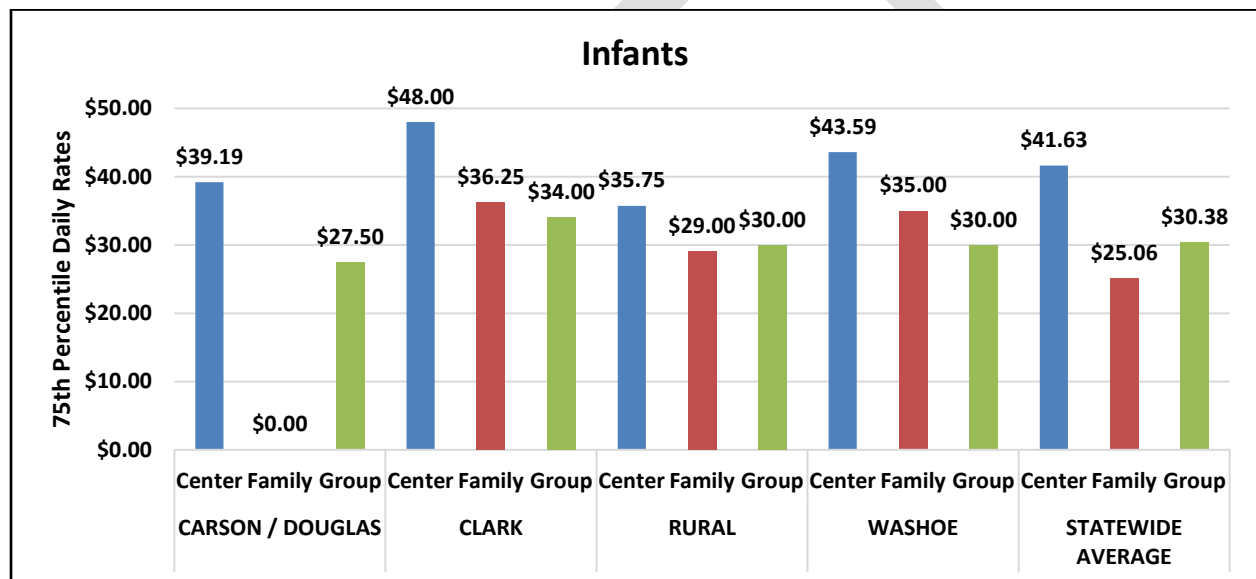
Exhibit C

Child Care Costs in Nevada

In November 2015, The Children’s Cabinet conducted a rate study of Nevada’s child care providers. Surveys were sent to 642 child care providers and 449 responded, a response rate of 70%. The surveyed providers included child care centers, family child care, and group child care. All information provided below is based on the survey responses.

Rates by Age Group

The survey found that the rates charged by providers varied according to the type of care, age of the child, and location. The rates shown on the charts below are the 75th percentile daily rates, a standard measure of child care rates used by the federal government.



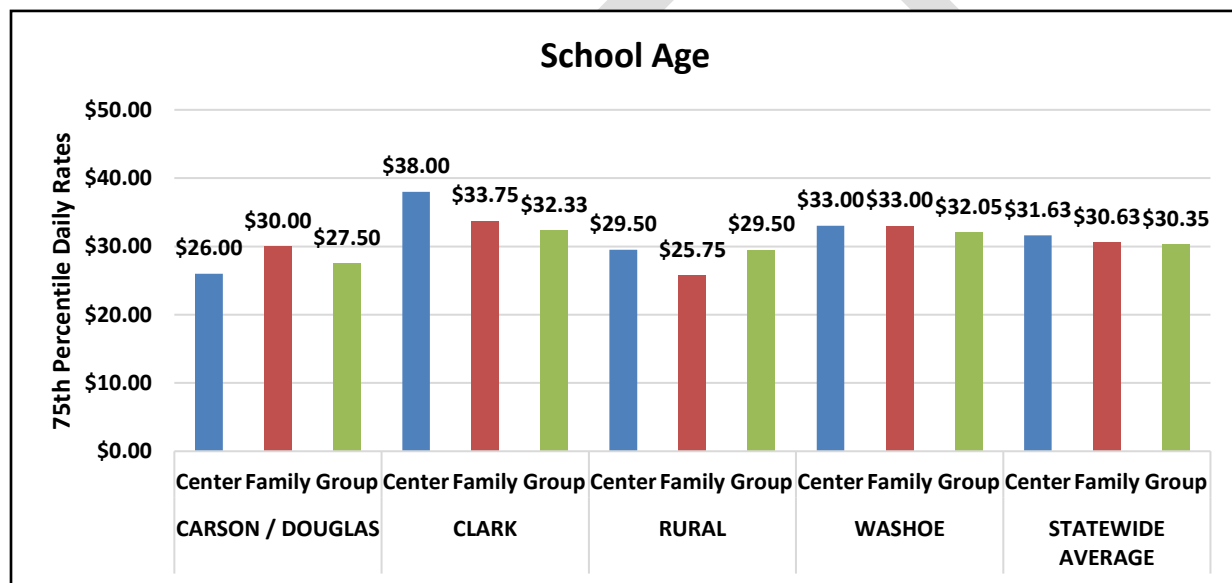
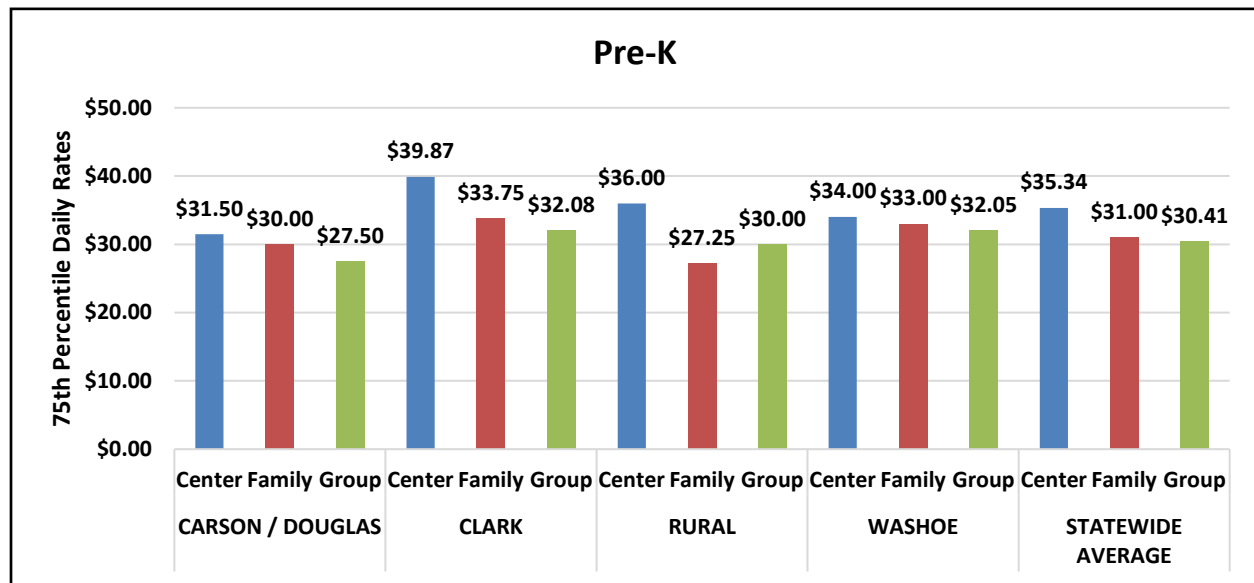


Table 1: Summary of 75th Percentile Daily Rates

Area	Type	Infants	Toddlers	Pre-K	School Age
CARSON / DOUGLAS	Center	\$39.19	\$35.85	\$31.50	\$26.00
	Family	\$0.00	\$30.00	\$30.00	\$30.00
	Group	\$27.50	\$27.50	\$27.50	\$27.50
CLARK	Center	\$48.00	\$42.00	\$39.87	\$38.00
	Family	\$36.25	\$34.75	\$33.75	\$33.75
	Group	\$34.00	\$32.91	\$32.08	\$32.33
RURAL	Center	\$35.75	\$32.50	\$36.00	\$29.50
	Family	\$29.00	\$29.00	\$27.25	\$25.75
	Group	\$30.00	\$30.00	\$30.00	\$29.50
WASHOE	Center	\$43.59	\$39.58	\$34.00	\$33.00
	Family	\$35.00	\$34.00	\$33.00	\$33.00
	Group	\$30.00	\$33.05	\$32.05	\$32.05
STATEWIDE AVERAGE	Center	\$41.63	\$37.48	\$35.34	\$31.63
	Family	\$25.06	\$31.94	\$31.00	\$30.63
	Group	\$30.38	\$30.87	\$30.41	\$30.35

Exhibit D

Proposed Child Support Definition:

Child support includes the dollar amount ordered for a child's housing, food, clothing, transportation, and basic public educational expenses, entertainment and other expenses relating to the child's care. Child support does [does not] include monetary contributions for a child's child care expenses and medical and dental expenses.

There is a rebuttable presumption that the award of child support that would result from the application of the child support guidelines is the correct amount of child support. The presumption may be rebutted if a preponderance of the evidence in a contested matter establishes that the child support amount established under the guidelines is not the correct amount of child support. A written finding or a specific finding on the record must be made if the court determines that the presumption has been rebutted.

DRAFT