



Frequently Asked Questions

(And answers from the
State Court Administrative Office
Friend of the Court Bureau)

FAQ 2018-01

April 23, 2018

Postmajority Support Obligation End Dates

This FAQ answers common questions and clarifies policy related to [Administrative Memorandum 2014-03](#), Uniform Support Orders and prospectively setting a date-certain that support ends in postmajority cases. This FAQ also announces the availability of a new tool to help courts and friend of the court (FOC) offices determine an accurate and specific end date. If the court or FOC staff have any questions or would like additional information or clarification, please contact Paul Gehm at [gehmp@courts.mi.gov] or (517) 373-5975.

1. Q. When should the FOC recommend postmajority support?

- A. Postmajority support *may* be ordered only when an individual child meets all four statutory factors. Even if all factors are met, the court still has discretion to award postmajority support – it is not mandatory.

Recent caselaw has highlighted the need that all four factors must be met. In Michigan, a court *may* order child support after the child reaches the age of 18 if: 1) the child is regularly attending high school on a full time basis; 2) with a reasonable expectation of completing sufficient credits to graduate from high school;¹ 3) while residing on a full time basis with the recipient of support or at an institution;² 4) but in no case after the child reaches 19 years and 6 months of age. MCL 552.605b(2).

¹ See *Cross v Cross*, ___NW2d___; 2008 Mich. App. LEXIS 2386, at *7 (Ct App, Nov. 25, 2008), “There is no requirement for the receipt of such support that there must be a reasonable expectation that the child will graduate from high school by the time the child is 19 years and six months old. But in no event can such child support extend beyond the time the child is 19 years and six months old.”

² See *Weaver v. Giffels*, Docket No. 327844. The Court of Appeals provided some guidance on the issue of determining an adult child’s residency. “Residence” is the place where a person is deemed in law to live, which is not always the actual dwelling and looks at both physical presence and intent to make that the permanent residence. A four-part test is used for residency: 1) the subjective or declared intent of the individual; 2) the nature and formality of the relationship of that person and the household members; 3) whether the place where the person lives is in the same house or on the same property; and, 4) the existence of another place of lodging by the person claiming residence in the household. The Court of Appeals indicated it is possible for an adult child to reside full-time with the support recipient based on the above test while still spending some overnights with the payer of support.

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When prospectively determining an adult child’s (postmajority student) residence, prior custody or parenting time orders are not binding. However, prior custody or parenting time orders may be instructive to look at the practice and what could be expected.

2. Q. How can I prospectively determine an accurate end date?

A: [Administrative Memorandum 2014-03](#) subsection D.4 explains how to choose an end date based on statute, caselaw, and policy.

The FOCB is introducing an optional, new [Excel-based calculator tool](#)³ to help offices accurately determine an end date based on the policy. This tool provides an accurate end date based on the following information: name, date of birth, grade level, current date, and whether postmajority support is being recommended or ordered. Additionally, the tool gives flexibility to local offices based on “graduation date.”

To use the tool, only two pieces of information must be typed and three inputs selected from a dropdown. The child’s name and date of birth must be entered without slashes (/) or hyphens (-), (e.g. enter date of birth as 01012010). The following fields are all selectable from a dropdown list: grade, postmajority support, and end date.

- Grade: Select the current grade of the child, including “not yet in school.” A gray table to the right shows the anticipated graduation date based on the current grade.
- Postmajority Support: This is a yes/no field. In order to select “yes,” the worker should have reviewed the child’s situation and have reason to believe that all four of the statutory requirements for postmajority support will continue to be met. If the conditions are not met, unless the court instructs otherwise, “no” should be selected.⁴
- End date: This is the date the court and office use for the graduation month. Typically, this date will be either May 31 or June 30. There are two versions of the calculator – each defaults to either May 31 or June 30. If an office needs to override its local default for some reason (e.g., early graduation), the user may select from a dropdown list of dates.

Once all of the information is entered, an end date will appear on the child’s row. The tool will also populate fields under the table with the child’s name and end date linked together. If information regarding multiple children is entered into the tool, their names and corresponding end dates will appear in these fields as well. This allows the worker to copy and paste those into separate paragraphs on a USO.⁵

³ Click here to access the [May Default Calculator](#). If your county defaults the graduation month to June, click here for the [June Default Calculator](#).

⁴ As the child nears and enters high school, it will be easier for staff to more accurately determine the likelihood of meeting the statutory factors. However, this does not limit a court or friend of the court staff from ordering and recommending postmajority support even though the child is not yet in high school.

⁵ This copy and paste feature will work best when copying to a USO in Internet Explorer, as there may be technical issues with pasting over to Google Chrome or Firefox.

3. Q. What if the parties do not provide any information regarding a child’s qualification for postmajority support?

A. When recommending support, an office needs information regarding a child’s eligibility for postmajority support. If the parties fail to provide information, the office may recommend stopping support at a date based on [memorandum subsection D.4](#). If the parties have asked for postmajority support but do not provide the information, there is no requirement that the office actively inquire or address the request. This does not preclude an office from doing so if it has the resources.

4. Q. How should the office handle a party’s disagreement with an obligation end date proposed in a support recommendation?

A. Any party who disagrees with a support recommendation may file an objection and the office must handle it as required under MCL 552.517b(4). Because postmajority support is awarded at the court’s discretion, the office should set these objections for hearing, rather than sending out a revised notice. However, the case should not be set for a hearing if the grounds for objection provides new facts that would change the FOC’s recommendation.

5. Q. What month should support end?

A. Many obligations will end the month that the child reaches the age of majority. When setting a date for postmajority support to end, MCL 552.605b(3) provides that the order’s support provision must terminate “on the last day of a specified month, regardless of the actual graduation date.” Because postmajority support is discretionary, the court has latitude to order that it ends any month between the age of majority and the month it finds the child will become ineligible for postmajority support. Often courts order an end to postmajority support when the child no longer attends high school full-time. Senior students often stop going to school full days sometime in May, so some courts use May 31 as an end date.

Others use June 30 as an end date because senior students are required to attend other school activities in June (including commencement ceremonies). Choosing an exact end date avoids the ambiguity associated with activities related to school that are not strictly instructional.

Each office should be consistent and follow the direction of the court when choosing to recommend that postmajority support continue until May 31 or June 30. The calculator tool mentioned in Question 1 has two versions: each defaults to either May 31 or June 30 (but staff may override that default with a dropdown).

6. Q. What names and dates should the Uniform Support Order’s postmajority support provision list?

A. The Uniform Support Order was designed to discontinue support for each child on the last day of the month when the child attains age 18 unless the court sets a different end date for an individual child. The postmajority support provision was designed to record the names and obligation end dates for those children who qualify for and were awarded postmajority support. MCL 552.605b requires that an order awarding postmajority support list a specific end date.

If a court wants to list a specific end date for a child whose support ends at age 18 to avoid confusion, those children should be clearly listed in a separate paragraph from the paragraph listing the children who have been awarded postmajority support.

7. Q. What if the postmajority support provision on the order does not clearly associate a child’s name with an end date?

A. Support obligations for children end at the age of majority unless the order states that support continues postmajority for specified children.⁶ There are times when the order may have an error if no specific end date is listed for a child, but the order indicates postmajority support was still intended.⁷ If the FOC can determine from information in the order and other facts of the case what the court intended, the office should notify the parties how it will treat the order and that if one of the parties believes the treatment is incorrect, that party will need to modify the order. However, if the mistake or omission is clearly a clerical error, MCR 2.612(A) must be followed.

8. Q. What are some of the issues to consider with home schooling or online schools?

A. Absent information that there will be different postmajority dates for homeschooled or online-schooled children, the FOC should treat end dates for those children the same as public or private schools in the community in which they live. FOC staff should not evaluate whether the homeschool or online program is sufficient.⁸

9. Q. How should we handle cases where the student is “dual-enrolled” in high school and college courses?

A. Some children are enrolled in an educational program that allows them to obtain their high school diploma at the same time they receive college credits. Typically, these are five-year programs and the program will not have a separate graduation date for high school. In determining whether support should be ordered beyond a child’s fourth year of high school, the court is best suited to make the determination because of the financial impact to the parents and the adult child.

When the court has ordered postmajority support but not specified a date certain for support to end (based on prior versions of the USO), or when the FOC is making a support recommendation, there are two different approaches to determine the actual end date in these programs.

The first approach, as recommended by SCAO, is to refer to the hours of instruction the student receives at the high school for high school credits. The statutory requirement that the student be full time is tied to the hours of instruction the student receives to earn a high school degree. Therefore, any time the student spends on receiving credits for the nonhigh-

⁶ SCAO recommends that the FOC review all orders before they are entered, pursuant to MCR 3.211(G), so that orders are not entered with unclear terms.

⁷ MCR 2.612(A) applies to correcting clerical mistakes. If the meaning is unclear due to a clerical error when it was completed, the order needs to be corrected by the court under MCR 2.612(A), whether on its own initiative or by motion of the party.

⁸ If the opposing party objects to the sufficiency of a school program, that party will need to file an appropriate motion to allow the court to determine whether the curriculum qualifies or whether the children should attend other educational alternatives.

school portion of the program does not count toward qualifying the child as “full-time” for high school. Under this approach, if the child started the dual enrollment before age 18, it may be proper to either:

- 1) End support at 18 because the child is not deemed to be a full time high-school student; or,
- 2) End support at the normal graduation date for that student’s grade level (i.e. the May or June of the student’s fourth year of high school).

This approach is consistent with current caselaw, despite being decided before dual-degree programs became prevalent.⁹

Another approach is to treat the 5th year as a 5th year of high school if the court determines that the additional year qualifies under the statutory conditions.

10. Q. How should we handle children with special needs who receive an educational certification rather than a diploma?

- A.** The postmajority support statute uses the term “graduate” to mean receiving a diploma. There is a difference between “graduating” and “other recognition at a graduation ceremony.” The statutory requirement for postmajority support is based on “a reasonable expectation of completing *sufficient credits* to graduate from high school.” There is no authority to order postmajority support for a child who does not have a reasonable expectation of completing sufficient credits to graduate, even though a student may “walk” with his or her class.

11. Q. Must the office send emancipation letters to know when to stop an ordered obligation?

- A.** No. The law has never required that friend of the court offices inquire whether a support obligation ends or continues. Based on past versions of support orders specifying several conditions rather than setting a single date to end an obligation for a child, sending emancipation letters to parents became a standard practice that offices used to determine if one of the conditions was met.¹⁰

When an order specifies an end date for a support obligation, the office has no reason to inquire whether a child will remain eligible for postmajority support. The FOC office should stop the obligation on the specified date as ordered, unless or until the order is modified.

12. Q. How is postmajority support handled in intergovernmental cases?

- A.** If an order is established in a Michigan court, Michigan law will control. As stated above, statute and policy control when postmajority support is allowed. However, caution must be exercised when modifying another jurisdiction’s order. If the duration of support is a nonmodifiable aspect of the order under the issuing state’s law, then that order’s end date

⁹ See *Rowley v Garvin*, 221 Mich App 699 (1997).

¹⁰ MiCSES generates emancipation letters in all cases, according to the emancipation date or calculation from date of birth on the DEMO screen, regardless of whether the USO includes a specific end date.

must be used.¹¹ While many other states allow postmajority support, the criteria and length may be different.¹²

13. Q. What happens if the conditions for postmajority support are no longer met before the listed end date?

- A.** Once the court has set the date, changing when an obligation ends requires a new order. While completing a statutory support review, an office should recommend that support end on a date determined by applying the facts to the criteria listed in the [memorandum subsection D.4.d.](#) The memorandum permits using a date different than was previously ordered if the office discovers credible information that circumstances have changed. If the office is not conducting a review or when support stops before the office might complete its review, a party should file a motion. Filing the motion preserves the date and may save the party money in the long run (despite the filing fee).

Under MCL 552.517(1)(f)(ii), if the FOC is presented with credible evidence that there has been a change in the financial needs of the child (which can include the child no longer qualifying for postmajority support or unexpectedly qualifying for postmajority support), the office must open a support review to modify the support obligation. The statutory support review can modify the support end date and potentially the support obligation.¹³ The effective date is the date the proposed recommendation is provided to the parties.¹⁴ One of the key considerations will be how close to the age limit the request is made and how long the process will take. The FOC is not required to actively monitor end date provisions or actively investigate conditions unless there is reason to believe that postmajority support may no longer be appropriate.

¹¹ MCL 552.2611(3)-(4). (3) A tribunal of this state may not modify any aspect of a child-support order that may not be modified under the law of the issuing state, including the duration of the obligation of support. If two or more tribunals have issued child-support orders for the same obligor and same child, the order that controls and must be so recognized under section 207 establishes the aspects of the support order that are nonmodifiable. (4) In a proceeding to modify a child-support order, the law of the state that is determined to have issued the initial controlling order governs the duration of the obligation of support. The obligor's fulfillment of the duty of support established by that order precludes imposition of a further obligation of support by a tribunal of this state.

¹² At least one state supreme court (*Curtis v. Kline*, 542 Pa 249 [1995]) has found that treating children of nonintact families differently than children of intact families violates the federal and state equal protection clauses. Because of this difference in treatment, Pennsylvania does not allow postmajority support absent agreement from the parents. However, other states allow support to continue past high school. See [Conn. Gen. Stat. §46b-56c](#).

¹³ MCL 552.517(1)(f). The office is required to send notice that a review is happening, asking for information from the parties sufficient to complete the review (here, the office could ask only for information related to the conditions of postmajority support), and explain how the review will be accomplished (in these cases, it may be important to explain that only the issue of postmajority support is being reviewed so as to narrow the scope and expedite the review process).

¹⁴ Even if the review is designed to only address changing the end date, once a review is started, parties have 21 days to provide information before the support calculation can be performed. MCL 552.517(b)(3).