

State of New Jersey
Administrative Office of the Courts

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1700 Cost of Living Adjustment Procedures

A. Authority

New Jersey Court Rules: R. 5:6B

B. Overview

R. 5:6B requires that all child support orders shall be adjusted every two years to reflect changes in the cost of living. A cost of living adjustment (COLA) is an automatic adjustment of a child support order that is enforced under Title IV-D. The objectives of the COLA are to ensure the adequacy of child support in future years and to reduce the number of modification applications filed throughout the duration of the support. The COLA is based on the average monthly change in the Consumer Price Index (CPI) for the New Jersey metro area (a derivation of the New York and Pennsylvania CPI). A COLA is different from a child support modification order.

C. Selection Criteria

For a COLA to occur, the following conditions must exist:

1. The case must be an open case with a charging child support obligation;
2. The New Jersey Kids Deserve Support (NJKiDS) system date is less than or equal to the next COLA date, recorded with support order details, less 45 calendar days;
3. New Jersey has continuing, exclusive jurisdiction (CEJ);
4. The case is not marked as exempt from COLA; and
5. An open COLA activity chain does not exist on the Enforcement Processes/CPRO page.

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D. COLA Chain of Notification and COLA Calculation

1. NJKiDS selects all cases eligible for a COLA and automatically calculates the amount of the proposed adjustment.
2. The *Notice of Cost of Living Adjustment* (CS150) is generated via a weekly batch process 45 days prior to the next COLA date.
3. The CS150 informs the parties that their case is scheduled to be adjusted and that a COLA may be applied. The CS150 contains the date the COLA will occur, the amount and frequency of payment of the current order, the CPI rate applied to the current order, and the amount and frequency of the adjusted order.
4. The CS150 also informs the parties of their right to contest the COLA within 30 calendar days.
5. NJKiDS automatically updates the COLA record with the proposed order and proposed effective date (if not contested). These fields, along with the COLA date and the last COLA date, can be reviewed on the Court Order/SORD page in NJKiDS.
6. NJKiDS has been programmed to round COLA increases to the nearest dollar. Amounts of 50 cents or more are rounded up to the nearest dollar; 49 cents or less are rounded down to the nearest dollar. In those cases, where the total increase in obligation amount is less than \$1.00 (\$.01 to \$.99), the amount of the increase is \$1.00.

E. Uncontested COLA

1. Thirty-five days after the CS150 is generated, COLA cases in a pending or resolved status will be automatically updated with the new child support amount and with the next effective date as calculated by NJKiDS (COLA date plus 2 years).

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2. On the effective date, without further action from the Probation Child Support Enforcement (PCSE) Unit, NJKiDS will automatically generate a *Civil Action Order Cost of Living Adjustment* (CS154) with the updated obligation amount. In uncontested cases, the signature of the Family Division Presiding Judge of the vicinage will automatic be affixed to orders. Income withholding notices automatically generate reflecting the change in the order.

Note: If a child support modification order is entered while the COLA chain is pending, NJKiDS will cancel the COLA and set a new COLA date two years in the future from the date of the modification order.

F. Contested COLA

1. A party is required to file a written notice with the PCSE Unit, that they are contesting the COLA, within 30 calendar days of the date of the CS150. Oral contests, whether by telephone, or in person, are not acceptable.
2. A party may request an administrative review of a COLA if one or more of the following criteria exist:
 - a. The person contesting is not the Non-Custodial Parent (NCP)/obligor or Custodial Parent (CP)/obligee identified in the CS150 (mistaken identity);
 - b. The amount of the child support obligation and/or arrears indicated in the CS150 is incorrect;
 - c. The child support order indicates that the case is exempt from the COLA process and/or contains a provision for an alternative form of periodic review; and/or

Note: PCSE staff should review the case order history and update NJKiDS, if appropriate.

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- d. The NCP's/obligor's income did not increase at a rate that is at least equal to the amount of the CPI calculation.
3. The written contest must contain the following documentation:
 - a. Mistaken Identity – a photocopy of identification containing date of birth and social security number.
 - b. Incorrect Child Support Amount – a copy of a court order, showing the correct amount, signed by a judge. PCSE staff must then verify it is the most current court order.
 - c. Exemption from COLA or Alternative COLA Schedule – a copy of a court order that stipulates exemption or an alternative COLA schedule. PCSE staff must verify the most current order.
 - d. NCP's/Obligor's Income Unchanged or Increase is Less Than CPI Rate – tax returns, W-2s, employer 1099s, award letters showing Public Assistance, Social Security, or other public entitlements. The financial information should cover the three-year period immediately preceding the COLA contest.

Note: Changes to the CP's/obligee's income are irrelevant for COLA administrative review purposes.

4. When a written contest is received but the documentation is insufficient, the PCSE Unit selects "Additional Information Needed" on the COLA chain, which generates *the Notice of Additional Information Needed for COLA* (CS596). The chain is increased 15 days so the NCP/obligor may provide the necessary proof supporting their contest. If additional time is needed, PCSE staff must continue to select this option in the chain to prevent the chain from automatically completing. See the COLA Worksheet Section G below.

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5. If the written contest does not meet the basic criteria for exclusion, PSCE staff shall deny the request for review, generate and send the *Notice of Determination of COLA Administrative Review* (CS152) to the parties, and thereafter the COLA is applied.
6. If a change in circumstances is the sole basis of a challenge to a COLA, the COLA contest should be denied. The parties should be advised of their right to file a motion/application with the Family Division in the county of venue.

G. Administrative Review Process

1. When a written contest meets the accepted criteria and is received with the proper supporting documentation, the designated PCSE staff shall conduct an administrative review of the case as it relates only to the application of COLA. PCSE staff must complete the administrative review process within 20 days of receipt of the COLA contest. The administrative review process can result in only one of the following determinations:
 - a. COLA will be applied with the effective date contained in the CS150. These cases will be updated with the new obligation effective date. Upon completion of the administrative review, the CS152 is generated and sent to the parties. Thereafter, upon the COLA effective date, the CS154 generates and is sent to the parties.
 1. The CS152 informs the parties of results of the administrative review and their right to contest the determination.
 2. If they wish to contest the determination, they must submit a request to contest, in writing, to PCSE within 10 days from the date of the CS152.

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- b. COLA will not be applied. This is the appropriate determination if the COLA contest is successful. These cases will not be updated, but they will receive a new COLA date. The CS152 is generated and sent to the parties.
- c. Schedule the case before a Child Support Hearing Officer (CSHO) for further review. This is the appropriate determination if PCSE is unable to determine if the COLA should be applied based on the contest. In this event, PCSE staff selects “Not Resolved Administratively – Schedule Hearing” in the COLA chain and a formal hearing will be scheduled. These cases are not to be updated with a new obligation amount, until CSHO review. PCSE staff must generate a COLA Worksheet for the hearing.

2. The COLA Worksheet

- a. The COLA Worksheet generates automatically once a case is marked contested in NJKiDS. Prior to advancing to the next step in the chain, a copy of the COLA Worksheet must be printed, otherwise the calculations automatically get deleted. A copy will be made part of the PCSE file and additional copies may be made for court, if needed.
- b. PCSE staff enters the following fields as prompted:
 - 1. CPI for the month as it appears on the CS150 (in decimal format, for example for 3.1% enter .031);
 - 2. The most recent tax year supplied by the NCP/obligor (the prior 2 years will automatically show once the current year is entered); and
 - 3. Adjusted Gross Income (AGI) for two years.

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- c. COLA Assumed Income Change – is calculated by NJKiDS showing the highest dollar increase allowable for the percent CPI.
- d. Actual Income Change – The Worksheet calculates the difference plus or minus from the two tax years under review.
- e. Adjusted Order – fills in automatically. It will say “YES” (COLA goes through) or “NO” (no COLA for this cycle).

H. Scheduled Hearing to Record Hearing Officer’s Recommendation at COLA Hearing

- 1. When PCSE staff concludes that a determination cannot be made based upon the information provided, or the CP/obligee or NCP/obligor desires to contest the determination of the administrative review, the case shall be scheduled before a CSHO or judge for further review.
- 2. The case should be placed on the next available enforcement calendar in accordance with standard scheduling and noticing procedures.
- 3. The CSHO or judge shall conduct a hearing and make a determination only as to whether a COLA should or should not be applied. If either party disagrees with the recommendation of the CSHO, he or she must advise the CSHO before leaving the hearing that they wish to contest the recommendation to a Superior Court Judge.

Note: In limited circumstances, when the CSHO is unable to hear the COLA contest, they are scheduled before a judge.

- 4. Upon completion of the hearing, NJKiDS is updated and a new COLA date is automatically entered by the system.

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Note: Incomplete contest materials and communications with the parties should be documented on the Create Note to File/NOTE page.

I. Missed COLAs and Retroactive Modifications

1. Missed COLAs

If the case has not been coded correctly for a COLA to initiate or there was no address for the parties, the COLA may have to be initiated manually by PCSE staff. PCSE staff shall open the COLA chain and enter the date the COLA was missed on the COLA Worksheet. Thereafter, the COLA process shall resume.

2. Retroactive Orders

If a retroactive order is entered on the Obligations by Case/OWIZ page, the COLA dates will be updated based on the new effective date of the order. This will cause the system to initiate a missed COLA chain. If multiple COLAs have been missed, the system will process the oldest COLA first. Once that COLA has been processed, the system will automatically initiate the next COLA that has been missed.

J. Uniform Interstate Family Support Act

When a new COLA order has been produced on an intergovernmental case, PSCE staff will get an action alert/task to register the new COLA order with the foreign jurisdiction.

K. How to Change a COLA Date

1. In order to change a last COLA date or a next COLA date, PCSE staff must first temporarily exempt the case from the COLA remedy. Navigate to the Enforcement Processes/CPRO page and select the yellow exempt button for COLA.

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2. In the reason field, select “AP – Alternate Periodic Adjust” and in the “to date” field, enter today’s date. Once updated, a dialog box will appear to enter notes accordingly.
3. Navigate to the Correct Existing Court Order/SORD page and select “Yes” in the dialog box.
4. All required fields should be pre-filled; however, if any of the required fields are not pre-filled enter the following selections:
 - a. Ordered by field – “D – Default”;
 - b. Order type field – “A – Administrative”;
 - c. Judge field – enter the designated judge who signs COLA orders;
 - d. Controlling order field – “P – Presumed”;
 - e. Check the box “Guidelines Followed”; and
 - f. Enter the new next COLA date. If necessary, the last COLA date can be changed.

Note: The new next COLA date that is entered should be on a charge day.

5. Once modified, the COLA exemption that was applied to the case will automatically expire the following day and the case will be available for batch selection on the next COLA date.

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Cost of Living Adjustment Procedures – List of Associated NJKiDS Forms

NJKiDS CS Number:	NJKiDS Form Title:
CS150	Notice of Cost of Living Adjustment
CS154	Civil Action Order Cost of Living Adjustment
CS596	Notice of Additional Information Needed for COLA
CS152	Notice of Determination of COLA Administrative Review