

# **Changing Your Child Support Court Order to Obtain Post-High School Educational Support**

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## **Introduction**

Most court-ordered child support obligations end when a child graduates from high school. If the child remains dependent after graduation and needs financial support for post-high school education, the obligation may be extended beyond high school so that the parent(s) may be obligated to pay what is called “post secondary educational support.”

Post secondary educational support awards are provided in child support orders which make either or both parents responsible to pay for the child’s educational expenses beyond high school. These expenses can include college or vocational school tuition and costs for school housing, books, and supplies.

If your child support order does not include any specific provisions for post secondary educational support, you should request that your child support order be changed (or modified) so that your child can receive post secondary educational support. This publication gives an overview of how to get post secondary educational support for your child.

This publication only addresses court child support orders, not administrative child support orders (which are established through the Division of Child Support). Post secondary educational support cannot be ordered in an administrative child support order. An obligation under an administrative child support order ends when the child turns 18 years old unless he/she is in full-time school, the order can continue until the child’s 19th birthday. If you only have an administrative order and you want to file for post secondary support, you will need to file a court case so that a child support court order is entered. You can then include in your petition for a child support court order a request that post secondary support be set. Please see the publications at the web site, [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org), that discuss obtaining a child support court order. If you are low-income and you do not live in King County, you may also call Northwest Justice Project intake line (CLEAR) at 1-888-201-1014.

## **How do I change the child support order so my child can get post secondary educational support?**

To change your child support court order to include post secondary support, you may file a Petition for Modification of Child Support. You should use this publication in conjunction with the publication, “Changing your Child Support Court Order” and the self-help packet, “Modification of Parenting Plan.”

If your original court support order did not mention post secondary support, or if you and the other party indicated that post secondary support should not be ordered, you will need

to show in your petition that a “substantial change of circumstances” has occurred, and explain that your child remains dependent and will need financial support for post secondary education.

If your original court support order reserved your right to petition later for post secondary support, you will not need to show a “substantial change in circumstances.” Instead, in the section on “Adequate Cause,” you should just make a note that the right to obtain post secondary support was reserved in the original support order.

If your original court support order stated that the parties were required to pay post secondary support, but the order did not state the amount and you and the other party have not been able to agree on that amount, you should note that in the section on “Adequate Cause.”

### **Who can file the modification?**

Only a parent or non-parental custodian (guardian) can file a modification. If the parent or guardian is unable to file due to extenuating circumstances such as death, being in jail, or abandonment, then the child should consult with an attorney to determine whether the child can file on behalf of himself/herself.

### **When should I file the modification?**

The modification action must be filed before the current child support order terminates. For example, if the current child support order terminates when the child turns 18, the modification must be filed before the child’s 18th birthday. If the child support order terminates when the child graduates from high school, the modification must be filed before graduation. It is best to file the modification at least a month before the child graduates so the child can plan on what financial support she/he can expect for his/her post-high school education.

### **How does the court determine whether to grant post secondary education support?**

When considering whether to grant post secondary educational support, the court determines whether the child is “in fact dependent” and relying on the parents for necessities. In determining whether and for how long to award support, the court will use its discretion and consider various factors such as the ones set out in RCW 26.19.090:

- Child’s age;
- Child’s needs;
- Expectations of the parties for the child when they were together;
- Child’s prospects, desires, aptitudes, abilities or disabilities;
- Nature of post secondary education sought;
- Parents’ or guardians’ level of education, standard of living, and resources;
- and

- Amount and type of support that the child would have been afforded had the parents remained together

**What type of information should I provide to the court when asking for a post secondary educational support award?**

When you file your petition for modification, you should submit a sworn declaration addressing each of the factors described above. In addition, you should attach any available written verification which would support the factors outlined above or any other reason why your child should be awarded post secondary educational support award.

Here are some examples:

- Child’s acceptance into a full-time program at a post secondary school
- Scholarships that the child received and how they will help with the school-related costs
- Loans that the child has applied for or needs to apply for and what is required to get the loans
- Awards received in high school to show the child’s aptitudes, abilities, etc.
- Any court documents previously submitted to the court for earlier child support actions (i.e., a financial declaration would show the parent’s level of education and standard of living; the current child support order might indicate that post secondary support is reserved which would show the expectations of the parties)
- Tuition and any other school-related costs (schools usually provide a breakdown of tuition and school-related costs in the admission packet). Here is an example of what the breakdown might look like:

	<b>Traditional Undergraduate</b>	<b>Undergraduate Living w/Parents</b>
Tuition and Fees	\$5,610	\$5,610
Books	900	900
Room and Board	7,164	2,613
Personal Expenses	2,265	2,265
Transportation	396	396
<b>Total</b>	<b>\$16,335</b>	<b>\$11,784</b>

## **How does the court determine how much post secondary educational support should be ordered?**

The court will either consult or follow the child support schedule depending on the type of family law action filed originally. The court will look at both parties' ability to pay post secondary educational support. If the court determines that the child should get post secondary support, it may divide the responsibility between the parties proportional to their income. This means that if one party has a more significant income than the other, that party will pay more. The court may not order any post secondary support if the parties cannot afford to pay it.

## **How will post secondary educational support be paid to the child?**

The court shall direct the post secondary support payments be made directly to the educational institution, or, if that is not feasible, then the payment will be sent directly to the child if he/she does not reside with one of the parents or guardian. If the child resides with one of the parents or a guardian, the court may direct payment to the child or the parent who has been receiving the support transfer payments.

## **Does the child have any requirements to maintain his/her award of a post secondary educational support?**

Yes, the child must be enrolled in an accredited academic or vocational school and must be actively pursuing a course of study commensurate with the child's vocational goals. The child must also be in good academic standing as defined by the institution.

The support shall automatically be suspended if the child is not enrolled, actively pursuing his/her studies, and/or is not in good academic standing.

The child is required to make his/her academic records, including grades, available to both parents as a condition to receiving his/her post secondary support.

## **How long can a post secondary educational support award last for?**

The court cannot order post secondary educational support beyond the child's 23rd birthday, except in exceptional circumstances such as when the child has mental physical or emotional disabilities.

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This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice.

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