

Donald C. Hubin
69 North Ohio Avenue
Columbus, Ohio 43203-1950

Tom Hayes, Director
The Ohio Department of Job and Family Services
30 E. Broad St., 32nd Floor
Columbus, Ohio 43215-3414

November 22, 2004

Dear Mr. Hayes,

Thank you for inviting me to serve on the 2005 Ohio Child Support Guidelines Council. I have been a member of the Council since its creation, and have served on all three of its subcommittees: Methodology, Deviations and Statutory language.

I hereby resign, effectively immediately from the 2005 Ohio Child Support Guidelines Council. I am resigning in protest and ask—no, I insist—that my resignation be noted in the final report of the Council. To remove my name entirely from the list of members of the Council would not be appropriate but I respectfully ask that it be prominently noted in the membership list included in the report, as well as any other place this list is published in print or on the web, that I resigned effective November 23, 2004. I take this action with sadness and regret, and only after a fair amount of reflection on the situation. There are numerous reasons for my decision and I will try to explain them as concisely as possible to minimize the possibility that my actions will be misconstrued.

I joined the Council with high hopes of working cooperatively toward improved, if still not ideal, child support guidelines. I had previously served on the Ohio Child Support Reform Shareholders' Group and, in that capacity had come to know some of those who would be serving on the Guidelines Council. The Reform Shareholders' Group, though predictably frustrating at times, had worked together to make numerous constructive recommendations for improving Ohio's child support system. I hoped that similar progress could be made on the Guidelines Council.

The first concern I had with the Council had to do with its make-up. It was, as was previous Councils, overwhelmingly dominated by people already working in Ohio's child support system in some capacity or other. Notably missing was anyone with *any* expertise in economics. The absence of an economist—especially someone trained in family economics—was a serious omission given the technical nature of the economic material the Council is expected to evaluate in fulfilling its statutory duty to “determine

whether child support orders issued in accordance with the schedule and worksheets adequately provide for the needs of the children who are subject to the child support orders” (ORC §3119.024). While the Revised Code does not mandate the appointment of economic experts—a statutory failing in my opinion—it is clearly possible to include such persons under the category “other persons interested in the welfare of children” (ORC §3119.024). I confess that, in the hopes of working constructively with the other members of the Council, I did not raise this issue from the outset. I don’t intend my raising it here to be any criticism of those who ran the Council. But I do believe that at least one independent economist—a person who is knowledgeable in family economics but independent of the child support system—should be appointed to all future Guidelines Councils.

I was appointed to the Council because of my work with Parents And Children for Equality (PACE), an organization that promotes true shared parenting of children of divorced and separated parents. Current child support policies are a deterrent to shared parenting because the parent who is designated nonresidential is presumed to owe the same amount of child support whether she or he never sees the children or sees them according to the standard parenting time schedule or, indeed, has the children with him or her as much as, or more than, 50% of the time. Furthermore, even custodial and residential parents under a shared parenting plan—parents who share children’s expenses equally—are treated under the current statutes as if they are nonresidential parents and presumed to owe the same amount of child support as parents who are truly absent from their children’s lives.

One reason I had joined the Council with high hopes was that the two previous Guidelines Councils had recommended, by overwhelming votes, a *serious* revision to Ohio’s child support laws to correct this serious flaw. Both recommended significant parenting time adjustments to apportion total child support funds equitably between the parents’ homes based on reasonable expectations of where children’s expenses would be incurred. Furthermore, the report of the Child Support Reform Shareholders’ Group specifically recommended that the next Council “use a fresh perspective to address the...parenting time adjustment” (*Child Support Reform Shareholders’ Group Report*, p. 36), and both that body and the current Guidelines Council heard repeatedly in public forums and in other forms of public feedback that this was a serious issue that needed to be addressed.

Unfortunately, I soon learned that many on the 2005 Guidelines Council cared little about the goal of modifying the child support worksheets to promote shared parenting. While there were numerous administrative, and some substantive, issues addressed, for many of the members of this Council, the major issue was “raising the tables.” I still hoped for progress on the issues that would promote shared parenting because the goal of raising

the tables is not directly opposed to my goals of promoting shared parenting. The tables indicate the amount of money it is estimated that parents at various economic levels would jointly expend on their children were they living together. They represent the *combined* child support obligation of the parents. Provided the worksheets divide these funds equitably between the children's two households (in the cases where the children have two households), the goal of promoting (or at least not deterring) shared parenting can be met even if the tables go up.

However, while the goal of "raising the tables" is, in theory, consistent with dividing combined child support funds equitably between the parents, this Guidelines Council had little interest in addressing the latter issue. As a result, the parenting time adjustment that was finally approved by this council is an enemy one—a mere shadow of the sorts of recommendations of earlier Councils. After raising the child support tables very significantly (we still don't know exactly how much), the newly recommended guidelines would allow an obligor who exercises normal parenting time (assumed by the Council to be 25% of the children's time) to retain 8.75% of *his or her portion* of the combined child support obligation (not 8.75% of the *combined* child support obligation) in "recognition" of the direct expenses he or she has on the children. This reflects only a fraction of the expenses of typical nonresidential parents on their children.

Furthermore, the Council didn't even address the issue of how to calculate presumptive (undeviated) child support in cases where both parents are residential parents and legal custodians of the children. Numerous courts have noted the lack of legislative guidance in these cases as they have decided, in inconsistent ways, the case of parents who had been driven to appellate courts and even the Ohio Supreme Court to resolve what is obviously a lacuna in the law. Despite being presented with a detailed proposal for handling this problem, the 2005 Guidelines Council did *nothing*—absolutely nothing—to address this problem. It never even brought the proposal to a vote; it simply ignored the problem.

With respect to fundamental methodology, the Council voted to move from the current income shares model to an "actual cost" model using information from the Consumer Expenditure Survey gathered by the U.S. Department of Agriculture. It voted to use the *per capita* methodology employed by the USDA to calculate children's housing, transportation miscellaneous expenses despite the fact that most economists believe that this methodology seriously overestimates these expenses. When the recommendations of the Guidelines Council were converted to child support tables by Jane Venohr, an economist with Policy Studies, Inc., it was learned that the recommendations would raise the presumptions of expenses on children by anywhere from 24% to 1117%. And note, these are estimates of how much parents in each given income bracket are spending on their children. These expenses don't "go up with inflation." That is, what the

recommendation of the Guidelines Council led to was a presumption that parents in 2005 *earning the same number of dollars* as those in 1992 were spending 24% to 1117% more on their children than were parents in 1992.

These results shocked even those whose main goal was to “raise the tables” (though I confess that I’m not sure whether they were shocked by the obvious irrationality and injustice of the results or, instead, by the bleak prospects of getting such dubious numbers past the legislature). At its final meeting last Thursday, the Council retrenched and changed its recommendation concerning the calculation of housing expenses on children as well as the calculation of expenses on children in large families. These changes ameliorate *only somewhat* the injustice and absurdity of the child support tables that will come out of this Council’s recommendations. It is distressing for an academic like me to observe that this retrenchment in the recommendations was motivated not by a commitment to employing the proper methodology but by a vague and intuitive sense that the recommendations were “too high.” This action of the Council, while taking a step toward reasonability, was a clear instance of decision-driven data rather than a data-driven decision. It makes one wonder why we look at economic data at all. Why not just fill out the tables based on the collective sense of twenty-some-odd non-economists of what is “about right”?

Because of the Council’s decision to recommend large increases in the assumed child related expenses (relative to a fixed income) and no significant adjustment for parents who are paying child support despite supporting their children directly, I decided to write a minority report. I contacted Jason Smith, one of the co-directors of the Council, concerning the requirements for minority reports. I was told that there were no specific requirements and that the deadline for submission of minority reports was November 5, 2004. I wrote, and on November 3 submitted, a minority report taking issue with the basic methodology (which has now been somewhat modified but not completely corrected), the failure to make a reasonable parenting time adjustment, the failure to address the problem of calculating child support in a shared parenting situation and the failure to recommend a legal statement of the purpose of child support.

Mr. Smith contacted me and informed me that, *at most*, the one-page executive summary of my report would be included in the Council’s report. Even the inclusion of that was to be left to a vote of the Guidelines Council. At the meeting last Thursday, I moved that the Council include minority report executive summaries up to one page long. My motion died for lack of a second.

Inclusion of minority reports is a courtesy to members of committees who, after working hard to arrive at a report that they can endorse, find themselves unable to support the report of the majority. It is a courtesy typically afforded in cases like this. And, it is

courtesy that was extended to members of the previous two Ohio Child Support Guidelines Councils. (See Appendix H of the *Report to the General Assembly: Ohio's Child Support Guidelines* [March 1997] and Appendix H of the *Report to the General Assembly: Ohio's Child Support Guidelines* [March, 2001]. The minority report in the latter document is 24 pages long including the executive summary.) Despite this history of including minority reports and the extremely modest proposal I made to include just the one-page executive summary, the 2005 Guidelines Council, for the first time, chose to silence dissent to the best of its ability.

I cannot, in good conscience, remain a member of the 2005 Ohio Child Support Guidelines Council. And, so, I once again declare my resignation from that Council and I insist that my resignation be explicitly noted in the report where the list of Council members appears so that my name is not associated with the current recommendations.

Sincerely,

Donald C. Hubin, Ph.D.

cc: Bob Taft, Governor, Ohio
China Widener, Assistant Director, ODJFS
Joe Pilat, Deputy Director, Office of Child Support, ODJFS
Jason Smith, Office of Legislation, ODJFS
Members of the 2005 Child Support Guidelines Council