

Modification of Custody and Parenting Time; Response Packet

Instructions for Packet 4B

Notice about these instructions and forms.

These instructions are not a complete statement of the law. They cover basic procedure for uncomplicated divorce, legal separation, or unmarried custody cases. For legal information, please talk to a lawyer and/or visit your local law library. Each court has local rules, programs and procedures that may not be explained in these instructions. Information about how to contact your local court may be found at the following website: <http://www.courts.oregon.gov>.

This set of forms and instructions explains how to file a response to a motion requesting that the custody, parenting time, and/or child support provisions of a judgment be modified.

When filling out the forms, follow these directions:

- The case heading is the same as listed on the motion you were served.
- Some forms have to be notarized or signed in the presence of a court clerk. You will need your picture ID for this. Many banks provide notary services.
- Some forms say on the bottom, “I certify that this is a true copy,” and provide a place to sign. Don’t sign this line on the original form or on your own copy. You need to sign this line only on the copies for the other parent.
- Make yourself a copy of any document you are filing with the court. File the original with the court clerk.
- Keep the court informed of your current address so you get notice of all court dates. **You are not required to use your residential address on any court form.** You may use a contact address where you regularly check in. If you use a contact address, the court will assume that you will receive all notices sent to that address.

STEP 1: FILING YOUR RESPONSE

You have thirty (30) days following the date you were served with the motion to file a written response with the court clerk and pay the filing fee. The court may also have ordered you to personally appear in court on a certain date and time. If you feel you cannot afford to pay the fee, your court *may* have forms to waive or defer your filing fee. Check with your court clerk or facilitator. Note, however, that even if your filing fee is deferred, most courts will require that you pay it at a later date.

If you weren’t served with the motion in Oregon, or if you haven’t lived in Oregon for a long period of time, you may not be required to file a response. You should talk to an attorney about whether you should file a response.

Legal Issues to Consider.

Before you fill out your response (called, “Affidavit Responding to Motion to Modify Judgment”), you should review what the other parent asked for in the motion, and think about how you want to handle the issues raised by the other parent. The court will require that a parenting plan be made part of the final judgment (the final document in the case that contains each parent’s rights and responsibilities).

Parenting Plan. A parenting plan is required for cases involving a minor child. The plan sets out the schedule and rules for each parent’s time with the child. The parenting plan may include safety provisions for the child if domestic violence, substance abuse, child abuse or other circumstances are involved in your case.

A mediator can help parents create a parenting plan. Information about parenting plans may also be available through your court’s parent education program, the courthouse facilitator, or your local law library. **The Oregon Judicial Department and the State Family Law Advisory Committee have created a “Basic Parenting Plan Guide for Parents” with information about how to develop a plan, information about alternative schedules, and ages and stages of your child[ren] which should be considered in creating a plan. A sample parenting plan form is included in the Guide.**

The Guide may be downloaded from the OJD Family Law Website at <http://www.courts.oregon.gov/familylaw>. There is also a “Safety Focused Parenting Plan Guide” on this website to help you develop a parenting plan where

there are safety concerns for your children. If the parents don't agree on a parenting plan, a judge will **order** a parenting plan for you.

Oregon law (ORS 107.159) prevents either parent from moving more than 60 additional miles away from the other parent without giving him or her and the court notice of the move. You may ask the judge to waive this requirement by checking the last box in the parenting plan section of the petition.

For information about child custody, you may call Tel-Law (1-800-452-4776) tape 902, or visit www.osbar.org.

Child Support. The other parent may have requested that the court terminate or modify a child support obligation. The amount of support, if ordered, will be determined by the Child Support Guidelines. **Support is typically withheld from wages unless an exception is allowed for direct deposit to the other parent's checking or savings account, or, if support enforcement services are being provided to either parent, as an "electronic payment withdrawal (EPW) or electronic funds transfer (EFT)" to a Department of Justice account.** (EPW and EFT are procedures whereby funds are automatically withdrawn from a checking/savings account as authorized by the account holder.) The Guidelines have worksheets to help you figure out who should pay support and how much it should be. If you do not agree with the change requested by the other parent, you will need to complete and file with the court your own "Child Support Worksheet(s)." Information about child support, including the Guidelines and Worksheets, is on the Internet at:

http://www.dcs.state.or.us/oregon_admin_rules/guidelines.htm.

This website also has a Child Support Calculator <http://www.dcs.state.or.us/calculator> which may help you to calculate the amount of child support which should be paid.

Cash Medical Support and Health Care Coverage. In addition to cash child support, Oregon law may require the payment of cash medical support. If neither party has private health insurance for the child(ren) or if the health insurance is to be provided only by the parent that receives cash child support, the court is required to order cash medical support unless the court finds there are reasons not to order it. The purpose of cash medical support is to help contribute to the cost of health insurance and the cost of uninsured medical expenses. The judge cannot order a party who makes no more than Oregon minimum wage for full-time employment to pay cash medical support. The judge can order a party making minimum wage or less to provide health care coverage if it is available at no cost.

Oregon law requires the court to make sure that payment for the child(ren)'s uninsured medical expenses are addressed in the judgment. Although you may request that each party share the out-of-pocket medical expenses that exceed \$250.00 per child per year, it may not be appropriate to request both the payment of cash medical support and the sharing of uninsured medical expenses. That is because one of the purposes of cash medical support is to help pay for the cost of uninsured medical expenses.

Insurance. Oregon law requires that the judgment address the issue of health insurance for any minor child involved in your case, and for payment of uninsured medical expenses. It also must provide for security for the payment of support, such as life insurance. In the health care coverage section, you must mark any of the options that apply to your family's situation. There are two major categories involved in determining health care coverage for the children: private, such as insurance available through employment, and public, such as the Oregon Health Plan.

If either you or the child's other parent have private health care coverage available for the children, you must fill out the "PRIVATE HEALTH CARE COVERAGE IS APPROPRIATE AND AVAILABLE" section. If *neither* you or the child's other parent have private insurance available for the children, you will fill out the section called: "NO PRIVATE INSURANCE IS APPROPRIATE OR AVAILABLE." Regardless of insurance availability, everyone must complete the section called: "RESPONSIBILITY FOR UNINSURED HEALTH EXPENSES." It may be appropriate to equally divide the expenses if no cash medical support is ordered or for the custodial parent to pay most or all of the uninsured expenses if cash medical support is being paid to that parent.

Confidential Personal Information.

There is certain personal information that can only be listed in a Confidential Information Form (CIF) and may not be listed in any of the other papers you file with the court. See the CIF information sheet that is part of this packet.

Have your documents reviewed.

You may have your documents reviewed by a lawyer or a courthouse facilitator (if your court has one) before you file. For information about how to find a lawyer, call the Oregon State Bar Lawyer Referral Service. If you are low income, you may get your documents reviewed for a smaller fee through the Oregon State Bar's Modest Means program, or you may call your local Legal Aid office. Contact numbers are listed in the additional resources section at the end of these instructions, and in the "Local Family Law Practices and Procedures" for your court attached to these instructions.

Filing the Response and Related Documents.

After you have filled out the Response, make two copies. One copy is for your records, and the second copy is for the other parent.

If the other parent does not have an attorney, mail the other parent's copy to the other parent's address and fill out the Certificate of Mailing form, and file it with the court. If the other parent is represented by an attorney, you must instead mail the copy to the other parent's attorney and provide the attorney's address in the Certificate of Mailing form.

If the other parent has requested to terminate or modify child support *and you do not agree*, you will also have to complete and file the Uniform Support Declaration (see Packet #6F) and the Child Support Calculation Worksheets.

File the originals of the above documents with the court clerk along with the required filing fee (unless your fee was waived or deferred by a judge).

Parenting Classes.

Many courts require that parents of minor children go to a parent education class. If your court has this program, you will need to sign up for the class right away. Some courts will not allow you to finalize your case until you have completed the class and filed a certificate of completion with the court.

STEP 2: RESOLVING YOUR CASE

Conferences with the Judge.

Many courts will schedule a "status", "pretrial", or "settlement" conference if a response has been filed. These meetings usually take place with a judge with both parents present, along with their attorneys if they are represented. You must go to any conferences that are scheduled unless you have received permission from the judge not to attend.

At the conference, the judge will probably talk to you about how the case is going to be resolved and will probably set future court dates.

Working Toward Agreement.

The court wants to assist you in resolving the issues about which you and the other party disagree on. You may discuss these issues with the other parent directly if it is safe for you to do so and if no court order prohibits this contact. You may also discuss them with the other party's attorney if they have one. If you filed a response, and later decide that what the other parent asked for in the motion is okay with you, you may fill out and file a Waiver of Further Appearance and Consent to Entry of Judgment form (see Form #6J or use your local court form). The court will then enter judgment based on what was requested in the motion. Ask your local courthouse facilitator for help with this step. If you can't resolve the issues on your own, the court may provide a number of options to help you, including mediation and custody evaluation.

Mediation. A mediator is a person trained to help people resolve disagreements. The parents may be required to meet with a mediator if you don't agree on a "parenting plan" (who has custody and parenting time (visitation) with the child/ren and how decisions about the child/ren will be made). There is usually no fee for mediation. If mediation has not yet been ordered in your case and you would like to request it, you may file a Request for Mediation form (see Form #6H or local court form). You may ask that the mediation requirement be waived if you have a good reason by filing a Motion and Affidavit for Waiver of Mediation (see Form #6I or local court form). For example, if there has been domestic violence, the court will consider a request to waive the mediation requirement.

Custody/Parenting Time Evaluation. If parents can't agree on a parenting plan, sometimes the court refers the case to a custody/parenting time evaluator. After interviewing each parent and doing other research, the evaluator will make a recommendation to the court about what the parenting plan should be. The evaluator will consider factors that might affect a child's safety, such as domestic violence, substance abuse, child abuse or other circumstances. Many courts require that the parents pay for part of the evaluation.

The Final Paperwork.

Your case is finished the date the judgment is signed by a judge. The judgment contains all of the issues decided in mediation, hearing or through your agreement. **If both parents agree on all issues, they may use the forms in Packet #4C.** The judgment may be prepared by either parent as long as it is reviewed and signed by both parents. If there are still items that you don't agree on, the court will probably set a date for a "final hearing" or trial. The judge may direct one parent to prepare the judgment after the hearing. Some judges may also want to meet with you for a "settlement conference" (a private meeting with a judge) to help you come to agreement.

If you are responsible for filling out the judgment, make a copy for yourself and one for the other parent, and file the original with the court **If your case involves child support, file an extra copy of the proposed judgment with the court.**

You may also have to file the forms listed below, depending on your circumstances.

Parenting Class Certificate of Completion. If your local court requires parents of minor children to attend a parent education class, a certificate of completion must be filed with the court unless this requirement has been waived by order of the court.

Parenting Plan. Your parenting plan may be completely covered in the final judgment (see page two of the judgment). If there are additional pages, please attach them.

Child Support Worksheets. If child support will be terminated or changed, child support worksheets need to be filled out and attached to the final judgment. See "Child Support" above on page 2.

Uniform Support Declaration. This form is required if you and the other parent do not agree on child support. You are not required to complete the schedules on the form unless one parent asks for a "deviation" (a different amount than what was calculated using the child support guidelines) from the child support guidelines. See Packet #6F.

f. Require Petitioner Respondent Both Petitioner and Respondent to apply for and enroll the child/ren in **public** health care coverage if they are not currently enrolled because: _____

and that **public** health care coverage should be maintained if the child/ren are currently enrolled or accepted for enrollment because: _____

g. Require Petitioner Respondent Both Petitioner and Respondent to provide appropriate **private** health care coverage when such coverage becomes available to them through any source because: _____

h. Require Petitioner to pay _____% and Respondent to pay _____% of the uninsured HEALTH, ACCIDENT, DENTAL, ORTHODONTIC, AND OPTICAL HEALTH costs incurred by the child/ren because: _____

i. Require Petitioner Respondent to obtain and maintain life insurance for the benefit of the parties' child/ren throughout the period of the support obligation because: _____

j. Require Petitioner Respondent Both Petitioner and Respondent to pay cash medical support to the other because: _____

k. That court costs and service fees be paid by Petitioner Respondent Other Each Party be responsible for paying his or her own court costs and services fees because: _____

l. Other: _____
because: _____

2. I would **agree** to the following orders: _____

3. **Information Required by the Uniform Child Custody Jurisdiction and Enforcement Act.**

List the places where the minor child/ren of the parties have lived in the last five years and the names of the people they lived with at that time.

Dates	County, State	Parent(s)/Caretaker	Current Address/Contact Address of Parent/Caretaker	Which Children

Dates	County, State	Parent(s)/Caretaker	Current Address/Contact Address of Parent/Caretaker	Which Children

Additional page attached; see section labeled "UCCJEA Information Continued."

I have have not participated in any litigation concerning the custody, visitation, parenting time or placement of the child/ren in this or any other state. I have participated in the following litigation:

Name of Court	State	Case No.	Date	Result

I do not know of any other domestic violence, custody, visitation, parenting time or placement proceeding involving the child/ren, or of any other agency proceeding or court case which could affect this case, previously filed or currently pending in this or any other state except for: _____

(identify agency or court, case number, date filed, and kind of proceeding)

I do not know any person other than petitioner who has physical custody of the child/ren or who claims to have custody, visitation or parenting time rights except for: _____

(list name and address)

Certificate of Document Preparation. You are required to truthfully complete this certificate regarding the document you are filing with the court. Check all boxes and complete all blanks that apply:

- I selected this document for myself and I completed it without paid assistance.
- I paid or will pay money to _____ for assistance in preparing this form.

Petitioner Respondent, Signature

Print Name

Address or Contact Address

City, State, Zip Telephone or Contact Telephone

SIGNED AND SWORN to before me this _____ day of _____, 20 ____.

Notary Public for _____/Court Clerk
My Commission Expires: _____

I certify that this is a true copy. _____

Petitioner Respondent, Signature

PETITIONER'S RESPONDENT'S AFFIDAVIT RESPONDING TO MOTION TO MODIFY JUDGMENT

Information about the Confidential Information Form (CIF)

What is a CIF?

Most court files may be viewed by the public. Uniform Trial Court Rule (UTCRC) 2.130 requires certain confidential personal information to be protected from public disclosure. That is done by providing the information in a separate form. After you file your papers, the court keeps the form separate from the part of the court file that may be viewed by the public. The form is UTCRC Form 2.130.1, known as the Confidential Information Form, or CIF.

What information does a CIF make confidential?

The information protected by the CIF is social security numbers, birth dates, driver license numbers, and former legal names. Also protected are the name, address, and telephone number of a party's employer.

The CIF should only be used to protect the information described above. There may be other information in your court papers that you do not want the public to be able to see, such as bank account or credit card numbers. The separate process for protecting that information is described in UTCRC 2.100, which can be read at:

<http://courts.oregon.gov/OJD/programs/utcr/utcrrules.page?>

How do I know when I need to put information in the CIF?

When a document filed with the court requires you to include information protected by a CIF, that information must **only** be provided to the court in a CIF and must not be listed in any other document to be filed. Where you would otherwise provide the information in the document to be filed you must make a note that the information has been provided in the CIF. For example, if a document requires a party's full social security number to be listed, you must not list the social security number, but must instead make a note on the document that the information has been filed under UTCRC 2.130. **The online court forms already have that note on the form.**

Do I need to file more than one CIF?

In most cases, yes. You must fill out a CIF for yourself, and if the documents you are filing with the court require confidential personal information about the other party, you must also fill out a separate CIF with the other party's information. If your case involves children, you should include their information in *your* CIF. You do not need a separate CIF for your children.

If there is CIF information you do not know when you file your papers, or if the information changes during your case, you must file an amended CIF that provides the new or updated information.

The CIF rule requires you to redact – black out or erase – confidential personal information from any attachments to documents you file with the court and to make a note on the attachment that the information has been provided in the CIF. The only exception is when you are required to attach a court-certified document. Documents that are required to be court certified should not be altered in any way.

Does the other party get copies of a CIF I file?

You are not required to serve the CIFs on the other party, though you may share a CIF with the other party if you chose to do so. You *are* required to serve the other party with UTCR Form 2.130.2, which is a notice that a CIF has been filed. You must also file a certificate with the court showing that you served the other party with the notice that a CIF was filed.

There are steps the other party and other people can go through to ask the court to allow them access to a CIF that you have filed. UTCR 2.130 explains that process in detail, and also describes the circumstances under which the court must deny a request by someone else to view a CIF you have filed.

The CIF rule (UTCR 2.130) can be read at:

<http://courts.oregon.gov/OJD/OSCA/cpsd/courtimprovement/familylaw/familylawforms.page?>

and you can find additional information about the rule at:

<http://courts.oregon.gov/OJD/OSCA/cpsd/courtimprovement/familylaw/familylawforms.page?>

2) Name (Last, First, Middle): _____
 Petitioner Respondent Co-Petitioner Adult Child Other: _____

Confidential Personal Information contained in CIF (check all that apply):

- party's social security number, party's date of birth, children's social security number,
- children's date of birth, employer's name, address, and telephone number, driver license number,
- former legal name(s).

3) Name (Last, First, Middle): _____
 Petitioner Respondent Co-Petitioner Adult Child Other: _____

Confidential Personal Information contained in CIF (check all that apply):

- party's social security number, party's date of birth, children's social security number,
- children's date of birth, employer's name, address, and telephone number, driver license number,
- former legal name(s).

4) Name (Last, First, Middle): _____
 Petitioner Respondent Co-Petitioner Adult Child Other: _____

Confidential Personal Information contained in CIF (check all that apply):

- party's social security number, party's date of birth, children's social security number,
- children's date of birth, employer's name, address, and telephone number, driver license number,
- former legal name(s).

Dated this _____ day of _____, 20____

Signature

Print Name

Contact Address

City, State, Zip

Contact Telephone

Children's Names (Last, First, Middle)

Date of Birth	Social Security Number

Please attach an additional sheet if there are more than five children involved in the proceeding.

I hereby declare that the above statements are true to the best of my knowledge and belief and that I understand they are made for use as evidence in court and are subject to penalty for perjury.

Date: _____ Signature: _____

Type or Print Name: _____

COMPLETED AND SUBMITTED BY:

Petitioner Respondent Co-Petitioner _____

Child who is at least 18 and under 21: _____

Other: _____

NOTE TO COURT STAFF: Unless ordered or authorized under UTCR 2.130, this Confidential Information Form is not available to the opposing party or his/her attorney, or to the public; except for the state.

Children's Names (Last, First, Middle)

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