

Lawyer's Guide

Who We Are and What We Do

The role of the Office of Support Enforcement (OSE) is to collect and enforce family support orders and agreements. The goal is to see that child support and spousal support is paid on time, in full, and on a regular basis.

OSE's ability to effectively collect support depends heavily on the clarity of the order. Orders with ambiguous clauses or those missing key elements may not be enforceable. In these instances, OSE will apply existing policies in deciding how to enforce the order. Orders that contain clear, workable clauses will be enforced as they are written.

Enforceable Orders and Agreements

To ensure that a support order or agreement is enforceable by OSE, it should clearly state the following:

- That one party is to pay the other party;
- The amount of the support payment;
- The date the payments are due (otherwise, OSE will use the order effective date as the start date);
- Any conditions of eligibility or terminating events, if applicable. If none are given, OSE will assume the order continues until further order of the court; and
- The statute under which the order or agreement is being made.

OSE is not responsible for fact finding with respect to support provisions. The facts must be set out in the order or agreement, otherwise, it is unenforceable.

Considerations

Special and Extraordinary Expenses:

Section 7 of the Child Support Guidelines (CSG) allows for the contribution to certain expenses for the child, over and above the regular child support amount.

OSE will enforce special expenses as ordered, provided they are made in accordance with section 7 of the CSG and they are clearly set out per section 13(e). Similar to any child support provision, a statement that one party is to pay the other must also be included.

The CSG require certain information with regard to a special expense order (s.13 (e)):

- The particulars of any expense;
- The child to whom the expense relates; and
- The amount of the expense or the proportion to be paid in relation to the expense.

When all three of these conditions are met, OSE can enforce the special expense. Generic special expense orders, such as those with provisions for a contribution to "special expenses" are too general and will not be enforced by OSE.

Enforceable special expenses: Any specific expense listed in a court order or where a court order refers to Section 7 expenses in general terms, only the items (**in bold/underlined below**) are enforceable.

NOTE: If the "**Prorated Amount**" cannot be calculated by OSE based on information in the order (i.e. order indicates income of payer but not of beneficiary), OSE cannot enforce the special expenses.

Section 7(1) of the CSG defines special or extraordinary expenses as follows:

A. **child care** expenses incurred as a result of the custodial parent's employment, illness, disability or education or training for employment;

B. that **portion of the medical and dental insurance premiums attributable to the child**;

C. health-related expenses that exceed insurance reimbursement by at least \$100 annually, including **orthodontic treatment, professional counseling provided by a psychologist, social worker, psychiatrist** or any other person, **physiotherapy, occupational therapy, speech therapy and prescription drugs, hearing aids, glasses and contact lenses**;

D. extraordinary expenses for primary or secondary school education or for any other educational programs that meet the child's particular needs;

Any specific activity or expenses named in the court order (e.g. "... must pay 50% of tutoring and field trips").

E. expenses for post-secondary education; and

Any specific expenses listed in the court order (e.g. "...must pay 50% of university tuition, room and board, and student fees"). **If the order only says "post-secondary expenses without further detail, OSE will only enforce for tuition and required text books.**

F. Extraordinary expenses for extracurricular activities.

Any **specific activities and expenses listed in the court order** (e.g. "...must pay 50% of hockey, swimming, piano lessons, soccer, dance"). If the order names an activity without more detail, OSE will enforce registration fees and other items required to take part in the activity such as equipment and costumes.

Requirement for "NET" Expenses

Where the order requires a "net" special expense to be paid, unless the order contains a method of calculation, OSE will not enforce as OSE is unable to verify whether the beneficiary has provided the correct amount, in the event of a dispute by the payer.

Special note: Lawyers should be careful in how they describe the special and extraordinary expenses. A balance must be struck between being too restrictive and too general. For example, allowing an expense for "tap dance" versus "dance" would preclude a change to "ballet" later. Simply ordering "extra-curricular" activities without detailing the type of activity under consideration is unenforceable.

The following table may also be used:

Name of Child	Nature of Special or Extraordinary Expense	Net cost of Expense	Dollar Amount or Percentage to be Paid by Payer

Financial Disclosure and Recalculation:

The OSE does not have authority under the Support Enforcement Act to recalculate support when a Payer's income changes or to set an amount once a previously unemployed Payer obtains employment. A variation order or agreement must be filed in these instances.

Similarly, although the Support Enforcement Act allows OSE to demand certain financial information from the payer for the purpose of enforcing child support, it does not allow for the enforcement of a financial disclosure clause in a support order.

Legislation

[Support Enforcement Act](#)

[New Brunswick Regulation 2008-15 under the Support Enforcement Act](#)