

## **137-055-3435**

### **Physical Custody Changes: Adjusting Orders**

(1) This rule applies when physical custody of a child changes as described in ORS 25.525. For purposes of this rule, “non-custodial” party means the party without physical custody of the minor child.

(2) The provisions of this rule apply only when all of the children in the support order change physical custody from one parent to another, and the change is not for the purpose of exercising parenting time or visitation.

(3) Specifically excluded from adjustments for physical custody are an adult child as defined in OAR 137-055-5110 and a child attending school, as defined in OAR 137-055-5110, because neither are considered to be in the physical custody of anyone.

(4) When a support order has language sufficient to change the support award when a change in physical custody occurs, a party may submit a sworn affidavit or court order to the administrator which includes the date the party obtained physical custody. The administrator will notify the parties that support will be changed 14 days from the date of mailing to the parties’ last known addresses. The notice must include:

(a) A copy of the affidavit or court order;

(b) The amount of support the non-custodial party will be ordered to pay, as previously determined in the support order;

(c) A statement that a hearing may be requested under ORS 25.513; and

(d) A statement that the only issues to be considered in a hearing are whether there has been a change in physical custody and the date on which it took place.

(5) If an objection is received, the administrator will forward it, along with the requesting party’s affidavit, to the Office of Administrative Hearings for a final determination about physical custody.

(6) If no objection is received, the administrator will file a money award to provide notice of the ending of the obligation of the former non-custodial parent, and of beginning the obligation of the new non-custodial parent.

(7) Nothing in this rule prohibits a party from requesting a review and adjustment of a support order under OAR 137-055-3420, or a change of circumstances modification under OAR 137-055-3430.

Stat. Auth: ORS 180.345

Stats. Implemented: ORS 25.525

Effective: February 5, 2020