

State and Tribal IV-D Programs: A Comparison of Federal Requirements

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The Federal Child Support (IV-D) Program grants for States and Tribes require that IV-D programs provide five basic services in order to receive funding:

1. Establishment of Paternity
2. Establishment of Support Orders
3. Enforcement of Support Orders
4. Modification of Support Orders
5. Locate of Parents and Assets

- **States** have many written requirements. These include *specific timeframes* for taking actions and many *required actions* to successfully meet the federal directives for the basic requirements listed above. See *45 CFR 302 State Plan Requirements and 45 CFR 303 Standards for Program Operations*.
- Tribes are expected and required to perform the same five basic services as States. However, the regulation is less prescriptive in describing how and when Tribes must provide those services. See *45 CFR 309 Tribal Child Support Enforcement (IV-D) Program*.

In addition to the five basic requirements, there are other elements that must be addressed in State and Tribal Plans, such as Medical Enforcement, Automated Systems, Payment Distribution, Intergovernmental Cooperation, and others.

The funding formula for State and Tribal programs is different, as described below.

Notes:

	<i>STATES</i>	<i>TRIBES</i>
PATERNITY ESTABLISHMENT	<p>45 CFR 302.31 and 303.5</p> <ul style="list-style-type: none"> • Must comply with many rules regarding genetic testing, contested paternity, default orders and paternity acknowledgement services in hospitals, vital records agencies, public health, legal and social service agencies • Must give Full Faith and Credit to Acknowledgment issued by another tribunal • May establish by <i>written</i> judicial or administrative process • Must have procedures for requiring genetic tests in contested paternities • Don't establish paternity in cases of incest, rape, legal adoption proceedings, or when it's not in best interest of the child 	<p>45 CFR 309.100</p> <ul style="list-style-type: none"> • Regulation requires tribe to have procedures for voluntary paternity acknowledgement • Must give Full Faith and Credit to valid Acknowledgments issued by other tribunal, however... • May choose <i>not</i> to use the Acknowledgment for enrollment purposes • Can include processes to establish paternity under Tribal code, law or custom, and under judicial or administrative process • Must have procedures for requiring genetic tests in contested paternities • Establishment of paternity is separate from Tribal enrollment or membership • Don't establish paternity in cases of incest, rape, legal adoption proceedings, or when it's not in best interest of the child

Notes:

	<i>STATES</i>	<i>TRIBES</i>
ESTABLISHMENT and MODIFICATION OF SUPPORT ORDERS	45 CFR 303.4 and 45 CFR 303.8	45 CFR 309.105
	<ul style="list-style-type: none"> • Specific timeframes for establishing support order after locate of NCP or after establishing paternity and for serving NCP with Order • Review and adjustment section proscribes when and how, and reasons for review and timeframes • State must have procedures to review all orders at least every three years upon the request of either party, or the State agency in assigned cases • Order must address child’s health care needs (medical support) • Can use Administrative or Judicial forum, but must use local laws and procedures 	<ul style="list-style-type: none"> • No specified timeframes for establishment or service of Order, or for modifying orders • There is often an emphasis on parties reaching agreement on support amount • Order must indicate whether non-cash support will be accepted, describe the type of non-cash support that will be permitted, and assign a cash equivalent to those types of payments • Non-cash payments may not be used to satisfy assigned support or arrears • No requirement to address health care needs • Child Support Guidelines must be established at reviewed at least every four years • The Tribe’s Plan must address modification of support orders • Can use Administrative or Judicial forum, but must use local laws and procedures

Notes:

	<i>STATES</i>	<i>TRIBES</i>
ENFORCEMENT	<p>45 CFR 303.6</p> <ul style="list-style-type: none"> • Required to do <i>immediate</i> wage withholding with few exceptions • Required to take any other appropriate enforcement actions within specified time periods • Submit <i>all qualifying cases</i> for tax offset each year • Withhold order must include payment towards any accrued arrears, with total payment not to exceed the maximum permitted under the Consumer Credit Protection Act • Must use the Federal Order/Notice to Withhold Income form 	<p>45 CFR 309.110</p> <ul style="list-style-type: none"> • Income is subject to immediate withhold in all cases <i>when NCP is in arrears of at least one month's support</i> • The only mandated enforcement action is income withholding • Tribes do not have legal authority to submit cases for tax offset, but may negotiate with the State for this service on a <i>case-by-case</i> basis • Tribal law must specify that any amount withheld must include payment towards any accrued arrears, with total payment not to exceed the maximum permitted under the Consumer Credit Protection Act • IV-D agency must receive and process IWOs from States and other Tribes for all employers within the Tribe's jurisdiction • Must use the Federal Order/Notice to Withhold Income form

	<i>STATES</i>	<i>TRIBES</i>
LOCATE	45 CFR 302.35 and 45 CFR 303.3	45 CFR 309.95
	<ul style="list-style-type: none"> • Must have a state parent locator service • Regulation contains list of all locate sources and agencies that states must establish working relationships with and use for locate • 75 days allowed to access all appropriate sources • Repeat locate attempts when new information comes in, or at least quarterly • Establish guidelines defining diligent efforts to serve process 	<ul style="list-style-type: none"> • Required to take all necessary locate actions and use all available sources available to them • Tribes don't have access to FPLS at this time and must request this service from State IV-D

	<i>STATES</i>	<i>TRIBES</i>
MEDICAL SUPPORT	45 CFR 303.31	N/A
	<ul style="list-style-type: none"> Required to establish and enforce medical support orders New Medical Support regulation published 7/21/08 requires medical support from both parents and defines cash medical support, amongst other provisions 	<ul style="list-style-type: none"> Tribes are not required in the federal regulation to address medical support but may opt to do so

Notes:

	<i>STATES</i>	<i>TRIBES</i>
DISTRIBUTION	45 CFR 302.32, 45 CFR 302.51, 45 CFR 302.52	45 CFR 309.115
	<ul style="list-style-type: none"> Regulation references specific timeframes for distribution of payments under sections 454B of the Social Security Act and other parts of the IV-D regulation Many detailed instructions on when and how to distribute payments on Non-Assistance, IV-A, Medicaid and IV-E cases 	<ul style="list-style-type: none"> Payments must be distributed in a “timely manner”, with payments going first to current support Detailed instructions on applying payments in Tribal TANF or former Tribal TANF cases; Medicaid and IV-E cases are not addressed In <i>Responding</i> Intergovernmental cases (Non-Assistance or TANF), Tribes are advised to send payments to the State or other Tribe, or to contact them for instructions on distributing payments

Notes:

	<i>STATES</i>	<i>TRIBES</i>
INTERGOVERNMENTAL PROCEDURES	45 CFR 303.7	45 CFR 309.120
	<ul style="list-style-type: none"> • Must comply with both Uniform Interstate Family Support Act (UIFSA) and Full Faith and Credit for Child Support Orders Act (FFCCSOA) • Must have an interstate central registry • Many timeframes are written in federal law for various actions that must be taken on interstate cases 	<ul style="list-style-type: none"> • Tribes were not included in the UIFSA law, and are not required to comply with provisions of UIFSA. (However, a Tribe can choose to do so) • Tribes <i>are</i> required to recognize support orders issued by another jurisdiction in accordance with FFCCSOA • No timeframes are specified • Must extend the full range of IV-D services to all requests from other Tribes or States

	<i>STATES</i>	<i>TRIBES</i>
PERFORMANCE GOALS	45 CFR 305	45 CFR 309.65
	<ul style="list-style-type: none"> • States are regularly measured on performance in areas such as cases with orders, paternity establishment, cases with collections, etc. and also data reliability • Performance goals are set by federal government; some states have additional goals set by state governor or legislature • Performance is tied to monetary incentives or penalties 	<ul style="list-style-type: none"> • Must include tribally performance targets in their progress report each year • Each tribe determines its own targets for paternity establishment, support order establishment, amount of current support collected, amount of arrears collected, and other targets that the Tribe wants to submit. Example: A target for father involvement, or family reunification

	<i>STATES</i>	<i>TRIBES</i>
AUTOMATED SYSTEM	45 CFR 302.85, 45CFR 307	45 CFR 309.145
	<ul style="list-style-type: none"> • Must have an automated system that is certified by the federal government • The federal government provided up to 90% funding for building these systems in each state • The system must perform many functions related to locate, payment records, case record maintenance, etc. 	<ul style="list-style-type: none"> • Tribes are not required to have an automated system • Federal funding is available for planning efforts and operation and maintenance of existing Tribal automated data systems • At this time there is no federal funding available to Tribes to build or purchase automated systems. A Notice of Proposed Rule has been published (45 CFR 310) to address funding options and availability of the Model Tribal System • Some Tribes use the State system through Service Agreements with the State

	<i>STATES</i>	<i>TRIBES</i>
FEDERAL FUNDING	<p>45 CFR 304</p> <ul style="list-style-type: none"> • Receive 66% funding under the federal grant for most activities • Ability to earn additional monetary performance incentives • May have monetary sanctions or fines imposed for being out of compliance with federal requirements • Must provide 34% of the budget through State funds. 	<p>45 CFR 309.130</p> <ul style="list-style-type: none"> • Start-up grant of up to \$500,000 for two year period is totally federally funded • IV-D programs receive 90% federal funding for first three years of operation, and 80% funding each year after that • Tribes don't have ability to earn performance incentive money • No sanctions imposed • The non-federal share (10% or 20%) can be matched by the Tribe in part or totally through in-kind contributions, such as the Tribe providing office space and utility costs to the IV-D program

<i>COMMON REQUIREMENTS</i>
<p>Both States and Tribes must have procedures and evidence for:</p> <ul style="list-style-type: none"> • Bonding of employees • Safeguarding of information • Due process rights • Acceptance of all applications and promptly providing services • Maintaining of records