

**This policy has been amended by the following:**

- **CN-284: Affordable Care Act Implementation UPDATED**

## Chapter 13: Tribal Enforcement

### Section 13.010: Honoring Tribal Orders and Establishing Orders on Tribal Cases

This section provides information about orders on cases with tribal connections.

#### Contents

28 USC 1738B Full faith & credit for child support orders  
Chapter 26.25 RCW Cooperative child support services - Tribes  
Chapter 37.12 RCW Jurisdiction over Indians and Indian lands  
WAC 388-14A-1050 Cooperation with Tribes

#### Laws:

The Division of Child Support (DCS) gives full faith and credit to tribal orders.

The process to establish paternity or child support may vary:

- If a party to a case is a member of a Washington tribe that operates a IV-D child support or Temporary Assistance for Needy Families (TANF) program, **or**
- If the case is included under the terms of a state and tribal cooperative agreement or informal process.

#### Policy:

DCS does not consider tribal per capita, elder distribution payments, trust payments or other tribal-specific payments made to tribal members as income on the Washington State Child Support Schedule (WSCSS) unless the specific tribe paying the per capita or distribution requests that it be considered.

Follow any cooperative agreement or informal process that the tribe has with DCS.

Give full faith and credit to tribal orders and document tribal order information on the Support Enforcement Management System (SEMS)

record. See the exception in **A 3** below.

**Procedure:** Consult the Tribal Liaison if:

- You need to serve on or near a reservation. See Section 13.000 N.
- You need to verify NCP wages with a tribal employer.
- The case has tribal connections.

**Visual Aids:** Tribal Relations Internet site  
Tribal Courts of Indian Tribes in Washington State  
SEMS Web TI - Tribal Information

**Automated Actions:**

**SEMS Screens:** BC, OR, IA, ES, CC, BI

**Forms Used:** 09-272, 09-275, 09-710, 09-711, or any Tribal Order

**Hearing and Conference Board Rights:** Refer all requests to the Tribal Liaison or Tribal Claims Officer.

6.000 Determining if There is a Support Order  
[6.080 Calculating the Monthly Support Obligation](#)  
7.000 Determining Who Has a Hearing Right  
13.080 Tribal IV-D Programs – General Information  
13.085 Initiating Referrals to Tribal IV-D Programs  
13.090 Responding to Referrals from Tribal IV-D Programs  
13.095 Coordinating IV-D Services Between DCS and Washington Tribal IV-D Programs

**See Also:** 19.000 Doing a Debt Calculation  
Federal Indian Policy

Washington State Centennial Accord of 1989

DSHS Administrative Policy 7.01

DCS Administrative Policy 3.04 Claims Officers Handling Cases in Tribal Court

Previous Policy May 29, 2008

Previous Policy

## Procedures

### A. What do I need to know about establishing and honoring orders on tribal cases or on cases with tribal connections?

#### 1. Individual tribes may have:

- a. Formal or informal agreements with the Division of Child Support (DCS) regarding the establishment of paternity or child support.

**Note:** Some agreements include referral to the tribe or tribal court for establishment or enforcement.

- b. Their own IV-D child support program.

**Note:** The Tribal Liaison will work with the tribal child support program to refer the case to the tribe to establish paternity and child support, and to enforce or modify an order.

- c. Their own Temporary Assistance for Needy Families (TANF) program.

**Note:** Contact your Tribal Liaison regarding cases that may be included in an agreement or within the service area of a Washington tribal IV-D or tribal TANF program.

2. If paternity needs to be established, contact the Tribal Liaison who will contact the tribe to determine the appropriate forum for establishing paternity and child support. See Section 13.000 L and M.

- a. The Tribal Liaison will review the case facts and coordinate with the tribe to determine the appropriate state or tribal forum. After review, the Tribal Liaison may transfer the case. See Section 13.030.
- b. In some situations both a Tribal IV-D program and a Washington state county prosecutor may be involved.

**Example:**

- A Washington tribe advised DCS that they are unable to obtain jurisdiction over both parties. The tribe elects to pursue support establishment for one party and advises DCS to pursue establishment for the other party.
- c. If each parent is from a different Washington tribe, the Tribal Liaison will review the case details, tribal protocols, and will work with each tribe to determine the appropriate forum for child support establishment and enforcement.

**Note:** In either **b** or **c** above, the Tribal Liaison will clearly document the specifics on both cases by:

- Entering a case comment (**CC**) 76,
  - Posting a White Board (**WB**) comment, and
  - Transferring or referring the case as appropriate.
3. Give full faith and credit to tribal orders, as you would any superior court order.

**Exception:** Do **not** give full faith and credit to court orders entered by Rudy James as Chief Judge. Per the Central Council Tlingit and Haida Indian Tribes of Alaska (CCTHITA), these are not valid orders. This includes orders entered by:

- a. The Combined Tribal Court of Tlingit Law,
- b. The Kuiu Nation Traditional Tribal Court, and perhaps others.

**Note:** Contact the Tribal Relations Team (TRT) regarding these orders.

4. If you have a tribal order that may have child support implications, post the order's Tribal Affiliation and Resulting Order type to the order record (**OR**) screen.
  - This includes orders for custody, dependency, or divorce.
5. If you have a tribal order that does **not** address child support, contact the Tribal Liaison.
  - Do **not** automatically refer the case to the County Prosecutor for paternity and child support establishment, or serve an administrative notice to establish support as the tribal court or local agreement may control this issue.
6. See Section 13.035 for the procedure to correct inaccurate administrative default orders on tribal cases.

## **B. What funds can I not consider as income on tribal cases?**

1. In establishing child support, do not include tribal per capita, elder distribution payments, trust payments or other tribal-specific payments as income unless agreed to by the tribe.
  - a. Tribal Liaisons verify these payments with the tribe or settlement source that authorized the payment.
  - b. Document the payments as a resource on line 26 Other Factors for Consideration on the WSCSS Worksheets. See Section 13.040 and 6.080.
2. Do not consider Colville Reservation Grand Coulee Dam Settlement Act funds (Public Law 103 436) as income or resources for any IV-D program purpose.

**Note:** This includes establishment, collection, or modification.

## **C. What do I do if there are overlapping state and tribal orders?**

- Consult your Tribal Liaison, Tribal Claims Officer or DCS Policy.

## **D. What if I need to serve a document on a reservation?**

1. Consult the Tribal Liaison if you need to serve a document and you think the address may be on a reservation.
2. Contact TRT if you are unable to proceed with service.

**E. What if I need to verify NCP income and NCP works for a tribal employer?**

1. Consult the Tribal Liaison **before** sending an **Employer Inquiry**, DSHS **18-002** or contacting a tribal employer to verify an NCP's earnings information.
2. The Tribal Liaison works with the tribe to identify a process to verify employment.