

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

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: **Establishment of Paternity, Establishment of Support Orders, Enforcement of Support Orders, Modification of Support Orders, and Locate Parents and Assets.**

- **States** have many written requirements that 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 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](#). For more information about Tribal IV-D Regulations, Tribal IVD Programs and OCSE Policy, see the [OCSE Tribal Policy website](#).

To be eligible to apply for Tribal IV-D funding per 45 CFR 309.10, a Tribe or Tribal organization must have at least 100 minor children subject to the jurisdiction of the Tribal court or administrative agency.

The Tables that follow this cover page include a *brief overview* and comparison of some of the federal requirements for State and Tribal IV-D Programs. The Tables include information on:

1. Paternity Establishment
2. Establishment and Modification of Support Orders
3. Enforcement
4. Locate
5. Medical Support
6. Distribution
7. Intergovernmental Procedures
8. Performance Goals
9. Automated Systems
10. Federal Funding
11. Common Requirements

Please refer to the CFR's for a complete description of the federal requirements.

Federal Requirements for IV-D Programs

PATERNITY ESTABLISHMENT

STATES	TRIBES
45 CFR 302.31 and 303.5	45 CFR 309.100
<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. • Provide an alleged father the opportunity to voluntarily acknowledge paternity. • May establish by written judicial or administrative process. • Must have procedures for requiring genetic tests in contested paternities. • Need not establish paternity in cases of incest, rape, legal adoption proceedings, or when it's not in best interest of the child. 	<p>Regulation requires tribes to have paternity procedures.</p> <ul style="list-style-type: none"> • Establish paternity under Tribal law, code, and/or custom. • Provide an alleged father the opportunity to voluntarily acknowledge paternity. • Must have procedures for requiring genetic tests in contested paternities. • Establishment of paternity is separate from Tribal enrollment or membership. • Need not establish paternity in cases of incest, rape, legal adoption proceedings, or when it's not in best interest of the child.

Federal Requirements for IV-D Programs

ESTABLISHMENT AND MODIFICATION OF SUPPORT ORDERS

STATES	TRIBES
<p>45 CFR 303.4, 45 CFR 303.8, 45 CFR 303.31</p>	<p>45 CFR 309.105</p>
<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"> • Tribes must have procedures for establishing and modifying orders. • Tribes must establish child support guidelines, reviewed by the Tribe every four years, that take into account the needs of the child and the earnings and income of the noncustodial parent. • Non-cash payments may be allowed by the Tribe but if ordered in lieu of cash support, cannot be used to satisfy assigned support or arrears. • <i>Tribes are not required to establish medical support.</i>

Federal Requirements for IV-D Programs

ENFORCEMENT

STATES	TRIBES
45 CFR 303.6	45 CFR 309.110
<ul style="list-style-type: none"> • Required to do immediate wage withholding with few exceptions. • Required to take any other appropriate enforcement actions within specified time periods. • Submit all qualifying cases 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>Tribes are required to have procedures for income withholding.</p> <ul style="list-style-type: none"> • 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 • Tribe may impose immediate withhold, if not, when NCP is in arrears of at least one month’s support, unless exempt due to agreement of the parties or by court order. • IV-D agency must receive and process IWOs from States and other Tribes for all employers within the Tribe’s jurisdiction (<i>consistent with FFCCSOA- 28 USC 1738B</i>). • Must use the Federal Order/Notice to Withhold Income form. (<i>Tribes also use their own forms.</i>) • Tribes do not have legal authority at this time to submit cases for tax offset, but may negotiate with the State for this service.

Federal Requirements for IV-D Programs

LOCATE

STATES	TRIBES
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 • <i>Tribes don't have access to FPLS at this time, but may receive FPLS data from a state through an Intergovernmental Agreement.</i>

Federal Requirements for IV-D Programs

MEDICAL SUPPORT

STATES	TRIBES
45 CFR 303.31	
Required to establish and enforce medical support orders from both parents and defines cash medical support, among other provisions.	Tribes are not required in the federal regulation to address medical support but may choose to do so.

DISTRIBUTION

STATES	TRIBES
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 and first to the family unless assigned for TANF. The regulations provide detailed instructions on applying payments in TANF or former TANF cases. <i>Medicaid and IV-E cases are not addressed.</i> Tribes have the option to send payments to initiating State or other Tribe or seek direction on distribution from initiating jurisdiction.

Federal Requirements for IV-D Programs

INTERGOVERNMENTAL PROCEDURES

STATES	TRIBES
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 must recognize child support orders issued by other jurisdictions in accordance with FFCCSOA, 28 USC 1738B. • Tribes will extend the full range of services available under its IV-D plan to respond to all requests from, and cooperate with, State and other Tribal IV-D agencies. • <i>Tribes are not required to comply with UIFSA.</i>

PERFORMANCE GOALS

STATES	TRIBES
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-determined performance targets in their progress report each year. • Plan must include tribal targets for paternity establishment, support order establishment, amount of current support collected, and amount of arrears collected. May include others. • Tribes are not eligible for performance incentives.

Federal Requirements for IV-D Programs

AUTOMATED SYSTEM

STATES	TRIBES
45 CFR 302.85 , 45 CFR 307	45 CFR 309.145 45 CFR 310
<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 • A Model Tribal System, developed by OCSE, may be available in 2013. Extensive federal regs. apply to its use. • Some Tribes use the State system through Service Agreements with the State

FEDERAL FUNDING

STATES	TRIBES
45 CFR 304	45 CFR 309.130
<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. 	<ul style="list-style-type: none"> • Start-up grant of up to \$500,000 for a two year period is totally federally funded. (No tribal match required). • IV-D programs receive 90% federal funding for first three years of operation, and 80% funding each year after that. • 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.

COMMON REQUIREMENTS

Both States and Tribes must have procedures and evidence for:

- Bonding/insurance against loss
- Safeguarding of information
- Due process
- Acceptance of all applications and promptly providing services
- Maintaining records