

NOOKSACK INDIAN TRIBE

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Resolution No. 05- 81

Title: Memorandum of Agreement for Child Support Services Between the Nooksack Indian Tribe Temporary Assistance for Needy Families Program and the Washington State Department of Social and Health Services Division of Child Support

WHEREAS the Nooksack Tribal Council is the governing body of the Nooksack Tribe of Indians in accordance with its Constitution and By-Laws approved by the Deputy Assistant Secretary of Indian Affairs on September 23, 1973, and in accordance with the Indian Reorganization Act of June 18, 1934; and,

WHEREAS the Nooksack Tribal Council is charged with the responsibility for the protection of the health, safety, welfare and economic development of the Nooksack Tribe; and

WHEREAS the Nooksack Indian Tribe's Temporary Assistance for Needy Families Department (TANF) and the State of Washington, Department of Social and Health Services, seeks to coordinate services through a Memorandum of Agreement for Child Support Services,

NOW THEREFORE BE IT RESOLVED that the Chairman is authorized to sign the Memorandum of Agreement for Child Support Services.

CERTIFICATION

I hereby certify that the above resolution was presented by telephonic vote of the Nooksack Tribal Council held on October 12, 2005, at which time a quorum was present and approved by a vote of:

6 FOR

0 AGAINST

0 ABSTENTIONS

Narcisco Cunanan, Tribal Chairman

Agripina Smith, Tribal Secretary

MEMORANDUM OF AGREEMENT FOR CHILD SUPPORT SERVICES BETWEEN THE
NOOKSACK INDIAN TRIBE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES PROGRAM
AND
THE WASHINGTON STATE DEPARTMENT OF SOCIAL AND HEALTH SERVICES
DIVISION OF CHILD SUPPORT

PREAMBLE

This Memorandum of Agreement (Agreement) is entered into between the Nooksack Indian Tribe (NIT), Temporary Assistance for Needy Families (TTANF) and the Washington State Department of Social and Health Services, Division of Child Support (DCS) each acting in their respective capacity.

This Agreement is based on the fundamental principles of the government-to-government relationship acknowledged in the 1989 Centennial Accord and reaffirmed by Governor Gary Locke on July 21, 1997.

This Agreement recognizes the Intergovernmental Agreement between the State of Washington and the Nooksack Indian Tribe, which transfers the TANF program from the State to the Tribe and agrees to coordinate State and Tribal TANF services.

This Agreement recognizes the sovereignty of the Nooksack Indian Tribe and the State and each respective sovereign's interests.

**I.
PURPOSE AND OBJECTIVES**

This Agreement furthers the Intergovernmental Agreement between the Nooksack Indian Tribe and the Washington State Department of Social and Health Services and the TANF Operating Agreement between the Nooksack TANF Program and the CSO Smokey Point Community Service Office (CSO) by establishing further mechanisms for DCS to facilitate child support services for Nooksack TANF participants. This Agreement, consistent with the directive of the Social Security Act¹, allows for establishment, enforcement, distribution and modification of child support services in the most efficient and responsive manner, thus ensuring the best interests and actual needs of children and families are met. The responsibilities of each party are detailed in the Agreement.

¹ 42 USC Title IV (D)

II. AUTHORITY

The Nooksack Indian Tribal Council is authorized to enter into this Agreement by Article VI, § 1 of the Constitution and Bylaws of the Nooksack Indian Tribe. The Washington State Department of Social and Health Services, Division of Child Support is authorized to enter into this Agreement by 42 USC 654 (33) of the U.S. Code and the Inter-local Cooperation Agreement Act, Revised Code of Washington (RCW) Chapter 39.34, which permit any state child support agency to enter into an agreement with an Indian tribe for their mutual advantage and cooperation. In addition, RCW 26.25 specifically encourages DSHS DCS and Indian tribes to enter into cooperative child support agreements. Execution of this Agreement does not constitute a waiver of rights, including Executive Order immunities, sovereign immunities or jurisdiction.

III. RESPONSIBILITIES OF THE DIVISION OF CHILD SUPPORT

DCS agrees to:

1. Open a child support case for recipients of the TTANF based on the receipt of an application for child support services. An application for services includes a referral² from the TTANF and the custodial parents or custodian's assignment of their child support rights to the Nooksack Indian Tribe.
2. Submit the following minimum child support documents to the TTANF Program on each child support case:
 - a. A copy of any relevant Child Support Orders;
 - b. A copy of the Basic Case Screen;
 - c. A month-by-month child support debt calculation of any arrears owing to the TTANF Program.
3. Provide child support services to the TTANF participants continuously until the child support case closes. Child support services include:
 - a. Locate the non-custodial parent and his or her assets;
 - b. Establish paternity;
 - c. Establish child support and medical support;
 - d. Enforce orders for child support, medical insurance and judgments for medical support;

² A referral form is not necessary for initial cases transferred from the State CSO to the Tribe, only an assignment form. A referral form is required for new TTANF cases.

- e. Collect and distribute child support due; and
 - f. Modify child support and medical support.
4. Distribute child support payments in accordance with federal regulations. Child support payments distributed to debts assigned to the Tribe will be sent to the Tribes by electronic funds transfer (EFT).

[See 45 CFR 309.115, Distribution Provisions. While these distribution provisions are for tribal IV-D programs, IV-A stand-alone programs are encouraged to use them as a guideline.]

When a non-custodial parent has one or more cases with debts owed to the Tribe and to any other party, the payments will first be split proportionately to current support owed for the month the payment is received. Any payment remaining after current support is paid on all cases will be split proportionately to all cases based on the size of the debt on each case. Payments received from the IRS will be used to pay Washington State assigned arrears first, and then will be proportioned among other arrears debts that were certified to the IRS by Washington State.

5. Send child support payments directly to the Nooksack Indian Tribe on behalf of the custodial parents in TTANF or former TTANF cases. DCS and the Nooksack Indian Tribe recognize that custodians no longer receiving assistance will continue to receive child support services unless they request to close their case. They may also apply directly to DCS for services or ask DCS to close their case at anytime. DCS will continue to enforce any arrears that are assigned to the State, the Tribe or another jurisdiction.
6. Notify the TTANF Program, in writing, when a custodial parent is not cooperating³. DCS cannot proceed without cooperation. Provide the Tribe at least thirty (30) days written notice when it is closing a child support case because of continued non-cooperation by the custodian.
7. Accept the TTANF Program's determination of good cause for the custodian not to cooperate in pursuing child support.
8. Centralize suitable TTANF child support cases in the Everett DCS Field Office.
9. Upon the Nooksack Indian Tribe request, ESA State/Tribal Relations Unit and DCS will assist the Nooksack Indian Tribe to develop a Tribal Code necessary for the implementation of this agreement, including but not limited to a Tribal Child Support Schedule and/or Child Support Guidelines.
10. All TTANF paternity cases will be referred to the appropriate county prosecutor until the Nooksack Indian Tribe operates its own child support program.

IV.

³ DSHS 18-617, DCS & Tribe Information Change Notice. This DSHS form was designed for exchanging a variety of information between DCS and the Nooksack Indian Tribe on TTANF cases.

RESPONSIBILITIES OF THE NOOKSACK INDIAN TRIBE

The TTANF Program agrees to:

1. Send a complete and timely⁴ application for services, which includes a referral⁵ and a copy of the custodian's assignment of support rights, to DCS each time a TTANF case opens or reopens.⁶ The referral will contain these data elements for each person(s):
 - a. The non-custodial parent's:
 - i. Name;
 - ii. Gender;
 - iii. Date of birth;
 - iv. Social Security number;
 - v. Physical and mailing address;
 - vi. Telephone number (message number);
 - vii. Relationship to the child (for example; mother, father, step-mother, step-father);
 - viii. Physical description, if known (height, weight, hair and eye color, etc.);
 - ix. Communication barriers;
 - x. Ethnic origin;
 - xi. Tribal affiliation, as applicable;
 - xii. Employer Name and Address; and
 - xiii. Assets (e.g. bank accounts, vehicles, boats, etc.)
 - b. The custodial parent's:
 - i. Name;
 - ii. Gender;
 - iii. Date of birth;
 - iv. Social Security number;
 - v. Physical and mailing address;
 - vi. Telephone number (message number);
 - vii. Relationship to the child;
 - viii. Communication barriers;
 - ix. Ethnic origin; and
 - x. Tribal affiliation, as applicable.
 - c. Each child's:
 - i. Name;
 - ii. Gender;
 - iii. Date of birth;
 - iv. Social Security number;

⁴ "Timely" – Defined by Tribal Program.

⁵ A referral form is not necessary for initial cases transferred from the State CSO to the Tribe, only an assignment form. A referral and assignment are necessary of new tribal TANF cases, if the Nooksack Indian Tribe wants DCS to provide child support services.

⁶ No referral or assignment is necessary, if the TTANF Program makes a determination that the custodian has "good cause" not to participate in pursuing child support services.

- v. Ethnic origin; and
 - vi. Tribal affiliation, as applicable.
- d. The marital status of the parents and the date of marriage, including any documented legal separation, dissolution or divorce dates.
 - e. For children of unmarried parents, whether or not paternity is established. If it is established, the TTANF will provide information as to when, where and how it was established, if available.
 - f. Information as to where and when any orders for support were entered. If possible, a copy of any support orders will be forwarded with the referral.
 - g. A list of the dates and amounts of child support payments the custodial parent received from the non-custodial parent.
 - h. The date TTANF was authorized.
 - i. Information about past receipt of AFDC or TANF from the State of Washington, another state or another tribe, namely, the dates and places the recipient received these AFDC/TANF benefits.
 - j. If applicable, Good Cause determination for the custodian not to cooperate with DCS.
2. Notify DCS when a child is born, leaves or returns to the home and when TTANF ends⁷.
 3. Inform DCS when medical coverage from Indian Health Services (IHS) is available to a child and when IHS provides coverage⁸.
 4. Inform DCS when good cause determinations are initiated and provide DCS with periodic reviews of good cause status in those cases.
 5. Upon request, give DCS copies of tribal court orders concerning paternity, custody and child support.
 6. Work with DCS to develop a process for supplying locate information, income information and service of process on the reservation.
 7. Provide the name and contact information of the person(s) responsible to provide/receive information regarding TTANF child support cases.

V.

⁷ DSHS 18-617, DCS & Tribe Information Change Notice Form, is available for this purpose.

⁸ Id.

RESPONSIBILITIES OF THE DIVISION OF CHILD SUPPORT AND THE NOOKSACK INDIAN TRIBE

Both the Nooksack Indian Tribe and DCS agree to:

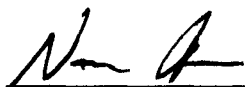
1. Inform the other party of events that affect either the TTANF case or the child support case⁹, including but not limited to:
 - a. The opening and closing dates of TTANF, further providing adequate notice of intent to close a case as provided for in this agreement;
 - b. Location information about the custodian and non-custodial parent;
 - c. When the children are placed in foster care;
 - d. When there is a change in custodian, or when the parties reconcile, marry or divorce;
 - e. When the child support order is modified or when a new order is entered;
 - f. When there is a change that effects TTANF eligibility (such as the custodian becomes employed, child(ren) leaves the custodian's home, child is born or emancipated, etc.);
 - g. When the custodian receives a direct payment from the non-custodial parent;
 - h. When there is a report of domestic violence or child abuse;
2. Each bears their own costs with respect to fulfilling their respective responsibilities under this Agreement. No activities of this Agreement shall cause either party to obligate funds or other resources without prior approval.
3. Use a conflict resolution process outlined in the Intergovernmental Agreement between Nooksack Indian Tribe and the Washington State Department of Social and Health Services regarding TANF, dated March 30, 2005, as appropriate to the claim.


⁹ Id.

VI.
TERM

This Agreement shall become effective when the Nooksack Indian Tribe and the Division of Child Support have signed the Agreement. This Agreement shall terminate on the same date as the Intergovernmental Agreement for Temporary Assistance for Needy Families between the Nooksack Indian Tribe and the Washington State Department of Social and Health Services unless extended or terminated by any party upon thirty (30) days written notice of the intent to terminate to the other party.

On this 12th day of October, 2005 the following parties in their representative capacities, hereby approve the Agreement.

 _____, Chairman
Narcisco Cunanan
Nooksack Tribal Council
Nooksack Indian Tribe



DAVID STILLMAN, Director
Division of Child Support
DSHS