§ 309.85 What records must a Tribe or Tribal organization agree to maintain in a Tribal IV-D plan?

A Tribal IV-D plan must provide that:

(a) The Tribal IV-D agency will maintain records necessary for the proper and efficient operation of the program, including records regarding:
   (1) Applications for child support services;
   (2) Efforts to locate noncustodial parents;
   (3) Actions taken to establish paternity and obtain and enforce support;
   (4) Amounts owed, arrearages, amounts and sources of support collections, and the distribution of such collections;
   (5) IV-D program expenditures;
   (6) Any fees charged and collected, if applicable; and
   (7) Statistical, fiscal, and other records necessary for reporting and accountability required by the Secretary.

(b) The Tribal IV-D agency will comply with the retention and access requirements at 45 CFR 74.53, including the requirement that records be retained for at least three years.

§ 309.90 What governing Tribal law or regulations must a Tribe or Tribal organization include in a Tribal IV-D plan?

(a) A Tribe or Tribal organization must include in its Tribal IV-D plan Tribal law, code, regulations, and/or other evidence that provides for:
   (1) Establishment of paternity for any child up to and including at least 18 years of age;
   (2) Establishment and modification of child support obligations;
   (3) Enforcement of child support obligations, including requirements that Tribal employers comply with income withholding as required under §309.110; and
   (4) Location of custodial and noncustodial parents.

(b) In the absence of written laws and regulations, a Tribe or Tribal organization may provide in its plan detailed descriptions of any Tribal custom or common law with the force and effect of law which enables the Tribe or Tribal organization to satisfy the requirements in paragraph (a) of this section.

§ 309.100 What procedures for the establishment of paternity must a Tribe or Tribal organization include in a Tribal IV-D plan?

(a) A Tribe or Tribal organization must include in its Tribal IV-D plan the procedures for the establishment of paternity included in this section. The Tribe must include in its Tribal IV-D plan procedures under which the Tribal IV-D agency will:
   (1) Attempt to locate custodial or noncustodial parents or sources of income and/or assets when location is required to take necessary action in a case; and
   (b) The Tribal IV-D agency must use all sources of information and records reasonably available to the Tribe or Tribal organization to locate custodial or noncustodial parents and their sources of income and assets.

§ 309.105 What procedures governing the location of custodial and noncustodial parents must a Tribe or Tribal organization include in a Tribal IV-D plan?

A Tribe or Tribal organization must include in its Tribal IV-D plan the provisions governing the location of custodial and noncustodial parents and their assets set forth in this section.

(a) The Tribal IV-D agency must at least:
   (1) The Tribal IV-D agency must attempt to locate custodial or noncustodial parents or sources of income and/or assets when location is required to take necessary action in a case; and
   (b) The Tribal IV-D agency must use all sources of information and records reasonably available to the Tribe or Tribal organization to locate custodial or noncustodial parents and their sources of income and assets.
(2) Provide an alleged father the opportunity to voluntarily acknowledge paternity; and

(3) In a contested paternity case (unless otherwise barred by Tribal law) require the child and all other parties to submit to genetic tests upon the request of any such party, if the request is supported by a sworn statement by the party—

(i) Alleging paternity, and setting forth facts establishing a reasonable possibility of the requisite sexual contact between parties; or

(ii) Denying paternity, and setting forth facts establishing a reasonable possibility of the nonexistence of sexual contact between the parties.

(b) The Tribal IV-D agency need not attempt to establish paternity in any case involving incest or forcible rape, or in any case in which legal proceedings for adoption are pending, if, in the opinion of the Tribal IV-D agency, it would not be in the best interests of the child to establish paternity.

(c) When genetic testing is used to establish paternity, the Tribal IV-D agency must identify and use accredited laboratories which perform, at reasonable cost, legally and medically-acceptable genetic tests which intend to identify the father or exclude the alleged father.

(d) Establishment of paternity under this section has no effect on Tribal enrollment or membership.

§ 309.105 What procedures governing child support guidelines must a Tribe or Tribal organization include in a Tribal IV-D plan?

(a) A Tribal IV-D plan must: (1) Establish one set of child support guidelines by law or action of the tribunal for setting and modifying child support obligation amounts;

(2) Include a copy of child support guidelines governing the establishment and modification of child support obligations;

(3) Indicate whether non-cash payments will be permitted to satisfy support obligations, and if so:

(i) Require that Tribal support orders allowing non-cash payments also state the specific dollar amount of the support obligation; and

(ii) Describe the type(s) of non-cash support that will be permitted to satisfy the underlying specific dollar amount of the support order; and

(iii) Provide that non-cash payments will not be permitted to satisfy assigned support obligations;

(4) Indicate that child support guidelines will be reviewed and revised, if appropriate, at least once every four years;

(5) Provide that there shall be a rebuttable presumption, in any proceeding for the award of child support, that the amount of the award that would result from the application of the guidelines established consistent with this section is the correct amount of child support to be awarded; and

(6) Provide for the application of the guidelines unless there is a written finding or a specific finding on the record of the tribunal that the application of the guidelines would be unjust or inappropriate in a particular case in accordance with criteria established by the Tribe or Tribal organization. Such criteria must take into consideration the needs of the child. Findings that rebut the guidelines must state the amount of support that would have been required under the guidelines and include a justification of why the order varies from the guidelines.

(b) The guidelines established under paragraph (a) of this section must at a minimum:

(1) Take into account the needs of the child and the earnings and income of the noncustodial parent; and

(2) Be based on specific descriptive and numeric criteria and result in a computation of the support obligation.

§ 309.110 What procedures governing income withholding must a Tribe or Tribal organization include in a Tribal IV-D plan?

A Tribe or Tribal organization must include in its Tribal IV-D plan copies of Tribal laws providing for income withholding in accordance with this section.

(a) In the case of each noncustodial parent against whom a support order is or has been issued or modified under the Tribal IV-D plan, or is being enforced under such plan, so much of his or her income, as defined in §309.65, must be withheld as is necessary to comply with the order.