

**§ 309.100**

reasonably available to the Tribe or Tribal organization to locate custodial or noncustodial parents and their sources of income and assets.

**§ 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 establish paternity by the process established under Tribal law, code, and/or custom in accordance with this section;

(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.

**45 CFR Ch. III (10–1–24 Edition)**

**§ 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: