

**Sisseton Wahpeton Oyate
Child Support Enforcement Office**

**Program Policy and Procedures Manual
Guidelines**

AMENDED

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MISSION STATEMENT

**THE SISSETON-WAHPETON OYATE CHILD
SUPPORT ENFORCEMENT PROGRAM
EXISTS TO PROMOTE THE WELL BEING
OF OUR CHILDREN
BY ADVOCATING AND ENFORCING
PARENTAL RESPONSIBILITY AND
OBLIGATIONS.**

POLICIES AND PROCEDURES

CHAPTER ONE PROGRAM OVERVIEW

A. INTRODUCTION

In 1999, the Sisseton Wahpeton Office of Child Support Enforcement Program (SWOCSE) began operations. A Cooperative Agreement was entered into with the State of South Dakota pursuant to SWST Resolution No. 96-107 and dated March 15, 1999. A subsequent Memorandum of Understanding was entered into on July 15, 2005. The Agreements were entered into to aid and assist individuals with establishing, collecting, modifying and enforcing child support obligations from Individuals within the jurisdiction of the Lake Traverse Reservation.

The SWOCSE is required to assist families with the following services: Establishment of Paternity; Establishment of child support orders; Modification of child support orders; Enforcement of child support orders; and, Location of absent parents. The SWOCSE is established to collect and distribute child support payments on behalf of persons who request the assistance of the SWOCSE, recipients of the Temporary Assistance for Needy Families (TANF), persons eligible for TANF, persons receiving Medicaid only services, and foster children whose care is funded under Title IV-E of the Social Security Act or foster children under the care of the Tribe's Child Protection Services.

These Policies and Procedures are written to assist the SWOCSE staff in carrying out their responsibilities in the Program. They may be updated as required or necessary. The Policies and Procedures are to be adhered to and exceptions can only be granted by the Sisseton-Wahpeton Oyate (SWO) Court where the Court finds that the Policies and Procedures are contrary to tribal or federal law. These Policies and Procedures are required to be approved by the SWO Tribal Council and may be amended or modified by the SWOCSE, with Tribal Council approval, as necessary.

B. POLICY

It is the Policy of the SWOCSE to respond to all requests for assistance in the establishment of paternity and child support, location of absent parents, enforcement of child support obligations, modifications of existing child support orders and collection of child support. The SWOCSE represents the Oyate and will act in the best interests of the child(ren) when bringing an action in Tribal Court or carrying out the provisions of the Child Support Act or the Uniform Parentage Act. This will include requests from custodial parents and noncustodial parents, referrals from other (state or Tribal) Title IV-D agencies or may be referrals from Tribal Court regarding divorce or child custody matters, wherein the Court has ordered child support payments to be processed through the SWOCSE. The SWOCSE

Program is established to assist the children and remains committed to ensuring that the children of the Sisseton Wahpeton Oyate receive the maximum amount of support to which they are entitled.

C. ORGANIZATIONAL STRUCTURE

The SWOCSE is a Tribal program and administered by the Program Director. The Director is responsible for the daily operations of the SWOCSE and is answerable directly to the Tribal Secretary's Office. Any prior Resolutions to the contrary, setting forth a different chain of command, shall be considered null and void. An office of the Director, Collections/Arrears Specialist, Data Entry/Finance Clerk, Interstate/Intertribal Case Specialists, Local Case Specialists, Multi-case Specialists, File Clerk/Clerk of Court, Administrative Assistant and Process Server/Investigator, staffs the Program. The SWOCSE may add additional staff depending upon the needs of the Program. All positions within SWOCSE are bonded through the Tribe's insurance policy.

The Organizational Chart is as follows:

General Council (enrolled members)

Tribal Council (7 members)

Tribal Council Executives (3 members)

Tribal Council Secretary (Executive)

SWO Child Support Enforcement Office

SWOCSE Program Staff Positions

Program Director
Administrative Assistant
Local Case Specialist (2)
Interstate / Intertribal Case Specialist (2)
Multi Case Specialist (2)
Clerk of Court/File Clerk
Collection / Arrears Specialist
Data Entry/Finance Clerk
Process Server/Investigator

D. CONFIDENTIALITY

All files, services and information obtained by the SWOCSE shall remain confidential and may not be disclosed or disseminated to unauthorized individuals. For the purposes of this Policy, authorized individuals are the client, employees of the SWOCSE, SWO court

personnel, SWO TANF personnel, the SWO Tribal Executive responsible for the oversight of the SWOCSE or titles IV-A and XIX with the administration of other programs or purposes prescribed by the Secretary of Health and Human Services and state child support officials. It is expected that all authorized employees will discuss those matters that are of mutual concern to the Program. All persons not listed above are unauthorized to receive file information, client information or court proceedings that concern SWOCSE business. Personnel of the SWOCSE shall not disclose the whereabouts of the custodial parent or the child to the noncustodial parent if there is a protection order entered against the noncustodial parent by the custodial parent or the child. In addition, personnel of the SWOCSE shall not release the whereabouts of one party or the child to another person if the SWO has reason to believe that the release of the information to that person may result in physical or emotional harm to the party or child.

Tribal Court pleadings and tribal court orders are covered by confidentiality and may not be disclosed as open records. The SWOCSE and Tribal Court must have safeguards in place against the unauthorized use or disclosure of information relating to proceedings or actions to establish paternity, or to establish, modify or enforce support.

All papers, pleading and records, other than the final judgment, pertaining to the action or proceeding, whether part of the permanent record of the court or of a file in any state agency or elsewhere, are subject to inspection only upon consent of the court and all persons directly connected with the administration of the SWOCSE, or in exceptional cases only upon an order of the court for good cause shown. In addition, pleadings or orders from other jurisdictions may not be disclosed as open records if they relate actions to establish paternity, or to establish, modify or enforce support.

All employees of the SWOCSE, SWO Court personnel, SWO TANF Personnel, and the SWO Tribal Executive responsible for the oversight of the SWOCSE or titles IV-A and XIX with the administration of other programs or purposes prescribed by the Secretary of Health and Human Services and state child support officials shall be required to sign a Confidentiality and Non-Disclosure Agreement upon hire and yearly thereafter on their evaluation date. Any violations of confidentiality shall be grounds for disciplinary action which may include immediate termination.

Source: 45 C.F.R. § 309.80

E. RECORDS RETENTION

The SWOCSE will maintain all records necessary for the efficient operation of the program, including applications for child support services, locate efforts, actions taken to establish paternity, establishment and enforcement of orders, amounts owed including arrearages. SWOCSE will also maintain statistical, financial data, and other records required for reporting. Records will be maintained for a period of at least three years.

Source: 45 C.F.R. § 309.85

F. JURISDICTION

The SWOCSE shall assist and pursue action on those cases in which the applicant for services or the Obligor, alleged or putative father, whether Indian or non-Indian, resides or is employed within the jurisdiction of the Sisseton-Wahpeton Oyate (SWO). The action will be maintained by the SWOCSE and filed in Tribal Court.

G. CHILD SUPPORT ENFORCEMENT SERVICES

The following is a brief summary of required services available for all cases:

1. Establishing Paternity:

When children are born out of wedlock or paternity has not been judicially established, the SWOCSE will initiate action in Tribal Court to establish paternity. Most cases are resolved through voluntary acknowledgment or genetic testing.

2. Location:

The SWOCSE will use all available resources to locate custodial and/or non-custodial parents and their income and/or assets when action must be taken in the case. When the location of a noncustodial parent's residence and/or employer is not known, the SWOCSE may work with the South Dakota Child Support Enforcement (OCSE) Office to secure an address or employer or use any reasonable means available.

3. Establishing a Support Obligation:

When a noncustodial parent has no court order specifying an amount of child support, the SWOCSE will determine the support obligation based on income guidelines established by the Tribe. The recommended obligation will be submitted to the Tribal Court to establish a child support order.

4. Enforcement of Support:

When a noncustodial parent has a previous order for support, the SWOCSE must initiate income withholding for support. If support is past due, the SWOCSE may collect by utilizing other options available under Tribal code.

5. Medical / Spousal Support:

If the caretaker does not have satisfactory health insurance coverage, the SWOCSE will require the noncustodial parent to obtain health insurance coverage only if it is provided through an employer or other group carrier. If medical costs are reduced to a judgment, the SWOCSE shall provide collection services. If there is a court order for spousal

support, the SWOCSE will enforce the order only if child support is also being enforced.

6. TANF Support:

The SWOCSE will establish support judgments for current and past due TANF received by the caretaker. Medical-only families and other families receiving SWOCSE services will be referred to as Non-TANF recipients.

7. Incoming and Outgoing Reciprocals with Other Tribes and/or States:

The SWOCSE will accept and process referrals from other tribes or states when the noncustodial parent resides within the jurisdiction of the SWO.

8. Modification of Child Support Orders:

Existing SWO Tribal Court orders for child support may be modified. Either parent or the SWOCSE may petition for a modification. Modification to a state or other tribal court order requires compliance with the Full Faith and Credit Act.

9. Collections:

The SWOCSE is responsible for the timely collection, accountability, and distribution of child support payments received from the noncustodial parent. The SWOCSE will distribute all collections to the appropriate person, program or state as required by court order.

CHAPTER TWO CASE INITIATION, MAINTENANCE AND FILING

A. CASE INITIATION

1. New Applications:

The SWOCSE will initiate new cases on applications requesting assistance for establishment of paternity and/or child support, enforcement or modification of court orders and location of absent parents. When an individual requests assistance, an Application for Child Support Services form will be provided at the time of the request. For written or telephonic requests, an application will be mailed to the individual within 3 working days. No enforcement action can be commenced until an application has been received by the SWOCSE and properly completed.

2. Incomplete Applications:

Applications with no accompanying documentation as required will be retained by the Clerk of Court or Receptionist. The Clerk of Court or Receptionist will then notify the applicant by mail, at which time the applicant is given seven (7) working days to submit the required documents. If no response is received or no additional information is provided, the application will be considered incomplete and no further action will be taken.

3. TANF Applications:

When an individual applies for Temporary Assistance to Needy Families (TANF), they must assign their right to receive child support payments over to the Tribe or State, depending upon whom the obligation is owed. The recipient must agree to fully cooperate with the SWOCSE in order to maintain eligibility for services. In the event the recipient voluntarily withdraws or requests closure with the SWOCSE, immediate notification is sent to TANF. A copy of the form, Agreement to Cooperate with the Child Support Agency, is maintained in the case file along with the notification form informing TANF that the applicant has completed all paperwork required by the SWOCSE.

4. CPS Applications:

If a child is under the legal care, custody and control of Tribal or State Child Protection Services, the SWOCSE will assist CPS with services in regard to paternity and child support establishment.

5. Referrals from SWO Tribal Court:

The Tribal Court will refer cases to the SWOCSE arising from divorce or child custody proceedings in Tribal Court. Tribal law requires that all child support payments shall be made by Income withholding when the Obligor works within the jurisdiction of the SWO. An application is not necessary to accept referrals from Tribal Court when the Court has ordered that child support payments be made through the SWOCSE. However, the divorce information sheet or other informational data shall be forwarded from the Court with the Court order. Upon receipt of the Court Order and informational data, the SWOCSE shall open a case file.

6. Referrals from Other Jurisdictions:

Transmittals received from States or other Tribes will be reviewed by the Caseworker to ensure that all pertinent legal information is included in the referral request. If needed, the Caseworker will notify the referring agency and request more information before processing the transmittal to Case Staffing. The SWOCSE, under the authority of the Tribal Court, is mandated to follow and apply the provisions of the Full Faith and Credit Act, 28 USC §1738B, requiring recognition of foreign orders and will

establish a case file provided the obligor or caretaker is within the jurisdiction of the SWOCSE.

Children eligible for SSI are also eligible for SWOCSE services, if there is an absent parent. Child support will be established and any payments received will be forwarded to the caretaker. However, the amount ordered may be deducted from the monthly SSI benefit amount.

Individuals may be eligible for Title XIX Medical Only even though they are not eligible for TANF. If there is an absent parent, the children are eligible for SWOCSE services. Medical Only recipients do not receive a money payment and child support is not assigned to the Tribe.

7. Application Requirements:

Every Application for Child Support Services must include copies of birth certificates or hospital records, social security cards, proof of enrollment, applicant ID, any support or custody orders and paternity affidavits. It is important that every application have copies of birth certificates, especially if it pertains to paternity establishment. The applicant must provide as much information as possible to the SWOCSE. This information will assist the SWOCSE in location efforts.

An Agreement for Child Support Enforcement Services form describing available services and the individual's rights and responsibilities, will be provided to each applicant.

By signing the Limited Power of Attorney clause in the application, authorization is given to the SWOCSE to act as an agent for the recipient of services, to receive and endorse any and all checks and money orders, and to appear on behalf of the custodial parent in enforcement proceedings when the presence of the custodial parent is not required. The signature of the applicant must be notarized.

8. Case Staffing:

Cases will be staffed according to the completed applications. Staffing determines which Case Specialist will be responsible for the research, preparation, presentation of each new case. Cases which are reassigned or transferred between Case Specialists result when Tribal or foreign jurisdiction has changed or for good cause by the recipient.

9. Conflicts of Interest and Nepotism

Case Specialists shall not prepare or present a case in which that person's immediate family is the caretaker or obligor. This would represent a conflict of interest.

Source: 45 C.F.R. § 309.85

B. CASE MAINTENANCE

1. Case Files:

After case staffing, new applications and referrals are presented to the Clerk of Court for assignment of a case number and establishment of a case file. For reassignments or transfers, the Clerk of Court is notified of the resulting change and will make corrections to the Case File Listing.

A case file will normally contain the following six sections:

- Section 1) Narrative / Notice of Service;
- Section 2) All Court Documents;
- Section 3) Wage Withholding / Affidavit of Arrears;
- Section 4) TANF Reports / Correspondence;
- Section 5) Medical Billings / DNA;
- Section 6) Application for Services.

2. Numbering and Color Coding:

The Clerk of Court will assign a case number for each new applicant not previously served by the SWOCSE. If the applicant was previously served by the SWOCSE, the case number will remain the same. The Clerk of Court is responsible to enter all new cases into the Log Book. Color coding is utilized to distinguish Local from Interstate and TANF from Non-TANF case files. New case files are added to the Case File Listing and transferred to the assigned Case Specialist for enforcement action.

3. Case File Listing:

The Case File Listing is a listing of all case files which provides the names of the recipient, the obligor, case number, TANF or Non-TANF designation, and the Case Specialist assigned to each case. The Clerk of Court revises and updates the Case File Listing as needed and provides authorized personnel with a current copy for their information and use in processing cases.

4. “Good Cause” Claim:

The recipient may claim a “Good Cause” exception if the recipient has reason to believe the non-custodial parent may harm the recipient or the child; if the child was conceived from rape or incest; or if pre-adoption or legal adoption proceedings are pending before a court. In these instances, the SWOCSE will suspend action on the case. The SWOCSE may then refer the matter to an appropriate entity for investigation or

assistance, depending on the "Good Cause" claimed. The case is then closed. The case may be reopened when "Good Cause" no longer exists or is not applicable.

5. Review of Cases:

The SWOCSE shall conduct a review of all case files every three (3) years to determine if the case requires further action by the SWOCSE. The purpose of the review is to ensure the case is still active and enforceable and changes to circumstances are addressed.

C. CASE FILING

1. Location:

All case files shall be maintained and secured in the File Room. Case files are filed according to their proper designation by Caseworker and alphabetical order. The Collections cabinet contains cases that the SWOCSE is currently receiving and distributing child support payments to the recipient and on behalf of the obligor.

2. Check Out Procedure:

A Check Out Form is utilized by all authorized personnel to remove case files from the File Room. This procedure ensures the location and security of every case file. When the file is returned to the File Room, it will be filed accordingly. The File Clerk will remove the signed Check Out Form and re-file the case file in its appropriate designated folder.

3. Transfer:

Any transfer of case files between Case Specialists requires the new Case Specialist upon receipt of the case file to sign and date the Check Out Form. The only exception to this procedure occurs when a Case Specialist temporarily transfers the case file to the Arrears Specialist for preparation of an affidavit of arrears. The Arrears Specialist will return the case file directly to the Case Specialist upon completion, and the responsibility remains with the Case Specialist to ensure the return of the case file to the File Room for filing.

4. Security:

All case files must be safeguarded in order to avoid unauthorized use and disclosure. All original court orders are secured in a fire proof locking cabinet. All case files are secured in locking cabinets in the File Room. Access to the File Room is restricted to the Clerk of Court. Case files can only be removed from the File Room by signing and dating a Check Out Form, or for use in court proceedings,

Violations of confidentiality or breaches of security will be subject to disciplinary action including termination.

5. Confidentiality:

All files, services and information obtained by the SWOCSE shall remain confidential and may not be disclosed or disseminated to unauthorized individuals. For the purposes of this Policy, authorized individuals are the client, employees of the SWOCSE, SWO court personnel, SWO TANF personnel, the SWO Tribal Executive responsible for the oversight of the SWOCSE or titles IV-A and XIX with the administration of other programs or purposes prescribed by the Secretary of Health and Human Services and state child support officials. It is expected that all authorized employees will discuss those matters that are of mutual concern to the Program. All persons not listed above are unauthorized to receive file information, client information or court proceedings that concern SWOCSE business. Personnel of the SWOCSE shall not disclose the whereabouts of the custodial parent or the child to the noncustodial parent if there is a protection order entered against the noncustodial parent by the custodial parent or the child. In addition, personnel of the SWOCSE shall not release the whereabouts of one party or the child to another person if the SWO has reason to believe that the release of the information to that person may result in physical or emotional harm to the party or child.

Case file information may be disseminated among child support and Tribal Court personnel or disclosed pursuant to court order. The recipient of services is authorized to view the file or obtain copies of documents from the file. Copies of legal documents may be forwarded to designated legal representatives for court proceedings by submitting a written request to the Clerk of Court. Correspondence between the SWOCSE and the client is protected by privilege and is not discoverable unless ordered by the Court after prior in camera inspection.

CHAPTER THREE PROCEEDINGS

A. ACTIONS

All proceedings requiring court action shall be by Complaint, Petition or Motion. The procedure of the Sisseton-Wahpeton Oyate shall be utilized, entitled Rules of Civil Procedure, specifically Section 21-14-02. Service upon the opposing party must conform to the Rules of Civil Procedure, Rule 2(c), which requires a Defendant to answer a Complaint and Summons or Petition within 20 days of service. Additionally, Rule 5(c)(i), requires Dispositive Motions to be served at least 28 days prior to hearing.

On December 18, 2006, the SWOCSE submitted a motion to Tribal Court to Relax the Time Frame for Service due to the large amount of cases pending court action and in the interest of expediting child support payments. Rule 5(h) authorizes the Court, in the interests of justice, to waive or modify the time limits established in the Rules.

On December 29, 2006, the Tribal Court modified the Time for Service for Answer to the Complaint or Petition, and the Motion for Order to Show Cause, to ten (10) days prior to the hearing in which service must be made upon the Defendant, provided, however, that the time frames for Publication of a Complaint, Petition or Motion to remain at 28 days or three consecutive weeks of publication.

1. Complaint:

If the SWOCSE determines that an action can be maintained in Tribal Court, a Complaint to Establish Paternity or Child Support is prepared and filed in Tribal Court. Rule 2 of Section 21-14-02 requires that a summons must accompany the Complaint. The original pleadings and all subsequent original filings are made with the SWOCSE/Tribal Court. All originals must be filed in the case file maintained in the SWOCSE office. The SWOCSE shall prepare and file the Notice of Hearing, which must also be served upon the noncustodial parent or their legal representative. Proof of Service must be maintained in the SWOCSE/Court file. Establishment of Paternity and/or Child Support is commenced by Complaint.

2. Petition:

The Civil Rules of Procedure treat a Petition the same as a Complaint. If a Petition for Recognition of Foreign Judgment is required to be filed, the Petition should reference the Judgment to be recognized and a certified copy of the Judgment shall be attached to the Petition.

3. Motion:

Motions are filed after a Judgment has been entered. Enforcement of support may be brought by Motion to Show Cause. Modification of Child Support may be brought by Motion to Modify or for Review Hearing. If child support is past due, the motion must be accompanied by an Affidavit of Arrears, duly certified and notarized.

4. Continuance

Once the opposing party has been served with Notice of Hearing, a Motion for Continuance or at minimum a written notice should be filed with the Clerk of Court and granted by the Court, before a matter is re-scheduled. Parties not represented by legal counsel may contact the Case Specialist 10 days prior to hearing to request a continuance.

5. Publication

When the SWOCSE has attempted to provide notice of service on the opposing party, and finding that personal service cannot well be made, a Motion for an Order for Publication will be filed and the Court will issue an order for the hearing notice to be published for three (3) weeks in the regular issue of a qualified newspaper setting the time and date of the next scheduled hearing, at which time action will proceed.

6. Service of Process

- a. The SWO Codes of Law, Section 21-14-02, Rule 2(c) provides the manner in which Service of Process is accomplished. In addition to personal service and publication of the initial pleadings, service by certified mail, with return receipt on file with the SWOCSE shall also constitute valid service.
- b. Service of subsequent pleadings is accomplished by regular first class mail at the party's last known address.
- c. The SWOCSE shall accept all filings by personal delivery to the SWOCSE Clerk of Court; by regular first class mail; by facsimile, provided the originals are received by the SWOCSE Clerk of Court within five (5) calendar days; or, by electronic filing.
- d. All Motions must be filed with the SWOCSE Clerk of Court within ten (10) calendar days of the time set for hearing.
- e. Service of Motions for Order to Show Cause must be made by personal service, publication or by certified mail, with return receipt on file with the SWOCSE.

B. LEGAL REPRESENTATION

Once SWOCSE is notified that an attorney represents the noncustodial parent, future contacts must be made with the attorney, provided the attorney has filed a Notice of Appearance with the other pleadings. All future documents must be served on the attorney. Case Specialists may serve the attorney with pleadings and notices, but may not personally serve opposing parties who are not represented. The process server or the SWOCSE Clerk of Court may serve opposing parties, who are not represented.

CHAPTER FOUR PATERNITY ADJUDICATION

The SWOCSE references Chapter 34A, Uniform Parentage Act, as it relates to paternity establishment.

A. JURISDICTION:

In accordance with SWO Codes of Law at Section 34A-10-01, the SWO Tribal Court has jurisdiction of an action to adjudicate paternity in which any of the parties resides within the jurisdiction of the Sisseton Wahpeton Oyate or conception took place within the jurisdiction of the Tribe. Additionally, the Tribal Court may assume jurisdiction over a paternity action where the alleged or putative father is an enrolled member of the Sisseton Wahpeton Oyate and/or is employed by the Tribe, regardless of residence.

B. FILING:

The SWOCSE will initiate a Complaint to Establish Paternity by filing the action in Tribal Court. The SWO Rules of Civil Procedure, Section 21-14-02, Rule 2, and SWO Codes of Law, Chapter 34A-15-02 shall apply for service of process. Outside the reservation, personal jurisdiction may be acquired by personal service of summons and Complaint or by registered mail with proof of actual receipt.

The judgment or order for paternity must include the social security numbers of the child and the child's parents, if available.

C. REQUEST TO ESTABLISH PATERNITY:

The SWOCSE may become involved in a paternity adjudication proceeding by request of an applicant or by referral from another agency. A Power of Attorney authorizing the SWOCSE to act as an agent for the applicant must be contained in the file.

Section 34A-08-01 establishes the right to bring an action to determine the existence or nonexistence of a father and child relationship, by the SWOCSE and by the following:

1. The child;
2. The mother;
3. A pregnant woman;
4. Any person or public agency who has custody of or is providing or has provided financial support to the child;
5. The personal representative or a parent of the mother if the mother has died;
6. The personal representative or a parent of the alleged father if the alleged father has died or is a minor; or
7. A man alleged or alleging himself to be the father.

If the mother or alleged father is a minor, only paternity adjudication will be processed, except when either minor has been emancipated by the Tribal Court. Child support will not be addressed until the noncustodial parent reaches the age of majority.

D. PRESUMPTION OF PATERNITY:

A man is presumed to be the natural father of a child if:

- a. He and the child's natural mother are or have been married to each other, even though the marriage is or could be declared invalid, and the child is born or conceived during such marriage or born within three hundred days after the marriage is terminated by death, annulment, declaration of invalidity, divorce or after a decree of separation;
- b. Before the birth of the child, he and the mother of the child married each other and the child is born during the marriage or within three hundred days after the marriage is terminated by death, annulment, declaration of invalidity, divorce or after a decree of separation;
- c. After the child's birth, he and the child's natural mother have married each other even though the marriage is or could be declared invalid, and he is named, with his written consent, as the child's father on the child's birth certificate;
- d. He is obligated to support the child under a written voluntary promise or has signed a Voluntary Acknowledgment of Paternity;
- e. While the child is under the age of majority, he receives the child into his home and openly holds out the child as his natural child;
- f. If genetic tests show that he is not excluded and the statistical probability of his
g. parentage is ninety-five percent or higher; or
- h. He has adopted the child.

A voluntary Affidavit of Paternity is a presumptive determination of Paternity, but must be incorporated into an Order of Paternity to be conclusive.

A presumption may be rebutted only by clear and convincing evidence and by a court decree establishing paternity of the child by another man.

E. INTERSTATE / INTERTRIBAL PATERNITY:

The SWOCSE has several options available for establishing paternity when a noncustodial parent or custodial parent resides in another jurisdiction. Long-arm jurisdictional principles may be utilized when the noncustodial parent resides out of the jurisdiction of the SWO and the child was conceived on the reservation.

In accordance with Section 34A-17-01(6) and the Full Faith and Credit Act, the Tribal Court must give full faith and credit to a determination of paternity made by another tribe

or state, whether established through voluntary acknowledgement or through administrative or judicial processes.

Under the Full Faith and Credit Act, a child support order issued by a court in another state must be enforced if:

- a. The issuing state had subject matter jurisdiction to hear the matter and enter the order;
- b. The issuing state had personal jurisdiction over the putative father; and,
- c. The parties were given reasonable notice and opportunity to be heard.

Once recognized, the SWOCSE shall have the authority and power to enforce the foreign order. However, if the Tribal Court is not satisfied that the foreign court had jurisdiction when the order was entered, it can refuse to recognize the foreign order.

F. PATERNITY ESTABLISHED BY TESTIMONY:

At the hearing, the natural mother may present and include evidence or testimony to the Tribal Court relating to the possible time of sexual intercourse and conception with the alleged father.

Testimony relating to sexual access to the mother by an unidentified man at any time or by an identified man at a time other than the probable time of conception of the child is inadmissible in evidence, unless offered by the mother.

G. PATERNITY ESTABLISHED BY DEFAULT

Paternity may be established by default, where the alleged father fails to appear for the hearing, after being duly served, and the mother provides testimony regarding paternity.

If the alleged father appears for the hearing and requests genetic testing but fails to appear for or has refused to submit to genetic testing as ordered, the SWOCSE will serve written notice to the alleged father of the pending judgment at least eight (8) days before the next hearing. If the alleged father fails to appear at the next hearing, after being duly served, the Court shall enter a judgment for paternity by default.

H. VOLUNTARY ACKNOWLEDGMENT OF PATERNITY

The alleged or putative father may voluntarily admit paternity by signing a Voluntary Acknowledgment of Paternity form after being given notice of rights and responsibilities. The form requires the notarized signatures of both parents. The SWOCSE will obtain a court order establishing paternity by affidavit to add the father to the birth record.

I. GENETIC TESTS:

The Court may require the child, the alleged father, or mother, ~~or alleged father~~ to submit to genetic testing. The testing is required in contested cases if request is supported by sworn statement or testimony alleging/denying paternity. If the alleged father requests genetic testing, the Court and the SWOCSE will require the alleged father to pay the administrative processing fee, in advance. Thereafter, if the court finds the alleged father to be the father, an order of paternity will be entered and the SWOCSE has the option to require the father to reimburse the SWOCSE for the costs of administering the test. The preparation and gathering of the genetic samples shall be conducted by the caseworker. The shipping of the samples to the testing laboratory shall be conducted by the administrative assistant. Once the test results have been received by the SWOCSE the results shall be given to the Program Manager to give to the respective caseworker.

If another jurisdiction requests the SWOCSE to establish paternity, the initiating state will pay for the costs of administering the genetic test. All genetic tests must be performed by a laboratory of reliable accreditation and performed by an expert qualified as an examiner of genetic data or specimens.

After three failed attempts to establish paternity, the SWOCSE may request that the mother pay for any further testing, dependent upon her financial situation.

J. FATHER UNKNOWN:

After diligent efforts are made and if the Case Specialist is satisfied that the mother or guardian does not know who the alleged father is, the file or action for paternity should be closed.

K. REFUSAL TO ESTABLISH PATERNITY

The SWOCSE may refuse to initiate paternity action in any case involving incest or forcible rape, or in any case where adoption proceedings are pending, if in the opinion of the SWOCSE, it would not be in the best interests of the child to establish paternity.

L. RESTRICTIONS ON DEFAULT JUDGMENTS

A judgment by default may not be entered:

1. When service of process has been made by publication, until it is shown by affidavit or otherwise, that the person is a presumed father or, if not a presumed father, that the person engaged in sexual intercourse with the child's mother at any possible time of conception;
2. Against a minor unless represented in the action by a parent, general guardian or guardian ad litem; or,
3. Against an incompetent person unless represented in the action by a guardian with sufficient authority.

M. CHALLENGES TO VOLUNTARY ACKNOWLEDGMENT OF PATERNITY:

An alleged father who has signed a voluntary Acknowledgment of Paternity may rescind the Acknowledgment if done within 60 days of signing or before the date of a court proceeding to establish a support order in which the father is a party.

After the 60 day period has passed, a signed Acknowledgment may be challenged in Court only on the basis of fraud, duress or material mistake of fact. The SWOCSE will decline representation or assistance to the father in any action which seeks to disestablish paternity. The burden of proof is upon the challenger, and any child support obligations previously imposed will not be suspended during the duration of the challenge, except for good cause shown.

N. STATUTE OF LIMITATIONS:

Establishment of paternity is exempt from the two year statute of limitations under SWO Codes of Law, Chapter 33-03-01.

An action to determine the existence of the father and child relationship for enrollment purposes only may be brought at any time if the action is brought by the child. Any other party must bring the action prior to the death of the alleged father.

Source: 45 C.F.R. §§ 309.85 and 309.100

CHAPTER FIVE PARENT LOCATOR

The Parent Locator Service is an integral part of the SWOCSE as the alleged father or noncustodial parent must be located before the establishment or enforcement of an order can be provided. The SWOCSE shall keep records of all location efforts, both incoming and outgoing.

A. PROCEDURES FOR LOCATION OF ABSENT PARENTS:

1. Referrals to SD OCSE Office:

In accordance with the Memorandum of Agreement, it states, "The State OCSE agrees to continue to provide the SWO parental locator services..." The SWOCSE will utilize the State Locate Data Sheet form, and will, at minimum, provide to the SD OCSE, the name and date of birth of the noncustodial parent. If available, the SWOCSE will also provide the middle name or initial; maiden name of female noncustodial parent; any aliases and/or nicknames used; social security number; race, sex, height, eye color, hair color and weight; last known addresses; last known employer; and, name of current spouse.

The SD OCSE Office has issued a limit on the number of referrals per month. The SWOCSE can only request the location of a particular noncustodial parent once every three months.

2. Other Resources

The SWOCSE may resort to its own resources to locate, including the Tribal enrollment office and other investigative agencies, if the SWOCSE determines such action is appropriate.

3. Referrals from Other Jurisdictions

The SWOCSE may also be requested to locate individuals who are within the jurisdiction of the Lake Traverse Reservation. If requested from another jurisdiction, the SWOCSE may utilize any means necessary to locate the individual.

4. Case Closure

If there is not sufficient information known or provided by the custodial parent to initiate a locate effort, the case may be closed after a one-year period. If diligent efforts to locate have been made, using multiple resources and the noncustodial parent is not found or found to be outside of the jurisdiction of the United States, the case may be closed and the records disposed of after a three-year period, provided the noncustodial parent has not returned to the United States within that period of time or a location has been made.

Source: 45 C.F.R. §§ 309.85 and 309.90

CHAPTER SIX ESTABLISHMENT OF CHILD SUPPORT OBLIGATION

This Chapter outlines the procedures for establishing an order for support when the noncustodial parent has no existing support order and the absent parent is away from the home for more than 30 days. This may or may not include an action for the adjudication of paternity.

The SWOCSE will assist the custodial parent or referring child support agency to receive support, but will not advocate for one parent or the other in divorce proceedings where custody is in dispute, or in custody or visitation proceedings.

A. DETERMINATION OF THE CHILD SUPPORT AMOUNT – GENERAL INSTRUCTIONS

Calculations of a child support obligation are to consider and assume that one caregiver acts as a primary caregiver and the other parent contributes a payment of child support to the child's care as follows:

1. Net income received by an Obligor from all sources not otherwise excluded must be considered in the determination of available money for child support;
2. The responsibility of the noncustodial parent to support other children (biological or adopted) either in his or her care or children he or she is paying support for by Court order shall be taken into account in determining the child support obligation;
3. When applying the guidelines, an Obligor's net monthly income may be rounded up or down to the nearest increment on the guidelines chart by the Court. It should be rounded down if the amount falls below half of the amount on the increment guidelines chart and rounded up if the amount is halfway above on the increment guidelines chart;
4. The annual total of all income considered in determining a child support obligation must be determined and then divided by twelve in order to determine the Obligor's net monthly income;
5. Income must be sufficiently documented through the use of tax returns, current wage and income statement, and other information in order to fully apprise the Court of the Obligor's income;
6. Where gross income is subject to fluctuation, regardless of whether the Obligor is employed or self-employed, information regarding the fluctuation of employment must be provided to the Court. The Court may then calculate an average weekly, monthly or annual hours of work and income to arrive at a monthly amount for child support;
7. When the Obligor has seasonal employment, the Court may annualize the gross income to determine the monthly child support obligation or may establish the monthly child support obligation based upon the Obligor's income for the period it is received. If the Court chooses to establish the monthly child support obligation based upon the obligor's income for the period it is received, the Court shall also set the matter for a modification hearing when it is verified that the Obligor either is unemployed, underemployed or is employed;

8. A child support obligation shall be established in each case regardless of whether the Obligor has any income and or lacks the ability to produce income. This requirement includes incarcerated individual(s). If the obligor has no income, the Court shall establish child support at the minimum level as established by the Guidelines;
9. Each child support order must include a statement of the net income of the Obligor used to determine the child support obligation, and how that net income was determined;
10. The Court cannot retroactively modify a child support obligation or arrearage;
11. The date of filing shall control when determining any arrearage amount when establishing the child support obligation.

B. DETERMINATION OF CHILD SUPPORT AMOUNT – SPLIT CUSTODY

A child support obligation must be determined for the child or children in each parent's custody. The lesser obligation is then subtracted from the greater obligation. The difference is the child support amount owed by the parent with the greater obligation.

In those instances where the parents share the custody of the minor child or have joint legal and joint physical custody, there shall be no child support if both parents. The Court shall expressly state deviation from the guidelines is justified based upon the shared custody by the parents and shall issue(s) a written specific finding that the application of the guidelines would be inappropriate based upon shared joint/equal custody. If the Obligor has visitation with the child more than eight (8) days per month, but less than fifteen (15) days per month, the monthly child support obligation may be prorated by the Court.

If the Obligor has visitation with the child more than eight (8) days per month, but less than fifteen (15) days per month, the monthly child support obligation may be prorated by the Court.

C. DETERMINING INCOME FROM SELF-EMPLOYMENT

When the noncustodial parent is self-employed, the SWOCSE will request proof of income by reviewing the past three (3) years of the noncustodial parent's IRS returns and averaging the annual income to arrive at a monthly figure. If the noncustodial parent has not been in business for three (3) years, the SWOCSE shall request a copy of all contracts for the past year and will calculate child support on net income. If the noncustodial parent is claiming small net earnings, the SWOCSE will interview to obtain accurate business information regarding expenditures including equipment and material costs, payroll records, taxes to federal, state and Tribal agencies, and such other data as needed to determine income. The SWOCSE will inform the noncustodial parent that any inaccurate information provided will result in a contempt of court action against them.

D. PRIOR PERIOD SUPPORT

The noncustodial parent is responsible for the support of the child(ren). The Court shall determine prior period support at the time current support is determined. Arrearages without an order for support are limited to the period at which the Complaint or Petition is filed. The SWOCSE must provide to the Tribal Court an Affidavit of Arrears statement to determine any child support arrearages. In cases where Tribal TANF is due, a TANF Payment History Report will be utilized to determine the amount of TANF arrearages.

1. Prior Period Support for Paternity

If paternity has not been established, child support will commence when the noncustodial parent received Service of the Complaint or from the date of the Application for Services.

2. Prior Period Support for Child Support

If arrearages are due, the amount of the order shall be used to determine child support arrearages owed to the custodial parent. If the noncustodial parent has an order setting the amount of child support, any action to collect on the arrearages is limited to the date the Judgment / Order was entered, regardless of the Tribe's 2 year Statute of Limitations.

The Court may order repayment of child support arrearages at a rate of between 10% and 25% of the current monthly obligation, provided the entire amount for withholding for the current and arrearage obligation does not exceed 50% of the Obligor's net income.

3. Prior Period Support for TANF

If the custodian is a guardian and not a parent, the SWOCSE shall divide the total amount of TANF assistance received by the custodian and request judgment on both parents equally.

If the non-custodial parent has a previous order setting the amount of child support, any action to collect on the arrearages is limited to the monthly amount contained in the order and not on the amount of actual TANF benefits received for the same period. The SWOCSE cannot charge both TANF and current child support for the same period of support.

The Court may order repayment of TANF arrearages at a rate of between 10% and 25% of the current monthly obligation, provided the entire amount for withholding for the current and arrearage obligation does not exceed 50% of the Obligor's net income. ;

E. ALLOWED DEVIATION FROM GUIDELINES

Deviation is allowed from the guidelines based upon the following factors:

1. The amount of visitation exercised by the absent parent;
2. Provisions for abatement of support when the absent parent exercises visitation for a consecutive period of more than 29 days;
3. Whether the absent parent provides the transportation for visitation;
4. Income contributed to the child by third persons including extended family members of the absent parent;
5. Income contributed to the absent parent by a third party including spouse;
6. Special medical needs of the child;
7. Day care expenses;
8. Age of the child;
9. The responsibility of the absent parent to support other children (biological or adopted), either in his care or children he is paying support for;
10. Where the Court has granted the absent parent a significant amount of visitation (but less than joint physical custody);
11. Any other ground cited by the Court.

In any case where deviation is granted, the Court order shall expressly state the ground for deviation and the Court shall issue(s) a written specific finding that the application of the guidelines would be unjust or inappropriate in a particular case. The 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.

F. CHILD SUPPORT AGREEMENTS

Child Support Agreements between the custodial and noncustodial parents may be submitted to the Court, with both signatures duly notarized. If the agreed amount deviates from the presumptive amount of support, the parties shall furnish statements explaining why they have agreed to a lesser amount than presumed. The SWOCSE shall ensure that the amount of the child support agreed upon is sufficient to meet the basic needs of the child(ren) before submission to the Court. The Court may reject the support amount if the parties do not demonstrate good grounds for deviating from the presumptive amount.

G. NON-CASH CONTRIBUTIONS

Non-cash payments may be permitted to satisfy child support obligations, provided the Court establishes the value of the non-cash payment is equivalent to the obligation. Non-cash payments will not be permitted to satisfy assigned support obligations (e.g., TANF). As non-cash payments may, in certain circumstances be permitted by the Court, the Court shall establish a dollar value to the non-cash payment. Non-cash payments may include food or sustenance provided to the child and the his family in the form of game or fish; necessities provided to the family such as heating wood or fuel; propane or heating fuel

payments; other utility payments; rent payment; vehicle payment(s); medical insurance; necessary day care services; diapers and other clothing or accessory necessities or other forms of non-cash contributions as determined appropriate by the Court. Any credit for In-kind contributions must be approved by the Court and a dollar value attached to the contribution. Non-cash contributions will be permitted to satisfy the current support obligations and/or arrears and will not be permitted to satisfy assigned obligations.

Source: 45 C.F.R. § 309.105

CHAPTER SEVEN ENFORCEMENT

This Chapter shall apply to all cases where there is a previously existing child support order. The order may or may not have been issued by the SWO Tribal Court. The noncustodial parent must pay child support according to the conditions and timeframes set forth in the order for support. The SWOCSE office, before proceeding in Tribal Court, must obtain copies of the previously established Order for Support.

A. LENGTH OF SUPPORT OBLIGATION

When enforcing a previous order for support, the order will state how long a noncustodial parent is required to pay support according to the language in the order for support. If the language states support is paid until, “the child reaches the age of 18 or is otherwise emancipated”, the SWOCSE will enforce child support up to and including the month the child reaches the age of 18, even though the child is a full time student in a secondary school. A child attending an approved GED Program will be considered a full time student.

B. EXTENDED SUPPORT

If the language states support is paid until “the minor child reaches the age of majority or 19 years of age if pursuing a high school diploma or equivalent”, the SWOCSE will enforce child support up to and including the month the child turns 19 years of age or graduates from high school or obtains a GED certificate, whichever comes first.

C. INCOME WITHHOLDING ORDER

In addition to the order establishing child support and establishing the arrears amount, the Code of Federal Regulations requires the Court to also order an Income Withholding order (IWO) and require the SWOCSE to prepare the IWO, directing the Obligor’s employer to withhold income from the Obligor’s earnings and to make the court ordered amount payable through the SWOCSE for disbursement to the parent and/or to the Tribal or state agency. The Income Withholding Order is applicable to all individuals regardless of their status as Indian or non-Indian.

1. The IWO must conform to the “Federal Income Withholding Order for Support” and “Income Withholding Order – Instructions”. The IWO must also include an amount to be applied toward liquidation of any overdue support (arrearages).
2. The total amount to be withheld may not exceed the maximum amount permitted under Section 303(b) of the Consumer Credit Protection Act (15 U.S.C. §1673(b)), which is 50% of net income after taxes. The Court may also set a lower amount based upon the Child Support Guidelines.
3. The Obligor must be given notice and an opportunity to be heard prior to the entry of the IWO.
4. The SWOCSE will promptly refund any amounts that have been improperly withheld.
5. The SWOCSE will promptly terminate and IWO in any case where there is no longer a current order for support and all arrearages have been satisfied.
6. If the employer fails to withhold income in accordance with the IWO, the employer will be liable for the accumulated amount the employer should have withheld. No employer shall be allowed to take any disciplinary action against the Obligor because of the IWO. Any employer is subject to a fine pursuant to an Order to Show Cause proceeding for discharging an Obligor from employment, refusing to employ, or taking any disciplinary action against any Obligor because of the IWO.
7. The Obligor’s employer must be provided prior notice using the “Federal Income Withholding Order for Support” and “Income Withholding Order – Instructions”. The notice must provide that an IWO takes precedence over any other lawful debt owed by the Obligor, except federal or state (if applicable) income withholding taxes.
8. Income shall not be subject to withholding however, in any case where: a.) either the Custodial Parent or obligor demonstrates, and the Court enters a finding, that there is good cause not to require income withholding; or b.) a signed written agreement is reached between the Custodial Parent and the Obligor, which provides for an alternative arrangement of payment, and the Agreement is reviewed and approved by the Court.
9. Where an IWO is not in place, the income of the Obligor shall become subject to withholding, at the earliest, on the date on which the payments which the Obligor has failed to make under a Child Support Order are at least equal to the support payable for one month.
10. The only basis for contesting an IWO is a mistake of fact, which means an error in the amount of current or past due support or in the identity of the alleged Obligor.
11. The SWOCSE shall allocate withheld amounts across multiple IWO’s to ensure that in no case shall allocation result in a withholding for one of the IWO’s to ensure that in no case shall allocation result in a withholding for one of the IWO’s not being implemented.

12. The SWOCSE shall be responsible for receiving and processing IWO's from states, tribes and other entities, and ensuring that orders are properly and promptly served on employers within the Tribe's jurisdiction and once they have been recognized by the Court.

D. DISTRICT WITHHOLDING

In accordance with 34C-10-02, "in any case where the Court determines that a tribal member is in arrears of more than \$300.00 under a child support order, the SWOCSE may apply for a Withholding Order for any District Distribution to that district member. This shall include District holiday monies, birthday monies, and other general monies distributed to all district members excluding Medical Emergency, Home Repair and Hardship monies." This does not include the Casino's portion of the District distribution,

E. FEDERAL INCOME TAX / UNEMPLOYMENT INSURANCE INTERCEPTS

All collections received from the SD OCSE for Federal Income Tax Intercept refunds, will be applied to satisfy child support arrearages. For purposes of the Intercept application, child support arrearages include child support arrears and those state or other publically received assistance. The SWOCSE shall be authorized to request Federal Income Tax intercept refunds when the amount of the TANF arrears exceeds \$150.00 or \$500.00 for child support arrears. Collections from state unemployment insurance intercepts can be applied to pay current and/or past due child support obligations.

In accordance with the Memorandum of Agreement and the Addendum, those cases where the SWOCSE makes referrals to the SD OCSE to intercept Federal Income Tax Refunds, the SWOCSE will be required to complete the following:

1. An Internal Revenue Service (IRS) Confidentiality Form;
2. A CSE 1 Interstate Transmittal Form with all of the information data fully completed, submitted no later than November 30th of each year;
3. A copy of the current Tribal Court Order ordering intercept;
4. A notarized Affidavit of Arrears, with a breakdown of the arrears amount that are Tribal TANF arrears, and the amount that are Non-TANF arrears; and
5. After the initial transmittal to SDOCSE, an updated Affidavit of Arrears each month so that SDOCSE can maintain updated and accurate IRS submittal amounts.

The SWOCSE must also provide an offset fee for each case where an IRS offset is intercepted and sent to the state and forwarded to the SWOCSE.

F. SAFEGUARDING FEDERAL TAX INFORMATION (FTI)

1. RECORD KEEPING

The SWOCSE will maintain a series of logs for tracking purposes of Federal Tax Information (FTI). The forms for the record keeping will be kept separately in the Collections and Disbursement Office.

a. Receipt Log

The Sisseton Wahpeton Office of Child Support Enforcement will maintain a tracking log of the FTI received from the State of South Dakota. This log will contain a receipt of when then FTI begins its process through the SWOCSE.

The log will have the date, who received it and who is logging it in (SWOCSE Employee initials), who receives it for processing, when it gets stored and when it is destroyed.

The Running Receipts will no longer have the column of Vendor Name or the Vendor Check Number which was previously used to tell us where the check came from and the check number. By eliminating this for all the checks we will not have to put a Disclosure on the Receipt Log when it leaves our office for payment processing.

b. Visitor Log

The visitor access log has been revised and will contain the date, name, organization of visitor, form of identification, purpose of visitor, time in, time out and signature. See attached sample

c. Electronic FTI Log

Although the SWOCSE does not currently receive or send electronic FTI from the Internal Revenue Service (IRS) via email, the office has developed a tracking log in case these functions become available.

d. Non-Electronic Log

Although the SWOCSE does not currently receive non-electronic FTI from the IRS, the office has developed a tracking log in case these functions become available.

2. STORAGE

The FTI from the State of South Dakota will be secured with at least two physical barriers. The file folder will be labeled with a disclosure and will be kept in a locked file cabinet. The SWOCSE will have an "Authorized Personnel Only" label on the door and window of the office that contains FTI. The office door will be closed and locked when the SWOCSE employees are out of the "Authorized Personnel Only" office. The SWOCSE suite will have a locked front door with badge only access to enter. All others will need to be let in by a SWOCSE employee.

3. RESTRICTED ACCESS

Any areas within the SWOCSE that may contain FTI information will be labeled as that with disclosure signage. This includes but is not limited to offices, cabinets, files (electronic

& non-electronic), logs books, documents from the State of South Dakota, computer programs and computer files.

Access to FTI is permitted to individuals who require the FTI to perform their official duties and as authorized under the IRC. FTI must never be indiscriminately, even within the recipient agency, body or commission. Agencies must evaluate the need for FTI before the data is requested or disseminated.

The SWOCSE will not be allowed to send FTI via email, email attachments, or within fax communications.

4. REPORTING INCIDENTS

Upon discovering a possible improper inspection or disclosure of FTI, including breaches and security incidents, by a federal employee, a state employee, or any other person, the individual making the observation or receiving information must contact the office of the appropriate special agent-in-charge, Treasury Inspector General Tax Administration (TIGTA) immediately, but no later than 24 hours after the identification of a possible issue involving FTI.

TIGTA Field Division Contact Information

Field Division	Field Division Location	Service	Telephone
Chicago	South Dakota		312-554-8751

If unable to contact the local TIGTA Field Division, contact the National Office:

Hotline Number: 800-589-3718
Online: <http://www.treasury.gov/tigta>
Mailing Address: Treasury Inspector General for Tax Administration
Ben Franklin Station
P.O. Box 589
Washington, DC 20044-0589

Concurrent to notifying the TIGTA, the SWOCSE must notify the Office of Safeguards within the IRS. To notify the Office of Safeguards, the SWOCSE must document the specifics of the incident known at that time into a data incident report, including but not limited to:

- a. Name of the agency and agency Point of Contact for resolving data incident with contact information
- b. Date and time of the incident
- c. Date and time the was discovered
- d. How the incident was discovered
- e. Description of the incident and the data involved, including specific data elements, if known

- f. Potential number of FTI records involved; if unknown, provide a range if possible
- g. Address where the incident occurred
- h. IT involved (e.g., laptop, server, mainframe)
- i. Do not include any FTI in the data incident report
- j. Reports must be sent electronically and encrypted via IRS-approved encryption techniques. Use the term ***data incident report*** in the subject line of the email.

Even if all information is not available, immediate notification is the most important factor, not the completeness of the data incident report. Additional information must be provided to the Office of Safeguards as soon as it is available.

The SWOCSE will cooperate with TIGTA and the Office of Safeguards investigators, providing data and access as needed to determine the facts and circumstances of the incident.

The SWOCSE will not wait to conduct an internal investigation to determine if the FTI was involved in an unauthorized disclosure and data breach. If FTI may have been involved, the SWOCSE must contact TIGTA and the IRS immediately. The SWOCSE will cooperate with TIGTA and the Office of Safeguard investigators, providing data and access as needed to determine the facts and circumstances of the incident.

The Office of Safeguards will coordinate with the SWOCSE regarding appropriate follow-up actions required to be taken by the SWOCSE to ensure continued protection of FTI. Once the incident has been addressed, the SWOCSE will conduct a post-incident review to ensure the incident response policies and procedures provide adequate guidance. Any identified deficiencies in the incident response policies and procedures should be resolved immediately. Additional training on any changes to the incident policies and procedures should be provided to all SWOCSE employees, including contractors and consolidated data center employees, immediately.

The SWOCSE will conduct internal inspections that are required for the purpose to ensure that adequate safeguard and security measures have been maintained. The SWOCSE must submit copies of these inspections to the IRS with the SSR. The SWOCSE will review and update the SSR every two years. Key areas that will be addresses will include record keeping, secure storage, limited access, disposal and computer security.

G. VOLUNTARY PAYMENTS

Voluntary payments made by the noncustodial parent will be considered when computing arrearages, provided the Court is satisfied that the payments were meant to be child support.

H. OPTION OF CASH SETTLEMENT

The SWOCSE may satisfy arrearages due to Tribal TANF with an immediate cash settlement not less than 60% of the amount due. If the arrearages are due and owing to State TANF, a cash settlement not less than 75% may be made. Failing a settlement, the

balance paid on arrearages may be made in monthly installments, in addition to current support. The arrearage will be reduced to Judgment and included in the Order for Support and Judgment.

I. NON-PAYMENT OF SUPPORT

1. Suspension of Tribal Licenses

In any case where the Tribal Court establishes that the Obligor owes more than \$1,000 in back child support to either the custodial parent or tribal or state agency, and after a show cause hearing establishes that the Obligor has the ability to pay and has wrongfully refused to do so, the Tribal Court may order the suspension of the Obligor's gaming license, hunting and fishing license, business license or any other license issued by the Tribe including the privilege to drive on the reservation public highways, (see Section 34C-10-01, C.2., for waivers and appeals to suspension).

2. Show Cause Hearing for a Noncustodial Parent

When a noncustodial parent has not willfully complied with an order for support issued by the Court for a period of two (2) consecutive months, a Show Cause hearing may be scheduled and a contempt action will be sought before the Court.

If the noncustodial parent was duly served and has failed to appear, the Court may issue a contempt order for failure to appear and/or failure to pay child support. The Court will issue a bench warrant and will set a jail sentence and/or bond amount at 10% of the support amount owed in arrearages. The Clerk of Court will post the bench warrant with the Tribal Court and Tribal Police Department.

When the SWO Tribal Police have arrested the Defendant, the SWOCSE will be notified to attend the arraignment hearing to make satisfactory arrangements for bond payment and release. Any bond payment shall be forwarded to the appropriate party.

3. Show Cause Hearing for an Employer or Tribal Entity

When an employer or tribal entity does not willfully comply with an order for support issued by the Court, especially in regards to an income withholding order, a Show Cause hearing may be scheduled. The SWOCSE will first attempt to resolve the issue of non-compliance and if the employer or tribal entity remains unwilling to comply, they will be properly served and a hearing will be held before the Court to show cause why a contempt action should not be sought.

If the employer or tribal entity was duly served and has failed to appear, the Court may issue a contempt order for failure to appear and judgment may be imposed in accordance with Chapter 34C-10-01(B)(2) and (3), which states that failure to comply with an order from the Tribal Court directing an income withholding shall subject the

tribal entity or employer to a penalty in the amount of \$100.00 for a first violation and \$500.00 for every subsequent violation.

4. Suspension of the Child Support Obligation for Incarcerated Obligor

The Court may establish child support for any obligor who is incarcerated at the minimum amount. An Obligor who has been sentenced to serve a term of imprisonment in excess of sixty (60) month shall have the obligation to provide child support suspended on the sixty-first (61) month of incarceration.

CHAPTER EIGHT INTERSTATE / INTERTRIBAL ENFORCEMENT

A. UIFSA REQUIREMENTS

All states are required to follow the Uniform Interstate Family Support Act (UIFSA) in accordance with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. When UIFSA was passed, the legislation did not reference tribes or tribal courts, therefore, the prevailing view is that UIFSA does not apply to tribes and tribal courts. When the SWOCSE seeks to work with another state in establishment, enforcement or modification proceedings, those states will utilize UIFSA.

B. INCOME WITHHOLDING ORDERS

1. Income Withholding Orders from other Jurisdictions:

One of the more important aspects of UIFSA is that it allows income-withholding orders to be issued by another jurisdiction and enforced on the reservation. However, tribal law, at Section 34C-10-01 states that, "The Tribe and its entities are not required to honor any wage withholding order from a foreign jurisdiction unless said order has been filed with the Tribal Court and the Tribal Court has honored that order." In these situations, the Tribe and SWOCSE must follow tribal law and require income-withholding orders to be filed with the Tribal Court for all obligors, who work in a tribally owned or run operation.

2. Income Withholding Orders Sent to Other Jurisdictions:

The SWOCSE shall utilize UIFSA when issuing income withholding orders to other jurisdictions for collection of child support.

C. FULL FAITH AND CREDIT ACT

Tribes and tribal courts are required to follow and apply the provisions of 28 U.S.C. §1738B, the Full, Faith and Credit for Child Support Orders Act. This federal statute

requires Tribes to honor and recognize foreign judgments but does not allow a tribal court to modify a foreign judgment unless the parties consent in writing to jurisdiction and modification.

As a matter of practicality, all foreign orders should be filed with the SWOCSE / Tribal Court. The SWOCSE is required to accept all referrals from state agencies and individuals requiring recognition of foreign orders. The Tribal Court is required to recognize foreign orders but prior to doing so, the Tribal Court / SWOCSE must first be satisfied that the provisions of the Full Faith and Credit Act are complied with.

Under the Full Faith and Credit Act, a child support order issued by a court in another state must be enforced if:

- a. The issuing state had subject matter jurisdiction to hear the matter and enter the order;
- b. The issuing state had personal jurisdiction; and,
- c. The parties were given reasonable notice and opportunity to be heard.

In cases where foreign orders are sought to be recognized and enforced, the SWOCSE must have a certified copy of the foreign court order, certified arrears statement, and proof of service of the first order that establishes paternity, for filing with the Tribal Court. The SWOCSE may utilize facsimile materials to be placed into evidence and testimony and depositions may take place by telephone conference calling.

In referrals from other jurisdictions, the SWOCSE will obtain an Affidavit of Arrears from the referring State from the date of the order up to the time of the request for assistance. The Affidavit may be amended by the Court to include the time between the request for assistance and the actual court date.

If the Tribal Court is not satisfied that the foreign court had jurisdiction, it can refuse to recognize the foreign order. However, once recognized, the SWOCSE shall have the authority and power to enforce the foreign order.

If the obligor is a tribal member, the SWOCSE shall schedule a hearing. If the obligor is a non-tribal member, the SWOCSE shall present the order to the Judge for signature, without requiring a hearing.

D. REFERRALS TO THE SOUTH DAKOTA OCSE OFFICE

The SWOCSE may request services from the South Dakota OCSE that may include the following:

1. Location of non-custodial parents;
2. Collection and Distribution of Support Payments;
3. Notice of Collection of Assigned Support;
4. Withholding of Unemployment Compensation;
5. Consumer Credit Reporting

6. Voluntary Acknowledgement of Paternity
7. Federal Income Tax Refund Offset;
8. New Hire Reporting; and
9. Restriction of Professional, Drivers and Recreational Licenses

E. REFERRALS FROM OTHER STATE AND TRIBAL IV-D AGENCIES

The SWOCSE will extend the full range of services available to respond to all requests from, and cooperate with, state and other Tribal IV-D agencies.

CHAPTER NINE MODIFICATION

The SWOCSE or either parent may initiate or request a modification of a previously entered child support order issued by the Tribal Court. If the order to be modified is issued by another jurisdiction, the requirements set forth in 28 U.S.C §1738B are to be followed. Requests for modification must be for a substantial and/or a material change in circumstances or upon any other reason acceptable to the Court. The SWOCSE may request modification to the Court on behalf of a custodial parent or the non-custodial parent.

A. MODIFICATION BY THE NONCUSTODIAL PARENT

If the SWOCSE has an open case or file for a custodial parent, the SWOCSE may not represent or assist the noncustodial parent, except to provide the necessary paperwork. The SWOCSE may provide the Motion to Modify to the noncustodial parent and file it with the SWOCSE Clerk of Court. Thereafter, the Motion shall be scheduled for hearing by the Case Specialists.

B. MODIFICATION TO OTHER JURISDICTIONS

On referrals from other jurisdictions, the SWOCSE may advise the noncustodial parent on the appropriate procedure to apply for modification and may obtain the necessary paperwork to file for modification. In order to process a request for modification to another jurisdiction, the SWOCSE must have the following documents:

1. Copy of the responding state or tribe's order; and,
2. Financial Statement of the NCP

The SWOCSE must be satisfied that sufficient cause exists to justify a request for modification.

C. MODIFICATION TO CURRENT SUPPORT

Modifications will be made only on current child support obligations and cannot be used to modify past due arrearages. Modifications may be used to change the amount to be paid on the arrearages, upon a substantial and material change of circumstances. A substantial and material change of circumstances is any change that will change the amount due for child support, as established by the Child Support Guidelines, or any other change that may affect the child support amount(s).

D. MODIFICATION FOR MULTIPLE CUSTODIANS

If the Obligor is making payments for more than one child and/or more than one custodial parent, all custodial parents should be notified by the Case Specialist of the Modification request. The modification of child support should be made for all children, if the Tribal court can obtain jurisdiction over all the children.

In any action seeking to set the child support obligation, the SWOCSE may also seek to modify any previous SWO Child Support obligations and notify all the custodial parties of all the children of the Obligor. Where all the parties are within the jurisdiction of the Tribal Court, the Court may order and set child support in equal amounts for all the children of the Obligor.

E. CUSTODY ORDERS OR VISITATION RIGHTS

If applicable, the Court Order may also designate a custodian of the child. A request to change of custody or modification of custody may be made only when there is no existing child support order and the parties are before the Court and consent to the change or modification. The SWOCSE is not involved in visitation rights and privileges. Either party may petition the Tribal Court on this matter.

When the SWOCSE receives a referral from Tribal Court for enforcement of a custody order in which the Tribal Court has set a child support obligation, the SWOCSE shall require the custodian to fill out an application for services through the SWOCSE.

F. DIVORCE DECREE REFERRALS

When the Tribal Court refers a divorce decree to the SWOCSE, and the Obligor requests a Motion for Modification, the SWOCSE shall schedule it for hearing and present it to the Tribal Court.

If a prior divorce decree specifically states that child support is not due or owing to either party, the SWOCSE should petition for modification if a change of circumstances occurred since the order was issued.

G. CHILDREN IN CUSTODY OF CPP/CPS

Whenever a child is in custody of the Tribal Child Protection Program or State Child Protective Services, the order will follow the child. The order may be modified to reflect foster care payments.

CHAPTER TEN COLLECTIONS, DISBURSEMENTS, ARREARS and REPORTING

A. COLLECTIONS

The SWOCSE shall be responsible for the collection, accountability and distribution of child support payments. The Tribal Court shall require all Obligor and employers to make payments payable to the SWOCSE.

All payments received by the SWOCSE will be made by check or money order. No cash will be accepted. When a payment is received through the mail, it is stamped with the receipt date and a copy is made and transferred to the Collections Specialist. When a payment is received in person, a receipt is filled out and initialed by the Collections Specialist, with the copy of the receipt and money order given to the Obligor. All payments shall be recorded on a ledger, with the name of the Obligor, amount of the payment, the date received and the name of the custodial parent.

All payments will be processed in accordance with established Tribal accounting protocols and no payments will be transferred to the Tribal Finance Department until all receipts for payment and the deposit slip have been totaled and balanced, verified by the Collections Specialist, and approved by the Director. The request for payment is processed through the Tribal Finance Department after approval by the Tribal Executive. Payments are processed on a daily basis and deposits of checks and money orders are submitted with the request for payment. All payment checks will be disbursed by the SWOCSE.

Source: 45 C.F.R. § 309.75

B. DISBURSEMENTS

All disbursements will be made by the SWOCSE once the SWOCSE has picked up the check from the Tribal Finance Department. After 2:30 p.m., the disbursement shall be mailed. All collections and disbursements shall be applied first to satisfy the current support obligation and shall be paid directly to the custodial parent unless the custodial parent is currently receiving Tribal TANF.

C. GENERAL RULE:

The SWOCSE must, in a timely manner:

(1) Apply collections first to satisfy current support obligation, unless the collection is from a Federal Income tax refund offset which must be applied to satisfy child support arrears; and

(2) Pay all child support collections to the custodial parent unless the family is currently receiving or has formerly received TANF.

D. CURRENT RECEIPT OF TRIBAL TANF:

If the custodial parent is currently receiving assistance from the Tribal TANF program and has assigned support rights to the Tribe and:

(1) There is no request for assistance in collecting support on behalf of the custodial Parent from a state or other Tribal IV-D agency, the SWOCSE will disburse the payment to Tribal TANF, not to exceed the total amount of Tribal TANF paid to the custodial parent, with any remaining collections being paid to the custodial parent. If there are TANF arrears, the arrears shall be directed to the TANF Program.

(2) There is a request for assistance in collecting support on behalf of the custodial parent from a state or other Tribal IV-D agency, the SWOCSE may retain collections, not to exceed the total amount of Tribal TANF paid to the custodial parent. The SWOCSE must send any remaining collections to the requesting state or Tribal IV-D agency for distribution.

E. FORMER RECEIPT OF TRIBAL TANF:

If the custodial parent Formerly received assistance from the Tribal TANF program and there is an assignment of support rights to the Tribe and:

(1) There is no request for assistance in collecting support from a state or other Tribal IVD agency, the SWOCSE will pay current support to the custodial parent and any arrearages owed to the family and may then retain any excess collections to pay the Tribal TANF, not to exceed the total amount of Tribal TANF paid to the family. Any remaining collections must be paid to the family (45CFR309.115 (c)1).

(2) There is a request for assistance in collecting support from a state or Tribal IV-D agency, the SWOCSE must send all support collected to the requesting state or Tribal IV-D agency for distribution.

F. REQUESTS FOR ASSISTANCE FROM STATE OR TRIBAL IV-D AGENCY:

If there is no assignment of support rights to the Tribe as a condition of receipt of Tribal TANF and the SWOCSE has received a request for assistance in collecting support on behalf of the family from a state or another Tribal IV-D agency, the SWOCSE must send all support collected to either the state or Tribal IV-D agency for distribution.

G. OPTION TO CONTACT REQUESTING AGENCY:

Rather than send collections to a state or another Tribal IV-D agency for disbursement, the SWOCSE may contact the requesting state or Tribal IV-D agency to determine appropriate disbursement, and disburse collections as directed by the other agency.

At the end of each month, all collections and disbursements are balanced by the Collections Specialist for accuracy. In addition to a computerized ledger, a hard copy of all collections and distributions are kept on file by the Collections Specialist. Once the Obligor has satisfied the obligation(s), the Collections Specialist shall notify the Caseworker. The Caseworker shall then docket the case for hearing at the next available hearing date, with Notice to the Obligor. All payments received after the obligation has been satisfied shall be held until the hearing date and thereafter may be released to the appropriate party.

A notice of support or child support income verification statement will be sent once per year, at the beginning of each year to all custodial and noncustodial parents who have received, paid or obligated to pay child support for the prior year. The statement will itemize all payments by month of receipt and disbursement. Upon request, this notice will be provided to either the custodial or noncustodial parent, at any time. State social service agencies who request verification of income on custodial parents will be provided a copy of the statement as long as a release of information form is signed by the custodial parent and provided to the SWOCSE.

Within 30 days after the end of every quarter of the fiscal year, an OCSE-34A form must be completed and sent to the Federal OCSE Office in Washington, DC. This form is completed by the Collections Specialist, verified by the Director and lists the total collections received and distributed during the quarter, divided by the type of payment received and to whom the payment was disbursed.

The SWOCSE arrears specialist will provide reports to the Tribal TANF office as mutually agreed upon between the Programs.

Source: 45 C.F.R. § 309.75, 45 C.F.R. § 309.85 and 45 C.F.R. § 309.115

H. AFFIDAVIT OF ARREARS

An Affidavit of Arrears is a month by month record of payments due and received and it is utilized to certify arrearages in the adjudication of support judgments. Each case file should contain an affidavit of arrears. It is presented in Tribal court as a means to verify the history and current support balance for each case. An updated affidavit of arrears is prepared by the Collections Specialist upon request by the Case Specialist. An affidavit of arrears will consist of the current support obligation and any payments, any child support arrears judgments and payments, and any Tribal TANF arrears judgments and payments, with all balances accurately totaled. The Affidavit must be provided to the non-custodial obligor on an annual basis and to either party upon request.

I. REPORTING

The SWOCSE shall be required to submit the following financial forms and such other forms as may be required by the Federal Office of Child Support Enforcement (OCSE):

1. The Standard Form (SF) 424, "Application for Federal Assistance;
2. SF424A, "Budget Information – Non-Construction Programs", to be submitted annually, no later than August 1st (60 days prior to the start of the funding period). With each submission, the following information must be included:
 - a. A quarter-by-quarter estimate of expenditures for the funding period;
 - b. Notification of whether the SWOCSE is requesting funds for indirect costs and an election method to calculate estimated indirect costs;
 - c. A narrative justification for each cost category on the form; and
 - d. A statement that the SWOCSE will satisfy the non-federal share of Program expenditures.
3. SF425, "Federal Financial Report", to be submitted quarterly within 30 days after the end of each of the first three (3) quarter of the funding period and within thirty (30) days after the end of each of the first three quarters of the liquidation period. The final period is due within ninety (90) days after the end of the fourth quarter of both the funding and the liquidation period.
4. Form OSCE-34A, "Quarterly Report of Collections", to be submitted within thirty (30) days after the end of the first three quarters and ninety (90) days after the end of the fourth quarter.

Source: 45 C.F.R. § 309.85(7)

CHAPTER ELEVEN CASE CLOSURE OR TERMINATION OF SERVICES

Case closures may be judicial or administrative. Judicial closure orders require the judge's signature. Administrative closure orders require the signature of the SWOCSE Director. SWOCSE services for recipients may be terminated or closed for one of the following reasons:

1. The parental rights of either parent have been terminated; or, the statute of limitations has expired;

2. The noncustodial parent or putative father is deceased and no further action can be taken, including action against the estate;
3. Paternity cannot be established because the child is at least 18 years old and the action to establish paternity is barred by statute;
4. Paternity cannot be established because a genetic test, court or administrative process has excluded the putative father;
5. Paternity cannot be established because it would not be in the best interest of the child to establish paternity in a case involving incest, forcible rape, or pending adoption proceedings;
6. The identity of the biological father is unknown and cannot be identified after diligent efforts have been made by the SWOCSE. For example, the recipient is a caretaker of the child and the caretaker does not have any relevant information and cannot properly identify the alleged father;
7. If there is not sufficient information known or provided by the custodial parent to initiate a locate effort, the case may be closed after a one-year period. If diligent efforts to locate have been made, using multiple resources and the noncustodial parent is not found or found to be outside of the jurisdiction of the United States, the case may be closed after a three-year period, provided the noncustodial parent has not returned to the United States within that period of time or a location has been made;
8. The noncustodial parent is a citizen of, and lives in, a foreign country, does not work for the federal government or a company with headquarters or offices in the United States and has no reachable domestic income or assets, and there is no reciprocity with the country;
9. The noncustodial parent cannot pay support for the duration of the child's minority because the parent has been institutionalized in a psychiatric facility, is incarcerated with no chance of parole, or has a medically-verified total and permanent disability with no evidence of support potential through SSI; and, the SWOCSE has determined that no income or assets are available which could be levied or attached for support;
10. The noncustodial parent has paid any past due child support or TANF arrears in full and does not have any current child support;
11. The SWOCSE has documented evidence that the recipient has not cooperated and cooperation is essential for the next enforcement step. The SWOCSE will send a Notice of Termination letter by first class mail at the last known address. If the recipient does not respond within 30 days, the SWOCSE shall close the case. If the recipient requests that the SWOCSE reevaluate its decision to terminate services, the case may remain open if the SWOCSE is satisfied that services should continue;

12. The SWOCSE receives a written request from the recipient that the services of SWOCSE are no longer required. Where the recipient has requested SWOCSE to discontinue assistance and has secured the services of an attorney or advocate, if requested, a copy of all the pleadings in the file should be made, a new file created with the copies and provided to the Tribal Court for filing. No notice to terminate is required for those instances where the recipient voluntarily requests the SWOCSE to discontinue assistance.
13. The SWOCSE will not attempt to collect on Tribal TANF arrears for those cases where the temporary caretaker received \$500.00 or less of Tribal TANF benefits and the case has been determined to be unenforceable.

All case closures and files must be kept by the SWOCSE for a period of three (3) years, after which the SWOCSE may dispose of the records, except for the Court files.

Source: 45 C.F.R. § 309.85(b)

CHAPTER TWELVE AMENDMENTS AND APPLICABLE LAW

A. Amendments:

These Policies and Procedures may be amended from time to time by the SWOCSE provided such amendments have been approved by the Tribal Council.

B. Applicable Law:

These Policies and Procedures are governed by the SWO Codes of Law and where applicable, federal law. In instances where the Policies and Procedures are in conflict with tribal law or federal law, those laws shall control and the Policies and Procedures may need to be amended to reflect the applicable law. Any affected provision or section superseded by tribal or federal law, shall not affect the remaining provisions or sections.

C. SWO Policies and Procedures:

The SWO has adopted its own Policies and Procedures with regard to tribal employees and the Tribe's Policies and Procedures are applicable to SWOCSE personnel as well. Violations of both or either of the SWOCSE and the Tribe's Policies and Procedures may result in disciplinary action.

GLOSSARY OF CHILD SUPPORT ENFORCEMENT TERMS AND DEFINITIONS

Abandonment: The act of leaving a spouse or child willfully and without intent to return.

Abatement: The act of eliminating or nullifying a claim.

Absent Parent: The parent who does not live with or have custodial rights to the child, but is still responsible for the child, also known as the noncustodial parent.

Accrual: The amount of child support payment that is due or overdue.

Act of Petition: A summary proceeding in which litigants provide brief statements supported by affidavits.

Adjudication: The entry of a judgment, decree or order by a judge based on the evidence submitted by the parties.

Administration for Children and Families: The Agency in the Department of Health and Human Services (DHHS) that houses the federal Office of Child Support Enforcement.

Administrative Procedure: Method by which support orders are made and enforced by an executive agency rather than by courts and judges.

Advocate: A person who assists, defends, pleads, or prosecutes for another.

Affidavit: A voluntary declaration of facts written down and sworn to by the declarant before an officer authorized to administer oaths, such as a notary public.

Amendment: A formal revision or addition proposed or made to a statute, constitution, pleading, order, or other instrument.

Appeal: To seek review.

Arrearage: Past due, unpaid child or spousal support owed by the noncustodial parent.

Assignment of Support Rights: A person receiving public assistance agrees to turn over to the State any right to child support, including arrearages, paid by the obligated parent in exchange for receipt of a cash assistance grant and other benefits.

Case Initiation: The first step in the child support collection process.

Child Support: Financial support paid by an absent parent to help support a child(ren) entered into voluntarily or ordered by a court.

Child Support Enforcement (CSE) Agency: Agency that is operated by state or local government that locates non-custodial parents, establishes, enforces, modifies and collects child support, also known as a IV-D agency.

Chronological Case Summary: A collection of minutes filed through the court, the case summary lists all actions taken during each hearing.

Complaint: Written document filed in court which the person initiating the action names the persons, allegations, and relief sought.

Consent Agreement: Voluntary written admission of paternity or responsibility for support.

Custodial Account: An account opened on behalf of someone else, such as one opened by a parent for a minor child.

Custodial Parent: Person with legal custody and with whom the child lives; may be parent, other relative, or a guardian.

Custody Order: Legal determination which establishes with whom a child shall live.

Default: Failure of a defendant to appear, or file an answer or response in a civil case, after having been served with a summons and complaint.

Default Judgment: Decision made by the court when the defendant fails to respond.

Defendant: Person against whom a civil or criminal proceeding is begun.

Electronic Funds Transfer: Transfer of money from one bank account to another or to a child support agency.

Enforcement: Obtaining payment of a child support or medical support obligation.

Federal Income Tax Offset Program: A program under the Federal Office of Child Support Enforcement which makes available to state CSE agencies a route for securing the tax refund of parents who have been certified as owing substantial amounts of past due child support.

Federal Parent Locator Service (FPLS): A service operated by the Federal Office of Child Support Enforcement to help states locate noncustodial parents in order to obtain child support payments; also used in cases of parental kidnapping related to custody and visitation determinations; this service obtains address and employer information from Federal agencies.

Federally Assisted Foster Care: A program funded in part by the Federal Government under which a child is raised in a household by someone other than their parent.

Finding: A formal determination by a court, or administrative process that has legal standing.

Formal Acknowledgment: A father's recognition of a child as his own by a formal, written declaration that meets a states' requirement for execution.

Full Faith and Credit: A doctrine under which a state must honor an order or judgment entered in another state.

Garnishment: A legal proceeding under which a part of a person's wages and/or assets are withheld for payment of a debt.

Genetic Testing: Analysis of inherited factors (usually by blood or tissue test) of the mother, child, and alleged father which can help to prove or disprove that a particular man fathered a particular child.

Guidelines: A standard method for setting child support obligations based on the income of the parent(s) and other factors as determined by state or tribal law.

Judgment-Roll Appeal: An appeal based only on the pleadings, the findings in court, and the judgment.

Judicial Act: An act involving the exercise of judicial powers. This determines what the law is, and what the rights of the parties are, with reference to transactions already made.

Jurisdiction: Legal authority which a court has over particular persons, certain types of cases, and in a defined geographical area.

Legal Father: A man who is recognized by law as the male parent.

Lien: A claim upon property to prevent sale or transfer until a debt is satisfied.

Long Term Statute: A law which permits one state to claim personal jurisdiction over someone who lives in another state.

Medicaid Program: Federally funded medical support to low income families.

Medical Support: Legal provisions for payment of medical and dental bills.

Noncustodial Parent: A parent who does not have primary custody of the child.

Non-Support: Failure to support a child, spouse or other legal dependent whom one is legally obligated to provide for.

Obligation: Amount of money to be paid as support by the responsible parent and the manner by which it is to be paid.

Offset: Amount of money taken from a parent's state or federal income tax refund to satisfy a child support debt.

Order: Direction of a magistrate, judge or properly empowered administrative officer.

Paternity Judgment: Legal determination of fatherhood.

Plaintiff: Person who brings action, complaint or suit in a civil case.

Presumption of Paternity: A rule of law under which evidence of a man's paternity (e.g., voluntary acknowledgment, genetic test results) creates a presumption that the man is the father of a child. A rebuttable presumption can be overcome by evidence that the man is not the father, but it shifts the burden of proof to the father to disprove paternity.

Probability of Paternity: The probability that the alleged father is the biological father of the child as indicated by genetic test results.

State Parent Locator Service (SPLS): A service operated by the State Child Support Enforcement agencies to locate noncustodial parents.

Statute of Limitations: The period during which someone can be held liable for an action or a debt which varies between jurisdictions.

Stay: An order by a court which suspends all or some of the proceedings in a case.

TANF: Temporary Assistance to Needy Families; time-limited assistance payments to a person or family for living expenses, with eligibility based on need. The Tribal or State program provides parents with job preparation, work and support services to help them become self-sufficient.

Tribal Child Support Enforcement Program: Tribal program that exists to locate noncustodial parents, establish paternity, establish, enforce, modify, collect and distribute child support.

Uniform Interstate Family Support Act (UIFSA) and Reciprocal Enforcement Act (URSEA): Laws enacted at the state level which provide mechanisms for establishing and enforcing support obligations when the non-custodial parent lives in one state and the custodial parent and the children live in another.

Visitation: The legal right of a noncustodial parent to visit or spend time with her or her child(ren).

Voluntary Acknowledgment of Paternity: A voluntary acknowledgement by a man, or both parents, that the man is the father of a child, usually provided in writing on an affidavit or form.

Wage Withholding: A procedure by which automatic deductions are made from wage or income to pay child support; it may be voluntary or involuntary.

Updated by;

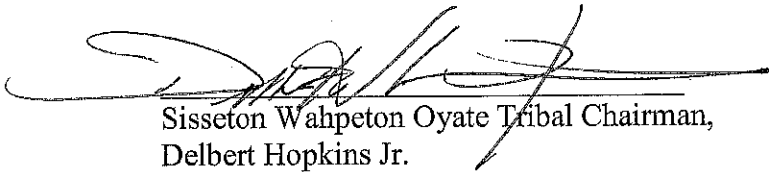
Diana Canku

SWOCSE Director,
Diana Canku, PhD

5/17/21

Date

Approved by;


Sisseton Wahpeton Oyate Tribal Chairman,
Delbert Hopkins Jr.

5-17-21

Date