

## REQUIRED CHANGES TO TRIBAL IV-D PLANS

Regulation Cite	Change in or New Requirement	Required Action/Evidence
§309.65(a)(2)	The Tribe must provide evidence that procedures are in place for accepting all applications and <i>promptly</i> provide services <i>required by law and regulation</i> .	<p><b>No Action Necessary</b> Existing Tribal IV-D programs have already certified that they will accept all applications and provide appropriate services. This is a clarification to an existing requirement. There is no need to change the plan for this requirement, but Tribes should be cognizant of the change.</p>
§309.75(c)	<p>Upon request, custodial parents must be provided with a notice of support collected.</p> <p>The interim rule required quarterly notices for support collected. The final rule changed the requirement to notice at least once a year.</p>	<p><b>Action Necessary</b> Plans must be amended to include procedures to provide custodial parents with notice of support collected upon request.</p> <p><b>No Action Necessary</b> The plan does not need to be changed for this requirement, but Tribes should be cognizant of the change. Tribes may choose to amend their plans to provide notice of support collected at least once a year. Some Tribes may choose to continue to provide notice of support collected on a quarterly basis.</p>

<p>§309.75(e)</p>	<p>New language added to allow Tribes to charge an application fee and recover costs of providing services and to specify requirements should a Tribe opt to do so. The requirements are:</p> <p>(1)The application fee must be uniformly applied by the Tribe or Tribal organization and must be:</p> <p>(i)A flat amount not to exceed \$25.00; or</p> <p>(ii)An amount based on a fee schedule not to exceed \$25.00.</p> <p>(2) The Tribal agency may not charge an application fee in an intergovernmental case referred to the Tribal IV-D agency for services under §309.120.</p> <p>(3) No application fee may be charged to an individual receiving services under titles IV-A, IV-E foster care maintenance assistance or XIX (Medicaid) of the Act.</p> <p>(4) The Tribal IV-D agency must exclude from its quarterly expenditure claims an amount equal to all fees which are collected and costs recovered during the quarter.</p>	<p><b>Action Necessary</b></p> <p>If the Tribal IV-D agency intends to charge an application fee (or recover costs in excess of the fee), the plan must be amended to reflect compliance with these requirements. If the Tribal IV-D agency does not intend to charge a fee, that must be noted in the plan.</p>
<p>§309.80(a)</p>	<p>New language includes titles IV-A and XIX as programs with which IV-D information may be shared.</p> <p>A Tribe or Tribal organization must include in its Tribal IV-D plan safeguarding provisions in accordance with this section: (a) Procedures under which the use or disclosure of personal information received by or maintained by the Tribal IV-D agency is limited to purposes directly connected with the administration of the Tribal IV-D program, or titles IV-A and XIX with the administration of other programs or purposes prescribed by the Secretary in regulations.</p>	<p><b>No Action Necessary</b></p> <p>This is a clarification to an existing requirement. However, Tribes should be cognizant of the change.</p>
<p>§309.80(b)(1)-</p>	<p>The language added to this section is</p>	<p><b>Action Necessary</b></p>

(4)	<p>much more specific about what/how information must be safeguarded. The language reads:  A Tribe or Tribal organization must include in its Tribal IV-D plan safeguarding provisions in accordance with this section:  (b) Procedures for safeguards that are applicable to all confidential information handled by the Tribal IV-D agency and that are designed to protect the privacy rights of the parties, including;  (1) Safeguards against unauthorized use or disclosure of information relating to proceedings or actions to establish paternity, or to establish, modify or enforce support;  (2) Prohibitions against the release of information on the whereabouts of one party or the child to another party against whom a protective order with respect to the former party or the child has been entered;  (3) Prohibitions against the release of information on the whereabouts of one party or the child to another person if the Tribe has reason to believe that the release to believe that the release of the information to that person may result in physical and emotional harm to the party or the child; and  (4) Procedures in accordance with any specific safeguarding regulations applicable to Tribal IV-D programs promulgated by the Secretary.</p>	<p>Tribal IV-D plans must be amended to include provisions for safeguarding of each of the new requirements.</p>
§309.85(a)(4)	<p>The interim final rule did not require maintenance of records on amounts owed and arrearages. The final rule requires maintenance of records on amounts owed and arrearages.</p>	<p><b>Action Necessary</b>  The plan must be amended to include maintenance of these records.</p>
§309.85(a)(5)	<p>The interim final rule did not specifically require maintenance of records on IV-D program expenditures. This is required in the final rule.</p>	<p><b>Action Necessary</b>  The plan must be amended to include maintenance of IV-D program expenditure</p>

§309.85(a)(6)	The interim final rule did not address fees. The final rule requires maintenance of records on any fees charged and collected, if applicable.	records.  <b>Possible Necessary Action</b> If the Tribal IV-D program opts to charge fees or recover costs, the plan must be amended to include maintenance of records on any fees charged and collected and costs recovered.
§309.90(a)(4)	The final rule requires that a Tribal IV-D plan include copies of Tribal law, code, regulation, and/or other evidence that provides for the location of custodial parents and noncustodial parents. The interim rule only required location of noncustodial parents.	<b>Action Necessary</b> If appropriate, Tribe may need to pass a law or regulation for this provision. Copies of the change in law, code, and/or regulation must be submitted to assure compliance with this requirement.
§309.90(b)	The change to this provision clarifies that Tribal custom or common law may enable the Tribe to satisfy the requirement for copies of laws.	<b>No Action Necessary</b> This is a clarification to an existing requirement. However, Tribes should be cognizant of the change.
§309.95	The final rule added the requirement to locate custodial parents and their income and assets.	<b>Action Necessary</b> The Tribal IV-D plan must be amended to include provisions governing the location of custodial parents and their income and assets.
§309.100(a)(3)	The final rule added the requirement for genetic testing upon the request of either party in a contested paternity case (unless otherwise barred by Tribal law) if the request is supported by a sworn statement by the party- <ul style="list-style-type: none"> <li>(i) Alleging paternity, and setting forth facts establishing a reasonable possibility of the requisite sexual contact between the parties; or</li> <li>(ii) Denying paternity, and setting forth facts establishing a reasonable</li> </ul>	<b>Action Necessary</b> The Tribal IV-D plan must be amended to include the provision for genetic testing in a contested paternity case.  <b>Possible Necessary Action</b> May require amendment to Tribal law or regulation for paternity establishment.



§309.105(a)(4)	The interim final rule required that child support guidelines be reviewed and revised, if appropriate, at least once every three years. The final rule requires the review and revision, if appropriate, every four years.	<b>No Action Necessary</b> The plan does not need to be changed for this requirement, but Tribes should be cognizant of the change. Tribes may choose amend their plans to reflect this review requirement.
§309.110(a)	The new language in the final rule at §309.05 defines income as <i>any periodic form of payment due to an individual, regardless of source, except that a Tribe may expressly decide to exclude per capita, trust, or Individual Indian Money (IIM) payments.</i>  §309.110 reads: A Tribe or Tribal organization must include in its Tribal IV-D plan copies of Tribal laws providing for income withholding in accordance with this section. (a) In the case of each noncustodial parent against whom a support order is or has been issued or modified under the Tribal IV-D plan, so much of his or her income, as defined in §309.05, must be withhold as is necessary to comply with the order.	<b>Action Necessary</b> The regulation at §309.110 requires Tribal IV-D plans to include copies of Tribal laws providing for income withholding in accordance with this section.  The Tribal IV-D plan must be amended to indicate whether or not the Tribe excludes per capita, trust or IIM payments from the definition of income.
§309.110(c)	Language was added to clarify that the total amount of withholding may be set at an amount lower than the maximum amount permitted under the Consumer Credit Protection Act.	<b>Action Necessary</b> Tribal plans must be amended to indicate the maximum amount of withholding the Tribal IV-D agency permits, not to exceed the CCPA limit. Copies of applicable Tribal laws must be submitted.
§309.110(h)	The final rule allows an exception to income withholding. Income is not subject to withholding in any case where: (1) Either the custodial or	<b>Action Necessary</b> Tribal plans must be amended to recognize the exception to income

	<p>noncustodial parent demonstrates, and the tribunal enters a finding, that there is good cause not to require income withholding; or</p> <p>(2) A signed written agreement is reached between the noncustodial and custodial parent, which provides for an alternative arrangement, and is reviewed and entered into the record by the tribunal.</p>	<p>withholding included in the final rule. Copies of applicable Tribal laws and regulations must be submitted.</p>
§309.110(m)	<p>The final rule added a requirement that the Tribal IV-D agency must allocate withheld amounts across multiple withholding orders to ensure that in no case shall allocation result in a withholding for one of the support obligations not being met.</p>	<p><b>Action Necessary</b> Tribal plans must be amended to include the allocation of withholding across multiple withholding orders. Copies of applicable Tribal laws must be submitted.</p>
§309.110(n)	<p>The final rule added a requirement that the Tribal IV-D agency is responsible for receiving and processing income withholding orders from States, Tribes, and other entities and ensuring that the orders are properly and promptly served on employers within the Tribe’s jurisdiction.</p>	<p><b>Action Necessary</b> Tribal plans must be amended to provide that the Tribal IV-D agency will receive and process income withholding orders from States, Tribes, and other entities in accordance with FFCCSOA. Copies of applicable Tribal laws must be submitted.</p>
§309.115	<p>The section on distribution was rewritten in the final rule. To avoid any misunderstanding, the regulation language is duplicated in this chart</p> <p>(a)<i>General Rule:</i> The Tribal IV-D agency must, in a timely manner:</p> <p>(1)Apply collection first to satisfy current support obligations, except as provided in paragraph (e) of this section; and</p> <p>(2)Pay all support collections to the family unless the family is currently receiving or formerly received assistance</p>	<p><b>Action Necessary</b> Tribal plans must be amended to provide that the Tribe will distribute collections in accordance with this section.</p>

	<p>from the Tribal TANF program and there is an assignment of support rights to the Tribe's TANF agency, or the Tribal IV-D agency has received a request on behalf of the family from a State or Tribal IV-D agency.</p> <p>(b) <i>Current Receipt of Tribal TANF</i>: If the family is currently receiving assistance from the Tribal TANF program and has assigned support rights to the Tribe and:</p> <p>(1) There is no request for assistance in collecting support on behalf of the family from a State or Tribal IV-D agency under §309.120 of this part, the Tribal IV-D agency may retain collection on behalf of the family, not to exceed the total amount of Tribal TANF paid to the family. Any remaining collections must be paid to the family.</p> <p>(2) There is a request for assistance in collecting support on behalf of the family from a State or Tribal IV-D agency under §309.120 of this part, The Tribal IV-D agency may retain collections, not to exceed the total amount of Tribal TANF paid to the family. Except as provided in paragraph (f) of this section, the Tribal IV-D agency must send any remaining collections, as appropriate, to the requesting State IV-D agency for distribution under section 457 of the Act and 45 CFR 302.51 or 302.52, or to the requesting Tribal IV-D agency for distribution in accordance with this section.</p> <p>(c) <i>Former Receipt of Tribal TANF</i>: If the family formerly received assistance from the Tribal TANF program and there is an assignment of support rights to the Tribe and:</p> <p>(1) There is no request for assistance in collecting support from a State or Tribal IV-D agency under §309.120 of this part, the Tribal IV-D agency must pay</p>	
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	<p>current support and any arrearages owed to the family to the family and may retain any excess collections, not to exceed the total amount of Tribal TANF paid to the family. Any remaining collections must be paid to the family.</p> <p>(2) There is a request for assistance in collecting support from a State or Tribal IV-D agency under §309.120 of this part, the Tribal IV-D agency must send all support collected, as appropriate, to the requesting State IV-D agency for distribution under section 457 of the Act or 45 CFR 302.51 or 302.52, or to the requesting Tribal IV-D agency for distribution under this section, except as provided in paragraph (f) of this section.</p> <p>(d) <i>Requests for Assistance from State or Tribal IV-D Agency:</i> If there is no assignment of support rights to the Tribe as a condition of receipt of Tribal TANF and the Tribal IV-D agency has received a request for assistance collecting support on behalf of the family from a State or Tribal IV-D agency under §309.120 of this part, the Tribal IV-D agency must send all support collected to either the State IV-D agency for distribution in accordance with section 457 of the Act and 45 CFR §302.51 and §302.52, or to the Tribal IV-D agency for distribution under this section as appropriate, except as provided in paragraph (f) of this section.</p> <p>(e) <i>Federal Income Tax Refund Offset Collections:</i> Any collections received based on Federal income tax refund offset under section 464 of the Act and distributed by the Tribal IV-D agency must be applied to satisfy child support arrearages.</p> <p>(f) <i>Option to Contact Requesting Agency for Appropriate Distribution:</i> Rather than send collections to a State or another Tribal IV-D agency for distribution as required under §309.115</p>	
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	(b)(2), (c)(2) and (d), a Tribal IV-D agency may contact the requesting State IV-D agency to determine the appropriate distribution under section 457, and distribute collections as directed by the other agency.	
§309.120(a)	The final rule requires Tribal IV-D programs to extend the full range of services available under the IV-D plan to respond to all requests from, and cooperate with, State and other Tribal IV-D agencies. The interim rule did not specify that a Tribal IV-D agency had to extend the full range of services available under the Tribal IV-D plan.	<b>Action Necessary</b> The Tribal IV-D plan must be amended to provide that the Tribe will comply with this requirement.