

CHAPTER XI: WAGE INCOME WITHHOLDING AND EMPLOYER RESPONSIBILITIES (45 CFR 309.65(a)(11))

45 CFR 309.65(a)(11) Procedures for income withholding as specified under §309.110.

Note: Copies of all code and/or forms referred to in this chapter can be found in the appendix section at the end of the chapter.

A. FORT BELKNAP CHILD SUPPORT PROGRAM POLICY REGARDING WAGE INCOME WITHHOLDING PAYMENT TOWARDS CURRENT SUPPORT AND CHILD SUPPORT ARREARS

The Fort Belknap Child Support Program policy is to:

1. Seek child support obligations in accordance with the governing Fort Belknap Child Support Code and Child Support Guidelines.
2. Enforce all received court orders including wage income withholding provisions in accordance with the Fort Belknap Law and Order Code.
3. Seek child support orders with provisions for current child support as well as an amount for child support arrearages, if there are any.
4. Seek wage income withholding in accordance with the Fort Belknap Law and Order Code provision regarding maximum wage garnishments.
5. Enforce wage income withholding provision in recognized child support orders from other state or tribal jurisdictions in accordance with the Fort Belknap Law and Order Code provision regarding maximum allowable garnishments from employee wages and/or other income and/or in accordance with the Consumer Credit Protection Act, 15 U.S.C. 1673(b) or applicable state/tribal code provisions.
6. Enforce wage income and/or per capita withholding provisions in accordance with the procedural due process requirements established under the applicable provisions of the Fort Belknap Law and Order Code as it relates to enforcement of child support orders.
7. Promptly refund any child support monies improperly withheld.
8. Promptly terminate wage income withholding orders in cases where there is no longer a current child support obligation and where all child support arrearages have been satisfied.
9. Seek appropriate sanctions against any employer who fails to withhold wage income in accordance with a Fort Belknap Child Support Program wage income withholding request including filing a contempt action against the employer for all appropriate remedies including but not limited to a judgment for the accumulated amount the employer should have withheld from the employee's wages in compliance with the wage income withholding order.
10. Not use wage income withholding orders if the FBIC Court orders an alternative child support payment arrangement between the parties. The Child Support Program reserves the right to

seek a wage income withholding order in the event that the obligor parent/party is at least one month behind in his/her current child support obligation.

11. Defend, on behalf of the FBIC, all contested wage income withholding actions in accordance with the FBIC Law and Order Code which only allows the contesting of such an order on the basis of a mistake of fact which is defined to mean "an error in the amount of current or overdue support or in the identity of the alleged non-custodial parent."
12. Take appropriate action including seeking a fine against employers who are found to have violated FBIC Law and Order Code by discharging a non-custodial parent from employment, refusing to employ, or taking disciplinary action against any non-custodial parent because of the FBIC wage income withholding order.
13. Initiate wage income withholding by sending the non-custodial parent's employer a notice using the standard Federal wage income withholding form as adopted by the FBIC Court.
14. Appropriately allocate all received child support payments across multiple wage income withholding orders to ensure that all cases receive the appropriate allocation of collected child support.
15. Receive and process wage income withholding orders from States, Tribes and other entities and to ensure that these orders are promptly and properly served on all employers licensed to conduct business on the Fort Belknap Reservation.

B. PAYMENT OF CHILD SUPPORT OBLIGATION

FBIC Court ordered child support payments shall be made to the Fort Belknap Child Support Program for distribution to the appropriate recipient as provided for in Fort Belknap Law and Order Code Title V Part V § 9-7.04 unless the Court orders direct payment to the custodial parent/legal guardian or to another party/entity.

If the child and/or custodial parent/legal guardian receives financial assistance from a tribe or state public assistance agency, the FBIC Court shall order the payor parent make child support obligation to the tribe or agency at the request of that tribe or agency.

If the custodial parent/legal guardian seeks enforcement assistance from the Fort Belknap Child Support Program, FBCSP may require that the payor parent make child support payments directly to the Fort Belknap Child Support Program.

If the Fort Belknap Child Support Program becomes aware that a child is no longer living with the person receiving the child support payment, the Fort Belknap Child Support Program or the payor party may request a review hearing to determine to whom the child support payments should be disbursed.

C. DISABILITY AND RETIREMENT BENEFITS PAID TO CHILD

When disability dependency benefits or dependency retirement benefits are paid on behalf of or on account of the child of a disabled or retired person, the amount of compensation paid for the child shall be treated for all purposes as if the disabled or retired paying parent paid the compensation toward satisfaction of the child support obligation and the amount paid shall be included in the Guidelines Income for the payor parent.

If the amount paid to the child exceeds the current child support obligation of the disabled or retired person, such excess shall be credited against any child support arrearages accruing after disablement or retirement.

If the child benefits are in excess of the child support obligation, the excess is not to be credited against any future child support obligation and is not to be returned to the disabled or retired person. All excess is to remain with the child.

When a child receives benefit payments directly from the Social Security Administration, the Veterans Administration, Labor and Industries (unemployment or Worker's Compensation) or other similar entities as a result of contributions made by the payor party, a credit shall be given to the payor party to offset all or part of the child support obligation in the amount of the benefit payment.

The FBIC Court shall indicate in the child support order, the total child support obligation and the amount that shall be covered by benefit payments made directly to the child and/or the child's legal guardian. If the benefit payment is more than the current child support obligation, the difference shall be credited against any arrears owed to the child's legal guardian which have not been assigned to a state or tribal government entity.

D. ENFORCEMENT OF CHILD SUPPORT ORDERS

1. Motion to Enforce Child Support Order

- a. A parent, guardian or the Fort Belknap Child Support Program may file a motion to enforce a child support order if the payor party is at least one-month delinquent in paying a child support obligation (monthly support, work-related day care and/or out-of-pocket health/medical costs.)
- b. The motion shall include a copy of the child support order and an affidavit or declaration stating the length of time the child support obligation is overdue or facts supporting a history of non-compliance with the provisions of the child support order, the amount of child support arrearages and a request for relief.
- c. Service of the motion to enforce child support order shall be in accordance with the service of process provisions of Fort Belknap Law and Order Code.
- d. Upon filing the motion, supporting documents and the payment of all applicable filing fees, the Clerk of the Court shall set the matter for hearing and the party filing the motion shall serve the non-moving party(s) with a copy of all filed pleadings and the Notice of Hearing.

2. Burden of Proof

The moving party has the burden of proving by a *preponderance of the evidence* that the child support obligation is overdue or that the payor party has a history of non-compliance with the child support order.

3. Order for Enforcement of Child Support

- a. If the FBIC Court finds that the moving party has met its burden of proof, the Court shall enter an order for enforcement.

- b. The FBIC Court may order the withholding of the payor party's wages and/or any other reasonable means of enforcing the child support order.
- c. The FBIC Court may also order the withholding of the payor party's wages in an amount equal to one month's child support obligation if the child support obligation is at least thirty (30) days overdue or there is a history of non-compliance or child support is overdue at the time of the hearing.

4. Reasonable means of Enforcing a Child Support Order

The following is a non-inclusive list of other reasonable means of enforcing a child support order that may be used/requested by the Fort Belknap Child Support Program:

- a. A federal Income Tax Refund Offset in favor of the Fort Belknap Child Support Program or the moving party.
- b. Attachment of the non-paying party's assets to the extent allowable by FBIC Law and Order Code.
- c. An order revoking or suspending any business license issued by the FBIC or any other license or privilege granted by the FBIC until payment is made.
- d. An order requiring the FBIC, an enterprise of the FBIC or another person or entity to remit to the moving party or to the Fort Belknap Child Support Program any contract or other non-wage payments owed to the non-paying party.
- e. An order intercepting state or federal unemployment compensation payments, labor and industry payments or Social Security benefits where authorized.

5. Assets That CANNOT be Attached for Purposes of Enforcing a Child Support Order

The following is a non-inclusive list of assets/resources that may be exempt from attachment for purposes of enforcing a child support order:

- a. TANF benefits and SSI payments.
- b. Tools, equipment, boats, gear, vehicles, instruments and materials *but only* if actually and currently being used in the course of the payor party's employment or to generate income.
- c. Provisions and fuel for maintenance of the non-moving party's home for three (3) months.
- d. Any real trust property and/or trust income under the control of the Bureau of Indian Affairs pursuant to 45 CFR.
- e. A motor vehicle not exceeding \$5000.00 in value.

E. WAGE INCOME WITHHOLDING

1. Enforcement

Wage income withholding shall be the primary means of enforcement of a child support order by the Fort Belknap Child Support Program where a payor party receives wages unless:

- a. The parties agree in writing to alternative payment arrangements and the FBIC Court approves those arrangements;
 - b. The payor party works for a tribe or a tribal entity that has not waived its sovereign immunity for the purpose of wage income withholding to pay child support, in which case, the FBIC Court shall order that party to arrange for immediate wage income withholding of child support with his/her employer;
 - c. Any party demonstrates good cause not to require immediate wage income withholding to pay child support;
 - d. The Court finds that an alternative means of enforcement would be more effective.
1. **Notice to Parties Regarding Wage Withholding Action *when wage income withholding is not in place***

If the FBIC Court does not order immediate wage income withholding, the income of the obligor parent shall become subject to wage income withholding, at the earliest, on the date on which the payments which the obligor parent has failed to make under a Tribal Child Support Order are at least equal to the support payable for one month.

ALL Fort Belknap Child Support Orders will contain the following language regarding Wage Withholding Actions putting the parties on notice of this provision.

Wage Withholding Action

Withholding action may be taken against wages, earnings, assets, or benefits including FBIC per capita and/or other distribution payments, and liens enforced against real and personal property under the child support statutes of this or any other jurisdiction, without further notice to the obligor parent at any time after entry of this order unless an alternative provision is made below:

If the court orders immediate wage withholding in a case where Fort Belknap Child Support Program does not provide support enforcement services, a mandatory wage assignment under Title V Part I of the Fort Belknap Law and Order Code must be entered and support payments must be made to the Fort Belknap Child Support Program.

Wage withholding, by notice of payroll deduction or other income withholding action under Fort Belknap Law and Order Code without further notice to the obligor, is delayed until a payment is past due, because:

1. the parties have reached a written agreement that provides for an alternative payment and the court approves this agreement.
2. the Fort Belknap Child Support Program provides support enforcement services for this case and there is good cause not to require immediate income withholding which is in the best interests of the child and, in modification cases, previously

ordered child support has been timely paid.

3. the Fort Belknap Child Support Program does not provide support enforcement services for this case and there is good cause not to require immediate income withholding.

2. Contents of FBIC Wage Income Withholding Order

If the FBIC Court orders wage income withholding, the order shall include:

- a. The amount to be withheld to comply with the current child support order and the frequency of the income withholding;
- b. The amount to be withheld for current support and the amount to be withheld to be applied to past child support, if any;
- c. A requirement that the employer send the withheld amount to the Fort Belknap Child Support Program within five (5) business days of the date the money was withheld;
- d. A requirement that the employer report to the Fort Belknap Child Support Program the date on which the amount was withheld;
- e. A requirement that the employer remit the amount withheld to the Fort Belknap Child Support Program until further notice of the Court;
- f. A requirement that the employer notify the Fort Belknap Child Support Program within five (5) business days of a payor employee's termination of employment for any reason.

3. Service of the Wage Income Withholding Order

The Fort Belknap Child Support Program shall serve the wage income withholding order on the employer by personal service or certified mail/return receipt requested.

4. Statutory Maximum for Wage Income Withholding

Any wage income withheld by the employer may not exceed the maximum amount permitted under any applicable law which may include Fort Belknap Law and Order Code, state law and/or Section 303(b) of the Consumer Protection Act, 15 U.S.C. 1673(b).

5. Contesting Wage Income Withholding Order

The only basis for contesting a wage income withholding order is a *mistake of fact* meaning an error in the amount of the current or past due support or in the identity of the alleged non-custodial parent.

6. Stay of Order for Wage Income Withholding

- a. If the payor party wants to prevent an order for wage income withholding from being served on the payor party's employer or any other person or entity owing money to the payor party, he/she must file a petition/motion requesting the Tribal Court to stay service of the order to withhold wages.

- b. The petition must be filed with the FBIC Court within twenty (20) days after service of the petition/motion for a wage income withholding order.
- c. Grounds for the petition to stay or contest an order of withholding shall be limited to:
 - 1. A mistake of fact meaning an error in the amount of the current or past due support or the identity of the alleged non-custodial parent.
 - 2. Evidence of a court-approved written agreement between the payor party and the other party for an alternative method of payment.
- d. The FBIC Court may stay the order for wage income withholding if it finds that the payor party has met the burden of showing good cause why income should not be withheld. The Tribal Court shall issue written findings stating the reasons for such good cause.

7. Employers and Wage Income Withholding Orders

- a. NO employer licensed to do business on the Fort Belknap Reservation shall refuse to honor a tribal wage income withholding order.
- b. No employer licensed to do business on the Fort Belknap Reservation may discharge, refuse to employ or take disciplinary action against any employee because the employee's wages are subject to wage income withholding for child support.
- c. Any employer licensed to do business with the Fort Belknap Indian Community who fails to comply with a wage income withholding order issued under Fort Belknap Tribal Code shall be fined up to \$1000.00 for failure to comply with a child support order and shall be liable for the accumulated amount the employer should have withheld or remitted to the FBIC Child Support Program and/or to another entity.
 - 1. Failure to withhold income by an employer may be found when:
 - a. The employer fails or refuses, after being served with a wage income withholding order, to deduct promptly and remit from the unpaid earnings of the payor party the amounts of money required in the withholding order;
 - b. The employer fails or refuses to submit an answer to the notice of wage income withholding after being served; OR
 - c. The employer is unwilling to comply with other requirements of Title V of the FBIC Law and Order Code.
 - 2. An employer who repeatedly fails to withhold child support as required under a valid Court order may have his FBIC business license revoked or suspended until compliance is assured.
- d. No employer who complies with a wage income withholding order issued under Fort Belknap Law and Order Code, Title V Part I shall be civilly liable for complying with a child support order.
 - 1. The Fort Belknap Child Support Program may bring a civil action against an employer for violation of Fort Belknap Tribal Code.

2. The burden of proof lies with the petitioner and is by a preponderance of the evidence that an employer violated the provisions of Fort Belknap Tribal Code Chapter 9.

8. Allocation of Wage Withholding Income

The Fort Belknap Child Support Program shall allocate withheld wage income amounts across multiple withholding and/or child support orders in accordance with Fort Belknap Law and Order Code Title V Part I to ensure that all known child support cases receive the appropriate allocation of withheld wages.

9. Tribal and Tribal Entity Compliance with Tribal Court Child Support Orders

The FBIC, any FBIC entity and any employer licensed to do business on the Fort Belknap Indian Community must comply with any child support order issued by the FBIC Court to withhold wages or to require any contract or other non-wage payments owed to a party be remitted to another party or to the Fort Belknap Child Support Program.

Failure of the FBIC, any FBIC entity and any employer licensed to do business on the Fort Belknap Indian Community to comply with a valid Child Support Order could subject the employer to sanctions under the FBIC Law and Order Code.

10. Duty to Process Foreign Wage Withholding Orders

The Fort Belknap Child Support Program shall review wage or income withholding orders from other states or tribes and comply with FBIC code and/or policies and procedures in obtaining enforcement of those wage income withholding orders in accordance with the applicable law.

11. Refunds of Wage Income Withholding

The Fort Belknap Child Support Program shall promptly refund any improperly withheld wage income withholding to the employer and/or the payor party.

12. Termination of Wage Income Withholding Order

The Fort Belknap Child Support Program will promptly terminate wage income withholding orders in cases where there is no longer a current order for support and/or all child support arrearages have been satisfied.

F. TEMPORARY ASSISTANCE TO NEDY FAMILIIES (TANF) and RECIPIENT'S TRANSFER OF RIGHTS (ASSIGNMENT)

1. Purpose of Transfer of TANF Recipient's Rights to Child Support

The child support rights of a child who received Fort Belknap TANF are transferred (assigned) to the FBIC because the FBIC is providing support for the child during a time period when child support payments should be helping to support the child. When child support payments are made on an irregular basis, a family has no financial stability.

The FBIC can assist the family achieve financial independence by providing reliable, predictable TANF assistance while collecting child support owed to the child. When child support payments are made to the Fort Belknap Child Support Program through an assignment, the payments are not counted as income of the TANF recipient and therefore they do not cause fluctuations in his/her

TANF grant. The payor party's financial connection with the child is maintained through the child support pass-through where applicable.

2. Assignment of Rights to Child Support

When a child receives Temporary Assistance to Needy Families (TANF) from the Fort Belknap TANF Program, the rights to child support for the time period that the child is on a TANF grant are deemed automatically and permanently assigned to the FBIC.

3. Nature of Rights to Child Support Assigned

- a. The TANF rights assigned to the FBIC under Fort Belknap Law and Order Code are either *temporary or permanent*.
- b. A *temporary assignment* is an assignment of rights to past child support due before a family began receiving TANF assistance. Child support under a temporary assignment may be collected and held by the FBIC, but it may not be used to reimburse the FBIC for the child's TANF grant. While it is held by the FBIC, it shall not be considered an asset of the family.

The **temporary** assignment terminates when the child stops receiving TANF cash assistance and any funds collected by the Tribe while the child was on TANF shall be paid to the appropriate payee under the child support order.

- c. A *permanent assignment* is an assignment of rights to past, present and future child support due for the time period where the family received TANF cash assistance. The transfer of these rights is **permanent**. The amount of the assignment is limited to the amount of TANF cash assistance received for the child covered by the child support obligation or the child support obligation for the child during the time period the child was on a TANF grant, whichever is less.

The TANF assignment terminates when the child stops receiving TANF case assistance. Child Support payments retained by the Fort Belknap Child Support Program under a permanent assignment shall be used for the benefit of Fort Belknap Tribal children and their families by reimbursing the FBIC TANF Program for collected child support up to the amount of the TANF cash assistance award for the child.

4. Child Support Pass-Through for TANF Recipients

Child Support payments received by the Fort Belknap Child Support Program under an assignment may be used to provide a pass-through payment to the TANF recipient on behalf of the child and shall not be considered income for purposes of TANF eligibility or counted against the amount of the TANF grant. A pass-through is allowed only if the Fort Belknap Indian Community Council authorizes a uniform pass-through payment policy by resolution.

CHAPTER XII: COLLECTION, DISTRIBUTION AND DISBURSEMENT OF CHILD SUPPORT COLLECTIONS (45 CFR 309.65(a)(12))

45 CFR 309.65(a)(12) Procedures for the distribution of child support collections as specified under §309.115

Note: Copies of all code and/or forms referred to in this chapter can be found in the appendix section at the end of the chapter.

A. FORT BELKNAP CHILD SUPPORT PROGRAM POLICY REGARDING COLLECTION, DISTRIBUTION AND DISBURSEMENT OF CHILD SUPPORT COLLECTIONS

POLICY

It is the objective of FBCSP to distribute support collections as quickly as possible while maintaining the highest standard of financial accountability.

1. Collections from Employers or Sent by Mail

a. All child support related debts will be made payable to the Fort Belknap Child Support Program. FBCSP shall maintain a separate PO Box specifically designed for child support collections and any other correspondence directly related to collection and distribution of support.

b. The Receptionist/File Clerk will be responsible for checking the PO Box, and logging in payments daily. The Finance Specialist will receive and post the payments (Payment Log). After all payments are logged, the Finance Specialist shall post the payment. The post must include:

1. Amount received;
2. Date received;
3. Type of payment (cash, money order, or check);
4. Check or money order number;
5. Person/entity from whom it was received;
6. Name of payer the case number the payment is being made on;
7. Signature of the FBCSP person receiving the payment.

c. The Financial Manger shall create a collection log daily (Collection Log) and the FBCSP Director shall verify and approve the form. The Office Manager shall make the collection deposit daily.

2. Payments received in person

a. The receptionist/file clerk shall prepare a "Receipt" from the receipt book showing:

1. Amount received;
2. Date of receipt;
3. Type of payment (cash, money order, or cashier check);
4. Cashier check or money order number;
5. Person/entity from whom it was received;
6. Name and case number of the CP;

7. Children on whose behalf payment was received; and
 8. Signature of the FBCSP person receiving the payment.
- b. Provide the original to the person paying, copy to Finance with requisition, a copy to Case Specialist , a copy to the Finance Specialist and a copy remains in the receipt book.
 - c. The Receptionist/File Clerk shall post the transaction to the Payment Log and show the following:
 1. Receipt number;
 2. Date received;
 3. Type of payment (cash, money order, or check);
 4. Person/entity from whom it was received;
 5. Name and case number of the CP;
 6. Amount received;
 7. Name of the FBCSP person that received the payment; and
 8. Signature/Date of when passed to Finance Specialist

3. In-kind payments

In-kind payments reported by the parties will be receipted according to the terms and conditions of the court order based on the Tribal court approved cash value assignment of the non-cash services and/or resources.

- a. Provide the original to the person paying, a copy to the Finance Specialist, and a copy remains in the receipt book.
- b. The Receptionist/File Clerk shall post the transaction to the payment log and show the following:
 1. Receipt number;
 2. Date received;
 3. Type of payment (In-kind);
 4. Person/entity from whom it was received;
 5. Name and case number of the CP;
 6. Amount received; and
 7. Name of the CSP person that received the payment.
 8. Signature/Date of when passed to Finance Specialist.

4. Payments received in error

In the event that child support payments are received in error, the Finance Manager will research the case and if appropriate, immediately issue a check to refund the payee.

5. Requests for Assistance from Tribal and State IV-D Agencies

If there is a request for assistance in collecting support from a Tribal or State IV-D agency under federal regulation § 309.120, the Fort Belknap Child Support Program will send all collected support, as appropriate to the requesting Tribal or State IV-D agency for distribution in accordance with that jurisdiction's governing code.

If there is no assignment of rights to the Fort Belknap Tribe as a condition of receipt of Tribal TANF and the Fort Belknap Child Support Program has received a request for assistance in collecting child support on behalf of the family from another Tribal or State IV-D agency under federal regulation § 309.120, the Fort Belknap Child Support Program will send collected support to the appropriate IV-D agency for distribution in accordance with the applicable governing code.

6. Federal Income Tax Refund Offset Collections

The Fort Belknap Child Support Program will seek State IV-D agency assistance when appropriate for receipt of federal income tax refund monies. All received federal income tax refund monies will be applied to satisfy child support arrearages.

B. CHILD SUPPORT DISTRIBUTION PROCEDURES

POLICY

The Fort Belknap Child Support Program shall process all child support monies received in a timely and accurate manner in accordance with the following distribution preference. The FBCSP Finance Specialist or designee is responsible for properly distributing and disbursing all child support monies collected to the proper NCP accounts and to the proper CP recipients.

1. Distribution of Child Support Payments

a. Collected Child Support from Any Source

Except as provided in subsection (3), child support payments made to the Fort Belknap Tribe shall be distributed in the following order of preference within each child support case:

1. Payment of current support owed to the custodial party/parent;
2. Payment of arrears owed to the custodial party/parent;
3. Payment of transferred or assigned arrears to the Fort Belknap Tribe, a state or another tribe.

b. Establishing a Client Account

1. FBCSP is prohibited from altering the terms or sub-accounts of a Client account without a legal order. Client Accounts shall be set up by the payer's last name, first name case number, CP name.
2. Once an order is established, within three (3) days the case specialist shall complete a referral for the Finance Specialist. Within two (2) days the Finance Specialist shall
 - a. set up the client account and obligations according to the child support order;
 - b. calculate arrears as of the date the Finance Specialist sets up the client account;
 - c. release any collections that are in the account according to the terms of the account;
 - d. Ensure all account balances are current.
 - e. Ensure the payee address for all payments is current and correct.

c. Distribution if there are multiple child support orders

If the payor party owes child support on more than one case, distribution shall be as follows:

1. Payment as pass-through to a custodial party/parent receiving Tribal TANF as allowed by Tribal resolution:

If there is not enough to pay pass-through to all parties, the available funds shall be pro-rated to each case according to the share of child support for that case to the total current support owed on all cases.

2. Payment for current support:

If there is not enough to pay current support to all parties, the available funds shall be pro-rated to each case according to the share of child support for that case to the total current support owed on all cases.

3. Arrears:

If there is money left over after all pass-through and current support has been paid, the available funds shall be applied to the arrears owing on all cases, pro-rated to each case according to the share of child support arrearages for that case to the total current support arrearages owed on all cases.

2. Temporary Assistance to Needy Families (TANF) and Recipient's Transfer of Right (Assignment)

a. Purpose of Transfer of TANF Recipient's Rights to Child Support

The child support rights of a child who received Fort Belknap Tribal TANF are transferred (assigned) to the Tribe because the Tribe is providing support for the child during a time period when child support payments should be helping to support the child. When child support payments are made on an irregular basis, a family has no financial stability.

The Tribe can assist the family achieve financial independence by providing reliable, predictable TANF assistance while collecting child support owed to the child. When child support payments are made to the Tribal Child Support Program through an assignment, the payments are not counted as income of the TANF recipient and therefore they do not cause fluctuations in his/her TANF grant. The payor party's financial connection with the child is maintained through the child support pass-through where applicable.

b. Assignment of Rights to Child Support

When a child receives Temporary Assistance to Needy Families (TANF) from the Fort Belknap Tribal TANF Program, the rights to child support for the time period that the child is on a TANF grant are deemed automatically and permanently assigned to the Fort Belknap Tribe.

c. Nature of Rights to Child Support Assigned

The TANF rights assigned to the Fort Belknap Tribe under Tribal Code Chapter 9 are either *temporary or permanent*.

1. A *temporary assignment* is an assignment of rights to past child support due before a family began receiving TANF assistance. Child support under a temporary assignment may be collected and held by the Fort Belknap Tribe, but it may not be used to reimburse the Tribe for the child's TANF grant. While it is held by the Tribe, it shall not be considered an asset of the family. The *temporary* assignment terminates when the child stops receiving TANF cash assistance and any funds collected by the Tribe while the child was on TANF shall be paid to the appropriate payee under the child support order.
2. A *permanent assignment* is an assignment of rights to past, present and future child support due for the time period where the family received TANF cash assistance. The transfer of these rights is *permanent*. The amount of the assignment is limited to the amount of TANF cash assistance received for the child covered by the child support obligation or the child support obligation for the child during the time period the child was on a TANF grant, whichever is less. The TANF assignment terminates when the child stops receiving TANF case assistance.

Child Support payments retained by the Fort Belknap Child Support Program under a permanent assignment shall be used for the benefit of Fort Belknap Tribal children and their families by reimbursing the Fort Belknap Tribal TANF Program for collected child support up to the amount of the TANF cash assistance award for the child.

d. Child Support Pass-Through for TANF Recipients

Child Support payments received by the Fort Belknap Child Support Program under an assignment may be used to provide a pass-through payment to the TANF recipient on behalf of the child and shall not be considered income for purposes of TANF eligibility or counted against the amount of the TANF grant. A pass-through is allowed only if the Fort Belknap Tribal Council authorizes a uniform pass-through payment policy by tribal resolution.

3. Federal Income Tax Refund Offset

- a. The Fort Belknap Child Support Program has authority to:
 1. Receive funds certified by a state under the Federal Income Tax Refund Offset Program and owed on a Fort Belknap Tribal child support case;
 2. Request that a state certify a Fort Belknap child support case to the Federal Income Tax Refund Offset Program;
 3. Certify a Fort Belknap child support case to the Federal Income Tax Refund Program.
- b. The Fort Belknap Child Support Program may assist Fort Belknap tribal families with filing claims with the Federal Income Tax Refund Offset Program when appropriate.

4. Requests for Assistance from a State or Tribal IV-D Agency

- a. The Fort Belknap Child Support Program will respond in a timely manner to any requests for assistance in collecting support on behalf of a family from another Tribe or State IV-D Agency under federal regulation § 309.120.

- b. If there is a request for assistance from a State or Tribal IV-D Agency AND the family is currently on Tribal TANF, the Fort Belknap Child Support Program will retain child support collected up to the amount of Tribal TANF paid to the family. Any remaining collections will be sent to the Tribal IV-D or State IV-D agency for distribution in accordance with that jurisdiction's governing code.
- c. If there is a request for assistance from a State or Tribal IV-D Agency AND the family was a former recipient of Tribal TANF, the Fort Belknap Child Support Program will send all collected support, as appropriate, to the requesting Tribal or State IV-D agency for distribution in accordance with that jurisdiction's governing code.
- d. If there is a request for assistance from a State or Tribal IV-D Agency AND there is no assignment of rights to the Fort Belknap Tribe as a condition of receipt of Tribal TANF, The Fort Belknap Child Support Program will send collected support to the appropriate IV-D agency for distribution in accordance with the applicable governing code.

5. Federal or State Benefits/Payments

The Fort Belknap Child Support Program has authority to take all necessary steps and to enter into all necessary agreements with states and the federal government to allow it, the Tribal Court or a Fort Belknap tribal family to intercept, attach or receive a payer party's federal or state unemployment compensation payments, labor and industry payments, and allowable Social Security benefits.

C. DISBURSEMENT

POLICY

The Fort Belknap Child Support Finance Specialist will distribute child support payments received in a timely manner and accurate manner.

1. Once the Finance Specialist distributes the money to the proper client account, the money will be deposited in the Child Support checking account. All monies received at the FBCSP office are to be timely deposited in the banking institution used by FBCSP.
2. Deposits shall be maintained in a separate fire proof lock box for payments received in the office. Two parties must be present whenever the lock box is opened. The Director will ensure that the safe combination is changed every 90 days or when an FBCSP employee leaves the program, whichever is sooner.
 - a. The lock box shall only be opened to place payments in the lock box, to verify and approve payments and the Payment Log prior to transporting funds for deposit.
 - b. Payments/deposits shall be transported each day no later than 4:30 pm.
 - c. The Director and one other employee shall have access to the combination for the lock box.
 - d. Obtain a Tribal police escort if the deposit is greater than \$2,500; and
3. Any collections received after the daily deposit shall be placed in the lock box and logged in as received the next business day.
 - a. The Finance Specialist will prepare a Deposit Log for collections received daily. A second party verification process will be used to verify all receipts, balances and deposits of received child support payments.
 - b. When money and check request have been safely deposited or delivered to the Finance Office, all transactions are subject to the Fort Belknap Finance Policy and Procedures.
 - c. The Finance Staff will perform periodic unannounced administrative case verifications of the funds on hand and the FBCSP no less than 90 days.
4. The Finance Specialist shall request a printed check by completing a Requisition and submitting it to the designated staff of the Tribal Finance Office. The designated Finance Office staff will process the check and return the check to FBCSP Finance Specialist.
 - a. The Finance Specialist shall log (Check Disbursement Log) in each check received from the Tribal Finance Office and place the check Request Form in the folder for that month.
 - b. Any checks that cannot be mailed on the date they are received shall be placed in the FBCSP lock box.
 - c. The Finance Specialist shall perform the following duties and the IV-D Director shall approve the duties prior to mailing a support disbursement:
 1. Compare checks processed by the Tribal Finance Office to the FBCSP Requisition Log.
 2. Perform reconciliation between the amount of the disbursement check, the deposits in the Client Account for that month to ensure that the amount collected for that month, is the amount being disbursed. Notify the Director of any discrepancies immediately.
 3. Perform a cross-check of the address for each payee.
 4. Post all payments to the appropriate Client Account as "DS" for distributed and the date.
 - d. The Office Manager shall print the envelopes with the names and the addresses of the payee for each Client Account and mail all payments, updating the mail log.

1. if for any reason the Office Manager or Finance Specialist are unable to mail the payment on the date the envelope is prepared, the Client Account must be amended to reflect the actual date that the payment was disbursed.
5. Returned Child Support Payments
 - a. The Receptionist/File Clerk when sorting the daily mail, shall:
Identify returned checks and log it in (Returned Check Log), including the Client Account number, check number issued, date on the check, date that the returned check was received, and the address on the envelope and reason, if any, for return.
Once the check is properly logged, the Receptionist/File Clerk shall email the Finance Specialist informing them whenever a returned check is logged in.
The Finance Specialist shall reconcile the return check log and checks daily. The IV-D Director shall approve the reconciliation.
 1. On the day a return check is logged in, the Finance Specialist shall:
 - a. Notify the assigned Case Specialist that the mailing address is invalid and a rush locate is needed (Form C&D, Locate Address)
 - b. Place the client account in suspension for distribution of additional collections until a valid address is located. The Finance Specialist shall continue to apply collections to the appropriate sub-accounts as required in this Chapter.
 - c. Post the amount the returned check back into the client account as a "RC"-returned check, stamp the check "void" and return it to the Tribal Finance Office.
 2. Upon receiving a valid address the Finance Specialist shall submit a check request and follow the procedures set out in this Chapter.
 - a. Any other monthly payments collected in the interim shall also be mailed.
 - b. Up-date the payee's mailing information in the Client Account.
6. Locate for a valid address shall continue every fifteen (15) days for six (6) months. If valid address cannot be found, the Finance Specialist shall suspend collection of obligations (Form-Suspension of Collections).
 - a. The IV-D Director must approve a suspension of Collections.
7. If the CP cannot be located within one (1) year period and all avenues to locate have been exhausted, the Finance Specialist shall make a request to the IV-D Director to either close or suspend the case and release the undistributed funds (Form-Release of Undistributed Funds).
 - a. Upon approval the Financial Manger shall make a check request pursuant to the procedures in this Chapter.
 - b. Post the amount of undistributed collections to the Client Account as "RE"-reimbursement
 - c. If the undistributed funds are on an arrears only case, FBCSP may close the case. If a portion of the collections are for current custodial support, the case shall be suspended.
 - d. Payment for undistributed collections must be mailed by "Return Receipt/Signature Required" or the NCP may sign for them at the FBCSP office (Form-NCP Reimbursement).
8. Other Suspensions
 - a. The Finance Specialist, on a weekly basis, shall also be responsible for processing and tracking payments placed in suspension.

- b. Payment of collections may be suspended, in addition to an invalid address, for:
 - MRS – Modification resulting in Reduced Support
 - CIP – Change in Primary Placement/Custody
 - CAM – Child reaches Age of Majority
 - IWH – Invalid Income Withholding

- c. Upon resolution of the suspension category, within three (3) days the Finance Specialist shall make any required updates to the Client Account, including but not limited to:
 - 1. Up-date the Client Account terms based upon a legal IV-D order.
 - 2. Reconciliation of the Client Account (and sub-accounts) from the date of suspension, entering into the appropriate log, and certification of the Client Account.
 - 3. Distribute the suspended funds, and any other monthly payments collected in the interim of the suspension, in compliance with this Chapter for check distribution.
 - 4. A client’s account may be closed, in addition to the inability to distribute collections as set out in this Chapter, when the child has reached the age of majority and there are no arrears due to the custodial parent.

- d. Collections and distributions shall be itemized by month.

D. PROVIDING PAYMENT HISTORY INFORMATION

POLICY

The Fort Belknap Child Support Program will annually, by calendar year, provide all families for whom child support services are provided with a notice of support collected itemized by month of collection.

Additionally, upon request for a payment history by the non-custodial or custodial parent/guardian, FBCSP staff will timely provide a payment history statement to the requesting party.

All other requests for a payment history must be in accordance with the FBCSP Release of Information Policy and Procedures.

1. Annual Payment History

Annual payment history will be by calendar year from January 1st through December 31st of each year.

Annual payment histories should be compiled and mailed out to each party's last known address by pre-paid USPS mail by January 15th of each calendar year.

2. Periodic Payment History Requests

Fort Belknap Child Support Program will honor telephone requests upon verification of the requesting party as well as in-person and written requests.

The appropriate case files are to be noted with the date of the request, the name of the requesting party and the date the request was processed/completed.

Periodic payment history requests should be processed/completed within five (5) business days of receipt.

In-person periodic payment history requests should be processed/completed immediately and given to the requesting party at the time the request is made.

CHAPTER XIII: INTERGOVERNMENTAL CASE PROCESSING
(45 CFR 309.65(a)(13))
(FBIC Law and Order Code, Title V Part V Child Support, Child Custody and Visitation)

45 CFR 309.65(a)(13) Procedures for intergovernmental case processing as specified under §309.120.

A. FORT BELKNAP CHILD SUPPORT PROGRAM INTERGOVERNMENTAL CASE MANAGEMENT POLICY

1. The Fort Belknap Child Support Program will extend the full range of services available in responding to all requests from and cooperate with other State and Tribal IV-D child support programs/requests so far as allowed under the Fort Belknap Law and Order Code, FBCSP Policies and Procedures and so long as the requests do not violate Fort Belknap Indian Community public policy.
2. The Fort Belknap Child Support Program will recognize child support orders issued by other Tribal and State agencies in accordance with the Full Faith and Credit for Child Support Orders Act, 28 U.S.C. 1738B and/or as recognized under Fort Belknap Law and Order Code Full Faith and Credit provisions providing those orders are properly recognized by the Fort Belknap Indian Community Court as foreign judgments and said orders do not violate FBIC Public Policy and/or FBIC law and Order Code.

B. INTERGOVERNMENTAL CASE MANAGEMENT PROCEDURES

1. Recognition of Foreign Judgments and Intergovernmental Case Processing

- a. Full Faith and Credit for Foreign Child Support Orders
 1. Properly issued court and administrative orders, judgments or decrees of other Indian tribes, states or federal agencies that relate to child support will be given full faith and credit pursuant to 28 U.S.C. 1738B and FBIC Law and Order Code Title V Part V 1.74.
 2. Such orders will be considered properly issued when the issuing court or administrative agency had:
 - a. Personal jurisdiction over the person claimed to be bound by the foreign order;
 - b. Subject matter jurisdiction over the matter;
 - c. Proper service of process under the law of the issuing jurisdiction was made on the person;
 - d. The order was issued according to the laws of that jurisdiction; AND
 - e. The order does not violate the public policy of the Fort Belknap Indian Community.
 3. A foreign order is authenticated by reasonable proof that the document tendered to the

Clerk of the Court is a true copy of the foreign order as it is recorded in the agency or court of the issuing jurisdiction.

4. A certified copy of the original order and a certified copy of the proof of service document from the issuing court shall constitute sufficient evidence of authenticity.
 5. Unless defects in jurisdiction are apparent on the face of the foreign order, the person contesting enforcement of the order has the burden of proving that the order is not valid.
- b. At the request of any party, the FBIC Court shall adopt a court order from a foreign jurisdiction that establishes child support as a FBIC Court order if the party requesting the Court to adopt the order:
1. Moves the FBIC Court for adoption of the order and properly serves the other party/parties with the motion;
 2. Attaches to the motion an authenticated copy of the order and proof of service; and
 3. On its face, there are no defects in personal and/or subject matter jurisdiction.
- c. The Court shall enforce the foreign order unless the non-moving party responds to the notice for recognition of the order as a foreign judgment and timely contests it.
1. The person contesting the foreign child support order has the burden of proving that the order should not be recognized for enforcement in the FBIC Court.
 2. When a foreign order is invalid by reason of a lack of personal jurisdiction in the agency or court of the issuing jurisdiction, the Court may adopt some or all of the provisions of the order as an original order of the Court to the extent that it does not violate the public policy of the Fort Belknap Indian Community.

2. Procedure for Recognition and Enforcement of Foreign Judgments

- a. Proper filing of a petition or motion for recognition of foreign judgment with the FBIC Court shall be accomplished when the petitioner has paid all necessary court filing fees and delivered to the Court a petition or motion with a document, that on its face, is a true copy of the foreign order and proof of service as recorded in the agency or court of the issuing jurisdiction.
- b. The other party shall be served with a copy of the petition with attachments and a summons indicating how he/she is to respond.
- c. Upon proof of service in accordance with FBIC Law and Order Code, the matter shall be set for hearing not less than twenty (20) days after the date of service if the other party is served on the Fort Belknap Reservation and not less than sixty (60) days after the date of service if the other party is served off the Fort Belknap Reservation.
- d. Failure to appear as directed by the summons or failure to respond to the petition requesting the Court to recognize and enforce the foreign judgment once personal jurisdiction over the defendant has been obtained shall not prevent the FBIC Court from addressing the issue of foreign order recognition.

C. REQUESTS FOR ASSISTANCE WITH INTER-GOVERNMENTAL CASES

1. When a case may be considered an inter-governmental case

- a. An inter-governmental case is any child support case requiring action or coordination between the Fort Belknap Child Support Program and another State or Tribal IV-D program and may be initiated at the request of either entity.
- b. During the processing of a Fort Belknap Child Support Program application/case, FBCSP may need to request assistance in case processing and/or case actions from another State and/or Tribal IV-D agency.
- c. Likewise, during the processing of a State and/or Tribal IV-D agency application/case, the State and/or Tribal IV-D agency may need to request assistance in case processing and/or case actions from the Fort Belknap Tribal Child Support Program.

2. Case Referral Procedures for Requests to Fort Belknap Child Support Enforcement

- a. Upon receipt of a request for assistance from another State or Tribal IV-D agency, FBCSP will set up a case file flagging the file as an *inter-governmental case* and giving it a FBCSP case number.
 1. Upon receipt of the necessary information and/or documentation from the referring IV-D agency, FBCSP staff will review the case file to determine what enforcement actions are being requested and if the case file contains the necessary information/ documents to proceed with processing the referral agency request.
 2. Requests to the referring IV-D agency will be made if request and/or corresponding documentation is incomplete or more information is needed.

When corresponding with the referral IV-D agency, FBCSP correspondence should reference both the referral agency and FBCSP case numbers/captions.

- b. Other State and Tribal Inter-governmental Agency Requests may include:
 1. Registration/Recognition of a Foreign Order in accordance with the Fort Belknap Law and Order Code Full Faith and Credit provisions for purposes of enforcement and/or modification.
 2. Collection of Support with or without a wage income withholding order in accordance with Fort Belknap Law and Order Code Child Support Collection/Wage Income Withholding Order provisions.

Requests for collection of support will include the Fort Belknap Child Support Program taking any necessary enforcement actions against the payor party and/or the payor party's employer if NCP's employer fails to either withhold wages under a valid wage income withholding order or fails to send in the amount of income withheld from the NCP's wages in a timely manner.

3. Providing Case Status Information to another State or Tribal IV-D Agency in

accordance with federal, state, tribal code and/or agreements between the IV-D agencies maintaining confidentiality of sensitive information and strictly for the purposes of paternity establishment, initial child support order establishment, modification and enforcement of child support orders.

FBCSP staff shall respond to such case status requests in a timely manner while maintaining the confidentiality of the parties involved and ensuring that confidential and/or sensitive information is disclosure only as allowed by FBCSP Policies and Procedures; federal, tribal and/or state code and/or intergovernmental agency agreements and for the sole purposes of child support enforcement.

Timely manner is defined as within three (3) business days of receipt of request in the FBCSP Office, or as defined in any Memorandums of agreements duly executed with other jurisdictions.

Communication of Case Status Information may be via written correspondence, telephone call or by email.

c. Documentation of Inter-governmental Request/Processing

It is the responsibility of the assigned FBCSP Case Specialist Supervisor to record and document in the hardcopy and electronic case file all activities, actions, forms and documents created or information provided on an Inter-Governmental case as a result of a request for assistance received from another State or Tribal CSE agency.

The documentation in the hardcopy and electronic Case Notes should include the information provided, the date it was provided and to whom it was provided.

3. Procedures for Inter-governmental Case processing

All applicable Fort Belknap Child Support Policies and Procedures will be following for intergovernmental case processing including setting up a complete FBCSP case file; providing notice of case file/request for case processing to all interested parties; processing the case referral in accordance with Fort Belknap Law and Order Code and FBCSP Policies and Procedures.

D. FBCSP OFFICE REFFERALS/CASE TRANSFER REQUESTS TO OTHER IV-D AGENCIES

1. FBCSP program staff may initiate a request for assistance from another State or Tribal IV-D agency .
 - a. When initiating such a request, the FBCSP Case Specialist Supervisor shall complete the necessary referral request form and attach all applicable case documentation and send notice of the referral request action to all interested parties.
 - b. FBCSP Case Specialist Supervisor will update the hardcopy and electronic FBCSP case file with all referral request activity including tickling the case for an anticipated IV-D referral agency response.
 - c. If IV-D referral agency does not respond timely (which should be within sixty (60) days), the FBCSP Case Specialist Supervisor should contact the IV-D referral agency by any appropriate means which may include sending a Request for Case Status form/letter, sending an email and/or making telephone contact.

2. Types of cases that FBCSP Office may seek assistance from another State or Tribal IV-D agency include, but are not limited to:
 - a. Locate services (address and/or asset location of NCP or CP).
 - b. Case referral to a more appropriate jurisdiction for paternity establishment, initial child support order establishment, child support order modification and/or enforcement.
 - c. Case status information.

CHAPTER XIV: FORT BELKNAP CHILD SUPPORT PROGRAM PERFORMANCE MEASURES (45 CFR 309.65(a)(14))

45 CFR 309.65(a)(14) Tribally-determined performance targets for paternity establishment, support order establishment, amount of current support to be collected, amount of past due support to be collected, and any other performance measures a Tribe or Tribal organization may want to submit.

Note: *Copies of all code and/or forms referred to in this chapter can be found in the appendix section at the end of the chapter.*

A. POLICY

Fort Belknap Child Support Program staff will seek to be efficient and effective in carrying out the functions, duties and responsibilities of the Tribal Child Support Program in serving the Fort Belknap Reservation and tribal community.

FBCSP policies and procedures will be evaluated for efficiency, effectiveness and appropriateness based on identified tribal community's needs. FBCSP policies and procedures will be modified where necessary to better meet the needs of the tribal community.

Fort Belknap Child Support Program performance measures will focus primarily on the following areas:

- Custodial and Non-Custodial Parent Locator services (address and asset location)
- Paternity Establishment
- Child Support Order Establishment
- Current Child Support Enforcement, and
- Past Due Child Support Enforcement.

B. PARENT LOCATOR SERVICES PERFORMANCE MEASURES

Fort Belknap Child Support Program staff will:

- Review all accepted child support cases for parent locator issues.
- Begin locator services on all cases where address and/or asset location of a child's parent is deemed appropriate.
- Performance measures will be quantified once FBCSP staff know the potential number of cases with parent locator issues.

C. PATERNITY ESTABLISHMENT PERFORMANCE MEASURES

Fort Belknap Child Support Program staff will:

- Review all accepted child support cases for paternity establishment issues.
- Begin legal process to establish paternity in all cases where establishment of paternity is deemed appropriate.

GOAL: Seventy-five (75) per cent of paternity establishment petitions to be finalized within ninety (90) days of client contact with the Tribal IV-D Program Office and after the necessary documentation has been received unless the proposed orders are awaiting genetic test results to establish paternity and/or there are other extenuating circumstances which have delayed the legal process.

- Other performance measures to be quantified once FBCSP staff know the potential number of cases where paternity is an issue.

D. CHILD SUPPORT ORDER ESTABLISHMENT PERFORMANCE MEASURES

Fort Belknap Child Support Program will:

- Review all accepted child support cases for applicable child support establishment issues including establishment of an initial child support order, recognition of a foreign child support order for purposes of enforcement issues and/or modification of an existing child support order.
- Begin legal process to address the identified child support order establishment issues where deemed appropriate.

GOAL: Seventy-five (75) per cent of initial child support petitions and petitions for recognition of foreign judgment to be finalized within (90) days of client contact with the Tribal IV-D Program Office and after the necessary documentation has been received unless the proposed orders are awaiting genetic test results to establish paternity and/or there are other extenuating circumstances which have delayed the legal process.

- Other performance measures to be quantified once FBCSP staff know the potential number of cases where child support establishment, recognition of a foreign child support order for purposes of enforcement and/or modification of an existing child support order is an issue.

E. CURRENT SUPPORT ENFORCEMENT PERFORMANCE MEASURES

Fort Belknap Child Support Program will:

- Review all accepted child support cases for current child support enforcement issues.
- Begin legal process to address the identified current child support enforcement issues where deemed appropriate.

GOAL: Begin collections on fifty (50) per cent of cases with current child support obligations within sixty (60) days of a determination that an individual is working for an entity subject to the jurisdiction of the Tribal Court unless collection is dependent on recognition of a foreign judgment and/or there are other extenuating circumstances which have delayed the legal process.

- Other performance measures to be quantified once FBCSP staff know the potential number of cases where child support enforcement is an issue.

F. PAST DUE CHILD SUPPORT ENFORCEMENT PERFORMANCE MEASURES

Fort Belknap Child Support Program will:

- Review all accepted child support cases for past due child support enforcement issues.
- Begin legal process to address identified past due child support enforcement issues where deemed appropriate.

GOAL: Begin collections on fifty (50) per cent of the cases with identified child support arrearages within sixty (60) days of a determination that an individual is working for an entity subject to the jurisdiction of the Tribal Court unless collection is dependent on recognition of a foreign judgment and/or there are other extenuating circumstances which have delayed the legal process.

- Other performance measures to be quantified once FBCSP staff know the potential number of cases where past due child support enforcement is an issue.

G. QUALITY ASSURANCE REVIEWS

Fort Belknap Child Support Program will:

- Conduct quarterly Quality Assurance Reviews for the purposes of identifying program performance and/or case processing issues and taking necessary corrective action.
- Develop and implement a corrective action in response to identified program performance and/or case processing issues as needed.
- Develop and conduct training of FBCSP staff for identified needs as needed.