

**THREE AFFILIATED TRIBES  
DIVISION OF CHILD SUPPORT  
ENFORCEMENT  
INTERGOVERNMENTAL IMPROVEMENT  
PROJECT**

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# **STATE-RELATED CASES**

*Enhanced  
Intergovernmental  
Procedures*

Revised February 28, 2022



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# OUR MISSION

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The Three Affiliated Tribes will provide to the Tribe and people, maximum quality services, by being responsible, accountable, respectful, caring, and will incorporate the traditional values of our elders and ancestors.

## INTRODUCTION

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The Three Affiliated Tribes - North Dakota Intergovernmental Improvement Project (IIP) is a collaborative effort between the North Dakota Child Support Division (North Dakota) and Three Affiliated Tribes Division of Child Support Enforcement (DCSE) which seeks to improve intergovernmental case collections and customer service strategically by critically analyzing current intergovernmental case processing procedures, identifying areas where improvements can be made, and implementing changes in those areas.

The IIP team members recognized that adjusting and clarifying the procedures concerning working cases that have or may have a North Dakota affiliation could result in reduced duplication of effort and better collection outcomes for cases. To gain a better understanding of the caseload shared between the two agencies, North Dakota developed a data match process to compare caseloads based on personal identifiers.

The case matches fell into four categories.

- Shared cases, in which both agencies had an open case with the participants, but no associated intergovernmental referral.
- Cases where a Three Affiliated Tribes case matched with a North Dakota Incoming Intergovernmental from any jurisdiction.
- Cases where a Three Affiliated Tribes case matched with a North Dakota Outgoing Intergovernmental to any jurisdiction.
- Cases where North Dakota had an Outgoing case to DCSE but DCSE did not have an open case.

Through a cooperative review of the cases identified by both, the team identified issues that caused a mismatch between the two agencies and developed best practices to help mitigate future instances of the various mismatches.

Many of the procedures described in this handbook are a result of those reviews and the ensuing discussions.

For purposes of this handbook, State Related Cases will apply to cases related to North Dakota, unless other states are specifically mentioned. The responsibilities described in this handbook may apply to any DCSE child support staff.

Development of this handbook was necessary to assist child support workers in implementing the new procedures during the Implementation phase of this project, which will begin January 1, 2021. North Dakota child support staff received a similar, parallel handbook.

This handbook is not intended to be a substitute for Tribal policy or other official reference materials currently used by staff but serves to enhance and clarify roles and responsibilities

when working cases that are or may be affiliated with the North Dakota child support program. If an instruction in this handbook is inconsistent with instruction in current policy or written procedures, this handbook controls.

This handbook is organized into six sections:

1. Communication
2. Intake
3. Establishment and Review
4. Enforcement
5. Locate and Service of Process
6. Transfer and Closure

The enhanced procedures included in this handbook go into effect February 1, 2021. Outreach to the Policy Unit as prescribed in this handbook, or questions about the procedures described in this handbook, should be directed to the Tribal Child Support Attorney or the Director.

# 1. COMMUNICATION

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While this handbook contains some specific steps concerning coordinating with North Dakota on child support cases, the most important aspect of a collaborative child support effort, whether with a state, another tribe, or any other jurisdiction, is communication. Communication falls into two categories:

Internally, communication includes making sure the various screens are updated with information so others can follow along with decisions made on the case, including Case Type, Case Status, and Case Notes in CIS, making sure that the narrative is complete and easy to follow.

Externally, communication with the state is vital to smooth transitions and a clear understanding of what is being asked, as well as continuously improving the working relationship with the state child support agency and staff. In addition to the information on a transmittal, this communication may include informal methods as agreed to between case managers for each agency (e.g., phone calls or emails when asking for an action), determining which agency should have the case, or even explaining why Three Affiliated Tribes is closing its case, and what action the case specialist anticipates the state will take. Consider what the other case manager might want to know even though it might seem obvious to a DCSE case manager and always be sure that direct contact information (including direct phone number and personal email address) is included on documents and other communications to the state child support agency.

North Dakota and DCSE have mutually agreed to communicate and exchange documents, including intergovernmental forms, court orders, payment records, and case materials, electronically, using secure email and a secure file transfer process.

**To improve communication and relations with the Three Affiliated Tribes child support team, North Dakota has assigned one person in the Tribal Unit as the single point of contact.**

Finally, essential communication may include the applicant or a third jurisdiction. It is the Tribe's responsibility to ensure that customers understand the decisions made about their case or what is needed to proceed with their case. It may also include asking for information about why the parent made a decision, which could relate to, for example, personal safety issues. The customer may need to be involved in a decision, for example, about whether the tribe continues to keep the case open if the state has jurisdiction.

Consider what the other case manager might want to know even though it might seem obvious to a DCSE case manager. Consider what a customer, unfamiliar with Three Affiliated Tribes rules, laws, acronyms, and jargon, might want to know or need help understanding.

## 2. INTAKE

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### Intake

*See the companion Three Affiliated Tribes DCSE Chapter III Intake Procedures revised May 2017 for specifics and details.*

Intergovernmental cases from North Dakota will include a transmittal and other required documents<sup>1</sup>, as described in the Intergovernmental Forms Matrix. North Dakota will send these documents by email to the DCSE director and the attorney, who will forward the case on to the Office Assistant to create the case file.

For all other cases, whether referral to DCSE comes from an application directly from a parent, or as a Transmittal from a state other than North Dakota, upon receipt of a new case, check FACES to determine if North Dakota's child support agency might have the case. Make an inquiry on each individual (CP, NCP, and children) in FACES to see if North Dakota has duplicate or related cases.

If North Dakota child support is or may be involved, contact the state's Tribal Unit. North Dakota will review the case and work with the DCSE Case Specialist to come to an agreement about the best arrangement for working the particular case.

If the North Dakota case resides with their Enforcement or Establishment Unit, staff may choose to internally transfer their case to the state Tribal Unit.

As a general rule the North Dakota case manager will transfer the case to the state's Tribal Unit if any of the following apply:

- A party has already applied for services from the tribal jurisdiction and their case is open.
- The NCP lives or works on tribal land. (Note: Sometimes the state staff will need DCSE assistance in determining if the NCP lives or works on tribal land.)

North Dakota will transfer the case to the state's Enforcement Unit if North Dakota will directly enforce the order, even if limited tribal services may be necessary (specifically interception of

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<sup>1</sup> See Appendix 1, North Dakota Forms Matrix. The appendix in North Dakota's adaptation of the federal [Intergovernmental Forms Matrix](#).

People's Fund or per capita payments or other tribally controlled resources). However, the DCSE case specialist may continue to communicate with the Three Affiliated Tribes Liaison in the North Dakota Tribal Unit.



### 3. ESTABLISHMENT AND REVIEW

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#### Paternity and Order Establishment

North Dakota policy has developed a matrix<sup>2</sup> which DCSE staff may use to determine whether the state or tribe has jurisdiction in a paternity case, and, if jurisdiction is concurrent, which court should hear the case.<sup>3</sup> If the state court will hear the case, refer the case to the state for Paternity and Order Establishment.

1. Prepare and send a Transmittal #1 for Paternity and Order Establishment.
2. Attach required documentation according to the [OCSE forms matrix](#).
  - a. [Confidential Information Form](#)
  - b. [Uniform Support Petition](#)
  - c. [General Testimony](#) signed by CP
  - d. [Personal Information Form for UIFSA §311](#)
  - e. [Declaration in Support of Establishing Parentage](#) (for each child)
3. For North Dakota, also include any of these additional documents that may exist: birth certificate, evidence supporting existence of a presumption of parentage (e.g., marriage certificate/license or divorce order/decreed), and results of genetic testing. *See Appendix 1 – North Dakota Forms Matrix.*

As with any case, stay cognizant of any family violence related issues. Most of these forms will be disclosed to the other party unless accompanied by a nondisclosure finding or an affidavit or pleading under oath that a party or child would be jeopardized by disclosure of the information.

#### Order Establishment and Review and Adjustment

North Dakota Policy has also developed an Establishment and Review Grid to assist in the determination of whether the state or tribe has jurisdiction in an order establishment case or a

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<sup>2</sup> The matrix is entitled Paternity Grid – 2019 CS Division Training.

<sup>3</sup> The matrix indicates jurisdiction with the following designations: Tribal, meaning the tribal court has jurisdiction; State, meaning the state court has jurisdiction; Concurrent – T, meaning that while both courts have jurisdiction, it is recommended that the tribal court hear the case; Concurrent – S, meaning that it is recommended the state court hear the case. “Concurrent?” indicates that it is not clear whether jurisdiction is concurrent.



case requiring review for modification. If jurisdiction is concurrent, use the same matrix to determine which court should hear the case.<sup>4</sup> If the state court will hear the case, refer the case to the state for Paternity and Order Establishment or for Review and Modification.

For establishment or review and modification of an order:

1. Prepare and send a Transmittal #1.
2. Attach required documentation according to the [OCSE forms matrix](#).
  - a. [Confidential Information Form](#)
  - b. [Uniform Support Petition](#)
  - c. [General Testimony](#) signed by CP
  - d. [Personal Information Form for UIFSA §311](#)
4. For North Dakota, include any of these additional documents that may exist:
  - acknowledgment of parentage
  - adjudication order
  - adoption order/decreed
  - evidence supporting existence of a presumption of parentage (e.g., marriage certificate/license or divorce order/decreed)

*See Appendix 1 – North Dakota Forms Matrix.*

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<sup>4</sup> The Establishment and Review Grid – 2019 CS Training.docx indicates jurisdiction with the following designations: Tribal, meaning the tribal court has jurisdiction; State, meaning the state court has jurisdiction; Concurrent – T, meaning that while both courts have jurisdiction, it is recommended that the tribal court hear the case; Concurrent – S, meaning that it is recommended the state court hear the case. “Concurrent?” indicates that it is not clear whether jurisdiction is concurrent.

## 4. ENFORCEMENT

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### Determining Available Enforcement Remedies

The North Dakota Policy Unit has implemented an Enforcement Matrix to review enforcement remedies available and whether state assistance is appropriate for a particular case. DCSE staff may use the Enforcement Matrix to aid them in identifying enforcement remedies in their cases.

### How North Dakota works enforcement cases referred to Three Affiliated Tribes

Generally, if a North Dakota case requires enforcement by DCSE, then the state Tribal Unit will manage the state's case. An exception to this rule is if the only action requested of the tribal agency is interception of People's Fund distributions. For those cases, the case will remain with the Enforcement Unit case manager, who will send a Transmittal #3 specifying the request of assistance with the People's Fund intercept.

If the residence and employment of an NCP on a case in the Tribal Unit caseload remains in the state's jurisdiction for 12 months, suggesting that the state will be able to enforce the order without tribal assistance, then the state Tribal Unit will transfer the case back to the state Enforcement Unit.

### Initiating to North Dakota

For most cases, Three Affiliated Tribes can enforce a child support order without state assistance. The following direct enforcement remedies are available to DCSE staff:

- Direct income withholding
- Unemployment interception
- Worker's compensation interception

(Note: While North Dakota honors direct withholding of Unemployment and Workers Compensation, states vary according to state regulation. Some states will require a Transmittal for enforcement. Check the [Intergovernmental Resource Guide](#) (G8) for that state to determine if they honor direct withholding for these resources and their requirements.)

If these remedies are sufficient to receive consistent payments of current support and arrears as appropriate, then there is generally no need to refer the case to North Dakota. (Note: if withholding at the maximum allowable is not covering current support, and there is no reason to believe the NCP has other sources of income, consider a review and modification.)

If, however, direct withholding is not sufficient, evaluate the case for referral to the relevant state for action. Send a Transmittal #1 to register (if necessary) and enforce the order.

See North Dakota's Enforcement Matrix for a list of remedies available in North Dakota and many other states.

## **Responding to North Dakota**

### **Income withholding**

Although tribal child support programs can perform direct income withholding directly if the NCP lives and works in North Dakota, the reverse is not typically true. If the NCP works on Three Affiliated Tribes land, many tribal employers will not honor direct income withholding from a state child support agency and the law does not require them to do so. Instead, the Tribal Unit will manage the case and request enforcement by the tribe. When North Dakota requires assistance, state staff will send a Transmittal #1 requesting Registration (if necessary) and Enforcement.

### **Medical Insurance**

Sometimes DCSE is asked to enforce the medical insurance provisions of an order. Inform the requesting jurisdiction that DCSE does not enforce medical insurance provisions in child support orders and provide the applicable reason from below:

- If the children are covered by Indian Health Services (IHS) or Tribal Health Services (THS). This is important to the state. If the child is covered by either HIS or THS, then the state case manager can enter into their system that the child has coverage.
- Unless insurance is available at a reasonable cost as defined by Three Affiliated Tribes' Tribal Code<sup>5</sup>, inform the state that the tribe has determined that insurance is not available at a reasonable cost from the employer.

### **People's Fund, Bank Garnishments, and Individual Indian Money (IIM) Accounts**

The state will send a Transmittal #3 to request interception of People's Fund payments or Individual Indian Money Accounts. If DCSE receives a Transmittal #1 that is only asking for one or both of these services, reject the request and advise the sender to replace it with a Transmittal #3.

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<sup>5</sup> Tribal Code 5-26-2 (8) provides that insurance is available at a reasonable cost if it is available from the employer at "less than 5% of the annual gross income" of the parent. If insurance is available within that threshold, enforce the provision.

## **5. LOCATE AND SERVICE OF PROCESS**

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### **Initiating to North Dakota**

#### **Locate**

If there is an indication that the parent may be living or working in North Dakota, but DCSE locate resources provide no reliable information, check with the North Dakota Tribal Unit staff. They may have additional locate resources available.

#### **Service of Process**

If the tribal court has jurisdiction to take the necessary actions on the case, but state assistance is necessary to complete service of process on the NCP, send a Transmittal #3 to the state.

### **Responding to North Dakota**

#### **Locate**

If there is an indication that the parent may be living or working on the reservation but locate resources provide no reliable information, the North Dakota case manager will check with the with a DCSE staff via phone call or email. DCSE will share available locate information. If DCSE has a case, be sure to share that information and the current status of the case.

#### **Service of Process**

If North Dakota courts have jurisdiction to take the necessary actions on the case, but tribal assistance is necessary to complete service of process on the NCP, the case manager will send a Transmittal #3.

## 6. TRANSFER AND CLOSURE

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North Dakota and DCSE recognize that efficiencies may be gained, and duplication of effort avoided, if one jurisdiction assumes full responsibility for servicing a case (as opposed to attempting a shared effort or a two-jurisdiction process).

This section discusses procedures for determining when one jurisdiction will transfer full responsibility to the other and the steps necessary for accomplishing the transfer.

The section also discusses the communication expected when a case shared between Three Affiliated Tribes and North Dakota is closed by one jurisdiction.

### When North Dakota is transferring and closing their case

To be eligible for tribal transfer, the state case must meet the following criteria:

1. There are no assigned arrears, or the assigned arrears are under \$500 (the state case manager will check for any secondary cases for assigned arrears, as well); and
2. There is no open TANF or foster care referral on the case to the state.

Since the eligibility criterion requiring an open outgoing intergovernmental referral to a tribal IV-D program was removed, in these cases, the IV-D worker must notify the tribal IV-D program of the case transfer via letter or electronic mail and provide all documents or information that may be needed or requested so the tribal IV-D program can properly service the case (to include personal information of the parties, contact information, certified orders, and payment records). Proactive, open communication between the state program and the tribal IV-D program about the decision to transfer and what documentation and information are needed, is critical to ensure a successful transfer process.

There is no requirement that the noncustodial parent live on tribal land for a case to be eligible for tribal transfer. Thus, there are situations where transfer is appropriate even when the NCP lives off tribal land.

Example: The CP lives in New Town (tribal land) and the NCP lives in Minot, North Dakota. North Dakota is currently enforcing a Fort Berthold order. There are no assigned arrears and no open TANF or foster care referral on the case. It was recently learned that the NCP was working for a tribal employer on tribal land. The state's case manager reviews the case to determine whether a referral or transfer to Three Affiliated Tribes is appropriate. The state case manager notes there is no open incoming or outgoing intergovernmental process in the case. The state case manager determines case transfer is appropriate and proceeds with the transfer process, including notifying TAT IV-D of the transfer and providing all documentation and information required for TAT to assume responsibility for servicing the case.

### **Medical Only Closure**

North Dakota is required to close a case (See 45 CFR 606.11 (c)), if:

1. The child is eligible for Indian Health Services, and
2. The Medicaid referral is based solely upon health care services

### **When Three Affiliated Tribes is transferring a case to North Dakota**

Three Affiliated Tribes and North Dakota developed the process below to allow TAT to close a tribal IV-D case with an open outgoing intergovernmental referral to North Dakota by transferring the case to North Dakota when certain criteria are met.

To be eligible for transfer from TAT to North Dakota, the following criteria must be met:

1. There is an open outgoing intergovernmental referral from TAT to North Dakota in the case.
2. Neither party to the case is in locate for address.
3. TAT has communicated with North Dakota about case transfer and both jurisdictions agree it is appropriate for North Dakota to assume full responsibility for servicing the case (both jurisdictions agree transfer is appropriate).
4. TAT sent a Notice of Case Transfer, as set forth in Appendix 2, to the CP's last-known mailing address and the CP gives permission to TAT to transfer the case to North Dakota.
5. The CP applied for IV-D services to the North Dakota Child Support Division.
6. TAT provided a copy of the Notice of Case Transfer to North Dakota, along with any other documentation that is needed for North Dakota to work the case.

If North Dakota and TAT agree that transfer is appropriate and North Dakota has no signed application for services, TAT will reach out the CP to determine if the CP will apply for service to the North Dakota Child Support Division. TAT will provide the application to the CP or refer the CP to the North Dakota child support website to apply online.

If the CP does not respond to the TAT's outreach or objects to the transfer, the transfer can not proceed and the outgoing intergovernmental referral from TAT to North Dakota will remain in place.

## **All Closures**

Whenever a DCSE case which is shared with the North Dakota program is closing, the DCSE case specialist will explain why the tribe is closing and what DCSE anticipates will happen with the North Dakota case. For example:

1. That the North Dakota case will remain open and the state will forward payments on to the CP directly.
2. That, because the case is paid in full, and the child is emancipated, Three Affiliated Tribes assumes the state will be closing the case.
3. That because all parties now live in a third jurisdiction, DCSE assumes the state will evaluate the next steps based on the state order.

Likewise, when North Dakota closes a case shared with DCSE, the state case manager will inform the DCSE case specialist of what North Dakota anticipates will happen to the DCSE case following North Dakota's closure.



## APPENDIX

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1. North Dakota Forms Matrix
2. TAT Notice of Case Transfer

## Appendix I – North Dakota Forms Matrix

*Below is the matrix North Dakota staff use to determine if a referral includes all necessary documents.*

Action Requested	Federal Forms Required
Establish parentage and establish and enforce a support order for <ul style="list-style-type: none"> <li>• Current support</li> <li>• Retroactive child support</li> <li>• Medical support only</li> </ul>	Child Support Enforcement Transmittal #1 – Initial Request (Check action 1; also check 2.A and/or B or C.) Child Support Agency Confidential Information Form Uniform Support Petition General Testimony  Personal Information Form for UIFSA § 311 Declaration in Support of Establishing Parentage (for each child)  <b><i>Send any of these additional documents that may exist: birth certificate(s), evidence supporting existence of a presumption of parentage (e.g., marriage certificate/license or divorce order/decreed), and results of genetic testing.</i></b>
Establish and enforce a support order for <ul style="list-style-type: none"> <li>• Current support</li> <li>• Retroactive child support</li> <li>• Medical support only</li> </ul>	Child Support Enforcement Transmittal #1 – Initial Request (Check action 2.A and/or B or C.) Child Support Agency Confidential Information Form Uniform Support Petition  General Testimony Personal Information Form for UIFSA § 311  <b><i>Send any of these additional documents that may exist: acknowledgment of paternity/parentage, adjudication order, adoption order/decreed, or evidence supporting existence of a presumption of parentage (e.g., marriage certificate/license or divorce order/decreed).</i></b>
For cases with existing responding tribunal orders: <ul style="list-style-type: none"> <li>• Enforce</li> <li>• Enforce arrears only</li> <li>• Change person/entity entitled to receive funds and enforce</li> </ul>	Child Support Enforcement Transmittal #1 – Initial Request (Check action 3.A, D, or E.) Child Support Agency Confidential Information Form

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<p>For cases with existing responding tribunal orders:</p> <ul style="list-style-type: none"> <li>• Modify and enforce</li> <li>• Modify then close the intergovernmental IV-D case</li> </ul>	<p>Child Support Enforcement Transmittal #1 – Initial Request (Check action 3.B or C.)  Child Support Agency Confidential Information Form  Uniform Support Petition  General Testimony</p> <p>Personal Information Form for UIFSA § 311</p>
<p>For cases with existing orders from another jurisdiction (not the responding state):</p> <ul style="list-style-type: none"> <li>• Register and enforce</li> <li>• Register and enforce arrears only</li> </ul>	<p>Child Support Enforcement Transmittal #1 – Initial Request (Check action 4.A or D.)  Child Support Agency Confidential Information Form  Letter of Transmittal Requesting Registration</p> <p><b><i>Certified copy of order</i></b>  <b><i>Certified payment record / ledger</i></b></p>
<p>For cases with existing orders from another jurisdiction (not the responding state):</p> <ul style="list-style-type: none"> <li>• Register, modify, and enforce</li> <li>• Register, modify, then close the intergovernmental IV-D case</li> </ul>	<p>Child Support Enforcement Transmittal #1 – Initial Request (Check action 4.B or C.)  Child Support Agency Confidential Information Form  Letter of Transmittal Requesting Registration Uniform Support Petition</p> <p>General Testimony  Personal Information Form for UIFSA § 311</p> <p><b><i>Certified copy of order</i></b>  <b><i>Certified payment record / ledger</i></b></p>

## **Appendix 2 – TAT Notice of Case Transfer**

TAT IV-D AGENCY

CONTACT INFORMATION

(date)

(customer)

(address)

(address)

RE: Obligee:

Obligor:

Three Affiliated Tribes Case Number:

North Dakota Case Number:

### **NOTICE OF CASE TRANSFER**

We would like to transfer your child support case to the North Dakota Child Support Division. This means your case will close with Three Affiliated Tribes child support and North Dakota Child Support would assume full responsibility for servicing your case. We believe North Dakota Child Support is in a better position to serve you.

Please contact us within 30 days from the date of this notice to indicate your agreement to the transfer or your opposition to the transfer.

If you agree with the transfer, you will need to complete the application for services for North Dakota Child Support Division. This necessary step will ensure North Dakota has current information to effectively work on your case. You can apply for services online at North Dakota's child support website:

<https://www.childsupport.dhs.nd.gov/>. If you prefer to complete a paper application, please let us know and we will send you one.

If you do not agree with the transfer, your case will remain open with Three Affiliated Tribes child support.

Please contact Three Affiliated Tribes child support with any questions.

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(worker name)

(worker title)