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**Nez Perce Tribe  
Child Support Enforcement Program  
Guidelines**

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## CSEP Mission Statement

*“Among the NiMiiPuu, children are seen as a gift of the Creator. They represent the future of the Tribe and a link to the values of our culture. In our language, there is no word for orphan. Each child is the center of a circle with deep relationships to his biological parents, his blood relatives and his fellow tribal members. Adults must put the children first to ensure they are properly nurtured and developed. The ultimate goal of the Program is to protect the welfare of children on the Nez Perce reservation, through the establishment and enforcement of Child Support orders. By assuring financial support is provided for these children we believe the cycle of non-support will be broken and future generations of children will be provided for by their parents without intervention”.*

## Introduction

The CSEP Guidelines will provide guidance to Custodial and Non-Custodial parents in understanding and determining the amount of child support that may be ordered by the Tribal Court. The guidelines contribute to the standardization and fairness to all families of this Program. This is a guidance process with the final determination provided by legal court order.

The Nez Perce Tribe Child Support Enforcement Program (CSEP) is dedicated to fostering relationships that hold family as central to all nurturing and character development. CSEP and the Nez Perce Tribal Court will work together for the best interests of the child(ren). To that end, we will honor the place of both parents and hold them accountable for providing for their children. We will assist parents in understanding their responsibility for their children and support them in meeting those obligations.

The Child Support Enforcement Program’s approach is to begin the child support process with mediation that includes people with responsibility for the care of the child. Drawing on cultural values and Nez Perce Tribal code we will attempt to reach an agreement on the support structures for the well-being of the child(ren). CSEP will work cooperatively with tribal court procedures to approve agreements and to arbitrate when no agreement has been reached.

We will do everything in our power to assist all parties to understand:

- The process of mediated child support agreements,
- The role of the Court in enforcing child support,
- Financial obligations and how to meet those obligations,
- Alternative methods of payment,
- Cooperative and respectful parenting skills,
- The value of role models, and
- The consequences of not meeting parenting obligations.

The ultimate goal of the Nez Perce Tribe Child Support Enforcement Program is to protect the welfare of the children of the Nez Perce Reservation, through the establishment and enforcement of child support

orders. By assuring that financial support is provided for these children we believe that a cycle of non-support will be broken, and future generations of children will be provided for by their parents without interventions.

These guidelines serve as a resource in the case management of child support enforcement from beginning to completion. It is the full intention of the Nez Perce Tribe CSEP to serve all those who seek child support enforcement assistance, to the best of our professional ability and legal jurisdiction. These guidelines defer to the tribal court judicial authority in determining the final amount of the child support awarded. All final decisions regarding child and financial support orders rest with the Tribal Court.

These CSE guidelines are written to include cultural sensitivity and respect of the Nez Perce Tribe membership. It is notwithstanding that the following guidelines are indicative of our family cultural values. It is with cultural sensitivity and respect CSEP believes both parents are equally responsible for the love, care and cultural nurturing of their children.

The court has the final authority to determine the amount of the child support awarded. The calculation, as a result of this schedule, is only an estimate and is not a guarantee of the amount of child support that will be awarded. Other factors which may affect the amount of child support awarded are: the needs of the children, the biological parent's ability to pay, and both parents potential to earn.

Deviation from the CSEP Guidelines can only occur by Court Order and this must be done by written finding or specified finding on the record, based on the criteria approved by the Nez Perce Tribe, that application of the guidelines would be inappropriate or unjust in a particular case. Relevant factors to deviate from the guidelines include:

- (A) The financial resources and needs of the child.
- (B) The financial resources and needs of the custodial party.
- (C) The standard of living the child would have enjoyed had the marriage not been dissolved.
- (D) The physical and emotional condition of the child and the child's educational needs.
- (E) The financial resources and needs of the noncustodial parent.

There is rebuttable presumption that the amount of the award which would result from the application of the guidelines is the amount of the child support to be awarded, unless evidence is presented in a particular case which indicates that an application of the guidelines would be unjust or inappropriate.

## DEFINITIONS

**ARREARS**: Back child support. Current support amount not paid within 30 days of that month becomes support owed.

**ASSIGNMENT OF RIGHTS**: When the CP goes on TANF, he/she assigns their rights to the Tribe or State to all child support payments while family is on TANF and not to exceed amount of unreimbursed assistance.

**CHILD**: Any person under the age of 18 who is not otherwise emancipated, self-supporting, married and where support for whom the obligation is set for.

**COURT CASE**: All court related cases of one NCP pertaining to the child support order and for which collection has been ordered.

**CP**: Custodial Parent. The person who the children are living with and who is providing most of the everyday care for with whom support is owed for.

**CSEP**: Nez Perce Tribe Child Support Enforcement Program.

**CSEP CASE**: Any child support enforcement program case which has one CP, one legal biological NCP and at least one child.

**CSO**: Any judgment or order of the Nez Perce Tribal Court which orders payment of a set or determinable amount of child support dollars or in-kind.

**CURRENT SUPPORT**: The monthly support amount owed for the children for the current month.

**FOSTER CARE**: Or also, grandparent care, or kinship care, where a child is in temporary custody of a relative or foster family and to whom child support money may be applied for.

**NCP**: Non-Custodial Parent. The parent obligated to pay child support.

**NEZ PERCE TRIBAL COURT**: The court established by the Nez Perce Tribe pursuant to Article VIII, Section 2( C ) of the Nez Perce Tribal Constitution and Title 1 of the Nez Perce Tribal Code.

**PERMANENT ASSIGNMENT**: When the CP goes off TANF, this is the amount that the Tribe or State can keep to pay back TANF. The child support amount kept cannot exceed the amount of assistance paid to the family in Monthly TANF check amounts.

**TANF**: Temporary Assistance for Needy Families. The TANF program is designed to help needy families achieve self-sufficiency.

**TEMPORARY ASSIGNMENT**: While the CP is on TANF, child support may be collected by CSEP and distributed to Tribal or State TANF.

**STATUTE OF LIMITATIONS:** The statute of limitations (SOL) is the time period that past due child support can be collected. SOL for enforcement of child support may be tolled upon an evidentiary finding that fraud or willful concealment has taken place by a party to the case (NPT Code §4-5-56 (i)).

## **GUIDANCE FOR DETERMINATION OF INCOME AND SUPPORT**

**Gross Income:** All gross income and resources of each biological parent will be utilized on program intake. It is assumed all parties have potential to earn, unless otherwise proven to the Court. Only the income of the parents of the children whose support is at issue shall be calculated for purposes of calculating the basic support obligation. Income and resources of any other person shall not be included in calculating the basic support obligation (e.g. step and foster parents).

**Verification of Income/Potential to Earn:** Tax returns for the preceding two years and current and most recent two pay stubs shall be provided to verify income and deductions. Other sufficient verification shall be required for income and expenses, which do not appear on tax returns or pay stubs. In addition CSEP may seek verification of employment by current employer or Nez Perce Tribe Human Resource Offices.

**Basic Child Support:** The basic child support obligation represents the total amount required to raise a child(ren) based on the biological parents gross income.

**Health Care Coverage:** Health care expenses are not included in the schedule, but may be ordered.

**Day Care and extraordinary expenses:** The Court may award day care and special child rearing expenses, such as tuition and long distance transportation costs to and from parental visitations, are not included in the schedule and may be ordered. These expenses may be shared by both parents in the same proportion as the basic child support obligation or one parent may be required to make such payments. CSEP does not collect day care and extraordinary expenses.

**Allocation of tax exemptions and tax refunds:** The court may award the tax exemptions and order a party to sign the federal income tax dependency exemption waiver; this is separate from child support orders. Tax exemptions are not considered in child support calculations, however, tax refunds may be used to pay arrearages of child support.

**Modification:** The court may modify its child support determination when there has been a substantial change since the order was entered, a change in either parents gross monthly income or by agreement of the parties.

**Income below five hundred dollars:** When the combined gross monthly gross income is less than five hundred dollars, a support payment order of not less than twenty-five dollars per child per month may be entered unless the payer parent establishes that it would be unjust or inappropriate to do so in that particular case.

**Income above five thousand dollars:** The schedule is presumptive for combined gross monthly incomes up to and including five thousand dollars. When the combined gross monthly income exceeds five

thousand dollars (\$5,000), support shall not be at an amount lower than the amount of support set for combined gross monthly income of five thousand dollars (\$5,000) unless the court finds a reason to deviate below or above that amount.

## NEZ PERCE TRIBE CHILD SUPPORT ENFORCEMENT PROGRAM CHILD SUPPORT TABLES

The Nez Perce Tribe's Child Support Enforcement Program Support Schedule is based on the combined gross monthly income of the parties.

The Monthly Basic Support Obligation per child per party shall be no less than \$25/month.

The following tables may be used to approximate the TOTAL monthly child support obligation for the parties to the nearest \$100 of Combined Gross Income where the Combined Gross Monthly Income of the parties is \$600/month or higher. To calculate the actual TOTAL monthly child support obligation for the parties and then the actual monthly child support obligation for each party, see the subsequent section, Sample Nez Perce Tribe Child Support Calculations.

The following charts may be expanded for Combined Gross Monthly Incomes over \$5,000 by doing the actual calculations as outlined in the Sample Nez Perce Child Support Calculations section.

*Judicial discretion will be used for families with six or more children.*

*NOTE: Child support obligations will be rounded to the nearest dollar in all child support orders.*

<b>COMBINED GROSS INCOME</b>			
		<b>1 CHILD 13%</b>	<b>2 CHILDREN 13%</b>
500		65	80
600		75	106
700		91	132
800		104	158
900		117	184
1000		130	210
1100		143	236
1200		156	262
1300		169	288
1400		182	314
1500		195	340
1600		208	366
1700		221	392
1800		234	418
1900		247	444
2000		260	470
2100		273	496
2200		286	522
2300		299	548
2400		312	574
2500		325	600

2600		338	626
2700		351	652
2800		364	678
2900		377	704
3000		390	730
<b>OVER 3000, Use</b>			
		9%	7%
3100		399	744
3200		408	758
3300		417	772
3400		426	786
3500		435	800
3600		444	814
3700		453	828
3800		462	842
3900		471	856
4000		480	870
4100		489	884
4200		498	898
4300		507	912
4400		516	926
4500		525	940
4600		534	954
4700		543	968
4800		552	982
4900		561	996
5000		570	1010
	3 Children 12%	4 Children 11%	5 Children 10%
500	105	120	125
600	141	164	175
700	177	208	225
800	213	252	275
900	249	296	325
1000	285	340	375
1100	321	384	425
1200	357	428	475
1300	393	472	525
1400	429	516	575
1500	465	560	625
1600	501	604	675
1700	537	648	725
1800	573	692	775
1900	609	736	825



2000	645	780	875
<b>OVER 2000, Use</b>			
	8%	7%	5%
2100	669	808	900
2200	693	836	925
2300	717	864	950
2400	741	892	975
2500	765	920	1000
2600	789	948	1025
2700	813	976	1050
2800	837	1004	1075
2900	861	1032	1100
3000	885	1060	1125
3100	909	1088	1150
3200	933	1116	1175
3300	957	1144	1200
3400	981	1172	1225
3500	1005	1200	1250
<b>Over 3500, Use</b>			
	4%	3%	1%
3600	1017	1212	1255
3700	1029	1224	1260
3800	1041	1236	1265
3900	1053	1248	1270
4000	1065	1260	1275
4100	1077	1272	1280
4200	1089	1284	1285
4300	1101	1296	1290
4400	1113	1308	1295
4500	1125	1320	1300
4600	1137	1332	1305
4700	1149	1344	1310
4800	1161	1356	1315
4900	1173	1368	1320
5000	1185	1380	1325

## COMPUTATION

The basic child support obligations and support payments are based on the following computations:

- A> A combined gross monthly income is calculated by adding together each parent's gross monthly income.
- B> Based on the schedule the basic child support of each parent is determined by allocating the basic child support obligation proportionate to each parent's percentage of the combined gross monthly income. For example, if one parent's gross monthly income is \$600 dollars and the other parent's gross monthly income is \$400 dollars, then that would make the combined income of \$1,000 dollars. For parents with a combined gross monthly income of \$1,000 dollars, the basic child support obligation based on the schedule is \$130 per child. The basic child support for the parent with the gross monthly income of \$600 is \$78 per child. (The amount is calculated based on the following formula: the \$130 basic support obligation is multiplied by .60 because \$600 is 60% of \$1,000). The basic child support for the parent with the gross monthly income of \$400 is \$52 per child. (The amount is calculated based on the following formula: the \$130 basic support obligation is multiplied by .40 because \$400 is 40% of \$1,000).
- C> Based on the basic child support owed by each parent the non-custodial parent or, in joint custody cases, a parent whose share of the obligation is greater is required to make support payments to the other parent. If in the above example the parent with the gross monthly income of \$600 is the non-custodial parent, that parent will be required to make monthly support payments to the custodial parent in the amount of \$78. If the parent with the gross monthly income of \$400 is the non-custodial parent, that parent will be required to make support payments to the custodial parent in the amount of \$52.
- D> Where there is more than one child included in the order, the basic monthly child support will be decreased by \$50 per child. For example, for parents with a combined gross monthly income of \$1,000 the basic child support obligation based on the schedule is \$130 per child. That amount, however, will decrease by \$50 for every child. If there are two children, for example, the basic monthly child support payment for each child will be \$80 (\$130 per child less \$50 for each child).
- E> Once a support payment has been determined, the Court will determine if there is good cause of any deviation from the basic child support obligation, the basic child support owed by each parent or the amount of the monthly support payments. The parent requesting deviation must follow tribal court procedures to request a review of determination and hearing.
- F> Based on deviations, if any, a final basic child support obligation for each parent and a final support payment, if any, will be determined using the above formula.
- G> If one parent is ordered to make support payments, the Court may determine if some or all of the payment should be made in-kind and assign a monetary value to the in-kind resources.

## IN-KIND PAYMENTS

The primary purposes of in-kind payments are twofold. First they may be contributed at any time and must be documented with CSEP if a monetary value is to be determined. Secondly, they may be court ordered if the NCP does not have a viable income to fulfill a financial support order. However, when a child or family is on TANF they will not be permitted to using in-kind as support obligations. In-kind payments may also be limited by State-Tribal agreements. The primary purpose for their use in connection with a cash child support is to strengthen the bond between the child and non-custodial parent. A non-cash payment, or also known as, in-kind payment will be a secondary source to providing court ordered support when the NCP has verifiable income to provide financial child support.

The non-custodial parent may be ordered to provide in-kind services and resources to the child or custodial parent, in connection with child support obligation under one or all of the following circumstances:

1. When both parties agree
2. When the non-custodial parent's income is below the minimum income level for ordering cash child support in the child support schedule
3. When the non-custodial parent's income is insufficient to cover the obligation(s) for the total number of children from all relationships
4. When the non-custodial parent is a teenager in school
5. When the in-kind services and resources are regular and reliable.

In-kind services and resources may include, but are not limited to:

- a. Providing a cord of wood for heating and cooking purposes
- b. Root digging, fishing, gill netting, huckleberry picking, providing game meat
- c. Help with extra sports and school activities or expenses
- d. Daycare provided by the NCP or by NCP extended family members
- e. School clothes
- f. Car or home maintenance or repairs
- g. Transportation to the child activities
- h. Pow-wow regalia
- i. Teaching treaty skills, cultural knowledge, Nimiipuu-timpt.

The child support order may specify the quantity, quality, condition and frequency of the in-kind services and resources. However, mediation between parties and documentation verifying receipt of in-kind support shall be recorded within the CSEP client files.

Members of the NCP's extended family are welcome to contribute in-kind services and resources and these may be credited to the NCP's obligation if they meet the court's requirements above 1 thru 5.

In-Kind payments services and resources may include the following list:

## IN-KIND RATES

- Provide a cord of wood for heating & cooking purposes \$150.00 per cord
- Root digging, fishing, gill netting, providing game meat \$100.00 activity or \$25.00 p/salmon; \$2.50 p/pound for game meat
- Help with extra sports and school activities or expenses Minimum wage
- Day care provided by the NCP (going rate) \$20.00 a day
- Car or home maintenance or repair \$25.00 per hour
- Transportation to the child's activities Mileage
- Pow wow regalia making \$100.00
- Teaching treaty skills, cultural knowledge, Nimiipuu-timpt \$100.00

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Cultural activities shall be calculated at \$100.00 for an activity.

State of Idaho minimum wage shall be applied to other activities.

Mileage shall be paid at current GSA rate.

## ITEMS included in Gross Income

1. Salaries
2. Wages
3. Commissions
4. Revenue from sales of goods and products received in the normal course of business
5. Deferred compensation
6. Overtime
7. Contract-related income
8. Income from second jobs limited to obligated parent
9. Dividends
10. Interests
11. Severance Pay
12. Annuities
13. Capital gain
14. Pension retirement benefits
15. Workers compensation
16. Unemployment benefits
17. Spousal maintenance actually received
18. Bonuses
19. Social security benefits, SSA not SSI
20. Disability insurance benefits
21. Gifts and prizes greater than or equal to \$50 dollars in value
22. Rental or lease Income
23. Per capita income distributions

#### 24. Legal settlements

#### **ITEMS disclosed but NOT included in Gross Monthly Income:**

1. Income of a new spouse or income of other adults in the HH
2. Child support received from other relationships
3. Gifts and prizes less than \$500 dollars in value
4. Aid to families with dependent children
5. General assistance
6. Food stamps
7. Trust Income

### **DEVIATIONS FROM THE BASIC CHILD SUPPORT OBLIGATION AS DETERMINED BY THE COURT**

In determining basic child support obligation from within the appropriate combined gross income, the Court may take into account any of the following factors that are relevant to the case. Each factor is a general standard or guidance to be followed in most situations. The Court may however, deviate from the directive if the standard is not in the best interest of the Child(ren). The Court may also deviate from the initially determined basic support obligation when the application of all the factors below would dictate that the initial determination of the appropriate basic support obligation was too high or too low. **The Court has the authority for the final determination of obligation.**

1. Age(s) of Child(ren). The obligation shall be set closer to the higher end of the basic support obligation for older children and closer to the lower end of basic support obligation for younger children.
2. Number of Children in family. The obligation shall be lower per child the greater the number of children for which the obligation is to be paid.
3. Children from other relationships. The obligation may be set at a lower figure than would otherwise be determined when either or both parents before the court have children from other relationships to whom the parent owes a duty to support and is able to provide proof of support.
4. Seasonal or non-recurring income. If the income of either parent is seasonal or non-recurring, the obligation may be set at a lower figure than would otherwise be determined, or may be set on a schedule that varies the amount at different times of the year.
5. Traditional, Custom or Cultural Services, Resources. The obligation may take into consideration the contribution of either or both parents before the court when proof of in-kind support or resources are provided to support the child(ren) such as wood for heating, fish, game, clothing or other basic needs.
6. Disability Payments. In applying any disability payment benefits, the Court shall consider the actual life needs of the disabled party and the effect of the inclusion of such benefits for the disabled party as well as the need of the child(ren).

7. Other non-recurring income. The obligation may be set at a higher or lower rate by the Court if it is determined that non-recurring income will begin or will be terminated in the future. The support obligation may include a duty to share such non-recurring income when it is received based upon the gross income of both parties or as provided in mediation between parties.
8. Child Support Modification. Either party may request through the tribal court modification of child support order based upon a change in income, family status, or child custody, or when it is in the best interest of the child(ren). Such a request must be supported by documentation of payment, or non-payment and verifiable change in status.