

Nez Perce Tribe's Child Support Enforcement Program

CHILD SUPPORT ENFORCEMENT "In Kind Policy"

If you have any questions
or need additional information,
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The NPT-Child Support Enforcement Program drafted an In-Kind Policy structured to reflect our culture, tradition and customs. The In Kind Policy was reviewed and approved with changes by the Law & Order subcommittee on Thursday, September 2, 2010; and on Tuesday, September 7, 2010, it received NPTEC approval with an overwhelming response making the policy effective immediately.

Child Support Enforcement Program proposes an In-Kind Policy that is based upon the Nez Perce Tribe's culture, traditions and customs. In-Kind as defined is given a monetary value and can be applied if there is no viable income to fulfill a financial support order. In-kind payments are a secondary source and **do not** replace cash payments. A minimum cash payment amount shall be set by the court; case-by-case or set by Tribal Code.

To qualify for this policy:

1. An In-Kind value will be determined and court ordered by the Nez Perce Tribal Court.
2. **The custodial and non-custodial parent must be in agreement in regard to In-Kind payments and it must be ratified by the Judge.**
3. The child's support order will specify the quantity, quality, condition and fre-

quency of the In-Kind services and resources.

4. Mediation may occur upon request, to ensure the In-Kind payment is agreed upon by the Court, CSEP, and both custodial and non-custodial parents.

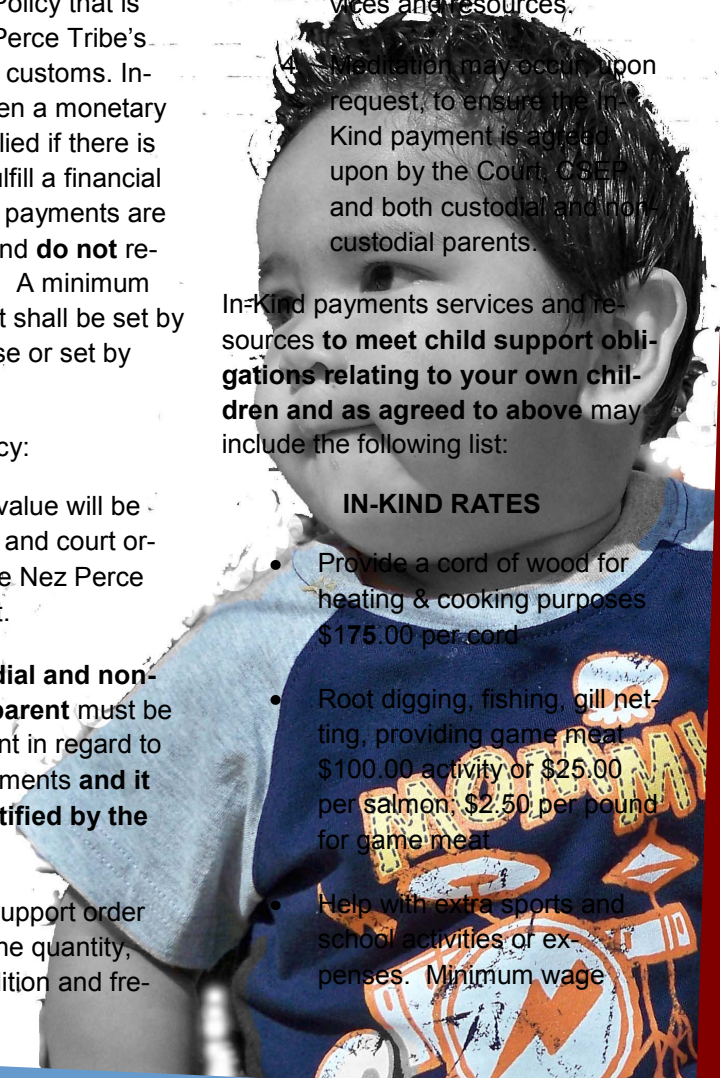
In-Kind payments services and resources **to meet child support obligations relating to your own children and as agreed to above** may include the following list:

IN-KIND RATES

- Provide a cord of wood for heating & cooking purposes \$175.00 per cord
- Root digging, fishing, gill netting, providing game meat \$100.00 activity or \$25.00 per salmon; \$2.50 per pound for game meat
- Help with extra sports and school activities or expenses. Minimum wage

INSIDE THIS ISSUE:

<i>Child Support and Your Right To Be Heard</i>	2
<i>In-Kind Policy continued</i>	3
<i>Questions Regarding Child Support</i>	3
<i>Links to Outside Resources</i>	3
<i>Mediation Services Available</i>	4



Child Support and Your Right To Be Heard

The information in this first article regarding due process was compiled by Carmel McCurdy, Deputy Prosecutor/CSEP Attorney, and summarizes portions of the Nez Perce Tribe's Law and Order Code as it pertains to child support.

One of the fundamental elements of the Child Support Enforcement Program is to ensure all parties have a right to be heard. Due process of law is a fundamental principle of fairness in both civil and criminal legal matters, especially those brought into the courts. The guarantee of due process is in the Fifth Amendment to the U.S. Constitution, which provides "No person shall...be deprived of life, liberty, or property, without due process of law," and is applied to all states by the 14th Amendment.

The Nez Perce Tribal Code ("NPTC") also guarantees due process for persons within its jurisdiction through the Civil Rights Act of the Nez Perce Tribe (NPTC Chapter 1-6). It states that the Tribe, "in exercise its sovereign powers of self government shall not: . . . deny any person within its jurisdiction the equal protection of the law or to deprive any person within its jurisdiction of liberty or property without the due process of the law."

The principle of due process requires that all legal procedures set by statute or court practice, such as notice of rights, must be followed for each individual to avoid prejudicial or unequal treatment. This article will address procedural due process requirements as provided for in the Nez Perce Tribal Code as they apply to the issue of child support enforcement.

Notice and Opportunity to be Heard: The domestic relations chapter of the NPTC specifically provides for due process by requiring that reasonable notice and an opportunity to be heard be given to the parties. NPTC § 4-5-25. If the person requiring notice lives outside of the Nez Perce Reservation, Tribal Code sets out methods by which such notice may be given. Notice to a person outside the Tribal Court's jurisdiction must be served, mailed, delivered or last published at least twenty (20) days before any hearing. For persons residing on reservation and depending on the type of hearing, the code requires at least five (5) days notice.

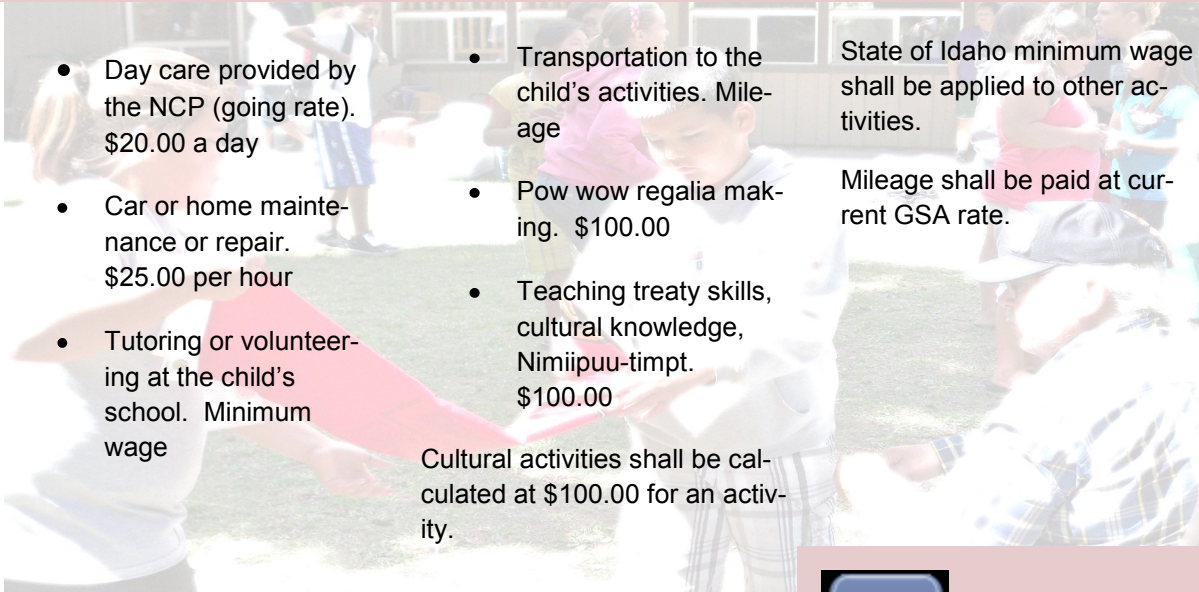
Service on the Parties: In child support enforcement cases, where an order from Tribal Court exists or where a foreign judgment has been recognized in Tribal Court, pleadings submitted by CSEP may be served by mailing to the parties. Service by mail is considered complete upon mailing. A summons to appear is required if CSEP is filing a new action, such as a petition to establish child support or to establish paternity where no prior child custody or support case exists between the parties. A summons and the accompanying petition may be delivered to the individual personally or by leaving copies with a person of suitable age at his or her usual place of residence.

Child Support Orders: Tribal code defines a support order as "a judgment, decree, or order issued by the Nez Perce Tribal Court creating a duty of support for a minor child..., as herein defined; **or** a judgment, decree, order or administrative ruling **issued by a court or agency of competent jurisdiction of another tribe, state or country,** creating a duty of support for a minor child, . . . , **which has been registered or otherwise made enforceable by this tribe.**" NPTC § 4-5-1(t). In other words, where the Court has recognized a foreign judgment (an order from another tribe or state) following proper procedures, the terms of that order or judgment are enforceable in the tribal court against a person within the tribal court's jurisdiction.

Foreign Judgments: A party petitioning to have a foreign judgment recognized and enforced in Tribal Court must follow certain procedures set out in Code. The foreign judgment submitted must be authenticated—generally a court-certified or exemplified copy of the judgment will suffice. Once a properly authenticated judgment is filed, it "has the same effect and is subject to the same procedures, defenses and proceedings for reopening, vacating, or staying as a judgment of the Tribal Court and may be enforced or satisfied in like manner," with the exception of a custody decree. The terms of a custody decree "may not be modified, vacated, reopened nor stayed unless the Court has assumed jurisdiction of the case." NPTC Rule 56(b)(1).

For more information, please contact Carmel McCurdy at the NPT-CSEP office at (208)843-7362, Ext. 4603.

“In-Kind Policy” continued.....



- Day care provided by the NCP (going rate). \$20.00 a day
- Car or home maintenance or repair. \$25.00 per hour
- Tutoring or volunteering at the child’s school. Minimum wage
- Transportation to the child’s activities. Mileage
- Pow wow regalia making. \$100.00
- Teaching treaty skills, cultural knowledge, Nimiipuu-timpt. \$100.00

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.

QUESTIONS regarding Child Support

Two questions will be answered in each quarterly newsletter. Each question will reference frequently asked questions by the custodial and noncustodial parent.

QUESTION 1: How do I ask for a change in the amount of child support that has already been established?

ANSWER: For the custodial and non-custodial parent, the Child Support Order (CSO) has to be at least three years from the date the CSO was established. A modification can also be requested if there is a significant change in income or circumstance. Either party may request a modification by contacting the CSEP office who currently handles the case. However, please be aware that if a modification of your order is required, it might increase or decrease the amount of support you receive or need to pay.

QUESTION 2: I have a couple of cases; two in Idaho and one in Washington each going to a different custodial parent. How do I know how my money is being distributed?

ANSWER: If current support is due, the support will go to that child support case first. And, if each of the cases has current support due it will be disbursed by the age of the children with the oldest child being compensated first. After the current support is allocated to each case the arrearages owed to each of the CP’s will be disbursed and then the State will collect the remaining balance. The custodial and non-custodial parent may request an updated payment history at any time from the CSEP office.



Look for us on Facebook and become a fan.

Also, the Child Support application is available for download on the official Nez Perce Tribe website www.nezperce.org.

LINKS to outside resources . .

Native American Fatherhood & Families Association

www.NativeAmericanFathers.org

Idaho Department of Health & Welfare

www.healthandwelfare.idaho.gov

Washington State Department of Social & Health Services

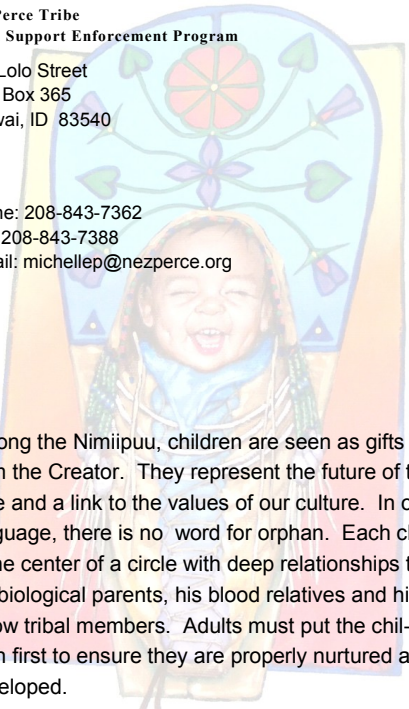
www.dshs.wa.gov/dcs/

National Coalition for Child Support Options

Nez Perce Tribe
Child Support Enforcement Program

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Among the Nimiipuu, children are seen as gifts from 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.

Mediation Services Available

The Nez Perce Tribe has the opportunity to develop a Child Support Enforcement Program (CSEP) that represents Nez Perce history, family and cultural values. The Program has been developed to reflect cultural sensitivity and respect and believes both parents are equally responsible for the love, care, and nurturing of their children.

Based on the ability to be flexible as a tribal program, CSEP is now offering the opportunity to offer Mediation Services with families.

The Nez Perce Tribe Child Support Enforcement Program has

adopted the process of Mediation to assist the parents in understanding their responsibilities for their children; but all final decisions regarding child support obligations rests with the Tribal Court.

For example, if you are the custodial parent and have an open child support case with the NPT-CSEP, you have an opportunity to meet for mediation to discuss any issues or concerns you may have. This service is also available for non-custodial parents who are involved with non-compliance with court order payments. The requested or court-ordered mediation session will

be scheduled for a specific time and date and a Mediator and a CSEP Caseworker will be present at the session to assist you.

If you would like learn more about the mediation services available, please contact the CSEP office at (208)843-7362.

