

# CAUTION

## NPTC § 4-5-59 Penalties for Employers

An employer may not discharge, discipline, or refuse to employ an obligor on the basis of an IWO.

The code indicates that it would give the obligor a cause of action against the employer and the employer is liable for double the amount of lost wages and other damages, as well as costs and reasonably attorney fees. There is also a civil penalty of up to \$300.00 for each violation. NPTC § 4-5-59 (b). Also, the employer may be ordered to hire, rehire, or reinstate the obligor.

Additionally, an employer who does not retain and remit child support amounts due under IWO is liable for the amount ordered plus a potential fine of up to \$100.00.

The employer is not liable, however, if it notifies the court or CSEP that the obligor is no longer employed, CSEP verifies that the obligor is no longer employed, and withdraws the IWO.

The employer is not liable if the obligor's income is insufficient and thus subject to the Consumer Credit Act restrictions, so a lesser amount is being withheld. NPTC § 4-5-58(c).

And finally, the code does offer protection for the employer against civil liability when acting in compliance with the IWO. NPTC § 4-5-59(c).

You can find the Nez Perce Tribal Code on the Nez Perce Tribe's website @ [www.nezperce.org](http://www.nezperce.org)



## Child Support Enforcement Program

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Nez Perce Tribe



# Child Support Enforcement Program & Employers



TEL: 208-843-7362

# Nez Perce Tribe Child Support Enforcement Program

**E**mployers play a vital role in helping to ensure the financial security of children by working cooperatively with the Child Support Enforcement Program.

The Nez Perce Tribe IV-D Child Support Enforcement Program (CSEP) has been at work since 2009 and has in place policies and procedures for accepting all applications for services regardless of tribal or non-tribal status. CSEP services include:

- Locating non-custodial parents
- Establishing paternity
- Establishing child support orders
- Collect child support payments

## JURISDICTION

**T**he Nez Perce Tribal Civil Code establishes territorial, subject matter and personal jurisdiction over all persons living within the exterior boundaries of the reservation, as well as any person who transacts, conducts, or performs any business or activity within the reservation by being present on the reservation or by mail, phone, broadcast, cable either in person or by an agent or representative. Specific cites for various types of jurisdiction are located in Nez Perce Tribal Code (NPTC).

- Territorial jurisdiction NPTC § 1.1.10
- Subject matter jurisdiction NPTC § 1.1.11
- Personal jurisdiction NPTC § 1.1.12



## AUTHORITY

**N**PTC § 4-5-53 allows CSEP to enforce a support order by income withholding (IWO) to pay:

- Current monthly support amount
- Additional amount to apply toward arrearage if needed.

The total amount withheld cannot exceed amount permitted under 303(b) of the Consumer Credit Act (15 U.S.C. 1673 (b))

CSEP complies with procedural due process requirements of the Nez Perce Tribe by securing an income withholding order (IWO) by filing a motion for Order to Show Cause, which calls the obligor into court. Our purpose is to explain the child support and/or arrearage obligation and to get a specific IWO from the Tribal Court.

## OK, YOU GOT AN IWO...WHAT NOW?

**O**nce an IWO is entered by the Court, the employer will receive a copy of the Order, as well as a form entitled "Answer of Garnishee".

The employer must reply to the Answer of Garnishee within 10 days of being served. NPTC § 4.5.56(a).

- The employer delivers original Answer to the Court, 1 copy to obligee's attorney (CSEP Deputy Prosecutor), and 1 copy to the obligor (Employee).
- Answer states whether obligor is employed/receives income, whether employer will honor IWO, and whether there are multiple child support IWO or garnishments against obligor.

Employer withholds income that is subject to the IWO immediately upon receipt of IWO. Employer delivers withheld income within 7 business days after amount would have been paid or credited to employee. NPTC § 4.5.56(e) and § 4.5.58(b).

## ARE THERE LIMITS ON AMOUNT TO WITHHOLD?

**Y**es, the total amount to be withheld from the obligor's disbursement, shall not exceed 40% of the disposable earnings of the obligor for that period. If the amounts to be paid toward the arrearage are specified in the support order, then the maximum amount to be withheld is the sum of the current support ordered and amount ordered to be paid toward the arrearage or 50% of the disposable earnings of the obligor for that period, whichever is less.

## WHAT IF THERE ARE MULTIPLE ORDERS?

**R**emember that child support is top priority! If faced with multiple child support garnishments please follow NPTC § 4-5-58(e). In general do the following:

1. Current support is paid first
2. If there's not enough to fully pay all current support for the month, it is divided pro rata between the child support obligees with IWOs in place.
3. If there is excess, it will go towards arrears, also on a pro rata basis.

## WHAT IS DONE WHEN EMPLOYEE IS NO LONGER EMPLOYED?

**I**f an employee resigns, is terminated, or in any other way ceases his/her employment, CSEP must be notified. NPTC § 4-5-58(f). It is also helpful to provide CSEP the employee's last known address, and the name and address of his new employer, if known.