

TITLE 9. FAMILY LAW

Chapter 9.6

CHILD SUPPORT

Sections:

- 9.6.1 Authority.
- 9.6.2 Purpose.
- 9.6.3 Policy.
- 9.6.4 Definitions.
- 9.6.5 Jurisdiction.
- 9.6.6 Duty of Parent to Support Child.
- 9.6.7 Suquamish Child Support Enforcement Office.
- 9.6.8 Confidentiality.
- 9.6.9 Purpose of the Child Support Guidelines.
- 9.6.10 Child Support Guidelines.
- 9.6.11 Determination of Gross Income.
- 9.6.12 Determination of Adjusted Gross Income.
- 9.6.13 Determination of Child Support Obligation.
- 9.6.14 Deviation from Child Support Schedule.
- 9.6.15 Initiating an Administrative Child Support Action – Establishment Notice.
- 9.6.16 Administrative Child Support Review Conference.
- 9.6.17 Initiating a Judicial Child Support Action by Filing a Petition.
- 9.6.18 Stipulated Child Support Agreement.
- 9.6.19 Hearing to Establish Level of Support.
- 9.6.20 Child Support Order.
- 9.6.21 Receipt and Disbursement of Payments.
- 9.6.22 Entry of Default Order.
- 9.6.23 Duration of Support Obligation.
- 9.6.24 Modification of Child Support Order.
- 9.6.25 Payor's Duties; Income Withholding.
- 9.6.26 Notice of Debt and Demand for Payment when Enforcing a Foreign Court or Administrative Order.
- 9.6.27 Enforcement of Order.
- 9.6.28 Federal or State Income Tax Refund Offset.
- 9.6.29 Civil Contempt.
- 9.6.30 Bench Warrant for Failure to Appear.
- 9.6.31 Reduction of Past Child Support Owed to a Government.
- 9.6.32 Petition or Application for Reduction of Past Child Support.
- 9.6.33 Order on Petition or Application for Reduction of Past Child Support.
- 9.6.34 Conditional Order of Charge-off of Arrearages.
- 9.6.35 Offset of Child Support Arrearages.
- 9.6.36 Statute of Limitation.

- 9.6.37 Obligation to Cooperate with the Suquamish Child Support Enforcement Office.
- 9.6.38 Full Faith and Credit for Foreign Child Support Orders.
- 9.6.39 Modification of Foreign Child Support Orders.
- 9.6.40 Appeal of Tribal Court Child Support Order.
- 9.6.41 Appeal of Administrative Child Support Order.
- 9.6.42 Suquamish Child Support Administrative Hearings Office.
- 9.6.43 Request for an Administrative Hearing.
- 9.6.44 Good Cause Must Be Shown for Filing a Late Request for a Hearing.
- 9.6.45 Administrative Hearing Procedures.
- 9.6.46 Appeal of Administrative Hearings Office Decision.

9.6.1. Authority. This child support ordinance is adopted according to the authority vested in the Suquamish Tribal Council by virtue of its inherent sovereignty as an Indian tribal government and Article III of the Constitution and Bylaws of the Suquamish Tribe that provides that the governing body has the power to pass ordinances that govern the conduct of all persons and regulate all property within the Tribe's jurisdiction to the fullest extent allowed under applicable federal law, that provide for the maintenance of law and order and the administration of justice, and that promote the social and economic welfare of the Suquamish people. (Res. 2010-015 §9.6.1, passed Feb. 8, 2010)

9.6.2. Purpose. The purpose of this child support ordinance is to establish parents' legal responsibility to provide financially for their children's well being through a fair and equitable process to establish paternity as provided in chapter 9.2 of the Suquamish Tribal Code (STC); to establish, modify, and enforce child support orders; to make support payments based on parents' real earning capability; and to improve efficiency of child support establishment and enforcement as provided in this chapter. Further, the purpose of this chapter is to protect the due process rights of any party involved in administrative or judicial matters involving the establishment, modification, and enforcement of child support orders and establishment of paternity in accordance with chapter 9.2 of the STC. (Res. 2010-015 §9.6.2, passed Feb. 8, 2010)

9.6.3. Policy. It is the policy of the Suquamish Tribe that all parents, both custodial and noncustodial, have an equal responsibility to care for and support their children and to establish an adequate standard of support for children whose paternity has been established or acknowledged. All parents have an obligation to bond with their children, make sure they are safe, and provide for all their basic needs. The Tribe encourages the use of voluntary agreements to resolve disputes over child support obligations. It is in the best interests of the child and the Suquamish Tribe that the child has an opportunity to develop relationships with extended family members because Suquamish Tribal culture, customs, traditions, and history are learned from extended family members, and because Suquamish and other native children are traditionally supported by extended family members. Aunts, uncles, grandparents, and other extended family members are encouraged to help parents in decision-making; to show love to the

children; to teach tradition, values, and respect; and to serve as a safety net. Grandparents share with their grandchildren the wisdom of their experience and traditional values. This chapter will be applied and interpreted by taking into account the needs and unique circumstances of each family and the cultural values, customs, and traditions of the Suquamish Tribe. (Res. 2010-015 §9.6.3, passed Feb. 8, 2010)

9.6.4. Definitions. For the purposes of this chapter, the words and phrases listed below have the following meanings:

(a) “Adjusted gross income” means gross income minus allowable deductions as specified in this chapter.

(b) “Administrative Hearings Office” or “AHO” means the Suquamish Child Support Administrative Hearings Office.

(c) “Arrearage” means an unpaid overdue debt.

(d) “Assignee” means any individual or agency who has been assigned the right to collect child support from the parent obligor.

(e) “Basic child support obligation” means a parent’s monthly child support obligation calculated according to the child support guidelines and does not include amounts for daycare, health care, and additional expenses set forth in subsections 9.6.13(i), (j), and (k).

(f) “Certified” or “certified copy” means any document containing a seal of the Tribal Court, the Suquamish Child Support Enforcement Office, the Administrative Hearings Office, or any other administrative agency or court of competent jurisdiction attesting to the document’s authenticity.

(g) “Certified statement” means authenticated or attested in writing as being true.

(h) “Child” means a person who is alleged to be the natural or adopted offspring of a parent and who is (1) under the age of eighteen (18); (2) between the ages of eighteen (18) and twenty-one (21), regularly attending high school or its equivalent; and (3) not emancipated according to the laws of the Suquamish Tribe, other tribes, or states.

(i) “Child support” means the financial obligation a noncustodial parent owes to his or her child(ren), whether that obligation is established through judicial or administrative processes or by stipulation of the noncustodial parent. The obligation includes but is not limited to continuing support, payment of arrearages, and the provision of benefits such as but not limited to health insurance.

(j) “Child support guidelines” means all child support guidelines, schedules, and worksheets approved by the Suquamish Tribal Council to implement this chapter.

(k) “Child support order” means any judgment or order, whether temporary, final, or subject to modification, entered by a court or an administrative agency ordering payment of a specific or determinable amount of child support, or other support toward the needs of a child, including medical, dental, educational, and child care support, or other additional expenses.

(l) “Custodial parent” means the person who holds legal custody of the child or children according to a court order or who has primary physical custody of the child or children on the basis of agreement between the parents or by the absence of one or both parents. The term custodial parent includes a grandparent, other relative, or extended family member caring for a child and a guardian or custodian appointed by a court of competent jurisdiction.

(m) “Court” means any court having jurisdiction to determine the liability of persons for the support of a child.

(n) “Cross credit multiplier” means a multiplier that is used in calculating child support obligations in shared custody situations to recognize that the cost of raising a child in shared custody situations is higher because some expenses of raising the child are duplicated in each parent’s household (e.g., the cost of a bedroom for the child, or increased utility costs). The child support calculation is increased to recognize these higher costs and then the noncustodial parent is credited for the portion of the time the child resides with that parent.

(o) “De novo” means independent review and consideration of all legal and factual issues.

(p) “Determination of parentage” means the establishment of the parent–child relationship by a signed valid acknowledgment of paternity, adjudication by the Court, adoption, or other method for determining parentage set forth at STC Chapter 9.2.

(q) “Employer” means any entity or individual that engages an individual to perform work or services for which compensation or remuneration is given.

(r) “Enforcement” means the application of remedies to obtain payment of a child support obligation contained in a child support order.

(s) “Foreign judgment or foreign order” means a judgment or order that is entered in a court or administrative agency of competent jurisdiction other than the Suquamish Tribal Court or the Suquamish Child Support Enforcement Office.

(t) “Guardian” is a person who has legal custody and has been appointed by a court to protect the interests of minors and to provide for their care, welfare, education, maintenance, and support.

(u) "Gross income" includes any source of income and includes but is not limited to income from salaries, wages, tips, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, income from sales of Indian arts and crafts, social security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, and significant in-kind benefits that reduce personal living expenses. The gross income of a parent means only the income and earnings of that parent and not the income of subsequent spouses, notwithstanding the community nature of both incomes after marriage.

(v) "Imputed income" means the actual gross income of a parent if employed to full capacity or potential income if voluntarily unemployed or underemployed. Potential income will not be imputed unless a preponderance of the evidence shows that the parent has a greater potential than actual income.

(w) "Income assignment" means an assignment by operation of law or by court or administrative order of a portion of the monies, income, or periodic earnings due and owing to the noncustodial parent to the person entitled to the support or to another person designated by the support order or assignment. An income assignment may be for payment of current support, arrearages, or both.

(x) "Income tax refund interception" is a remedy by which any income tax refund of a noncustodial parent will be intercepted directly from the United States, any state, the Suquamish Tribe, or other Indian tribe or nation for the payment of child support debt.

(y) "Income withholding" means the process by which an order issued by a court or administrative agency is directed to a person, employer, bank, or other entity holding monies or property of an obligor parent to make payments or deliver property to satisfy a child support obligation in accordance with the order.

(z) "Noncash payment" means noncash goods or services with a determinable cash value provided by an obligor parent to a custodial parent and approved by a court or administrative agency as partial child support payment. A noncash payment includes food, clothing, shelter, fuel, or firewood provided for the child's benefit.

(aa) "Noncustodial parent" means a parent of a child, whether or not conceived during the course of marriage, who does not hold legal custody of the child according to a court order, who does not exercise primary physical custody of the child on the basis of agreement between the parents, or where no agreement or court order exists as to the custody of the child; also referred to as the obligor.

(bb) "Obligee" means the person or agency with the right to receive child support or the person or agency to whom the right to receive or collect support has been assigned.

(cc) "Obligor" means the person with an obligation to pay child support; also referred to as the noncustodial parent.

(dd) “Office” means the Suquamish Child Support Enforcement Office.

(ee) “Offset” means an amount of money intercepted from a noncustodial parent’s state or federal tax refund or from an administrative payment such as federal retirement benefits to satisfy a child support debt.

(ff) “Order to withhold” means an order or other legal process that requires a withholder to withhold support from the income of an obligor.

(gg) “Parent” means the natural, biological, or adoptive parent of a child.

(hh) “Past-due support” means the amount of child support established under a court or administrative order in accordance with tribal or state law for a child(ren) and for which the parent with whom the child(ren) is living has not been paid.

(ii) “Payor” means any person, firm, entity, or agency of the state or federal government with a present legal obligation, whether as an employer, contractor, buyer of goods, debtor, pension fund, or otherwise, to pay an obligor.

(jj) “Post-secondary education” means, for the purpose of this chapter, education instruction sought after having obtained a high school diploma or G.E.D. and includes a four-year degree program, a two-year degree program, or vocational instruction leading to a degree or certification of completion.

(kk) “Primary custody” means that for more than fifty percent (50%) of the year one parent has legal custody of the child according to a court order or exercises physical custody of the child on the basis of agreement between the parents or the absence of the other parent.

(ll) “Public assistance” means benefits granted from tribal, federal, or state programs to aid eligible recipients. Eligibility requirements vary between particular programs. Applicants for certain types of public assistance (e.g., Temporary Assistance for Needy Families, Medicaid, and foster care) are automatically referred to their tribal or state agencies for child support services administered under Title IV–D of the Social Security Act.

(mm) “Register” means to record or file an administrative or judicial order in the Suquamish Tribal Court, other courts of competent jurisdiction, or child support programs.

(nn) “Registry” means the Suquamish Child Support Registry.

(oo) “Registering tribunal” means a tribunal in which a support order is registered.

(pp) “Responding tribe or state” means an Indian tribe or nation, tribal organization, or state in which a proceeding is filed or to which a proceeding is forwarded for filing from an initiating tribe or state under this chapter or a law substantially similar to this chapter.

(qq) “Responding tribunal” means the authorized tribunal in a responding tribe or Indian nation, tribal organization, or state.

(rr) “Shared custody” means that the child(ren) resides with each parent, as provided in a child custody order, for a least thirty-five percent (35%) of the year regardless of the status of legal custody.

(ss) “Suquamish child” means a child, as defined in STC §9.6.4(h), who is enrolled or is eligible for enrollment in the Suquamish Tribe.

(tt) “Suquamish tribal member” means a person duly enrolled with the Suquamish Tribe in accordance with the Constitution and Bylaws of the Suquamish Tribe and the Suquamish Tribal Code.

(uu) “Suquamish Child Support Enforcement Office” means the administrative agency established in STC §9.6.7.

(vv) “Suquamish Child Support Registry” means the entity established by the Suquamish Tribe to receive and disburse child support payments.

(ww) “Suquamish Tribal Council” or “Tribal Council” means the governing body of the Suquamish Tribe as set forth in the Suquamish Tribe's Constitution and Bylaws.

(xx) “Tribal Court” means the Suquamish Tribal Court.

(yy) “Tribal member” means a person who is an enrolled member of the Suquamish Tribe or a person who is enrolled with another federally recognized Indian tribe in accordance with that tribe’s laws.

(zz) “Tribunal” means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify child support orders.

(aaa) “Wage assignment” means a document signing over earned wages to another party, which is submitted to an employer, authorizing the employer to pay a portion of the employee’s earned wages to or for the benefit of the child.

(bbb) “Withholder” means any person who disburses income to the obligor and includes but is not limited to an employer, conservator, trustee, or insurer of the obligor. (Res. 2010-015 §9.6.4, passed Feb. 8, 2010)

9.6.5. Jurisdiction. (a) Full Jurisdiction Asserted. The Suquamish Tribal Court, the Suquamish Child Support Enforcement Office, and the Child Support Administrative Hearings Office accord maximum personal and subject matter jurisdiction over child support enforcement matters as is permitted by the Suquamish Tribe's inherent sovereign powers, treaty rights, Constitution and Bylaws, and laws; the laws of the United States of America; any and all applicable international laws; and any and all applicable agreements with other federally recognized tribes and states.

(1) The Tribal Court has jurisdiction over any action to establish, modify, and enforce child support orders brought under this chapter, except for such administrative actions arising under Title IV–D of the Social Security Act, 42 USC 651 et seq., as amended, and Title IV–D rules and regulations. Actions arising under this chapter in the Tribal Court may be joined with an action for dissolution, annulment, maintenance support, a declaration of invalidity, or any other civil action in which child support is at issue, including any juvenile proceedings.

(2) The Suquamish Child Support Enforcement Office and the Child Support Administrative Hearings Office have jurisdiction over actions to establish, modify, and enforce child support orders brought under this chapter only for actions arising under Title IV–D of the Social Security Act, 42 USC 651 et seq., as amended, and Title IV–D rules and regulations.

(b) Personal Jurisdiction. The Suquamish Tribal Court, the Suquamish Child Support Enforcement Office, and the Suquamish Child Support Administrative Hearings Office have but are not limited to personal jurisdiction over the following persons:

(1) Any person who is a member or eligible to be a member of the Suquamish Tribe and who is alleged to be the parent or guardian and/or has physical custody of a Suquamish child residing within the exterior boundaries of the Port Madison Indian Reservation;

(2) Any person who knowingly and voluntarily consents to the jurisdiction of the Suquamish Tribal Court, the Child Support Enforcement Office, and the Child Support Administrative Hearings Office, or who enters a general appearance, or who files a responsive document or participates in a proceeding unless it is for the purpose of contesting jurisdiction;

(3) Any and all individuals who are alleged to have engaged in an act of sexual intercourse within the exterior boundaries of the Port Madison Indian Reservation with respect to conceiving a child who is either a member of the Suquamish Tribe or who is eligible for enrollment in the Suquamish Tribe;

(4) Any parent who has the rights to income arising from:

(A) The Suquamish Tribal Council or any of its agencies, enterprises, or businesses; or

(B) An employer operating within the jurisdiction of the Suquamish Tribe;

(5) Any party who is subject to the jurisdiction of another tribe which has entered into a reciprocal agreement with the Suquamish Tribe under STC §9.6.5(a) at the request of that tribe;

(6) An obligor whose case is pending before the Suquamish Tribal Court and where another jurisdiction requests to consolidate a case arising in that jurisdiction involving the same obligor; and

(7) In addition to any other method this chapter provides, personal jurisdiction may be acquired according to (1) through (6) of this subsection by personal service of a summons outside the Port Madison Indian Reservation or by service in accordance with this chapter as now and as later may be amended.

(c) Continuing Jurisdiction. (1) In every action under this chapter, the Suquamish Tribal Court, the Suquamish Child Support Enforcement Office, and the Child Support Administrative Hearings Office will retain continuing, exclusive jurisdiction over the parties to the fullest extent permitted by law.

(2) Once given, consent, whether express or implied, cannot be withdrawn. This includes implied consent by a party who files an action with the Suquamish Tribal Court or the Child Support Enforcement Office or an appeal with the Child Support Administrative Hearings Office.

(3) Once personal jurisdiction attaches to an individual, it remains and cannot be defeated by relocation.

(4) An enrolled member of the Suquamish Tribe cannot avoid jurisdiction after jurisdiction attaches by later renouncing tribal membership or changing tribal affiliation.

(d) Exercise of Jurisdiction. (1) The director of the Child Support Enforcement Office, a Child Support Administrative Hearings Officer, or a judge may in his or her discretion decline to exercise jurisdiction if any one of the following is shown:

(A) The relief sought by the petitioner or respondent will be impossible for the administrative agency or court to enforce and the relief sought is a reasonably likely outcome of the action.

(B) Another jurisdiction is available and provides a more convenient forum for the parties or children subject to the action.

(C) Another jurisdiction has exercised authority over the issues involved in the action and comity should be extended to allow that administrative agency or court to act.

(2) If the Tribal Court, Suquamish Child Support Enforcement Office, or the Child Support Administrative Hearings Office declines to exercise jurisdiction as this subsection permits, written findings of fact detailing the basis for the declination will be made and are subject to the right of appeal. (Res. 2010-015 §9.6.5, passed Feb. 8, 2010)

9.6.6. Duty of Parent to Support Child. The “duty of support” means a parent’s duty to provide for the needs of a child(ren) which may include necessary food, clothing, shelter, education, health care, and general wellbeing. In cases where there is a dependent child, the duty includes any obligation to make monetary payments, to pay expenses, and to reimburse another person or agency for the cost of necessary support established by a court or administrative order, by operation of law, or otherwise. Every parent has a duty to support each and every child of that parent until that child’s eighteenth birthday unless the child is between the ages of eighteen (18) and twenty-one (21) and regularly attending high school or its equivalent.

(a) Based on the circumstances unique to each case, a parent’s duty to support a child may be extended by administrative order or order of the Court upon the custodial parent’s application or petition beyond the age of eighteen (18) only:

(1) Up to age twenty-four (24), as provided in STC §9.6.13(k) for completion of post-secondary education; or

(2) For an adult child who is living with a parent or family member because the child is incapable of independent living due to mental or physical disabilities, illness, or deficiency to assist with or reimburse the expenses another person incurs.

(b) A parent has a continuing obligation to pay past due child support arrearages, even after the child has passed the age requiring support. In the absence of evidence justifying a modification, the amount of the monthly payment towards the arrearages will be no less than the previous monthly obligation.

(c) Nothing in this chapter prevents a parent from bringing an action against the other parent who has a duty of support for partial or full reimbursement, as the court, administrative agency, or child support program determines is just, of specific expenditures previously incurred on behalf of the child or the unborn child, such as the expenses of pregnancy, confinement, medical costs, funeral, or other necessary support. Nothing in this chapter impairs the rights of a third party to seek reimbursement for services or support it has furnished on behalf of the child or the

unborn child. (Res. 2010-015 §9.6.6, passed Feb. 8, 2010; amended by Res. 2017-164, passed Jul. 17, 2017)

9.6.7. Suquamish Child Support Enforcement Office. (a) The Suquamish Child Support Enforcement Office is established as the tribal administrative agency that administers and manages the Suquamish Tribe's child support plan and program. The Office will carry out the purposes set forth in this chapter and in accordance with chapter 9.2 and will act to further:

- (1) The child's best interests;
- (2) The resolution of any controversy; and
- (3) The integrity and proper application of the law, including the protection of procedural and substantive due process rights.

(b) The Office will operate its program in compliance with Title IV–D of the Social Security Act, 42 USC 651 et seq., as amended, and Title IV–D rules and regulations for the establishment of paternity according to chapter 9.2; establishment and modification of child support obligations; enforcement of child support obligations; disbursement of child support collections; and location of custodial and noncustodial parents.

(c) Upon request of a parent, an obligee, an obligor, or a tribal, state, or international agency with authority to make such a request, the Office may initiate an administrative action; initiate a legal action; join a legal action; or otherwise act to establish parenthood of a child according to STC Chapter 9.2; to locate a parent; or to establish, modify, or enforce a child support obligation according to this chapter.

(d) The Office is responsible for receiving and processing income withholding orders from other tribes, states, and child support entities and ensuring that such orders are properly and timely served on employers under the jurisdiction of the Suquamish Tribe.

(e) The Office may not take administrative or judicial action to disestablish paternity, establish or modify visitation rights, establish spousal support, dissolve a marriage, enforce marital property or settlements, or provide any other services not allowed under tribal and federal child support laws and regulations.

(f) An attorney representing the Office pursuant to Title IV–D, 42 USC 651 et seq., represents the interests of the Suquamish Tribe and not the interests of any other party. An attorney representing the Office does not have an attorney–client relationship between him- or herself and an applicant for or a recipient of child support services. The fact that a recipient of services from the Office might incidentally benefit from the actions of the Office's attorney will not be construed as legal representation to the recipient nor as having formed an attorney–client relationship.

(g) The Tribe will maintain the Suquamish Child Support Registry for receipt and disbursement of child support amounts and for maintenance of records submitted under STC §9.6.20. The Tribe will establish procedures in compliance with 42 USC 651 and other provisions of this chapter for the disbursement of child support.

(h) The Office may enter into reciprocal agreements with other tribes to assist each tribe in establishing a child's parentage and in establishment, modification, or enforcement of a child support obligation for that tribe's members in accordance with this chapter.

(i) The Office will adopt policies and procedures consistent with this chapter.

(j) The Office may issue a subpoena under the signature of the director of the Child Support Enforcement Office to a person or entity believed to have information needed to establish, modify, or enforce a child support order; may issue a subpoena requiring a person to appear before the Administrative Hearings Office; or may issue a subpoena for the production of records or documents needed for a child support proceeding. The subpoena will be served by regular mail.

(k) The Office will establish the amount of child support obligation of an obligor parent by using the child support guidelines found in STC §9.6.10 by the preponderance of the evidence. The Office will not depart downward from the guidelines unless it finds that it would be unjust to apply the guidelines in a specific case which meets the deviation requirements in STC §9.6.14. The Office will issue written findings in an administrative order.

(l) The Office may terminate child support services according to tribal and federal child support laws when one of the following conditions exists: a minor child is emancipated and no child support arrearages are owed; a minor child marries; the applicant submits a written request to terminate child support services; or there are no public assistance monies owed to another state or tribe. (Res. 2010-015 §9.6.7, passed Feb. 8, 2010)

9.6.8. Confidentiality. (a) The Suquamish Child Support Enforcement Office is authorized to obtain otherwise confidential information about a party's income, resources and address from the tribal entities and employers as set forth in STC §9.6.37. The Office is authorized to request information from off-reservation employers, governmental agencies, and other entities.

(b) The Tribal Court, the Office, and the AHO will take whatever steps necessary to ensure that the address or location of a victim of domestic violence is kept confidential.

(c) The Tribal Court, the Office, and the AHO may order that the address and other location information regarding a party or child will not be released if it is reasonably likely that the release of information may result in physical or emotional

harm to the child or to a party. In such instance, the information will not be available for public view and the Tribal Court, the Office, or the AHO may specify those persons who are allowed access.

(d) The Tribal Court, the Office, and the AHO will make provisions for the confidentiality of financial records filed by the parties, so that the records are sealed from view by the general public but may be reviewed by the Tribal Court, parties to the case, and the Office solely for the purpose of establishing, modifying, enforcing, or distributing child support.

(e) According to STC §9.6.28, the Tribal Court, the Office, and the AHO will abide by all applicable Internal Revenue Service confidentiality rules and regulations.

(f) For the sole purpose of administering Titles IV–A, IV–D, IV–E, and Title XIX programs under the Social Security Act, the Suquamish Tribal Court, the Office, and the AHO may share confidential information. (Res. 2010-015 §9.6.8, passed Feb. 8, 2010)

9.6.9. Purpose of the Child Support Guidelines. The purpose of the child support guidelines is to create a framework for establishing levels of child support adequate for children’s needs that are subject to the parents’ ability to pay; that make support payments equitable by ensuring consistent treatment of individuals in similar circumstances; and that improve efficiency of the administrative and judicial process by promoting settlements. (Res. 2010-015 §9.6.9, passed Feb. 8, 2010)

9.6.10. Child Support Guidelines. (a) The child support guidelines set the scale for minimum child support obligations and will be used to determine the amount a noncustodial parent must pay to support the needs of his or her child according to this chapter. In any action to establish or modify child support, the child support schedule set forth in this section will be applied to determine the child support necessary to meet the child’s needs and will be used for temporary or permanent orders and decrees. The child support schedule places a duty for child support on either or both parents based on their respective financial resources and the custodial arrangements for the child(ren) of the parents.

(b) The child support schedule takes into consideration all the gross and adjusted gross income of the noncustodial parent or of both parents if custody is shared or divided and uses specific descriptive and numeric criteria to calculate an amount of child support which is sufficient to meet the child’s basic needs for housing, clothing, food, education, health care, recreation, and goods. (Res. 2010-015 §9.6.10, passed Feb. 8, 2010)

(1) Child Support Schedule.

Number of Children	Percent (%) of Monthly Adjusted Gross Income
1	20
2	26
3	31
4	38
5 or more	45

(2) Minimum obligation. The minimum amount of monthly child support is fifty dollars (\$50) per child.

(3) No obligated parent's adjusted gross income will be reduced below one hundred and twenty-five percent (125%) of the federal poverty guidelines except to pay the minimum of fifty dollars (\$50) per month per child according to STC §9.6.10(b)(2).

(4) If the noncustodial parent is unemployed, he or she will still be imputed to be able to provide some degree of child support and an order of support will be calculated according to the guidelines unless the Tribal Court, the Office, or the Administrative Hearings Office makes written findings of injustice in its application to the respondent according to STC §9.6.14.

(5) In any proceeding, there will be a rebuttable presumption that the award of child support arising from the application of the schedule is consistent with this chapter and is the correct amount of child support to be awarded.

(6) The child support schedule and calculations will be reviewed and revised, if necessary, at least once every four (4) years. It is the Suquamish Child Support Enforcement Office's responsibility to recommend any revisions to the Tribal Council. (Res. 2010-015 §9.6.10, passed Feb. 8, 2010)

9.6.11. Determination of Gross Income. (a) Gross income includes income from any source and may include but not be limited to the following:

- (1) Salaries, wages, tips, commissions, and regular overtime;
- (2) Revenue from sales of goods and products;
- (3) Deferred compensation;

- (4) Income from second jobs;
- (5) Interest;
- (6) Trust income;
- (7) Treaty income;
- (8) Fireworks income;
- (9) Bonuses;
- (10) Severance pay;
- (11) Lease or rental income;
- (12) Contract-related income and/or benefits;
- (13) Annuities;
- (14) Capital gains;
- (15) Pension/retirement benefits;
- (16) Social security benefits;
- (17) Disability insurance benefits;
- (18) Noncash benefits, to which a specific cash value will be assigned;
- (19) Seasonal income, overtime income, or fluctuating income, which will be averaged;
- (20) Workers' compensation and unemployment benefits;
- (21) Gifts and prizes greater than two hundred and fifty dollars (\$250) in value;
- (22) Spousal maintenance actually received; and
- (23) Income from self-employment, rent, and royalties.

(b) Gross income does not include:

(1) Income from a second spouse or other adult in the household;

(2) Temporary Assistance to Needy Families (TANF), general assistance benefits, supplemental security income (SSI), food stamps, or other means-based benefits;

(3) Child support a parent receives for the support of other children;

(4) Financial aid received for educational expenses;

(5) Monies received from loans obtained by the obligor; and

(6) Tribal distribution or tribal elder distribution benefits.

(c) For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, gross income means gross receipts minus ordinary and necessary expenses required to produce income. Deductions from gross income for depreciation are not allowed as an adjustment to gross income. Justification is required for any normal business expense deduction unless allowed under the Internal Revenue Service rules, for self-employment taxes, or for which there is a disagreement.

(d) If a parent is unemployed or working below full earning capacity, the Tribal Court, the Suquamish Child Support Enforcement Office, or the Administrative Hearings Office may consider the reasons. Among other factors, the Tribal Court, the Office, or the AHO may consider whether the parent declined to accept or pursue employment or training opportunities and the parent's job skills, training, work history, education, health, and age. If the evidence shows that earnings are reduced as a matter of choice and not for reasonable cause, the Tribal Court, the Office, or the AHO will attribute income to a parent up to his or her earning capacity. (Res. 2010-015 §9.6.11, passed Feb. 8, 2010)

9.6.12. Determination of Adjusted Gross Income. Adjusted gross income includes gross income minus the following deductions:

(a) Federal, state, and tribal income taxes;

(b) Federal Insurance Contributions Act (FICA or social security) deductions;

(c) Mandatory pension plan payments and mandatory union or professional dues;

(d) State industrial insurance premiums; and

(e) Court-ordered spousal maintenance to the extent actually paid. (Res. 2010-015 §9.6.12, passed Feb. 8, 2010)

9.6.13. Determination of Child Support Obligation. (a) The parties must provide complete disclosure of financial information to the Tribal Court or the Suquamish Child Support Office for determining the gross income, the adjusted gross income, and the child support obligation. The parties must execute all necessary releases to allow the Office to obtain any such information if that information is confidential as provided in STC §9.6.8.

(b) The Tribal Court and the Office will establish the amount of the obligor parent's child support obligation by using the child support guidelines and schedule. The Tribal Court, the Office, or the AHO may not depart downward from the guidelines and schedule except as provided in STC §9.6.14. In every case, a minimum amount of child support will be ordered as provided in STC §9.6.10(b)(2). The Tribal Court, the Office, and the AHO may depart upward from the guidelines and schedule based on the preponderance of the evidence and good cause.

(c) Child support obligations will be determined by the preponderance of the evidence. The petitioner/custodial parent bears the burden of proof, except that the respondent/noncustodial parent bears the burden of proof that the guidelines are unjust as applied to the noncustodial parent.

(d) Primary Physical Custody. When one parent has primary physical custody, the child support obligation will be calculated using the noncustodial parent's income according to STC §9.6.10(b)(1).

(e) Shared custody. When the noncustodial parent has overnight visitation with the child(ren) thirty-five percent (35%) or more of the nights in the year, the child support obligation will be calculated using a cross-credit multiplier as follows: calculate the child support obligation using the noncustodial parent's income according to STC §9.6.11(b)(1); multiply the result by one and two-tenths (1.2); multiply that result by the adjustment percentage below to determine the credit; and subtract that number from the child support obligation determined in the first step.

Number of parenting over nights	Adjustment percentage
128 - 129	0.195
130 -142	0.253
143 - 152	0.307
153 -162	0.362
163 -172	0.422
173 -183	0.486

(f) Joint Custody — Children Divided between Two Parents. The rebuttable presumption is that all children will be in the primary care of one of the parents. However, if there is more than one child and custody is joint between the parents with each parent having primary responsibility for at least one child, then the amount that each parent would owe is calculated separately. The child support obligation will be calculated using each parent's income separately according to STC §9.6.11(b)(1) for the total number of children in the two households for whom child support is being calculated. The parent's child support obligation derived from this calculation is then multiplied by the percentage of the children for which that parent does not have custody. The two child support obligations are then compared, and the lower figure is subtracted from the higher figure to determine the amount of support to be paid by the parent with the higher child support obligation to the other parent. If one parent receives state or tribal TANF benefits, each parent will be obligated to pay his or her child support obligation to the other. In this case, the two child support obligations are not offset to produce one child support payment.

(g) Natural or Adopted Children from Other Relationships. To assure that all the noncustodial parent's children share equally in the resources available to support his or her children, the child support obligation for natural or adopted children from his or her other relationships will be determined by counting all the children for whom the noncustodial parent is actually paying support including children the noncustodial parent is supporting in his or her household. The total number of children will be located in the child support schedule in STC §9.6.10(b)(1) and the corresponding percentage multiplied by the adjusted gross income. The total number of children is then divided into the total child support obligation to determine the child support amount per child. This per child amount is then multiplied by the number of children for whom support is being calculated in the child support order.

(h) The child support obligation will not be construed to be an actual amount per child unless specifically ordered by the Tribal Court, the Office, or the AHO. A child reaching the age of majority or otherwise no longer entitled to support according to STC §9.6.23 constitutes a material change of circumstances, but such circumstances will not automatically serve to modify the order. The obligor continues to pay the same child support obligation for the remaining children who are not emancipated unless or until the obligation is modified.

(i) The following costs will be paid by each parent in proportion to his or her income, in addition to the basic child support obligation:

(1) Costs in excess of one hundred dollars (\$100) per child per year for reasonably necessary medical, dental, and counseling services that are not covered by insurance or the Indian Health Service;

(2) Services required for a child with physical and/or mental disability; and

(3) Reasonable child care costs incurred on behalf of the child due to employment or job search of a parent.

(j) The child support obligation may also include contribution toward the following expenses not covered by the basic support obligation based on a prorated share:

(1) Substance abuse counseling and treatment for a child;

(2) Any extraordinary educational or extracurricular expenses for a child;

(3) Transportation and communication expenses necessary for extraordinary long distance visitation or time-sharing;

(4) Traditional cultural activities for a child; and

(5) Other expenses when circumstances of a particular case warrant contribution to set a fair and reasonable child support obligation as determined by the Tribal Court, the Office, or the AHO.

(k) Post-secondary education expenses. At the discretion of the Tribal Court, the Office, or the AHO, a parent may be ordered to contribute a prorated share to the support of a child who is actively pursuing a post-secondary education up to the child's twenty-fourth (24th) birthday. Factors to be considered include income of both parents; hardship to the parent; the child's needs, desires, aptitude, and ability; and parental expectations.

(l) Upon mutual agreement of the custodial and noncustodial parent and approval of the Tribal Court, the Office, or the AHO, a portion of the obligation but not more than fifty percent (50%) of the monthly child support obligation may be paid through noncash payment. Noncash payment will not be allowed to liquidate a debt to another tribe or state. Orders must specify the types of noncash payments that will be allowed and will assign a specific value to each type of noncash payment based on current value for similar goods and services in the local community.

(m) The Tribal Court, the Office, or the AHO will make findings in the record as to its calculation of gross income; adjusted gross income; imputed income; basic child support obligation; noncash support payments when a support obligation involves a shared or divided custody situation, joint custody for children divided between two parents, or natural or adopted children from other relationships; additional support under STC §9.6.13(i), (j), and (k); the child support award; and reasons for any deviations from the child support guidelines. The findings may incorporate into the record child support calculation worksheets containing this information. Any deviation from the child support guidelines must comply with STC §9.6.14. (Res. 2010-015 §9.6.13, passed Feb. 8, 2010)

9.6.14. Deviation from Child Support Schedule. (a) The Tribal Court, the Office, or AHO may order child support in an amount different from that which is provided in the child support schedule if one or more of the following conditions are met.

(1) The party requesting deviation proves by the preponderance of the evidence that the application of the schedule will cause substantial hardship to a parent or the child.

(2) The deviation is in the child's best interest.

(3) A parent possesses sources of income not factored into the determination of gross monthly income, including but not limited to savings, investments, real estate holdings, business interests, vehicles, boats, pensions, bank accounts, insurance plans, or other assets.

(4) A parent possesses a particular source of income included in the calculation of the basic support obligation that is not a recurring source of income. Depending on the circumstances, nonrecurring income may include overtime, contract-related benefits, bonuses, or income from second jobs. Deviations from nonrecurring income will be based on a review of nonrecurring income over the previous two calendar years.

(5) The existence of extraordinary debt not voluntarily incurred.

(6) A significant disparity in the parents' living costs due to conditions beyond their control.

(7) Special needs of a disabled child.

(8) Special medical, educational, or psychological needs of the child.

(b) Unemployment or underemployment is not cause for a finding of substantial hardship where the Tribal Court, the Office, or the AHO determines that the person contesting application of the schedule is voluntarily underemployed or has declined to accept or pursue employment opportunities.

(c) If the Tribal Court, the Office, or AHO finds reasons to justify a deviation, the order will contain written findings stating the reasons for justifying deviation under this subsection, what the monthly support obligation would have been under the schedule without the deviation, and what the order allows with the deviation.

(d) The Tribal Court, the Office, or the AHO may deviate from the child support guidelines according to this section and upon agreement of the parties only if all of the following criteria are met:

(1) The agreement is in writing;

(2) All parties have signed the agreement with the knowledge of the amount of support that would have been ordered by following the guidelines but for the agreement;

(3) All parties have signed the agreement free of duress, coercion, fraud, over-reaching, or improper promise on the part of any person; and

(4) The Tribal Court, the Office, or the AHO makes written findings as required in (c) of this subsection. (Res. 2010-015 §9.6.14, passed Feb. 8, 2010)

9.6.15. Initiating an Administrative Child Support Action – Establishment Notice. (a) An administrative child support action will be initiated with the Suquamish Child Support Enforcement Office when a custodial parent, a noncustodial parent, or a guardian files a completed application for child support services with the Office; when a case is transferred to the Office; or when another tribe or state requests child support services from the Suquamish Tribe. An action to establish child support may be initiated at any time for any period before the child in question has his or her eighteenth (18th) birthday.

(b) When there is no order setting the amount of child support, the Office will serve a support establishment notice on the noncustodial and the custodial parent. A support establishment notice is an administrative notice that can become an enforceable order for support if a hearing is not requested after receipt of the notice. Service will be by certified mail, return receipt requested or by personal service by any person the Office designates who is over the age of eighteen (18) years, and who is neither identified as a child or custodial parent under the establishment notice.

(c) The notice must include all the following requests and statements:

(1) The name(s) of the child(ren) of whom parentage is alleged and/or for whom child support is being sought and the name of the custodial parent.

(2) The amount of the child support obligation that the Office has determined to be appropriate in accord with the child support guidelines set forth in STC §9.6.11.

(3) If the custodial or noncustodial parent disagrees with the claim of parentage of the child(ren), the custodial or noncustodial parent may pursue remedies under STC Chapter 9.2 Paternity.

(4) If the custodial or noncustodial parent disagrees with the amount of the child support obligation or the periodic payment required, the noncustodial parent must contact the Office by telephone or in person or file a written answer with the Office and request a child support review conference within twenty (20) days after receipt of the notice.

(5) If a timely answer is not received from the noncustodial parent, the establishment notice issued by the Office will become an enforceable child support default order after the expiration of the twenty (20) days after receipt of the notice.

(6) The noncustodial parent is responsible for notifying the Office of any change of address or employment.

(7) Any party to a child support order issued under STC §9.6.15(c)(5) by the Office may appeal the order to the Suquamish Child Support Administrative Hearings Office within twenty (20) days. If a timely appeal is not filed, the administrative order is final and is enforceable after the expiration of the twenty (20) day appeal period. (Res. 2010-015 §9.6.15, passed Feb. 8, 2010)

9.6.16. Administrative Child Support Review Conference. (a) Upon service of a notice according to STC §9.6.15 and within twenty (20) days of service, a party may request a child support review conference with the Suquamish Child Support Enforcement Office. Upon receiving a request, the Office will hold a review conference in person or by telephone or video conference, if available, either at the Suquamish Tribe's administrative offices or at a mutually agreed location.

(b) If good cause is shown, a party who has a right to a child support review conference with the Office may file a request for a late review conference after the period for requesting a review conference has passed. Good cause may be demonstrated by evidence that includes but is not limited to failure of a party to receive timely notice or inability of a party to respond due to fraud, duress, or excusable neglect.

(c) If the Office does not find good cause for a late review conference, the Office may issue a decision on the current and future support obligation or on a modification of a support obligation, if applicable, without a showing of a change of circumstances.

(d) The purpose of the child support review conference is for the Office to discuss the child support obligation with the custodial and noncustodial parents and to obtain additional information concerning the parties' financial status; ability to provide medical care, child care, and educational support; and any other information necessary to establish child support. Another purpose of the conference is to reach an agreed child support order according to STC §9.6.18. The factual determinations made at the review conference will be limited to the income and expense information necessary to determine the appropriate level of support according to the child support guidelines, STC §9.6.10.

(e) If an obligor fails to attend the child support review conference, the Office will issue a default order within ten (10) working days of the date of the conference according to STC §9.6.22.

(f) If the parties are unable to reach agreement, the Office will issue an administrative child support order according to STC §9.6.20 within ten (10) working days of the date of the conference.

(g) An administrative child support order will be enforceable upon mailing to the parties' last known addresses. The order must state that a party has twenty (20) days to file an appeal with the Administrative Hearings Office but that the order will not be stayed pending appeal. The order must also state that if an appeal is not timely filed, the order will be final. (Res. 2010-015 §9.6.16, passed Feb. 8, 2010)

9.6.17. Initiating a Judicial Child Support Action by Filing a Petition. (a) Any parent or guardian may initiate an action for child support by filing a petition with the Suquamish Tribal Court. An action to establish child support may be initiated at any time for any period before the child in question reaches his or her eighteenth birthday and may be joined with a declaration of invalidity or an action for dissolution, annulment, maintenance support, or any other civil action in which child support is at issue, including any juvenile proceedings.

(b) The petition to establish child support must include all the following information.

(1) The names and addresses of the petitioner and of the custodial parent or guardian if different. The petitioner may file the address of a custodial parent or legal guardian under seal and request the Tribal Court to order that the information be kept confidential under the standards set out in STC §9.6.8.

(2) The name and date of birth of the child for whom support is requested.

(3) The name of the obligor parent from whom support is requested and whether parentage of the obligor parent has been established, if parentage is not presumed under STC Chapter 9.2.

(4) The following additional costs if applicable:

(A) Cost of the child's medical and dental insurance premiums paid by the custodial parent;

(B) Costs in excess of \$100 per child per year for medical, dental, or counseling services for the child paid by the custodial parent and not covered by insurance or Indian Health Service;

(C) Costs paid by the custodial parent for services required for a child with physical and/or mental disability;

(D) The cost of child care necessary to permit the custodial parent to work; and

(E) Any additional costs listed in STC §9.6.13(j) and (k) that are not covered by the basic child support obligation and for which the petitioner seeks reimbursement.

(5) If child support is sought for a child beyond the ages defined in STC §9.6.6, the reasons, if any, why child support should be ordered.

(6) If custody is shared between the parents, the percentage of the year during which the obligee parent has physical custody of the child [the number of days in the year with the obligee parent divided by three hundred and sixty-five (365)] and the obligee parent's income for purpose of determining the split support obligation.

(7) If known, the social security number, address, and income of the obligor parent.

(d) The petitioner must serve a copy of the petition and summons upon the parent against whom child support is to be established. Service and proof of service must comply with the procedures set forth in STC §4.2.3(b). The summons must notify the party that the party must respond to the summons and petition by serving a copy of a written response on the person signing the summons and by filing the original with the Tribal Court. The summons must further notify the party that, if the written response is not filed with the Tribal Court within twenty (20) days after receipt of the summons and petition, the Tribal Court may enter a default judgment against that party by granting the petitioner's petition. If the petitioner is not the custodial parent, the petitioner must also serve the custodial parent with a summons. The summons served on the party against whom child support is to be established must include the following information:

(1) That the respondent's employer or others with evidence of the parent's income may be required to provide the Tribal Court with records of his or her income;

(2) That the respondent's income will be imputed according to the child support guidelines if there is no reliable evidence of the respondent's income;

(3) That the Tribal Court will attribute income up to the parent's earning capacity if the parent's income is reduced as a matter of choice and not for reasonable cause; and

(4) That the respondent may enter into a stipulated child support agreement with the other parties as allowed under STC §9.6.18.

(e) Upon receipt of proof of service of the summons and petition on the respondent, the Tribal Court will schedule a hearing to determine child support no sooner than twenty (20) days after the respondent receives notice of the child support

action. The Tribal Court will send a notice of hearing with a hearing date and a brief description of the subject matter of the hearing to both the custodial and noncustodial parent and to any other parties to the case. The notice will inform the respondent of the following:

(1) That the hearing will proceed on the basis of the petitioner's evidence if the respondent chooses not to appear at the hearing or enter a defense to the petition;

(2) That parentage may be established at the hearing according to STC Chapter 9.2 if parentage has not yet been established;

(3) That an order of child support may obligate the respondent to pay child support until the child reaches the age of eighteen (18) or until the child graduates from high school or through post-secondary education or its equivalent up to age twenty-four (24);

(4) That respondent's employer or others with evidence of the parent's income may be subpoenaed to provide the Tribal Court with records of his or her earnings;

(5) That if respondent is unemployed, he or she will still be imputed to be able to provide some degree of child support and an order of support will be calculated according to the child support guidelines unless the Tribal Court makes written findings of good cause to deviate;

(6) That he or she may enter into a stipulated child support agreement;
and

(7) That a written answer to the petition must be filed with the Tribal Court within twenty (20) days of the date of service of the petition and a copy served on the petitioning party. (Res. 2010-015 §9.6.17, passed Feb. 8, 2010)

9.6.18. Stipulated Child Support Agreement. (a) Parties are encouraged to reach agreement for the support of the child(ren) in the best interests of the child(ren) and in accordance with this chapter. The agreement must be signed and notarized, and reviewed and approved by the Tribal Court, the Office, or AHO. An agreement that allows any deviation from the child support guidelines will only be approved under the procedures established in STC §9.6.14. The agreed support order must include all the provisions required in STC §9.6.20.

(b) Upon a finding that all the conditions of paragraph (a) of this section are satisfied, the Tribal Court, the Office, or the AHO will issue an order approving the stipulated child support agreement.

(c) After the Suquamish Child Support Enforcement Office issues an administrative order that approves a stipulated child support agreement, the order will have the same force and effect as an order or judgment issued by the Suquamish Tribal Court or any other court. The obligation of the obligor parent to pay child support will begin on the date specified in the agreement but no later than the date the order approving the agreement is issued.

(d) The Office may hold ex parte discussions with each party to ensure that the party understands the terms of the proposed order and to assure that each party's consent is not the result of coercion, threat, duress, fraud, over-reaching, or improper promise on the part of any person.

(e) The parties may enter into a stipulated agreement to modify a child support order according to STC §9.6.24. (Res. 2010-015 §9.6.18, passed Feb. 8, 2010)

9.6.19. Hearing to Establish Level of Support. (a) The factual determinations the Tribal Court makes at a judicial hearing will be limited to the income and expense information necessary to determine the appropriate level of support according to the child support guidelines in STC §9.6.10.

(b) The Tribal Court will establish the obligor parent's amount of child support obligation by using the child support guidelines by the preponderance of the evidence. The Tribal Court may not depart downward or upward from the guidelines unless it finds that it would be unjust to apply the child support guidelines in a specific case which meets the deviation requirements in STC §9.6.14.

(c) If the respondent fails to file an answer or appear at the hearing and upon a showing by the petitioner of valid proof of service of the obligation to the absent party, the Tribal Court may enter a default order of child support obligation as established by the evidence according to STC §9.6.22. (Res. 2010-015 §9.6.19, passed Feb. 8, 2010)

9.6.20. Child Support Order. (a) Payments for all IV-D cases will be made to the Suquamish Child Support Registry for distribution to the custodial parent or other obligee. Payments for all non-IV-D cases under a judicial order will be made to the Suquamish Tribal Court. For non-IV-D cases, the Tribal Court may, however, order payments to be made elsewhere if there is a showing that it is in the child's best interests.¹ If the Tribal Court order allows support payments to be made directly to a parent, the order will direct how the parties must keep records of the direct payments so that the paying parent is credited with each payment.

(b) Whether or not the support is being paid through the Suquamish Child Support Registry, each order for child support payments must include an order that the obligor notify the Suquamish Child Support Registry of any change of that person's home telephone number and work address; report any change of employer, address, or telephone number; and report any change of the primary custodian of the child(ren)

¹ Non IV-D orders are not eligible for federal financial participation.

within ten (10) days of such change. The duty to update information under this subsection continues until the obligor satisfies all duties of support, including arrearages accrued according to the child support order. Service of process on a party may be allowed or accepted as adequate in any proceeding to enforce or modify the child support order if it is accomplished by regular US mail to the obligor or obligee at the last address provided.

(c) A child support order will be in favor of the child through his or her custodial parent or guardian when the Suquamish Tribe or a federal or state agency is not making Temporary Assistance to Needy Families (TANF) payments on the child's behalf. The Tribal Court or AHO may order payments to be disbursed by the Registry to another party through a trust if there is a showing that payments to the custodial parent or guardian are not in the child's best interests. The party opposing distribution to the custodial parent has the burden of showing that the custodial parent is not an appropriate recipient of child support payments for the child.

(d) Judicial and administrative child support orders will provide for automatic income withholding actions and will contain a statement that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under this chapter without further notice to the obligor at any time after the entry of the order. Automatic wage withholding will not exceed the limits established in 15 USC 1673. The Tribal Court, the Office, or AHO may only make an exception to the requirement for automatic withholdings when:

(1) One of the parties demonstrates and the Tribal Court, Office, or Administrative Hearings Office finds that there is good cause not to require an immediate income withholding provision and that the withholding should be delayed until a payment is past due; or

(2) The parties reach a written agreement approved by the Tribal Court, the Office, or AHO that provides for an alternative arrangement. A history of domestic violence between the parties is a basis for denying this exception.

If a support order does not expressly require immediate income withholding, the obligor is automatically subject to income withholding without the need for a judicial or administrative hearing upon a delinquency at least equal to the child support payment for one month.

(e) The Tribal Court, the Office, and AHO will require that each parent take necessary steps to enroll a child for Indian Health Service services if the child is eligible and to enroll the child in any medical or dental insurance program that is available at no cost to the parent through the parent's employer or union. Nothing in this subsection precludes an order that a parent provide insurance available at a cost to the parent.

(f) As applicable, the order may contain other provisions directed to various parties to the proceeding concerning the duty of current and future support, extent of

any liability for past support, custody and guardianship of the child, furnishing of bond or other security for the payment of the judgment, and any other matter in the child's best interest.

(g) An administrative child support order is prospectively superseded by a tribal or superior court order. (Res. 2010-015 §9.6.20, passed Feb. 8, 2010; amended by Res. 2010-201, passed Nov. 8, 2010; amended by Res. 2017-164, passed Jul. 17, 2017; amended by Res. 2018-081, passed Jun. 11, 2018)

9.6.21. Receipt and Disbursement of Payments. (a) Except as provided in (b) and (d) of this section, child support payments made to the Tribal Court or the Suquamish Child Support Registry will be distributed in the following order:

- (1) Payment of current support;
- (2) Payment of arrears owed the other party; and
- (3) Payment of assigned arrears.

(b) Lump-sum payments from Federal Income Tax Refund Offsets will be distributed in the following order:

- (1) Payment of assigned arrears; and
- (2) Payment of arrears owed the other party.

(c) If a person owes child support on more than one case, distribution will be as follows:

(1) Current support, provided that if there is not enough to pay all current support owing, the available funds will be prorated to each case according to that case's share of the total current support owing in all cases.

(2) Arrears if there is money left over after all current support has been paid. The available funds will be applied to the arrears owing on all cases, prorated according to each case's share of the total arrears owed on all cases.

(3) The Tribal Court, the Office, and the AHO must allocate withheld amounts across multiple withholding orders to ensure that in no case will allocation result in a withholding for one of the support obligations not being implemented.

(d) Suquamish distribution payments that are garnished according to STC chapter 5.10 will be distributed in the following order:

(1) Payment of current support to the custodial parent and payment of assigned current support;

(2) Payment of arrears owed to the custodial parent; and

(3) Payment of assigned arrears.

(e) The Office will maintain notices of support collected and itemized by month of collection and will provide the notices to parties making and receiving payments on an annual basis or upon a party's request. (Res. 2010-015 §9.6.21, passed Feb. 8, 2010; amended by Res. 2010-128, passed Jun. 28, 2010; amended by Res. 2017-164, passed Jul. 17, 2017; amended by Res. 2018-081, passed Jun. 11, 2018)

9.6.22. Entry of Default Order. If the respondent fails to appear at the hearing for establishment of child support, the Tribal Court, the Office, or AHO will enter a default order of child support obligation in accordance with STC §9.6.22 and §9.6.10 based on the evidence. (Res. 2010-015 §9.6.22, passed Feb. 8, 2010)

9.6.23. Duration of Support Obligation. The duration of the support obligation will be in accordance with the child support order, except the monthly child support obligation will not be due and no arrearage will accrue during the following periods:

(a) After the death of a child for whose support the payment would be made;

(b) After the death of the obligor parent;

(c) When the child lives with the obligor parent according to court order transferring primary custody to the obligor parent;

(d) After a child emancipates at the age of eighteen (18) years, or emancipates at an earlier age, unless the child is between the ages of eighteen (18) and twenty-one (21) and is regularly attending high school or its equivalent;

(e) After a child marries; or

(f) After a child joins the military. (Res. 2010-015 §9.6.23, passed Feb. 8, 2010; amended by Res. 2017-164, passed Jul. 17, 2017)

9.6.24. Modification of Child Support Order. (a) A custodial or noncustodial parent may file a motion with the Tribal Court or file an application with Suquamish Child Support Enforcement Office to modify the terms of a child support order. The Office may file a motion with the AHO or the Tribal Court to modify the terms of a child support order. The motion and/or application must state the nature of modification requested and the basis for the request supported by a sworn statement. The moving party or applicant must serve the other parties who would be affected by the modification request by personal service, by leaving the motion/application at the residence with someone over

the age of fourteen (14), or by certified mail, return receipt requested. A stipulated agreement may be filed and served by the parties with the petition or application.

(b) The moving party or applicant has the burden of proof to show that one or more of the following has occurred:

(1) An increase or decrease of twenty percent (20%) in the gross income that was the basis of the current support order;

(2) A change in custody of the child;

(3) A change in the child support guidelines;

(4) Health insurance coverage is required or a modification is needed for an existing order for health insurance coverage;

(5) More than two (2) years have passed since the Tribal Court, the Office, or AHO established the order or last reviewed the order for modification;

(6) A need exists to amend the order to comply with this chapter;

(7) A need exists to extend the order for the support of a child under STC §9.6.13(j) and/or (k); or

(8) A change in circumstance exists that causes a severe hardship on either party or the child if the order is not modified.

(c) If provisions required under STC §9.6.20 are not contained in the order being modified, the Tribal Court or the Office will include such provisions in the modified order.

(d) The Tribal Court, the Office, or AHO will establish that the modification is effective back to the date the request for modification was filed.

(e) The amounts of past due support may not be modified except as provided in this section. If the child support award becomes unjust due to changed circumstances of the obligor, the obligor has the duty to petition the Tribal Court or file an application with the Office for a change of award at that time.

(f) The monthly child support obligation is temporarily reduced to the minimum set under STC §9.6.10(b)(2) during the following periods prospectively from the date the modification was filed if the obligor can demonstrate by a preponderance of the evidence that:

(1) The obligor has been incarcerated excluding participation in a work release program in excess of one (1) year and during that period had no income or assets from any source with which to make the payment;

(2) The obligor has been temporarily and totally disabled due to an injury or sudden illness, and during that period had no income or assets from any source with which to make the payment for any period beyond three (3) months, in which case the obligor must seek a long-term modification of the child support amount and additionally show efforts to obtain alternative sources of income; or

(3) The obligor has been in an in-patient substance abuse program which the obligor successfully completed, and during that period had no income or assets from any source with which to make the payment.

(g) The Tribal Court, the Office, or AHO will send a notice of the adjustment to the parties by certified mail to the last known addresses. The notice must advise them of the change and give the parties twenty (20) days to appeal the adjustment. Adjustments issued by the AHO may be appealed to the Tribal Court.

(h) If by an order or the action of a custodial parent that changes the custody of a child to a new custodial parent other than the obligor, the Tribal Court, the Office, or AHO may redirect payments of the noncustodial parent's child support obligation to the new custodial parent. The Tribal Court or the Office will send a notice of the redirection of payments to the obligor, former custodial parent, and current custodial parent by certified mail to the last known addresses. The notice must advise them of the change and give the parties twenty (20) days to object. The action to redirect payments under this subsection does not modify the amount of the obligation. (Res. 2010-015 §9.6.24, passed Feb. 8, 2010; amended by Res. 2010-201, passed Nov. 8, 2010)

9.6.25. Payor's Duties; Income Withholding. (a) Wage withholding will be the primary means of enforcing a child support order where a parent receives wages. The Tribal Court will issue a writ of garnishment to withhold wages from the noncustodial parent for the purpose of collecting arrearages arising from unpaid child support obligations.

(b) The Suquamish Child Support Enforcement Office or the Administrative Hearings Office must serve a payor with a notice of an order to withhold income or voluntary wage assignment. The notice may be served on the employer or the employer's place of business by acknowledgement of receipt; by personal delivery; by certified mail, return receipt requested; or by facsimile or electronic delivery with proof of transmission. The notice must comply with the federal income withholding form. A payor served with a notice of an order to withhold income or voluntary wage assignment must begin withholding not more than seven (7) days after receiving the notice. An order to withhold income is also binding against future payors upon service of notice as provided in this subsection.

(c) No payor may refuse to honor an income withholding order, a voluntary income assignment executed according to this chapter, or a court order for seizure or delivery of property belonging to an obligor, including assets owed to the obligor.

(d) A payor who fails to withhold income for child support as required by this chapter or to deliver property in accordance with a court or administrative order will be liable for the entire amount of monies or value of property that should have been withheld or delivered if the payor:

(1) Fails or refuses, after being served, to promptly comply with notice of an income assignment order or an order for delivery of property;

(2) Fails or refuses to submit an answer to the notice of income assignment or order of delivery that the Tribal Court requires, after being served; or

(3) Is unwilling to comply with this chapter's other requirements.

For purposes of this subsection, the obligor's income is presumed to have been sufficient to fully pay the amount of the withholding order, unless the payor can prove that the actual withholding based on income from the payor would have been lower.

(e) If in response to a request from the Tribal Court or the Office for income or asset information, a payor misrepresents or otherwise assists an obligor to conceal income or assets, the payor is liable both for any income or assets that could have been withheld or seized and for the amount by which a child support obligation was calculated below the obligor's actual income and assets.

(f) An employer may not discharge from employment, refuse to employ, or take disciplinary action against any obligor parent because his or her income is subject to withholding for child support. The employer is subject to a civil fine of five hundred dollars (\$500) upon a determination by the preponderance of the evidence that the employer has violated this subsection. The Office or the obligor may also bring an action against the employer for the obligor's lost wages. The obligor has a right of action for reinstatement of employment.

(g) A payor who withholds income under a child support order but who fails to promptly remit the withheld amount must pay:

(1) Double the amount of the withheld amount for an amount not remitted within forty-five (45) days of the date it was withheld from the employee; and

(2) An additional fifty dollars (\$50) for each two-week period that elapses after the forty-five (45) day period.

(h) The Office may issue a notice of noncompliance by certified mail, return receipt requested to any payor that it believes is not complying with §9.6.25(b)–(g). The notice must contain a full and fair disclosure of the rights created under this section, identify the process and the asserted noncompliance, and attach a copy of the income withholding order or the child support order. The liability the Office asserts in the notice

of noncompliance becomes final and collectable on the twentieth (20th) day after the date of service unless within that time a payor requests a hearing with the AHO according to STC §9.6.43 or contacts the Office and negotiates an alternative resolution to the asserted noncompliance, negotiates an agreement for the repayment of obligations under this section, or demonstrates that a payor has complied with the child support process. Amounts collected under §9.6.25(c)–(g) will be credited against the obligor’s child support obligation. Nothing in this section precludes other civil remedies that may apply.

(i) The Office will receive and process properly registered income withholding orders from other tribes and states and will ensure that notice of an order is properly and promptly served on a payor located within the Suquamish Tribe’s jurisdiction according to STC §9.6.5.

(j) The Office will promptly stop an income withholding once there is no longer a current order for support and all arrearages have been satisfied and promptly refund amounts which have been improperly withheld. (Res. 2010-015 §9.6.25, passed Feb. 8, 2010)

9.6.26. Notice of Support Debt and Demand for Payment when Enforcing a Foreign Court or Administrative Order. (a) The Office may serve a notice of support debt and demand for payment on an obligor by certified mail, return receipt requested to the obligor’s last known address when the Office is enforcing a foreign child support court or administrative order.

(b) The notice must include:

(1) A copy of the order to be enforced;

(2) The amount of accrued child support debt and the period over which the debt has accrued;

(3) The amount of future support;

(4) The amount of any health insurance coverage and/or daycare costs;

(5) A statement that after service of a notice of support debt and demand for payment, the obligor must make all support payments to the Suquamish Support Registry within twenty (20) days to prevent the consequences that may follow from failure to pay the amount owed;

(6) A statement that provides the consequences that may follow from the failure to pay the accrued child support debt, including an income withholding order for the past-due amount and ongoing support; seizure of property; suspension or denial of the obligor’s licenses; legal proceedings to hold the obligor in contempt of court; incarceration while in contempt; and court or

administrative orders imposing certain requirements on the obligor that must be performed to avoid incarceration; and

(7) A statement that the notice of support debt and demand for payment becomes final and subject to wage withholding and enforcement without further notice. (Res. 2010-015 §9.6.26, passed Feb. 8, 2010)

9.6.27. Enforcement of Order. (a) **Due Date.** A payment or installment of a child support obligation established under a child support order is due on the first day of each month unless otherwise specified in a child support order.

(b) **Lien.** When a support payment is past due and when the child support order contains notice that liens will be enforced against real and personal property for past due child support, the Tribal Court, the Office, or the AHO may assert a lien upon the noncustodial parent's real or personal property on Indian-owned fee lands within the boundaries of the Port Madison Indian Reservation and/or personal property located on Indian trust lands within the boundaries of the Port Madison Indian Reservation. Upon filing of a lien where any such property is situated or filing with the appropriate recording office for that place, it will constitute a lien on the real or personal property of the obligor. Ceremonial and religious property held in trust for an individual or for the Suquamish Tribe is exempt from such liens.

(c) **Judgment.** Any payment or installation of a child support obligation established under a child support order is a judgment by operation of law on and after the day it becomes past due. In addition to other methods of enforcement of a child support obligation set out in this section, a child support judgment may be enforced under the procedures set out in STC §§9.6.28–9.6.30.

(d) **Defenses to Enforcement.** Grounds for contesting the imposition of an order under this section to enforce payment for child support are limited to a mistake of fact which means an error in the amount of current or overdue support or in the identity of the alleged noncustodial parent.

(e) **Order to Withhold Income.** Upon granting a request for an income-withholding order and unless the custodial parent shows good cause to withhold at a higher percentage, or unless the non-custodial parent shows good cause to not withhold or to withhold at a lower percentage, the Tribal Court, the Office, or AHO will order withholding up to a maximum of forty-six percent (46%) from the obligor's adjusted gross income. The amount withheld will include the monthly child support obligation plus one percent (1%) or more toward liquidating arrearages if applicable. The total amount withheld by an employer may not exceed the limits established in 15 USC 1673. To initiate income withholding, the Tribal Court or the Office must send the noncustodial parent's employer a notice using the standard federal income withholding form.

(f) **Seizure or Delivery of Money and Property.** Upon written application by the obligee to the Tribal Court, the Office, or AHO accompanied by a sworn accounting of

the delinquent obligation, an order of execution on nonexempt real and personal property of the obligor, including monies or assets owed to the obligor, will be issued. The administrative order may authorize seizure or order the delivery of the property to the Office for the obligee's benefit. When it appears that personal property belonging to the obligor is in the possession or under the control of another person and the obligor's right to possession is not substantially disputed, the Tribal Court or the Office has discretion, with or without notice to such persons as it deems just, to issue an order directing the other person to immediately pay the money or in the case of administrative orders to deliver the articles of personal property to the Office for the obligee's benefit. An execution order may be prospective to include property that the defendant may possess or have the right of possession in the future, including state and Indian gaming winnings and refunds of any deductions from income, including fishing income. The Tribal Court may require that noncash property be sold in a reasonable manner or that a fair value be set for the property and that it be delivered to the obligee. The Office will give notice to the obligor by regular mail:

(1) Of execution on property, within five (5) days after its receipt of the property; and

(2) Of sale of property or a hearing to set the value of property, no later than ten (10) days before the sale or hearing; except that the Office may immediately sell perishable goods, such as natural resources, without notice at the prevailing rate.

(g) Suspension or Denial of Licenses. If the Tribal Court, the Office, or AHO finds that the obligor has intentionally failed on more than one occasion to comply with its child support orders, it may order, after notice and opportunity to be heard, the suspension or denial of occupational, fishing, fireworks, and recreational licenses or permits. A court or administrative order to suspend or deny Suquamish-issued licenses is binding on and given effect by the license-issuing agencies. The Tribal Court or the Office will send orders affecting licenses or permits issued by other governmental agencies to those jurisdictions for enforcement. (Res. 2010-015 §9.6.27, passed Feb. 8, 2010; amended by Res. 2017-164, passed Jul. 17, 2017; amended by Res. 2018-081, passed Jun. 11, 2018)

9.6.28. Federal or State Income Tax Refund Offset. (a) The Office and AHO have authority to:

(1) Receive funds certified by a state under the Federal or State Income Tax Refund Offset Program and owed on a Suquamish Tribe child support case;

(2) Request that a state certify a Suquamish Tribe child support case to the Federal or State Income Tax Refund Offset Program; and

(3) Certify a Suquamish Tribe child support case to the Federal or State Income Tax Refund Offset Program.

(b) The Office may assist Suquamish families with filing claims with the Federal or State Income Tax Refund Offset.

(c) The Office will abide by all Internal Revenue Service confidentiality rules and regulations. (Res. 2010-015 §9.6.28, passed Feb. 8, 2010)

9.6.29. Civil Contempt. (a) An obligee, the tribal prosecutor, or a tribal attorney may file an ex parte motion with the Tribal Court for an order from the Tribal Court that an obligor or payor show cause why the person should not be held in contempt of court for failure to comply with a court or administrative order issued under this chapter. The motion must specify which provisions of an order are alleged to have been violated and must be accompanied by a sworn statement setting out both the factual allegations that are the basis for the motion and the obligor's payment history during the applicable period of time.

(b) If the Tribal Court finds reasonable cause to believe that the obligor or payor has failed to comply with an order, it will issue an order for the obligor or payor to appear at a stated time and place for a hearing at which the person may show cause why the person should not be held in contempt of court. The order to show cause and a copy of the motion and supporting documents must be served on the person in accordance with STC §4.2.3(b). The hearing may be no sooner than seven (7) days after the respondent receives notice of the hearing.

(c) After the moving party makes a prima facie case of noncompliance with the court or administrative support order, the burden of proof shifts to the obligor to show by clear and convincing evidence why the obligor should not be held in contempt. If the obligor contends at the hearing that he or she lacked the means to comply with a support order, the obligor must establish that he or she exercised due diligence in seeking employment, in conserving assets, or otherwise rendering him- or herself able to comply with the court or administrative order.

(d) The Tribal Court may find the obligor in civil contempt if it finds by a preponderance of the evidence that:

- (1) The Tribal Court has personal and subject matter jurisdiction;
- (2) The child support order underlying the civil contempt proceeding is valid;
- (3) The obligor had actual knowledge of the child support order;
- (4) The obligor had the ability to comply with the child support order; and
- (5) The obligor was willful in his or her noncompliance with the child support order.

(e) Upon a finding of civil contempt, the Tribal Court may impose coercive incarceration and fines and compensatory fines.

(f) The Tribal Court will set conditions that allow the obligor to purge the contempt. Purge conditions ordered by the Tribal Court must:

- (1) Serve a remedial aim;
- (2) Be clearly specified;
- (3) Be reasonably related to the cause and nature of the contempt; and
- (4) Be able to be fulfilled by the obligor.

(g) Purge conditions the Tribal Court may impose include but are not limited to:

- (1) Payment of a designated amount by a date in the immediate future;
- (2) Active employment search;
- (3) Active participation in job training;
- (4) Active participation in inpatient behavioral health treatment;
- (5) Active participation in income-generating activities;
- (6) Application for services, benefits, licenses, and permits for which the obligor is eligible that will assist the obligor in obtaining income;
- (7) Transfer or sale of designated assets;
- (8) Noncash payments in accordance with STC §9.6.13(l);
- (9) Electronic home-detention during periods when not occupied with employment, employment search, or job training;
- (10) Posting of a surety bond; and
- (11) Payment of ongoing child support obligation and designated amounts towards arrearages.

(h) Coercive fines or incarceration will continue until the obligor complies with the purge conditions. Coercive fines will be applied to the child support arrearages. The Tribal Court may release the obligor from incarceration if it finds that the confinement

has lost its coercive force. The obligor has the burden of proving that there is not a substantial likelihood that continued confinement will accomplish its coercive purpose.

(i) Nothing in this section precludes contempt proceedings under STC §§3.8.10, 3.8.21, and 8.1.29. (Res. 2010-015 §9.6.29, passed Feb. 8, 2010)

9.6.30. Bench Warrant for Failure to Appear. (a) An order to appear to show cause under STC §9.6.29 must contain the following language in capital letters:

YOUR FAILURE TO APPEAR AS SET FORTH AT THE TIME, DATE,
AND PLACE STATED HEREIN MAY CAUSE THE COURT TO ISSUE A
BENCH WARRANT FOR YOUR ARREST AND CONFINEMENT IN JAIL
UNTIL SUCH TIME AS THE MATTER CAN BE HEARD, UNLESS BAIL IS
POSTED AS PROVIDED IN THE BENCH WARRANT.

(b) Upon proof that the obligor had actual notice of the hearing and received notice as provided in §9.6.30(a), the Tribal Court may issue a bench warrant and incarcerate an obligor who fails to appear at the examination or show cause hearing. The bench warrant will provide for bail in the amount of five hundred dollars (\$500) or more based on the case's factual circumstances.

(c) Upon arrest on a civil bench warrant, the defendant will be released from the jail upon posting the bail amount in cash and signing a promise to appear at the Tribal Court on the next day it is open to set a court date. The court clerk will set a new date and time for a hearing and notify the parties.

(d) Upon completion of the proceeding for which the respondent originally failed to appear, the bail will be exonerated unless the Tribal Court orders it held as provided in this subsection. The obligee or the Office may request the Tribal Court to forfeit the bail and apply the bail funds to the child support arrearages. The obligor has the burden to show by clear and convincing evidence why the posted bail should not be forfeited and applied to the child support arrears. (Res. 2010-015 §9.6.30, passed Feb. 8, 2010)

9.6.31. Reduction of Past Child Support Owed to a Government. (a) The Tribal Court, the Office, or AHO may grant a reduction or forgiveness of past child support owed to any tribal or state government for reimbursement when payment of the past debt would create substantial hardship.

(b) Substantial hardship includes but is not limited to the following:

(1) The child on whose behalf the debt accumulated is now living with and is supported by both parents who are reunited;

(2) The child on whose behalf the debt accumulated is now living with and is supported by the parent owing the support debt;

(3) The parent owing past support debt is complying with the current child support obligation for the child on whose behalf the past debt accumulated and he or she has insufficient resources to pay both the current and past support; or

(4) The child on whose behalf the past debt accumulated is over eighteen (18) years old and payment of the debt would significantly burden the payor parent's ability to support the payor or his or her family. (Res. 2010-015 §9.6.31, passed Feb. 8, 2010)

9.6.32. Petition or Application for Reduction of Past Child Support. A petition for reduction of past child support debt must be filed with the Tribal Court or an application for reduction of past child support debt must be submitted to the Office and must contain:

(a) The name, address, tribal affiliation, date and place of birth, and social security number of the payor parent; the name of the child for whose benefit the child support was ordered; and the name of the person to whom the child support is owed;

(b) The name and address of the appropriate government agency, if the debt is owed to a government for reimbursement for public assistance;

(c) A copy of the child support order under which the debt accumulated;

(d) The total amount of the past child support debt;

(e) The amount of proposed reduction of the past child support debt;

(f) The reason why the past child support debt should be reduced or eliminated; and

(g) The petitioner's financial information. (Res. 2010-015 §9.6.32, passed Feb. 8, 2010)

9.6.33. Order on Petition or Application for Reduction of Past Child Support. After a hearing, the Tribal Court will enter findings of fact and conclusions of law and a separate order. After a conference review according to STC §9.6.16, the Office will issue an administrative order containing findings of fact and conclusions of law consistent with this chapter. (Res. 2010-015 §9.6.33, passed Feb. 8, 2010)

9.6.34. Conditional Order of Charge-off of Arrearages. (a) The Suquamish Child Support Enforcement Office may:

(1) Reduce collection on the obligor's support debt to an amount that alleviates the hardship without altering the amount of the support where grounds

to make an adjustment exist but the circumstances creating the hardship are temporary.

(2) Create incentives to promote payment or family unity by entering into a conditional order of total or partial charge-off or reduced payment on the support debt conditioned on continued payment of a monthly amount established on a payment schedule imposed by the Office, on continued reconciliation, or on a family remaining off TANF.

(b) When creating incentives or providing conditional relief under this section, the Office will:

(1) Not create a conditional charge-off without specifying a period of performance after which the charge-off is permanent;

(2) Not create a charge-off conditioned on the parties remaining reconciled unless the parties have been reconciled for at least six (6) months at the time of the hearing; and

(3) Consider whether the conditions would create incentives for abuse or intimidation of the obligee.

(c) If the obligor no longer meets the terms of a conditional charge-off or fails to pay the reduced payment the Office imposes under this subsection, the Office may enter an order reinstating the remaining amount of the accrued debt.

(d) Even if the obligor later comes into compliance with the terms of the conditional charge-off order, it may only be reinstated upon the obligee's written agreement or by order of the Office. (Res. 2010-015 §9.6.34, passed Feb. 8, 2010)

9.6.35. Offset of Child Support Arrearages. (a) If a custodial parent owes child support arrearages to the current obligor for an earlier period when the current obligor had custody of the child, the provisions of this section may apply. The current obligor may offset a portion of the arrearages against his or her current monthly obligation to the custodial parent. The offset subtracted from the monthly obligation may not reduce the current monthly child support obligation by more than one-third (1/3) or to less than the minimum monthly child support obligation established in the child support guidelines.

(b) If the current obligor and custodial parent each owe arrearages to the other, the arrearages will be adjusted so that one is subtracted from the other. Nothing in this subsection excuses the current obligor from making payments on the current monthly obligation established in §9.6.35(a).

(c) This subsection does not apply in cases where debts are owed to other tribes or states. (Res. 2010-015 §9.6.35, passed Feb. 8, 2010)

9.6.36. Statute of Limitation. Regardless of any provisions in a statute of limitations set forth elsewhere in the Suquamish Tribal Code, the statute of limitations under this chapter is ten (10) years past the eighteenth birthday of the youngest child on the child support order. (Res. 2010-015 §9.6.36, passed Feb. 8, 2010)

9.6.37. Obligation to Cooperate with the Suquamish Child Support Enforcement Office.

(a) Upon the request of the Office, any employer operating under the jurisdiction of the Suquamish Tribe and/or the Suquamish Tribal Council and any of its agencies, enterprises, departments, or businesses must provide to the Office any information necessary to carry out its duties, including but not limited to locating obligees and obligors; determining their income and assets; locating their assets; determining their status and participation in employment, school, employment training, and job search; and determining a child's participation in schooling after the age of eighteen (18).

(b) If the Office must seek judicial intervention to obtain information under this section, the entity that has failed to timely comply with the subsection is liable for the resulting attorney fees and costs and a maximum fine of five hundred dollars (\$500).

(c) The obligation of the custodial parent to cooperate with the Office will be excused if the child was conceived of rape or incest; if a threat of domestic violence or current or past domestic violence exists to the custodial parent or the child; or if the child's adoption proceeding is pending. (Res. 2010-015 §9.6.37, passed Feb. 8, 2010)

9.6.38. Full Faith and Credit for Foreign Child Support Orders. (a) The Tribal Court, the Office, and AHO will give full faith and credit, according to the Full Faith and Credit for Child Support Orders Act, 28 USC 1738B, to properly issued court and administrative orders, judgments, or decrees of other Indian tribes, states, or federal agencies that relate to child support. Such orders will be considered properly issued when the issuing court or administrative agency had personal jurisdiction over the person claimed to be bound by foreign order and jurisdiction over the subject matter, when proper service of process under the law of the issuing jurisdiction was made on that person, when the order was issued according to the laws of that jurisdiction, and when the order does not violate the Suquamish Tribe's public policy.

(b) A foreign order is authenticated by reasonable proof that the document is a true copy of the foreign order as it is recorded in the administrative agency or court of issuing jurisdiction. An authentication stamp issued by a court clerk, an administrative clerk, or a records custodian or a court seal is sufficient evidence of authenticity.

(c) The party requesting the Tribal Court to give full faith and credit to a foreign order must give notice to the other parties affected by the order and an opportunity to respond to the request of full faith and credit.

(d) Unless defects are apparent on the face of the foreign order, the person contesting enforcement of the order has the burden of showing the order is not valid.

Upon a failure to respond to a notice of the order and to timely contest it, the Tribal Court and/or Office will enforce the foreign order.

(e) Where a foreign order fails to meet one of the requirements set out in §9.6.38(a), the Tribal Court, the Office, or AHO may adopt some or all of its provisions as an original order of the Tribal Court or Office to the extent it does not violate the Suquamish Tribe's public policy.

(f) To register a foreign order in the Tribal Court, a party must submit one (1) certified copy of the support order and the amount of past due child support, if applicable, with any pleadings. Before the Tribal Court enforces a child support order from another state or tribal court, the party must provide notice to the other parties by regular mail that the Tribal Court intends to register the order and that a party has a right to a hearing within twenty (20) days of receiving notice but that if a hearing is not timely requested, the Tribal Court will register the order. If a hearing is requested, the Tribal Court will hold a hearing and upon its conclusion will issue an order that registers the foreign order or provides the factual and legal basis for denying the registration.

(g) To register a foreign order with the Office, a state, tribe, or party must submit two (2) certified copies of the support order and the amount of past due child support, if applicable, with any pleadings. The Office must provide notice to the parties by regular mail that it intends to register the order and that a party has a right to a hearing within twenty (20) days of receiving notice but that if a hearing is not timely requested, the Office will register the order. If a hearing is requested, the AHO will hold a hearing and issue an order that registers the foreign order or provides the factual and legal basis for denying the registration. (Res. 2010-015 §9.6.38, passed Feb. 8, 2010; amended by Res. 2017-164, passed Jul. 17, 2017)

9.6.39. Modification of Foreign Child Support Court Orders. (a) The Tribal Court may modify a foreign court order that it has recognized as a foreign judgment if it would otherwise have jurisdiction to enter an original child support order and both parties file written consent to the Tribal Court assuming continuing exclusive jurisdiction.

(b) The Tribal Court may modify a foreign administrative child support order if it has jurisdiction and the Court finds that modification of the child support order is in the best interests of the child for whom support is sought.

(c) A party may request modification of a foreign child support court or administrative order by filing the appropriate pleadings with the Tribal Court and attaching a copy of the foreign order with proof of service from the issuing jurisdiction.

(d) A modification order under this provision is for future support only.

(e) The amounts of past due support may not be modified except as provided for in STC §9.6.24. (Res. 2010-015 §9.6.39, passed Feb. 8, 2010; amended by Res. 2010-201, passed Nov. 8, 2010; amended by Res. 2017-164, passed Jul. 17, 2017; amended by Res. 2018-081, passed Jun. 11, 2018)

9.6.40. Appeal of Tribal Court Child Support Order. Any order entered by the Tribal Court under this chapter may be appealed to the Suquamish Tribal Court of Appeals according to STC §4.6. The Suquamish Tribal Court of Appeals may review and uphold the Tribal Court's decision or vacate decisions found to be inconsistent with the standards in this chapter and remand the application for a new decision to be issued in compliance with this chapter. (Res. 2010-015 §9.6.40, passed Feb. 8, 2010)

9.6.41. Appeal of Administrative Child Support Order. A final administrative decision or order issued by the Office may be appealed to the AHO within twenty (20) days of the date of the Office's decision. No stay of appeal will be granted in any action to establish or modify support. (Res. 2010-015 §9.6.41, passed Feb. 8, 2010)

9.6.42. Suquamish Child Support Administrative Hearings Office. (a) The Suquamish Child Support Administrative Hearings Office is established by this section to hear matters on appeal, de novo, concerning final administrative orders and decisions issued by the Suquamish Child Support Enforcement Office that pertain to the establishment, modification, and enforcement of child support orders, including establishing paternity in accordance with STC Chapter 9.2.

(b) All matters presented before the AHO will be heard by a hearings officer in accordance with the procedures described in this chapter and applicable tribal and federal law and will be interpreted liberally with the goal of providing a fair and impartial hearing.

(c) A hearings officer must be a licensed attorney and a member in good standing with the Washington State Bar Association and with the Suquamish Bar Association. Before assuming office, a hearings officer must take an oath, administered by the chief judge or the next ranking available Suquamish Tribal Court justice, to support and protect the Suquamish Tribe's Constitution and Bylaws and to administer justice in all cases coming before him or her with integrity and fairness.

(d) The AHO has the authority to establish policies and procedures that are consistent with the Suquamish Tribal Code, federal law, and the policies of the Suquamish Tribe.

(e) The AHO clerk will maintain a docket by assigning case numbers in chronological order by year and number; maintain and preserve separate case files and records; certify records; record proceedings and hearings of AHO; and collect, receive, and deposit fines, fees, and costs authorized or required by law to be paid to the AHO.

(f) The AHO may issue subpoenas for the attendance of witnesses, the production and inspection of property, or the examination and production of any relevant and pertinent records, books, and information.

(g) The standard of review is by the preponderance of evidence for all matters except for those matters concerning establishing parentage, registration and enforcement of foreign child support orders, and judgments, which will be reviewed by the clear and convincing evidence standard. (Res. 2010-015 §9.6.42, passed Feb. 8, 2010)

9.6.43. Request for an Administrative Hearing. (a) Upon oral or written request, the AHO must afford all parties an opportunity for a hearing. The hearing must be scheduled no sooner than twenty (20) calendar days after receiving the written request, with advanced notice to all parties, unless the hearing officer continues the hearing for cause. The notice must include:

- (1) A statement of the time, place, and nature of the proceeding and of the legal authority and jurisdiction under which the hearing is to be held;
- (2) A reference to the particular sections of the tribal law involved; and
- (3) A short and plain statement of the issues and matters asserted.

All other documents must be filed with the AHO and copies of those documents must be mailed to all other parties at least seven (7) days before the hearing.

(b) Opportunity will be afforded all parties to respond and present evidence and argument on all issues involved.

(c) Informal disposition may also be made of any contested case by stipulation, agreed settlement, consent order, or default.

(d) A hearing will be limited to the parties, their attorneys or representatives, and/or the Office. Hearings may be conducted by telephone or video conference, if available.

(e) The record in each case will include:

- (1) All pleadings, motions, and intermediate rulings;
- (2) Evidence received or considered;
- (3) A statement of the matters officially noted;
- (4) Questions, offers of proof, objections, and rulings on any of these;
- (5) Proposed findings and exceptions; and
- (6) Any decision, opinion, or report by the presiding hearing officer.

(f) Oral proceedings will be recorded or transcribed for the purpose of the agency decision. A copy of the entire record or any part of the record will be furnished to any party upon their written request and receipt of payment for the costs of production.

(g) Findings of fact will be based exclusively on the evidence presented and on matters officially noted. (Res. 2010-015 §9.6.43, passed Feb. 8, 2010)

9.6.44. Good Cause Must Be Shown for Filing a Late Request for a Hearing. (a) A party who has a right to a hearing with the AHO may file a request for a late hearing after the period for requesting a timely hearing has passed. The effective date of the hearing request is the date AHO receives the request. A party who files a late hearing request must show good cause for not filing a timely hearing request.

(b) If the hearing officer does not find good cause for filing a late hearing request, the hearing officer may issue a decision on the current and future support obligation or on a modification of a support obligation, if applicable, without a showing of a change of circumstances. Good cause may be demonstrated by evidence that includes but is not limited to failure to receive timely notice or inability to respond due to fraud, duress, or excusable neglect.

(c) Filing a request for a late hearing does not stay child support collection and enforcement, the distribution of child support monies collected, or certification of the support debt to the Internal Revenue Service for an income tax refund offset. (Res. 2010-015 §9.6.44, passed Feb. 8, 2010)

9.6.45. Administrative Hearing Procedures. (a) The AHO hearing officer will conduct all administrative hearings held according to this chapter and any policies and procedures adopted in accordance with STC §9.6.42.

(b) Setting of Hearing. Upon receiving a written request for a hearing before the AHO, the hearing officer will endorse the request with the date of filing and will then advise the parties of the date, time, and place of the hearing.

(c) Hearing Date. The hearing will be held within twenty (20) calendar days of the date of filing or as soon after that date as is agreeable to the parties.

(d) Failure to Appear. When a hearing has been properly set, due notice has been given, and either party and/or his or her counsel, if any, fails to appear, the hearing officer may proceed with the hearing and final order.

(e) Continuances. Except for good cause shown, no change in the time or place of the hearing will be granted.

(f) Hearing Closed. Unless otherwise ordered by the hearing officer, hearings will be closed to the public.

(g) Requests and Stipulations. Parties will be allowed to make any request or make known any stipulations.

(h) Statement of the Case. The hearing officer will open the hearing by making a concise statement concerning the scope and purpose of the hearing.

(i) Presentation of custodial or noncustodial parent's case:

(1) The custodial or noncustodial parent will present his or her case first by calling the first witness and any additional witnesses.

(2) Cross-examination is allowed, provided questions are relevant and nonargumentative.

(3) Redirect by the opposing party follows cross-examination.

(4) Rebuttal will be permitted.

(j) In presenting its case, the Suquamish Tribe will present its case in the same sequence as the party requesting the hearing.

(k) Informality of Hearings. No informality in a hearing or proceeding in the matter of taking testimony will invalidate any order, decision, or ruling the hearing officer makes.

(l) Witnesses. At least seven (7) calendar days before the AHO hearing, each party must provide a list of witnesses who will be called to testify. Each party is responsible for ensuring that their witnesses are readily available during the course of the hearing.

(1) Each party may call and examine witnesses, introduce exhibits, cross-examine opposing witnesses, impeach any witness, and rebut any evidence presented.

(2) Witnesses may be recalled at the request of either party or the hearing officer.

(3) Before providing testimony, witnesses must be sworn in by the hearing officer.

(4) With the exception of the parties, all those expected to testify will not be allowed to remain in the hearing room once the presentation of evidence begins.

(5) The hearing officer may question any witness, may call either party as a witness, or may call as a witness any person who is present at the hearing.

(m) Evidence. Only evidence relevant to the issues of parentage and child support is allowed. Irrelevant, untrustworthy, or unduly repetitious evidence is not allowed.

(1) The formal rules of evidence will not be strictly adhered to. The hearing officer will be liberal in admitting evidence, but objections to its admission and comments or observations as to its weight are relevant.

(2) The hearing officer will rule on admissibility of evidence, objections, and other requests at the time they are made.

(3) All evidence will be offered and made part of the record and the hearing officer will not consider any other factual information, except for matters officially noticed.

(4) The hearing officer will take official notice of the public records of the Suquamish Child Support Enforcement Office and the Suquamish Tribe.

(n) The hearing officer may exclude any person from the hearing who obstructs the hearing. The hearing officer may adjourn or continue any hearing where the conduct of the witnesses or other persons interferes with the proper and orderly holding of the hearing or for any other cause or circumstances which may prevent the proper conduct of the hearing.

(o) Close of Hearing. A hearing will be adjourned when the parties have introduced all of their evidence and all witnesses have been heard. The hearing officer will declare the testimony closed and no further evidence will be received, except as stipulated by the parties.

(p) Decision. The hearing officer may render an oral decision when all parties have finished presenting evidence but will render a written decision within twenty (20) calendar days of the hearing date. (Res. 2010-015 §9.6.45, passed Feb. 8, 2010)

9.6.46. Appeal of Administrative Hearings Office Decision. (a) Exhaustion of administrative remedies is a jurisdictional requirement to seek judicial review of a final administrative order.

(b) Any party may appeal a final administrative order entered by the AHO by filing a petition for review in Tribal Court. The Tribal Court's review is de novo and is confined to issues of law.

(c) The party appealing an order is responsible for any filing fees and court costs to initiate an appeal. The petition must be served and filed within twenty (20) days after service of the final administrative decision. Copies of a petition for judicial review must be served upon the Suquamish Child Support Enforcement Office, the AHO, the Office

of the Tribal Attorney, and all parties of record by certified mail, return receipt requested or by personal service.

(d) The filing of a petition for review will not stay enforcement of a final AHO decision. Upon a showing of good cause, the Tribal Court may order a stay upon such terms as it considers proper.

(e) Within twenty (20) days after service of the petition or within such further time as the Tribal Court may allow, the Suquamish Child Support Enforcement Office must transmit to the reviewing Tribal Court the original or a certified copy of the entire record of the proceeding under review, but the record may be shortened by stipulation of all parties to the review proceedings. The party appealing an order is responsible for any costs associated with transmitting the certified record to the Tribal Court.

(f) The Tribal Court will conduct the review without a jury and the review will be confined to the record. (Res. 2010-015 §9.6.46, passed Feb. 8, 2010)

Note: This chapter was revised for plain language at the time of the revisions authorized by Res. 2017-164, passed July 17, 2017. No changes were made to the content of any section other than those named in Res. 2017-164.