

Tribal NEW MEMORANDUM OF UNDERSTANDING

Effective January 1, 2013

This Memorandum of Understanding has been made and entered into by and between the Standing Rock Sioux Tribe, Spirit Lake Sioux Tribe, Three Affiliated Tribes, Turtle Mountain Band of Chippewa - Tribal Native Employment Works (NEW) programs, hereafter referred to collectively as Tribal NEW, the North Dakota County Director's Association representing the State's fifty three county social service boards (CSSB) and the State of North Dakota acting through its North Dakota Department of Human Services (NDDHS) through its Office of Economic Assistance for the purpose of defining the responsibilities of the parties with respect to the administration and coordination of the State's Temporary Assistance for Needy Families Program (TANF) and the Tribal NEW program.

WHEREAS, NDDHS is the state agency responsible for the administration of the TANF program in accordance with North Dakota Century Code Chapter 50-09; and

WHEREAS, 42 USC 607 establishes the work requirements and participation rates that are mandated for each state TANF program; and

WHEREAS, 42 USC 612 allows federally-recognized tribes to receive a grant for the purpose of operating a Tribal NEW program to make work activities available to the members of those tribes; and

WHEREAS, NDDHS seeks to meet the federal requirements for work participation by TANF clients; and

WHEREAS, Tribal NEW seeks to identify eligible TANF clients who would qualify for participation in the Tribal NEW program; and

WHEREAS, most TANF clients are limited to sixty months of benefits in a lifetime creating an urgency for those clients to become trained for and engaged in meaningful work activities; and

WHEREAS, Tribal NEW, CSSB and NDDHS seek to promote efficiency, coordination, and cooperation in the implementation of welfare reform changes; and

NOW, THEREFORE, it is hereby agreed that, for and in consideration of the mutual promises and benefits to be conferred upon each other as stated above, Tribal NEW, CSSB and NDDHS agree to perform, within fiscal constraints, the following duties to ensure that the administration and coordination of NDDHS TANF and the Tribal NEW program are accomplished to meet the requirements legislated by state and federal statutes.

TERMS OF AGREEMENT

1. Tribal NEW Program Service Population:

In general, Tribal NEW programs in North Dakota agree to serve Native American TANF clients from their own Tribe as well as any other federally-recognized Tribe. It is up to each Tribal NEW program to decide if its program will provide services only to enrolled Tribal members or if services will also be provided to individuals who are eligible for enrollment in a federally-recognized Tribe.

- A. Native American TANF clients, who are attending or planning to attend either post-secondary or vocational education, should be referred to their own tribe's Tribal NEW program regardless of where they are attending school in the State.

Example 1: A Native American TANF client from the Standing Rock Sioux Tribe, who is residing in Ft. Yates, ND, and attending or planning to attend postsecondary education, should be referred to the Standing Rock Tribal NEW program.

Example 2: A Native American TANF client from the from Standing Rock Sioux Tribe, who is residing in Belcourt, ND, and attending or planning to attend postsecondary education, should be referred to the Standing Rock Tribal NEW program.

Example 3: A Native American TANF client from the Standing Rock Sioux Tribe, who is residing in Fargo, ND, and attending or planning to attend postsecondary education, should be referred to the Standing Rock Tribal NEW program.

- B. Native American TANF clients from out-of-state tribes, who are residing in North Dakota and are attending or planning to attend either post-secondary or vocational education should be referred to the Tribal NEW program designated to serve out-of-state tribal members as designated below:

1. Native American TANF clients from out-of-state tribes, who are residing in North Dakota and are attending or planning to attend post-secondary, or vocational education in Dickinson, Minot, New Town, or Williston, should be referred to the Three Affiliated Tribes Tribal NEW program.

2. Native American TANF clients from out-of-state tribes, who are residing in North Dakota and are attending or planning to attend post-secondary or vocational education in Belcourt, Mayville, or Grand Forks, should be referred to the Turtle Mountain Tribal NEW program.

3. Native American TANF clients from out-of-state tribes who are residing in North Dakota and are attending or planning to attend post-secondary or vocational education in Devils Lake, Ellendale, Jamestown, Ft. Totten, Fargo,

Valley City, or Wahpeton, should be referred to the Spirit Lake Tribal NEW program.

4. Native American TANF clients from out-of-state tribes who are residing in North Dakota and are attending or planning to attend either post-secondary or vocational education in Bismarck or Ft. Yates, should be referred to the Standing Rock Tribal NEW program.

2. Work Participation Rate:

Based on C.F.R 45 § 261.25 NDDHS may, at its option, choose to include TANF families that are referred to a Tribal NEW program when calculating NDDHS work participation rates.

3. Referral Process:

- A. Tribal NEW in coordination with NDDHS, will determine referral criteria for the Tribal NEW program.
- B. Clients meeting the referral criteria outlined in this document may be referred to Tribal NEW based on the availability of funds and service capacity.
- C. Referred clients will be allowed up to seven calendar days (as noted by the deadline date in the comments section of the Referral Notice) in which to contact Tribal NEW and schedule an appointment to begin involvement in that program.
- D. CSSB's TANF eligibility worker immediately shall inform Tribal NEW of the client's referral and specific deadline date for contacting Tribal NEW by either calling Tribal NEW staff or by faxing them a copy of the Referral Notice.
- E. Tribal NEW staff immediately shall contact CSSB's eligibility worker (by phone or email) when a TANF client has contacted Tribal NEW and scheduled an appointment to begin involvement in Tribal NEW.
- F. If a referred client fails to contact Tribal New prior to the deadline shown in the comments section of the Referral Notice, Tribal NEW staff will immediately notify the appropriate CSSB TANF eligibility worker via email or by simply faxing a copy of the client's Referral Notice to the TANF eligibility worker with a notation that the client failed to make contact as required. A TANF client's failure to comply with this requirement may result either in the denial of the individual's TANF application (If the TANF upfront eligibility requirement applies) or a sanction against the TANF client, if good cause is not shown.
- G. TANF CSSB eligibility worker then must contact Tribal NEW to inform them whether the client's application will be denied or a sanction will be imposed against the TANF client. CSSB's TANF eligibility worker also is responsible for notifying Tribal NEW when a client's TANF application has been denied for failing

to comply with the child support enforcement portion of the TANF upfront eligibility requirement.

- H. If, for any reason, a TANF client is not accepted for enrollment in the Tribal NEW program, Tribal NEW staff immediately shall notify the referring CSSB of that fact. The TANF client must be referred to the JOBS program by CSSB, as appropriate.
- I. TANF clients who are initially referred to the JOBS program are to remain with the JOBS Program until the TANF case to which they are assigned has closed for a minimum of 30 days **unless** Tribal NEW, CSSB and NDDHS JOBS staff determine that a referral to Tribal NEW would be in the best interest of the client.

For example: Involvement in a Tribal NEW program would increase the client's potential to obtain employment with a wage enough to help his or her *family* become self-sufficient; or the client will be able to receive a service or be involved in an activity within the Tribal NEW program which is not available to the TANF client within the NDDHS JOBS program.

- J. If Tribal NEW, CSSB and NDDHS JOBS staff determine that referral of a state JOBS participant to Tribal NEW would be in the client's best interest, as described above, JOBS staff may refer the individual back to CSSB with a recommendation that the TANF client be referred to Tribal NEW without requiring that the individual's TANF case be closed for a minimum of 30 days.
- K. Direct referrals to the various Tribal NEW programs may be initiated by any CSSB in the state as outlined in this document.
- L. TANF clients who are referred initially to a Tribal NEW program are to remain with Tribal NEW program until the TANF case to which they are assigned has closed for a minimum of 30 days; or until the client has completed the goals and objectives identified in the client's Tribal NEW employability plan; or the goals and objectives of Tribal NEW employability plan are no longer applicable.

4. Tribal NEW Participant Employability Plans:

- A. Activities for each Tribal NEW participant will be identified in a Tribal NEW employability plan (EP).
- B. Tribal NEW shall provide the appropriate CSSB with a copy of each TANF Tribal NEW participant's initial EP no later than 30 calendar days after the date of referral, by that CSSB, to Tribal NEW program. Since the EP identifies a participant's need for child care and transportation assistance, which may be provided through the CSSB, it is very important that the CSSB receive a copy of a participant's EP as soon as possible.
- C. Tribal NEW, at a minimum, shall provide updated copies of all ongoing TANF Tribal NEW participants' EPs to the appropriate CSSB as follows:

1. For a participant in educational activities, a copy of the participant's updated EP must be provided by the Tribal NEW coordinator to the referring CSSB in the month prior to the first month of each school term;
2. For a participant involved in non-educational activities, a copy of an updated EP must be provided by the Tribal NEW coordinator to the referring CSSB at least once every 6 months; and
3. For existing TANF Tribal NEW participants who are moving from one area of the state to another; Tribal NEW shall send a copy of the participant's revised EP to the new CSSB prior to the participant's relocation. The receiving CSSB is required to create a new referral to Tribal NEW program and the participant is expected to continue her or his involvement in Tribal NEW. If the participant's EP is not provided to the receiving CSSB prior to the relocation, the CSSB shall contact the appropriate Tribal NEW office to verify that Tribal NEW is still willing to work with this participant and to request a copy of the participant's EP.

D. All EPs must identify the TANF Tribal NEW participant's approved activity or activities, scheduled hours, start date for each activity, the expected completion date for each activity, anticipated supportive services provided by Tribal NEW, requests for state childcare and transportation assistance along with written documentation of the participant's need for any supportive services provided through the CSSB and or NDDHS.

5. Supportive Services:

NDDHS will provide childcare assistance and transportation assistance to TANF Tribal NEW participants in approved activities, consistent with the rules governing the Child Care Assistance and NDDHS JOBS program. The Tribal NEW program staff will use the participant's EP to describe the participant's need for state childcare and transportation assistance.

6. Good Cause Determination and Sanctions:

- A. If a referred TANF client fails to contact Tribal NEW prior to the deadline shown on the Referral Notice, Tribal NEW shall immediately return the referral to CSSB. The CSSB shall determine if the client's TANF application should be denied or if the good cause determination process should be initiated against the TANF client and a sanction imposed if good cause is not shown.
- B. If a referred TANF client makes the initial contact prior to the deadline shown on the Referral Notice but fails to keep a scheduled appointment to begin involvement in the Tribal NEW program, Tribal NEW coordinator immediately shall return the referral to CSSB along with a notation that the TANF client failed to keep the initial appointment. The CSSB shall initiate the good cause

determination process and deny the application or impose a sanction, if good cause is not shown.

- C. Once a referred TANF client keeps the initial appointment with Tribal NEW, the TANF client will be considered a Tribal NEW participant. If the participant then fails to comply with the requirements of the Tribal NEW employability plan, Tribal NEW staff shall determine if the participant had good cause or an acceptable reason for failure to comply.
- D. If Tribal NEW determines the participant had good cause for the failure to comply, a recommendation for sanction will not be made and the participant will be expected to continue the participant's involvement in Tribal NEW.

If Tribal NEW determines that the participant did not have good cause for the failure to comply, Tribal NEW shall recommend that CSSB impose a sanction against the participant. Tribal NEW shall include a written chronological history of the participant's noncompliance when recommending that the CSSB impose a sanction against the TANF Tribal NEW participant.

A sanction recommended by Tribal NEW has the same impact on a participant, and will be processed by the CSSB in the same manner, as a sanction recommended by the state JOBS program.

7. Proof of Performance and Curing Sanctions:

- A. If a TANF Tribal NEW participant is sanctioned and Tribal NEW is willing to continue working with the participant within the Tribal NEW, the participant must cure (correct) the sanction by completing a proof of performance (compliance for a minimum of ten days is required) by the end of the sanction penalty month. If the sanction is not cured (corrected) as required, the participant's entire TANF case will be closed at the end of the sanction penalty month and both the sanctioned participant and the participant's household will be ineligible for TANF in the month following the sanction penalty month.
- B. If a TANF Tribal NEW participant is sanctioned and Tribal NEW program is not willing to continue working with the participant, the participant must be referred to the NDDHS JOBS program. The sanctioned participant shall cure (correct) the sanction by completing a Proof of Performance (compliance for a minimum of ten days is required) by the end of the sanction penalty month. If the sanction is not corrected as required, the participant's entire TANF case will be closed and both the sanctioned participant and the participant's household will be ineligible for TANF in the month following the sanction penalty month.
- C. If it has been determined that a NDDHS JOBS participant should be referred to Tribal NEW and the participant needs to cure a sanction, the participant may complete the Proof of Performance in the Tribal NEW program.

8. Meetings:

- A. NDDHS and Tribal NEW staff will review and discuss issues related to the administration of the NDDHS TANF/JOBS and Tribal NEW upon request of either NDDHS or Tribal NEW staff. CSSB representatives will be invited to participate in these meetings as appropriate.
- B. Tribal NEW, NDDHS Regional Representatives, and CSSB are encouraged to meet, quarterly with the NDDHS JOBS contractors to discuss common issues and concerns.

9. Program Specific Referral Criteria:

The Tribal NEW Programs will provide services to Native American TANF clients as described in this agreement, and accordance with the criteria set forth for each Tribal NEW Program included in:

- Addendum A for Standing Rock Sioux Tribe, Tribal NEW Program,
- Addendum B for Spirit Lake Sioux Tribe, Tribal NEW Program,
- Addendum C for Three Affiliated Tribes, Tribal NEW Program, and
- Addendum D Turtle Mountain Band of Chippewa, through D.

Changes may be made to criteria listed in each Tribal NEW Programs specified Addendum as agreed upon between the Tribal NEW Program and NDDHS.

EFFECTIVE DATE

This Memorandum of Understanding, including Addendums A through D, is effective January 1, 2013, and shall remain in effect until one or more of the parties provide written notification of termination. Such notice must be given to all parties involved at least 30 days in advance of the termination date.

IN WITNESS WHEREOF, the parties hereunto have executed this agreement and Addendums A thru D:

Director, NDDHS - Economic Assistance

Date

Chairperson, County Director's
Association

Date

Addendum A

Standing Rock Sioux Tribe, Tribal NEW Program

1. Standing Rock Tribal NEW shall provide services to Native American TANF clients from the Standing Rock Sioux tribe as well as those who are from out-of-state (federally recognized) tribes as described in subsection B-4 of Section 1.
2. CSSB shall refer the following individuals to Standing Rock Tribal NEW:
 - (a) All Native American TANF clients as described in Subsections A and B-4 of section 1, who have completed high school or a General Educational Development (GED) and wish to pursue advanced education; or
 - (b) All Native American TANF, clients age twenty or older, who are residing in Sioux County and have not completed high school or a GED.

IN WITNESS WHEREOF, the parties hereunto have executed this agreement and this Addendum A:

Chairman, Standing Rock Sioux Tribe

Date

Addendum B

Spirit Lake Sioux Tribe, Tribal NEW Program

1. Spirit Lake Tribal NEW program shall provide services to Native American TANF clients from the Spirit Lake Sioux tribe as well as those who are from out-of-state (federally recognized) tribes as described in subsection B-3 of section 1.
2. CSSB shall refer the following individuals to Spirit Lake Tribal NEW:
 - (a) All Native American TANF clients residing in Benson County who have completed high school or GED and are actively enrolled in further education; and
 - (c) All Native American TANF clients described in subsections A and B-3 of section 1.

Native American TANF clients, who are attending or planning to attend either post-secondary or vocational education, should be referred to their own tribe's Tribal NEW program regardless of where they are attending school in the State.

Native American TANF clients from out-of-state tribes who are residing in North Dakota and are attending or planning to attend post-secondary or vocational education in Devils Lake, Ellendale, Jamestown, Ft. Totten, Fargo, Valley City, or Wahpeton, should be referred to the Spirit Lake Tribal NEW program.

IN WITNESS WHEREOF, the parties hereunto have executed this agreement and this Addendum B:

Coordinator, Spirit Lake Tribal NEW

Date

Addendum C

Three Affiliated Tribes, Tribal NEW Program

1. Three Affiliated Tribes Tribal NEW program shall provide services to Native American TANF clients from the Three Affiliated Tribes as well as those who are from out-of-state (federally recognized) tribes as described in subsection B-1 of section 1.
2. CSSB shall refer the following individuals, in order of priority, to Three Affiliated Tribes Tribal NEW:
 - (a) All Native American TANF clients residing in Dunn, McKenzie, McLean, Mercer or Mountrail counties who have completed high school or a GED and express an interest in further education;
 - (b) All Native American TANF clients residing in Dunn, McKenzie, McLean, Mercer, or Mountrail counties whose TANF eligibility is expected to end within the next 12 months;
 - (c) All Native American TANF, clients age twenty or older, who are residing in Dunn, McKenzie, McLean, Mercer, or Mountrail counties who have not completed high school or a GED; and
 - (d) All Native American TANF clients described in subsections A and B-1 of section 1.

IN WITNESS WHEREOF, the parties hereunto have executed this agreement and this Addendum C:

Coordinator, Three Affiliated Tribes
Tribal NEW Program

Date

Addendum D

Turtle Mountain Band of Chippewa, Tribal NEW Program

1. Turtle Mountain Band of Chippewa (TMBC) Tribal NEW program shall provide services to Native American TANF clients from the Turtle Mountain Band of Chippewa as well as those who are from out-of-state (federally recognized) tribes as described in subsection B-2 of section 1.

Tribal NEW also shall serve a child, over age 16, who has dropped out of school and is a dependent of a Tribal NEW participant.

2. CSSB shall refer the following individuals to TMBC Tribal NEW program:
 - (a) All Native American TANF caretakers residing within Rolette County, who are age 25 or older, have not completed high school or a General Educational Development (GED) and wish to pursue completion of a high school diploma or General Educational Development (GED);
 - (b) All Native American TANF clients who are attending postsecondary or vocational education and residing in Rolette County; as well as those clients described in subsections A and B2 of section 1 of this document.

IN WITNESS WHEREOF, the parties hereunto have executed this agreement and this Addendum D:

Coordinator, Turtle Mountain Band of
Chippewa – Tribal NEW Program

Date