

**COOPERATIVE AGREEMENT
BETWEEN
THE STATE OF OREGON
DEPARTMENT OF HUMAN SERVICES
OFFICE OF VOCATIONAL REHABILITATION SERVICES
AND
THE KLAMATH TRIBES**

This Cooperative Agreement (Agreement) between the State of Oregon Office of Vocational Rehabilitation Services (OVRs) and the Klamath Tribes was developed jointly. OVRs recognizes and acknowledges that the Klamath Tribal Government holds a unique status in the United States of America with the rights and benefits of a sovereign nation. OVRs has developed this Agreement to affirm the Agency understands and supports the pursuit of government-to-government relationship with the Klamath Tribes' Vocational Rehabilitation Program (KTVRP), consistent with ORS 182.162-168. This Agreement is intended to be flexible to provide for the evolution of the partnership between OVRs and the Klamath Tribes.

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audiotape, oral presentation and electronic format. To request an alternate format, please send an email to DHS.Forms@state.or.us or contact the Office of Document Management at (503) 387-3523 V/TTY.

I. LEGAL AUTHORITY

P.L. 105-220, Title IV Rehabilitation Act of 1973 as amended in 1998 (sections 101, 102, and 121); ORS 190.110, 344.530 and ORS 182.62-168; the Constitution of the Klamath Tribes, as amended; the Klamath Tribes' Restoration Act, 25 U.S.C. §556 - 556g.

II. DEFINITIONS

OVRs and the Klamath Tribes agree on the following definitions for the purposes of this Agreement.

- A. American Indian:** An individual who is a member of and enrolled in an Indian Tribe.
- B. Concurrent Services:** Both the State and the Klamath Tribes providing different services to the same client at the same time.
- C. Courtesy Supervision:** A counselor providing a point of contact locally for a client, when a client relocates for school, employment, etc.
- D. Enrolled Klamath Tribal Member:** Any individual who is enrolled as a member of the Klamath Tribes.

E. Indian Tribe or Tribe: Any federally recognized Indian tribe, which shall include any Alaskan Native Village or Regional or Village Corporation, American Indian Band, Rancheria, Pueblo, Colony, or Indian Community recognized by the United States Department of Interior in 75 Fed. Reg. 60810 et seq. (October 1, 2010), and as such listing may be from time-to-time amended.

F. IPE: Individualized Plan for Employment as defined in the Rehabilitation Act.

G. Joint Counselors: The primary counselors from each vocational rehabilitation program when a client is receiving services from both programs.

H. KTVRP: Klamath Tribal Vocational Rehabilitation Program, a vocational rehabilitation program as authorized in Section 121 of the Rehabilitation Act of 1973, as amended in 1998, operating within the Klamath Tribes Service Delivery Area.

I. OVRS: Office of Vocational Rehabilitation Services of the State of Oregon.

J. Primary Counselor: the Vocational Rehabilitation Counselor responsible for the development of the client's original IPE, if not developed jointly.

K. The Rehabilitation Act: The Rehabilitation Act of 1973, as amended in 1998, 29 U.S.C. 701 et seq.

L. Rehabilitation Services: Those services to applicants and eligible individuals of KTVRP or OVRS as defined in the Rehabilitation Act.

M. Klamath Tribes Service Delivery Area: The area defined for delivery of services of KTVRP in Klamath County.

N. Klamath Tribes' Governing Body: The General Council of the Klamath Tribes, with authority over day-to-day business of the Klamath Tribes delegated to the Tribal Council.

III. **PURPOSE**

The Agreement is implemented for: 1) the purpose of enhancing, to the greatest extent possible, the ability to provide efficient and effective vocational rehabilitation services to eligible enrolled Klamath Tribal Members residing within the service delivery area boundaries of Klamath County; 2) to facilitate cultural awareness and improve professional skills among OVRS staff; and 3) to establish the working relationship between the Klamath Tribes and OVRS in the implementation of KTVRP services.

IV. **TERM**

This Agreement shall become effective on October 1, 2014, or on the date at which every party has signed this Agreement, whichever date is later. This agreement shall terminate on September 30, 2019, unless otherwise extended or terminated prior to that date.

V. GENERAL TERMS OF THE AGREEMENT

A. Both parties agree that:

1. The Klamath Tribes is a federally recognized Indian Tribe. The Klamath Reservation was established by treaty on October 14, 1864, 16 Stats. 707. The Klamath Tribes were subjected to the federal termination policy in 1954, 25 U.S.C. § 564-564w, but were restored to federal recognition in 1986, 25 U.S.C. § 556 – 556g.
2. The individual(s) signing this Agreement on behalf of the Klamath Tribes and KTVRP certify that they have been granted the authority to act on behalf of the Klamath Tribes by the Klamath Tribes' Governing Body.
3. The individuals signing this agreement on behalf of OVRs certify that they have been granted the authority to act on behalf of the OVRs and the State of Oregon by the Appropriate State governing body.
4. Any individuals for whom OVRs does not have primary responsibility under this Agreement may still choose to seek services from OVRs instead of the Klamath Tribes.
5. OVRs and the Klamath Tribes may provide Concurrent services for vocational rehabilitation to any individual whose primary residence is within the Klamath Tribes Service Delivery Area, and who is deemed eligible for both programs. When OVRs and the KTVRP concurrently provide vocational rehabilitation services, each agency's case file shall contain the IPE of both the KTVRP and OVRs Program. Provision of concurrent services shall be based upon evidence that substantial non-duplicated service(s) from both agencies are necessary to achieve a successful outcome.
6. When OVRs and the Klamath Tribes provide concurrent services for vocational rehabilitation, in accordance with paragraph 5 above:
 - a) OVRs and the Klamath Tribes will make independent determinations of eligibility for their respective vocational rehabilitation programs.
 - b) Concurrent IPEs shall be cooperatively developed and recorded with each agency. IPE amendments may be made by either agency so long as it is shared and does not duplicate the services being provided by the other agency.
 - c) In developing an IPE for an enrolled Klamath Tribal Member, the counselor(s) of record may consider cultural issues based on information provided by persons who are recognized by the Klamath Tribes as knowledgeable in Tribal customs of the Klamath Tribes.
 - d) The counselors of record for both OVRs and the Klamath Tribes will confer on a regular basis to review each case for the purpose of ensuring that IPE goals are being met and services are being coordinated to the benefit of the client.
 - e) When a service/action is being performed by one counselor of record, that counselor will ensure that the other counselor of record is notified in a timely manner.

f) OVRs and the Klamath Tribes will offer courtesy case supervision within the scope of the Rehabilitation Act and this Agreement, upon request as needed, when OVRs/KTVRP eligible and enrolled Klamath Tribal Member clients relocate on or off the Klamath Tribes Service Delivery Area, to accomplish the objective of their IPE. The counselor providing courtesy supervision has no authority to change authorized services, or the client's Individualized Plan for Employment (IPE) as developed by the Primary Counselor.

7. The OVRs and the KTVRP will adopt and implement measures which ensure that confidential data are maintained in accordance with 34 CFR 361.38: protection, use and release of personal information. OVRs and the KTVRP will share information as necessary to prevent duplication of services, and staff of OVRs and the KTVRP will inform clients that information is shared on a routine basis for this purpose.

8. Encourage and make possible the participation of OVRs staff in training regarding American Indian culture that will enhance OVRs's ability to provide culturally relevant services to American Indians.

9. Encourage and make possible the participation of the Klamath Tribes' staff in training regarding vocational rehabilitation topics.

B. The KTVRP agrees to:

1. Consult with the OVRs on the State Plan and on the development of new State policies and procedures.

2. Refer to the OVRs those persons who live within the Klamath Tribes Service Delivery Area, are not enrolled Klamath Tribal Members, and desire vocational rehabilitation services.

3. Refer to the OVRs enrolled Klamath Tribal Members who claim to have disabilities, and who live within the Klamath Tribes Service Delivery Area, who wish to receive services from OVRs rather than the KTVRP or who wish to receive concurrent services from OVRs and the KTVRP.

4. Refer to the State Vocational Rehabilitation agencies American Indians who claim to have disabilities and who are living near the Klamath Tribes Service Delivery Area, as they become known to KTVRP.

5. Assume primary responsibility for the case management for eligible KTVRP clients residing within the Klamath Tribes Service Delivery Area.

C. OVRs agrees to:

1. Consult with the Klamath Tribes regarding the Tribes' Section 121 Funds reapplication to the United States Department of Education, Rehabilitation Services Administration for continued funding.

2. Cooperate in the provision of vocational rehabilitation services to all eligible American Indians and live within the Klamath Tribes Service Delivery Area.

3. Inform all enrolled Klamath Tribal Members that live within the Klamath Tribes Service Delivery Area of the services available from KTVRP and offer to refer them to that program.
4. If the Klamath Tribes' federal funding is discontinued under Section 121, OVRS will continue the KTVRP clients' IPEs for all such clients who meet the OVRS eligibility criteria in effect at the time KTVRP's funding was discontinued, and to the extent such IPEs are consistent with OVRS policies in effect at that time.
5. Provide KTVRP staff and managers' access to OVRS-sponsored training events and training materials, manuals, and other resources to assist KTVRP staff to effectively and efficiently provide Vocational Rehabilitation services to enrolled Klamath Tribal Members.

VI. GENERAL TERMS OF THE AGREEMENT

- A. **Termination:** This Agreement may be terminated by mutual consent of both parties, or by either party upon 60 days' notice in writing.
- B. **Annual:** Directors of KTVRP and OVRS Administrator will meet annually to review this Agreement and consider amendments.
- C. **Consideration:** there is no monetary consideration under this agreement. However, the parties acknowledge the exchange and receipt of other valuable consideration in the spirit of intergovernmental cooperation to the benefit of all by collaborating and coordinating the provision of vocational rehabilitation services to American Indians who are individuals with disabilities. No travel or other expenses are authorized.
- D. **No Third Party Beneficiaries:** The OVRP and the Klamath Tribes are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of the Agreement.
- E. **State Tort Claims Act:** the Klamath Tribes, its members, employees, and agents are not officers, employees, or agents of the State as those terms are used in ORS 30.265. No OVRS employees, agents, or officers are the employees, agents or officers of the Klamath Tribes.
- F. **Indemnity:** to the extent provided under the Constitution and laws of the Klamath Tribes, the Klamath Tribes shall indemnify, defend and hold harmless the State of Oregon and its Department of Human Services, its officers, agents, and employees, from all claims, suits or actions of any nature arising out of the activities of the Klamath Tribes, its officers, subcontractors, agents or employees under this Agreement. The Klamath Tribes shall not be required to indemnify or defend the State of Oregon for any liability arising out of the wrongful act of officers, employees, or agents of the State of Oregon.

To the extent permitted by Article XI, Section of the Oregon Constitution and by the Oregon Tort Claims Act, ORS 30.260 to 30.300, the State shall indemnify the Klamath Tribes, its officers, divisions and employees against any liability for damage to life or property that may arise from the implementation of this Cooperative Agreement to the extent of liability arising out of the negligence of the State. The State shall not be required to indemnify or defend the Klamath Tribes for any liability arising out of the wrongful act of officers, employees or agents of the Klamath Tribes.

G. Severability: The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

H. Written Notice: All written notices regarding this Agreement shall be sent to the parties at the following addresses:

To State: Trina Lee, Administrator
Office of Vocational Rehabilitation Services
Department of Human Services
500 Summer Street NE, E-87
Salem, OR 97301

To Klamath Tribes: Donald C. Gentry, Tribal Chairman
The Klamath Tribes
P.O. Box 436
Chiloquin, OR 97624

With a copy to:

Julie Bettles, Interim Director
Education and Employment Department
The Klamath Tribes
P.O. Box 436
Chiloquin, OR 97624

Any written notice hereunder shall become effective as of the date of mailing, and shall be deemed sufficiently given if sent to the addressee at the address stated in this Agreement or such other address as may hereafter be specified by notice in writing.

I. Contact: For information on matters concerning this Agreement, the contact person is:

Julie Bettles, Interim Director
Education and Employment Department
P.O. Box 436
Chiloquin, OR 97624

Telephone: (541) 783-2219

Fax: (541) 783-7802

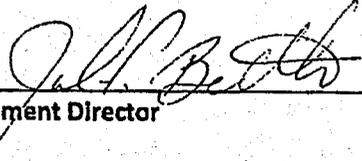
J. **Amendment:** The terms of this agreement may not be waived, altered, modified, supplemented or amended, except by written amendment signed by the parties.

K. **Merger:** this agreement constitutes the entire agreement between the parties on the subject matter hereof. There are not understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement.

L. **Waiver:** Waiver by either party of any breach of this Agreement shall not be construed as a waiver of any other breach.

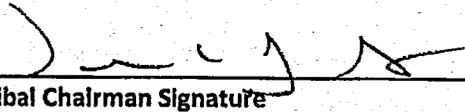
M. **Sovereign Immunity:** Nothing in this Agreement shall be construed as a waiver of the sovereign immunity of the Klamath Tribes, which immunity is hereby expressly asserted.

VII. SIGNATURES



Department Director

7/31/2015
Date



Tribal Chairman Signature

8/3/15
Date



Administrator of Vocational
Rehabilitation Services
Oregon Department of Human Services

10-9-15
Date