

Intergovernmental Agreement: Houlton Band of Maliseet Indians and State of Maine

WHEREAS, the Houlton Band of Maliseet Indians (“Tribe”) is a Federally Recognized Tribe; and
WHEREAS, the State of Maine (“State”) currently provides child welfare services to the Tribe; and
WHEREAS, The United States Congress did in 1978 enact the Federal Indian Child Welfare Act, Public Law 95-608 (Codified at 25 §§ 190), *et. seq.* (“ICWA”); and

WHEREAS, the goal of ICWA is to place Indian children in Indian homes so that the Tribe’s culture can subsist in the future; and

WHEREAS, Both the State and the Tribe agree that Indian children and families deserve to receive the same level of services and protection from harm as non-Indian children and families, whether they live on or off the reservation, and also deserve the protections afforded them by ICWA;

WHEREAS, The Tribe has not had a Tribal Court available to assume jurisdiction of child welfare cases until now;

WHEREAS, The Tribe has entered into an agreement to use the services of the Tribal Court of the Penobscot Nation or the Passamaquoddy Nation as its own Tribal Court, until the Tribe has established its own Tribal Court;

WHEREAS, Both the State and the Tribe agree the appropriate care and placement of the Tribe’s children is essential to the cultural integrity of the Tribe; and

WHEREAS, Both parties want to improve the care and placement of the Tribe’s children, protect the children and ensure the preservation of the Tribe’s culture.

NOW THEREFORE BE IT RESOLVED, that the State and the Tribe shall enter into an Intergovernmental Agreement that meets the requirements of ICWA, as authorized by 25 USCS § 1919;

BE IT FURTHER RESOLVED, that the Tribe shall enter into a separate agreement with the Penobscot Nation to use the Penobscot Tribal Court or the Passamaquoddy Tribe to use the Passamaquoddy Tribal Court as the Tribe’s Tribal Court, until such time as the Tribe shall establish its own Tribal Court, and the Tribe will adopt a Child Welfare Code and Policy, as well as foster home licensing rules;

BE IT FURTHER RESOLVED, that the Tribe will put in place a social services team, including social workers. To manage the care of any children of the Tribe who are in need of child protection services;

BE IT FURTHER RESOLVED, that for purposes of this agreement and for purposes of the application of ICWA and without prejudice to any party in any other discussion, disputed or contested matters, the Trust Lands held by the Tribe are defined as reservations(s).

BE IT FURTHER RESOLVED, that at the request of the Tribe, the State will request that the District Court transfer all pending child welfare and adoption cases to the Tribal Court in accord with ICWA, and request that any new actions filed in District Court be transferred to the Tribal Court in accordance with ICWA;

BE IT FURTHER RESOLVED, that the State will assist the Tribe in its efforts to reclaim its most valuable resource – its children, by providing funding and services when necessary to effectuate the goals of ICWA, as specified herein.

I. History. In 1978, the United States congress passed Public Law 95-608, the federal Indian Child Welfare Act (codified at 25 USC §§ 1901 *et. seq.*) (ICWA). Prior to the passage of ICWA, Indian children were being adopted and placed in foster care at a much higher rate than other children. As a result, Indian children were losing all contact with their families, tribes, and cultural traditions. Indian Tribes were becoming non-existent as their populations dwindled. ICWA attempted to remedy this by stating that “there is no resource...more vital to the continued existence and integrity of Indian tribes than their children” and that child welfare agencies had failed “to recognize the essential tribal relations of Indian people and the culture and social standards prevailing in Indian communities and families.’ (25 USC § 1901).

As a result of ICWA, Indian children are entitled to all rights given to other children with a higher standard of protections for the rights of Indian families to ensure that whenever possible, Indian families stay together. If it is not possible for children to remain with their parents, ICWA specifies an order of preference for placement of Indian children that favors placement with the extended family, the Tribe, or other Indian custodians.

In 1976, the Federal Indian Policy Review Commission found that in the early 1970’s Indian children in Aroostook County were placed in foster homes at a rate of 62.4 times (6,240 percent) greater than the Statewide rate for non-Indians. (Final Report of the Federal Indian Policy Review Commission: Task Force Four: Federal, State and Tribal Jurisdiction, p. 205). This situation was brought to the attention of the Congress during consideration of the Indian Child Welfare Act. (Senate Select Committee on Indian Affairs 95th Cong. 1st Session on S. 1214, the Indian Child Welfare Act of 1977, pp. 343-349.) The Tribe now intends to assume more responsibility under ICWA and reach an agreement with the State on child welfare matters to ensure the appropriate placement of the Tribe’s children in the future.

Because the Tribe has not had a Tribal Court, the Tribe has not been able to have its child protection cases heard by a Tribal Judge. All Maliseet child protection cases have been heard solely in the State court, which is not satisfactory to the Tribe. The Tribe has not had a tribal child welfare system until this time, and therefore has relied on the State for casework and foster care licensing. While the State and the Tribe have made efforts to recruit foster parents, there are a limited number of Indian foster homes available for placement.

II. Summary of ICWA. ICWA protects the integrity and longevity of Indian tribes by preventing the removal of Indian children from their families absent certain safeguards. ICWA accomplishes this through the following (*The following statements are only provided as a summary and are not intended to amend or replace the actual ICWA provisions*).

- A. Requiring that active efforts be made to identify a child's membership or eligibility for membership in and Indian Tribe.
- B. Recognition of the jurisdiction of Indian Tribes and Tribal Courts.
- C. Providing for exclusive jurisdiction of Indian Tribes over child custody proceedings involving an Indian child who resides or is domiciled on the reservation.
- D. Providing for transfer of child custody proceedings to the jurisdiction of the Indian child's tribe, absent objection by either parent, upon the petition of either parent of the Indian custodian or the Indian child's tribe, provided that such transfer shall be subject to declination by the tribal court of such tribe.
- E. Requiring that the State give full faith and credit to the public acts, records and judicial proceedings of any federally recognized Indian Tribe regarding child welfare proceedings.
- F. Requiring state courts, in the placement of Indian children, to observe a high standard in order to promote the continuity of Indian families.
- G. Requiring compliance with the order of preference for placement of Indian children as set forth by ICWA, or by the Tribe if the Tribe has selected and offer of preference compatible with its own history, culture and traditions.
- H. Requiring notice to tribe(s), Indian parents and custodians of state court child custody proceeding involving Indian Children.
- I. Providing for the right of parents, custodians, and Tribes to intervene as parties to any State court proceeding.
- J. Providing for court-appointed lawyers to represent indigent parents and court-appointed guardians ad litem to represent Indian Children.
- K. Providing protections for the parents who voluntarily place their child in foster care of terminate their parental rights.
- L. Recognition of Tribal licensing and/or approval of standards for foster homes, group homes, and adoptive families, and social services.
- M. Funding of Tribal social services to Indian families for use in connection with child welfare goals.
- N. Providing for a process to invalidate the State court actions when ICWA has been violated.
- O. Assisting adults who were adopted out of their Tribes to research Tribal affiliation.

III. Purpose. This Agreement was developed to ensure that the Houlton Band of Maliseet Indians ("Tribe") have maximum participation in determining the disposition of cases involving the Tribe's children. Both parties agree that the history of child welfare and adoption services within the Tribe have ceded authority to the State and resulted in placement outside of Maliseet homes. Additionally, both parties agree that it is in the Tribe's best interest to certify more foster and pre-adoptive homes, have a larger social-services network that allows the Tribe and State to work cooperatively to protect Indian Children and families.

The Agreement outlines the rights and responsibilities of both the State and the Tribe under ICWA and governs all proceedings having to do with the placement of the Tribe's children.

The Agreement provides for the confidential exchange of information regarding Indian families so that Tribe and the State can work cooperatively to give Indian families the best possible resources available.

IV. Legal Authority. 25 USC § 1919 authorizes States and Indian Tribes to enter into Intergovernmental Agreements involving the care and custody of Indian children. Because the State is responsible for all children in its jurisdiction, 42 USC §670, *et.seq.* (Social Security Act) authorizes Tribes to enter into agreements with States for child welfare assistance monies and adoption assistance.

V. Jurisdiction. The parties acknowledge and agree that the Tribe has jurisdiction over child custody proceedings as described by ICWA. This jurisdiction extends to all of the Tribe's children who are members or eligible for membership under the Tribe's definition, regardless of whether domiciled on the Reservation or not.

The parties agree that in order for the Tribe to meaningfully participate in the placement of its children, notice must be made to the Tribe every time the custody or care of a Tribal child is at issue.

The Parties agree that it is in the best interest of the Indian Children and families and the tribe for the Tribe to take jurisdiction of existing cases and all future cases as contemplated by ICWA.

VI. Full Faith and Credit. The parties agree to provide full faith and credit for the public acts, records, and judicial proceedings of the other in matters governed by the Agreement.

VII. Interpretation of Agreement. This Agreement shall be construed liberally so as to achieve results consistent with ICWA and this Agreement. The following guidelines shall be followed:

- A. Indian Families should be preserved;
- B. Cases involving the Tribe's children should be heard in a Tribal Court whenever possible.
- C. Indian children who must be removed from their homes should have placements within their own families or Tribe.
- D. The State and the Tribe will collaborate on child welfare and custody decisions for children who remain in the custody of the State. The State will defer to Tribal determinations on child welfare and custody, unless the State believes that such Tribal determinations pose a risk to the child. Where the State disagrees with the Tribal determination and makes a different determination, the Tribe retains the right to raise the issue in the appropriate forum.

VIII. Definitions.

The following definitions shall apply to this Agreement, unless otherwise indicated:

- A. "Adoption" means the permanent placement of an Indian child for adoption that results in a final decree of adoption.

- B. "Active Efforts" means active and thorough efforts by the State and Tribe social services agencies to fulfill its obligations of ICWA and this Agreement and to keep the child in the home as a first priority.
- C. "Best Interests of the Indian Child" means the standard of review required under ICWA. Meeting the Best Interests of the Indian Child recognizes the importance of maintaining connections with the family and with the Tribe.
- D. "Case Plan" means a written plan prepared by the Tribe's social services department that documents the reasons the child is under the jurisdiction of the Court and the steps that must be taken in order for the child to receive a permanent placement.
- E. "Custodian" means a person over 18 years of age who has custody of a child but does not have parental rights.
- F. "Department of Human Services (DHS)" means the Maine State Department of Human Services.
- G. "Dispositional Review Hearing" means any scheduled court hearing to review the status of the child and family.
- H. "Domicile" means a person's true, permanent home, or the place that the person intends to return even though the person is actually residing elsewhere; a child's domicile is determined by the domicile of his/her custodial parent(s) and/or guardian or custodian.
- I. "Guardian" means a person over 18 years of age who has legal custody of an Indian Child as so ordered by a court but who does not have parental rights.
- J. "Extended Family" shall be defined by the Tribe. Should the Tribe fail to identify a child's Extended Family. Extended Family shall mean a person who is at least eighteen (18) and who is the child's grandparent, aunt, uncle, brother, sister, brother-in-law, sister-in-law, niece, nephew, first cousin, second cousin, or step-parent.
- K. "Foster Placement" means any and all initial and subsequent actions involving the removal of an Indian child from its parents or Indian guardian or custodian for temporary placement in a foster home or institution or the home of a guardian or custodian, where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated.
- L. "ICWA" means the Indian Child Welfare Act, 25 USC §§ 1901, *et seq.*
- M. "Imminent physical danger" means a threat of immediate physical injury to an Indian Child.
- N. "Indian" means any person who is a member of any Indian Tribe, or who is an Alaska Native as defined in the Alaska Native Claims Settlement Act (43 USC § 1602(g)).
- O. "Indian Child" means any unmarried person who is under the age of eighteen (18) and is either (a) a member of an Indian Tribe or (b) is eligible for membership in an Indian Tribe and is the biological child of a member of an Indian Tribe.
- P. "Indian Tribe" means any Indian tribe, band, nation, or other organized group or community of Indians that is federally recognized.
- Q. "Legal Custody" means the legally enforceable duty, responsibility, and authority to provide care and control of a child as interpreted by the State court or the Tribal Court when transferring legal responsibility for care from a parent, custodian, or guardian to the Tribe, DHS, the Tribal Court, or individual pursuant to a court order.

- R. "Notice" shall mean the notification of the Tribe that an Indian Child is the subject of a foster placement or adoption hearing according to ICWA and the Agreement.
- S. "Order of Placement" shall mean the following order of preference in placing Indian Children, unless the Tribe determines a different order of preference:
 - 1. Member of a Child's Extended Family;
 - 2. Other member of the Child's Tribe;
 - 3. Other Indian family; or, if the above cannot be met,
 - 4. Non-Indian family.
- T. "Qualified Expert Witness" is a person who is a member of the Indian Child's Tribe who is recognized by the Tribe as familiar with the Tribe's custom and organization as the child-rearing or a lay expert witness who has substantial experience in his or her field or a certified professional who has substantial education and experience with Indian Children. "Qualified Expert Witness" as used here has the same meaning as the term is used in the Indian Child Welfare Act.
- U. "Termination of Parental Rights" (TPR) means any actions by the State or the Tribe resulting in the permanent severing of the parent-child relationship.
- V. "Tribal Court" shall mean any Court authorized by the Tribe to uphold the Tribe's laws, regulation and customs.
- W. "Tribal Social Services Agency" means the Tribal departments with responsibility for implementing ICWA and/or the provision of social services to Indian families.
- X. "Ward of Tribal Court" shall mean a child who is deemed in need of services and has been placed in this custody of the Tribal Court. A child may be a Ward of Tribal Court without being available for adoption within the State.

XI. Agreement with State of Maine

- A. The State desires to assist the Tribe in protecting its children and promoting the future of the Tribe. Therefore, the State agrees to do the following:
 - 1. Notify the Tribe whenever an Indian Child is at risk of placement, and offer an opportunity to intervene by the Tribe to avoid placement by DHS. When a case has been assigned to a caseworker, the State will notify the parents of the parents' option to notify the Tribe and to seek services from the Tribe.
 - 2. Establish a system of regularly scheduled training for DHS staff that will emphasize the importance of identifying an Indian Child's Tribal affiliations and extended family for placement purposes.
 - 3. Make training programs for caseworkers and foster parents available to any potential foster parents or caseworkers for the Tribe;
 - 4. Provide notice to the Tribe and for intervention by the Tribe in cases of child custody proceeding.
 - 5. Provide appropriate notice to the Tribe for administrative hearings and reviewing of child custody proceedings that involve an Indian Child.
 - 6. Provide the Tribe a copy of any court decrees regarding adoptions of Indian Children of the Tribe.

7. Provide any information to a Tribe, adoptive family or Indian Child that may be necessary to establish membership.
 8. Maintain records on Indian Children in residential facilities including group homes and foster homes, including the extent of compliance with placement preferences in ICWA.
- B. Funding Issues: The State and or DHS will do the following to assist with funding:
1. To the extent possible, assist the Tribe in obtaining state and federal funding to facilitate the Tribe's ability to provide services that address the conditions in a child's home to support the goal of family preservation. This means that the State will do the following:
 - a. Promote access by the Tribe to services available with providers who have contracted with the State by providing information and any necessary authorizations;
 - b. Advocate for direct funding to the Tribe by the federal government through Title IV-E of the Social Security Act, and/or work to develop an agreement to pass through IV-E funds to the tribe; and
 - c. Assist the Tribe to maximize funding available through Medicaid, including the provision of technical assistance.

X. Implementation of Agreement.

- A. Timing. The State agrees that all child welfare and pre-adoption cases currently open involving an Indian Child shall, upon request of the Tribe, be transferred to Tribal Court, absent an objection by either parent and subject to declination by the Tribal Court. Tribal Court will hear the case at the next dispositional review hearing.
- B. Notice. The State shall review all cases currently active in DHS to ensure that proper notice was given to the Tribe under ICWA and this Agreement. The State will take corrective action in cases where no notice or improper notice was given to notify the Tribe immediately of the error.
- C. Confidentiality. DHS shall disclose confidential information to the Tribe in any case where the Tribe has exercised its right to intervene in support of the purposes of ICWA. DHS will comply with any State or Tribal Court order requiring disclosure of such information. The parties will execute a confidentiality agreement to ensure that the confidentiality of cases that are exchanged between the Tribe and the State is protected. The Tribe will share confidential child protection information with the State where the State has initiated a child protection investigation and the Tribe has relevant information about the family. Both parties recognize the importance of confidentiality in child welfare proceedings and will train their staff on how to ensure such confidentiality.
- D. Training and Preparation. Whenever possible the State shall assist the Tribe in training and preparing staff for the ICWA caseload. The State and the Tribe will work collaboratively to make training available at least two times per year. DHS caseworkers,

at the request of the Tribe, shall work directly with counselors from Tribal Social Services to ensure a smooth transition for the families.

- E. Continuing DHS Responsibility for Services. DHS shall continue to be responsible for cases until they are completely transferred to the Tribe's jurisdiction and custody has been transferred to the Tribe, Tribal Court or other entity. The parties agree that the transfer to Tribal Court includes a transfer of custody from DHS to the Tribe, the Tribal Court or other entity specified in the transfer order.
- F. Procedures for cases in Tribal Court. Within 120 days of the signing of this Agreement, the State and the Tribe shall work together to create procedures for identifying the Tribe's children currently in the custody of DHS, effecting Tribal Court jurisdiction over new cases, and transferring continuing cases to Tribal Court. The State and the Tribe shall also establish written policies for the implementation of the Agreement that each party will follow. A copy of these procedures will be provided to all DHS employees, Tribal social services employees, State and Tribal Court judges and clerks and all others whose actions or activities may fall under this Agreement.
- G. Compliance Agreement. The Tribe and DHS agree to each appoint an individual to be designed for working with ICWA compliance. This compliance "team" shall meet quarterly with Tribe and State specialists to review procedures created under this Agreement and propose any new procedures required to improve services in the future. The team will review any Indian Child cases in State or Tribal Court upon the request of a social worker from either the Tribe or the State, to examine ICWA compliance and make recommendations to the parties.
- H. Sanctions for Non-Compliance. The State and the Tribe shall work together to determine appropriate sanctions for violations of ICWA and this Agreement. At a minimum sanctions will include further monitoring of the situation, and may include a corrective action plan.
- I. Inter-Agency Coordination. The Tribe and DHS agree to coordinate with the other agency to implement the terms of this Agreement. Such coordination will include training, on-going consultation, developing and negotiating agreements with other agencies, and any appropriate measures to ensure that this Agreement is understood and effectively implemented.

XI. Training. DHS shall require its state child welfare professionals who handle cases dealing with Indian Children, and strongly encourage private agencies who work with child welfare and placing Indian Children, to require their staff members to receive training specific to the Indian Child Welfare Act and this Agreement. Additionally, the Tribe shall require that its social service workers and court personnel attend such training.

- A. This training shall include (but not be limited to) the following areas:
 1. Procedures to implement ICWA and this Agreement,
 2. Notice Requirements,
 3. Provision of protective services,
 4. Provisions of emergency foster care placement services,

5. Legal requirements to complete involuntary foster care placement or termination of parental rights,
6. Voluntary foster care placement,
7. Applicability of placement preference standards,
8. Record maintenance,
9. Adoption of Indian Children; and
10. Cultural issues affecting the Tribe

- B. The tribe will develop and deliver training in collaboration with the State to promote knowledge and understanding of the following:
1. Behavioral issues that come with the clashing of two sets of cultural norms;
 2. Socio-economic factors effecting the Tribe;
 3. Historical relationship with the State and child welfare personnel;
 4. Parenting skill support;
 5. Reality that parent “substitutes” may have raised children;
 6. Extended family and non-family members who are family-like in their relationship to the Indian Child; and
 7. Any other issues specific to the child’s Tribe or the area.

C. DHS agrees to assist with logistics and funding for these trainings.

XII. Transfers to Tribal Social Services Agencies and to Tribal Courts.

- A. Mandatory Transfers. The parties agree that except for an emergency or an objection by a parent, in the absence of good cause to the contrary, all child protection proceedings in Indian Child cases, at the request of the Tribe, must be transferred to the Tribal Social Services agencies for appropriate action in Tribal Court or directly to Tribal Court.
- B. Transfer Procedures. The parties further agree that the procedures they develop will include procedures for identifying cases that trigger ICWA and this Agreement, preferably prior to any action being taken in State court. The State agrees that it will provide training to DHS workers to help them identify the Tribe’s children and notify the “Tribe when such a child has been reported to that agency.
- C. Emergencies. The parties shall establish written procedures for identifying emergencies and providing for placements that are temporary until a placement under ICWA and this Agreement can be secured.
- D. Review of Indian Children currently in placement. Within 120 days of the implementation of this Agreement DHS shall review all of its cases involving Indian Children. If the State of Tribe learns of a placement that fails to meet the placement preferences or the good cause exception in ICWA, DHS will work with the Tribe to develop a plan that is satisfactory to all parties.

XIII. Funding Issues

- A. Foster Care Maintenance Payments. The parties agree that families providing family foster care for Indian Children in the custody of DHS shall be paid the customary maintenance amount that DHS would have provided the family had they been fostering a non-Indian Child.
- B. Sections XII (C) and (D) of this agreement below, where a child is in Tribal custody and is adopted, will become effective upon the implementation of an agreement between the Department and the Tribe to pass through federal IV-E funds to the Tribe and then following a change in the Adoption rules to allow the Department to use state funds for adoption assistance in this situation.
- C. Adoptive Placement Costs. A child placement agency responsible for the pre-adoptive placement of Indian Children shall be reimbursed at the usual and customary rate for such costs from the State. The State will work with the Tribe to develop a Tribal placement agency that will receive the usual and customary rate from the State.
- D. Adoption Assistance Payment. DHS, in coordination with the Tribe's social services department, agrees to provide adoption assistance payments to approved adoptive parents who have obtained a child through a Tribal Court proceeding, provided that the child and the parent meet all of the eligibility requirements set out in 42 USC § 670, and state law (Maine Title 18-A, Article IX Part 4 and the Maine Rules for Adoption Assistance) or the Tribe's adoption standards.
- E. Future Funding. DHS also agrees to provide assistance to the Tribe to identify, evaluate and obtain other social service funding.

XIV. Recruitment and Registry of Foster Homes and Adoptive Homes.

- A. Recruitment. The parties agree to cooperate in a joint effort to develop a plan to recruit Indian foster and adoptive homes. The recruiting plan may include public advertising and other means likely to secure appropriate Indian homes. DHS shall provide training to assist potential Indian foster care providers to comply with the State and Tribe licensing requirements for foster or adoptive care.
- B. Registry. The parties agree to establish and maintain a registry of all Indian Homes licensed by the State of Maine, licensed or approved by the Tribe and available to receive Indian Children for foster care or adoption. The registry will identify the name, address, tribal affiliation of the home, whether the home is licensed or registered with the State or the Tribe, and whether the home is available for foster or adoptive placement or both. The registry will be established by the State and maintained collaboratively by the Tribe, the State and any other tribe that wishes to participate. The registry will be accessible by both the Tribe(s) and the State.

XV. Inter-State Issues.

- A. If another state requests that the Department assume responsibility for a child that the other state wishes to place in Maine, the Department will ask the Tribe to determine whether or not the child is a member of or eligible for membership in the Tribe and will subsequently notify the Tribe. The Department will refuse to accept responsibility for

the child until a mutually developed plan for the child has been established between the Tribe and the Department.

B. When DHS makes a request to another state that an Indian Child be sent there for the purpose of foster care or pre-adoptive placement, a copy of the request shall be sent at the same time to the Child's Tribe.

C. Retention of Jurisdiction. The sending state or Tribe shall retain jurisdiction over the Indian Child until the receiving state or the Tribe has accepted jurisdiction of the case.

XVI. Coordination of Agencies. DHS will notify all other State agencies currently associated with the care or protection of Indian Children, about the existence and contents of this Agreement and will coordinate other state services that support the goals of this Agreement. Nothing in this agreement obligates other state agencies that are not a party to this agreement to take or refrain from any specific action.

XVII. Dispute Resolution. The parties agree that, upon the request of either party, disputes arising under this Agreement shall be submitted for resolution to a dispute resolution "team" consisting of one DHS designee, one Tribe designee and a third member selected by both the DHS and the Tribe. A dispute shall only be referred to the dispute resolution team after other informal efforts at resolving the dispute have been unsuccessful. The parties agree to be bound by the decision of the dispute resolution team. Each party will have an opportunity to be heard by the team as to the merits of its position. The decision of the team will be in writing. The parties to this agreement will develop rules and procedures as to how the team's hearing will be conducted.

XVIII. Amendment of Agreement. The parties agree that amendments to this Agreement shall be in writing and must be agreed to by both parties.

XV. Termination of Agreement. This Agreement shall remain in effect until revoked. Either party may revoke giving sixty (60) days written notice to the other, provided that any services provided under this Agreement do not lapse until provisions have been otherwise made.

XVI. Severability Clause. Should any clause in this Agreement be deemed invalid or unlawful, the rest of the Agreement shall still be binding and remain in full force and effect.

This agreement was signed on September 16, 2002 by Brenda Commander, Tribal Chief, Houlton Band of Maliseet Indians; Kevin Concannon, Commissioner, Department of Human Services, State of Maine; and G. Steven Rowe, Attorney General, State of Maine.