

CHAPTER 33 - TRUANCY CODE

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CHAPTER 33 -- TRUANCY CODE

3.1 SECTION 1: GENERAL PROVISIONS

- 33.1.1 PURPOSE. The purpose of this code is to require the regular attendance at school of all school-age children living on the Red Cliff Indian Reservation and all Tribal children living off the reservation attending school within the Bayfield School District.
- 33.1.2 AUTHORITY. This code is enacted pursuant to Article VI, Section 1(p) of the Red Cliff Tribal Constitution.
- 33.1.3 EFFECTIVE DATE. This code shall take effect on the day following the date of approval of this code by the Red Cliff Tribal Council.
- 33.1.4 INTERPRETATION. In its interpretation and application, the provisions of this code shall be held to be minimum requirements and shall be liberally construed in favor of the Tribe and shall not be deemed as a limitation upon, or a repeal of any other tribal power or authority. The Tribe by the adoption of this Code does not waive its sovereign immunity in any respect.
- 33.1.5 ABROGATION AND GREATER RESTRICTIONS. When this code imposes greater restrictions than those contained in other Tribal Ordinances, codes, or resolutions, the provisions of this code shall govern.
- 33.1.6 SEVERABILITY. If any section, provision or portion of this code is adjudged to be unconstitutional or invalid by a court of competent jurisdiction, the remainder of this code shall not be affected thereby.
- 33.1.7 APPLICABILITY. This code shall apply to all Tribal children living on the Red Cliff Indian Reservation and their parents or other persons having said tribal children in their care or custody or under their control.
- 33.1.8 CONSENT TO TRIBAL JURISDICTION. The Red Cliff Tribal Court may also exercise its authority and impose penalties under this section where the provisions of sec. 33.1.7 do not apply provided that the person charged with the offense consents to the jurisdiction of the Tribal Court. Consent must be knowingly, intentionally and voluntarily made. This section shall apply only to:

- a) Non-Tribal children living on the Red Cliff Indian Reservation and their parents or other persons having said children in their care or custody or under their control; and
- b) Tribal children attending school within the Bayfield School District living off the Red Cliff Indian Reservation and their parents or other persons having said tribal children in their care or custody or under their control.

33.2 SECTION 2: DEFINITIONS

- 33.2.1** For the purpose of this code, the following terms shall have the meaning ascribed below:
- 33.2.2** "Adult" means any person 18 years of age or older who is not enrolled in the Bayfield School System.
- 33.2.3** "Child" means any person who is between the ages of 6 and 18 years old.
- 33.2.4** "Member" means a person enrolled in the Red Cliff Tribe.
- 33.2.5** "Reservation" means the area within the external boundaries of the Red Cliff Indian Reservation.
- 33.2.6** "School" means the Bayfield Public School.
- 33.2.7** "School Attendance" means physical presence of a child in school, and includes attending scheduled classes during such hours and on such days as determined by the school or, for students enrolled in Alternative Education Programs, attendance at the place and during hours scheduled by the school for the student, unless excused from such attendance by school policy or state law.
- 33.2.8** "School Attendance Officer" means an employee designated by a school board under Wis. Stat. sec. 118.16 to deal with matters relating to school attendance and truancy.
- 33.2.9** "School Attendance Policy" means the current policy for school attendance duly adopted by the Bayfield School Board.

- 33.2.10 "Tribal Child" means a child who is either (a) an enrolled member of the Tribe; or (b) eligible for enrollment in the Tribe.
- 33.2.11 "Tribal Court" means the Red Cliff Tribal Court.
- 33.2.12 "Truancy" means any absence of part or all of one or more days from school during which the school attendance officer, or his agent, has not been notified of the legal cause of such absence by the person having the absent pupil under his or her control during non-school hours. "Truancy" also means intermittent attendance carried on for the purpose of defeating the intent of the state and tribe's attendance laws (Wis. Stat. sec. 118.15 and Red Cliff Code of Laws, section 33.3.2).
- 33.2.13 "Habitual Truancy" means a student who is absent from school without an acceptable excuse for part or all of five (5) days or more on which school is held during a school semester. Wis. Stat. sec. 118.16(1) (a) and (c).
- 33.2.14 "Student" means one who attends school in the Bayfield School District.
- 33.2.15 "Tribe" means the Red Cliff Band of Lake Superior Chippewa Indians.

33.3 **SECTION 3: COMPULSORY SCHOOL ATTENDANCE**

- 33.3.1 SCHOOL ENROLLMENT REQUIRED. Except as excused under the state compulsory attendance law (Wis. Stat. sec. 118.15), any person having under their control a school aged child shall enroll the child in school.
- 33.3.2 REQUIREMENT TO ATTEND SCHOOL. Except as excused under the state compulsory attendance law (Wis. Stat. sec. 118.15), or under a school policy governing school attendance, any person having under their control a child (as defined in sec.33.2.3) who is between the ages of 6 and 18 who has not graduated from high school, shall cause the child to attend school regularly during the full period and hours that school is in session, religious holidays and traditional Native American ceremonies excepted, until the end of the school semester of the school year in which the child becomes 18 years of age. Wis. Stat. sec. 118.15(1) (a).

33.3.3 The designated school official or their agent may request a doctor's note from students who are absent for ten (10) consecutive/non-consecutive days in a school semester because of illness or injury, verifying the absences as health related.

33.3.4 TRUANCY PROHIBITED.

- a) Truancy is prohibited.
- b) It shall be unlawful for any person to cause, assist, or enable a child to be truant.

33.4 **SECTION 4: ENFORCEMENT AND PENALTIES**

33.4.1 The school attendance officer shall contact the Home-School Coordinator, Indian Child Welfare Worker, Tribal Law Enforcement Officer or other appropriate party to assist in the enforcement of the provisions of this code.

33.4.2 The school must document the following steps before the Tribal Court hears a truancy petition:

- (a) First & Second Incidents: The School Attendance Officer shall give verbal warning and send a letter to the parent/legal guardian/legal custodian and may request a home visit by the school's Home School Coordinator or other appropriate party.
- (b) Third & Fourth Incidents: The School Attendance Officer shall contact the Home School Coordinator, Indian Child Welfare Worker, School Counselor and/or other appropriate party to set up and document a meeting with the child and parent/legal guardian/legal custodian. Such meeting shall be held at a mutually agreed upon site with written notification of meeting time, date, and place to be sent via registered or certified mail to the parties. The date for such meeting shall be held within five (5) school days after the date that the notice is sent, except that with the consent of the child's parent/legal guardian/legal custodian the date for the meeting may be extended for an additional five (5) school days.

The purpose of the meeting shall be to identify and resolve behaviors that are in violation of the provisions of this code through an appropriate plan of

action, which shall be agreed to and signed by all parties involved. The following steps shall be required in developing the action plan:

- 1) Provide an opportunity for educational counseling to the child to determine whether a change in the child's curriculum would resolve the child's truancy and consider curriculum modification under Wis. Stat. sec. 118.15 (1) (d).
 - 2) Evaluate the child's curriculum to determine whether learning problems may be a cause of the child's truancy and, if so, take appropriate action or make appropriate referrals.
 - 3) Conduct an evaluation to determine whether social problems may be the cause of the child's truancy and, if so, take appropriate action or make appropriate referrals.
 - 4) An action plan shall be jointly created by the parties, and a copy shall be provided to the parent/legal guardian/legal custodian and the principal of the child. Included in the action plan shall be a schedule for consistent, timely review to evaluate and monitor the effectiveness of said plan.
 - 5) If a parent/legal guardian/legal custodian, or the child, fails to attend a scheduled meeting without cause, the School Attendance Officer may issue a citation to the child for truancy and/or a citation may be issued to the parent/legal guardian/legal custodian for enabling a child to be truant.
- (c) Fifth Incident: Refer to Tribal Court. A checklist documenting evaluation of the steps required in section 33.4.2 must be submitted to the court upon referral.

Once referred to Tribal Court, the child's parent/legal guardian/legal custodian shall be summoned in accordance with Red Cliff Code of Laws, Chapter 4, Section 4.9. If summoned to Tribal Court, appearance is mandatory by both the child and the parent/legal guardian/legal custodian. (2016)

- 33.4.3** The designated school official or their agent may issue citations to any child in grades six (6) through twelve (12) who violates the Red Cliff Truancy Code, to appear in the Tribal Court. For children grades five (5) and below, who violate the Red Cliff Truancy Code, the designated school official or their agent may issue citations to a parent/legal guardian/legal custodian for enabling a child to be truant.
- 33.4.4** The designated school official or their agent may issue citations to any person(s) to appear in Tribal Court who enables a child to be truant.
- 33.4.5** Each incident of truancy may constitute a separate offense.
- 33.4.6** PENALTIES.
- a) Any child convicted of truancy under sec. 33.3.3 shall be subject to a minimum penalty of community service hours equal to the number of school hours truant.
 - b) Any child who is convicted of aiding a child's truancy shall be subject to a penalty of not more than \$50.00.
 - c) Any adult who is convicted of aiding a child's truancy shall be subject to a penalty of not more than \$500.00 per incident.
 - d) In addition to the imposition of civil forfeitures and community service hours for violations of this Chapter 33, the Tribal Court may impose other remedies, including but not limited to: alcohol assessment and counseling, home detention, limitations on the use of public facilities within the exterior boundaries of the Red Cliff Indian Reservation.
- 33.4.7** If the Tribal Court determines a child is habitually truant, the court may order the Indian Child Welfare Department and/or appropriate Human Service Agencies to initiate an in depth investigation into the child's background to determine if a minor-in-need-of-care petition should be filed.
- 33.4.8** Nothing herein shall prohibit the referral of a tribal child to the Child Welfare office for the filing of a child welfare petition under Chapter 26 of the Red Cliff Code of Laws. A child welfare petition may be filed regarding any tribal child who has been habitually truant.

33.4.9 Nothing herein shall prohibit the Tribal Court from contacting the Red Cliff Social Services Department regarding clients convicted of Truancy and/or Enabling a Child to be Truant.

33.4.10 The Tribal Court shall have jurisdiction over cases brought to enforce this code. Proceedings shall be conducted in accordance with Chapter 4 of the Red Cliff Code of Laws.