

## CHAPTER 5-3 ATTENDANCE

### 5-3-1 **Purpose**

The purpose of this Chapter is twofold:

- (a) To provide a vehicle whereby the Tribes may directly intervene to provide assistance to any juvenile covered by this Chapter; and
- (b) To create a mechanism whereby the Tribes work cooperatively with schools and school districts that are located in whole or part on the Colville Indian Reservation or who educate students covered by this Chapter in order to improve the attendance and behavior of juveniles covered by this Chapter.

### 5-3-2 **Coverage**

This Chapter, and its provisions, shall apply to all enrolled members of the Confederated Tribes of the Colville Reservation, to all members of recognized Indian tribes who have significant ties to the Colville Tribes, and in addition to all students of Indian descent and their parents or guardians (to the extent not otherwise covered) who consent to be covered by the terms and conditions of this Chapter, and any Cooperative Agreement entered into with a school district.

### 5-3-3 **Attendance Mandatory**

(a) All parents of any child six (6) years of age and under eighteen (18) years of age and covered by this Chapter shall cause such juvenile to attend school as provided herein and such child shall have the responsibility to and therefore shall attend for the full time when such school may be in session.

(b) As used in this section "school" shall include the following:

- (1) The state supported public school district within which the child resides;
- (2) A private school or extension program approved either under tribal or state law;
- (3) Paschal Sherman Indian School; or
- (4) [A home-based instructional program as authorized pursuant to RCW §§ 28A.225.010, 28A.410 and 28A.70 or approved under tribal law designed to allow the juvenile and parent to administer to the unique needs of the juvenile.](#)

(Amended 10/9/03, Resolution 2003-648)  
(Certified 10/14/03)

### 5-3-4 **Exception to Attendance Provided**

A child and his or her parent shall be excused from the requirements of this Chapter and shall not be subject to the penalties set out herein if:

- (a) The school attended by the juvenile has excused such child from attendance because the child is physically or mentally unable to attend school and the school is providing all legally required services in a home-based or other approved program, is attending a residential school operated by the Tribes, other Indian education agency or the Department of Social and Health Services, or has been temporarily excused upon the request of his or her parents for purposes agreed upon by the school authorities and parent. That such excused absences shall not be permitted if deemed to cause a serious adverse effect upon the student's educational progress.
- (b) The child is at least fifteen (15) years of age and if:
  - (1) The school attended by the child determines that such child has already attained a reasonable proficiency in the branches required by law to be taught in the first nine grades of the schools as set down by the Tribes or state;

- (2) The child is regularly and lawfully engaged in a useful or remunerative occupation;
- (3) The child has already met graduation requirements in accordance with the State Board of Education;
- (4) The child had received a certificate of educational competence under rules and regulations established by the State Board of Education; or
- (5) The child has already met graduation requirements, if any that are lawfully imposed by the Confederated Tribes of the Colville Reservation and that preempt state requirements.

(c) A parent for the purpose of this Chapter means a parent, guardian, or person having legal custody of a child.

**5-3-5 Cooperative Agreement with State School District**

(a) The Confederated Tribes of the Colville Reservation may by acting through the Colville Business Council enter into cooperative agreements with any school operating in whole or in part on the Colville Indian Reservation for purposes of increasing and improving the attendance of children who are covered by this Chapter or addressing behavioral problems that could lead to a student covered by an agreement being removed from school.

(b) All agreements authorized under this section shall be in writing and shall be approved by the Colville Business Council. No agreement shall authorize the expenditures of any funds by the Tribes, unless approved by the full Colville Business Council; nor, shall any agreement waive the sovereign immunity of the Tribes, its agencies, employees or agents.

(c) Every agreement entered into under the authority of this section shall contain the following provisions:

- (1) The cooperating school shall refer to the attendance officer designated under the agreement all enrolled students covered by the agreement who have failed without valid justification recurrently or in excess of three (3) days per quarter to attend school;
- (2) The cooperating school may refer to the attendance officer juveniles who are discipline problems and/or not achieving academically;
- (3) The cooperating school shall agree not to suspend or expel a student referred under a cooperative agreement as allowed under this Chapter after the referral to the appropriate Colville Confederated Tribes agency(ies) provided under the agreement, unless suspension or expulsion is required because the juvenile creates a danger to himself and/or others, or the school;
- (4) The Tribes shall agree to enforce the provisions of this Chapter with respect to each child referred by a school to the Tribes. In acting under this provision, the Tribes, and its designated attendance officer and appropriate agency shall work with and in cooperation with the school in order to develop the best program and plan, to correct the attendance or discipline problems of the referred child;
- (5) The Tribes shall in each cooperative agreement designate a tribal employee to act as attendance officer; and
- (6) Referrals of students who are of Indian descent shall be accepted only when the student and the student's parent or guardian consents to the referral and agree to participate with the Tribes pursuant to the referral and be bound by this Chapter.

**5-3-6 Tribal Attendance Officer—Duties**

Whenever a juvenile is referred to a tribal attendance officer pursuant to a cooperative agreement

entered into as provided under this Chapter, or whenever a parent of an enrolled juvenile, or a tribal official informs a tribal attendance officer that a juvenile required to attend school fails to attend school without valid justification recurrently or for an extended period of time, the attendance officer shall, where appropriate, take some or all of the following actions:

(a) Inform the juvenile's custodial parent, parents or guardian by a notice in writing and by other means reasonably necessary to achieve notice of the fact that the juvenile has failed to attend school without valid justification recurrently or for an extended period of time;

(b) Schedule a conference or conferences with the custodial parent, parents or guardian and juvenile at a time and place reasonably convenient for all persons included for the purpose of analyzing the causes of the juvenile's absences;

(c) Take steps in coordination with the school that the juvenile is required to attend to eliminate or reduce the juvenile's absences. These steps may include, where appropriate, adjusting the juvenile's school program or school or course assignment, providing more individualized or remedial instruction, preparing the juvenile for employment with specific vocational courses or work experience, or both, and assisting the parent or student to obtain supplementary services that might eliminate or alleviate the cause or causes for the absence from school;

(d) Provide additional or continuing counseling for the parent, the juvenile, or both, and provide any other program that is reasonably designed to correct the attendance problems of the juvenile;

(e) In those situations where a school refers a juvenile with discipline problems to the Tribal attendance officer, the attendance officer in cooperation with the school shall develop a program that is designed to correct the behavior of the juvenile, which program can include the juvenile, parent, guardian or custodian of the juvenile;

(f) That prior to referring any student or parent to Tribal Court that tribal staff and administrators charged with the enforcement of the Attendance Chapter attempt to develop and implement a corrective plan taking into account the social, economic, and cultural background of the parent and student involved which is the least restrictive that accomplishes the goal of increased attendance in school performance;

(f) Where corrective plans are implemented, but have not been successful, the juvenile, the parent or both shall be referred to Tribal Court for the imposition of penalties under this Chapter;

(g) Any parent or child subject to this Chapter refusing to comply with the provisions of this section within a reasonable time after being ordered to comply by the Tribal Court pursuant to an action initiated pursuant to section 5-3-7, shall be subject to the fines and penalties set out in the Confederated Tribes' Law and Order Code 3-1-96, as well as the penalties set out in section 5-3-9 of this Chapter.

(Subsections (f) and (g) Amended 10/9/03, Resolution 2003-648)  
(Certified 10/14/03)

### 5-3-7

#### **Petition to Juvenile Court for Violations by a Parent or Child—Applicability of Chapter**

If action taken pursuant to section 5-3-5 is not successful in substantially reducing a student's absences from school or if the parent or juvenile refuse to comply voluntarily, any of the following actions may be taken:

(a) The tribal attendance officer through his/her attorney may petition the Juvenile Court to assume jurisdiction under this Chapter for the purpose of alleging a violation of section 5-3-2 of this Chapter by the parent or child;

(b) A petition alleging a violation of section 5-3-2 of this Chapter by a child may be filed with the Juvenile Court by the parent of such child or by the tribal attendance officer through his/her attorney at

the request of the parent. If the court assumes jurisdiction in such an instance, the provisions of this Chapter, except where otherwise stated, shall apply.

**5-3-8 Tribal Attendance Enforcement Officers' Additional Authority**

(a) To aid in the enforcement of this Chapter, tribal attendance officers shall be appointed by the Colville Business Council. Appointment may be from exiting staff or new staff authorized by the Colville Business Council shall approve attendance officers for each cooperative agreement entered into under this Chapter, and may in addition appoint attendance officers to act in other circumstances.

(b) All tribal law enforcement officers or **natural resources enforcement officers** may be appointed to be attendance officers.

(Amended 10/9/03, Resolution 2003-648)  
(Certified 10/14/03)

(c) The attendance officer shall be vested with police powers, the authority to make arrests and serve all legal processes contemplated under this Chapter, and shall have authority to enter all places pursuant to law in which children may be employed, for the purpose of making such investigations as may be necessary for the enforcement of this Chapter.

(d) The tribal attendance officer is authorized to take into custody any child enrolled in the Confederated Tribes, when the child is six (6) years of age and not over eighteen years of age, when the attendance officer has reasonable grounds to believe that the child may be a truant from school, and thereafter to conduct such child to his/her parents, for investigation and explanation, or to the school which he/she should properly attend.

(e) The tribal attendance officer may institute proceedings against any officer, parent, guardian, person, company or corporation violating any provisions of this Chapter, and shall otherwise discharge the duties prescribed in this Chapter, and shall perform appropriate services as the Colville Business Council may deem necessary or that may be required under an agreement entered into under this Chapter.

(f) The Tribal attendance officer shall keep a record of his transactions for the inspection and information of any school with an agreement with the Tribes and the Colville Business Council and shall make a detailed report to the Business Council as often as the same may be required.

**5-3-9 Penalties in General—Defense—Suspension of Fine—Complaints to Court**

(a) Any person found by the Tribal Court to have violated or to be violating any of the provisions of this Chapter shall be subject to diversionary action or fined not more than twenty-five dollars (\$25.00) for each day of unexcused absence from school. In addition, a child found to be in violation shall be required to attend school. Failure by a child to comply with an order issued under this section shall be punishable by a fine of twenty-five dollars (\$25.00) for each day that the juvenile fails to comply. The Tribal Court may order that the parent, or the child or both comply with the program set out by the tribal attendance officer, or as modified by the Tribal Court.

(b) It shall be a defense for a parent charged with violating this Chapter to show that he or she exercised reasonable diligence in attempting to cause a child in his or her custody to attend school or that the juvenile's school did not perform its duties as required under the law. Any fine imposed pursuant to this section may be suspended upon the condition that a parent charged with violating this Chapter shall participate with the Tribes, the school and the child in a supervised plan for the juvenile's attendance at school or upon condition that the parent attend a conference or counseling scheduled by the tribal attendance officer for the purpose of analyzing the causes of a child's absence, or on condition that the parent comply with any other plan determined to be appropriate to assist the juvenile to attend school.

(c) Where the Court proceeding involves a child referred for discipline reasons, the Court may suspend any fine imposed if the child agrees to comply with a plan developed by the tribal attendance officer, as it may be modified by the Court.

**5-3-10 Prosecuting Attorney or Attorney for District to act for Complainant**

The tribal prosecuting attorney shall act as attorney for the complainant in all court proceedings relating to the compulsory attendance of children as required by this Chapter except for those petitions filed against any child by the parent without the assistance of the tribal attendance officer.

**5-3-11 Reports by Tribal Attendance Officers—Compilation of Information and Reports**

The attendance officer shall report biannually to the Colville Business Council on the petitions filed alleging a violation by a child under this Chapter. The report shall at a minimum contain:

(a) The number of petitions filed by an attendance officer or by a parent;

(b) The frequency of each action taken under this Chapter prior to the filing of such petition;

(d) Disposition of cases filed with the Tribal Court, including the frequency of orders issued to enforce a court's order.

**5-3-12 Imposition and Collection of Fines**

(a) The Tribal Court shall take into account the social, economic and cultural background when determining appropriate sanctions or penalties, and implement the least restrictive corrective plan or penalties;

(b) Imposition of monetary penalties consistent with this Chapter, shall be used as the last resort; and

(c) Whenever the Tribal Court orders the payment of a fine to enforce the provisions of this Chapter, that fine shall be entered as a judgment of the Court and may be collected as any judgment, including the withholding of any per capita payment, or part thereof until fully paid. Provided, That when a fine is imposed against a child who is not fully and gainfully employed, the fine shall only be collected by the withholding of the per capita or at the discretion of the Court through the requirement of community service.

(Amended 10/9/03, Resolution 2003-648)  
(Certified 10/14/03)

**5-3-13 Use in Need of Care Proceeding**

The failure of a parent to comply with an order entered pursuant to section 5-3-6 of this Chapter may be grounds for Court action in any action brought pursuant to Chapter 5-2 of the Tribal Law and Order Code.

(Adopted 12/21/87, Resolution 1987-726)  
(Certified 12/29/87)