

WYANDOTTE NATION
TITLE 28
COMPULSORY EDUCATION CODE
(APPROVED BY THE BOARD OF DIRECTORS 02-13-2024)

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**WYANDOTTE NATION
TITLE 28
COMPULSORY EDUCATION CODE**

GENERAL PROVISIONS

Section 1. Short Title and Citation.

This Title may be cited as the "Compulsory Education Code."

Section 2. Purpose.

The purpose of this Code is to require the regular attendance at school of tribal children living within the territorial jurisdiction of the Wyandotte Nation.

Section 3. Definitions.

Unless the context otherwise requires, as used in this Title, the term:

(a) "Adult" means any person 18 years of age or older who is not enrolled in a public or private secondary education program.

(b) "Child" means any unmarried person who is less than 18 years of age.

(c) "Citizen" means any person enrolled in the Wyandotte Nation.

(d) "School" means any public or private school program, which has enrolled a Wyandotte Nation child or an Indian child who resides within the territorial jurisdiction of the Wyandotte Nation.

(e) "School Attendance" means physical presence of a child in school attending scheduled class or during such hours and on such days as determined by the school or, for students enrolled in alternative Education Programs, at the place and during hours scheduled by the school for the student, unless excused from such attendance by school policy or state law.

(f) "Tribal Child" means a child who is either:

(1) an enrolled citizen of the Wyandotte Nation or any other federally recognized tribe; or

(2) eligible for enrollment in the Wyandotte Nation or any other federally recognized tribe; or

(3) the biological child of an enrolled citizen of the Wyandotte Nation.

(g) "Tribal Court" means the Wyandotte Nation Court.

(h) "Tribe" means the Wyandotte Nation or any other federally recognized tribe.

(i) "Truancy" means any absence of part or all of one or more days from school during which the school attendance officer, principal or teacher has not been notified of the legal cause of such absence by the person having the absent child under his or her control, and also means intermittent attendance carried on for the purpose of defeating the intent of the state compulsory school attendance law, 70 O.S. §10-105.

(j) "Habitual Truancy" means truant for five (5) days within ten (10) school days or ten (10) trancies within any ninety (90) day period within the school year.

Section 4. Severability.

If any provision of this Title is adjudged to be unconstitutional or invalid by a court of competent jurisdiction, then the remainder of the Title shall remain in full force and effect.

Section 5. Sovereign Immunity.

Nothing in this Code shall be construed as a waiver, in whole or part, of the sovereign immunity of the Wyandotte Nation, its departments, agencies, entities, officials, or employees.

CHAPTER ONE COMPULSORY SCHOOL ATTENDANCE

Section 101. School Enrollment Required.

It shall be unlawful for a parent, guardian, or other person having custody of a child who is over the age of five (5) years, and under the age of eighteen (18) years, to neglect or refuse to cause or compel such child to attend and comply with the rules of some public, private or other school, unless other means of education are provided for the full term the schools within the Wyandotte Nation are in session or the child is excused as provided under Oklahoma law.

Section 102. School Attendance Required.

It shall be unlawful for any child who is over the age of twelve (12) years and under the age of eighteen (18) years, and who has not finished four (4) years of high school work, to neglect or refuse to attend and comply with the rules of some public, private or other school, or receive an education by other means for the full term the schools within the Wyandotte Nation are in session.

Provided, that this section shall not apply:

(1) If any child is prevented from attending school by reason of mental or physical disability, to be determined by the board of education of the school district;

(2) If any child is excused from attendance at school, due to an emergency, by the school administration or teacher in which such child is enrolled, at the request of the parent, guardian, custodian or other person having control of such child;

(3) If any child who has attained his or her sixteenth (16th) birthday is excused from attending school by written, joint agreement between the school administrator and the parent, guardian or custodian of the child; or

(4) If any child is excused under a school policy governing school attendance or under a provision of Oklahoma state law.

Section 103. Truancy Prohibited.

(a) Truancy by a tribal child living within the Wyandotte Nation is prohibited.

(b) It shall be unlawful for any person to cause, assist, aid or enable a tribal child to be truant.

CHAPTER TWO ENFORCEMENT AND PENALTIES

Section 201. Enforcement Officers.

(a) Any tribal law enforcement officer or school attendance officer may enforce the provisions of this Code.

(b) Any person authorized to enforce the provisions of this Code may stop and question any person upon reasonable belief that the person has violated this Code.

(c) If, during school hours, a person authorized to enforce this Code has probable cause to believe that a tribal child is a truant, the person shall take the child into custody and transport the child to school and deliver the child to school authorities.

Section 202. Affirmative Defense of Parent.

In the prosecution of a parent, guardian, or other person having custody of a child for violation of any provision of this Chapter, it shall be an affirmative defense that the parent, guardian, or other person having custody of a child has made substantial and reasonable efforts to comply with the compulsory attendance requirements of this Title but is unable to cause the child to attend school. If the Court determines the affirmative defense is valid, it shall dismiss the complaint against the parent, guardian, or other person having custody of the child and shall notify the school administrator and make a referral to the tribal prosecutor for the filing of a Child in Need of Supervision petition against the child.

Section 203. Penalties.

(a) Any parent, guardian, custodian, child or other person violating any provisions of this Title, upon conviction, shall be guilty of a misdemeanor, and shall be punished as follows:

(1) For the first offense, a fine of not less than Twenty-five Dollars (\$25.00) nor more than Fifty Dollars (\$50.00) or incarceration in a tribally approved detention facility for not more than five (5) days, or both such fine and incarceration;

(2) For the second offense, a fine of not less than Fifty Dollars (\$50.00) nor more than One Hundred Dollars (\$100.00), or incarceration in a tribally approved detention facility for not more than ten (10) days, or both such fine and incarceration; and

(3) For the third or subsequent offense, a fine of not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Fifty Dollars (\$250.00), or incarceration in a tribally approved detention facility for not more than fifteen (15) days, or both such fine and incarceration.

(4) Each day the child remains out of school after the documented warning has been given to the parent, guardian, custodian, child, or other person, or the child has been ordered to school by the Court, may constitute a separate offense.

(b) At the trial of any person charged with violating the provisions of this Title, the attendance records of the child or ward may be presented to the Court by any authorized employee of the school district.

(c) The Court may order the parent, guardian, or other person having custody of the child to perform community service in lieu of the fine set forth in this section.

(d) The Court may order as a condition of a deferred sentence or as a condition of sentence upon conviction of the parent, guardian, or other person having custody of the child any conditions as the Court considers necessary to obtain compliance with school attendance requirements. Such conditions may include, but are not limited to, the following:

(1) Verifying attendance of the child with the school;

(2) Attending meetings with the school officials;

(3) Transporting the child to and from school;

(4) Attending school with the child;

(5) Undergoing an evaluation for drug, alcohol, or other substance abuse and following the recommendations of the evaluation;

(6) Taking the child for drug, alcohol, or other substance abuse evaluation and following the recommendations of the evaluation; and

(7) Any other condition the Court deems reasonable and appropriate.

Section 204. Referrals to a Child Welfare Program.

Nothing in this Title shall prohibit the Wyandotte Nation prosecutor or Court from making a referral to a Child Welfare Program regarding persons convicted of truancy and/or enabling a child to be truant.