

School Attendance Ordinance

TITLE 3, CHAPTER 1  
SCHOOL ATTENDANCE ORDINANCE

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School Attendance Ordinance

**HANNAHVILLE LEGAL CODE  
TITLE III, CHAPTER 1  
SCHOOL ATTENDANCE ORDINANCE**

**3.1.100 Preamble, Intent and Purpose**

The Hannahville Indian Community Tribal Council, in order to promote the general welfare of the Hannahville Indian community (the tribe) and its members; to ensure that its youth will gain the skills and knowledge required to assure their ability to participate in their community as coordinators, leaders, workers, and individuals; to guarantee to its youth a place in an increasingly complex world in which they will represent and be representative of the Tribe; to assist in developing fully within those virtues, which are encompassed in our spirituality and are taught in our homes and by our elders: wisdom, love, honesty, truth, humility, bravery, and respect; and finding that regular school attendance does assist in promoting these ends, the Council does hereby enact, for immediate effect, the following School Attendance Ordinance.

**3.1.101 Short Title**

This ordinance may be cited as the Hannahville School Attendance Ordinance or the Hannahville Truancy Ordinance.

**3.1.102 Jurisdiction**

Consistent with applicable federal law, all persons residing upon tribal and trust lands shall be subject to the requirements of this ordinance.

**3.1.103 Definitions**

- (1) Absences. Excused and unexcused, and tardies shall be determined by the school board.
- (2) School. The word “school” shall include Nah Tah Wahsh (the Hannahville school), any school licensed and accredited by the state of Michigan, any private school with an organized, structured and recognized curricula which is capable of conferring a diploma recognized by the state or the Hannahville School Board and Tribal Council and shall include adult education, alternative education, and vocational curricula.
- (3) School Attendance. School Attendance shall mean the enrollment and physical presence of the student in scheduled classes during hours and days as determined by the school board or curriculum which is appropriate for the student. School attendance shall include all special school activities which the student is required to attend by appropriate designated school or Council authority. Habitual tardiness may be considered a failure to attend.
- (4) Student. A “student” shall mean a minor between the ages of 5 and 18 years of age.

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- (5) School year. The school year shall be determined by the school board.
- (6) School Hours. School hours shall be determined by the school board.
- (7) Person(s). The word “person(s)” shall include all persons whether individuals or legal entities who are legally or otherwise responsible or have assumed the responsibility for the care of a student, whether temporarily or on a semi-permanent basis. The term would thus include parents, guardians, relatives, babysitters, or anyone in whose home a minor required to attend school is found. Students also come within the definition.

### **3.1.104 Requirement to Attend School; Students**

A student shall be required to enroll in and attend school consecutively and continuously during the school year fixed by the school unless the student’s failure to attend is validly excused as previously determined by the school board. A student who attains the age of 18 years during the school year shall be required to complete that school year as well as any special or remedial programs required by the school in order for the student to receive credit for that school year except that, the student may, with parental consent terminate his education upon attaining the age of 16 years. Each and every unexcused failure to attend school may be considered a separate violation. Students over the age of 16 years who attain the age of 17 years before disposition of a complaint or citation brought under this subsection may be punished by jail in addition to the penalties below prescribed, but only if they would be subject to removal from their home by such conviction or convictions.

- (1) Penalties: Any student who violates this section shall, upon conviction, be punished as follows:
  - (a) If a first offense, by a fine of at least \$10.00 but not more than \$20.00 and by the exercise of the full powers of the court over the family and/or other caregivers of the child. The Court shall, in the exercise of its powers consider the attitude and age of the child and any other juvenile convictions and shall consider, take notice of and apply its powers to ensure that the student shall not be further truant. The child shall not be removed from his home for a first offense on the basis of a first truancy conviction alone unless the court shall otherwise find the home to constitute a risk of substantial harm to the student.
  - (b) If a second offense, by a fine of at least \$20.00, but not more than \$40.00, together with costs, and by the exercise of the full powers of the court over the family and/or other caregivers of the child taking into account the considerations of § (a) above. The child shall not be removed from his home for a second offense on the basis of a second truancy conviction alone, unless the court shall otherwise find the home to constitute a risk of substantial harm to the student.
  - (c) If a third or subsequent offense, by a fine of at least \$40.00, but not more than \$80.00, together with costs and, without limitation, by any of the following actions or any combination of them:

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- [1] Restricting the student's associations.
  - [2] Restricting the driving privileges of a student, licensed or not.
  - [3] Community service.
  - [4] School or in-house detention.
  - [5] Curfew restrictions.
  - [6] Tether.
  - [7] Removal from home.
  - [8] Incarceration of not less than 5 days nor more than 30 days, but removal from the home and placement in an appropriate juvenile facility shall not be held to constitute incarceration.
  - [9] Prohibited from attending academic and athletic special school activities. They may not be excluded from cultural activities.
  - [10] Prohibited from participation in the youth summer work programs.
  - [11] Other recommendations as supplied by the parent(s) and/or Child Welfare Committee.
- (2) Fines, Additional Orders: The foregoing list is not meant to be exclusive and the court shall, in the exercise of its powers take into account all factors as detailed in § (a) and shall apply its powers to ensure that the student shall not be further truant.
- (a) Fines: Failure of Students to Pay; Persons Responsible. In the event that a student has failed to pay in full the amount of any fines and costs assessed against him by reason of his failure to attend school within 6 months of the time when such fines were assessed, all persons who were legally or otherwise responsible for his care and control at the time of said violation may be held responsible for the payment of said fines and shall be ordered to pay any amounts remaining.
  - (b) Additional Orders: Persons Responsible for Students Care. In addition to the foregoing, the court shall order all person who or are responsible or who shall assume responsibility for the care and control of students to report to an appropriate designated authority any attempted unauthorized, or unexcused absences on the part of the student.

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### **3.1.105 Requirement to Send Student to School**

Parents, Caregivers, Persons Responsible. All persons who are legally or otherwise responsible for the care and control or who have assumed the responsibility for the care and control of a student shall enroll said student in school and shall maintain and secure the attendance in school of said student continuously and consecutively during the school year fixed by the school unless the student's failure to attend is validly excused as previously determined by the school board or the student has attained the age of 16 years and is excused from further attendance at school. Each and every failure to enroll, maintain, or secure the attendance of a student in school may be considered a separate violation. Second and subsequent violations of this section shall constitute educational neglect.

- (1) Penalties: Any person who violates this section shall, upon conviction, be punished as follows:
  - (a) If a first offense, by a fine of at least \$50.00 but not more than \$100.00, together with costs, or by not more than 15 days in jail or by both such fines and period of incarceration. In addition, the court may enter any and all orders as are reasonably necessary to secure the student's regular attendance at school.
  - (b) If a second offense, by a fine of at least \$100.00 but not more than \$150.00, together with costs, or by not more than 30 days in jail or by both such fines and period of incarceration. In addition, the court may enter any and all orders as are reasonably necessary to secure the student's regular attendance at school, including removal of the student from the offender's care and control.
  - (c) If a third or subsequent offense, by a fine of at least \$150.00 but not more than \$200.00, together with costs, and by not less than 15 days in jail nor more than 30 days in jail or by both such fines and period of incarceration. In addition, the court may enter any and all orders as are necessary to secure the student's regular attendance at school, including removal of the student from the offender's care and control.

### **3.1.106 Presumptions: Exceptions**

A rebuttable presumption shall exist that a student's absence from school is due to:

- (1) The person or persons responsible, or who have assumed responsibility for the student's care and control if the student is 14 years of age or less.
- (2) The student, if the student is more than 14 years of age and required to attend school.

Nothing in this section shall prevent both the student and his caregiver from being cited with a violation of this ordinance where it shall appear that both the student and his caregiver participated in the student's failure to attend school without valid excuse.

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### **3.1.107 Inferences; Probable Cause**

When a person responsible for a student's care and control, as previously defined in this ordinance, is shown to have failed to:

- (1) Notify the appropriate authorities as defined by the school handbook, the court, or other lawful authority, of the student's failure to attend school or proposed refusal to attend school, it shall be inferred that the person so responsible for the student's care and control was a participant in the student's failure to attend school.
- (2) As determined by the school board provide the school with a written or other notification of the reason why the student's nonattendance should be considered an excused absence, it shall be inferred that the person so responsible was a participant in the student's failure to attend school.
- (3) Regularly secure the services of a babysitter or other caregiver in the primary caregiver's absence in order to ensure that the student will not fail in his attendance, will raise an inference that the primary caregiver also participated in the student's failure to attend school.

The primary caregiver may also have the inferences raised by §§ (1-3) of this section applied to him by his repeated failures to secure reliable child care which result in the student's failure to attend school.

Charges and penalties which progress from these inferences are those arising under § 3.1.105 of this ordinance.

### **3.1.108 Arraignment, Contempt of Court; Interim Orders**

The Court shall enter, upon arraignment of a student or other person(s) charged with a violation or violations of this ordinance, or upon failure of a person or persons so charged to appear, proper notice having been given, interim orders designed to secure the attendances of the student at school pending hearing on the underlying charge(s). One of these orders shall be that there shall be no further violation of this ordinance and upon receipt of notice that further unexcused absence shall have occurred a bench warrant shall issue and the offender shall be taken into custody and shall be brought forthwith before the judge or the magistrate and made to answer and such further restraint or other orders shall be entered as are necessary to secure the student's regular attendance in school. Reliable hearsay evidence shall be acceptable in determining whether a violation of the court's interim orders shall have occurred.

### **3.1.109 Notices**

Persons responsible for students who are issued citations for violations of this ordinance shall also be notified to appear in court with the student. Said person's failure to appear in court shall be cited as: contributing to the delinquency of a minor; failure to obey a lawful court order; child neglect; or as otherwise provided by law.

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### **3.1.110 Duties of School Personnel, Board**

- (1) The school shall determine school attendance on a daily basis and shall report to appropriate law enforcement officers or agencies any unexcused failures of a student to attend. A permanent record shall be kept of each student's attendance including the originals of any excuses given for a student's absence.
- (2) Notice to Attendance person. If there is an attendance person employed by the tribe the school shall meet with the attendance person on at least a weekly basis to assist in determining whether a student's unexcused absences are due to a student's willful failure to attend or to a responsible person's failure to send the student to school, or both.
- (3) If there is no such attendance person employed by the tribe, the school shall notify the child's parent or caregiver and law enforcement on a weekly basis as to any unexcused absences which the student may have.

### **3.1.111 Powers of Law Enforcement Officers; School Attendance Person; Probation Officer**

If, during school hours, a law enforcement officer, school attendance person or probation officer has probable cause to believe that a student is in violation of this ordinance, he is authorized to stop, detain, question, and otherwise investigate said student's behavior in order to determine the compliance or noncompliance of the student in regard to this ordinance. If the person determines that the student is in violation of this ordinance, the person shall transport the student to the school and/or deliver the student to the appropriate authorities. The person may, in addition, cite the student with an appropriate violation of this ordinance or as otherwise provided by law.

### **3.1.112 Diversion**

When a petition alleging the failure of a student to attend school or the failure of a responsible person to send a student to school has been filed, and when it shall further appear that the student has been habitually truant or that the responsible person has been a habitual offender, the Court on its own motion or upon the motion of any interested person/party may issue a stay on the court proceedings pending satisfactory resolution and may refer the matter to the Tribal Council for consultation and resolution.

The Court shall ensure, however, that tracking of the case shall be maintained so that the Court is informed of the course of the diversionary process and its satisfactory conclusion.

### **3.1.113 Excused Nonattendance**

A student is not required to attend school if any of the following apply:

- (1) The student has completed a G.E.D. or has received a high school diploma.

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- (2) The student has a valid medical reason for his nonattendance.
- (3) The student has been suspended and that student is absent during the period of the suspension.
- (4) The student is absent for other reasons defined in advance as excused absences by the school board or the Council. Examples of such excused absences include but are not limited to the following:
  - (a) Death in the immediate family or death of a community member.
  - (b) The student's health related appointments, provided however, that the nonattendance shall not include time other than that reasonably necessary to attend the appointment(s).
  - (c) Reasonable times for family illness to be decided upon on a case by case basis by the school board in consultation with the responsible person.

### **3.1.114 Habitual Offenders**

Any student of responsible person who shall have been convicted of at least violations of this ordinance shall be considered a habitual offender.

**Enacted on 17 February 1995 for immediate effect by the Hannahville Indian Community Tribal Council. This ordinance expressly supersedes and repeals all former laws including those contained in the Child Protection Code and section 1.2024 of the Criminal Law and Procedure.**

**Quorum: 7 for 0 against 0 abstaining**