

## TITLE 8. FAMILY CODE

### Chapter 8.8

#### SCHOOL ATTENDANCE — TRUANCY

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**8.8.1. Purpose.** It is the paramount duty of the Suquamish Tribe to ensure that its youth receive an education by attending and participating in an appropriate school program that will prepare them to function as productive and culturally knowledgeable members of the Tribe and the Suquamish community. This chapter is adopted pursuant to that duty, so that the Tribal Court may handle truancy matters, whether they originate in Tribal Court or are accepted on transfer from a county, state, or school district. This chapter is also intended to facilitate cooperation between the Tribe and other governmental entities to promote the education of its youth. (Res. 04-157, passed Nov. 15, 2004)

**8.8.2. Applicability.** This chapter shall apply when an Indian youth as defined below in §8.8.3(b) is alleged to have failed and/or refused to attend and participate in an appropriate school program in accordance with Washington state law and Suquamish tribal law. (Res. 04-157, passed Nov. 15, 2004)

**8.8.3. Definitions.** (a) “Alternative education program” shall mean an educational program described in a contract approved by the Washington State Office of the Superintendent for Public Instruction or his or her designee or by the appropriate authority of any tribal or nontribal school.

(b) “Youth” shall mean a youth(s) from his or her sixth birthday to his or her nineteenth birthday who is a Suquamish youth or who is an Indian youth who resides within the geographic boundaries of the Port Madison Indian Reservation.

(c) “Home school program” shall mean an individualized educational program described in a contract approved by the Washington State Office of the Superintendent for Public Instruction or his or her designee or the appropriate authority of any tribal or nontribal school.

(d) "School" shall mean any tribal school program owned and operated by the Suquamish Tribe or any public or private school program which has enrolled a Suquamish youth or an Indian youth who resides within the geographic boundaries of the Port Madison Indian Reservation.

(e) "Superintendent" shall mean the Superintendent of the Washington State Office of the Superintendent for Public Instruction or his/her designee or the superintendent of any tribal or nontribal public or private school. (Res. 04-157, passed Nov. 15, 2004)

**8.8.4. Compulsory School Attendance.** (a) All Suquamish youth, and Indian youth who reside within the geographic boundaries of the Port Madison Indian Reservation, shall attend school daily during the normal hours that their school program is in session unless:

(1) The youth's absence is excused pursuant to the school program's policies;

(2) The youth is enrolled and participating in an approved school function, or in an alternative education or home school program as defined in §8.8.3(a, c);

(3) The youth has a high school diploma, GED, or equivalent certificate of educational achievement; or

(4) The youth has been legally excluded from school.

If a youth has been legally excluded from school, reasonable efforts shall be made to find an alternative educational program for that youth while he or she is excluded from his or her usual educational placement.

(b) The Suquamish Tribe or the appropriate authority of any tribal or nontribal school shall make efforts to inform Suquamish youth and all Indian youth residing on the Port Madison Indian Reservation and the parents, custodians, or legal guardians of such youth about the tribal and state compulsory education requirements of this chapter.

(c) Any individual or tribal agency concerned about the school attendance of a Suquamish youth or an Indian youth may report these concerns to the Suquamish Educational Department or the appropriate authority of any tribal or nontribal school or education department.

(d) It shall be the duty of the Suquamish Education Department to investigate the facts and circumstances of the truancy report. Upon completion of such investigation, a written report shall be made to the Suquamish Tribal Prosecutor.

(e) The tribal prosecutor shall determine whether sufficient facts exist to file a civil petition with the Suquamish Tribal Court pursuant to this chapter. The Suquamish Tribal Court shall serve notice of the court hearing at which attendance is mandatory for the youth and his or her parent(s), custodian, or legal guardian having custody.

(f) Any youth who is the subject of a truancy report and his or her parent(s), custodian, or legal guardian may be referred to remedial services. The parties may also utilize alternative mechanisms for resolving the matter, including mechanisms recognized by tribal custom. (Res. 04-157, passed Nov. 15, 2004)

**8.8.5. Compulsory School Attendance — Truancy Hearings.** Compulsory school attendance — truancy hearings in tribal court shall be closed to all persons except the parties, their counsel, and those witnesses called by the parties, consistent with the provision set forth in §8.6.6. The youth who is the subject of the proceeding, together with his or her parent(s), custodian, or legal guardian, shall be present at all hearings unless their presence is waived by the Tribal Court for good cause shown.

At the hearing, the Tribe must prove by a preponderance of the evidence that the youth and/or the youth's parents, custodian, or legal guardian have violated the compulsory school attendance provisions of this chapter. If a violation is found, the Tribal Court shall specify whether it is being found against the youth or the parents, custodian, or legal guardian. The Court shall then enter a civil truancy order specifying appropriate remedies, as authorized in §8.8.7 below. The order shall specify a review hearing date when the parties' compliance with the truancy order shall be addressed. The Court's order shall be served on the youth; the parents, custodian, or legal guardian; the tribal prosecutor; the school program; the Suquamish Education Department; and any other entities as appropriate. (Res. 04-157, passed Nov. 15, 2004)

**8.8.6. Records.** (a) Any and all Tribal Court, school, and/or other tribal agency records pertaining to compulsory school attendance — truancy matters obtained by the Tribe shall be confidential, except as otherwise provided in this chapter. Records may be made available only to the following:

(1) The youth.

(2) The youth's attorney or tribal spokesperson.

(3) The youth's parent(s), custodian, or legal guardian and their attorney or spokesperson.

(4) The tribal prosecutor, Suquamish Education Program, and any tribal or nontribal school that is involved in the matter. The Suquamish Probation Department and Suquamish Police Department may have access to records only as necessary for the purposes of enforcement of court orders.

(5) Guardian *ad litem*, expert witnesses, social workers, Indian Child Welfare Department, Suquamish Wellness Department, and/or mental health counselors who are directly involved in the case.

(b) Notwithstanding the above, upon motion and service to all parties, the Tribal Court may authorize disclosure of records pursuant to the motion and upon such other terms as it deems just based on a finding of compelling circumstances. (Res. 04-157, passed Nov. 15, 2004)

**8.8.7. Remedies.** In determining the appropriate remedies when a compulsory school attendance — truancy violation is found, the Tribal Court may impose one or more of the following:

(a) Mandatory school attendance, with proof of attendance and submission of grades to the Tribal Court on a regular basis. Alternative educational placement or programs shall be considered if this is found relevant to the violation.

(b) Mandatory retrieval (make-up) of credits when appropriate.

(c) Mandatory tutoring, counseling, evaluations, or other services (including health services) determined to be relevant to the youth's and/or parent's violation of this chapter. If the services necessary to remedy the violation include special education evaluations or other services which the local school district is required by law to provide to the youth, the order will so specify.

(d) Mandatory conferences between the youth, parent(s), custodian, or legal guardian and appropriate school staff or others.

(e) Writing assignments including a plan for improving attendance and/or a transportation plan.

(f) Mandatory attendance at Elders' Council, Youth Council, or other appropriate activities.

(g) Mandatory releases of information necessary to monitor compliance with the truancy order. (Res. 04-157, passed Nov. 15, 2004)

**8.8.8. Sanctions for Noncompliance.** If at the review hearing or any subsequent hearing the Court finds that there has been intentional noncompliance with a court order, the following sanctions may be imposed upon the youth and/or parent(s), custodian, or legal guardian:

(a) Detention, but only for so long as is necessary to obtain compliance with the Court's orders;

(b) Electronic home-monitoring;

- (c) A fine not to exceed five hundred dollars (\$500);
- (d) Costs, including cost for administration of electronic home monitoring;
- (e) Increased educational or other obligations of a form described in §8.8.7;
- (f) Restitution;
- (g) Probation;
- (h) Community service hours;
- (i) Individual and/or family counseling;
- (j) Referral for youth in need of care proceedings under §8.1.12; or
- (k) Any other alternative the Tribal Court may deem appropriate.

If there has been noncompliance that is not intentional, the Court shall order appropriate remedies designed to achieve compliance. (Res. 04-157, passed Nov. 15, 2004)