

Lac Vieux Desert Band of Lake Superior Chippewa Indians

Juvenile Justice Code

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Chapter 1. Title; Purpose; Abrogation and Greater Restrictions; Severability.

1.01 Title.

- A. This Code shall be titled the Lac Vieux Desert Band of Lake Superior Chippewa Indians Juvenile Justice Code and may be alternately referred to throughout this document as the J.J. Code or the Code.

1.02 Purpose.

- A. This Code shall be liberally interpreted and construed to fulfill the following expressed purposes:
 - 1. To preserve and retain the unity of the family whenever possible and to provide for the care, protection and wholesome mental and physical development of the Juvenile coming within the provisions of this Code.
 - 2. To recognize that alcohol and substance abuse is a disease which is both preventable and treatable.
 - 3. When in the best interest of the Tribal Community and the Juvenile, limit the consequences of criminal behavior and substitute a program of supervision, care and rehabilitation.
 - 4. To achieve the purposes of this Code in a family environment whenever possible, separating the Juvenile from the Juvenile's Parents only when necessary for the Juvenile's welfare or in the interests of public safety.
 - 5. To provide a continuum of services for the Juvenile and their families from prevention to residential treatment, with emphasis whenever possible on prevention, early intervention and community-based alternatives.
 - 6. To define and list what offenses that constitute Status Offenses and prioritize the use of prevention tools offered by the Community to help Juveniles and their families overcome any obstacles they face.

1.03 Abrogation and Greater Restrictions.

- A. When this Code imposes greater restrictions than those contained in other tribal ordinances, codes or resolutions, the provisions of this Code shall govern.

1.04 Severability.

- A. If any section, provision or portion of the Code is adjudged to be unconstitutional or invalid by a court of competent jurisdiction, the remainder shall not be affected.

Chapter 2. Creation, Jurisdiction and Authority of the Juvenile Division of the Tribal Court.

2.01 Creation of the Juvenile Division.

- A. Pursuant to the authority vested in the Tribal Council with Article V, Section 1 of the Tribe's Constitution, there is hereby established, for the Lac Vieux Desert Band of Lake Superior Chippewa Indians, a court to be known as the Juvenile Division of the Tribal Court.

2.02 Jurisdiction.

- A. The Juvenile Division has exclusive original jurisdiction over all proceedings under this Code in which:
1. An Indian Juvenile is alleged to have committed a criminal offense or Status Offense as defined in this Code, and
 2. The offense allegedly occurred within the exterior boundaries of the Tribe's reservation.
- B. **Concurrent Jurisdiction.** The Tribal Court may exercise concurrent jurisdiction over Status Offenses involving Juveniles who reside or are domiciled outside the boundary of the Tribe's reservation pursuant to Title 25, United States Code, Section 1911, et seq.
- C. **Outside Boundaries of Reservation for Status Offenses.** The Tribal Court may assert jurisdiction over Status Offenses committed by Indian Juvenile outside the reservation boundaries if:
1. The offense has a direct impact on the Juvenile's welfare or the interests of the Tribe;
 2. The Juvenile is an enrolled member or eligible for enrollment with the Tribe; and
 3. The Tribe has entered into a Memorandum of Understanding (MOU) or other agreement with the relevant state or local authorities to address such matters.

2.03 Continuing Jurisdiction.

- A. Jurisdiction once exercised by the Juvenile Court is continuing and exclusive unless terminated by the Juvenile Court, the Juvenile becomes an adult, or the case is transferred by the Juvenile Court to another court of competent jurisdiction.
- B. The Juvenile Court retains jurisdiction even if the Juvenile leaves the physical boundaries of the reservation.

2.04 Cooperation with State Authorities.

- A. The Tribal Court shall work collaboratively with state courts and agencies to facilitate the transfer of jurisdiction or coordinate concurrent jurisdiction, as appropriate.

2.05 Enforcement and Remedies.

- A. The Tribal Court may issue orders, including but not limited to protective orders, placement orders, or rehabilitative measures, to address the welfare of Indian Juveniles under its jurisdiction.
- B. Violations of Tribal Court orders issued under this section may be enforced through appropriate legal remedies, including contempt proceedings, in accordance with tribal law.

Chapter 3. General Provisions; Definitions.

3.01 General Provisions.

- A. When not inconsistent with the context, words in the present tense include the future, words in the singular number include the plural number, words in the plural include words in the singular, and words in the masculine gender include the feminine gender.

3.02 Definitions.

- A. Adjudicatory Hearing. "Adjudicatory Hearing" means a proceeding in the Juvenile Division to determine whether a Juvenile has committed a specific Juvenile Offense or Juvenile Status Offense as set forth in a petition.
- B. Adult. "Adult" means an individual who is eighteen (18) years of age or older.
- C. Alcohol or Substance Abuse Emergency Shelter or Halfway House. "Alcohol or Substance Abuse Emergency Shelter or Halfway House" means an appropriately licensed and supervised emergency shelter or halfway house for the care and treatment of Juveniles with regard to alcohol and/or substance abuse problems.
- D. Juvenile. "Juvenile " means an individual who is less than eighteen (18) years old.
- E. Court or Juvenile Division. "Court or Juvenile Division" means the Juvenile Division of the Lac Vieux Desert Tribal Court.
- F. Custodian. "Custodian" means a person, other than a Parent or Guardian, to whom legal custody of the Juvenile has been given.
- G. Detention. "Detention" means exercising authority over a Juvenile by physically placing them in any Juvenile Facility designated by the Court and restricting the Juvenile's movement in that facility.
- H. Dispositional Hearing. "Dispositional hearing" means a proceeding in the Juvenile Division to determine how to resolve a case after it has been determined at the Adjudicatory Hearing that the Juvenile had committed a specific Juvenile Offense(s) or Juvenile Status Offense.
- I. Domicile. "Domicile" means a person's permanent home, legal home or main residence. The Domicile of a Juvenile is generally that of the custodial Parent or Guardian. Domicile includes the intent to establish a permanent home. Domicile for purposes of jurisdiction is established at the time of the alleged acts.
- J. Emergency Foster Home. "Emergency Foster Home" means placement with a family whose home has been licensed to accept emergency placements of Juveniles at any hour of the day or night.

- K. Foster Home. "Foster Home" means placement with a family whose home has been licensed by a state or tribal licensing agency to accept placement of Juveniles under the age of eighteen (18).
- L. Guardian. "Guardian" means a person assigned by a court of law, other than a Parent, having the duty and authority to provide care, shelter and control of a Juvenile.
- M. Group Home. "Group Home" means a residential Detention facility which is licensed to care for juveniles under the age of eighteen (18).
- N. Indian. "Indian" means any member of a federally recognized Indian tribe, band or community; or Alaskan Native Community; or any member of a historic tribe or band recognized by the Michigan State Indian Commission.
- O. Juvenile Facility. "Juvenile Facility" means any Juvenile Facility (other than a school) that cares for Juveniles or restricts their movement, including secure Juvenile Detention facilities, Alcohol or Substance Abuse Emergency Shelter or Halfway Houses, Foster Homes, emergency homes, Group Homes and Shelter Homes.
- P. Juvenile. "Juvenile" means an individual who has not yet reached the age of eighteen (18).
- Q. Juvenile Offender. "Juvenile Offender" means a Juvenile who commits a Criminal Offense or Status Offense prior to the Juvenile's eighteenth (18th) birthday.
- R. Juvenile Offense. "Juvenile Offense" means a violation of the Tribe's criminal laws, which is committed by a person who is under the age of eighteen (18) at the time the offense was committed.
- S. Juvenile Shelter Care Facility. "Juvenile Shelter Care Facility" means any Juvenile Facility other than a Secure Juvenile Detention Facility.
- T. Status Offense. "Status Offense" means an offense that can only be committed by a Juvenile and would not be a crime if an Adult engaged in the same conduct.
- U. Member. "Member" means a person enrolled in the Tribe.
- V. Parent. "Parent" includes a natural or adoptive Parent, but does not include persons whose Parental rights have been legally terminated, nor does it include the unwed father whose paternity has not been acknowledged or established.
- W. Protective Supervision. "Protective supervision" means a legal status created by court order under which a Juvenile Offender is permitted to remain in his home or is placed with a relative or other suitable individual and supervision and assistance is provided by

the Court, a health or social services agency or some other agency designated by the Court.

- X. Secure Juvenile Detention Facility. "Secure Juvenile Detention Facility" means a facility which:
1. Contains locked cells or rooms which are separated by sight and sound from any Adult inmates.
 2. Restricts the movement of those placed in the locked cells or rooms.
 3. Complies with the other requirements of the Juvenile Justice and Delinquency Prevention Act, 42 U.S.C. 5601 et. seq.
- Y. Shelter Home. "Shelter Home" means a residential facility which is licensed to care for juveniles under the age of eighteen (18) in an unrestricted setting.
- Z. Tribal Prosecutor or Prosecutor. "Tribal Prosecutor" or "Prosecutor" means the legal representative appointed by the Tribe to represent the Department and the interests of the Tribe before the Juvenile Division in all proceedings under this Code.
- AA. Tribe or Lac Vieux Desert. "Tribe" or "Lac Vieux Desert" means the Lac Vieux Desert Band of Lake Superior Chippewa Indians.

Chapter 4. Organization and Function of the Juvenile Division.

4.01 Juvenile Division Personnel.

A. Juvenile Division Judge.

1. Appointment. The Juvenile Division judge(s) shall be the Tribal Court Chief Judge or an Associate Judge as assigned by the Chief Judge.
2. Qualifications. The general qualifications for the Juvenile Division judge shall be the same as the qualifications for a member of the Tribal Judiciary as defined in Article V, Section 5 of the Tribe's Constitution.
3. Powers and Duties. In carrying out the duties and powers specifically enumerated under this Code, judges of the Juvenile Division shall have the same duties and powers as judge of the Tribal Court, including, but not limited to, the contempt power, the power to issue arrest or custody warrants, and the power to issue search warrants. The Juvenile Division judge shall retain the power to delegate certain administrative duties of the Juvenile Division to appropriate court personnel and officers.
4. Disqualification and Disability. The rules on disqualification or disability of a Juvenile Division judge shall be the same as those rules that govern Tribal Court judges.

B. Juvenile Probation Officer.

1. Appointment. The Court shall appoint an officer from the Lac Vieux Desert Probation Department as the Juvenile probation officer to carry out the duties and responsibilities set forth in this Code.
2. Resource Development. The Juvenile probation officer shall identify and develop resources on the tribal lands, in conjunction with the Juvenile Division and other applicable departments, agencies, offices, to enhance each Juvenile's potential as productive Member of the tribal community.
3. Duties:
 - a. Make investigations as provided in this Code or as directed by the Court.
 - b. Make reports to the Court as provided in this Code or as directed by the Court.

c. Perform other duties as the Court may require.

C. Additional Court Personnel - The Court may set qualifications and appoint additional Juvenile Division personnel such as Guardians ad litem, court appointed special advocates (CASAs), Juvenile advocates, and/or referees whenever the Court decides that it is appropriate to do so.

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Chapter 5. Rules of Procedure; Closed Proceedings; Grants and Contracts; Discovery Obligations.

5.01 Rules of Procedure.

- A. The procedures of the Juvenile Division shall be governed by the rules of procedure for the Juvenile Division promulgated by the Tribal Court, which are not in conflict with this Code.
- B. In the absence of Juvenile Division promulgated rules of procedure, the Lac Vieux Desert Tribal Court Rules and the Michigan Court Rules may be instructive.

5.02 Proceedings.

- A. All proceedings pursuant to this Code shall be closed to the public.

5.03 Social Services.

- A. The Juvenile Division shall utilize such social services as may be furnished by any tribal, federal, or state agency provided that it is economically administered without unnecessary duplication and expense.

5.04 Cooperation and Grants.

- A. The Juvenile Division is authorized to cooperate fully with any federal, state, tribal, public or private agency in order to participate in any diversion, rehabilitation, or training program(s) and to receive grant-in-aid to carry out the purposes of this Code. This authority is subject to the approval of the Lac Vieux Desert Band of Lake Superior Chippewa Indians Tribal Council if it involves an expenditure of funds from the General Fund.

5.05 Contracts.

- A. The Juvenile Division may negotiate contracts with tribal, federal or state agencies and/or departments on behalf of the Lac Vieux Desert Band of Lake Superior Chippewa Indians Tribal Council for the care and placement of Juveniles whose status is adjudicated by the Juvenile Division subject to the approval of the Lac Vieux Desert Band of Lake Superior Chippewa Indians Tribal Council before the expenditure of funds from the General Fund.

5.06 Discovery in Juvenile Proceedings.

A. Request for Discovery. Upon written request, the Juvenile Offender or the Juvenile Offender's counsel or Parent, Guardian or Custodian shall have the right to inspect, copy and photograph social, psychiatric, psychological, medical, school reports and records, and law enforcement reports concerning the Juvenile if:

1. The item is within Prosecutor's possession, custody, or control, or the Prosecutor knows – or has reason to know – that the item exists; and
2. the item is material to preparing the Juvenile's defense or the Prosecutor intends to use the item in its case at the Adjudicatory or Dispositional Hearing.

B. Juvenile's Duty to Disclosure.

1. If a Juvenile requests disclosure pursuant to this Section and the Prosecutor complies, then the Juvenile must permit the Prosecutor, upon request, to inspect and to copy or photograph books, papers, documents, data, photographs, tangible objects, buildings or places, or copies or portions of any of these items if:
 - a. the item is within the Juvenile's possession, custody, or control; and
 - b. the Juvenile intends to use the item in his or her case at the Adjudicatory or Dispositional Hearing.
2. If a request for discovery is refused, application may be made to the Juvenile Division of the Court for an order granting discovery. Motions for discovery shall certify that a request for discovery has been made and refused. Absent manifest injustice, no motion for discovery will be granted unless the moving party has requested and has not been provided the materials or evidence sought through a written request to the opposing party.
3. If a party upon whom the request for discovery is made shows that granting discovery violates a privileged communication, the Juvenile Court may deny, in whole or in part, or otherwise limit or set conditions on the discovery authorized.

Chapter 6. Status Offenses.

Commented [T1]: These would replace what is in our criminal code now as misdemeanors

6.01 Definition of Status Offenses.

- A. It is a violation of this Tribal law for a Juvenile under the age of eighteen (18) years old to commit a Status Offense.

6.02 Mandatory Diversion.

- A. Every Petition filed that involves a Status Offense shall be considered for Diversion under Chapter 12 of this Code.
- B. If Diversion is not appropriate or accepted, the Petition shall proceed in accordance with Chapter 11 of this Code.

6.03 Penalties.

- A. The penalties imposed by the Court for status offenses shall be imposed with the intent of preventing future commission of status offenses and providing rehabilitation rather than punishment.
- B. Penalties shall be imposed in accordance with Chapter 15 - Dispositional Reports and Dispositional Hearing and may include, but are not limited to, counseling or education programs, detention, parental involvement, and curfew.

6.04 Status Offenses.

- A. Status Offenses include the following:
 - 1. Minor in Possession of Alcoholic Beverage. Any Juvenile under the age of eighteen (18) years old who possesses or consumes any beer, wine, ale, whiskey, or any other alcoholic beverage, or misrepresents his or her age for the purpose of buying or otherwise obtaining any alcoholic beverage is guilty of a Status Offense.
 - 2. Truancy. Any person under the age of eighteen (18) years old who without the consent of their Parent or Guardian is truant from school or otherwise fails to go to school as required or remain in school throughout the day without leaving unexcused is guilty of a Status Offense.

3. Smoking or Use of Cigarettes or Tobacco by Minor in Public. Any person under eighteen (18) years of age who smokes cigarettes, chews tobacco or uses nicotine in any form on a public highway, street, alley, park or other lands used for public purposes, or in a public place of business or amusement, is guilty of a Status Offense.
4. Curfew for Minors: Minors Under the Age of 12. Any minor under the age of twelve (12) years old who shall loiter, idle, or congregate in or on any public street, highway, alley or park between the hours of 10 p.m. and 6 a.m., unless accompanied by a Parent or Guardian or some adult delegated by the Parent or Guardian to accompany the Juvenile, shall be guilty of a Status Offense.
5. Curfew for Minors: Minors Under the Age of 18. Any minor under the age of eighteen (18) years old who shall loiter, idle, or congregate in or on any public street, highway, alley or park between the hours of 12 a.m. and 6 a.m., unless accompanied by a Parent or Guardian or some adult delegated by the Parent or Guardian to accompany the Juvenile, or where the minor is upon an errand or other legitimate business directed by his or her Parent or Guardian, shall be guilty of a Status Offense.
6. Running Away From Home. Any Juvenile who has deserted his or her home without sufficient cause, and the court finds on the record that the Juvenile has been placed or refused alternative placement or the Juvenile and the Juvenile's Parent, Guardian, or Custodian have exhausted or refused family counseling, is guilty of a Status Offense.
7. Incurability. Any Juvenile who is repeatedly disobedient to the reasonable and lawful commands of his or her Parents, Guardian, or Custodian, is guilty of a Status Offense.
8. Possession or Use of Marijuana by a Minor. Any person under eighteen (18) years of age who possesses, purchases, consumes, obtains, marijuana or marijuana paraphernalia shall be guilty of a Status Offense.

Commented [T2]: This is Criminal Code 2-55-7 now. But should we change it so that it doesn't say "sells" because that's technically more than a status offense, I believe

Commented [HB3R2]: Agreed.

Chapter 7. Rights of Parties During Juvenile Proceedings – Generally.

7.01 Rights of Parties in Juvenile Proceedings.

- A. Unless directly in conflict with any rights outlined in this Code, all rights afforded Adult criminal defendants shall be afforded Juveniles under this Code.

7.02 Notice of Right to Privilege Against Self-Incrimination.

- A. A Juvenile alleged to be a Juvenile Offender shall from the time of being taken into custody be accorded and advised of the privilege against self-incrimination.

7.03 Notice of Rights at Arraignment.

- B. At the first appearance before the Juvenile Division, the Juvenile alleged to be a Juvenile Offender and the Juvenile's Parent, Guardian or Custodian shall be informed by the Court of the following:
1. The allegations against the Juvenile.
 2. The right to an advocate or attorney at the Juvenile's own expense.
 3. The right to testify or remain silent and that any statement made by the Juvenile may be used against them.
 4. The right to cross-examine witness.
 5. The right to subpoena witnesses on the Juvenile's own behalf and to introduce evidence on their own behalf.
 6. The possible consequences if the allegations in the petition are found to be true.

Chapter 8. Parental Responsibilities.

8.01 Parental Responsibility to Attend Hearings with Juvenile.

- A. The Parent, Guardian or Custodian of any Juvenile coming within the jurisdiction of the Juvenile Division of the Tribal Court shall have the following responsibilities:
1. to attend all court hearings involving the Juvenile, or to show cause before the Juvenile Division why they should be excused from any hearing they are unable to attend;
 2. to bring the Juvenile before the Juvenile Division when so ordered; and
 3. to monitor the Juvenile's compliance with all orders entered or conditions imposed by the Juvenile Division, and to make all reasonable efforts to ensure that the Juvenile complies with such orders or conditions.

8.02 Responsibility for Care Costs.

- A. The Parent, Guardian, or Custodian of any Juvenile who is taken into custody for violation of this Code shall be liable for the entire cost of any necessary care or sheltering of the Juvenile necessitated by the unavailability of such Parent, Guardian, or Custodian to accept and assume the custody and care of the Juvenile. Such costs shall be assessed against the Parent, Guardian, or Custodian as a part of any dispositional order entered by the Court.

8.03 Parental Liability for Damages.

A. The Parent, Guardian, or Custodian of a Juvenile may be held joint and severally liable for restitution due based on the action of a Juvenile who is less than sixteen (16) years of age. A Juvenile who is sixteen (16) years of age or older shall be held solely liable for restitution owed due to his or her conduct.

B. Restitution may be assessed by the Court in any dispositional order in any case brought against the Juvenile.

C. This Section shall not limit the amount of damages recoverable through a civil action brought against the Juvenile or Parent.

8.04 Excuse from Parental Responsibilities.

- A. The Juvenile's Parent shall be excused from the responsibilities imposed by this Chapter if the Juvenile is under the care and control of a Guardian or Custodian as the result of a court order.
- B. The Juvenile's Parent, Guardian or Custodian may be excused from the responsibilities imposed by this Section if it appears to the Court that there may be a conflict of interest between the Juvenile and the Juvenile's Parent, Guardian or Custodian.
- C. A showing that the Juvenile's Parent, Guardian or Custodian has voluntarily transferred physical custody of the Juvenile to another person shall not excuse the Juvenile's Parent, Guardian or Custodian from the responsibilities imposed by this Chapter, absent a court order.

8.05 Parental Non-Compliance.

- A. Any Parent, Guardian, or Custodian who fails to comply with the requirements of this Chapter may be ordered to appear before the Juvenile Division to show cause why they should not be held in contempt.

Chapter 9. Transfer to Adult Trial Court.

9.01 Notice of Intent to Transfer.

- A. The prosecutor may file a Notice of Request to Hold Transfer Hearing, if the Juvenile is fifteen (15) years of age or older and is alleged to have committed an act which would have been considered a crime if committed by an Adult.
- B. The Notice requesting the Juvenile Division hold a hearing to transfer the matter to the jurisdiction of the Adult Trial Court must be made in writing or orally no later than the arraignment.
 - 1. A Notice of Request to Hold Transfer Hearing may be withdrawn at any time up to the date of the Transfer Hearing.

9.02 Transfer Motion and Department Reports.

A. Transfer Motion.

- 1. At least three (3) days prior to the transfer hearing, the prosecutor shall prepare a Motion for Transfer which must be filed with the Juvenile Division. A copy of the Motion for Transfer must also be served on the Juvenile's advocate, Parent, Guardian or Custodian.
 - 2. The pre-hearing report shall address the following factors: (a) The nature and seriousness of the offense with which the Juvenile is charged. (b) The nature and condition of the Juvenile, as evidenced by his age, mental and physical condition. (3) The past record of offenses, (c) whether there are any reasonable prospects for rehabilitating the Juvenile through resources available to the Juvenile Division, and (d) whether the offense(s) allegedly committed by the Juvenile evidences a pattern of conduct which constitutes a substantial danger to the public.
- B. Social Services Department Report. At least three (3) days prior to the hearing, the Lac Vieux Desert Social Services Department shall provide a written report detailing any prior services provided to the Juvenile.
 - C. Probation Department Report. At least three (3) days prior to the hearing, the Tribal Probation Department shall provide a written report to the Juvenile Division detailing the

mental and physical condition of the Juvenile, and any past contact with law enforcement or delinquency charges.

9.03 Transfer Hearing.

- A. The Juvenile Division shall conduct a hearing to determine whether jurisdiction of the Juvenile should be transferred to the Adult Trial Court. The transfer hearing shall be held within twenty-one (21) days of receipt of the Notice to Transfer by the Court, unless there is good cause for delay. Written notice of the time, place and purpose of the hearing shall be given to the Juvenile and the Juvenile's Parent, Guardian or Custodian. The hearing shall be conducted in accordance with procedures established by the Court.

9.04 Deciding Factors in Transfer Hearing.

1. The following factors shall be considered when determining whether to transfer jurisdiction of the Juvenile to Tribal Court:
2. The nature and seriousness of the offense with which the Juvenile is charged.
3. The nature and condition of the Juvenile, as evidenced by his age, mental and physical condition.
4. The past record of offenses.

9.05 Standard of Proof in Transfer Hearing.

- A. The Juvenile Division may transfer jurisdiction of the Juvenile to Tribal Court only if the Court finds clear and convincing evidence that the following circumstances exist:
1. The offense allegedly committed by the Juvenile is serious in nature and constitutes a substantial danger to the public, OR
 2. The offense(s) allegedly committed by the Juvenile evidence a pattern of conduct which constitutes a danger to the public, and
 3. There are no reasonable prospects for rehabilitating the Juvenile through resources available to the Juvenile Division.

9.06 Written Transfer Order.

- A. A Juvenile may be charged as an Adult and transferred to the Tribal Court only if the Juvenile Division issues a written order addressing the factors in Section 9.04 and 9.05 above after the conclusion of the transfer hearing.
- B. This written order terminates the jurisdiction of the Juvenile Division over the Juvenile with respect to the Juvenile Offense(s) alleged in the petition.

Chapter 10. Procedures for Taking Juvenile into Custody.

10.01 Written Order or Warrant.

- A. The Court may issue a written order or warrant that a law enforcement officer shall take a Juvenile into immediate custody, and bring the Juvenile immediately before the Court, if:
1. The Juvenile has failed to appear for a hearing before the Court for which they had notice; or
 2. The Court finds, based on a filed affidavit or sworn testimony before the Court, that there is probable cause to believe:
 - a. The Juvenile has violated conditions of release imposed by the Court; or
 - b. The Juvenile has committed a criminal offense or status offense or has violated a disposition order entered by the Court, and:
 - i. The conduct, condition or surroundings of the Juvenile pose a substantial risk to the health, welfare, person or property of the Juvenile or others; or
 - ii. There are grounds to believe the Juvenile will not abide by Court ordered supervisory conditions.
 - iii. There is a substantial risk that the Juvenile may leave or be removed from the jurisdiction of the court, or will not be brought before the court, notwithstanding the service of a summons.

10.02 Taking a Juvenile into Custody.

- A. A Juvenile may be taken into custody by a law enforcement officer if:
 - 1. The officer has probable cause to believe a criminal or Status Offense has been committed and that the Juvenile committed the criminal offense or Status Offense;
 - 2. The Juvenile commits a criminal offense or Status Offense in the presence of the officer; or,
 - 3. A warrant pursuant to this Chapter has been issued for the Juvenile.

10.03 Advisement by Law Enforcement.

- A. A law enforcement officer who takes a Juvenile into custody shall advise the Juvenile at the earliest opportunity, regardless of whether the law enforcement office intends to question the Juvenile, that the Juvenile:
 - 1. has the right to remain silent, and that anything the Juvenile says can be used against the Juvenile in court; and
 - 2. has the right to the presence of their Parent, Guardian or Custodian during questioning.

10.04 Procedure when Juvenile is Taken into Custody without a Warrant.

- A. A law enforcement Officer who takes a Juvenile into custody pursuant to Section 10.02(A) shall immediately:
 - 1. Contact the Social Services Department who will, without unnecessary delay, contact the Juvenile's Parent, Guardian, or Custodian to inform them that the Juvenile was taken into custody, the reasons (if known) for his or her custody, and the procedure for the Juvenile's release.
 - 2. Contact the Tribal Prosecutor regarding the circumstances related to the Juvenile being taken into custody. The Prosecutor shall make a determination of whether the Juvenile should be placed in Shelter Care, a Juvenile Detention Facility, or released.
- B. If the Prosecutor determines that neither Shelter Care or Detention is appropriate, the Juvenile shall be released to the Juvenile's Parent, Guardian, or Custodian. or a relative or other responsible Adult if the Juvenile's Parent, Guardian or Custodian consents to the release. The Juvenile's release shall be facilitated by the Social Services Department.

- C. The criteria and procedure for requesting detention are outlined in Section 10.05 below.

10.05 Detention of Juvenile Pending Juvenile Division Proceedings.

- A. The Prosecutor may seek Shelter Care or Detention if there is probable cause to believe that:
1. The Juvenile has failed to appear for a hearing before the Court of which he or she had notice; or
 2. The Juvenile has violated conditions of pre-adjudication release imposed by the Court; or
 3. The Juvenile has committed a criminal offense or status offense or has violated a disposition order entered by the Court, and:
 - a. The conduct, condition or surroundings of the Juvenile pose a substantial risk to the health, welfare, person or property of the Juvenile or others; or
 - b. There are grounds to believe the Juvenile will not abide by Court ordered supervisory conditions.
 - c. There is a substantial risk that the Juvenile may leave or be removed from the jurisdiction of the court, or will not be brought before the court, notwithstanding the service of a summons.
- B. A request for Shelter Care or Detention shall be made by filing a Motion with the Court, accompanied by sworn affidavit or other reliable evidence which details with specificity the grounds for the motion.
- C. Timing of Motion.
1. After Initial Detention. If the Prosecutor determines that Shelter Care or Detention is appropriate following initial detention pursuant to Section 10.02(A), a motion seeking such must be filed with the Court prior to the Juvenile being placed in the custody of the Shelter Care or Detention facility.
 2. The Prosecutor may motion the Court for Shelter Care or Detention at any point during the pendency of a matter under this Code.
- D. Probable Cause Review of Motion.

1. If the Court finds probable cause for detention, it shall issue an order for Shelter Care or Detention and notice a Detention Hearing to be held within forty-eight (48) hours as required by Section 10.06.

10.06 Detention Hearing.

- A. When a Juvenile has been taken into custody pursuant to this Chapter, a Detention hearing shall be held within forty-eight (48) hours, excluding holidays and weekends, of the Juvenile's initial Detention.
- B. The purpose of the Detention hearing is to determine:
 1. Whether probable cause exists to believe the Juvenile committed the alleged Juvenile Offense.
 2. Whether continued Detention is necessary and the least restrictive alternative to ensure safety of the community, the appearance of the Juvenile, and the Juvenile's compliance with Court orders.
- C. Notice of the Detention hearing shall be given to the Juvenile and the Juvenile's Parent, Guardian or Custodian and the Juvenile's counsel as soon as the time for the Detention hearing has been set.
- D. The Court shall issue a written order stating the reasons for release or continued Detention of the Juvenile.

Chapter 11. Juvenile Criminal Offense or Status Offense Petition.

11.01 Commencement of Juvenile Criminal Offense or Status Offense Proceeding.

- A. Proceedings under this Code shall commence upon the filing of a Juvenile Criminal Offense or Status Offense Petition by the Prosecuting Attorney. The petition shall include:
1. The name, birth date, and address of the Juvenile;
 2. The names and addresses of the Juvenile's Parent, Guardian or Custodian;
 3. Citation to the specific provision(s) of law which gives the Juvenile Division jurisdiction over the proceedings;
 4. Citation to the provision(s) of law which the Juvenile is alleged to have violated;
 5. If the Juvenile is in Detention or shelter care, the place of Detention or shelter care and the time he/she was taken into custody;
 6. A plain and concise statement of facts upon which the allegations are based, including the date, time and location at which the alleged acts occurred; and
 7. A list of witnesses known to the Tribe upon filing of the petition.

11.02 Issuance of Summons.

- A. After a Juvenile Criminal Offense or Status Offense Petition has been filed, the Court shall direct the issuance of summons to:

- 1 The Juvenile.
 - 2 The Juvenile's Parents, Guardian or Custodian.
 - 3 The Juvenile's counsel.
 - 4 Any other person the Court deems necessary for the proceedings.
- B. The summons shall contain the name of the Court, the title of the proceedings, and the date, time and place of the hearing. A copy of the petition shall be attached to the summons.
- C. The summons shall be served in accordance with applicable Court Rules.

Chapter 12. Juvenile Diversion Process.

12.01 Diversion Eligibility.

- A. Status Offenses. All Juvenile's charged with a Status Offense are eligible for diversion, unless the Juvenile has been charged with two (2) prior Status Offenses, two (2) prior Criminal Offenses, or a combination of the two (2) within the proceeding twelve (12) months.
- B. Criminal Offense. All Juvenile's charged with a Criminal Offense shall be eligible for diversion except:
1. those charged with murder, vehicular homicide, sexual assault, abduction, arson, burglary, robbery, a crime of violence, a crime involving a deadly weapon or an offense which has resulted in serious bodily injury, or
 2. a Juvenile charged with two (2) prior Status Offenses, two (2) prior Criminal Offenses, or a combination of the two (2) within the proceeding twelve (12) months.

12.02 Diversion Agreement Procedure.

- A. If a Juvenile is eligible pursuant to this Chapter, the Prosecuting Attorney shall consider whether it is appropriate to offer a diversion agreement to the Juvenile Offender. To determine appropriateness, the following factors shall be considered:
1. The nature of the alleged offense.
 2. The Juvenile Offenders' age, maturity, and individual circumstances;
 3. The willingness of the Juvenile Offender to participate in a voluntary program;

4. The participation and input of the Juvenile Offender's Parent, Guardian, or Custodian.
- B. Admission to Charged Offense. As a condition of entering into a diversion agreement, the Juvenile Offender must enter a guilty or no contest plea to the allegations. The Juvenile Division will hold acceptance of the plea in abeyance pending completion of the diversion agreement terms. If the Juvenile Offender unsuccessfully completes the diversion agreement, the Juvenile Division shall accept the Juvenile Offender's plea, adjudicate the Juvenile Offender as guilty, and schedule the matter for sentencing.
- C. Diversion Agreement. Any diversion agreement must be in writing and signed by the Juvenile Offender and attorney, if represented. If the Juvenile Offender is not represented, the agreement must be signed by the Juvenile Offender and his Parent, Guardian or Custodian. The agreement must set forth:
1. The trial right of the Juvenile Offender and his understanding that by entering into the diversion, the Juvenile Offender understands that he is waiving those rights;
 2. That the Juvenile Offender understands that by entering into the diversion agreement, he or she is admitting to the charged offense. Successful completion of the diversion agreement will result in a dismissal of the Juvenile petition. Failure to successfully complete the diversion agreement terms will result in execution of the delayed sentence.
 3. Diversion conditions which may include, but are not limited to:
 - a. Referral of the Juvenile Offender and the Juvenile Offender's Parent, Guardian or Custodian to social, community, or tribal services or resources appropriate for addressing the needs of the Juvenile Offender.
 - b. Participation by the Juvenile Offender, under the supervision of the Tribal Probation Officer, in cultural, educational, or other program or activities aimed at rehabilitation, community involvement, or competency development, or which are otherwise appropriate for addressing the Juvenile Offender's needs;
 - c. Participation by the Juvenile Offender and the Juvenile Offender's Parent, Guardian, or Custodian in an educational or counseling program designed to deter delinquent acts or other conduct or conditions which is harmful to the Juvenile Offender or the community.
 - d. Participation by the Juvenile Offender's Parent, Guardian, or Custodian in an educational or counseling program designed to contribute to their

ability to care for and supervise the Juvenile Offender, including but not limited to Parenting classes.

- e. A requirement that the Juvenile or the Juvenile's Parent, Guardian or Custodian undergo medical, psychological, or psychiatric examination or treatment;
- f. A requirement that the Juvenile Offender pay restitution;
- g. A requirement that the Juvenile Offender perform community service;
- h. A requirement that the Juvenile Offender maintain satisfactory school attendance, or otherwise pursue a course of study designed to lead to achieving a high school diploma or the equivalent;
- i. Participation by the Juvenile Offender participate in structured after school, evening, or other court approved programs appropriate for addressing the needs of the Juvenile Offender and providing for the safety of the community; and
- j. Other reasonable conditions aimed at:
 - i. Holding the Juvenile Offender accountable for his or her actions;
 - ii. Providing for the safety and protection of the community; or
 - iii. Promoting the development of competencies which will enable the Juvenile Offender a responsible and productive Member of the community.

D. The Juvenile Division shall hold a review hearing with the Juvenile, the Juvenile's Parent, Guardian or Custodian, and the Tribal Probation Officer every forty-five (45) days to monitor the Juvenile's compliance with the diversion agreement terms.

E. Completion of Diversion Agreement. Upon successful completion of the diversion agreement, the Juvenile Division shall hold a hearing at which time the judge will order the dismissal of the Juvenile Petition.

Chapter 13. Initial and Preliminary Hearing

13.01 Initial Hearing and Preliminary Inquiry.

- A. If the Juvenile placed in a detention facility, an Initial Hearing, Preliminary Inquiry, and Detention Hearing shall be held within forty-eight (48) hours.
- B. If the Juvenile has been released to his/her Parent, Guardian, or Custodian, the Initial Hearing and Preliminary Inquiry shall be held within fourteen (14) days after receipt of the Petition.
- C. At the hearing, the Juvenile Division shall advise the Juvenile, in age-appropriate language, of the following:
 - 1. The nature and purpose of the proceedings;
 - 2. The contents of the petition;
 - 3. The possible consequences if the Juvenile is found to have committed a criminal offense or status offense;
 - 4. The right to assistance of counsel at their own expense;
 - 5. The privilege against self-incrimination;

6. The right to an Adjudicatory Hearing in accordance with the provisions of this Code;
7. The right to cross-examine witnesses, the right to testify, the right to subpoena witnesses, and the right to introduce evidence on the Juvenile's own behalf at an Adjudicatory Hearing;
8. The right to appeal any final order of the Juvenile Division.

D. Probable Cause and Detention Determination.

1. The Juvenile Division shall hear testimony concerning:
 - a. The circumstances that gave rise to the Petition;
 - b. The circumstances that gave rise to taking the Juvenile into custody, if applicable; and
 - c. The need or the continuing need for Detention or shelter care, if applicable.
2. If the Juvenile Division finds that probable cause existed to believe the Juvenile committed the criminal offense or status offense:
 - a. the Juvenile shall be ordered to appear at an Adjudicatory Hearing on a date and at a time set by the Juvenile Division; and
 - b. the Juvenile shall be released to his Parent, Guardian, or Custodian unless the Court finds that:
 - i. no less restrictive alternatives than detention will ensure the appearance of the Juvenile as ordered by the court; or
 - ii. no less restrictive alternative than detention will ensure the safety of the community.
3. If the Juvenile Division finds that there is probable cause to believe that the Juvenile committed the criminal offense or status offense but does not find grounds for Detention, the Juvenile may be released:
 - a. without conditions; or
 - b. pursuant to conditions of release which include but are not limited to:
 - i. a court imposed curfew;

- ii. a requirement that the Juvenile and the Juvenile's Parent, Guardian or Custodian report to the Juvenile Division at specific intervals;
 - iii. a requirement that the Juvenile remain home at all times except when in the presence of the Juvenile's Parent, Guardian, or Custodian; attending school or participating in other activities approved by the Juvenile Division, attending pre-approved medical or behavioral health appointments;
 - iv. electronic home monitoring or similar means of monitoring the Juvenile's whereabouts;
 - v. a requirement that the Juvenile refrain from all alcohol and drug use;
 - vi. a requirement that the Juvenile maintain required school attendance or continue in a course of study designed to lead to achieving a high school diploma or other equivalent degree or certification;
 - vii. an order prohibiting or restricting contact between the Juvenile and alleged victim or other persons or location connected with the alleged delinquent act;
 - viii. other reasonable conditions calculated to ensure the Juvenile's appearance or future earnings and to protect the safety of the Juvenile and the community.
4. If the Juvenile Division determines that release of the Juvenile is appropriate, it may release a Juvenile to the Juvenile's Parent, Guardian or Custodian, the home of an Adult Member of the Juvenile's immediate family, or the home of an Adult Member of the Juvenile's extended family. Release of the Juvenile to the home of an Adult Member of the Juvenile's immediate family, or the home of an Adult Member of the Juvenile's extended family, must be with the consent of the Parent, Guardian, or Custodian of the Juvenile.
5. If probable cause to believe the Juvenile committed the alleged criminal offense or status offense is not found, the Petition shall be dismissed and, if the Juvenile is detained, immediately released.
6. If the Juvenile's Parent, Guardian, or Custodian is not present at the Initial Hearing and Preliminary Inquiry, the Juvenile Division shall make an inquiry into what efforts have been made to notify and to obtain the presence of the Parent, Guardian, or Custodian. If it appears that further efforts are likely to produce the appearance of the Juvenile's Parent, Guardian, or Custodian, the Juvenile Division shall recess for not more than twenty-four (24) hours and direct the

Tribal Prosecutor to make continued efforts to obtain the presence of the Juvenile's Parent, Guardian, or Custodian. If it does not appear that further efforts are likely to produce the Parent, Guardian, or Custodian, or if it appears that the Parent, Guardian, or Custodian is/are unable or unwilling to provide effective support or guidance to the Juvenile during the pendency of the Juvenile Offender proceedings, the Juvenile Division shall appoint a Guardian ad litem to serve until final adjudication and disposition of the complaint.

Chapter 14. Adjudicatory Proceedings.

14.01 Admission to Petition.

- A. If the Juvenile admits the allegations of the petition, the Juvenile Division shall proceed to the disposition hearing only if the Juvenile Division finds:
 - 1. the Juvenile fully understands his rights as set forth in this Code and fully understands the potential consequences of his admission;
 - 2. the Juvenile's admission is voluntarily, intelligently and knowingly made;
 - 3. the Juvenile's admission sets forth all facts necessary to constitute a basis for Juvenile Division jurisdiction; and
 - 4. the Juvenile has not, in his admission to the allegations, set forth facts which, if found to be true, constitute a defense to the allegations.
- B. A plea hearing shall be held in accordance with the procedure established by the Court.
- C. If the Juvenile denies the allegations contained in the petition, the Juvenile Division shall promptly schedule an Adjudicatory Hearing.

14.02 Adjudicatory Hearing.

- A. If the Juvenile remains in custody, the Adjudicatory hearing shall be held within fourteen (14) days after the preliminary hearing. If the Juvenile is released from custody or was not taken into custody, then the Adjudicatory hearing shall be held within thirty (30) days after the preliminary hearing by the Juvenile Division.
- B. Notice of the Adjudicatory Hearing shall be given to the Juvenile and the Juvenile's Parent, Guardian or Custodian, the Juvenile's counsel and any other person the Court deems necessary for the hearing at least seven (7) days prior to the hearing.
- C. The Juvenile Division shall conduct an Adjudicatory Hearing for the purpose of determining whether the Juvenile committed the alleged offense. Such hearings shall be closed to the public.
- B. If the allegations of the petition are sustained by proof beyond a reasonable doubt, the Juvenile Division shall find that the Juvenile is a Juvenile Offender and schedule a Disposition Hearing.
- C. A finding that a Juvenile is a Juvenile Offender shall constitute a final order for purposes of appeal.

14.03 Continuance of the Adjudicatory Hearing.

- A. Continuances of an Adjudicatory Hearing may be granted upon:
 - 1. Motion of the Juvenile for good cause shown; or
 - 2. Motion of the Tribal Prosecutor that material evidence or witnesses are unavailable, a finding by the Juvenile Division that the Tribal Prosecutor has exercised due diligence to obtain the evidence or appearance of witnesses, and reasonable grounds exist to believe that the evidence will become available or that the witnesses will appear

Chapter 15. Dispositional Reports and Dispositional Hearing.

15.01 Disposition Report.

- A. The Juvenile Division shall order the following departments and committee to provide the following documentation to the Court and Tribal Prosecutor at least seven (7) days prior to the scheduled Dispositional Hearing.
 - 1. The Indian Child Welfare Committee shall provide, in writing, recommendations for cultural activities which are aimed at rehabilitation, community involvement, or competency development, or which are otherwise appropriate for addressing the Juvenile's needs.
 - 2. The Social Services Department shall provide, in writing, all previous and current services provided to the Juvenile, recommendations for participation in activities and programs aimed at rehabilitation, community involvement, or competency development, or which are otherwise appropriate for addressing the Juvenile's needs.
 - 3. The Tribal Probation Department shall provide a Dispositional Report which outlines:

- a. any prior contact the Juvenile had with law enforcement and the Juvenile court system;
 - b. the identification of educational or vocational status of the Juvenile Offender;
 - c. the bond status of the Juvenile Offender including any bond violations;
 - d. Disposition recommendations related to Detention, medical and mental health recommendations, probation term and conditions which shall focus on participation in activities and programs aimed at rehabilitation, community involvement, or competency development, or which are otherwise appropriate for addressing the Juvenile's needs;
 - e. A description of all reasonable and appropriate alternative dispositions.
- 4. The report shall contain a detailed explanation of the necessity for the proposed disposition plan.
 - 5. If the report recommends placement of the Juvenile somewhere other than with the Juvenile's Parent, Guardian, or Custodian, it shall state the specific reasons underlying its placement recommendations.

15.02 Disposition Hearing.

- A. If the Juvenile remains in custody, the dispositional hearing shall be held within thirty (30) days after the Adjudicatory Hearing. If the Juvenile is released from custody or was not taken into custody, then the disposition hearing shall be held within sixty (60) days after the Adjudicatory Hearing.
- B. Notice of the disposition hearing shall be given to the Juvenile and the Juvenile's Parent, Guardian or Custodian, the Juvenile's counsel and any other person the Court deems necessary for the hearing at least seven (7) days prior to the hearing.
- C. At the Disposition Hearing, the Court shall take testimony and receive evidence concerning proper disposition at the hearing. The Court may consider all relevant and material evidence on the question of the proper disposition, including oral and written reports, and may rely on such evidence to the extent of its probative value.
- D. The Juvenile Division shall consider the reports provided pursuant to this Chapter. Prior to the hearing, the affected parties shall be given an opportunity to review all reports and supporting documentation. During the hearing, the parties shall have the opportunity to controvert the factual contents and the conclusions of any reports. The Juvenile Division

shall also consider any alternative disposition report prepared by the Juvenile or Juvenile's counsel.

- E. The disposition order constitutes a final order for purposes of appeal.

15.03 Order of Disposition.

- A. After reviewing all relevant reports, hearing all testimony, and receiving all evidence, the Juvenile Division may make the following non-exhaustive dispositions for the supervision and care of the Juvenile for any term until the Juvenile reaches the age of eighteen (18).

1. Place the Juvenile in a Juvenile Facility designated by the Court, including Alcohol or Substance Abuse Emergency Shelter or Halfway House, Emergency Foster Home, Foster Home, Group Home, Shelter Home or Secure Juvenile Detention Facility.
2. Place the Juvenile on probation under such conditions and limitations as the Court may prescribe and:
 - a. Permit the Juvenile to remain with his Parent, Guardian or Custodian, subject to such terms and conditions as the Court may order;
 - b. Place the Juvenile in the legal custody of a relative or other suitable Adult, subject to such terms and conditions as the Court may order;
 - c. Place the Juvenile under Protective Supervision subject to such terms and conditions as the Court may prescribe;
3. Order the Juvenile to pay restitution, a fine, and/or a court costs;
4. Order school attendance with no unexcused absences;
5. Suspension of the juvenile's driving privileges;
6. Order one or more of the following remedies, tailored to the needs of the juvenile and their family:
 - a. Counseling Services. Refer the juvenile and his Parent, Guardian or Custodian to individual, family, or group counseling services, with a preference for culturally informed counseling.
 - b. Educational support. Enrollment in tutoring, mentoring, or other educational programs designed to address truancy or academic challenges.

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- c. Cultural programs. Participation in tribal cultural programs, such as traditional ceremonies, additional language classes or mentorship by tribal elders, to strengthen the juvenile's connection to their culture and heritage.
- d. Community Service. Assignment of community service hours within the reservation/community, with tasks that promote community well-being and cultural preservation. This includes but is not limited to:
- e. Substance Abuse Treatment. If applicable, referral to appropriate substance abuse education or treatment programs.
- f. Behavioral Agreements. Development of a written agreement between the Juvenile, their Parent or Guardian, and the Tribal Court outlining specific behavioral expectations and goals, including suspensions of the Juvenile's driving privileges if applicable, and conditions to ensure regular school attendance moving forward.

B The Court shall issue an order that includes a detailed explanation of the necessity for the disposition.

- 1. If the order places the Juvenile somewhere other than with the Juvenile's Parent, Guardian, or Custodian, it shall state the specific reasons underlying the placement.

15.04 Review; Modification; Revocation, Extension or Termination of Dispositional Orders.

- A. Dispositional orders are to be reviewed at the Court's discretion at least once every six (6) months.
- B. The Court may hold a hearing to modify, revoke or extend a disposition order at any time upon the motion of:
 - 1. The Juvenile.
 - 2. The Juvenile's Parents, Guardian or Custodian.
 - 3. The Juvenile's counsel.
 - 4. The Juvenile probation officer.
 - 5. The prosecutor.

6. The institution, agency or person vested with legal custody of the Juvenile or responsibility for Protective Supervision.
7. The Court on its own motion.

C. Modification of Disposition Order.

1. The Juvenile Division may modify a Dispositional Order upon a showing of a change of circumstances.
2. A hearing to review a Disposition Order shall be conducted as follows:
 - a. The Juvenile Division shall review the performance of the Juvenile and the Juvenile's Parent, Guardian, or Custodian; and the review reports the Tribe and other persons providing assistance to the Juvenile and Juvenile's family;
 - b. In determining whether to modify the disposition, the procedures prescribed in Section 15.01 and Section 15.02 of this Code shall apply; and

D. Jurisdiction for a Juvenile who has reached their eighteenth (18th) birthday may be extended for up to two years upon motion of the prosecuting attorney or attorney for the Juvenile and upon good cause shown, regardless of when the Juvenile first came under the Court's jurisdiction. The Court may continue to exercise ancillary jurisdiction over the Parent of a Juvenile to ensure payment of placement costs or other costs associated with the Juvenile proceeding, regardless of whether the Juvenile continues under the Court's jurisdiction. The record concerning the Juvenile shall be destroyed according to this Code.

Chapter 16. Order for Juvenile Assessment, Evaluation and Examinations.

16.01

- A. The Juvenile Division may order a medical assessment of a Juvenile arrested or detained for a Juvenile Offense relating to or involving alcohol or substance abuse to determine the mental or physical state of the Juvenile so that appropriate steps can be taken to protect the Juvenile's health and well-being.
- B. Where there are indications that the Juvenile may be emotionally disturbed or developmentally disabled, the Court, on a motion by the prosecutor or that of counsel for the Juvenile, may order the Juvenile to be tested by a qualified psychiatrist, psychologist or licensed psychometrician prior to a hearing on the merits of the petition. An examination made prior to the hearing, or as part of the predisposition study and report, shall be conducted on an outpatient basis unless the Court finds that placement in a hospital or other appropriate facility is necessary.
- C. The Court may order an examination of a Juvenile adjudicated as a Juvenile Offender by a physician, psychiatrist or psychologist. The Court may also, following the Adjudicatory

Hearing, order the examination by a physician, psychiatrist or psychologist of a Parent or Custodian who gives his consent and whose ability to care for or supervise a Juvenile is an issue before the Court at the dispositional hearing.

- D. The Court may order that a Juvenile adjudicated as a Juvenile Offender be transferred to an appropriate facility for a period of not more than sixty (6) days for purposes of diagnosis with direction that the Court be given a written report at the end of that period indicating the disposition which appears most suitable.
- E. Evaluations, assessments, dispositional reports and other material to be considered by the Court in a Juvenile hearing shall be submitted to the Court and to the parties no later than three (3) days before the scheduled hearing date. A declaration including reasons why a report has not been completed shall be filed with the Court no later than three (3) days before the scheduled hearing date if the report will not be submitted before the deadline. The Court may in its discretion dismiss a petition if the necessary reports, evaluations or other materials have not been submitted in a timely manner.

Chapter 17. Probation Violation Hearings.

17.01 Procedures for Violation of Probationary Terms and Conditions – Criminal Offense

- A. Purpose. This Section establishes procedures for addressing violations of terms and conditions of probation imposed under a criminal offense disposition. The goal is to ensure accountability, rehabilitation, and safety of the community.
 - 1. Reporting of Violations.
 - a. Reports of an alleged violation should be made to law enforcement or the Juvenile Probation Officer.
 - b. Investigation of a reported violation shall be coordinated between the departments listed above considering the nature of the violation and available resources.

- c. Upon verification, the violation shall be documented and submitted to the Juvenile Probation Officer.
- B. The Juvenile Probation Officer shall file a violation petition on a form provided by the Court which shall provide space to include all relevant facts regarding the violation including any dates.
- C. Upon the filing of a Petition, the Court shall schedule an Initial Hearing and issue a notice of hearing to the Juvenile, the Juvenile's Parent, Guardian, or Custodian and the Juvenile's attorney, if applicable. The notice shall include a copy of the Petition.
 - 1. Upon receipt of the violation report, the Court shall schedule an initial/preliminary hearing and provide written notice to the juvenile and the parent or guardian specifying the alleged violation and the date and time of the hearing.
 - 2. At the hearing, the Juvenile shall be advised of his rights consistent with Section 7.03 of this Code, advised of the violation and potential penalties, and given an opportunity to admit or deny the allegation. If the juvenile admits the violation, the Court may proceed directly to disposition. If the juvenile denies the violation, the matter shall proceed to the preliminary hearing. The Prosecutor has the burden of establishing the violation. If the Court determines that there is probable cause to believe that the violation occurred, a contested violation hearing shall be scheduled. The rules of evidence do not apply in such proceedings.
 - 3. At a contested hearing, the juvenile and the parent or guardian shall be afforded an opportunity to respond. The Prosecutor bears the burden of proving the violation by a preponderance of the evidence. The rules of evidence do not apply in such proceedings.
 - 4. If the Violation is proven, the Court may:
 - i. Continue the current disposition;
 - ii. Modify terms and conditions of disposition;
 - iii. Extend the duration of supervision within limitations provided in this Chapter;
 - iv. Impose appropriate sanctions.

17.02 Procedures for Violations of Probationary Terms and Conditions – Status Offense

- A. Purpose. This section establishes procedures for addressing violations of terms and conditions imposed under a status offense disposition. The goal is to ensure

accountability, promote re-engagement with the community, and apply graduated responses that are proportional and rehabilitative in nature.

B. Reporting of Violations.

1. Reports of an alleged violation should be made to law enforcement or Juvenile Probation Officer.
2. Investigation of a reported violation shall be coordinated between the departments listed above considering the nature of the violation and available resources.
3. Upon verification, the violation shall be documented and submitted to the Juvenile Probation Officer.

C. Preliminary Review of Violation. The Juvenile Probation Officer shall review the case to determine the severity of the violation (i.e. commission of a criminal offense or commission of a new status offense) and any contributing factors (e.g., family issues, substance use disorder issues, mental health concerns).

D. Graduated Response Framework. Responses to violations shall be progressive, individualized, and designed to promote behavioral change and rehabilitation. Interventions should escalate only as necessary, taking into account the severity, frequency, and underlying causes of the noncompliance.

1. Level 1. Level 1 responses are intended for first-time or minor violations and emphasize early correction and supportive engagement. The primary objectives at this level are to reinforce expectations, address minor barriers to compliance, and prevent further escalation.
 - a. When the Juvenile Probation Officer determines that a violation warrants a Level 1 response, the Officer shall issue a verbal or written warning to the Juvenile and the Juvenile's Parent, Guardian, or Custodian that clearly outlines the nature of the violation. The Officer shall then conduct an informal conference with the Juvenile and the Parent, Guardian or Custodian to review the terms and conditions of the probation order, ensure that all parties understand those expectations, and identify any immediate barriers to compliance.
 - b. If, during this process, the Juvenile Probation Officer determines that modification of the disposition order is necessary to address the noncompliance, the Officer may propose a Stipulated Modification of Disposition Order. The proposed modification must clearly describe both the violation and the recommended changes. If the Juvenile and the Parent, Guardian or Custodian agree, they shall execute the stipulated modification. If they do not agree, the Officer shall include a formal

request for modification in its written report to the Prosecutor's Office (Section D(1)(c) below).

- c. Following the informal conference, the Juvenile Probation Officer shall prepare and submit a written report to the Prosecutor and the Court describing the violation, any proposed modification, and whether a stipulated modification was reached. If a stipulated modification was not reached and the Juvenile Probation Officer submits a formal request for modification, the Prosecutor may approve the proposed modification and request a modification hearing or decline to pursue a modification.
2. Level 2. Level 2 responses are appropriate when violations persist or when Level 1 interventions have not produced sustained compliance. The focus at this stage is on increasing accountability, implementing structured supports, and addressing recurring or more complex issues.
 - a. At this level, the Juvenile Probation Officer shall issue a formal written notice of noncompliance to the Juvenile and the Juvenile's Parent, Guardian, or Custodian. The Officer shall then conduct a formal conference with the Juvenile and the Parent, Guardian or Custodian to develop a written Attendance/Behavior Improvement Plan. This plan must set forth measurable goals, such as specific attendance targets, establish clear expectations and timelines, and identify the responsibilities of all involved parties.
 - b. The Juvenile Probation Officer shall also increase supervision as appropriate and may refer the Juvenile and family to additional services designed to address underlying needs. If the Juvenile or the Parent, Guardian or Custodian do not agree to the Attendance/Behavior Improvement Plan, the Officer shall submit a formal request for modification to the Prosecutor's Office.
 - c. Following the informal conference, the Juvenile Probation Officer shall prepare and submit a written report to the Prosecutor and the Court describing the violation, outlines the Attendance/Behavior Improvement Plan, and indicates whether the plan was accepted or contested. If the Plan is contested and the Juvenile Probation Officer submits a formal request for modification, the Prosecutor may approve the proposed modification and request a modification hearing or decline to pursue modification.
3. Level 3. Level 3 responses are initiated when administrative interventions have been unsuccessful or when the nature of the violation warrants formal judicial oversight. The objectives at this stage are to reinforce the authority of the Court, promote compliance through judicial intervention, and reassess the effectiveness of existing conditions.

- a. When a Level 3 response is warranted, the Juvenile Probation Officer, in consultation with the Prosecutor, shall prepare and submit a formal violation report to the Court. This report must include a detailed account of the violations, the history of prior interventions, and recommendations for further action
- b. Upon receipt of the violation report, the Court shall schedule an initial/ preliminary hearing and provide written notice to the juvenile and the parent or guardian specifying the alleged violation and the date and time of the hearing. At the hearing, the Juvenile shall be advised of his rights consistent with Section 7.03 of this Code, advised of the violation and potential penalties, and given an opportunity to admit or deny the allegation. If the juvenile admits the violation, the Court may proceed directly to disposition. If the juvenile denies the violation, the matter shall proceed to the preliminary hearing. The Prosecutor has the burden of establishing the violation. If the Court determines that there is probable cause to believe that the violation occurred, a contested violation hearing shall be scheduled. The rules of evidence do not apply in such proceedings.
- c. At a contested hearing, the juvenile and the parent or guardian shall be afforded an opportunity to respond. The Prosecutor bears the burden of proving the violation by a preponderance of the evidence. The rules of evidence do not apply in such proceedings.
- d. If the Violation is proven, the Court may:
 - i. Continue the current disposition with added supports;
 - ii. Modify conditions to address identified barriers;
 - iii. Extend the duration of supervision within limitations provided in this Chapter;
 - iv. Impose appropriate sanctions consistent with rehabilitative goals.
- e. In considering modification or extension of the disposition order, the Court shall evaluate the Juvenile's prior compliance history, contributing factors and barriers, and engagement with services.
- f. Punitive measures should be used only when necessary and in proportion to repeated or serious noncompliance.

Chapter 18. Transfer of Juvenile Status Offense from Other Tribal or State Court.

18.01 Indian Child Welfare Act and Michigan Indian Family Preservation Act Not Applicable.

- A. The procedures for the state court under the Indian Child Welfare Act (ICWA) and the Michigan Indian Family Preservation Act (MIFPA) shall not be binding upon the Court. Notwithstanding the inapplicability of the ICWA and MIFPA within the Tribal Court, this Chapter refers to a “Child Custody Proceeding” as defined within the ICWA and MIFPA which includes all status offenses.

18.02 Procedures for Transfer to the Juvenile Court from Other Courts.

- A. Unless otherwise provided for herein, the following must occur to create an adequate record supporting transfer of a Lac Vieux Desert Juvenile or other Indian Juvenile to the Juvenile Court:
1. Receipt of Notice. The Department is the agent for service of notice of all Child Custody Proceedings whether state court Child Custody -Proceedings (“State Court Notice”) or Tribal Court Child Custody Proceedings (“Tribal Court Notice”) involving an Indian Juvenile.
 2. Intervention. The Department shall determine, in cooperation with the Enrollment Office, whether the Juvenile, who is the subject of the State Court Notice or Tribal Court Notice, is a Lac Vieux Desert Juvenile. If the Juvenile is a Lac Vieux Desert Tribal member or eligible for enrollment, the Department shall:
 - a. Forward the State Court Notice or Tribal Court Notice along with proof of enrollment or eligibility for enrollment to the Prosecuting Attorney.
 - b. The Prosecuting Attorney, after review of the State Court Notice or Tribal Court Notice and proof of enrollment or eligibility for enrollment, shall.
 - i. draft and file or cause to be filed a notice to intervene in the state or tribal court where Child Custody Proceedings have commenced within seven (7) business days of receipt of the State Court Notice or Tribal Court Notice and proof of eligibility from the Department or within a reasonable time which is practicable after receipt of that notice.

18.03 Investigation and Pre-Transfer Report by Department.

- A. Upon receipt of the State Court Notice or Tribal Court Notice, the Department shall open an investigation, gather information and file a written report with the Prosecuting Attorney within fifteen (15) business days related to the Juvenile who is the subject of the State Court Notice or Tribal Court Notice, including but not limited to:
1. family resources available;
 2. tribal foster care availability (if applicable);
 3. services available in the Juvenile’s current location to the Juvenile, Parent, Guardian, or Custodian as well as services available upon transfer to the Juvenile Court;
 4. the distance of the Juvenile from the Tribe;

5. tribal resources necessary and available to manage the matter if transferred from state court; and
6. a recommendation on whether to transfer the case to the Juvenile Division of the Court.

18.04 Consideration of Transfer Report.

- A. Upon receipt of the written report from the Department described in Section 18.03 above, the Prosecuting Attorney shall consider the following factors to determine whether to proceed with filing a petition to transfer the state or tribal court Child Custody Proceeding to the Juvenile Court:
 1. The best interests of the Juvenile;
 2. The best interests of the Tribe;
 3. Availability of services for the Juvenile and his or her family; and
 4. The prospects for permanent placement of the Juvenile within the Tribal community.

18.05 Petition to Transfer.

- A. If a decision to transfer the state or tribal court Child Custody Proceeding is made by the Prosecuting Attorney, a petition to transfer shall be drafted and filed by the Prosecuting Attorney in the state or tribal court exercising jurisdiction.
- B. A copy of the petition to transfer and the complete case file must be sent to the Juvenile Court. Upon receipt of the petition to transfer and complete case file, the Juvenile Court shall make a determination on acceptance of the matter within five (5) days in accordance with applicable Court Rules.
- C. The Juvenile Court has discretion whether to accept or deny transfer and may accept a transfer from any court based on the following criteria:
 1. The best interests of the Juvenile;
 2. The best interests of the Tribe; and
 3. Availability of services for the Juvenile and his or her family.
- D. The decision to accept or deny transfer shall include findings of fact based on the evidence presented for each of the four criteria located in Section 18.04 above.

18.06 Transfer by Request of Parent or Indian Custodian.

- A. A Parent or Indian Custodian's request to transfer jurisdiction to the Juvenile Court shall not require the actions in paragraphs 1-5 below, if the Parent or Indian Custodian has petitioned the state or other tribal court to transfer jurisdiction to the Juvenile Court:
1. The Parent or Indian Custodian shall file a written request to accept transfer with the Juvenile Court.
 2. The request to accept transfer shall include:
 - a. The name(s) of the Juvenile in the case.
 - b. The jurisdiction where the case is currently heard, along with the case number.
 - c. A plain statement of why the transfer would be in the best interest of the Juvenile and the Tribe.
 3. The request need not be formal but must be written and understandable by the Juvenile Court.
 4. Upon receipt of a request to transfer, the Juvenile Court shall cause the Department to initiate a pre-transfer report in accordance with Section 18.03.
 - a. A copy of the transfer request, the pre-transfer report, and a notice of hearing shall be served upon the Prosecutor.
 - b. A copy of the pre-transfer report and notice of hearing shall be served upon the Parent or Indian Custodians.
 5. A hearing shall be scheduled and conducted in accordance with rules established by the Court.
 6. If the request of the Parent or Indian Custodian is granted, the Prosecuting Attorney shall file the petition to transfer with the state or tribal court as directed by the Juvenile Court.

18.07 Full Faith and Credit; Conflict of Laws.

- A. State Court Order. State court orders involving Juvenile over whom the Juvenile Court could take jurisdiction pursuant to this Code may be recognized by the Juvenile Court only after the Juvenile Court finds:
1. The state court had jurisdiction over the Juvenile and subject matter;

2. The provisions of the Indian Child Welfare Act, 25 U.S.C. 1901-1963, were properly followed (if applicable);
 3. Due process was afforded to all interested persons participating in the state court proceeding; and
 4. The state court proceeding does not violate the public policies, customs, or common law of the Tribe.
- B. Court Orders of Other Tribal Courts. Court orders of other tribal courts involving a juvenile over whom the Juvenile Court could take jurisdiction pursuant to this Code shall be recognized by the Juvenile Court after the Juvenile Court has determined:
1. The other tribal court exercised proper subject matter and personal jurisdiction over the parties; and
 2. Due process was afforded to all interested parties participating in the other tribal court proceeding.

**Chapter 19 Assumption of Jurisdiction Over Status Offense Occurring Outside
Reservation Boundaries Pursuant to Memorandum of Understanding**

19.01

- A. In accordance with Chapter 2, Section 2.02(C), transfer of jurisdiction shall be in accordance with procedures outlined in a duly authorized memorandum of understanding and, where applicable, Tribal Court Rules.

DRAFT

Chapter 20. Compulsory School Attendance; Truancy.

20.01 Purpose and Intent.

- A. The purpose of this Chapter is to promote regular school attendance and provide a comprehensive approach to addressing truancy, with a focus on prevention, intervention, and support for students and families. This Chapter aims to keep students engaged in their education and address the underlying causes of absenteeism.

20.02 Habitually Truant.

- A. “Habitually Truant” means Seven (7) unexcused absences within one (1) school / semester. Under no circumstance shall a truancy petition be filed prior to a Juvenile having seven (7) unexcused absences.

Commented [HB4]: The definition currently included is consistent with the definition used by the Watersmeet School. Whether this is the definition used is a policy decision.

20.03 Compulsory School Attendance.

- A. Every Indian Juvenile residing or Domiciled within the exterior boundaries of the Tribe’s reservation, or if not Domiciled or residing within the exterior boundaries of the reservation, a Tribal Juvenile living within Watersmeet Township and attending Watersmeet Township School, or a Tribal Juvenile living in a school district subject to an MOU enacted pursuant to this Code, shall attend school full-time when school is in session, unless:

1. the Juvenile is receiving home-based instruction as defined in subsection C. below; or
2. the Juvenile has been excused from attendance:
 - a. by a physician or mental health profession because the Juvenile is physically or mentally unable to attend school;
 - b. the Juvenile is attending a residential school certified by the state or other certifying authority;
 - c. the Juvenile is detained in a Secure Juvenile Detention Facility or other correctional facility;
 - d. the Juvenile has been temporarily excused upon the request of his or her Parent, Guardian or Custodian for purposes agreed upon by the school authorities and the Parent; or
 - e. the Juvenile is sixteen (16) years of age or older and:
 - i. is regularly and lawfully employed, and either the Parent agrees that the Juvenile should not be required to attend school or the Juvenile is emancipated in accordance with applicable law; or

- ii. has already met graduation requirements in accordance with state board of education rules and regulations.

B. The Parent, Guardian or Custodian of any Indian Juvenile residing or Domiciled within the boundaries of the Tribe's reservation, or if not Domiciled or residing within the boundaries of the reservation, living within the Watersmeet Township and attending Watersmeet Township School or a Parent, Guardian or Custodian of a Tribal Juvenile living in a school district subject to an MOU enacted pursuant to this Code shall ensure that the Tribal Juvenile complies with the requirements set forth in subsection A. above.

C. For the purposes of this Code, instruction shall be home-based if:

1. the instruction consists of planned and supervised instructional and related educational activities established by the state, school district or other certifying jurisdiction. This may include, but is not limited to, online and correspondence curriculum.

20.03 Preventative Services.

A. Upon receiving notice that a Juvenile residing or domiciled within the boundaries of the Tribe's reservation has accrued three (3) unexcused absences or jurisdiction has been established pursuant to Chapter 2, Section 2.02(B) or (C), the Tribal Prosecutor shall coordinate with the Social Services Department and Education Department to offer preventative services pursuant to this section.

B. Limitations of Authority; Duty to Inform.

1. Before offering preventative services to a Juvenile and their Parent, Guardian, or Custodian, the Social Services Department and/or the Education Department shall inform the Parent, Guardian, or Custodian that they have no legal authority to compel the Parent, Guardian, or Custodian to receive such services and that participation in preventative services is voluntary
2. Prior to conducting the initial consultation, the Social Services Department and/or the Education Department shall inform the Juvenile and the Juvenile's Parent, Guardian or Custodian of the nature and purpose of the initial consultation which is outlined in Section 20.03(C)(1)(a).
3. If the Juvenile declines to attend or participate in the initial consultation, the Social Services Department and/or Education Department may, with the concurrence of the Juvenile's Parent, Guardian or Custodian, conduct the initial consultation without the participation of the Juvenile.

Commented [HB5]: This is stricter than the standard MI applies. TH will provide MI language for comparison and consideration.

Commented [TH6R5]: MCL 380.1561 Compulsory attendance at public school; enrollment dates; exceptions. Sec. 1561.

(1) Except as otherwise provided in this section, for a child who turned age 11 before December 1, 2009 or who entered grade 6 before 2009, the child's parent, guardian, or other person in this state having control and charge of the child shall send that child to a public school during the entire school year from the age of 6 to the child's sixteenth birthday. Except as otherwise provided in this section, for a child who turns age 11 on or after December 1, 2009 or a child who was age 11 before that date and enters grade 6 in 2009 or later, the child's parent, guardian, or other person in this state having control and charge of the child shall send the child to a public school during the entire school year from the age of 6 to the child's eighteenth birthday. The child's attendance shall be continuous and consecutive for the school year fixed by the school district in which the child is enrolled. In a school district that maintains school during the entire calendar year and in which the school year is divided into quarters, a child is not required to attend the public school more than 3 quarters in 1 calendar year, but a child shall not be absent for 2 or more consecutive quarters.

(2) A child becoming 6 years of age before December 1 shall be enrolled on the first school day of the school year in which the child's sixth birthday occurs, and a child becoming 6 years of age on or after December 1 shall be enrolled on the first school day of the school year following the school year in which the child's sixth birthday occurs.

(3) A child is not required to attend a public school in any of the following cases:

(a) The child is attending regularly and is being taught in a state approved nonpublic school, which teaches subjects comparable to those taught in the public schools to children of corresponding age and grade, as determined by the course of study for the public schools of the district within which the nonpublic school is located.

(b) The child is less than 9 years of age and does not reside within 2-1/2 miles by the nearest traveled road of a public school. If transportation is furnished for pupils in the school district of the child's residence, this subdivision does not apply.

(c) The child is age 12 or 13 and is in attendance at confirmation classes conducted for a period of 5 months or less.

(d) The child is regularly enrolled in a public school while in attendance at religious instruction classes for not more than 2 class hours per week, off public school property during public school hours, upon written request of the parent, guardian, or person in loco parentis.

(e) The child has graduated from high school or has fulfilled all requirements for high school graduation.

(f) The child is being educated at the child's home by his or her parent or legal guardian in an organized educational program in the subject areas of reading, spelling, mathematics, science, history, civics, literature, writing, and English grammar.

4. Neither the Social Services Department nor the Education may conduct an initial consultation without the voluntary participation of the Juvenile's Parent, Guardian or Custodian.
5. If the Juvenile's Parent, Guardian, or Custodian declines the offered preventative services, the Social Services Department, in consultation with the Prosecuting Attorney, shall consider initiating a child welfare investigation. If a Juvenile's Parent, Guardian, or Custodian accepts the offer for preventative services, the Social Services Department and/or the Education Department shall schedule an Initial Consultation in accordance with Section (C) below.
6. The Department shall keep all communications received during an investigation confidential; such obligation does not mitigate the duty to report child abuse and neglect as required by law.

C. Initial Consultation – Purpose and Conduct.

1. If a Juvenile's Parent, Guardian, or Custodian accepts the offer of preventative services, the Social Services Department and/or Education Department shall schedule an Initial Consultation with the Juvenile, Juvenile's Parent, Guardian, or Custodian as soon as practicable. The purpose of the initial consultation shall be:
 - a. _____ to review with the Juvenile and the Juvenile's Parent, Guardian or Custodian the contents of the request for services (i.e. the 3-day unexcused absence notification).;
 - b. _____ to identify and discuss:
 - i. the circumstances that brought the Juvenile to the attention of the Social Services Department and Education Department;
 - ii. Any additional issues or concerns raised during the initial consultation;
 - iii. the particular needs and circumstances of the Juvenile and the Juvenile's Parent, Guardian, or Custodian;
 - iv. services and resources available to address those needs, issues and concerns, including but not limited to:
 - A meeting with the school, Social Services Department and/or Education Department and the Juvenile's Parent, Guardian or Custodian to discuss the Juvenile's unexcused absences from school,

- Counseling through the school, Social Services Department and/or the Education Department to determine whether a curriculum change or alternative education program would resolve the Juvenile's unexcused absences, and
 - Medical, psychological and/or educational testing of the Juvenile in accordance with school regulations in order to determine whether learning disabilities may be a cause of the Juvenile's absence from school, and, if so, what steps can be taken to overcome the learning problems.
2. If, at the conclusion of the initial consultation, it does not appear to the Social Services Department and Education Department that the Juvenile and the Juvenile's Parent, Guardian, or Custodian is in need of preventative services, the Social Services Department shall make note of the meeting, the determination and shall take no further action in the matter.
 3. If, at the conclusion of the initial consultation, it appears to the Social Services Department and the Education Department that the Juvenile and the Juvenile's Parent, Guardian or Custodian is in need of preventative services, the Social Services Department and Education Department shall together with the Juvenile and the Juvenile's Parent, Guardian or Custodian, develop a voluntary plan for services in accordance with the provisions of Section 20.03(D) below.
 4. If the Juvenile's Parent, Guardian or Custodian terminates the initial consultation or, following the initial consultation, declines the offered preventative services, the Social Services Department may request the Tribal Prosecutor consider the appropriateness of initiating a child protection petition alleging that the child is a Child in Need of Care.

D. Voluntary Plan for Services – Contents and Requirements.

1. A voluntary plan for services developed pursuant to the provisions of this Section shall set forth, in writing:
 - a. the rights of the Juvenile and the Juvenile's Parent, Guardian or Custodian under the provisions of this Code;
 - b. an acknowledgment that participation in the plan for services is voluntary, and neither the Juvenile nor the Juvenile's Parent, Guardian or Custodian is obligated to comply with the plan for services;

- c. the anticipated course of action to be taken if:
 - i. the Juvenile or the Juvenile's Parent, Guardian or Custodian does not comply with the plan for services; or
 - ii. the outcomes and goals set forth in the plan for services are not accomplished within a reasonable period of time, to be specified in accordance with the provisions of subsection 20.03(F) below;
- d. the specific conduct and circumstances upon which the voluntary plan for services is based;
- e. the specific services and resources available to address the conduct of concern:
 - i. the particular needs of the Juvenile and the Juvenile's Parent, Guardian or Custodian; and
 - ii. any additional issues or concerns raised during the initial consultation;
- f. a comprehensive plan for ensuring that the Juvenile and the Juvenile's Parent, Guardian or Custodian obtain the services and resources needed;
- g. the specific actions to be taken by the Juvenile and the Juvenile's Parent, Guardian or Custodian in accordance with the plan, including the frequency and location of appointments for services and contact with the Social Services Department and/or the Education Department;
- h. the anticipated outcomes of the plan and its implementation, including measurable, individualized goals for the Juvenile and the Juvenile's Parent, Guardian or Custodian;
- i. an estimate of the time which will be needed to accomplish the anticipated outcomes, which shall initially not exceed twelve (12) months. Subsequent six (6) month extensions are permitted upon agreement of the Social Services Department, the Juvenile, and the Juvenile's Parent, Guardian, and Custodian;

- j. a schedule for reviewing the effectiveness of the plan and the progress of the Juvenile and the Juvenile's Parent, Guardian or Custodian toward achieving the anticipated outcomes.
- 2. The Social Services Department shall provide a copy of the voluntary plan for services to the Juvenile and the Juvenile's Parent, Guardian or Custodian.

E. Voluntary Plan for Services – Monitoring and Review

- 1. The Social Services Department shall periodically review the progress of the Juvenile and the Juvenile's Parent, Guardian or Custodian toward accomplishing the anticipated outcomes of the voluntary plan for services.
- 2. The periodic review required under this subsection shall:
 - a. include regular, scheduled contact between the Department, the Child, and the Child's Parent, Guardian or Custodian; and
 - b. where appropriate given the circumstances and needs of the Juvenile and the Juvenile's Parent, Guardian or Custodian include home visits at times and intervals set forth in the voluntary plan for services and agreed to by the Child's Parent, Guardian or Custodian; and
 - c. subject to written consent by the Juvenile and the Juvenile's Parent, Guardian or Custodian, as may be necessary, communication between the Social Services Department, Education Department and:
 - i. any person or agency providing services to the Juvenile or the Juvenile's Parent, Guardian or Custodian in accordance with the voluntary plan for services; and
 - ii. school officials or support staff responsible for meeting the Juvenile's educational needs and monitoring the Juvenile's educational progress.

F. Termination of Proceedings.

1. The Social Services Department shall terminate all proceedings initiated pursuant to the provisions of this Section upon determining that:
 - a. the outcomes and goals of the voluntary plan for services have been accomplished; or,
 - b. The outcomes and goals of the voluntary plan for services have not been accomplished.
2. Upon terminating the proceedings pursuant to the provisions of this section, the Social Services Department:
 - a. shall refer the Juvenile and the Juvenile's Parent, Guardian or Custodian to any social, community, or tribal services or resources from which they may continue to benefit;
 - b. _____ shall inform the Tribal Prosecutor that the outcome and goals of the voluntary plan for services have not been accomplished and provide all necessary information to allow a determination of whether it is appropriate to file a Child in Need of Care petition.

20.04 Rights Afforded During Truancy Proceeding.

- A. See Chapter 7.

20.05 Failure to Appear.

- A. In all truancy proceedings conducted pursuant to the provisions of this Chapter:
1. if a Juvenile sixteen (16) years of age or older fails to appear before the Court after being so ordered:
 - a. upon a first failure to appear, the Court may:
 - i. issue a new summons in accordance with the provisions of this Code; and
 - ii. issue a warning to the Juvenile regarding the potential consequences of a subsequent failure to appear;

- b. upon a second or subsequent failure to appear, the Court may:
 - i. issue an order directing a law enforcement officer to apprehend the juvenile and bring the juvenile immediately before the Court; and
 - ii. following a hearing on the matter, issue a written order imposing additional or modified supervisory conditions in accordance with the provisions of this Chapter;
- 2. if a Juvenile under sixteen (16) years of age fails to appear before the Court after being so ordered:
 - a. if the Court finds, based on the sworn testimony of the Juvenile's Parent, Guardian or Custodian, that the Juvenile has willfully refused to appear, the Court may proceed in accordance with the provisions of subsection (A)(1) above; or
 - b. in the absence of such a finding, the Court may proceed in accordance with the provisions of subsection (A)(3) below;
- 3. if the Juvenile's Parent, Guardian or Custodian fails to appear before the Court after being so ordered, or fails to bring the Juvenile before the Court after being so ordered:
 - a. upon a first or subsequent failure to appear, the Court may:
 - i. issue a new summons in accordance with the provisions of this Code; and
 - ii. issue a warning to the Juvenile's Parent, Guardian or Custodian regarding the potential consequences of a subsequent failure to appear;
 - b. upon a second or subsequent failure to appear, the Court may:
 - i. issue a bench warrant directing that the Juvenile's Parent, Guardian or Custodian be brought before the Court to show cause why they should not be subject to sanctions in accordance with the provisions of this section; and

- ii. absent a showing of good cause for the failure to appear, impose upon the Juvenile's Parent, Guardian or Custodian a fine of up to \$100 (one hundred dollars);
- c. upon a third or subsequent failure to appear, the Court may initiate proceedings for contempt against the Juvenile's Parent, Guardian or Custodian in accordance with the provisions of the criminal code.

20.06 Temporary Custody Due to Truancy.

- A. Taking a Juvenile into Temporary Custody. A law enforcement officer may take a Juvenile into temporary custody if:
 - 1. the Juvenile is absent from school during school hours;
 - 2. the absence does not fall within one of the exceptions set forth in Section 20.02(A)(2) above; and
 - 3. the absence is not an excused absence as defined by school or school district policy.
- B. Release or Delivery from Temporary Custody.
 - 1. A law enforcement officer taking a Juvenile into temporary custody pursuant to the provisions of this Section shall, without unreasonable delay:
 - a. release the juvenile to the juvenile's Parent, Guardian or Custodian; or
 - b. transport the Juvenile to the Juvenile's school, or to an appropriate educational center, recreational center or agency.
 - 2. If the law enforcement officer has reason to believe the Juvenile is in need of medical attention, the law enforcement officer shall deliver the Juvenile to a medical facility or otherwise obtain such medical attention for the Juvenile before proceeding in accordance with the other provisions of this section.
 - 3. Upon releasing the Juvenile to the Juvenile's Parent, Guardian or Custodian, the law enforcement officer shall refer the Juvenile's Parent, Guardian or Custodian to any social, community, or tribal services or resources which may be appropriate for addressing the needs of the Juvenile and the Juvenile's Parent, Guardian or Custodian. The law enforcement officer shall provide a written incident report outlining the circumstances that gave rise to taking the Juvenile into temporary custody to the appropriate social services department and prosecutor's office.

20.07 Supervisory Conditions.

- A. Least Restrictive Alternatives.
1. When a Juvenile is subject to supervisory conditions under the provisions of this Chapter, the Court shall order the least restrictive conditions available that will address truancy and interests of the Juvenile.
 2. If an order imposes supervisory conditions that are not the least restrictive, the order shall include a statement of the Court's reasons for rejecting less restrictive alternatives.
- B. Supervisory Conditions. Following the filing of a truancy petition, an initial hearing on the petition, and a finding that there are reasonable grounds to believe that the Juvenile is a truant, the Court may impose supervisory conditions in accordance with the provisions of this section. Such conditions may include:
1. a court-imposed curfew;
 2. a requirement that the Juvenile or the Juvenile's Parent, Guardian or Custodian report to the Juvenile Probation Officer at specified intervals;
 3. an order requiring the Juvenile to remain at home at all times when the Juvenile is not:
 - a. in the presence of the Juvenile's Parent, Guardian or Custodian;
 - b. attending school or participating in other activities approved by the Juvenile Court; or
 - c. legally required to be elsewhere;
 4. community supervision; and
 5. other reasonable conditions calculated to ensure the Juvenile's regular school attendance and appearance at future hearings.
- C. Supervisory Conditions – Violations. If it appears from a filed affidavit or sworn testimony before the Court that the Juvenile has violated supervisory conditions imposed in accordance with the provisions of this Chapter, the Court may, following a hearing on the matter, impose additional or modified supervisory conditions in accordance with the provisions of this Chapter.

20.08 Truancy Petition.

- A. Who May File a Petition. A proceeding under this Chapter shall be initiated by the filing of a petition by the Prosecuting Attorney
- B. Truancy Petition – Contents.
 - 1. The petition shall set forth with specificity:
 - a. the name, birth date, residence, and tribal affiliation of the Juvenile;
 - b. the name and residence of the Juvenile's Parent, Guardian or Custodian;
 - c. a citation to the specific section(s) of this Code which give the Court jurisdiction over the proceedings;
 - d. a plain and concise statement of the facts upon which the petition is based.
 - i. That the Department or other appropriate agency has conducted an investigation to determine whether social problems may be a cause of the Juvenile's absence from school, and, if so, that appropriate action has been taken pursuant to Section 20.03 (Preventative Services).

20.09 Initial Hearing and Preliminary Inquiry.

- A. Initial Hearing – Time Limit. The initial hearing shall be held within seven (7) days of the filing of the truancy petition.
- B. Initial Hearing – Conduct. At the initial hearing, the Juvenile Court shall advise the Juvenile, in language the Juvenile will easily understand, of the following:
 - 1. the nature and purpose of the proceedings;
 - 2. the contents of the truancy petition;
 - 3. the possible consequences if the Juvenile is found to be truant;
 - 4. the right to counsel at their own expense;
 - 5. the privilege against self-incrimination;
 - 6. the right to an adjudication hearing in accordance with the provisions of this Chapter;
 - 7. the right to cross-examine witnesses;
 - 8. the right to testify, the right to subpoena witnesses, and the right to introduce evidence on the Juvenile's own behalf;

- 9. the right to appeal any final order of the Juvenile Court.
- C. Preliminary Inquiry. At the initial hearing, the Juvenile Court shall enter a written order dismissing the truancy petition unless the Juvenile Court makes a probable cause determination that the truancy petition sets forth grounds to believe that the Juvenile is truant.

20.10 Adjudication Hearing.

- A. Adjudication Hearing – Time Limit. Except for good cause, the adjudication hearing shall be held no more than ten (10) days after the initial hearing.
- B. Adjudication Hearing – Purpose. The Juvenile Court shall conduct the adjudication hearing for the purpose of determining whether the Juvenile is truant.
- C. Adjudication Hearing – Burden of Proof. The Tribal Prosecutor shall bear the burden of showing, by clear and convincing evidence, that the Juvenile is truant.
- D. Adjudication Hearing – Conduct.
 - 1. The Juvenile Court shall conduct the adjudication hearing without a jury and, to the fullest extent practicable, in language the Juvenile will understand.
 - 2. At the adjudication hearing, the Juvenile Court may consider any evidence, including hearsay, which the Juvenile Court finds to be:
 - a. relevant to the determination of whether the Juvenile is a truant; and
 - b. sufficiently reliable to satisfy the requirements of due process.
- E. Finding on Adjudication.
 - 1. If, upon hearing all evidence properly admitted at the adjudication hearing, the Court finds that the Juvenile is a truant, the Juvenile Court shall enter its finding in writing and:
 - a. proceed immediately to a disposition hearing, to be conducted in accordance with the provisions of this Chapter; or
 - b. the Court may continue the Dispositional Hearing if it finds good cause.

2. If the Court does not find that the Juvenile is truant, it shall enter a written order dismissing the petition and releasing the Juvenile from any obligations or conditions previously imposed in connection with the truancy proceedings.

20.11 Disposition Reports.

- A. Disposition Report – Requirement. Prior to the disposition hearing, the Court shall order the Probation Department, Social Services Department and any other relevant department or agency prepare a written disposition report setting forth recommendations concerning the disposition of the case, including a specific plan for services to meet the needs of the Juvenile and the Juvenile's Parent, Guardian or Custodian.
- B. Disposition Report – Contents.
 1. The disposition report shall address, in a concise manner those matters relevant to the disposition of the case, which may include but shall not be limited to:
 - a. a description of the Juvenile's home environment, family relationships, and background;
 - b. information regarding the Juvenile's maturity, cognitive and emotional development, and emotional and mental health;
 - c. the results and recommendations of any relevant medical, psychological, psychiatric, or other examinations or evaluations conducted by a qualified professional;
 - d. a discussion of the Juvenile's educational status, including, but not limited to, the Juvenile's strengths, abilities, and special educational needs;
 - e. the identification of appropriate educational and vocational goals for the Juvenile, examples of which may include:
 - i. regular school attendance and completion of the Juvenile's current grade;
 - ii. attainment of a high school diploma or its equivalent;
 - iii. successful completion of literacy or vocational courses; or

- iv. enrollment in an apprenticeship, internship or similar program; and
 - v. a summary of the Juvenile's prior contacts with the juvenile justice system.
 - 2. The disposition report shall also include a detailed explanation of:
 - a. the sources of all information included; and
 - b. the necessity of the proposed disposition and plan for services, taking into account the particular needs of the Juvenile and the Juvenile's Parent, Guardian or Custodian.
- C. Alternative Disposition Reports or Recommendations. The Juvenile and the Juvenile's Parent, Guardian or Custodian may prepare alternative disposition reports or recommendations for consideration by the Court to be submitted in accordance with Section (E).
- D. Disposition Examinations and Investigations.
 - 1. Following an adjudication hearing at which the Juvenile is found to be truant, and prior to the entry of any disposition orders, the Juvenile Court may enter a written order:
 - a, requiring the Juvenile undergo educational, medical, psychological, or psychiatric examination; or
 - b. directing the Probation Department and/or Social Services Department:
 - i. to investigate any matter relevant to the disposition of the case, including but not limited to any matter described in Section (B) above; and
 - ii. to address the results of that investigation in the predisposition report or, where the disposition report has already been submitted, in a supplemental report.
 - 2. Where the results of any examination or investigation ordered by the Juvenile Court pursuant to the provisions of this section are not available at the disposition hearing:

- a. the Juvenile Court may enter such orders on disposition as the Juvenile Court finds appropriate, considering the evidence before it at the disposition hearing; and
- b. upon receiving the results of any such examination or investigation, the Juvenile Court:
 - i. may, upon the court's own motion, conduct a hearing to review its disposition orders in accordance with the provisions of this Chapter; and
 - ii. shall, upon the motion of any party, conduct a hearing to review its disposition orders in accordance with the provisions of this Chapter.

E. Disposition Reports and Examinations – Filing and Service.

- 1. Any reports or examination results to be considered by the Juvenile Court at any hearing conducted pursuant to the provisions of this Chapter shall be filed in the Juvenile Court and served upon the Tribal Prosecutor, Probation Officer, the Social Services Director, counsel for the Juvenile, and the Juvenile's Parent, Guardian or custodian, at least three (3) days prior to the hearing.
- 2. The time limit imposed by subsection (1) above may be waived upon the agreement of the parties and the Juvenile Court.

20.12 Dispositional Hearing.

A. Disposition Hearing – Time Limit.

- 1. The disposition hearing shall be held immediately following the adjudication hearing, unless the Juvenile Court finds good cause to continue the disposition hearing.
- 2. If the Juvenile Court finds good cause to continue the disposition hearing, the disposition hearing shall be held within thirty (30) days of the adjudication hearing.

B. Disposition Hearing – Purpose. The Juvenile Court shall conduct the disposition hearing for the purpose of determining:

- 1. what services and resources are most likely to ensure regular school attendance by the Juvenile; and

2. the appropriate disposition of the matter.
- C. Disposition Hearing – Conduct. At the disposition hearing, the Juvenile Court:
1. shall afford the parties the opportunity:
 - a. to present documentary or testimonial evidence concerning the appropriate disposition of the matter; and
 - b. to controvert, and to cross-examine the sources of, the contents and conclusions of any reports, testimony, or other evidence to be considered by the Juvenile Court pursuant to the provisions of this section;
 2. shall consider the disposition report and recommendations prepared by the Probation Department, Social Services Department, or any other appropriate department or agency, as well as any alternative disposition report or recommendations prepared by the Juvenile or the Juvenile’s Parent, Guardian or Custodian; and
 3. may consider any evidence, including hearsay, which it finds to be relevant, reliable, and helpful in making the determinations required under this chapter.
- D. Dispositional Orders and Final Dispositional Report.
1. Upon the conclusion of the disposition hearing, the Juvenile Court may enter any written disposition orders authorized under Section (E) below.
 2. In exercising its discretion under subsection (1) above, the Juvenile Court shall enter the least restrictive orders appropriate considering the needs of the Juvenile and the Juvenile’s Parent, Guardian or Custodian.
 3. All orders entered by the Juvenile Court pursuant to the provisions of this section shall be:
 - a. explained to the Juvenile in language the Juvenile will understand; and
 - b. accompanied by a written statement of:

- i. the facts relied upon by the Juvenile Court in entering those orders; and
 - ii. if necessary, the reasons for rejecting less restrictive alternatives.
- 4. An order releasing a Final Dispositional Report, prepared by the Social Services Department, to those departments, educational institutions, agencies, or other entities involved in the Juvenile's education. The Final Dispositional Report shall contain information pertinent to, and bearing upon, the child's education, academic performance, and learning abilities.

E. Disposition Options.

- 1. The Juvenile Court may enter written orders including any of the following, as best suited to the needs of the Juvenile and the Juvenile's Parent, Guardian or Custodian:
 - a. an order requiring the Juvenile to maintain regular attendance at the Juvenile's current school;
 - b. an order requiring the Juvenile to attend another public school, an alternative education program, a skill center, a dropout prevention program, or other public program which can provide appropriate educational services for the Juvenile;
 - c. an order referring the Juvenile or the Juvenile's Parent, Guardian or Custodian to educational, cultural/traditional, social, community, or tribal services or resources appropriate for addressing needs or issues which contributed to the Juvenile's adjudication;
 - d. an order requiring the Juvenile and the Juvenile's Parent, Guardian or Custodian to meet with the Probation Officer, Tribal Prosecutor, and Social Services Department to participate in the development of a truancy remediation plan; or
 - e. an order requiring the Juvenile's Parent, Guardian or Custodian to participate in an educational or counseling program designed to contribute to their ability to care for and supervise the Juvenile, including but not limited to parenting classes;
 - f. an order requiring the Juvenile to undergo a medical, psychological, or psychiatric evaluation;

- g. an order requiring the Juvenile to undergo medical, psychological, or psychiatric treatment, where such treatment is:
 - i. recommended by a qualified medical, psychological, or psychiatric professional; and
 - ii. necessary to address conditions which contributed to the Juvenile's adjudication.

F. Disposition Orders – Review.

1. At least once per month, the Juvenile Court shall conduct a hearing for the purpose of reviewing any disposition orders entered pursuant to the provisions of this Chapter, and make a finding of:
 - a. whether the Juvenile and the Juvenile's Parent, Guardian or Custodian are in compliance with those disposition orders;
 - b. the extent to which those disposition orders have accomplished their intended purposes;
 - c. whether those disposition orders should:
 - i. continue in effect without modification or extension;
 - ii. be terminated in accordance with the provisions of Section (G) below; or
 - iii. be modified or extended in accordance with the provisions of Section (H) below.
2. At any review hearing conducted pursuant to the provisions of this section:
 - a. the Tribal Prosecutor shall bear the burden of showing, by a preponderance of the evidence, that the proposed modification or extension is appropriate.

G. Disposition Orders – Duration and Termination.

1. Disposition orders entered by the Juvenile Court shall continue in force for not more than six (6) months, unless they are extended in accordance with the provisions of Section (H) below.

2. The Juvenile Court may terminate a disposition order prior to its expiration if it appears to the Juvenile Court, following a hearing conducted upon its own motion or the motion of any party, that the purposes of the disposition order have been accomplished.
3. The Juvenile Court shall enter an order terminating all disposition orders affecting the Juvenile, and discharging the Juvenile from any further obligations in connection with the truancy proceedings, upon a showing by the Juvenile that:
 - a. the Juvenile has graduated from high school; or
 - b. the Juvenile has completed an alternative course of study resulting in the achievement of a high school diploma or the equivalent.

H. Disposition Orders – Modification or Extension.

- A. Disposition Order may be modified or extended without a finding of a violation if the Juvenile Court finds clear and convincing evidence that such modification or extension is necessary to accomplish the purpose of this Chapter.
- B. Modification or extension of a Disposition Order is initiated by either party filing a motion seeking modification or extension of the Disposition Order or the Court's own motion.
- C. The motion shall contain a statement of the specific facts upon which the motion is based and the specific modification or length of extension being proposed and the reason for the requested modification or extension.
- D. A hearing on the proposed modification or extension shall be held within ten (10) days of the filing of the motion.
- E. An extension ordered in accordance with the provisions of this section shall not exceed three (3) months from the expiration of the prior order, not including summer vacation, and in no event shall the duration of a disposition order be extended:
 1. for longer than reasonably necessary to accomplish the purpose of the order; or
 2. past the date on which the Juvenile shall reach eighteen (18) years of age.

F. Procedures for Violations of Truancy Disposition Terms and Conditions

1. Purpose. This section establishes procedures for addressing violations of terms and conditions imposed under a truancy disposition. The goal is to ensure accountability, promote re-engagement with school, and apply graduated responses that are proportional and rehabilitative in nature.
2. Reporting of Violations.
 - a. Reports of an alleged truancy disposition violation should be made to law enforcement, truancy officer, or Juvenile Probation Officer.
 - b. Investigation of a reported violation shall be coordinated between the departments listed above considering the nature of the violation and available resources.
 - c. Upon verification, the violation shall be documented and submitted to the Juvenile Probation Officer.
3. Preliminary Review of Violation. The Juvenile Probation Officer shall review the case to determine the severity of the violation (i.e. commission of a criminal offense, commission of a new status offense, or additional school attendance issues) and any contributing factors (e.g., family issues, transportation barriers, mental health concerns).
4. Graduated Response Framework. Responses to violations shall be progressive, individualized, and designed to promote behavioral change and school re-engagement. Interventions should escalate only as necessary, taking into account the severity, frequency, and underlying causes of the noncompliance.
5. Level 1. Level 1 responses are intended for first-time or minor violations and emphasize early correction and supportive engagement. The primary objectives at this level are to reinforce expectations, address minor barriers to compliance, and prevent further escalation.
 - a. When the Juvenile Probation Officer determines that a violation warrants a Level 1 response, the Officer shall issue a verbal or written warning to the juvenile and the juvenile's parent, guardian, or custodian that clearly outlines the nature of the violation. The Officer shall then conduct an informal conference with the juvenile and the parent or guardian to review the terms and conditions of the truancy disposition order, ensure that all parties understand those expectations, and identify any immediate barriers to compliance, such as transportation issues, school avoidance, or scheduling conflicts.
 - b. If, during this process, the Juvenile Probation Officer determines that modification of the disposition order is necessary to address the noncompliance, the Officer may propose a Stipulated Modification of

Disposition Order. The proposed modification must clearly describe both the violation and the recommended changes. If the Juvenile and the Parent, Guardian or Custodian agree, they shall execute the stipulated modification. If they do not agree, the Officer shall include a formal request for modification in its written report to the Prosecutor's Office (Section (c) below).

- c. Following the informal conference, the Juvenile Probation Officer shall prepare and submit a written report to the Prosecutor and the Court describing the violation, any proposed modification, and whether a stipulated modification was reached. If a stipulated modification was not reached and the Juvenile Probation Officer submits a formal request for modification, the Prosecutor may approve the proposed modification and request a hearing pursuant to Section H or decline to pursue modification.
6. Level 2. Level 2 responses are appropriate when violations persist or when Level 1 interventions have not produced sustained compliance. The focus at this stage is on increasing accountability, implementing structured supports, and addressing recurring or more complex issues.
- a. At this level, the Juvenile Probation Officer shall issue a formal written notice of noncompliance to the Juvenile and the Juvenile's Parent, Guardian, or Custodian. The Officer shall then conduct a formal conference with the Juvenile and the Parent, Guardian or Custodian to develop a written Attendance/Behavior Improvement Plan. This plan must set forth measurable goals, such as specific attendance targets, establish clear expectations and timelines, and identify the responsibilities of all involved parties.
 - b. The Juvenile Probation Officer shall also increase supervision as appropriate and may refer the Juvenile and family to additional services designed to address underlying needs. If the Juvenile or the Parent, Guardian or Custodian do not agree to the Attendance/Behavior Improvement Plan, the Officer shall submit a formal request for modification to the Prosecutor's Office.
 - c. Following the informal conference, the Juvenile Probation Officer shall prepare and submit a written report to the Prosecutor and the Court describing the violation, outlines the Attendance/Behavior Improvement Plan, and indicates whether the plan was accepted or contested. If the Plan is contested and the Juvenile Probation Officer submits a formal request for modification, the Prosecutor may approve the proposed modification and request a hearing pursuant to Section H or decline to pursue modification.

7. Level 3. Level 3 responses are initiated when administrative interventions have been unsuccessful or when the nature of the violation warrants formal judicial oversight. The objectives at this stage are to reinforce the authority of the Court, promote compliance through judicial intervention, and reassess the effectiveness of existing conditions.
- a. When a Level 3 response is warranted, the Juvenile Probation Officer, in consultation with the Prosecutor, shall prepare and submit a formal violation report to the Court. This report must include a detailed account of the violations, the history of prior interventions, and recommendations for further action
 - b. Upon receipt of the violation report, the Court shall schedule an initial/ preliminary hearing and provide written notice to the juvenile and the parent or guardian specifying the alleged violation and the date and time of the hearing. At the hearing, the Juvenile shall be advised of his rights consistent with Section 7.03 of this Code, advised of the violation and potential penalties, and given an opportunity to admit or deny the allegation. If the juvenile admits the violation, the Court may proceed directly to disposition. If the juvenile denies the violation, the matter shall proceed to the preliminary hearing. The Prosecutor has the burden of establishing the violation. If the Court determines that there is probable cause to believe that the violation occurred, a contested violation hearing shall be scheduled. The rules of evidence do not apply in such proceedings.
 - c. At a contested hearing, the juvenile and the parent or guardian shall be afforded an opportunity to respond. The Prosecutor bears the burden of proving the violation by a preponderance of the evidence. The rules of evidence do not apply in such proceedings.
 - d. If the Violation is proven, the Court may:
 - i. Continue the current disposition with added supports;
 - ii. Modify conditions to address identified barriers;
 - iii. Extend the duration of supervision within limitations provided in this Chapter;
 - iv. Impose appropriate sanctions consistent with rehabilitative goals.
 - e. In considering modification or extension of the disposition order, the Court shall evaluate the Juvenile's prior compliance history , contributing factors and barriers, and engagement with services.
 - f. Punitive measures should be used only when necessary and in proportion to repeated or serious noncompliance.

Chapter 21. Additional Matters.

21.01 Records of Investigation and Court Proceedings

- A. Tribal law enforcement records, Department records, and Court records concerning a Juvenile shall be kept separate from the records and files concerning adults.
- B. The Court shall make a record of all cases concerning a Juvenile. Such records shall be preserved in accordance with retention rules developed by the Court.
- C. All Juvenile Court records, Tribal law enforcement records, and Department records shall be confidential and shall not be open to inspection or release to anyone but the following:
 - 1. The Juvenile who is the subject of the record;
 - a. The Court may release the information in a manner and setting that is appropriate for the age and maturity of the Juvenile, the nature of the information being sought, and the purpose of the request.
 - b. The Court may require that the information be released in a therapeutic setting,
 - c. This Section shall not be interpreted in such a way as to deny the Juvenile access to his or her Court record.
 - 2. The Juvenile's Parent unless parental rights have been terminated, current Guardian or Custodian;
 - 3. The Juvenile Court personnel directly involved in the handling of the case;
 - 5. Department personnel for purposes of investigation;
 - 6. The Prosecuting Attorney;
- D. The Court shall have the authority to place records under protective seal for purposes of preserving anonymity or preventing unnecessary risk to the health, safety, or welfare of the Juvenile.
- E. If the Court determines that disclosure of confidential information in a Juvenile's record is necessary to ensure access to appropriate services for the Juvenile, the Court may approve the release of confidential records or information, provided that the party receiving the record or information is prohibited from further release of the information without further order of the Court.

Chapter 22. Rehearing.

22.01 Grounds for Rehearing.

- A. A party may motion the Court for rehearing or reconsideration of a decision of the Court in the following circumstances:
 - 1. When a party believes the Court has overlooked or misapprehended a material fact in the record or a material question of law in the case;
 - 2. When a party believes the Court has overlooked, misapplied, or failed to consider a statute, procedural rule, regulation or decision directly controlling a dispositive issue in the case; or
 - 3. When a party believes a new rule of law, directly controlling on the disposition of an issues in the case, has issued after the Court announced its order or opinion but within the time fixed for filing.
- B. A motion will not be considered unless it presents a matter not previously considered by the Children's Court, which, if true, would cause the Children's Court to reconsider the case.

22.02 Procedure.

- A. A party may seek a rehearing by filing a written motion stating the basis for relief sought within thirty (30) days after a final decision in any matter under this Code.
- B. The Court may entertain an untimely motion for good cause shown.
- B. Content of Petition. The petition must state with particularity the points of law or fact that the petitioner believes the Court has overlooked or misapprehended and contain argument in support of those points. Oral argument in support of the petition is not required.
- C. Notice. All parties must be given notice of the motion in accordance with applicable Court Rule.

22.03

- A. Response by Parties. Any response by parties must be in writing and filed with the Court and opposing parties within seven (7) days after notice of the motion.

22.04

- A. Stay of Order. Upon the filing of a motion for rehearing, unless the Court finds good cause otherwise, the Court shall stay any order that is the subject of the motion pending a ruling on the motion and the timeframe for appeal under Chapter [] shall be tolled.

22.05

- A. The Court need not hold a hearing before ruling on a motion. Any hearing conducted shall be in accordance with the rules for the dispositional hearings. The Court shall state the reasons for its decision on the motion on record or in writing.
- B. The Court may affirm, modify, or vacate the decision previously made in whole or in part whichever the Court, in its discretion, finds appropriate for the case.

Chapter 23. Appeals.

23.01 Who Can Appeal.

- A. Any party may appeal a final order of the Court.

23.02 Time Limit for Appeal.

- A. Any party seeking to appeal a final Court order shall file a written notice of appeal with the Court within thirty (30) days of the final order.

23.03 Review Standard.

- A. The standard of review in appeals shall be Clearly Erroneous for all factual findings and all matters of law shall be reviewed de novo.