

**ROSEBUD SIOUX TRIBE
ORDINANCE NO. 2022-01**

Title 3, Chapter 4 COMPULSORY SCHOOL ATTENDANCE

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3-4-1 Compulsory School Attendance

- (a) Every Wakanyeja between the ages of six (6) years (on or before September 1) and eighteen (18) years of age residing or domiciled on the Rosebud Reservation and within its territories shall attend a public or tribal school full-time when school is in session except:
- (1) the Wakanyeja is attending a private school certified by the Rosebud Sioux Tribe or the State of South Dakota;
 - (2) the Wakanyeja is receiving homeschool instruction as defined in subsection (c);
or
 - (3) the superintendent of the school district in which the Wakanyeja resides has excused the Wakanyeja from attendance because;
 - (A) is physically or mentally unable to attend school;
 - (B) is attending a residential school certified by Rosebud Sioux Tribe or the State of South Dakota to meet the needs of the Wakanyeja;
 - (C) has been temporarily excused upon the request of his or her parent, guardian or custodian for purposes that are agreed upon by the school authorities; or
 - (4) is sixteen (16) years of age or older and:
 - (A) the Wakanyeja is emancipated in accordance with applicable law; or
 - (B) has already met graduation requirements in accordance with South Dakota Department of Education.
 - (5) the Wakanyeja has been designated homeless or a victim of domestic violence.

(b) The parent, guardian or custodian of any Wakanyeja between the ages of six (6) years (on or before September 1) and eighteen (18) years of age residing or domiciled on the Rosebud Reservation and within its territories shall ensure that the Wakanyeja complies with the requirements set forth in subsection 3-4-1 (a).

(c) For the purposes of this chapter, instruction shall be homeschooled if:

(1) the instruction consists of planned and supervised instructional and related educational activities established by State of South Dakota or Bureau of Indian Education and

(2) such instruction is provided by a parent who is:

(A) instructing only his or her child, or under the supervision of another person; or

(B) deemed sufficiently qualified to provide homeschooled instruction by the superintendent of the school district in which the Wakanyeja resides.

(3) monitored by the Rosebud Sioux Tribal Education Department.

(4) Must enroll on annual basis within school district or school that is providing the exception to daily attendance.

(5) Must meet the required testing by a school district or school on an annual basis.

3-4-2 Compulsory School Attendance – Notice

(a) The Tribe shall provide annual notice of the compulsory education requirements set forth in 3-4-1 to:

(1) every Wakanyeja between the ages of six (6) years (on or before September 1) and eighteen (18) years of age residing or domiciled on the Rosebud Reservation and its territories.

(2) the parent, guardian or custodian of every such Wakanyeja.

(b) The notice requirement set forth in subsection 3-4-2 (a) may be satisfied:

(1) by posting the required notice on the Rosebud Sioux Tribe's web site;

(2) by publishing the required notice in a tribal newsletter or newspaper which is freely available to families residing on the Rosebud Reservation and its territories.

(3) by similar measures reasonably calculated to provide actual notice of the compulsory attendance requirements set forth in 3-4-1.

3-4-3 Failure to Attend School

Any Wakanyeja who is twelve (12) years of age but under eighteen (18) years of age, residing or domiciled on the Rosebud Reservation and within its territories, who does not attend a public or tribal school full-time when school is in session and has three (3) **unexcused absences** within any single month, or **six (6) unexcused absences** in the current school year, will be considered truant, and shall be subjected to the provisions set out in Title 3, Chapter 5, of the Rosebud Sioux Tribal Law and Order Code.

3-4-4 Failure to Send Wakanyeja to School

A person who is the parent, guardian or custodian of a Wakanyeja who is between the ages of six (6) years old and eighteen (18) years of age, residing or domiciled on the Rosebud Reservation and within its territories, who has not enrolled their Wakanyeja in a public or tribal school full-time when school is in session, or the Wakanyeja has three (3) **unexcused absences** within any single month, or **six (6) unexcused absences** in the current school year, will be considered a maltreated Wakanyeja, and the parent, guardian or custodian shall also be subjected to the provisions set out in RSTLOC Title 3, Chapter 5, of the or RSTLOC Title 5, Chapter 8. In making this determination, the Law Enforcement officer and prosecutor shall make every reasonable effort to consider;

1. Wakanyeja has a pattern of unexcused absences;
2. Wakanyeja fails to attend school; or
3. Parent, guardian or custodian has failed to, or refuse to, meet the Wakanyeja educational needs.

shall be deemed guilty of a Class B offense.

3-4-5 Reports of Wakanyeja Truancy Required

Any person as described in RSTLOC 5-8-6 through 5-8-9 are subjected to the laws as describe sections RSTLOC 5-8-6 through 5-8-9

3-4-6 Wakanyeja Not Allowed in Public Unattended During School Hours

Law Enforcement officers may detain (pending on parent notification) any child, between the ages of six (6) years (on or before September 1) and eighteen (18) years of age, who fails to attend school in violation of Rosebud Sioux Tribe Truancy laws when;

1. the Wakanyeja is out in public without parents, guardian, or custodian during scheduled school days and hours;
2. the Wakanyeja is in a place, public or private, without the permission of the legal owner and the permission of parents, guardian, or custodian during scheduled school days and hours; or
3. the Wakanyeja is in a vehicle without the supervision of a person over the age of eighteen and without the permission of parents, guardian, or custodian during scheduled school days and hours.

A. In cases where Wakanyeja are detained, the detaining officer is required to promptly notify the parents, guardian, or custodian, and to place the Wakanyeja in the public, private, or tribal school in which the Wakanyeja is, or should be, enrolled.

B. If the law enforcement officer is unable to place the Wakanyeja in a school because the Wakanyeja is not enrolled in school and if the officer is unable to locate parent, guardian or custodian, the Wakanyeja will be held in the Juvenile Detention Center, pending location of parent, guardian or custodian, including local Wakanyeja protection services if needed.

C. If law enforcement arrests or apprehends a Wakanyeja, the officer must make a detailed report for the presenting officer or prosecutor for the Children's Court.

D. The presenting officer or prosecutor for the Children's Court then must file a Truancy Petition as outlined in RSTLOC 3-5-13 or summons process under 3-4-8.

Exceptions

1. Any emancipated Wakanyeja;
2. When the Wakanyeja is on an emergency errand approved by parent, guardian or custodian;
3. When Wakanyeja is on reasonable, legitimate and specific business or activity directed or permitted by his or her parent, guardian or custodian, or other adult person having the care, custody or supervision of the Wakanyeja;
4. When the Wakanyeja is in attendance or traveling to or from an organized school, cultural, church, Tribal, community or recreational function.

3-4-7 Penalties

Any parent, guardian or custodian 3-4-4 shall be guilty of a Class B violation

1. First violation the parent, guardian or custodian must appear by citation and/or summons in front of a magistrate or judge, shall then appear in the Tribe's Children's Court, if accepted by petition by the Court, then shall submit to the directives in RSTLOC Title 3, Chapter 5.
2. Second violation is up to six (6) months in jail and a fine up to five hundred dollars (\$ 500).

3-4-8 Habitual Truancy

Any Wakanyeja who has been found by the Children's Court who has violated this chapter, and who has not been amendable to the Children's Court orders more than once (1) is guilty of a Class B violation.

3-4-8 Definitions

1. "Custodian" An adult entrusted with the temporary physical care, custody and control of a child by the child's parent, or otherwise entrusted with the custodial, personal or

- financial care of a child under tribal custom.
2. "Emancipated" The act or process by which a minor is liberated from the authority and control their parents. It releases all rights of care, custody and control of a child from the parents.
 3. "Enrolled" A student is at least eighteen (18) years of age on the first day of July or is a child who is at least six (6) years of age as of the first day of September and the student admitted to a school.
 4. "Guardian" A person assigned specific rights and responsibilities by court order to care for another person and the person's real and personal property.
 5. "Homeless" The term "homeless children and youth" means individuals who lack a fixed, regular, and adequate nighttime residence and
 - A . children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;
 - B. children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human being;
 - C . children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
 6. "Homeschool" a student who is deemed an alternatively educated student who must submit and receive approval from the school in which they are enrolled, and must follow all laws therein;
 7. "Juvenile Presenting Officer" The attorney or lay council who shall represent the Tribe in all proceedings before the Children's Court.
 8. "Maltreated" failure of a parent or other person with responsibility for the child to provide needed supervision to the degree that the child's well-being are threatened with harm with failure to educate their child or failure to provide the child with the opportunity to attend school as required by law.
 9. "Parent" (1) all biological or adoptive parents of the child, whether singular or plural; and (2) shall not include a person whose parental rights have been legally terminated, nor an unwed father whose paternity has not been acknowledged or established
 10. "Guardian or custodian" A guardian is a person appointed to take care of the person or property of another (RSTLOC 1-2-1)
 11. "Six (6) years (on or before September 1)"
 12. Truant: The term "truant" as used in this title means a child who has had:
 - (1) three (3) unexcused absences from school within a single month; or
 - (2) six (6) unexcused absences from school within a single school year.
 14. "Truancy Personnel" the dedicated personnel whose duty it is to work with the family and youth on any truancy issues and who is employed by the Todd County School District, St. Francis Indian School, White River School District, Winner and South Central School District and other schools operating in and around the Rosebud Reservation,
 15. "Unexcused absence"
 - (1) the child has failed to attend the majority of hours or periods in a school day, or has failed to comply with the RST Education policy establishing more

restrictive attendance requirements; and

(2) the absence does not fall within one of the exceptions to compulsory school attendance set forth in RSTLOC 3-4 § 1-9, and is not an excused absence as defined by school district policy

16. “Wakanyeja” child or children in Lakota, A person who is under eighteen (18) years of age.

Title 3-Chapter 5 TRUANCY

INFORMAL AND FORMAL TRUANCY PROCEEDINGS

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3-5-1 Purpose.

The purpose of the Rosebud Sioux Tribe's truancy laws are to ensure that we support families to make a Wakanyeja pi education a priority in our communities and tribal lands. The Tribe understands the many issues our families and Wakanyeja face day to day that undermines our Wakanyeja pi ability to overcome, and yet we demand that our Wakanyeja attend school every day, regardless of those challenges. It is the Tribe's intent to take an integral look at the causes of truancy and assist families with planning and resources. It is our hope that these truancy laws will help make our Wakanyeja successful in their schools and at home without penalizing or criminalizing.

3-5-2 Initial Action Upon Wakanyeja pi Failure To Attend School

Upon determining that a Wakanyeja has had three **(3) unexcused absences** within any single month, or **six (6) unexcused absences** in the current school year, the dedicated personnel whose duty it is to work with the family and youth on any truancy issues and who is employed by the Todd County School District, St. Francis Indian School, White River School District, Winner and South Central School District and other schools operating in and around the Rosebud Reservation, hereafter referred to as truancy personnel.

- (a) shall immediately notify the Wakanyeja parent, guardian or custodian, in writing or by telephone; automated phone calls, text alerts, emails, electronic communications, and home visits
- (b) shall inform the Wakanyeja parent, guardian or custodian of the potential consequences of additional unexcused absences; and
- (c) shall, within ten (10) business days, and subject to the provisions of RSTLOC 3-5-2 conduct an attendance review conference with the Wakanyeja and the parent, guardian or custodian.

3-5-3 Attendance Review Conference – Purpose and Conduct

(a) The purpose of the attendance review conference shall be:

- (1) to review the causes for the Wakanyeja unexcused absences; and
- (2) to discuss steps to improve the Wakanyeja school attendance, which may include:
 - (A) obtaining more individualized or remedial instruction;
 - (B) adjusting the Wakanyeja educational program or school or course assignment;
 - (C) identifying and providing home-based instruction approved by the superintendent of the school district in which the child resides, subject to monitoring by the Rosebud Sioux Tribal Education Department;
 - (D) enrolling the Wakanyeja in an alternative school or educational program;

- (E) assisting the Wakanyeja and the Wakanyeja parent, guardian or custodian to obtain services or resources that might eliminate or ameliorate the causes for the Wakanyeja unexcused absences; or
- (F) referring the Wakanyeja to the truancy board.

(b) At the conclusion of the attendance review conference, the truancy personnel shall:

- (1) together with the Wakanyeja and the Wakanyeja parent, guardian or custodian, develop an informal attendance plan in accordance with the provisions of RSTLOC 3-5-4; provide notice of the plan to the school said Wakanyeja is attending; or
- (2) within five (5) business days of the attendance review conference, and subject to the provisions of RSTLOC 3-5-7, Truancy Personnel will send a referral to the Rosebud Sioux Tribal Education Department if there is one (1) more unexcused absence in accordance with the provisions of RSTLOC 3-5-5.
- (3) within ten (10) business days of receiving a referral Rosebud Sioux Tribal Education Department convene a truancy board in accordance with the provisions of RSTLOC 3-5-5.

3-5-4 Attendance Review Conference – Participation Voluntary

- (a) Prior to convening the attendance review conference, the truancy personnel shall inform the Wakanyeja and the Wakanyeja parent, guardian or custodian:
 - (1) of their rights under the provisions of this title;
 - (2) of the nature and purpose of the attendance review conference; and
 - (3) that participation in the attendance review conference is voluntary.
- (b) If the Wakanyeja declines to attend or participate in the attendance review conference, the truancy personnel shall, subject to the other provisions of this section, conduct the attendance review conference without the participation of the Wakanyeja.
 - i. The truancy personnel shall within five (5) days provide Wakanyeja and parent, guardian or custodian with the findings of the attendance review conference.
- (c) If the Wakanyeja parent, guardian or custodian declines to attend or participate in the attendance review conference, the truancy personnel may:
 - (1) within ten (10) business days, and subject to the provisions of RSTLOC 3-5-2 (b)(2), 3-5-7, in which the Rosebud Sioux Tribal Education Department will convene a tribal truancy board in accordance with the provisions of RSTLOC 3-5-5; or
 - (2) conduct the attendance review conference **without** the participation of the Wakanyeja parent, guardian or custodian, if:

(A) the truancy personnel determine that the factors contributing to the Wakanyeja truancy may be addressed without the participation of the Wakanyeja parent, guardian or custodian; and

(B) the Wakanyeja parent, guardian or custodian consents to the Wakanyeja participation.

3-5-5 Informal Attendance Plan

An informal attendance plan developed pursuant to the provisions of this chapter shall set forth, in writing:

- (a) a plain statement of the compulsory education requirements set forth in RSTLOC 3-4-1;
- (b) the rights of the Wakanyeja and the Wakanyeja parent, guardian or custodian under the provisions of this title;
- (c) an acknowledgment that participation in the informal attendance plan is otherwise voluntary, and neither the Wakanyeja nor the Wakanyeja parent, guardian or custodian is obligated to comply with the informal attendance plan;
- (d) the anticipated course of action to be taken if the Wakanyeja continues to accumulate unexcused absences;
- (e) the causes of the Wakanyeja unexcused absences, and any perceived barriers to regular school attendance by the Wakanyeja;
- (f) the specific services and resources available to assist the Wakanyeja and the Wakanyeja parent, guardian or custodian to ensure regular school attendance by the Wakanyeja;
- (g) a comprehensive plan for ensuring that the Wakanyeja and the Wakanyeja parent, guardian or custodian obtain the services and resources needed; and
- (h) the specific actions to be taken by the Wakanyeja and the Wakanyeja parent, guardian or custodian in accordance with the plan, including the frequency and location of appointments for services and contact with the truancy personnel.

3-5-6 Truancy Board – Requirement

- (a) Subject to the provisions of RSTLOC 3-5-7, the truancy personnel shall recommend and give notice to the Rosebud Sioux Tribe Education department to convene a truancy board:
 - (1) if the truancy personnel, the Wakanyeja, and the Wakanyeja parent, guardian or custodian cannot agree on an informal attendance plan;
 - (2) if the truancy personnel determine that an informal attendance plan will be inadequate to ensure regular school attendance by the Wakanyeja; or

- (3) if the Wakanyeja accumulates more than one (1) unexcused absence following the attendance review conference and the implementation of an informal attendance plan.

(b) Where counsel has not already been appointed or retained to represent the Wakanyeja, the Rosebud Sioux Tribe Education Department shall notify the juvenile Public Defender's Office in writing prior to convening the truancy board.

3-5-7 Truancy Board – Composition and Purpose

(a) The composition of the truancy board shall be based on the particular needs of the Wakanyeja and the Wakanyeja parent, guardian or custodian, and may include:

- (1) an official from the Rosebud Sioux Tribe Education department or the Wakanyeja school;
- (2) a juvenile mental health professional;
- (3) a substance abuse treatment professional;
- (4) tribal elders or community leaders;
- (5) service providers;
- (6) a family counselor or mediator;
- (7) trained and responsible peer or youth representatives;
- (8) other professionals or community members requested or recommended by:
 - (A) the Wakanyeja;
 - (B) the Wakanyeja parent guardian or custodian;
 - (C) the truancy personnel; or
 - (D) other members of the truancy board.

(b) The truancy board shall meet with the Wakanyeja and the Wakanyeja parent, guardian or custodian:

- (1) to identify and discuss the particular needs of the Wakanyeja and the Wakanyeja parent, guardian or custodian, with the goal of ensuring regular school attendance by the Wakanyeja;
- (2) to assist the Wakanyeja and the Wakanyeja parent, guardian or custodian in obtaining services and resources that might eliminate or ameliorate the causes for the Wakanyeja' unexcused absences; and
- (3) to consider, where appropriate, recommending to the school district that the Wakanyeja enroll in another school, an alternative education program, an education

center, a skill center, a dropout prevention program, or other public or private educational program.

- (c) At the conclusion of the Wakanyeja first meeting with the tribal truancy board, the tribal truancy board shall, together with the Wakanyeja and the Wakanyeja parent, guardian or custodian, develop a truancy remediation plan in accordance with the provisions of RSTLOC 3-5-8, Truancy Remediation Plan.

3-5-8 Truancy Board – Participation Voluntary

- (a) Prior to convening the truancy board, the Rosebud Sioux Tribe Education personnel shall inform the Wakanyeja and the Wakanyeja parent, guardian or custodian:

- (1) of their rights under the provisions of this title;
- (2) of the nature and purpose of the truancy board; and
- (3) that meeting with the truancy board is voluntary.

- (b) If the Wakanyeja declines to meet with the truancy board, the truancy board shall proceed, subject to the other provisions of this section, without the participation of the Wakanyeja.

- (c) If the Wakanyeja parent, guardian or custodian declines to meet with the truancy board, the Rosebud Sioux Tribal Education Department shall recommend that the Juvenile Presenting Officer/prosecutor to file a truancy petition in accordance with the provisions of RSTLOC 3-5-13.

3-5-9 Truancy Remediation Plan

A truancy remediation plan developed pursuant to the provisions of this chapter shall set forth, in writing:

- (a) each of the items required for inclusion in an informal attendance plan under RSTLOC 3-5-4; and
- (b) a schedule for reviewing the effectiveness of the plan.

3-5-10 Truancy Remediation Plan – Monitoring and Review

- (a) The truancy personnel shall periodically review the effectiveness of the truancy remediation plan.
- (b) The periodic review required under subsection (a):
 - (1) shall include regular, scheduled contact between the truancy personnel, the Wakanyeja, and the Wakanyeja parent, guardian or custodian; and

- (2) where appropriate given the circumstances and needs of the Wakanyeja and the Wakanyeja parent, guardian or custodian, may include:
 - (A) school visits at any time;
 - (B) home visits at times and intervals set forth in the truancy remediation plan and agreed to by the Wakanyeja parent, guardian or custodian; and
 - (C) subject to written consent by the Wakanyeja and the Wakanyeja parent, guardian or custodian, as may be required by law, communication between truancy personnel and;
 - (i) any person or agency providing services to the Wakanyeja or the Wakanyeja parent, guardian or custodian in accordance with the truancy remediation plan; and
 - (ii) school officials or support staff responsible for meeting the Wakanyeja educational needs and monitoring the Wakanyeja educational progress.

3-5-11 Review Meetings

- (a) Subject to the provisions of subsection (c), the Rosebud Sioux Tribe Education Department shall convene a review meeting of the truancy board:
 - (1) within ten (10) business days of a request by the Wakanyeja, the Wakanyeja parent, guardian or custodian, or any member of the truancy board; or
 - (2) upon determining:
 - (A) that adjustments or modifications to the truancy remediation plan are necessary; or
 - (B) that the truancy remediation plan is likely to be ineffective or unsuccessful.
- (b) The purpose of the review meeting shall be:
 - (1) to review the Wakanyeja school attendance;
 - (2) to address any issues or concerns raised by the Wakanyeja, the Wakanyeja parent, guardian or custodian, the truancy personnel, or members of the truancy board; and
 - (3) where necessary, to consider and effect adjustments or modifications to the truancy remediation plan.
- (c) Where the Wakanyeja has accumulated at least sixty (60) days of regular school attendance without an unexcused absence, the truancy personnel shall not recommend to the Rosebud Sioux Tribal Education Department to convene a review meeting of the truancy board except:
 - (1) upon the request of the Wakanyeja or the Wakanyeja parent, guardian or custodian; or

- (2) where the truancy personnel, Rosebud Sioux Tribe Education Department, a member of the truancy board, a school official or a service provider has recommended that services or resources being provided to the Wakanyeja or the Wakanyeja parent, guardian or custodian be reduced or discontinued.

3-5-12 Meetings – Time and Location

The time and location selected for any meeting of the truancy board shall be convenient for the Wakanyeja and the Wakanyeja parent, guardian or custodian.

3-5-13 Recommendation for Truancy Petition

- (a) The Rosebud Sioux Tribe Education Department shall recommend that the Juvenile Presenting Officer/Prosecutor file a truancy petition in accordance with the provisions of RSTLOC 3-5-13:
 - (1) if the Wakanyeja parent, guardian or custodian declines to meet with a truancy board;
 - (2) if the truancy board, the Wakanyeja, and the Wakanyeja parent, guardian or custodian cannot agree on a truancy remediation plan;
 - (3) if the Wakanyeja accumulates more than two (2) unexcused absences following the implementation of a truancy remediation plan developed in accordance with the provisions of RSTLOC 3-5-8; or
 - (4) if the Wakanyeja is in imminent danger of losing credit or being required to repeat a grade level as the result of the Wakanyeja unexcused absences.
- (b) The truancy personnel, Rosebud Sioux Tribal Education Department and the truancy board shall diligently attempt to prevent the filing of a truancy petition.
- (c) The Juvenile Presenting Officer/Prosecutor shall not file a truancy petition except upon the recommendation of the Rosebud Sioux Tribal Education Department.

3-5-14 Truancy Petition – Contents

- (a) Adjudicative proceedings under this chapter shall be initiated by a petition:
 - (1) signed and filed by the Juvenile Presenting Officer/Prosecutor on behalf of the Rosebud Sioux Tribe;
 - (2) certifying that, to the best of the Juvenile Presenting Officer/Prosecutor's knowledge, information and belief, there are sufficient grounds to believe that the Wakanyeja is a truant;
 - (3) setting forth with specificity:
 - (A) the name, birth date, residence, and tribal affiliation of the Wakanyeja;

- (B) the name and residence of the Wakanyeja parent, guardian or custodian;
 - (C) a citation to the specific section(s) of this code which give the Rosebud Sioux Tribe Children's Court jurisdiction over the proceedings, RSTLOC 3-1-5(3)(a);
 - (D) a plain and concise statement of the facts upon which the petition is based.
- (b) The truancy petition shall be accompanied by a statement signed by the truancy personnel and:
- (1) affirming that the truancy personnel have recommended the filing of the petition;
 - (2) certifying that the requirements of RSTLOC 3-5-1, et seq., were satisfied prior to the filing of the petition; and
 - (3) briefly setting forth:
 - (A) all efforts taken by the truancy personnel, the Rosebud Sioux Tribal Education Department, the truancy board, the Wakanyeja, and the Wakanyeja parent guardian or custodian, to resolve the matter prior to the filing of the petition; and
 - (B) facts showing that one or more of the conditions set forth in RSTLOC 3-5-12(a) has been satisfied.

3-5-15 Truancy Petition – Time for Filing

The truancy petition shall be filed within five (5) days after the recommendation by the truancy personnel.

3-5-16 Truancy Petition – Dismissal and Refiling

(a) Prior to adjudication, the Children's Court shall enter a written order dismissing the truancy petition, without prejudice, upon a showing by the Wakanyeja that, following the Wakanyeja most recent unexcused absence, the Wakanyeja has accumulated sixty (60) days of regular school attendance without another unexcused absence.

(b) Following the dismissal of a truancy petition in accordance with the provisions of subsection (a):

- (1) the Juvenile Presenting Officer/Prosecutor may refile the petition if the Wakanyeja accumulates one (1) or more unexcused absences during the school year in which the order was entered; and
- (2) the Children's Court shall otherwise amend the written order entered in accordance with the provisions of subsection (a) to dismiss the petition with prejudice at the end of the school year in which the order was entered.

3-5-17 Initial Hearing – Time Limit

The initial hearing shall be held within seven (7) days of the filing of the truancy petition.

3-5-18 Initial Hearing – Conduct

At the initial hearing, the Children’s Court shall advise the Wakanyeja, in language the Wakanyeja will easily understand, of the following:

- (a) the nature and purpose of the proceedings;
- (b) the contents of the truancy petition;
- (c) the possible consequences if the Wakanyeja is found to be a truant;
- (d) the right to counsel;
- (e) the privilege against self-incrimination;
- (f) the right to an adjudication in accordance with the provisions of this chapter;
- (g) the right to cross-examine witnesses;
- (h) the right to testify, the right to subpoena witnesses, and the right to introduce evidence on the Wakanyeja own behalf;
- (i) the right to appeal any final order of the Children’s Court.

3-5-19 Initial Hearing – Determination of Reasonable Grounds

At the initial hearing, the Children’s Court shall enter a written order dismissing the truancy petition unless the Children’s Court finds that the truancy petition sets forth reasonable grounds to believe the Wakanyeja is a truant.

3-5-20 Adjudication Hearing – Time Limit

The adjudication hearing shall be held within seven (7) days of the initial hearing.

3-5-21 Adjudication Hearing – Purpose

The Children’s Court shall conduct the adjudication hearing for the purpose of determining whether the Wakanyeja is a truant.

3-5-22 Adjudication Hearing – Burden of Proof

The Tribe shall bear the burden of showing, by clear and convincing evidence, that the Wakanyeja is a truant.

3-5-23 Adjudication Hearing – Conduct

- (a) The Children’s Court shall conduct the adjudication hearing without a jury and, to the fullest extent practicable, in language the Wakanyeja will easily understand.
- (b) At the adjudication hearing, the Children’s Court may consider any evidence, including hearsay, which the Children’s Court finds to be:

- (1) relevant to the determination of whether the Wakanyeja is a truant; and
- (2) sufficiently reliable to satisfy the requirements of due process.

3-5-24 Finding on Adjudication

(a) If, upon hearing all evidence properly admitted at the adjudication hearing, the Children's Court finds that the Wakanyeja is a truant, the Children's Court shall enter its finding in writing and:

- (1) proceed immediately to a disposition hearing, to be conducted in accordance with the provisions of RSTLOC 3-5-31, et seq.; or
- (2) if the Children's Court finds good cause to continue the disposition hearing, set the matter for disposition in accordance with the time limits set forth in RSTLOC 3-5-30.

(b) If the Children's Court does not find that the Wakanyeja is a truant, it shall enter a written order dismissing the petition and releasing the Wakanyeja from any obligations or conditions previously imposed in connection with the truancy proceedings.

3-5-25 Predisposition Report – Requirement

Prior to the disposition hearing, the Rosebud Sioux Tribe Education Department will assist the Tribal Presenting Officer/Prosecutor in preparing a written predisposition report setting forth recommendations concerning the disposition of the case, including a specific plan for services to meet the needs of the Wakanyeja and the Wakanyeja parent, guardian or custodian.

3-5-26 Predisposition Report – Contents

(a) The predisposition report shall address, in a concise, factual, and unbiased manner, only those matters relevant to the disposition of the case, which may include but shall not be limited to:

- (1) a description of the Wakanyeja home environment, family relationships, and background;
- (2) information regarding the Wakanyeja maturity, cognitive and emotional development, and emotional and mental health;
- (3) the results and recommendations of any relevant medical, psychological, psychiatric, or other examinations or evaluations conducted by a qualified professional;
- (4) a discussion of the Wakanyeja educational status, including, but not limited to, the Wakanyeja strengths, abilities, and special educational needs;
- (5) the identification of appropriate educational and vocational goals for the Wakanyeja, examples of which may include:

- (A) regular school attendance and completion of the Wakanyeja current grade;
 - (B) attainment of a high school diploma or its equivalent;
 - (C) successful completion of literacy or vocational courses; or
 - (D) enrollment in an apprenticeship, internship or similar program;
 - (6) a summary of any factual findings entered by the Children’s Court; and
 - (7) a summary of the Wakanyeja prior contacts with the juvenile justice system.
- (b) The predisposition report shall include a detailed explanation of:
 - (1) the sources of all information included;
 - (2) the necessity of the proposed disposition and plan for services, taking into account the particular needs of the Wakanyeja and the Wakanyeja parent, guardian or custodian; and
 - (3) the anticipated benefits to the Wakanyeja and the Wakanyeja parent, guardian or custodian of the proposed disposition and plan for services.

3-5-27 Alternative Predisposition Reports or Recommendations

The Wakanyeja and the Wakanyeja parent, guardian or custodian may prepare alternative predisposition reports or recommendations to be submitted for consideration by the Children’s Court in accordance with the provisions of RSTLOC 3-5-29.

3-5-28 Predisposition Examinations and Investigations

- (a) Following an adjudication hearing at which the Wakanyeja is found to be a truant, and prior to the entry of any disposition orders, the Children’s Court may enter a written order:
 - (1) requiring the Wakanyeja undergo educational, medical, psychological. or psychiatric examination; or
 - (2) directing the Rosebud Sioux Tribal Education Department:
 - (A) to investigate any matter relevant to the disposition of the case, including but not limited to any matter described in RSTLOC 3-5-25(a); and
 - (B) to address the results of that investigation in the predisposition report or, where the predisposition report has already been submitted, in a supplemental report.

- (b) Where the results of any examination or investigation ordered by the Children’s Court pursuant to the provisions of this section are not available at the disposition hearing:
 - (1) the Children’s Court may enter such orders on disposition as the Children’s Court finds appropriate, considering the evidence before it at the disposition hearing; and
 - (2) upon receiving the results of any such examination or investigation, the Children’s Court:
 - (A) may, upon the Children’s Court’s own motion, conduct a hearing to review its disposition orders in accordance with the provisions of RSTLOC 3-5-35; and
 - (B) shall, upon the motion of any party, conduct a hearing to review its disposition orders in accordance with the provisions of RSTLOC 3-5-35.

3-5-29 Predisposition Reports and Examinations – Confidentiality

Any reports prepared and the results of any examinations ordered in accordance with the provisions of this chapter shall be subject to the provisions of RSTLOC Chapter 3, Sections 1-23, of this title.

3-5-30 Predisposition Reports and Examinations – Filing and Service

- (a) Any reports or examination results to be considered by the Children’s Court at any hearing conducted pursuant to the provisions of this chapter shall be filed in the Children’s Court and served upon the Juvenile Presenting Officer/Prosecutor, the truancy personnel, the Rosebud Sioux Tribal Education Department, counsel for the Wakanyeja, and the Wakanyeja parent, guardian or custodian, at least three (3) days prior to the hearing, in accordance with the provisions of RSTLOC Chapter 3, Sections 1-23, of this title.
- (b) The time limit imposed by subsection (a) may be waived upon the agreement of the parties and the Children’s Court.

3-5-31 Disposition Hearing – Time Limit

- (a) The disposition hearing shall be held immediately following the adjudication hearing, unless the Children’s Court finds good cause to continue the disposition hearing.
- (b) If the Children’s Court finds good cause to continue the disposition hearing, the disposition hearing shall be held within ten (10) days of the adjudication hearing.

3-5-32 Disposition Hearing – Purpose

The Children’s Court shall conduct the disposition hearing for the purpose of determining:

- (a) what services and resources are most likely to ensure regular school attendance by the Wakanyeja; and

- (b) the appropriate disposition of the matter.

3-5-33 Disposition Hearing – Conduct At the disposition hearing, the Children’s Court: (a) shall afford the parties the opportunity:

- (1) to present documentary or testimonial evidence concerning the appropriate disposition of the matter; and
- (2) 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 Childrens Court pursuant to the provisions of this section;

(b) shall consider the predisposition report and recommendations prepared by the Rosebud Sioux Tribe Education Department, as well as any alternative predisposition report or recommendations prepared by the Wakanyeja or the Wakanyeja parent, guardian or custodian; and

(c) may consider any evidence, including hearsay, which it finds to be relevant, reliable, and helpful in making the determinations required under RSTLOC 3-5-31.

3-5-34 Orders on Disposition

- (a) Upon the conclusion of the disposition hearing, the Children’s Court may enter any written disposition orders authorized under RSTLOC 3-5-34.
- (b) In exercising its discretion under subsection (a), the Children’s Court shall enter the least restrictive orders appropriate considering the needs of the Wakanyeja and the Wakanyeja parent, guardian or custodian.
- (c) All orders entered by the Children’s Court pursuant to the provisions of this section shall be:
 - (1) explained to the Wakanyeja in language the Wakanyeja will easily understand; and;
 - (2) accompanied by a written statement of:
 - (A) the facts relied upon by the Children’s Court in entering those orders; and;
 - (B) the reasons for rejecting less restrictive alternatives.

3-5-35 Disposition Options

(a) Pursuant to the provisions of RSTLOC 3-5-33, the Children’s Court may enter written orders including any of the following, as best suited to the needs of the Wakanyeja and the Wakanyeja parent, guardian or custodian:

- (1) an order requiring the Wakanyeja to maintain regular attendance at the Wakanyeja current school;
- (2) an order requiring the Wakanyeja 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 Wakanyeja;
- (3) an order referring the Wakanyeja or the Wakanyeja parent, guardian or custodian to educational, social, community, or tribal services or resources appropriate for addressing needs or issues which contributed to the Wakanyeja adjudication;
- (4) an order referring the Wakanyeja or the Wakanyeja parent, guardian or custodian to a tribal elder's panel or other body capable of addressing needs or issues which contributed to the Wakanyeja adjudication;
- (5) an order requiring the Wakanyeja and the Wakanyeja parent, guardian or custodian to meet with a tribal truancy board and participate in the development of a truancy remediation plan and follow the recommendations; or
- (6) an order requiring the Wakanyeja parent, guardian or custodian to participate in an educational or counseling program designed to contribute to their ability to care for and supervise the Wakanyeja, including but not limited to parenting classes;
- (7) an order requiring the Wakanyeja to undergo a medical, psychological, or psychiatric evaluation, in accordance with the provisions of RSTLOC 3-5-27;
- (8) an order requiring the Wakanyeja to undergo medical, psychological, or psychiatric treatment, where such treatment is:
 - (A) recommended by a qualified medical, psychological, or psychiatric professional; and
 - (B) necessary to address conditions which contributed to the Wakanyeja adjudication.

(b) Disposition orders entered by the Children's Court under subsection (a) shall not include any out-of-home placement of the Wakanyeja.

3-5-36 Disposition Orders – Review

- (a) At least once per month, the Children's Court shall conduct a hearing for the purpose of reviewing any disposition orders entered pursuant to the provisions of RSTLOC 3-5-33, and determining:
- (1) whether the Wakanyeja and the Wakanyeja parent, guardian or custodian are in compliance with those disposition orders;
 - (2) the extent to which those disposition orders have accomplished their intended purposes;

- (3) whether those disposition orders should:
 - (A) continue in effect without modification or extension;
 - (B) be terminated in accordance with the provisions of RSTLOC 3-5-36(b); or
 - (C) be modified or extended in accordance with the provisions of RSTLOC 3-5-38.
- (b) At any review hearing conducted pursuant to the provisions of this section:
 - (1) the Wakanyeja shall bear the burden of showing, by a preponderance of the evidence, compliance with any affirmative requirement set forth in the disposition orders entered by the Children's Court; and
 - (2) the Tribe shall bear the burden of showing, by a preponderance of the evidence, that the Wakanyeja or the Wakanyeja parent, guardian or custodian has engaged in any conduct prohibited by the disposition orders entered by the Children's Court.

3-5-37 Disposition Orders – Duration and Termination

- (a) Disposition orders entered by the Children's Court shall continue in force for not more than six (6) months, unless they are extended in accordance with the provisions of RSTLOC 3-5-37.
- (b) The Children's Court may terminate a disposition order prior to its expiration if it appears to the Children's 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.
- (c) The Children's Court shall enter an order terminating all disposition orders affecting the Wakanyeja, and discharging the Wakanyeja from any further obligations in connection with the truancy proceedings, upon a showing by the Wakanyeja that:
 - (1) at the end of the most recent school year, and following the Wakanyeja most recent unexcused absence, the Wakanyeja has accumulated sixty (60) days of regular school attendance without another unexcused absence;
 - (2) the Wakanyeja has graduated from high school; or
 - (3) the Wakanyeja has completed an alternative course of study resulting in the achievement of a high school diploma or the equivalent.
- (d) All disposition orders affecting the Wakanyeja shall automatically terminate, and the Wakanyeja shall be discharged from any further obligations in connection with the truancy proceedings, when the Wakanyeja reaches eighteen (18) years of age.

3-5-38 Disposition Orders – Modification or Extension

- (a) Following a modification hearing conducted upon its own motion or the motion of any party, the Children's Court may modify or extend its disposition orders if the Children's Court

finds by clear and convincing evidence that such modification or extension is necessary to accomplish the purposes of the orders to be modified.

(b) The modification hearing shall be held within ten (10) days of the filing of the motion for modification.

(c) Where the modification hearing is to be held upon the motion of the Children's Court, notice of the modification hearing shall be accompanied by a statement of the specific facts upon which the motion for modification is based.

(d) In making the determination required by subsection (a), the Children's Court may consider:

(1) the extent to which the Wakanyeja and the Wakanyeja parent, guardian or custodian have complied with any disposition orders previously entered by the Children's Court;

(2) evidence that the Wakanyeja has either maintained regular school attendance or continued to accumulate unexcused absences;

(3) changes in services or other recommendations relied upon by the Children's Court in entering the orders to be modified; and

(4) any other material changes in the circumstances of the Wakanyeja or the Wakanyeja family, parent, guardian or custodian.

(e) All modified disposition orders shall be subject to the requirements of RSTLOC 3-5-33(b) and 3-5-33(c).

(f) 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 Wakanyeja shall reach eighteen (18) years of age.

3-5-39 Disposition Orders – Violations

1. The violation of a disposition order entered pursuant to the provisions of RSTLOC 3-5-33 may be reported to the truancy personnel and the Rosebud Sioux Tribal Education Department, who may file a motion for modification pursuant to the provisions of RSTLOC 3-5-37; or

2. The Wakanyeja who has violated the disposition order may be held in contempt under RSTLOC 3-3-26 (A). Disobedience-Contempt: Any person who willfully violated or refuses to obey any Order of the Court, may be proceeded against for contempt of Court.

3. The parent, guardian, or custodian who has violated the dispositional order may be held in contempt under RSTLOC 3-3-26

**ROSEBUD SIOUX TRIBE
RESOLUTION NO. 2022-27**

- WHEREAS,** The Rosebud Sioux Tribe is a federally recognized Indian Tribe organized pursuant to the Indian Reorganization Act of 1934 and pertinent amendments thereof; and
- WHEREAS,** The Rosebud Sioux Tribe is governed by a Tribal Council made up of elected representatives who act in accordance with the powers granted to it by its Constitution and By-laws; and
- WHEREAS,** The Rosebud Sioux Tribal Council is authorized to promulgate and enforce ordinances for the maintenance of law and order, and to safeguard the peace and morals, and general welfare of the Tribe, pursuant to the Rosebud Sioux Tribe Constitution and By-Laws Article IV Sections1 (k), (m), and (q); and
- WHEREAS,** The Rosebud Sioux Tribe Constitution and By-laws Article IV, Section 1 (q) provides the Rosebud Sioux Tribal Council is authorized to provide for the protection of all minors, mentally incompetent and any others who need protection or assistance for reason of health, age or other extenuating circumstances; and
- WHEREAS,** This Rosebud Sioux Tribe is authorized, pursuant to the Constitution and By-laws of the Rosebud Sioux Tribe, Article IV, Powers of the Rosebud Sioux Tribal Council, Section 1, Subsection (k), to promulgate and enforce ordinances providing for the maintenance of law and order and the administration of justice by establishing a reservation court and defining its duties and powers; and
- WHEREAS,** The Rosebud Sioux Tribal Council has enacted Ordinance No.80-02, creating the Rosebud Sioux Tribe's Governmental Affairs Committee, to operate with participation from tribal members and communities to develop and coordinate all aspects of governmental relations of the Rosebud Sioux Tribe; and
- WHEREAS,** RST Ordinance No. 80-02, Section 7, authorizes the RST Governmental Affairs Committee to review and recommend legislation to the RST Tribal Council accompanied by a narrative with from whoever is submitting the legislation; and
- WHEREAS,** The Rosebud Sioux Tribe Governmental Affairs Committee recommends the Rosebud Sioux Tribal Council to amend the RST Tribal Law and Order Code, by adding Chapter 4, Compulsory School Attendance, and Chapter 5, Truancy, Informal and Formal Truancy Proceedings, to Title 3, and to rescind and revoke Title 5, Chapter 8, Section 3, Failure to Send Children to School, attached as Exhibit #1, and
- THEREFORE BE IT RESOLVED,** that the Rosebud Sioux Tribal Council adopts and approves the recommendation of the RST Governmental Affairs Committee and amends the Rosebud Sioux Tribe Law and Order Code by adding Chapter 4, Compulsory School Attendance, and Chapter 7, Truancy, Informal and Formal Truancy Proceedings, to Title 3, and to rescind and revoke Title 5, Chapter 8, Section 3, Failure to Send Children to School, attached as Exhibit #1, enacted as RST Ordinance No. 2022-01; and


**ROSEBUD SIOUX TRIBE
RESOLUTION NO. 2022-27**

BE IT ALSO RESOLVED, that the effective date of the amendments to the Rosebud Sioux Tribe Law and Order Code Title Three, Chapter 4 and 5, and Title 5, Chapter 8 Section 3, Rosebud Sioux Tribe Law and Order Code, shall be final upon approval by the Rosebud Sioux Tribal Council.

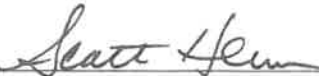
CERTIFICATION

This is to certify that the above Resolution No. 2022-27 and Ordinance 2022-01 was duly passed by the Rosebud Sioux Tribal Council for a First Reading on February 14, 2022 by a vote of sixteen (16) in favor, zero (0) opposed and zero (0) not voting. A second reading was held on April 13, 2022 by a vote of twenty (20) in favor, zero (0) opposed and zero (0) not voting. The said resolution was adopted pursuant to authority vested in the Council. A quorum was present.

ATTEST:



Nicole Marshall Secretary
Rosebud Sioux Tribe



Scott Herman, President
Rosebud Sioux Tribe