



SHINGLE SPRINGS BAND OF MIWOK INDIANS

SHINGLE SPRINGS BAND OF MIWOK INDIANS
SHINGLE SPRINGS RANCHERIA
(VERONA TRACT), CALIFORNIA
5281 HONPIE ROAD, PLACERVILLE, CA 95667
P.O. BOX 1340, SHINGLE SPRINGS, CA 95682
(530) 683-0127 OFFICE, (530) 676-6288 FAX

SHINGLE SPRINGS BAND OF MIWOK INDIANS EDUCATION CODE

Part I: GENERAL PROVISIONS

Section 1. Purpose.

The purpose of this Education Code is to require the regular attendance and good behavior at school of all tribal member school-age children living within the exterior boundaries of the Shingle Springs Band of Miwok Indians Rancheria and children who attend schools wherein the Tribe has agreements regarding truancy and discipline matters.

Section 2. Effective Date.

This Code shall take effect on the day following the date of approval of this code by the Shingle Springs Band of Miwok Indians Tribal Council.

Section 3. Interpretation.

In its interpretation and application, the provisions of this Code shall be held to be minimum requirements and shall be liberally construed in favor of the Tribe and shall not be deemed as a limitation upon, or a repeal of any other Tribal power or authority.

Section 4. Applicability.

This Code shall apply to all tribal children as described in Part 1 Section 1 and their parents or other persons having said tribal children in their care or custody or under their control.

Section 5. Jurisdiction.

- (a) Any parent, guardian of a child, or adult found in violation of this Code shall be subject to the jurisdiction of the Tribal Court.
- (b) Any child found in violation of this Code shall be subject to the jurisdiction of the Tribal Court.

Section 6. Consent to Tribal Jurisdiction.

- (a) The Tribal Court may also exercise its authority and impose penalties under this section provided that the person charged with the offense provides knowing, intentional and voluntary consent to the jurisdiction of the Tribal Court.
- (b) The Tribal Court may impose penalties on parents or guardians of Children under this Code.

Section 7. Definitions. For purposes of this Code, the following terms shall have the meanings ascribed below:

- (a) **“Absence”** means the child’s non-attendance for at least one class period or day at the particular school in which the child is enrolled.
- (b) **“Child”** or **“School Age Child”** or **“Student”** means any children enrolled in school or unmarried minor between the ages of five (5) years and eighteen (18) years; provided, however, for the purposes of this Code, a Child shall be deemed five (5) years of age only if the child reaches such age prior to September 1 of the current school year.
- (c) **“Citation”** means the notification provided by the Tribal Police to a student or guardian who is in violation of this Code. A citation that is also filed with the Tribal Court shall act as the filing of an action before the Court.
- (d) **“Wellness Board Chairperson”** means an employee designated by the Tribal Chairperson to deal with matters relating to school attendance.
- (e) **“Education Department”** means representatives from the youth tutoring program and the Tribal Development Program.
- (f) **“Excessive Absences”** means absences, both excused and unexcused, in excess of 10% of the total number of scheduled school attendance days during a school month, minus excused cultural days as approved by the Tribe.
- (g) **“Excused Absence”** means absence from school for the permitted reasons listed in section 48205 of the California Education Code.
- (h) **“Guardian”** means the natural or adoptive parent(s) having legal custody of the child, or any other adult person who has been entrusted with the care and supervision of a child and who has legal custody of the child pursuant to court order.
- (i) **“Habitual Truant”** or **“habitually truant”** or **“habitual truancy”** means a child who is truant for at least three (3) school days within a school year.
- (j) **“Legal Custody”** means the legal status created by parental rights, court order, or tribal custom, which vests in a parent or guardian the right to have physical custody of

the child, and the duties and responsibilities to provide the child with food, shelter, protection, discipline, medical care and education.

(k) **“Rancheria”** means the area within the external boundaries of the Shingle Springs Band of Miwok Indians Rancheria.

(l) **“School”** means a kindergarten through Grade twelve (12) educational institution.

(m) **“School attendance”** means physical presence of a child in school attending scheduled class or during such hours and on such days as determine by the school or, for students enrolled in alternative education programs, at the place and during hours scheduled by the school for the student, unless excused from such attendance by school policy or state law.

(n) **“Tardy”** means an unexcused absence for thirty (30) minutes or more to any class period or day at the school in which the child is enrolled.

(o) **“Tribal Court”** means the Shingle Springs Band of Miwok Indians Tribal Court.

(p) **“Tribe”** means the Shingle Springs Band of Miwok Indians.

(q) **“Truant”** or **“Truancy”** means an unexcused absence for at least one class period or day at the school in which the child is enrolled.

(r) **“Wellness Board”** means the Tribal panel designated to attempt to understand why students are having attendance and/or behavioral problems and to make every effort to assist in resolving those problems.

Section 8. Abrogation and Greater Restrictions.

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

Section 9. Severability.

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

Section 10. Sovereign Immunity.

Nothing in the provisions of this Code constitutes consent by the Shingle Springs Band of Miwok Indians or its sub-organizations to be sued in any court. This Code does not represent a waiver of the Tribe’s sovereign immunity for any purpose.

Section 11. Amendments

This Code, or any section herein, may be amended by a majority vote of the Tribal Council.

Part II: COMPULSORY SCHOOL ATTENDANCE

Section 1. School Enrollment Required.

(a) Duties of Guardian to Enroll Child.

1. Except as excused under the state compulsory attendance law, any person having under their control a school aged child shall enroll the child in school.
2. Every guardian of a school age child is responsible for the child's attendance at all required class sessions unless the child has an excused absence.

(b) Duties of Child to Attend School. Every school age child is required to attend all scheduled class sessions at the school in which the child is enrolled unless the child has an Excused Absence.

(c) Duties of Child to Comply with School Rules. Every school age child is required to comply with all rules and policies promulgated by the school in which the child is enrolled.

Section 2. Tardiness.

Students are required to be on time to each class period throughout the day. The primary responsibility for promptness lies with the student. It is the responsibility of the teacher to require the student to be punctual. The teacher will communicate with the parent/guardian to enlist the cooperation of the parent/guardian to eliminate the problem of tardiness when other measures have failed. When the teacher has exhausted all resources in attempting to change the behavior pattern of the student, the student will be referred to the principal or his/her designee for whatever action may be deemed appropriate. Such actions may include, but are not limited to, counseling, detention, parent conference, suspension and referral to the district attendance and welfare officer. Accurate records of tardiness are necessary for the implementation of further action regarding the student.

Section 3. Truancy Prohibited.

- (a) Truancy is prohibited.
- (b) It shall be unlawful for any person to cause, assist or enable a child to be truant.
- (c) Upon a student's third truancy in a school year, the student will be declared habitually truant.

Section 4. Exceptions.

- (a) A person is excluded from the duties prescribed by Part 2 Section 1 of this Code when it is shown to the satisfaction of the Wellness Board and/or the Tribal Court Judge that:

1. The child is attending a regularly organized private or parochial school;
2. The child has obtained a high school diploma or equivalency certificate (i.e., G.E.D.);
3. The child has been barred from school attendance by a school disciplinary action, provided the child is at all times in the immediate supervision of his/her guardian;
4. The guardian of the child has presented reasons for non-attendance which are satisfactory to the Social Services Department and the Tribal Court Judge; or
5. The guardian of a five-year-old child has presented satisfactory evidence that it would not be in the best interest of the child to enroll the child at age five (5).
6. The person is specifically exempted by law from the provisions of this section;
7. The child is at least fourteen (14) years of age and has been excused from the local school board or its authorized representative upon a finding that the child will be employed in a gainful trade or occupation or engaged in an alternative form of education sufficient for the child's educational needs and the person having legal custody and control of the child consents;
8. The child is judged, based on standards and procedures adopted by the California State Board of Education, to be unable to benefit from instruction because of learning disabilities or mental, physical or emotional conditions.
9. The child has been issued a Certificate of Employment by the superintendent of schools of the school district in which the student is a resident or is employed. The Certificate of Employment shall only be issued upon satisfactory assurance to the superintendent of schools that the student will be definitely employed in a gainful trade or occupation.
 - a. Contents of Certificate. The Certificate of Employment shall contain the following information:
 - i. The name, age and residence of the child excused from full-time school attendance;
 - ii. By whom the child is to be employed or is employed;
 - iii. The last class/grade attended by the child; and
 - iv. A statement that the child is excused from full-time school attendance until the certificate is revoked.
 - b. Expiration of Certificate. If and when the Certificate of Employment is revoked or expires and the child is still under eighteen (18) years of age, then the compulsory school attendance laws in this Code will be reapplied to that child.

(b) Religious and/or Cultural Instruction. Any child may be excused from school to participate in religious and/or cultural activities with the written consent of the child's guardian.

(c) Process for Obtaining Exception.

1. A person wishing to be excepted from the duties set forth in this Code shall obtain an Education Exception Form from the Education Department. After filling out the form, the person shall sign the form and submit it to the Wellness Board Chairperson.
2. The Wellness Board shall then determine whether an exception is to be granted, based on the information provided in the Education Exception Form. If the Wellness Board needs more information to make a determination, it may request such information as necessary.
3. In the event that the Wellness Board is unable to make a determination regarding whether an exception should be granted, the Wellness Board may request a hearing before the Tribal Court Judge to determine whether an exception should be granted.

Part III: ENFORCEMENT

Section 1. Responsibility for Enforcement.

(a) Wellness Board Chair. The Tribal Chairperson shall designate a Wellness Board Chairperson whose primary responsibilities shall include enforcement of the provisions of this Code.

(b) Public Responsibility to Report. Anyone who has reason to believe a child is truant or is otherwise in violation of this Code shall immediately notify the Shingle Springs Tribal Police Department of the child's possible truancy or violation of this Code, the whereabouts of the child and the child's name and address, if known.

Section 2. Locating and Detaining Children.

(a) Locating Child. When the Tribal Police have been notified that a child may be truant or in violation of this Code, or have other reasons to believe a child may be truant or is in violation of this Code, the police shall make every reasonable attempt to locate the child.

(b) Detaining Child. If, after locating the child, the Tribal Police have reasonable grounds to believe the child is truant or has broken school rules, the police shall detain the child and make every reasonable attempt to notify the child's guardian.

Section 3. Procedure.

To initiate enforcement of the provisions of the this Code, the Tribal Police shall cite the child and give written notice by certified mail to or by personal service on the guardian of the child subject to the provisions of this Code. Any person continuing to violate the provisions of this Code after receiving written notice as provided by this section shall be reported to the Tribal Court and shall be considered to be a neglected child or a child in need of supervision and thus subject to the provisions of this Code.

Section 4. Disciplinary Process.

(a) The Tribal Police shall give a student a verbal and/or written warning upon his or her first and second truancy and/or unexcused absence.

(b) Once a student has accumulated three (3) truanancies or unexcused absences in a school year, the student will be declared a habitual truant and each incident of truancy may constitute a separate offense. Upon a student's third truancy, the Tribal Police will begin the process for a disciplinary citation by documenting the steps set forth below.

(c) The Tribal Police must document the following steps before the Tribal Court hears a disciplinary citation:

1. First Incident. The Tribal Police shall give verbal warning, shall cite the child under this Code and shall send a letter to the child's guardian.
2. Second Incident. The Tribal Police shall give a verbal warning, cite the child under this Code and shall provide the Wellness Board Chairperson with a copy of the citation. The Wellness Board Chairperson shall schedule a meeting between the child, the parent and the Wellness Board. The Wellness Board Chairperson shall notify the parent and child of this meeting through written notice by certified mail to or by personal service on the guardian of the child. The Wellness Board will follow the procedures outlined below in Part 3 Section 5 of this Code.
3. Third Incident. The Tribal Police shall give the child a verbal warning and issue a citation to the Tribal Court. A checklist documenting evaluation of the steps required in this Code must be submitted to the court upon citation. Once the citation is submitted to Tribal Court, the child's guardian(s) shall be summoned in accordance with the Shingle Springs Tribal Court Ordinance and Rules of Court. If summoned to Tribal Court, appearance is mandatory by both the child and the guardian.

(d) The Wellness Board shall be composed as outlined in the Tribal Court Ordinance.

Section 5. Failure to Enforce.

Any person failing his responsibility for initiating enforcement of this Code is guilty of neglect and may be fined under Part V of this Code.

Section 6. Neglect by Parent, Guardian or Custodian.

After receiving notice, any guardian of a child continuing to violate the provisions of this Code is guilty of neglect if the guardian, by act or omission, caused the continuing violation.

Part IV: TRIBAL COURT DISPOSITION

Section 1. Informal Settlement.

This code governs any case in which a citation is filed in Tribal Court alleging violation of this Code. The Tribal Court judge may, in his/her discretion, allow the child and the guardian to make an informal settlement if they enroll the child in school and sign a written agreement guaranteeing school attendance. If the Judge decides that an informal resolution of the case would not be in the best interest of the child, the Judge may transfer the case against the guardian to a criminal prosecution under this Code, and/or proceed with child in need of control proceedings, or the Judge may pursue any other alternative for which the Tribal Codes and ordinances provide.

Section 2. Conditions Imposed as Part of Informal Settlement.

The Tribal Court Judge may impose upon any child and/or guardian making an informal settlement any reasonable conditions, including, but not limited to, counseling, community service, confinement, fines and/or work with schools to make alternative school placement.

Part V: PENALTIES

Section 1. Adult Penalties.

Any guardian or other adult who violates any provision of this Code is guilty of a misdemeanor and is subject to the punishment provided below:

(a) Any guardian of a school age child who fails to enroll the child in school, who knowingly permits the child to be truant and/or who knowingly permits a child to break school rules may, if found to violate this Code, be ordered to perform not more than one hundred (100) hours of community service, or be fined an amount not to exceed one thousand dollars (\$1,000.00), or any combination of the above. In addition, the Tribal Court may order parenting classes and/or family counseling.

(b) Any adult who encourages or in any way aids or abets a school age child to be truant from school and/or to break school rules shall be charged with “contributing to the delinquency of a minor” and, if convicted shall be ordered to perform not more than fifty

(50) hours of community service, or be fined an amount not less than thirty-five dollars (\$35.00), but not to exceed five hundred dollars (\$500.00), or any combination of the above.

(c) Exclusion and Removal of Non-Indians. In any case in which a non-Indian parent or guardian is found by the Tribal Court to have violated this Code, such person shall be ordered to perform not more than one hundred (100) hours of community service, or be fined an amount not to exceed one thousand dollars (\$1,000.00), or any combination of the above, and/or excluded and/or removed from the Shingle Springs Rancheria, pursuant to the Tribal Peace and Protection Code.

Section 2. Children's Penalties.

(a) Any child who violates the provisions of this Code is a child in need of control and supervision and is subject to any disposition provided for such child by the Tribal Court, including but not limited to community service, fines, suspension of clothing allowance, travel and/or other privileges, and restriction of participation in community activities . The Tribal Court Judge has discretion in determining what penalties are most appropriate for each child who is brought before the Court.

(b) Any child who violates the provisions of this Code and is declared a habitual truant shall be subject to a minimum penalty of community services hours equal to the number of school hours truant, with a maximum civil money penalty of \$25.00 and/or seven (7) community service hours per incident of truancy.

(c) Any child who violates the provisions of this Code by aiding a child's truancy and/or assisting a child in breaking school rules shall be subject to a penalty of not more than \$50.00.

Section 3. Other Penalties.

(a) In addition to the imposition of civil forfeitures and community service hours for violations of this Code, the Tribal Court may impose other remedies, including but not limited to: alcohol assessment and counseling, home detention, limitations on the use of public facilities within the exterior boundaries of the Shingle Springs Rancheria, suspension of travel privileges, clothing allowance and participation in Tribal cultural activities.

(b) If the Wellness Board and/or Tribal Court determines a child is habitually truant or in repeated violation of this Code, the court may order the Social Services Department to initiate an in-depth investigation into the child's background and report to Tribal Court on findings or any case plan that is developed

Part VI: RECORDS

Section 1. Repeat Violations.

In any case in which the Tribal Court Judge finds probable cause to believe that repeated violations of this Code have occurred, and that these violations pose a danger to the health, safety, or well-being of the child, the Judge may order that the school provide the Court with a sealed copy of the child's school discipline and attendance records. These records shall remain sealed and confidential except for disclosure to the Judge, the Tribal Attorney, the child, the guardian and their legal representative. These records shall not be disclosed to other persons for any reason. Upon termination of Tribal Court jurisdiction, these records shall be returned to the school.

Section 2. School Information Provided to Tribal Education Department.

Every school shall, within thirty (30) days of the beginning of each semester, provide the Tribal Education Department and the Wellness Board with all directory information regarding its students including rosters, absentee lists, and withdrawal lists, without requiring the consent of the guardians.

CERTIFICATION

As a duly-elected official of the Shingle Springs Band of Miwok Indians, I do hereby certify that, at a meeting duly called, noticed, and convened on the 30th day of January, 2014 at which time a quorum of 5 was present, this policy was duly adopted by a vote of 5 FOR, 0 AGAINST, 0 ABSTAINED, and said policy has not been rescinded or amended in any form.


Tribal Council Chairperson

January 30, 2014
Date

ATTEST


Tribal Council Secretary

January 30, 2014
Date



SHINGLE SPRINGS BAND OF MIWOK INDIANS

Shingle Springs Rancheria, (Verona) Tract, California
5281 Honpie Road, Placerville CA 95667
P.O. Box 1340, Shingle Springs CA 95682
(530) 676-8010 Office; (530) 676-8033 Fax

RESOLUTION 2014-08

SUBJECT: APPROVAL OF AMENDMENTS TO THE SHINGLE SPRINGS BAND OF MIWOK INDIANS EDUCATION CODE.

WHEREAS, the Shingle Springs Band of Miwok Indians (the "Tribe") is a federally recognized Indian tribe eligible for the special programs and services provided by the United States to Indians because of their status as Indians and is recognized as possessing powers of self-government; and

WHEREAS, the Shingle Springs Tribal Council is the duly-elected governing body of the Tribe and is authorized to act on behalf of the Tribe; and

WHEREAS, the Tribe adopted the Education Code ("Code"), on September 14, 2013, to ensure the regular attendance and good behavior at school of all Tribal member school-age children; and

WHEREAS, the Tribe desires to amend the Code in order to give the Wellness Board Chairperson and Tribal Police responsibility to enforce the provisions of the Code; and

WHEREAS, the Tribal Council has reviewed the amended "Shingle Springs Band of Miwok Indians Education Code," a copy of which is attached, and has found it consistent with the Tribe's goals to ensure regular attendance at school.

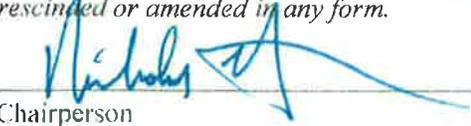
NOW THEREFORE, BE IT RESOLVED that the Tribal Council hereby enacts and adopts the attached amended "Shingle Springs Band of Miwok Indians Education Code," as a code of the Tribe, and authorizes the Chairman or his designee to execute any and all documents and agreements necessary as may be required to give effect to the transactions, herein contemplated, and to take such other actions as may hereby be necessary and appropriate to carry out the obligations there under; and

BE IT FURTHER RESOLVED, that this Education Code supersedes and replaces all previous codes, ordinances or resolutions in conflict with this one; and

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately.

CERTIFICATION

As a duly-elected official of the Shingle Springs Band of Miwok Indians, I do hereby certify that, at a meeting duly called, noticed, and convened on the 30th day of January, 2014 at which time a quorum of 5 was present, this resolution was duly adopted by a vote of 5 FOR, 0 AGAINST, 0 ABSTAINED, and said resolution has not been rescinded or amended in any form.


Chairperson

January 30, 2014
Date

ATTEST:


Secretary

January 30, 2014
Date