

**Bad River Tribal Court Code**  
**Section 3 - Chapter 135 - Truancy**

**Section 135.1 - General Provisions**

- A. Purpose. The purpose of this code is to require the regular attendance at school of all school-age children living on the Bad River Reservation and all tribal children living off the reservation attending school within the Bad River Reservation or Ashland School District.
- B. Authority. This code is enacted pursuant to Article VI, Section 1(q) of the Bad River Tribal Constitution.
- C. Effective Date. This code shall take effect on the day following the date of approval of this code by the Bad River Tribal Council.
- D. 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. The Tribe by the adoption of this Code does not waive its sovereign immunity in any respect.
- E. 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.
- F. Applicability. This code shall apply to all tribal children living on the Bad River Reservation and their parents or other persons having said tribal children in their care or custody or under their control.
- G. Consent to Tribal Jurisdiction. The Bad River Tribal Court may also exercise its authority and impose penalties under this section where the provisions of subsection F. do not apply provided that the person charged with the offense consents to the jurisdiction of the Tribal Court. Consent must be knowing, intentional and voluntary. This section shall apply only to:
1. Non-tribal children living on the Bad River Reservation and their parents or other persons having said children in their care or custody or under their control; and
  2. Tribal children attending school within the Bad River Reservation or Ashland School District living off the Bad River Reservation and their parents or other persons having said tribal children in their care or custody or under their control.

## **Section 135.2 - Definitions**

For the purpose of this code, the following terms shall have the meaning ascribed below:

- A. "Adult" means any person 18 years of age or older who is not enrolled in the Ashland School System.
- B. "Child" means any person who is less than 18 years of age, or any person who is less than 19 years of age if attending the Bad River Tribal School, the Lac Courte Oreilles Tribal School or Ashland School District.
- D. "Member" means a person enrolled in the Bad River Tribe.
- E. "Reservation" means the area within the external boundaries of the Bad River Reservation.
- F. "School" means the Bad River Tribal School, the Lac Courte Oreilles Tribal School or a school in the Ashland Public School District.
- G. "School Attendance" means physical presence of a child in school, and includes attending scheduled classes during such hours and on such days as determined by the school or, for students enrolled in Alternative Education Programs, attendance at the place and during hours scheduled by the school for the student, unless excused from such attendance by school policy or state law.
- H. "School Attendance Officer" means an employee designated by a school board under the Bad River Tribal Constitution, Lac Courte Oreilles Tribal Constitution or Wis. Stat. sec. 118.16 to deal with matters relating to school attendance and truancy.
- I. "School Attendance Policy" means the current policy for school attendance duly adopted by the appropriate school board.
- J. "Tribal Child" means a child who is either (a) an enrolled member of the Tribe; or (b) eligible for enrollment in the Tribe.
- K. "Tribal Court" means the Bad River Tribal Court.
- L. "Truancy" means any absence of part or all of one or more days from school during which the school attendance officer, or his agent, has not been notified of the legal cause of such absence by the person having the absent pupil under his or her control during non-school hours. "Truancy" also means intermittent attendance carried on for the purpose of defeating the intent of the tribe's and state's attendance laws (Bad River Truancy Code section 135.3 and Wis. Stat. sec. 118.15).

M. "Habitual Truancy" means truant for five (5) days within ten (10) school days or ten (10) trancies within any ninety (90) school day period within a school year.

N. "Student" means one who attends school in the Bad River Tribal School, Lac Courte Oreilles Tribal School or Ashland School District.

O. "Tribe" means the Bad River Band of Lake Superior Chippewa.

### **Section 135.3 - Compulsory School Attendance**

A. School Enrollment Required. Except as excused under a school policy governing school attendance or the state compulsory attendance law (Wis. Stat. sec. 118.15), any person having under their control a school aged child shall enroll the child in school.

B. Requirement to Attend School. Except as excused under a school policy governing school attendance or the state compulsory attendance law (Wis. Stat. sec. 118.15), any person having under their control a child (as defined in section 135.2) age 6 or older shall cause the child to attend the school in which the child is or should be enrolled.

C. Truancy Prohibited

1. Truancy is prohibited.

2. It shall be unlawful for any person to cause, assist, or enable a child to be truant.

### **Section 135.4 - Enforcement and Penalties**

A. The school attendance officer may contact the Home-School Coordinator, Indian Child Welfare Worker, or other appropriate party to assist in the enforcement of the provisions of this code.

B. The school must document the following steps before the Tribal Court hears a truancy petition:

1. First Incident: The School Attendance Officer shall give verbal warning and send a letter to the parent/legal guardian/legal custodian and to the mentor (if appropriate).

2. Second Incident: The School Attendance Officer is to contact the Home-School Coordinator, Indian Child Welfare Worker or other appropriate party to set up and document a meeting with the child and parent/legal guardian/legal custodian. The purpose of the meeting shall be to identify and resolve behaviors that are in violation of the provisions of this code through an appropriate plan of action, which shall be agreed to and signed by all parties involved. The following steps shall be required in developing the action plan:

- a. Provide an opportunity for educational counseling to the child to determine whether a change in the child's curriculum would resolve the child's truancy and have considered curriculum modification.
  - b. Evaluate the child's curriculum to determine whether learning problems may be a cause of the child's truancy and, if so, take appropriate action or make appropriate referrals.
  - c. Conduct an evaluation to determine whether social problems may be the cause of the child's truancy and, if so, take appropriate action or make appropriate referrals.
  - d. A copy of the plan of action shall be given to the parent/guardian and the principal of the child. Included in the action plan shall be a schedule for consistent, timely review to evaluate and monitor the effectiveness of said plan.
3. Third Incident: Refer to Tribal Court. A checklist documenting evaluation of the steps required in section must be submitted to the court upon referral. Once referred to Tribal Court, the child's parent(s)/legal guardian(s)/legal custodian(s) shall be summoned in accordance with Bad River Tribal Court Code. If summoned to Tribal Court, appearance is mandatory by both the child and the parent/legal guardian/legal custodian.
  4. The designated school official or their agent may issue citations to any child who violates the Bad River Truancy Code, to appear in the Tribal Court.
  5. Each incident of truancy may constitute a separate offense.

### **Section 135.5 - Penalties**

- A. A child or adult who violates this Chapter shall be subject to the following:
  1. Any child convicted of truancy under section 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.
  2. Any child who is convicted of aiding a child's truancy shall be subject to a penalty of not more than \$50.00.
  3. Any adult who is convicted of aiding a child's truancy shall be subject to a penalty not less than \$35.00, but not to exceed \$500.00.
  4. In addition to the imposition of civil forfeitures and community service hours for violations of this chapter, 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 Bad River Reservation.

B. If the Tribal court determines a child is habitually truant, the court may order the Indian Child Welfare Department and/or Human Service Agencies to initiate an in-depth investigation into the child's background to determine if a child-in-need-of-care petition should be filed.

C. Nothing herein shall prohibit the referral of a tribal child to the Child Welfare office for the filing of a child welfare petition under Chapter 125 of the Bad River Code of Laws. A child welfare petition may be filed regarding any tribal child who has been truant for five (5) days or more in any three (3) month period.

D. The Tribal Court shall have jurisdiction over cases brought to enforce this code. Proceedings shall be conducted in accordance with the Bad River Tribal Court Code.