

**BISHOP PAIUTE TRIBE**

**Bishop Paiute Reservation**

**Bishop, California**

**REQUIRED SCHOOL ATTENDANCE (TRUANCY)**

**ORDINANCE NO. 2009-04**

**Adopted: June 24, 2009**

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**Findings; Declaration of Policy**

The Bishop Paiute Tribal Council (Council), as the recognized governing body of the Bishop Paiute Tribe, after careful study, review and communication with tribal members, have determined that the Bishop Paiute Tribal community, as a whole suffers when a minor student is not attending school as required.

Truancy or unexcused absenteeism from school results in a loss of educational opportunities to the student and a loss of revenue to the school. Truancy also often leads to vandalism, petty theft, daytime burglaries, and other criminal activity. Truants often tend to loiter in and about public places. Frequently, persons going about their lawful business, as well as public property, become the targets of the delinquent behaviors of the truants.

State law requires all persons between the ages of six and seventeen to attend school. Regular school attendance provides important benefits not only to the students themselves but also to the health, safety, and welfare of all residents within the city. Regular school attendance promotes employability upon graduation and reduces delinquency, as well as the potential for future dependence upon public assistance.

It is the intent of the Council by this ordinance to establish and enforce a curfew upon minors of school age on school days during the hours between 9:00 a.m. and 2:00 p.m., and during all other times when students are supposed to be in school.

101. General Provisions. It shall be unlawful for any minor under the age of eighteen (18) years, who is subject to compulsory full-time education or to compulsory continuation education, to loiter, idle, wander or to aimlessly remain without any visible purpose, reason or explanation for such conduct, to be in or upon any public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public places and public buildings, places of amusement or entertainment, or vacant public lots on the Bishop Paiute Reservation, Bishop, California, between the hours of 9:00 a.m. and 2:00 p.m. and/or during all other times when students are supposed to be in school, on days when school is in session, as defined herein. This Section shall also apply to minors whose school enrollment is that of suspension, expulsion, or transfers in progress.

102. Definitions. For the purposes of this Section, the following words and phrases shall be construed as set forth in this Section, unless it is apparent from the context that a different meaning is intended:

A. "Absent from school" shall mean being found away from their school facility, home school location, or private school facility between the hours of 9:00 a.m. and 2:00 p.m. on days when the local public school is in session, and during all other times when students are supposed to be in school, on days when their public or private school is in session.

B. "Compulsory education or compulsory continuing education" shall have the meaning set forth in California Education Code Sections 48200, *et seq.*

C. "Minor" shall mean any person the ages of six (6) through seventeen (17) years of age, inclusive.

D. "Emergency" means an unforeseen combination of circumstances or the resulting state calls for immediate action. The term includes, but is not limited to the following: a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

E. "Guardian" means:

- a. A person who, under court order, is the guardian of the person of minor, or
- b. An authorized representative of a public or private agency with whom the minor has been placed by court order; or
- c. A person at least eighteen (18) years of age exercising care and custody of the minor and having written authorization to do so from the child's parent or legal guardian.

F. "Parent" means a person who is a natural parent, adoptive parent, or step-parent of a minor, who has the right of legal custody.

G. "Public place" means any place to which the public or substantial group of the public have access including, but not limited to, streets, highways, parks, playgrounds, and common areas of schools, hospitals, apartment houses, office buildings, transport facilities, theaters, game rooms, stores, shops, shopping malls, or any other public place of business on the Bishop Paiute Reservation.

H. "Street" means any way or place, of whatever nature, open to the use of the public as a matter of right for the purpose of vehicular travel or in the case of a sidewalk thereof for pedestrian travel. The term "street" includes the legal right-of-way including, but not limited to, the traffic lanes, curbs, sidewalk, whether paved or unpaved, and any grass plots or other grounds found within the legal right-of-way is formally named or called, whether alley, avenue, court, road, or otherwise, on the Bishop Paiute Reservation.

103. Exceptions. Section 101 shall not apply if a minor has one of the following circumstances:

A. The minor is going directly to or returning directly from an event or activity sponsored, sanctioned, or arranged by his or her school or Bishop Paiute Tribe in which the minor is authorized to participate, or the minor is otherwise under the supervision of school personnel.

B. The minor is absent in connection with or required by school-approved or school-related business, trade, profession, occupation or program in which the minor is lawfully engaged, such as a work study or work experience program, subject to verification by a proper school authority or the Bishop Paiute Tribe.

C. The minor has written permission from the school or the school district, or a Bishop Paiute Tribal official, to be absent from a school campus, and has in his or her possession a valid, dated, school-issued off-campus permit.

D. The minor is traveling directly to or from a medical appointment or that of the minor's dependent child, provided the minor has possession of a written, dated verification of the medical appointment.

E. The minor's own illness.

F. The minor is subject to lawful quarantine order.

G. The minor is authorized to be absent pursuant to the provisions of California Education Code Section 48205(a), or any other applicable State or Federal Law.

H. The minor is on an emergency errand on behalf of his or her parent, or on behalf of a responsible adult for a specific purpose or on behalf of school authorities for a school-related purpose and the errand involves no detour or stops along the way.

I. The minor is on the sidewalk or street outside the place where the minor resides.

J. The minor is engaged in a speech or religious rights activity protected by the United States or California Constitution or the laws, customs and practices of the Bishop Paiute Tribe, such as the free exercise of religion, freedom of speech, and the right to peaceful assembly.

K. The minor is on his or her authorized lunch period.

L. The minor is on a specialized school schedule.

M. The minor is married or emancipated in accordance with California Family Code Sections 7000, *et seq.*

N. The minor is going to, participating in, or returning from a visit to a college or university for purposes of determining which college or university to attend, or is attending such college or University as an enrolled student.

O. The minor is home schooled under a private school instruction affidavit in accordance with Education Code Section 33190.

104. Penalties. The violation by a minor of any of the provisions of this section shall be deemed an infraction. A minor in violation of this section, and his/her parent or guardian, shall be subject to the following penalties:

A. Upon a minor's first violation of this section, the issuance of a citation by a duly authorized tribal official advising the minor and parent or guardian of the opportunity to clear the violation without further proceedings by paying in court a penalty sanction in the amount of twenty-five dollars (\$25.00), plus court costs, if any, and assessments, and/or by successfully performing by the minor twelve (12) hours of supervised community service during non-school hours, as approved by the court.

B. Upon a minor's second violation of this section occurring within a twelve (12) month period, the issuance of a citation by a duly authorized tribal official advising the minor and parent or guardian of the opportunity to clear the violation without further proceedings by paying in court a penalty sanction in the amount of fifty dollars (\$50.00), plus court costs, if any, and assessments, and/or by successfully performing by the minor twenty- four (24) hours of supervised community service during non-school hours, as approved by the court.

C. Upon any third or subsequent violation of this section occurring within a twelve (12) month period, the issuance of a citation by a duly authorized tribal official advising the minor and parent or guardian of the opportunity to clear the violation without further proceedings by paying in court a penalty sanction in the amount of seventy-five dollars (\$75.00), plus court costs, if any, and assessments, and/or by successfully performing by the minor thirty-six (36) hours of supervised community service during non-school hours, as approved by the court.

105. Enforcement Action.

A. Before taking enforcement under this section, a duly authorized tribal official shall inquire of the minor as to his or her age and reason for being out in a public place during school hours. No citation shall be issued if the officer is reasonably satisfied that the minor is in a public place during school hours for one of the exceptions provided herein. If the officer is not reasonably satisfied that such is the case, then a citation may be issued. All citations shall be filed with the Tribal Court. A hearing date shall be set as soon as possible, provided that the minor and parent or guardian are provided 10 days notice of the hearing, prior to the hearing. Service of all notices shall be as provided under section 106.

B. All citations served on a minor are also to be served on the parent or guardian, naming the parent or guardian as well as the minor.

C. A served parent or guardian shall attend all court hearings with the minor.

D. All penalty sanctions not paid by the minor are the responsibility of the parent or guardian to pay. [n the event that the parent or guardian fail to pay the sanctions as ordered by the court. at the discretion of the Tribal Court, the following additional remedies may be pursued:

- (1) Suspension of selective Tribal services identified and limited to DMV exemptions, enrollment card verification, and sales tax certification being provided to the individual who is the subject matter of the Tribal Courts orders/judgments as within the discretion of the Tribal Court.
- (2) Suspension of eligibility to receive Tribal per capita and State of California Special distributions payments and the use of such per capita payments as directed by the Tribal Council to satisfy any and all outstanding orders or judgments of the Tribal Court.

Once the individual who is the subject matter of the Tribal Court's orders/judgments is in compliance with the appropriate Tribal Court order/judgment, the Court will order that any and all of the above remedies as set out shall no longer be in effect and the individual will be reinstated if then eligible for either Tribal services, Tribal programs or Tribal per capita payments.

106. Service of Documents. All service of documents as authorized under this ordinance shall be served in any of the following ways:

- (A) By personal service thereof on the person determined responsible for the violation or on an individual (age 18 or more) at the usual place of residence of the individual to be served. A copy of the citation signed by the person shall suffice as proof of service.
- (B) By mailing the notice by certified mail, return receipt requested, to the responsible person at his or her last known address.
- (C) By posting the notice in a conspicuous place on the offending property; provided however that service by posting shall only be used when the authorized official cannot determine the last known address of the person.

107. Effective Date. This ordinance shall become effective on 24 . JUN 2009 2009, and shall remain in effect until repealed.

108. Tribal Court Ordinance. This ordinance when effective shall be subject to the Bishop Paiute Tribal Court Ordinance No. 2003-3.

### CERTIFICATION

The foregoing Ordinance was passed at a duly called meeting of the Bishop Tribal Council held on the 24<sup>th</sup> day of June. 2009, with a quorum present and voting 4 AYES, 0 NA YS, 0 ABSTAINING, and 0 ABSENT, Chairman not voting.

c.  
**BISHOP TRIBAL COUNCIL:**

ATTEST:

/s/ MBengochia  
Tribal Chairman

/s/ Jasmine Andreas

Date: 24 . JUN 2009

Date: 24 Jun 2009