

**Title XXXV
(35)**

EDUCATION CODE

**Amends the
Standing Rock Sioux Tribal Code of Justice**



**Ordinance No. 314-10
Resolution No. 531-12**

**Adopted Approved
(All New Title)
November 13, 2012
By
Standing Rock Sioux Tribal Council**

TITLE XXXV

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I General Provisions

35-101: Title

This Title shall be known as the “Education Code of the Standing Rock Sioux Tribe” and may be cited to as the “Tribal Education Code.”

35-102: Authority and Responsibility

- (a) **Inherent Authority over Formal Education.** The Standing Rock Sioux Tribe is a people with a distinct political, economic, and cultural heritage. As part of that heritage, the Tribe possesses and exercises inherent sovereign immunity, including in furtherance of realizing its goal of self-determination in Tribal education. As such, the Standing Rock Sioux Tribal Government has the power and duty to exercise its inherent authority over formal education on the Standing Rock Sioux Reservation by enacting and implementing this Title, made applicable to all local schools, preschool programs, and Sitting Bull College within the exterior boundaries of the Reservation to the fullest extent allowable by law. Further, that all standards and policies adopted by the Tribe or its entities under this Title shall equal or exceed applicable state or federal standards, while serving to promote the traditional values of the Standing Rock Sioux Tribe. In addition to this Title, and to the extent they do not conflict with the provisions of this Title, all other applicable laws and ordinances of the Standing Rock Sioux Tribe shall apply in the operation of such schools and institutions to the fullest extent allowable by law.
- (b) **Other Rights and Powers not Abrogated by Authority over Formal Education.** In exercising its authority over formal education on the Reservation, the Tribe does not sanction, intend or cause any abrogation of the rights of the Tribe or its members based upon federal law or the Tribe’s inherent sovereign powers, nor does it diminish any trust responsibility of the federal government, including those obligations as set forth in the treaty of Fort Laramie of 1868, nor of any state government or political subdivision thereof, including the obligation to provide a formal education.

35-103: Intent and Purpose, and Declaration of Policy

- (a) **Intent and Purpose:** It is the intent and purpose of this Title to accomplish the following:
 - (1) **Preserve, protect, and perpetuate the Tribe.** Provide the necessary resources to preserve, protect, and perpetuate the Standing Rock Sioux

Tribes by and through education of its tribal members and preservation of its natural resources.

- (2) **Promote educational understanding and coordination.** Provide a means to promote understanding and coordination of the purposes, standards, and functions of education on the Reservation.
- (3) **Make education a relevant experience for life.** Make education on the Reservation a relevant experience and prepare Tribal members for life on and off the Reservation.

(b) **Declaration of Policy.** It is hereby declared to be the policy of the Tribe:

- (1) **The most valuable resources of the Standing Rock Sioux Tribe are its Tribal members and natural resources.** In order to empower the Standing Rock Oyate to sustain and perpetuate all human and natural resources, the Tribal government must be cognizant of and responsive to all educational endeavors.
- (2) **Education must be of sufficient quality, appropriate for, and relevant to the Standing Rock Oyate.** The Standing Rock Oyate shall be empowered with academic excellence, and entitled to a formal education which, as part of all adopted curricula, shall include the study of and emphasis in the Dakota/Lakota language and culture.
- (3) **Education shall empower students to perpetuate the Tribe.** Curriculum, education standards, and policies and programs as adopted and implemented pursuant to this Title shall help prepare students to assume their responsibilities to perpetuate the Tribe, its resources and its culture.
- (4) **Tribal government shall work collaboratively with state and federal governments and other organizations to improve education.** The Tribal government shall develop collaborative working relationships with state and federal governments and other appropriate organizations to improve the availability and implementation of educational services, programs and initiatives to the Standing Rock Oyate.
- (5) **Attendance is crucial to ensure students are being educated as intended by this Title.** It is the policy of the Tribe that a child's school attendance is crucial for academic success and necessary to ensure the Standing Rock Oyate will be empowered with the wisdom and knowledge to thrive in two worlds.

35-104: Definitions

Unless this Title otherwise indicates, the following definitions apply herein:

- (a) **Alcohol, nicotine and/or tobacco, and drugs.** “Alcohol, nicotine and/or tobacco, and drugs” means any substance which may alter the sensorium, including: alcoholic drinks; nicotine; tobacco and tobacco related products; drugs regulated, prohibited or controlled under federal or Tribal law; and other substances which may result in temporary or permanent loss or diminution in judgment, perception or coordination.
- (b) **College.** “College” means Sitting Bull College.
- (c) **Compulsory School Age.** “Compulsory school age” shall mean a child who is not younger than five (5) years by the first day of September, but who has not yet reached his or her eighteenth (18th) birthday.
- (d) **Culture.** “Culture” means shared patterns of human behavior adopted by a group of humans in order to survive as a people, including (1) interpersonal and kinship relationships with all living beings; (2) spiritual relationships; (3) values, assumptions, rules and attitudes; (4) language; (5) social and individual development processes; and (6) acquisition and use of knowledge.
- (e) **Curriculum.** “Curriculum” or “curricula” means any courses of study with outlined content provided and prescribed for students.
- (f) **Director.** “Director” means the Director of the Tribal Department of Education.
- (g) **Education Data.** “Education data” or “data” includes information regarding: demographics, attendance, enrollment, graduation rates, language, culture, academics, behavior, parent and community involvement, annual accreditation, annual operating budgets, facilities and other significant activities which have an impact on education.
- (h) **Educational Policies and Programs.** “Educational policies and programs” include policies or programs - other than curriculum - which develop strong student or parental knowledge of, skills in, or involvement with schools, their students and their curricula.
- (i) **Educators.** “Educators” include: teachers, faculty, Eminent Scholars, administrators, counselors and other professional staff of local schools, pre-schools and the College.

- (j) **Eminent Scholar.** “Eminent Scholar” means an individual who is certified by the Tribe and either the State of North Dakota or the State of South Dakota as having a knowledge base of Dakota/Lakota language and culture. As such certification is considered equivalent to a teaching degree, an individual who has attained Eminent Scholar status is a licensed teacher.
- (k) **Formal Education.** “Formal education” or “education” means the official act or process of imparting or acquiring general knowledge, developing the powers of reasoning and judgment, and preparing oneself or others intellectually for adult life and for a trade or profession.
- (l) **Governing Body.** “Governing body” is the authorized, elected governing body of a school responsible for educational leadership and which is empowered to act in an authoritative and policy-making capacity consistent with applicable Tribal, state and federal law.
- (m) **Health, Education, Welfare (H.E.W.) Committee.** “Health, Education, Welfare Committee” or “H.E.W. Committee” means the Health, Education and Welfare Committee of the Standing Rock Sioux Tribal Council as established under Title XIX of the Standing Rock Sioux Tribal Code of Justice.
- (n) **Home Education.** “Home education” means a program of education supervised by a child’s parent or legal guardian in the child’s home.
- (o) **Local Regulatory Responsibility.** “Local regulatory responsibility” means the responsibility of schools boards and the governing bodies of pre-schools and the College which are in direct charge of the operation of local schools, pre-schools and the College, subject to the authority of H.E.W. Committee and the Tribal Council pursuant to this Title.
- (p) **Local School.** “Local school” is any school located on the Reservation – including public, BIE, Tribally Controlled, private and parochial - offering instruction for grades in a range spanning from kindergarten through grade twelve (12), or any part of that range, to which this Title applies.
- (q) **Parent.** “Parent” means anyone who is a parent or legal guardian of a student.
- (r) **Parenting and Family Life.** “Parenting and family life” includes: family responsibilities, child growth and development, child birth and child care, prenatal and postnatal care for infants and mothers, prevention of child abuse, and related topics.
- (s) **Parochial School.** “Parochial school” means a school run by and/or is affiliated with a religious organization, and provides children with religious instruction as well as a general education.

- (t) **Policies and Procedures Regarding School Governance.** “Policies and procedures regarding school governance” shall include education policies and procedures prescribed under federal, state and Tribal law.
- (u) **Pre-School.** ”Pre-school” is any school providing educational programs for children within the age range of zero (0) to five (5) years.
- (v) **Private School.** “Private school” means a school not run by a government, and which may charge fees for tuition.
- (w) **Public Notification of Non-Compliance.** “Public notification of non-compliance” means a written notice to the public of a local school, pre-school or the College’s continued non-compliance after the expiration of the entity’s 30-day compliance window. Such public notification of non-compliance must be posted in at least two (2) consecutive runs of the official Tribal newspaper. Further, such public notification shall be posted at the Tribal Office and at a public place in each District for not less than 30 days.
- (x) **Public School.** “Public school” means a state-funded school providing education free for children in kindergarten through grade twelve (12) and which – aside from applicable provisions of this Title and the Standing Rock Sioux Tribal Code of Justice – is governed by the school’s respective state law.
- (y) **Reservation.** “Reservation” means all land, waters and waterways within the exterior boundaries of the Standing Rock Sioux Indian Reservation as set forth in the Treaty of Fort Laramie of April 29, 1868.
- (z) **School.** “School” - when used in general parlance and not in reference to a specific, established entity - is a place, institution or process for formal teaching and learning.
- (aa) **School Board.** “School board” is an elected governing body of a local school responsible for educational leadership and which is empowered to act in an authoritative and policy-making capacity consistent with applicable Tribal, state and federal law.
- (bb) **Sitting Bull College Institutional Review Board (“IRB”).** “Sitting Bull College Institutional Review Board (“IRB”)” means the official institutional review board of the Standing Rock Reservation which has oversight and control over any research conducted on the Reservation.
- (cc) **Stakeholders.** “Stakeholders” means members of the Standing Rock Oyate, including parents and parent groups.
- (dd) **Standing Rock Oyate.** “Standing Rock Oyate” or “Oyate” is a term in the Dakota/Lakota dialects meaning the people of the Standing Rock Sioux Tribe

and/or the Standing Rock Sioux Indian Reservation, with the word “oyate” meaning Tribe, a nation, a people, a population, a society. “Standing Rock Oyate” is more inclusive in describing the Standing Rock Sioux Tribe and/or Standing Rock Sioux Indian Reservation because it may mean non-enrolled Standing Rock Indian residents and non-Indian residents as well.

- (ee) **State.** “State” or “state government” means the State of North Dakota and/or the State of South Dakota, or any political subdivision thereof.
- (ff) **Student.** “Student” means anyone who is officially enrolled in a local school, pre-school or College which is regulated under this Title.
- (gg) **Tribally Controlled Schools.** “Tribally Controlled Schools” means those elementary schools, secondary schools or dormitories which receive financial assistance for their operation under a grant agreement with the Bureau of Indian Education under Section 102, 103(a) or 208 of the Indian Self-Determination and Education Assistance Act, or under the Tribally Controlled Schools Act of 1988.
- (hh) **Tribal Constitution.** “Tribal Constitution” or “Constitution” means the Constitution of the Standing Rock Sioux Tribe.
- (ii) **Tribal Council.** “Tribal Council” or “Council” means the Standing Rock Sioux Tribal Council, the governing body of the Standing Rock Sioux Tribe which possesses all powers as outlined in the Constitution of the Standing Rock Sioux Tribe.
- (jj) **Tribal Department of Education.** “Tribal Department of Education” or “Department” means the department within the Standing Rock Tribal government charged with administering, and empowered to administer, this Title
- (kk) **Tribal Education Standards.** “Tribal education standards” are standards developed by the Department which focus on essential, culturally-relevant content to be implemented by local schools, pre-schools and the College, and which outline the skills and knowledge that students are expected to attain during their education. Standards shall set targets and expectations for what educators need to teach and students need to learn.
- (ll) **Tribal Government.** “Tribal government” means the authorized government of the Standing Rock Sioux Tribe.
- (mm) **Tribal Language Board.** “Tribal Language Board” means the certifying entity through which individuals submit an application who are seeking to attain licensure to be an Eminent Scholar as defined under this Title.
- (nn) **Tribe.** “Tribe” or “Tribal” means the Standing Rock Sioux Tribe.

35-105: Severability

If a court of competent jurisdiction invalidates any part of this Title, all valid parts that are severable from the invalid part shall remain in effect. If a part of the Title is invalid in one or more of its applications, but remains valid for any other application, that part remains in effect in all valid applications that are severable from the invalid application(s).

35-106: Repeal of Inconsistent Ordinances

All education ordinances, resolutions, and other laws inconsistent with this Title are hereby repealed. To the extent any provision of this Title conflicts with any other Tribal law or regulation regarding education within the exterior boundaries of the Reservation, such other law or regulation is superseded, and this Title shall govern.

II. Tribal Council

35-201: Tribal Council

Tribal Council shall have authority over education on the Reservation including:

- (a) **Establishment of Schools.** The Tribal Council, pursuant to the Tribal Constitution, may establish local schools, pre-schools and the College. Such establishment may be accomplished by the issue of articles of incorporation or comparable document by which the Council establishes a corporation or other organization, and charges that entity with providing for specific educational programs and schools on the Reservation. Such entities shall operate according to their articles of incorporation, bylaws and/or comparable documents, including all potential amendments or updates thereto, and the applicable provisions of this Title. Except as otherwise provided in this Title, nothing in this Title shall affect the incorporation of established programs and institutions under state law or the obligations of such entities under state or federal law.
- (b) **Enact or Reject Legislation.** The Council shall regularly consider the state of education within the exterior boundaries of the Reservation and shall enact or reject legislation or changes in existing law as may be deemed beneficial or necessary to the furtherance and betterment of the state of education.
- (c) **Authority of the Tribal Council to Negotiate Agreements.** As provided in Article IV of the Standing Rock Sioux Tribal Constitution, the Standing Rock Sioux Tribal Council is empowered to negotiate with federal, state, and other

tribal governments or their political subdivisions any agreement necessary to implement the policies and provisions of this Title.

- (d) **Promote Local Regulatory Responsibility of Education.** The Tribal Council shall actively promote local regulatory responsibility over education consistent with the intent, purpose and policies of this Title.
- (e) **Delegation.** The Tribal Council may delegate rule-making authority to H.E.W. and/or the Department as it deems proper or necessary.
- (f) **Sanctions.** The Tribal Council may levy sanctions against non-compliant entities pursuant to Section 1101(b) of this Title.

35-202: H.E.W. Committee

The Health, Education and Welfare (H.E.W.) Committee, as the committee with jurisdiction over issues regarding education on the Reservation, shall:

- (a) **Require and Review Regular Reporting by the Department.** H.E.W. Committee shall require and review regular reporting by the Department regarding the state of education on the Reservation. Such reporting shall include an annual State of the Reservation Education Report as provided for under this Title;
- (b) **Actively Promote and Assist Coordination of Tribal Services and Programs.** H.E.W. Committee shall actively promote and assist the coordination of Tribal services and programs on critical education issues to meet the intents, purposes and policies of this Title;
- (c) **Establish and Promote Tribal Education Standards.** H.E.W. Committee, with recommendations developed by the Department and with final approval of the Council, shall establish and promote Tribal education standards in accordance with this Title;
- (d) **Establish Tribal Educational Policies and Programs.** H.E.W. Committee, with recommendations from the Department and with final approval of the Council, shall establish Tribal educational policies and programs in accordance with this Title;
- (e) **Adopt or Reject Recommendations by the Department.** H.E.W. Committee, with final approval of the Tribal Council, shall adopt or reject recommendations by the Department in accordance with this Title.
- (f) **Approve or Disapprove Department Appropriations and Operating Budgets and Funding.** H.E.W. Committee, with final approval of the Tribal Council, and based upon recommendations from the Department, shall (1) approve or disapprove appropriations and operating budgets for the Department consistent

with this Title, (2) require, appropriate and ensure adequate funding for personnel, equipment, facilities and other operating expenses for the Department as necessary to meet the intent, purpose and policies of this Title.

- (g) **Delegate Rule-Making Authority to Department.** H.E.W. Committee, with approval of the Council, may delegate rule-making authority to the Department as it deems necessary and/or appropriate.
- (h) **Recommendation on Legislation.** H.E.W. Committee shall regularly consider the state of education within the exterior boundaries of the Reservation and recommend to the Tribal Council enactment or rejection of such additional legislation or changes in existing legislation as may be deemed beneficial or necessary;
- (i) **Recommendation of Sanctions.** H.E.W. Committee may make recommendations on sanctions for non-compliant entities pursuant to Section 1101(b) of this Title.
- (j) **Establish Guidelines For an Annual Reporting System to Determine the State of Education on the Standing Rock Reservation.** H.E.W. Committee, with the final approval of the Council, shall establish guidelines for an annual reporting system to determine the state of education on the Reservation. As part of this system, H.E.W. Committee shall establish a uniform system for the gathering, compiling and analyzing of educational data from preschools, local schools and the College. Data gathered under the system shall include:
 - 1. **Demographics.** Basic student and staff data that impacts academic achievement.
 - 2. **Attendance.** Student and staff attendance by month for the school year.
 - 3. **Enrollment.** Student enrollment, transfer, graduation, retention and drop-out rates.
 - 4. **Language.** Pre and post-assessment results based on Tribal indicators.
 - 5. **Culture.** Assessment results based on Tribal, state and/or local school indicators.
 - 6. **Academic.** Assessment results based on Tribal, state and/or local school indicators.
 - 7. **Behavior.** Number and types of incidents reported.
 - 8. **Parent and Community Involvement.** Numbers and types of parent and community involvement activities.
 - 9. **Annual Accreditation Documents.**
 - 10. **Annual Operating Budgets.**
 - 11. **Facilities.** Overall condition of school facilities.
 - 12. **Other significant activities which have an impact on education.**

III. Standing Rock Tribal Department of Education

35-301: **Standing Rock Tribal Department of Education**

- (a) **Creation of the Department of Tribal Education.** There is hereby created in the Tribal Government a Department of Tribal Education with the power and responsibility to administer and implement this Title and other Tribal education laws unless such powers and duties are otherwise delegated.
- (b) **Director of the Tribal Department of Education.** The Department shall be overseen by a Director of the Tribal Department of Education. The Director shall be a full-time, permanent employee of the Tribe, subject to Title XVIII of the Standing Rock Sioux Tribal Code of Justice and any personnel policies and procedures adopted thereunder, and shall be under the supervision of the Executive Director of the Tribe. The Director shall have the authority and/or duty to exercise all powers, duties and responsibilities of the Department as set forth in this Title or other Tribal law, or to delegate such powers, duties and responsibilities to employees of the Department as may be appropriate and permissible under the law.
 - (1) **Qualifications of Director.** A candidate for the position of Director must hold either (i) a master's degree in education, or (ii) a bachelor's degree in education or a related field with three (3) years of specialized experience. Regardless of whether the Director candidate is qualified under (i) or (ii) of this subparagraph, the candidate must also be knowledgeable and versed in the issues inherent in both tribal education and education in general.
 - (2) **Acting Director During Vacancies.** During periods in which the Director's position is vacant, an Acting Director shall assume all Directorial duties, powers and responsibilities. The Acting Director shall be a temporary appointment to the position, and shall be so appointed pursuant to Title XVIII of the Standing Rock Sioux Tribal Code of Justice and any personnel policies and procedures adopted thereunder.
 - (3) **Staff of the Department of Tribal Education.** Qualified professional, clerical, and other employees, who may be full-time or temporary, shall be employed in the Department pursuant to Title XVIII of the Standing Rock Sioux Tribal Code of Justice and any personnel policies and procedures adopted thereunder as may be necessary for the administration of this Title. To the extent Title XVIII or the relevant personnel policies and procedures provides for a selection committee or interview panel to hire such employees, the Director shall be one of the individuals serving on the

committee or panel for Department employees. The Director shall plan and direct the duties and responsibilities of the Department staff and shall ensure that the staff carries out their duties and responsibilities. The Director shall ensure that the Department staff is qualified and receives appropriate evaluations and professional development.

(c) **Functions of the Department.** To ensure that the intents, purposes and policies of this Title are pursued, the functions of the Department shall include:

- (1) **Provide Leadership.** The Department shall provide leadership in and otherwise promote the improvement of education on the Reservation through research, planning, and evaluation of educational services, including communication of all information and instructions regarding education standards and educational policies and programs established and developed under this Title to school boards, the governing bodies of pre-schools and the College, and educators;
- (2) **Provide Technical and Professional Assistance.** The Department shall provide technical and professional assistance to H.E.W., the Council and all other stakeholders on all matters relating to this Title and education on the Reservation.
- (3) **Develop Advisable Rules, Policies, Laws and Regulations.** The Department shall develop and recommend to H.E.W. such rules, policies, laws and regulations as deemed advisable for the conditions, needs, and progress of students and the improvement of education on the Reservation; provided, that such rules and action are ineffective unless and until adopted by the Tribal Council unless the Council otherwise provides.
- (4) **Coordinate and Facilitate Intergovernmental and Inter-agency Relations Between the Tribe and North Dakota, South Dakota and the Bureau of Indian Education on Education Matters.** The Department shall coordinate relations on education matters between the Tribe and North Dakota, South Dakota and the Bureau of Indian Education. This shall include the representation of the Tribe at meetings of school boards, the state boards of education, and the state legislatures, as well as serving on Tribal, state and federal committees as directed by H.E.W.
- (5) **Coordinate the Services and Activities of the Department and Negotiate Cooperative Agreements.**
 - (i) The Department shall develop cooperative working relationships with tribal, state and federal governments, coordinating the services and activities of the Department with those of other departments, agencies, offices and entities; and

- (ii) The Department may negotiate cooperative agreements, as deemed necessary, to facilitate the coordination of services and activities of the Department and school boards, the governing bodies of pre-schools and the College, established educational programs and established institutions, and other Tribal departments, agencies, offices, entities, and programs; provided that any cooperative agreement negotiated under this section is ineffective unless and until reviewed by H.E.W. and approved by the Tribal Council.
- (6) **Develop Tribal Education Standards.** The Department shall develop Tribal education standards as provided for under Chapter IV of this Title.
- (7) **Offer Scholarships.** The Department shall offer post-secondary scholarships to eligible enrolled members of the Tribe for associate degrees, bachelor's degrees, graduate studies, and certification from accredited colleges, universities or vocational schools.
- (8) **Offer Language Revitalization Programs.** The Department shall offer programs and services to the Standing Rock Oyate to preserve, revitalize, promote and support the use and revitalization of the Dakota/Lakota Languages.
- (9) **Compile and Report Results of Data Compiled.** The Department shall gather, compile and analyze education data as defined by this Title, and report the results of the data compilation to H.E.W., the Council, and the school board or governing body of any local school, pre-school or the College to which the data pertains by November 1 of each year. Such reporting shall include a State of the Reservation Education Report as prepared on an annual basis by the Department. The State of the Reservation Education Report shall detail the state of education on the Reservation, and shall include recommendations regarding needed legislation or action required for educational purposes.
- (10) **Seek Tribal and Non-Tribal Resources.** With appropriate assistance and approval from H.E.W. Committee and the Council, the Department shall seek federal, state, tribal and private funding and grants to implement this Title and to generally improve education on the Reservation, including for the research, planning and evaluation of education services.
- (11) **Manage Tribal and Non-Tribal Resources.** The Department shall manage all resources ensuring sound fiscal management in accordance with the Tribe's established financial policies and procedures for budgets, expenditures, reporting, and property. This includes maintaining regular contact with the chief financial officer of the Tribe on accounting matters and cooperating with auditors during audits as required by law.

- (12) **Maintain All Records.** The Department shall provide for the maintenance and filing of all education documents, reports, and other pertinent data in accordance with the Standing Rock Records and Files Disposition Manual.
- (13) **Sanctions.** The Department may make recommendations on sanctions for non-compliant entities pursuant to Section 1101(b) of this Title.

IV. Tribal Education Standards

35-401: Tribal Education Standards

- (a) **Development of Tribal Education Standards.** The Department shall develop Tribal education standards for pre-schools, local schools and the College to rekindle the learning spirit in our children and college students using our Dakota/Lakota language and culture as a base for all instruction and in accordance with Section 102(a) of this Title. Subject to approval under Chapter II of this Title, such standards shall be implemented, by all educational entities to which this Title applies, into the curriculum developed and implemented by said entities as required by their respective accrediting body or bodies.

The Tribal education standards shall be developed to include the following areas of study:

Academics
Dakota/Lakota Language
Culture
Government
History
Health and Nutrition Practices
Parenting and Family Life
Standing Rock and American Economics
Reservation Land Base, Tribal Natural Resources and Community
Environments

- (b) **Procedures for Developing Tribal Education Standards.** In developing Tribal education standards, the Department shall:
 - (1) **Review the Standards.** Review the applicable current standards of local schools, pre-schools and the College. The Department may conduct such review independently, or the Department may participate in the established processes used by local schools, pre-schools and the College for reviewing their standards;

- (2) **Coordinate and Consult with School Boards and Governing Bodies.** Coordinate and consult with school boards and the governing bodies of pre-schools and the College;
 - (3) **Consult with Educators, Community Members, Parents and Students.** Consult with and obtain comments from educators, community members, parents and students; and
 - (4) **Obtain and Review Comments on Draft Tribal Education Standards.** Review the comments and suggestions of those to whom the draft Tribal standards have been circulated and, after evaluating the comments and suggestions, make such revisions to the standards as may be deemed proper and/or necessary.
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- (c) **Preschools, Local Schools and the College to Utilize Curriculum based on the Education Standards.** All preschools, local schools and the College shall utilize curriculum that is aligned with the Tribal education standards to ensure the survival and perpetuation of the Standing Rock Oyate. The curriculum shall be created and/or adopted to develop knowledge and an understanding of the historical, political, socioeconomic and culture of the Standing Rock Oyate.
 - (d) **Preschools, Local Schools and the College to Provide Instruction Based on the Tribal Education Standards.** All preschools, local schools and the College shall provide instruction that is aligned with the Tribal education standards.
 - (e) **Preschools, Local Schools and the College to Report Implementation of Tribal Education Standards.** All preschools, local schools and the College shall report annually to the Department information on their programs and progress implementing the Tribal education standards as ratified by the Tribal Council.
 - (f) **Department of Tribal Education to Evaluate and Report Compliance.** The Department shall assess on an annual basis the extent of implementation of the ratified Tribal education standards by the preschools, local schools and the College. Further, the Department shall present a report of their assessment results, with any appropriate and/or necessary recommendations, to Tribal Council.
 - (g) **Department of Tribal Education to Maintain File of Tribal Education Standards for Public Inspection.** The Department shall maintain a file of all proposed changes and approved Tribal education standards for public inspection consistent with Tribal law.

V. Kindergarten

35-501: Kindergarten

- (a) All local schools shall offer kindergarten. Pursuant to Chapter VI of this Title, beginning on September 1, 2013, each person having responsibility for a child who is at least five (5) years of age on September 1 in a calendar year shall ensure either:
 - (1) The child spends at least one (1) school year in a kindergarten program offered by a local school; or
 - (2) Proof is provided to the Department that the child is participating in an equivalent program to kindergarten by which the child has attained the necessary developmental skills provided in a formal kindergarten setting.
- (b) The Department shall develop procedures to govern transition planning for children moving from a preschool program to a kindergarten program which will focus on a child's individual strengths and weaknesses, and shall be followed by the appropriate entities operating such programs in order to provide the best chance of success for the child in the kindergarten program.
- (c) As part of the planning for transition from preschool to kindergarten, the Department shall develop procedures for determining kindergarten readiness which shall be administered by the kindergarten operator prior to any child beginning kindergarten, whether or not that child was previously enrolled in a preschool program. Such process shall be mandated in order to better determine the child's readiness for kindergarten and to better provide the child with the appropriate level of support once enrolled. Such assessment shall include literary and language skills, math skills, social/emotional skills, and motor skills.

VI. Education Policies and Procedures

35-601: Alcohol, Nicotine and/or Tobacco, and Drug Abuse Education

All pre-schools, local schools and Sitting Bull College shall develop and implement alcohol, nicotine and/or tobacco, and drug policies through their respective local school boards and/or governing entities. Such policies shall be in compliance with all applicable Tribal, state and federal laws.

35-602: School Accreditation

- (a) At a minimum, each pre-school, local school and the College shall achieve accreditation with their respective accrediting agency, and thereafter maintain compliance with the accreditation agency's regulations and policies. Implementation of standards required by the appropriate accreditation agency shall include the adoption and implementation of a grade-appropriate curriculum and any other requirement of the accrediting agency.
- (b) In addition to the accreditation required under subsection (a) of this Section, preschools, local schools and the College may also seek accreditation with the Standing Rock Sioux Tribe when such accreditation is made available. Tribal accreditation criteria shall include guidelines and standards with a concentration on the Dakota/Lakota language and culture.
- (c) The Tribe is committed to an ongoing process of school improvement which meets the needs of all students and leads to improved individual student academic achievement. The Tribe is further committed to the Native American High Performance Learning Communities dimensions:
 - (1) Dimension One: Community-Based Participatory Decision-Making and Vision;
 - (2) Dimension Two: Spirituality;
 - (3) Dimension Three: Tribal;
 - (4) Dimension Four: Community and Family Support and Involvement;
 - (5) Dimension Five: Maximum Use of Technology;
 - (6) Dimension Six: Literacy and English Language Development;
 - (7) Dimension Seven: Reaching and Maintaining Heritage Language and Indigenous Culture;
 - (8) Dimension Eight: High Expectations as Articulated in Goals and Standards;
 - (9) Dimension Nine: Aligned Assessment; Professional Staff Connected to the Community Culture; and
 - (10) Dimension Ten: School Culture Congruent With Home Culture.

35-603: Compulsory School Attendance

- (a) **Policy.** It is the further policy of the Tribe that – while any absences from school, no matter their quantity, are not encouraged – absences exceeding a certain amount shall initiate legal proceedings in order to correct problematic behavior.
- (b) **Effective Date of Section.** This section shall be effective as of September 1, 2013.

- (c) **Compulsory Attendance.** Any person having responsibility for a child between the ages of five (5) and eighteen (18) years shall take all reasonable steps to ensure the child is in attendance at a local school for the duration of each school year.
- (1) This section does not apply if a child is exempt under subsection (d) of this Section.
 - (2) For the purposes of this section, a “child between the ages of five (5) and eighteen (18) years” shall mean a child who is not younger than five (5) years by the first day of September, but who has not reached his or her eighteenth (18th) birthday.
- (d) **Determination of Attendance.** Unless the child is exempt under subsection (d) of this Section, to be in attendance for the purpose of this chapter, a student may not be absent from school for more than the following periods of time:
- (1) For a child participating in a grade level which is not broken into class periods:
 - i. Five (5) school days during either the first half or the second half of a local school or school district’s calendar, or
 - ii. Ten (10) half school days during either the first half or the second half of a local school or school district’s calendar.
 - (2) For a child participating in a grade level which is broken into class periods, an amount of class periods as set in written policy by the school’s respective governing body.
 - (3) Periods of tardiness in amounts as set in written policy by the school’s respective governing body.
- (e) **Compulsory Attendance – Exemptions.** The provisions of this Section shall not apply, and absences shall not be counted against a student, if the person having responsibility for the child or the child demonstrates to the satisfaction of the local school that:
- (1) The child has completed high school or a state-approved GED program;
 - (2) The child is enrolled in a state-approved GED program;
 - (3) The child is receiving a home education as provided by Chapter X of this Title; or

- (4) The child's absences are excused. The governing body of each school shall develop policy determining:
 - i. The form of evidence an individual responsible for a child under this Section must provide verifying the conditions of a child's absence from school; and
 - ii. What conditions constitute an excused absence.
- (f) **Failure to Send Child to School – Misdemeanor.** Any person having responsibility for a child of compulsory school age who fails to take all reasonable steps to ensure the child is in attendance at local school for the duration of each school year as provided under this Section is guilty of a misdemeanor as provided under Section 4-1203 of the Standing Rock Sioux Tribal Code of Justice.
- (g) **Truancy** – Where a person having responsibility for a child subject to this Section complies with this Section by taking all reasonable steps to ensure the child is in attendance at school, but the child by their own volition does not attend school in compliance with this Section, and is not exempt under subsection (e) of this Section, that child shall be adjudicated as truant under Title VI of the Standing Rock Sioux Tribal Code of Justice.
- (h) **Compulsory Attendance – Enforcement.** Each local school is charged with the enforcement of this Section. This Section is applicable to any child who is offered school facilities by a local school, to the fullest extent allowable under the law. Each educator shall investigate any alleged or apparent violation of this Section, and shall offer the opportunity to any parent of a child in violation of this Section to provide the reason, if any, for the absence. The school administrator or the administrator's designee of the child's school shall report to the appropriate law enforcement agency the facts of any alleged violation of this Section.
- (i) **Administrative Procedures for Absences.** Notwithstanding the provisions of this Section, the school board or governing body of each respective local school shall ensure that policies are in place which address administrative procedures which shall be followed when a child is absent from or late for school in excess of a specific number of instances as determined by the school board or governing body. Such procedures should contemplate appropriate methods to improve the child's attendance. The school must assure both the parents and the child are aware of the negative consequences of excessive absences, consequences which may affect the child's ability to advance to the next grade level, the loss of school credit, or the child's ability to graduate.

VII. Educators

35-701: Educators

- (a) **Certification of Preschool and School Educators:** All preschool and local school educators shall be certified by their respective certification agency. The certificate shall be based upon the level(s) of academic preparation and indicate the content/area authorization for which the individual is qualified.
- (b) **Certification of College Educators.** All College educators must meet the relevant requirements of the College and the College's accrediting agency.
- (c) **Cultural Orientation:** All certified preschool, local school and College teachers/instructors, administrators, education specialists and support staff shall participate in culture orientation as established by the Department which includes the history, culture and language of Standing Rock.
- (d) **Competency Guidelines and Evaluations.** All preschools, local schools and the College shall evaluate all educators at least once per annum. The evaluations shall be completed with a focus on student success and in accordance with the entities' respective policies and procedures.
- (e) **Prohibition on Employment of Educators.** No individual may be employed as an educator in any school on the Reservation if:
 - (1) That individual has previously been terminated from any local school, pre-school, or the College for violation of the relevant Code of Ethics developed pursuant to Section 801(i) of this Title;
 - (2) That individual's teaching certificate or license has been revoked; or
 - (3) That individual has been convicted of a crime against a child or a sexual offense.

35-702. Certification of Dakota/Lakota Language & Culture Teachers (Eminent Scholars)

The Standing Rock Sioux Tribe – through this Title – shall create the official members of the “Tribal Language Board” which will be the certifying entity for the individuals seeking to attain licensure as a Dakota/Lakota Language & Culture Teacher (Eminent Scholar). Any individual who would like to apply for certification to become a Dakota/Lakota Language & Culture Teacher (Eminent Scholar) shall submit an application to be reviewed by the Tribal Language Board.

- (a) The Tribal Language Board shall be facilitated through Sitting Bull College and shall consist of the following members:
 - (1) Sitting Bull College Dakota or Lakota Language Instructor;

- (2) Chair of Sitting Bull College's Native American Studies Department;
 - (3) Chair of Sitting Bull College's Division of Education;
 - (4) H.E.W. Committee Member;
 - (5) Tribal Department of Education Director; and
 - (6) Elder/Community Member that is a fluent speaker of the Dakota or Lakota Language.
- (b) The application process and required coursework shall be determined by Sitting Bull College, the H.E.W. Committee, and the Department. Application to the Tribal Language Board shall at a minimum include:
 - (1) Documented completion of required and appropriate coursework;
 - (2) Documented completion of required and appropriate assessment to determine competence to teach Dakota/Lakota Language & Culture; and
 - (3) Interview by the Tribal Language Board.
 - (c) The process for recertification will be determined by the Tribe and the respective state in which the teacher holds the licensure.

VIII. School Boards and Governing Bodies of Pre-Schools and Sitting Bull College.

35-801: School Boards and Governing Bodies of Pre-Schools and Sitting Bull College

- (a) **Applicability.** Unless otherwise specified, this Chapter generally applies to all school boards and governing bodies of local schools, pre-schools and the College.
- (b) **Creation of School Boards and Governing Bodies.** Other than the school boards of public schools, school boards and governing bodies on the Reservation shall be established by Tribal Council along with the establishment of the respective institution or College. Their powers and duties, administrative organization and structure and operation shall also be so accomplished.
- (c) **Laws Governing School Boards.** The relevant tribal and state laws - as set forth in this Title, the Standing Rock Sioux Tribal Code of Justice, and applicable South Dakota and North Dakota Codified Laws - govern the respective school boards and

governing bodies on the Reservation. In addition, school boards and governing bodies shall be governed by their respective school's articles of incorporation or comparable document.

- (d) **Cooperation with the Department.** School Boards and governing bodies shall ensure that their schools and staff cooperate with the Department in the implementation of this Title and in addressing other education problems and issues that arise on the Reservation. Such cooperation shall include: providing written educational data to the Department on an annual basis by following the format specified by the Department; ensuring educators participate effectively in education activities promoting and facilitating student academic achievement provided by the Department; and ensuring that administrators participate effectively in the on-site assessment evaluation teams provided for by this Title.
- (e) **Provision of Articles, By-Laws, Policies and Procedures to the Department.** School boards and governing bodies shall provide a complete and current copy of all existing articles of incorporation or comparable document, by-laws, and written policies and procedures regarding school governance to the Department. School boards and governing bodies shall provide copies of any and all amended or new such articles of incorporation, by-laws and policies to the Department as soon as such amendments or additions are adopted by the board or body. Existing articles of incorporation or comparable documents, by-laws, policies and procedures which are inconsistent with this Title are subject to revision with technical assistance from the Department, and shall be amended to align with relevant provisions of this Title before their adoption.
- (f) **Inclusion of Department in Established Processes.** Because such inclusion may be necessary to the development of Tribal education standards, curriculum, and educational policies and programs under this Title, school boards and governing bodies shall include the Department in their established processes used for reviewing and implementing applicable curriculum, education standards, and educational policies and programs.
- (g) **Ensure that Schools Attain Tribal Education Standards.** School boards and governing bodies shall ensure their respective local school, pre-school or College attains or meets the Tribal education standards provided for and developed under this Title.
- (h) **Provision of Tribal Education Programs.** School boards and governing bodies shall ensure their respective local school, pre-school or College provides any Tribal educational programs provided for and developed under Section 202(d) of this Title.
- (i) **Development of Code of Ethics.** Each school board and governing body must develop and implement a Code of Ethics which shall govern its respective school's educators, as well as the members of the board or body itself. The Code of Ethics

must contain procedures and penalties which comport with the due process of law. Upon adoption of a Code of Ethics, each respective school board and governing body shall submit a copy of the document to the Department for its file.

IX. Research

35-901: Research

Any person or entity intending to conduct research on the residents, members and/or resources of the Reservation shall first complete an application with the Sitting Bull College Institutional Review Board (“IRB”), which shall ensure that the subject of any research on the Reservation is properly protected, and that any research conducted on the Reservation is well-designed and properly-executed. No data collection may be conducted by a researcher until IRB approval is obtained. A copy of all results from research under this Section shall be provided to and maintained at the College.

All researchers shall abide by ethical principles of respect for persons, beneficiaries, and justice. All researchers shall respect the culture of the residents of the Reservation when designing and executing proposed research. All researchers shall follow the guidelines and procedures developed by the College and IRB for the protection of human subjects.

X. Home Education

35-1001: Home Education

Any individual having responsibility for a child who wishes to have that child obtain schooling through home education shall follow all applicable state laws in the state of their residence. Failure to follow any such laws shall result in a loss of exemption under Section 403(e)(4) of this Title.

XI. Non-Compliance of the Standing Rock Tribal Education Code

35-1101: Non-Compliance of the Standing Rock Tribal Education Code

In addition to any other sanction or penalty as may be provided in this Title or other applicable Tribal law, non-compliance of this Title may result in on-site assessment and/or additional sanctions as provided in this Section and as imposed by Tribal Council upon recommendation by the Department and H.E.W. Committee.

- (a) **Non-Compliance may Result in On-Site Assessment.** Suspected non-compliance may result in an on-site assessment by the Director or the Director's designated agents to verify the non-compliance and provide the necessary data and information for the Department to determine whether any further action should be taken. Such data, information and recommendation for further action shall be reported by the Department to H.E.W. Committee.
- (b) **Non-Compliance Verified by the Department of Tribal Education may Result in Sanctions.** If an on-site assessment made under subsection (a) of this Section confirms an entity is non-compliant, H.E.W. Committee shall report the non-compliance to the Council. If the Tribal Council agrees that the entity is non-compliant, it may take official action through resolution to sanction the entity in non-compliance as follows:
- (1) Upon a formal Council determination that an entity is non-compliant, it must first provide the non-complying entity notice of non-compliance. Such notice shall provide that the entity in non-compliance be given 30 days from the entity's receipt of the notice to come into compliance with this Title.
 - (2) During the 30 day compliance window, the Department shall provide all appropriate and feasible assistance to the entity to assist the entity in its effort to come into compliance.
 - (3) After the 30 day period has lapsed, the Department shall conduct a follow-up assessment of the entity to determine if the entity has come into compliance with this Title, and shall report its findings back to H.E.W. Committee, which shall report the same to the Council.
 - i. If the entity has come into compliance, Council shall instruct the Department to issue a letter to the entity acknowledging the entity has come into compliance.
 - ii. If the entity has not come into compliance, Council may sanction the entity, through formal resolution, and based on the recommendations of the Department and/or H.E.W. Committee. However, continued non-compliance after the 30 day compliance window shall result at least in a mandatory sanction of Public Notification of Non-Compliance as defined in this Title.