

EDUCATION CODE TRUANCY SECTION  
As adopted by Motion on February 4, 2021  
By the Sisseton-Wahpeton Oyate Council

**22-12-02 – MANDATORY ATTENDANCE**

A child between the ages of five (5) and eighteen (18) must be in attendance in school 90% of scheduled school days or participating in school sanctioned remote learning sessions. A child on an Individual Education Plan (IEP) may be provided alternative education services until the age of twenty-two (22).

**22-12-03 – EXCEPTIONS TO MANDATORY ATTENDANCE AND SCHOOL MEMBERSHIP**

A child and his parent or guardian shall be excused from the requirements of the Mandatory Attendance Policy and will not be subject to the penalties if the school attended by the child has excused that child from attendance because the school is providing alternatives for all legally required education services. The student must be currently enrolled, be following policies and procedures, and remain current on the educational requirements according to the education institute enrolled in and Tribal Education Codes. Non-compliance will result in the child and their parent/guardian becoming subject to penalties as stated in the Tribal Education, Juvenile and Penal codes.

**22-12-04 – School Membership**

**A. Compulsory School Attendance**

**a. Parents:**

1. Parents, guardians or custodians having charge or control of a child attending school on the Lake Traverse Reservation between the ages of five (5) and eighteen (18) must continuously have their child enrolled and attending school 90% of the school year. A child on an IEP may be provided education services until the age of twenty-two (22).
2. All tribal members residing on the Lake Traverse Reservation are subject to tribal law and enforcement of the law by the agents and employees of the Sisseton-Wahpeton Oyate.

**b. Students:**

1. Students are required to be enrolled and attending 90% of the school year or be enrolled in an alternative educational program leading to a high school diploma or General Equivalency Degree (GED).
2. Participate in school to the fullest of their capabilities.

**B. Mandatory Attendance**

- a. The parent, guardian, or custodian of a child shall notify the educational institute of the reason for each known absence of the child, in accordance with the tribal law. No person shall encourage, entice or recommend any child of compulsory school age to be unlawfully absent from school. Violation of this subsection will result in criminal charges.
- b. Excessive absences during a school year is defined as more than 10% of the days absent from school or failure to log into virtual learning for 10% of the school year.
- c. When a child reaches the threshold limit of accumulated absences of 5 (five) days and again at 10 (ten) days of absences, the education institution must notify the Tribal Education Director and/or truancy office. After attendance reaches less than 90% the Child Protection Program will be notified by the Tribal Education Department for further intervention, follow-through and/or action(s). The education institution will provide all documentation of communication to parent, guardian, or custodian from the education institution and copies of documentation provided to the Tribal Education Department and/or truancy office regarding the absences.

**C. TED Truancy Restoration Circle:**

- a. The Education Department (TED) will engage a circle comprised of tribal program representatives to meet with the student and their parents, custodian or guardian to ensure the family has no impediments to keep the student from succeeding in both in person or online classes.
- b. Peer Mentors or Truancy Interventionists may be hired by TED for both the student or parents to provide daily coaching or encouragement by phone, text or socially distancing in-person visits.
- c. The Sisseton-Wahpeton Oyate Council may appropriate funds as necessary to support the costs of the Peer Mentors or Truancy Interventionists and to address any unmet needs the family may have that are impediments to the student learning and attending in-person or online classes.

**D. Truancy Court:**

- a. There is hereby established a special Truancy Court in the Sisseton-Wahpeton Oyate Court system to address the increased truancy problem.

- b. Upon request of either the Child Protection Program Manager or the Education Director, the SWO Prosecutor shall file a complaint for Failure to Attend School in the Truancy Court against the parent, custodian or guardian of the child who is not in compliance with the in-person attendance or virtual learning policies.
- c. The Truancy Court Judge, or his or her designee, shall meet with the parents, custodians or guardians and students to devise a court mandated plan to address ongoing chronic truancy issues.
- d. The Truancy Court Judge, or his or her designee, shall meet with the family at the minimum once weekly to provide ongoing monitoring of the student's progress.

**E. Penalties**

- a. Violation penalties the Truancy Court may impose for failure to send children in grades K-12 to school are:
  - i. **Parents/Guardians:** Violation penalties for failure to send children in grades K-12 to school shall include the following:
    - 1. First Violations for a Parent's failure to send their children to school or participate in online classes may include:
      - a. Compulsory attendance in Parenting Classes that may be completed on-line or in-person. The Truancy Court may order that documentation of Completion of Parenting Class will be provided to the court system.
      - b. Mandatory Community service at the educational institute the children are enrolled in or at the Tribal Education Department. Background and safety policies shall be adhered to by a volunteer. The Truancy Court may order that Documentation of participation will be provided to the court system
    - 2. Second Violations for ongoing, willful offenses in violation of Truancy Court orders by Parents who fail to send their child(ren) to school or adhere to homeschool/virtual learning guidelines may result in a Class E Misdemeanor. Sentences may range from one (1) day to a maximum five (5) days incarceration, with a maximum \$50.00 fine, and/or both.
    - 3. Repeated Violations for failure to send children to school with repeated offenses (3 or more offenses). Any person who shall willfully and unlawfully fail to send their child(ren) to school or to adhere to homeschool/virtual learning guidelines shall be deemed

guilty of a Class 1 Misdemeanor. Sentences may range from one (1) day to a maximum five (5) days incarceration, with a maximum \$1,000.00 fine and/or or both.

**ii. Students:** Violation penalties for students who refuse to attend in-person or online classes that may be ordered by the Truancy Court include:

1. Mandatory participation in Peer Mentoring
2. Supervised volunteering (1 hour for each hour of class missed) for up to two (2) semesters.
3. Supervised probation until the student demonstrates a clear pattern of in-person or on-line school attendance.
4. Mandatory tutoring (if failing classes).
5. Mandatory enrollment in summer school (if missing credits).
6. Involvement in a minimum of one (1) extra-curricular activity.