

**SISSETON-WAHPETON OYATE**

**CODES OF LAW**

**CHAPTER 60 –Child Care Ordinance**

**60 INTRODUCTION**

- A. Child Care is one form of care and protection for children whose parents must be away from them for part of the day. Social changes have encouraged an over increasing number of women to work, which means a great many children are in need of supplement parental care during the day. Some children require care outside their own homes because of family stresses other than the employment of the mother. Although generally for the care of infants and toddlers, child care may include preschool and after school care.
- B. In placing a child in a child care setting, the parent delegates responsibility for the care of the child to the caretaker and requires assurances the child’s need for safety and stimulating experiences are being met. Registering of the child care home or facility is intended to give the parent that assurance.
- C. Registering of the child care home is accomplished by establishing and assuring compliance with minimum standards of care, which are designed to reduce risks to children. Because these standards are required to be minimal requirements, they do not guarantee a quality program. However, progressive child care homes and centers are not satisfied with providing only a minimum quality of childcare, but are constantly striving to do a better job of serving the children entrusted to them. Furthermore, they recognize that child care is but one of the many programs committed to the purpose of preserving family life and promoting child development.

**60.01 DEFINITIONS**

- A. ACF – Administration for Children and Families in the United States Department of Health and Human Services; Federal Agencies regulating the Child Care and Development Fund Program.
- B. Applicant – an individual, institution, or organization, which submits to the tribal office administering the Child Care and Development Fund an application for registration as provided in this Chapter;
- C. Child Care and Development Fund – the purpose of this program is to enhance the quality, affordability, and supply of child care available for all families and to afford parents a broad range of child care choices and services.
- D. Client – a child(ren) in receipt of service from the tribal office administering the Child Care and Development Fund;



2. Children whose medical condition requires that immunization not be given and certification signed by a licensed physician has been provided to the family child care home provider.
- C. Caregiver shall collect immunization records from the family and maintain up-to-date records.
- D. Immunization records shall be made available for inspection by the Child Care Specialist during any home visit.

### **60.03 EXCLUSIONS**

- A. A child shall be excluded from the child care home with notification to the parent/guardian, pursuant to caregiver policy, if:
1. The child does not feel well enough to comfortably participate in the usual activities of the facility;
  2. The caregivers cannot care for the sick child without interfering with the care of the other children; or
  3. Keeping the child in care poses an increased risk to other children or adults in the child care facility, as determined by the caregiver or, if necessary, a local health official
- B. The family child care provider may temporarily exclude a child with a short-term contagious illness that cannot be readily accommodated, from participation in the program. This Temporary exclusion is only for that generally short-term period when keeping the child in care poses a significant risk to the health care and safety of the child or anyone in contact with the child.
- C. Children will not be allowed to attend child care until the infectious disease is no longer contagious.

### **60.04 INFECTIOUS DISEASE CONTROL**

- A. Standards (Universal) Precautions are followed when responding to and disinfecting after incidents involving blood or body fluids. Universal Precautions require using 1 ¼ to 2 ½ cup bleach solution per 1 gallon of water solution.
- B. Children developing a communicable disease during the course of the day are isolated from other children until such time as the parent or guardian can take the child home, or the child is taken to a health care facility.

## C. HANDWASHING

1. All caregivers, volunteers, and children shall wash all parts of their hands for at least 10 seconds with soap and water and shall rinse them with water. If standing water is used to rinse hands, the water shall be fresh for each person and shall not be re-used. Running water is preferable.
2. Handwashing is required for staff and participants after toileting, diapering, cleaning, after attending ill children, before and after administering medication, before and after participation in moist play, after dealing with body fluids even though gloves are worn, before serving or preparing food, before and after eating meals and snacks, and after handling animals, animal waste, or animal cages.
3. A clean individual paper or cloth towel should be used for each child in the child care setting

### **60.05 HEALTH AND SAFETY TRAINING**

The Sisseton-Wahpeton Oyate will require that all providers fulfill the health and safety requirements pursuant to tribal, state and federal law.

- A. The Child Care and Development Fund will provide a minimum of two trainings per year. In addition, written health and safety tips will be given to providers upon approval of application services.
- B. The family child care provider and helpers must participate in a minimum of six (6) hours of training every year which shall be documented in their program file. The training must be obtained from at least two (2) of the following areas.
  1. First response, including First aid and cardiopulmonary resuscitation (C.P.R.); mandated first year of registration and certification must remain valid;
  2. Child growth and development;
  3. Health and safety;
  4. Infectious disease/prevention of communicable diseases;
  5. Child abuse and neglect;

6. Planning learning activities;
7. Communication and relations with families;
8. Food handling techniques;
9. Guidance and discipline techniques;
10. Procedures in the event of fires or natural disasters;
11. Meal planning and nutrition education.

#### **60.06 STAFF/OPERATOR QUALIFICATIONS**

- A. Operator – the operator of a family child care home must be at least 18 years of age. The operator may not have on record a substantiated report of child abuse or neglect.
- B. Family Day Care Workers – Helpers 14 years of age and older may volunteer to assist with the care of children; provided such helpers are under the direct and constant supervision of the operator. A helper who is under the age of 18 may not be left alone on the premises with children in care. All family day care home helpers must meet the same registration requirements as an operator of a family day care home; such as TB, Physical, CA/N Screening, Background check, Drug-Free Workplace, and Three (3) letters of References to be kept on file with operator of the home.
- C. Family Child Care Registration) is to be completed and on file with the tribal office administering the Child Care and Development Fund.
- D. Registration is to facilitate not to impede parental choice.
- E. The tribal office administering the Child Care and Development Fund program will maintain the following records for each registered caregiver, provider, employee, or volunteer. The record must include:
  1. Registration form;
  2. Training, experience;
  3. Records of TB tests and physical evaluation prior to contact with children;
  4. Child abuse/neglect screening results completed for an applicant and family members 10 years of age and older or any other individual who is living in the home may not have a substantiated record of child abuse/neglect.
  5. Drug-Free Workplace Agreement;

6. W-9 Federal Income Tax Form;
7. Three (3) letters of reference which are either documented conversations or in letter form which include an individual's character, emotional stability, and competence;
8. Home Inspection; and
9. Mandatory Reporter form signed stating the caregiver understands the requirements of Chapter 38, Section 38-30-01 regarding reporting suspected child abuse/neglect.

**60.07 BACKGROUND CHECKS**

- A. Employment or character references shall be completed for all caregivers in accordance with the Sisseton-Wahpeton Oyate's personnel policies applicable laws pertaining to positions having regular contact with children.
- B. A member of a family child care staff, and members of a household, shall not be addicted to drugs, a chronic alcoholic, known to have abused children or have been found guilty of immoral conduct involving children.
  - a. Each registered Day Care Provider or operator shall consent to an inspection by the Tribal Law Enforcement. The Law Enforcement Officer will inspect the premises for the purpose of determining whether the Day Care is complying with the drug free provision of this Code. The Law Enforcement will utilize reliable and commonly used chemical testing equipment to determine whether there is a violation.

**60.08 CHILDREN'S RECORDS**

- A. The following individual records shall be kept for all children and be subject to review by Child Care and Development Fund during home visit.
  1. Name, address, sex, and date of birth;
  2. Dates of admission;
  3. Date of Termination;
  4. Names of parents or guardians, and their home and work addresses and telephone numbers.
  5. Name, address and telephone number of two emergency contact persons;
  6. Permission slips for emergency transport to health care facility for the provision of emergency care, signed by parents or legal guardians;
  7. Permission for emergency treatment;
  8. A hospital and physician of choice as designated by parents or legal guardians;
  9. Name and telephone number of family physician or pediatrician;

10. A report by the parents or the physician noting history of immunization, susceptibility to illness, including allergies, and special requirements for health and maintenance;
11. A record of medication requested by the parent and administered by the child care home;
12. Information on the child's development, health and behavioral status, especially health since the child's last day of attendance;
13. After a child is identified with special needs a plan should be developed by the child's physician, including allergies; and
14. Any illnesses or injuries of the child.

**60.09 CONFIDENTIALITY**

- A. The files and records compiled by the family child care operator shall be kept confidential. The files and records maintained in the tribal office administering Child Care and Development Fund on the family child care operator shall be kept confidential.
- B. Except as provided in Subsection C, no information may be released from the files or records to anyone outside of the registered home unless written authorization for the release of such information is obtained from the parties that may be affected. (May include the registering department, the family child care operator, and the legal representative of the parties.)
- C. The family child care operator shall make its files and records available for inspection by the registering department.
- D. The family child care operator shall maintain in confidence all information concerning an enrolled child. The child's life, or that of the child's family, may not be shared with unauthorized individuals.

**60.10 CAREGIVER POLICIES AND/OR PARENT HANDBOOKS**

- A. Policies shall be developed and given to each parent or guardian upon the child's admission, these written policies must also be submitted to the Child Care and Development Fund Office within 90 days of initial registration. The policies shall contain the facility's procedures regarding:
  1. Guidelines for caregiver exclusion for illness and subsequent return to work;
  2. Information on the major occupational health hazards for caregivers;  
Caring for young children does require lifting in excess of 10 pounds, bending, stooping, crawling and carrying;
  3. Stress management techniques;
  4. Utilization of helpers;
  5. Enrollment of children;
  6. Exclusion of ill child and/or plan for caring of an ill child;
  7. Dismissal of child due to health reasons;

8. Inclusion of child; American with Disabilities Act (ADA) P.L. 99-457 (birth to age 3) and Public Law 94-142 (3-5 years)
9. Medical emergency;
10. Hours of operation;
11. Fees charged;
12. Refunds;
13. Penalty fees;
14. Termination of slot or withdraw of slot;
15. Emergency procedures;
16. Transportation of children; Child safety seats, fitted for the child's weight and height must be used.
17. Discipline;
18. Naptime/Quiet-time;
19. Hand washing;
20. Toileting/ diaper check;
21. Sanitation;
22. Nutrition;
23. Storage of foods;
24. Reporting child abuse/neglect;
25. Confidentiality;
26. Alcohol/smoking;
27. Plan for daily activities schedule, i.e. schedule; including the general goals for the children's development and learning, and the experience through which they will achieve those goals; i.e. written lesson plans or child portfolios.

- B. All staff, including volunteers, shall be trained in the importance and implementation of program operations and polices.

#### **60.11 STAFF/CHILD RATIO**

- A. A family day care provider may care for a maximum of 10 children, which number includes the provider's own children, who are under the age of six years.
- B. Age restrictions are as follows:
  1. Total children under school age shall not exceed 6 children;
  2. Total infants and toddlers of the total children under school age shall not exceed a combined total of 3 infants and/or toddlers; of this total no more than two shall be infants.

#### **60.12 GUIDANCE AND DISCIPLINE**

- A. Daily routines shall be established to allow children to develop expectations and feel secure at the child care facility.



- B. Caregivers shall model respect for the feelings and rights of others, and provide an environment that respects gender, culture, ethnicity, family composition, and the social, emotional, cognitive and development needs of the individual child.
- C. Caregiver shall give each child guidance, which helps the child acquire a positive self-concept, self-control, and teaches acceptable behavior.
- D. Discipline used by caregivers must be constructive, positive, and suited to the age and development level of the child. Methods of intervention, guidance, and redirection must be used.
- E. No child shall be subject to corporal punishment or emotional abuse.
  - 1. "Corporal punishment" means the non-accidental infliction of physical pain on a child by a caregiver. Corporal punishment includes, but is not limited to, rough handling, shoving, hair pulling, ear pulling, shaking, slapping, kicking, biting, pinching, hitting, spanking, or any other unusual physical punishment.
  - 2. "Emotional abuse" means the infliction of verbal or psychological abuse on a child by a caregiver. Emotional abuse includes, but is not limited to, name calling, ostracism, shaming, derogatory remarks about the child or the child's family, and threats which threaten, humiliate, or frighten the child.
- F. Food, light, warmth, clothing, and medical care shall not be withheld from the child.
- G. Absolutely no forcing of meals, snacks or naps.
- H. Discipline and punishment shall not be delegated to another child.
- I. Separation of child from group activities.
  - a. The separation of a child from a group to guide behavior must be appropriate to the age of the child and the circumstances requiring the separation.
  - b. An infant shall not be separated from the group for disciplinary reasons.
  - c. A child shall not be separated from the group for a period longer than ten minutes.
  - d. A child separated from the group must be placed in an area of separate room that is well-light, free from hazard, ventilated, and open to view of caregiver.

- e. No child shall be placed in a locked room, closet, box or similar cubicle to separate the child.
- J. If toilet training is undertaken, the caregiver and the parent shall cooperatively develop a plan for the timing and method of training.
  - 1. No child shall be punished for toileting accidents.
  - 2. A child shall be offered opportunity for toileting.

### **60.13 BUILDING AND PHYSICAL PREMISES SAFETY**

The Sisseton-Wahpeton Oyate will require that all providers fulfill the health and safety requirements pursuant to tribal, state and federal laws.

#### **A. Inspections**

- 1. The Child Care and Development Fund will be used to ensure that building and physical premises are safe for the children. Home inspections must be posted in a visible location in the home.
  - 2. Upon completion of a home inspection a written corrective plan will be developed. The inspection is required to ensure that children receiving services are in a safe and healthy environment and is not intended to limit parental choice in childcare services.
  - 3. The inspections will be done on a yearly basis. Any complaints by parents shall be governed by Section 60.30.
  - 4. The Sisseton-Wahpeton Oyate's Office of Environmental Protection will inspect the family day care home to ensure paint on both interior and exterior premises shall be free from hazardous quantities of lead.
  - 5. Tribal Law Enforcement will inspect the premises for the purpose of determining whether the Day Care is complying with the drug free provision of this Code. Tribal Law Enforcement will use reliable and commonly used equipment to determine whether there is a violation.
- B. Homeowners insurance shall be maintained for each child care facility.
  - C. Caregiver shall know the whereabouts of the children in their care at all times.
  - D. A plan shall be in place to ensure routine maintenance, and sanitation procedures shall be conducted to keep the structure clean, sound, and in good repair.
  - E. The layout and maintenance of all indoor and outdoor equipment and surfaces shall be carefully selected to minimize the possibility of injury to children.
  - F. Usable space and equipment shall be adequate for the number, ages, and abilities of the children.

- G. Indoor and outdoor play areas shall be checked daily, and prior to their use by children, for hazards.
- H. The indoor and outdoor premises are cleaned daily and kept free of undesirable and hazardous materials and conditions.
- I. Readily available, well supplied first aid kits appropriate for the ages served and the program size are maintained at each day care and available on outings and while transporting children. Each kit must be accessible to staff members at all times, but must be inaccessible to children. The first aid kit must contain:
  - b. Emergency plans;
  - c. Disposable gloves;
  - d. Band-aids and bandages;
  - e. Tape;
  - f. Sterile gauze pads;
  - g. Roll gauze;
  - h. Scissors;
  - i. Emergency numbers;
  - j. First aid resources guide;
- J. An insect sting kit is available only with a prescription. If a child is allergic to insect stings, it is the responsibility of the parent or guardian to provide the caregiver with an insect sting kit. If so provided, it is the caregiver's responsibility to have the insect sting kit available if such need arises.
- K. Emergency response services and poison control numbers are posted next to every telephone or approved communications system.
- L. Smoking, alcohol, and illegal drugs are prohibited on the premises when children are present.
- M. Person under the influence of alcohol or illegal drugs shall not be allowed in the child care setting.
- N. If pets are allowed on site, the animal must be kept up to date on rabies shots and the feces must be disposed of in a sanitary manner.

#### **60.14 MEDICATION**

- A. A drug container without a label or with an illegible label is not permitted.

- B. All medications are clearly labeled with the child's name, dosage instructions, expiration date, and the name of the drug.
- C. All medications are stored under lock and key or inaccessible to children, and refrigerated, if necessary.
- D. Medications are stored in a manner that prevents the contamination or being contaminated by, food products, toxic products, or hazardous products.
- E. Medication, including prescription and non-prescription medication, is not administered to any child, without written parental permission.
- F. Prescription medications are administered only with a physician's order and instructions or a directed on the prescription label.

#### **60.15 SLEEPING AREA**

- A. Caregivers shall directly supervise infants, toddlers, and preschool children by sight or hearing at all times, even when the children are in sleeping areas.
- B. To reduce the risk of Sudden Infant Death Syndrome (SIDS), infants shall be placed to sleep on their backs unless otherwise directed by the child's physician, and all sleeping arrangements for infants through 12 months of age shall use firm mattresses and avoid soft bedding materials such as comforters, pillows, fluffy blankets, or stuffed toys.
- C. Children shall not share bedding. Related children may share sleeping arrangements upon parental approval.
- D. Each item of sleep equipment shall be assigned to an individual child and shall be used only by that child while he/she is enrolled in the family child care home. Each mat, cot, or crib mattress shall be covered with the child's individual sheet for exclusive use by the child.
- E. Cribs, cradleboards and/or infant sleep equipment shall keep the infant safe from the dangers of suffocation, and will not allow a child to either fall, become entrapped, or have clothing tangled on protrusions.
- F. No child shall sleep on a bare, uncovered surface. Seasonally appropriate covering, such as sheets or blankets that are sufficient to maintain adequate warmth, shall be available and shall be used by each child below school age.

## **60.16 EQUIPMENT**

- A. All equipment in the setting shall be designed to support the abilities and developmental levels of the children served, with adaptations made as necessary to support children with disabilities.
- B. The child care setting shall include toys, activities, and materials that are safe and appropriate for the various developmental stages of the children in care.
- C. Material, toys, and furnishings shall be safe, age-appropriate, durable, and maintained in good condition.
- D. Equipment shall be stored in a safe and orderly fashion when not in use.
- E. Infant and toddler toys shall be made of non-toxic materials and shall be cleaned and/or sanitized when soiled or at least weekly. If the toys are not used, they shall be cleaned weekly.

## **60.17 FIRE, EVACUATION, STORING SUPPLIES**

- A. Guidelines shall be developed to assure facilities are safe, and meet tribal, state, or local fire and safety regulations.
- B. Fire drills are conducted four (4) times per year at each family child care home. Fire drills are documented and include the date and time of the drill, the number of children and staff involved, the evacuation time and any problems encountered. One (1) tornado drill must be conducted and documented at the beginning of the summer months.
- C. At least two clearly identified, unobstructed, remotely located means of egress are provided.
- D. There is at least one approved, properly maintained, multi-purpose fire extinguisher readily available in each home. Caregivers shall be trained on their operation.
- E. A family child care home must have a working smoke detector on each level of the building. Audible alarm indicating devices must be designed and distributed so as to be effectively heard above the maximum noise level obtained under normal conditions of occupancy.
- F. Emergency evacuation procedures shall be posted prominently within the facility to evacuate children as first priority in the event of an emergency.

- G. Telephones or another identified and acceptable means of communication shall be available to facilitate contact with emergency services.
- H. All cleaning chemicals are stored in a locked area or otherwise, inaccessible to children. Compounds containing ammonia are not to be stored in the same enclosure as compounds containing chlorine; and, they are never mixed.
- I. Poisons, toxic materials, cleaning supplies, sharp or pointed objects, plastic bags, matches, flammable liquids, drugs of any kind, insecticides, guns, and other hazardous materials shall be stored and/or locked, covered, or removed so as to be inaccessible to children.
- J. No pesticide, including restricted use pesticides and non-restricted use pesticides, are used when participants are present.
- K. Highly flammable chemicals, such as lighter fluids, duplicating fluids, and paint thinners and flammable materials are not stored inside the home.

#### **60.18 ELECTRICAL, HEATING, VENTILATION**

- A. All unused electrical outlets in rooms accessible to children are protected with childproof caps or covers.
- B. All rooms used by children shall be adequately heated and cooled.
- C. If home is heated by propane, fuel oil, or wood stove, the home should have a carbon monoxide detector installed.
- D. Ventilation shall be provided to prevent the accumulation of harmful odors and fumes.
- E. If harmful odors or fumes are present, the problem needs to be corrected immediately.
- F. If mold accumulation is present on the walls within the home or basement, it will need to be removed immediately before children are cared for.

#### **60.19 WATER SUPPLY**

- A. Safe drinking water shall be accessible to children while indoors or outdoors and shall be dispensed by personal water bottle, drinking fountain, or cups labeled for individual use by each child.

- B. Water must be derived from a community water system or from a water system that is tested annually for bacteriological testing by the agency certified to perform such tests. The operator of the day care home is responsible for maintaining written documentation of water test results.
- C. Water temperature shall be maintained under 120° Fahrenheit.
- D. A rural water supply must have enough water for the needs of the home
- E. The water heater is not located in areas accessible to participants and shall be properly ventilated.
- F. All water hazards, such as wading pools and permanent standing water, shall be enclosed with a fence, or other safeguarded to ensure that they cannot be accessed or not allowed at all.

#### **60.20 SANITIZING AND MANUAL CLEANING**

- A. Equipment shall be kept clean, sanitary, and in operable condition.
- B. Any surface contaminated by body fluids shall be cleaned and disinfected immediately, and caregivers shall use universal precautions, including gloves, when cleaning contaminated areas. Universal Precautions require using ¼ cup bleach solution per 1 gallon of water solution. Spray bottles may be filled with solution, however, bleach solution must be changed daily.
- C. Toilet areas, including sinks, countertops, faucets, handles, doorknobs, toilet bowls, toilets and seats, shall be cleaned immediately when soiled or at least daily.
- D. Potty chairs and changing tables shall be cleaned and disinfected after each use.
- E. Floors shall be cleaned when soiled or at least daily. Carpets and rugs shall be shampooed when soiled and vacuumed at least daily.
- F. Toys shall be cleaned when soiled or at least weekly, and small toys that children can place in their mouths shall be cleaned and disinfected after each use.
- G. Garbage and rubbish shall be removed from rooms where children and adults will be present.
- H. Garbage and rubbish should be stored in a closed container that prevents access by children, and animals including rodents and insects.

- I. Food preparation areas shall be separate from play, toilet, bathroom, and diaper changing areas, and areas where animal are kept.
- J. Food preparation areas, including countertops and tabletops, shall be cleaned and disinfected, before and after each use.
- K. Dishes, highchair trays, and food service utensils shall be cleaned and disinfected after each use. If basins are used, there shall be separate basins for diaper changing cleanup and the cleaning of food service utensils.
- L. Dishes and food service utensils shall be allowed to air dry and stored in a manner that preserves their clean/disinfected status. No cloth towels shall be used to dry.
- M. Children do not participate in any cleaning activities that expose them to any physical, chemical or biological hazards. If supervised, children may engage in wiping down furniture, such as tables and desk tops, with soap and water.
- N. Cleaning chemicals are not in sue while children are occupying the facility, except that cleaning of spills is done as necessary to maintain infection control practices, control odors and maintain the appearance of the dare care.
- O. If a mechanical home-style dishwasher is utilized the following requirements must be met:
  - 1. Water must be 120° Fahrenheit as it enters the dishwasher; and
  - 2. There must be a sanitizing cycle in which hot water, not hot air, is used and the water temperature during the sanitizing cycle in maintained at a minimum of 160° Fahrenheit.

## **60.21 NUTRITION**

- A. Individuals responsible for food preparation or service shall be free of contagious disease.
- B. The facility shall provide nutritious meals according to a written plan.
- C. The facility shall ensure that:
  - 1. children in for 8 or fewer hours shall be offered at least one nutritious meal and two nutritious snacks or two meals and one snack;



2. Children in care for 9 or more hours shall be offered at least two meals and two snacks or three snacks and one meal.
  3. a nutritious snack shall be offered to all children in midmorning and in midafternoon.
  4. children shall be offered food at intervals not less than 2 hours apart and not more than 3 hours apart unless the child is asleep.
- D. Cold foods shall be maintained refrigerated at a temperature of 40°F or lower in the refrigerator and 0° or lower in the freezer.
- E. Infant Care:
1. Precautions against choking shall be taken when feeding infants and toddlers.
  2. Caregivers shall not offer to children under 4 years of age foods that are implicated in choking incidents (round, hard, small, thick and sticky, smooth, or slippery). Examples of these foods are hotdogs (whole or sliced into rounds), whole grapes, hard candy, nuts, seeds, raw peas, hard pretzels, chips, peanuts, popcorn, marshmallows, spoonfuls of peanut butter, and chunks of meat larger than can be swallowed whole.
  3. Microwaves shall never be used to heat bottles of formula or breastmilk.
  4. Breastmilk or formula shall be warmed in a pan of hot, not boiling, water for 5 minutes. The bottle should then be shaken, and the milk temperature tested before feeding.
  5. Frozen breastmilk shall be thawed under cold running water or in the refrigerator.
  6. Breastmilk (if not frozen) and prepared bottles of formula shall be kept refrigerated until immediately before use.
  7. Any contents remaining in a bottle of formula or breastmilk after feeding shall be discarded.
  8. Prepared bottles of formula shall be discarded after 24 hours if not used. An open container of ready-to-eat or concentrated formula shall be covered, refrigerated, and discarded after 48 hours if not used.
  9. Unused, expressed breastmilk shall be discarded after 48 hours if refrigerated, or after two weeks if frozen.
  10. Caregivers shall feed infants on demand unless the parent provides written instructions otherwise.
  11. Infants are held while being fed and are not laid down to sleep with a bottle.
  12. Infants shall not be allowed to carry bottles throughout the day or the night.

13. When there is more than one bottle-fed infant, bottles of breastmilk and formula shall be labeled with the child's name and shall be used only for the intended child.
- F. Ware food shall be maintained and served at a temperature between 140°F to 141°.
- G. Foods served during meals, whether eaten or not, are not re-served or saved for the next day, but are discarded by placement in containers with tight fitting lids that are emptied at least daily.
- H. Foods brought from home shall be labeled with the child's name, date, and the type of food, and shall not be shared with other children unless intended for that purpose.
- I. Food shall be properly wrapped and handled.

## **60.22 TRANSPORTATION**

- A. At the end of the day, children are only released to the parent or legal guardian, or other individual identified in writing by the parent or legal guardian.
- B. If children are to be transported, a written permission slip signed by a parent or recognized guardian shall be on file with the caregiver.
- C. Strict policies shall be developed to prevent persons under the influence of alcohol or illegal drugs from operating vehicles while transporting children.
- D. No smoking is allowed in vehicles when transporting children.
- E. Children shall never be left unattended in vehicles.
- F. Vehicles shall be routinely inspected and maintained to ensure that all safety features are operational.
- G. The driver has a Driver's License, as defined, granted by a State.
- H. Automobile insurance shall be maintained to meet or exceed minimum state standards.

- I. Appropriate caregiver to child ratios shall be maintained during the transportation of children.
- J. The number of passengers does not exceed the seating capacity of the transportation vehicle.
- K. The driver and other passengers are seated and wear seat belts while the vehicle is in motion.
- L. While the vehicle is in motion, all children under the age of four are seated in a child restraint system, appropriate to the height and weight of the child as set forth in the Federal Motor Vehicle Safety Standards (49 CFR 571.213) or applicable Tribal, State, or local laws; Children under 40 pounds shall be placed in an appropriate infant and toddler car seat restraint. Children 40-89 pounds shall be in a booster care seat restraint. All children under the age of eighteen (18) years shall be in a car seat restraint.
- M. All children 12 years and under will be placed in the rear seat. If that is not an option, the following steps shall be taken:
  - 1. Properly restrain the child;
  - 2. Push vehicle seat all the way back to minimize distance between child and the airbag.
  - 3. Seat child directly against the seat back.

### **60.23 REPORTING POLICY**

In accordance with the Juvenile Code Chapter 38 child care providers and employees of the child care establishment are mandatory reporters and are required to report any suspected incidence(s) of child abuse or neglect in accordance with the following section:

- A. Any person or mandatory reporter who has reasonable cause to suspect or witness abuse of a child, including an unborn child, shall report the suspected or witnessed abuse to a Police Officer, Child Protection Program worker, Social worker, or Tribal Prosecutor immediately. Any person who, without good cause, fails to report abuse or suspected child abuse shall be guilty of an offense and upon conviction thereof shall be sentenced to imprisonment for a maximum of one (1) year in jail or to a fine

not to exceed five thousand dollars (\$5,000.00), or to both such fine and imprisonment, plus Court costs.

#### **60.24 VALIDITY OF REGISTRATION**

- A. A registration is valid only when the regulations of this Chapter are complied with and pertain only to the provider and to the residence described in the registration. The registration is renewed each year (anniversary date from the previous year).
- B. The tribal office administering Child Care and Development Fund shall conduct a minimum of one (1) on-site visit to each registered home per year.

#### **60.25 PROVISIONAL REGISTRATION**

- A. Provisional registration will be issued for sixty (60) days; however, registration will be discontinued if providers do not comply with the registration requirement.

#### **60.26 WITHDRAWAL OF REGISTRATION**

- A. A provider, at any time, may request that his or her registration be withdrawn.

#### **60.27 REVOCATION OF REGISTRATION**

- A. Violation of the Child Care Standards, are grounds for revocation of registration. The department will provide a thirty (30) day written notice to the provider and shall make a full disclosure of the reasons for revocation. The thirty (30) day written notice is not required when, in the opinion of the department the revocation is necessary to prevent danger to the life, health, or safety of the child(ren).
- B. A caregiver's registration may be revoked in the following situations:
  - 1. Substantiated record of child abuse/neglect.
  - 2. Conviction of drug use or positive testing showing use of illegal drugs on the premises;
  - 3. Failure to meet health and safety requirements;
  - 4. Failure to meet training requirements;
  - 5. Fraud.
- C. If revoked on grounds of fraud or failure to meet health, safety and training requirements, the provider may not reapply for a registration for one (1) year after the date of revocation.

## **60.28 RECEIPT AND INVESTIGATION OF COMPLAINTS**

- A. Upon receipt of complaints pertaining to a caregiver's failure to meet the required health and safety requirements, if needed, the caregiver will be given a corrective action plan to follow by the tribal office administering the Child Care and Development Fund. Upon receipt of said plan, the caregiver will be granted thirty (30) days to comply with the plan requirements. At the expiration of the thirty (30) day limit, the tribal office administering the Child Care and Development Fund, in its discretion, may either grant additional time or revoke the caregiver's registration if health and safety requirements have not been met.
- B. If the Tribal office administering the Child Care and Development Fund discovers a provider has received benefits by error or misrepresentation, the office will deduct the overpayment from the next payment due the provider.
- C. If the Tribal office administering the Child Care and Development Fund discovers a provider has received benefits by willful representation or deceit, the case shall be presented to the Tribal Prosecutor for prosecution under Chapter 24 of the Sisseton-Wahpeton Oyate's Law and Order Code.

## **60.29 FAIR HEARING**

- A. An administrative review must be initiated by filing a written statement, accompanied by any supporting evidence, with the Tribal Secretary within ten (10) working days after a decision has been made to revoke the day care registration by the tribal office administering the Child Care and Development Fund.
- B. The Tribal Secretary has ten (10) working days from the receipt of the written statement in which to review the revocation and make a final decision. The Tribal Secretary's office shall release the final decision to the tribal office administering the Child Care and Development Fund and the provider so they may act in accordance with the decision.
- C. If either the provider or the tribal office administering the Child Care and Development Fund is aggrieved by the Tribal Secretary's decision, an appeal may be filed with the Tribal Court, Agency Village, SD within thirty (30) days of receiving notice of the Tribal Secretary's decision.
- D. The Tribal Court's decision shall be final.

### **60.30 NO WAIVER OF IMMUNITY**

Nothing in this Code shall be construed as a waiver of sovereign immunity for the Sisseton-Wahpeton Oyate, its departments, agencies, entities, employees, or agents.

### **60.31 SEVERABILITY**

If any clause, sentence, paragraph, section, or part of this code shall, for any reason be adjudicated by the Tribal Court or Tribal Appellate Court, to be invalid or unconstitutional, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which the judgment shall have been rendered.

### **60.32 CONSTRUCTION**

This Code shall be interpreted and applied in a manner consistent with all other Codes, Laws, Resolutions, and Regulations of the Sisseton-Wahpeton Oyate.

### **60.33 AMENDMENT**

This Code may be amended only upon affirmative vote of a majority of the Tribal Council of the Sisseton-Wahpeton Oyate.

### **60.34 EFFECT OF HEADINGS**

Headings shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any portion of this Code.

### **60.35 INTERPRETING DEFINITIONS**

Words or phrases used in this Code shall be interpreted so as to give them the meaning they have in common usage for the Sisseton-Wahpeton Oyate and to give this Code it's most reasonable application. The words and phrases in this Chapter are specifically defined and shall control and prevail over any other definition.

**Legislative History:**

- September 10, 2003, Motion No. 23, to approve Chapter 60 of the Child Care Ordinance.

**WEIGHTED VOTE ON MOTION NO. 44:** 17 For: Dawn Eagle (3); Lynn Halbert (2); Francis Crawford (2); Marc Beaudreau (3); Virginia Max (2); Louis Johnson (1); Jerome Renville, Sr. (2); Tribal Vice-Chairman (1); Tribal Secretary (1). 0 Opposed. 0 Abstained. 0 Absent From Vote. 1 Not Voting: Tribal Chairman.  
**MOTION PASSED.**

**MOTION NO. 45:** made by Marc Beaudreau, second by Virginia Max, question by Sara Lincoln, in resolution form, to approve the revisions and amendments to SWO Codes of Law: Chapter 7, Chapter 24, Chapter 36, Chapter 38, Chapter 60, and Chapter 66, to implement the sections detailing the definitions, language, and penalties pertaining to Meth use, possession, production, and distribution.

**WEIGHTED VOTE ON MOTION NO. 45:** 17 For: Dawn Eagle (3); Lynn Halbert (2); Francis Crawford (2); Marc Beaudreau (3); Virginia Max (2); Louis Johnson (1); Jerome Renville, Sr. (2); Tribal Vice-Chairman (1); Tribal Secretary (1). 0 Opposed. 0 Abstained. 0 Absent From Vote. 1 Not Voting: Tribal Chairman.  
**MOTION PASSED.**  
**Resolution No. SWO-14-112**

**Note:** Big Coulee District did not have a District meeting in October 2014.

**Note:** Long Hollow District did not have a District meeting in October 2014.

**MOTION NO. 46:** made by Dawn Eagle, second by Sara Lincoln, question by Jerome Renville, Sr., to approve the District Chairman's Association (DCA) report, as presented by DCA Members; Kenneth Johnson, Tony Barker, Rodney Barse, Beverly Thompson, Floyd Kirk Jr., Gerald German Jr., and Donovan White.

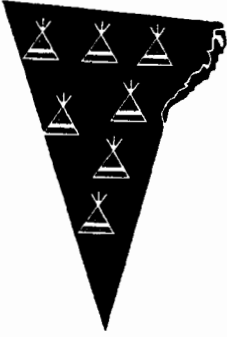
**WEIGHTED VOTE ON MOTION NO. 46:** 17 For: Dawn Eagle (3); Lynn Halbert (2); Francis Crawford (2); Marc Beaudreau (3); Virginia Max (2); Louis Johnson (1); Jerome Renville, Sr. (2); Tribal Vice-Chairman (1); Tribal Secretary (1). 0 Opposed. 0 Abstained. 0 Absent From Vote. 1 Not Voting: Tribal Chairman.  
**MOTION PASSED.**

**MOTION NO. 47:** made by Francis Crawford, second by Virginia Max, question by Sara Lincoln, to approve the Final Walk-Thru of the SWO Administration Building and Close-Out of the project, acknowledging the pending discrepancies with the Architect for the project.

**WEIGHTED VOTE ON MOTION NO. 47:** 7 For: Francis Crawford (2); Virginia Max (2); Louis Johnson (1); Tribal Vice-Chairman (1); Tribal Secretary (1). 10 Opposed: Dawn Eagle (3); Lynn Halbert (2); Marc Beaudreau (3); Jerome Renville, Sr. (2). 0 Abstained. 0 Absent From Vote. 1 Not Voting: Tribal Chairman.  
**MOTION DEFEATED.**







# Sisseton Wahpeton Oyate

LAKE TRAVERSE RESERVATION  
P.O. Box 509  
100 Veterans Memorial Drive  
Agency Village, South Dakota 57262-0509  
Phone: (605) 698-3911

## TRIBAL COUNCIL RESOLUTION NO. SWO-14-112

### Amendment of the SWO Codes of Law Pertaining to Methamphetamine Prevention

- WHEREAS,** The Sisseton-Wahpeton Oyate is organized under a Constitution and By-laws adopted by the members of the Tribe on August 1-2, 1966, and approved by the Commissioner of Indian Affairs on August 25, 1966, and last amended effective November 15, 2006; and
- WHEREAS,** The Constitution ARTICLE III, Section 1, states that the Sisseton-Wahpeton Oyate shall be governed by a Council, and ARTICLE VII, Section 1, states that the Council shall have the following powers: (a) to represent the Tribe in all negotiations with Federal, State and local governments; (b) to acquire, own, use, manage, lease and otherwise encumber and to dispose of Tribal property, both real and personal, wherever situated; (c) to engage in any business that will further the economic development of the Tribe and its Members, and to use Tribal funds or other resources for such purposes; (d) to make rules governing the relationship of the members of the Tribe, to Tribal property, and to one another as members of the Tribe; (e) to hire employees and agents, including legal counsel, directly or as independent contractors, and to compensate them for their services; (f) to deposit Tribal funds to the credit of the Tribe, without limitations of the amount in any account; (g) to take any action by ordinance, resolution, or otherwise which are reasonably necessary through committees, boards, agents or otherwise, to carry into effect the for-going purposes; (h) to promote public health, education, charity, and such other services as may contribute to the social advancement of the members of the Sisseton-Wahpeton Oyate; (i) adopt resolutions regulating the procedures of the Tribal Council, its officials and committees in the conduct of Tribal Affairs; and
- WHEREAS,** On November 1, 2013, the Tribal Council held a drug retreat to discuss methamphetamine prevention and proposed amendments to the Sisseton-Wahpeton Oyate Codes of Law that would adequately address methamphetamine prevention within the community; and
- WHEREAS,** The attendance of the retreat included members from the Judicial Committee, Tribal Council, Methamphetamine Prevention Program, Executive Committee, Court Advocates, and interested Community Members; and,
- WHEREAS,** Pursuant to the ongoing issues with methamphetamine use, distribution, and manufacturing that was brought to the attention of Tribal Council through the community and programs Tribal Council chooses to address the issues though the Sisseton-Wahpeton Oyate Codes of Law; and,

**WHEREAS,** The SWO Judicial Committee has been presented with the proposed amendments in order to solicit comments and recommendations of Chapter 7 (Landlord Tenant Law), Chapter 24 (Penal Code), Chapter 36 (Alcohol and Drug Treatment Act), Chapter 38 (Juvenile Code), Chapter 60 (Child Care Ordinance), and Chapter 66 (Education Code); and now recommends passage of the amendments.

**NOW THEREFORE, BE IT RESOLVED** that the Tribal Council of the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, hereby approves of the revised and amended Chapter 7 (Landlord Tenant Law), Chapter 24 (Penal Code), Chapter 36 (Alcohol and Drug Treatment Act), Chapter 38 (Juvenile Code), Chapter 60 (Child Care Ordinance), and Chapter 66 (Education Code), and all previous versions of these chapters are hereby repealed and superseded by passage of the amended version of each of these codes; and

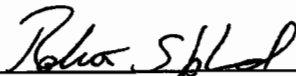
**BE IT FURTHER RESOLVED** that the SWO Legal Department is hereby authorized to post Chapter 7 (Landlord Tenant Law), Chapter 24 (Penal Code), Chapter 36 (Alcohol and Drug Treatment Act), Chapter 38 (Juvenile Code), Chapter 60 (Child Care Ordinance), and Chapter 66 (Education Code), on the Tribe's website for public information purposes; and

**BE IT FINALLY RESOLVED** that the Chairman and Secretary of the Sisseton-Wahpeton Tribal Council are hereby authorized and instructed to sign this Resolution for and on behalf of the Tribal Council.

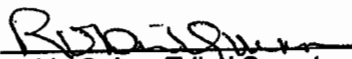
## CERTIFICATION

*We, the Undersigned duly elected Tribal Chairman and Tribal Secretary of the Sisseton-Wahpeton Oyate Tribal Council, do hereby certify that the above resolution was duly adopted by the Sisseton-Wahpeton Oyate Tribal Council, which is composed of 10 members (representing a total of 15 Tribal Council weighted votes and two Executive Committee votes for a total of 17 votes) of whom 10 constituting a quorum, were present at a Tribal Council meeting, duly noticed, called, convened and held at the TiWakan Tio Tipi, Agency Village, South Dakota, November 5, 2014, by a vote of 17 for, 0 opposed, 0 abstained, 0 absent from vote, 1 not voting, and that said Resolution has not been rescinded or amended in any way.*

Dated this 5<sup>th</sup> day of November 2014.

  
\_\_\_\_\_  
Robert Shepherd, Tribal Chairman  
Sisseton-Wahpeton Oyate

ATTEST:

  
\_\_\_\_\_  
Robin Quinn, Tribal Secretary  
Sisseton-Wahpeton Oyate

