



## **BEAR RIVER BAND OF THE ROHNERVILLE RANCHERIA CHILDREN’S CODE**

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## **ARTICLE ONE: PURPOSE AND AUTHORITY**

### **4.05.01        PURPOSE**

The purposes of this Code are as follows:

1. To provide for the welfare, care and protection of the children and families brought before the Bear River Band Tribal Court;
2. To preserve unity of the family, preferably by separating children from their parents only when necessary;
3. To take such actions as may be necessary and feasible to prevent the abuse, neglect or abandonment of children;
4. To provide a continuum of services for children and their families from prevention to residential treatment, with emphasis whenever possible on prevention, early intervention and community-based alternatives;
5. To secure the rights of and ensure fairness to the children, parents, guardians, custodians or other parties who come before the court;
6. To ensure that other courts can transfer Tribal children to Tribal jurisdiction pursuant to the Indian Child Welfare Act;
7. To recognize and acknowledge Tribal customs and traditions regarding child rearing; and
8. To ensure that when a child must be removed from his or her home or family that the child is placed in a Tribally-approved foster or protective home care which reflects the unique values and cultures of the child and their Tribe, and each placement is approved through the Tribal Social Services Licensing program.

### **4.05.02        IMPLEMENTATION AND ENFORCEMENT**

The authority and responsibility to implement and enforce this Code shall be vested in the Bear River Band Tribal Court, pursuant to the Act Establishing the Judiciary.

### **4.05.03        APPOINTMENT OF JUDGE**

The Bear River Band Chief Judge shall hear and decide court actions brought under the authority of this Code. The Bear River Band Chief Judge shall be appointed by the Bear River Band Tribal Council, pursuant to the Act Establishing the Judiciary.

## **ARTICLE TWO: DEFINITIONS**

### **4.05.04        DEFINITIONS**

As used in this Code, unless the context otherwise requires:

1. *Abandon/Abandonment* means when a parent or caretaker has shown conscious disregard of parental responsibilities toward the child by failing to provide reasonable support, maintain regular contact, or provide supervision, according to the child's age and needs.

- a. Custody with extended family members or the parent's voluntary consent to placement of the child outside their custody does not constitute abandonment unless the care provider is no longer willing or able to provide care for the child and either the parent's whereabouts are unknown or the parent is currently unable or unwilling to care for the child.
  - b. A custodial parent's incarceration does not constitute abandonment if the parent is able to make arrangements for the child's care during the parent's incarceration.
  - c. Abandonment is a form of child neglect.
2. *Adjudicatory Hearing* means a hearing to determine whether the allegations of a petition are supported by a preponderance of the evidence.
3. *Adult* means a person eighteen years of age or over, or a person under eighteen years of age who has been legally emancipated.
4. *Child Abuse* means any of the following:
  - a. *Physical Abuse*: is the intentional infliction of physical injury to a child by their parent, guardian, legal custodian, or Indian custodian. Physical abuse does not include discipline administered by a parent or other caretaker to a child provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty, within applicable Bear River Tribal community standards.
  - b. *Sexual Abuse*: means any of the following:
    - i. Any sexual activity between a parent, guardian, legal custodian or Indian custodian and a child.
    - ii. Any sexual activity of the child enticed, demanded, or forced by the parent, guardian, legal custodian or Indian custodian including masturbation, sexual acts with other people or animals, and/or sex trafficking of the child.
    - iii. Intentionally exposing the child to pornographic materials, intentionally exposing genitalia to a child with the motive of the sexual gratification of the parent, guardian, legal custodian or Indian custodian, looking at a child's exposed buttocks, genitals or breasts for sexual gratification, taking photos of a child in sexual poses and/or partially naked or naked for one's own sexual gratification or the sexual gratification of others.
  - c. *Emotional Abuse*: includes repeated intentional attempts to belittle, humiliate, ignore, isolate, or scare a child that results in significant emotional harm to a child. Significant emotional harm can be demonstrated by an observable and substantial impairment in the child's ability to function within a normal range of behavior as determined by Bear River Tribal Cultural norms. Examples include, but are not limited to, anxiety, depression, self-harming behavior, bullying or other outsized aggression towards others, and significant substance abuse.
5. *Court* means the Bear River Band of the Rohnerville Rancheria Tribal Court, unless otherwise stated (i.e a reference to a state Court or another Tribal Court).
6. *Detention* means the temporary care of a child who requires custodial care pending the Court's determination of jurisdiction and/or disposition.

7. *Dispositional Hearing* means a hearing to determine what actions must be taken by the person against whom a finding of child abuse or neglect has been made to reunify with the child and/or show that no additional court intervention is needed to keep the child safe from future abuse or neglect, and to decide where the child should be placed while the issues that led to the abuse or neglect are addressed.
8. *Domestic or Family Violence* the definition of domestic violence in the Tribe's Protective Order Ordinance shall be incorporated as the definition of domestic or family violence under this Code.
9. *Extended Family* means a person who is related to the child by blood or marriage, or who is recognized by Bear River law or custom as an extended family member.
10. *Guardianship of the Person* means the court has granted legal and physical custody of the child to a non-parent. The guardian has the authority to make major decisions affecting a child including, but not limited to:
  - a. Where the child lives;
  - b. Medical decisions for the child;
  - c. Educational decisions for the child;
  - d. What cultural and/ or religious activities the child participates in;
  - e. The authority to represent a child in legal actions and to make other decisions of substantial legal significance for the child; and
  - f. Any other decisions necessary to protect and care for the child.
11. *Indian Child* means an unmarried person who has not been legally emancipated who is under the age of 18 years old and is an enrolled member of, or who is eligible to be an enrolled member of, a federally recognized Tribe.
12. *Indian Custodian* means an Indian person in whose care a child is entrusted by informal agreement between that person and the child's parent.
13. *Interested Party* means a relative of the child, caregiver for the child, or anyone else with a legitimate interest in the child's welfare and wellbeing. Whether a non-relative has a legitimate interest in the child's welfare and wellbeing can be established by Tribal cultural practices and/or proof of the individual's connection to the child and involvement in the child's life.
14. *Legal Custody* means the right to the care, custody, and control of a child and the duty to provide food, clothing, shelter, ordinary medical care, education, and discipline for a child and, in an emergency, to authorize surgery or other extraordinary care. Legal custody may be taken from a parent only by court action.
15. *Modification of Parental Rights* means a court action which limits on a long term basis a parents legal custody or right or physical custody of a child, without complete severance of the parent/child relationship. This is an alternative to termination of parental rights.
16. *Neglect* occurs when a parent, guardian, legal custodian or Indian Custodian's failure to act results in death, serious physical or emotional harm of a child, or creates an imminent risk of serious harm or endangerment to a child. This includes any of the following:
  - a. Abandonment of a child;

- b. Failure to take reasonable efforts to stop another person from abusing the child if the abuse was known or reasonably should have been known given the circumstances; or
  - c. Failure or refusal to provide necessities of life (food, clothing, shelter, medical care) or any other necessary care for the child’s health and wellbeing including the failure to meet any other physical needs of the child; to adequately supervise the child; or the failure to meet the child’s emotional, social, educational, or safety needs.
17. *Parent* means either a natural or adoptive parent of a child.
  18. *Protective Supervision* means a legal status created by court order under which the child is permitted to remain in his home or is placed with a relative or other suitable person, and supervision and assistance is provided by the court, the Tribal child welfare department, or other agency designated by the court.
  19. *Residential Treatment* refers to a live-in healthcare setting where individuals receive comprehensive care and support.
  20. *Transfer Proceedings* means any proceeding in the Tribal Court to accept or decline transfer from any state court or other tribal court of any court proceeding for the determination of jurisdiction or placement, or termination of parental rights to any Indian child.
  21. *Tribe* means the Bear River Band of the Rohnerville Rancheria unless otherwise stated.
  22. *Tribal Council* means the governing body of the Bear River Band of the Rohnerville Rancheria, pursuant to Article IV of the Bear River Band Constitution.
  23. *Tribal Presenting Officer* means a representative of the Tribe who is officially designated to present issues on behalf of the Tribe arising under this Code.
  24. *Tribal Social Services Department/Worker* means the Bear River Band Social Services department, or a social worker employed by the Bear River Band of the Rohnerville Rancheria.

**4.05.05 BEST INTERESTS OF THE CHILD STANDARD**

The best interests of the child are served by a living situation that best maintains a child’s emotional growth, family, Tribal and cultural ties, health and stability, education, and physical care.

**ARTICLE THREE: JURISDICTION**

**4.05.06 GENERAL JURISDICTION**

The jurisdiction of the Bear River Band Tribal Court shall be civil in nature and shall include the right to issue all orders necessary to insure the safety of children who are alleged or found to have been abused or neglected or who are in court ordered guardianships. The Tribal Court shall have the power to issue and enforce subpoenas, protective orders, fines, contempt, out of home placement orders, guardianship orders, and other orders as appropriate.

#### **4.05.07 PERSONS**

The Bear River Band Tribal Court shall have jurisdiction over children who have been abused or neglected as defined in this Code and their parents, guardians, legal custodians or Indian custodians:

1. Any child who is an enrolled member of, or eligible for enrollment in the Tribe.
2. Any child of an enrolled Tribal member.
3. Any child residing within the exterior boundaries of the Tribe's Reservation or Rancheria, in the home of an enrolled member of the Tribe, for whatever reason, as long as the parents, guardians, or custodians have consented to the jurisdiction of the Tribal Court.
4. Any Indian child of another Tribe, so long as the governing body of the child's Tribe has consented in writing by Resolution or other form to the Bear River Tribal Court's exercise of jurisdiction and such consent has been filed with the Court.

#### **4.05.08 JURISDICTION OVER EXTENDED FAMILY**

Except as otherwise provided, where the Court asserts jurisdiction over a person under this Code, the Court shall also have jurisdiction over the person's extended family whenever the Court deems it appropriate. Notice and the opportunity to be heard must be provided to the specific family members over whom the court is seeking to exercise jurisdiction.

#### **4.05.09 ENROLLMENT**

For determining who is a Tribal Member for purposes of this Code, the Bear River Band will follow its Enrollment law and procedures. The Indian Tribe of either or both parents shall determine who is an Indian for non-member children.

#### **4.05.10 INDIAN CHILD WELFARE ACT TRANSFERS**

1. Indian Child Welfare Transfers from State Courts:
  - a. The Court is authorized to accept transfer of any child abuse or neglect cases involving an Indian child over whom this court has jurisdiction, provided the court determines that the case transfer is not detrimental to the child's best interests or the interests of the child's Tribe.
  - b. The transferring court may apply the policies of the Indian Child Welfare Act. 25 U.S.C. Sec. 1901-1963, where they do not conflict with the provisions of this Code. The procedures for state courts in the Indian Child Welfare Act shall not be binding upon the Court unless specifically provided for in this Code or the Bear River Band Rules of Court.
  - c. Upon transfer of a case into the Court, the Tribal Court case shall proceed as if the petition had been originally filed or the adjudication had been originally made in the Court.
2. Transfer To State or Other Tribal Court:

- a. In any proceeding before the Court, the Court may transfer the proceedings to an appropriate state or another tribal court where the state or other Tribe have a significant interest in the child and the transfer would be in the best interests of the child and the child's Tribe.
- b. When transferring a case, the Court shall transmit all documents, legal and social records or certified copies thereof, to the receiving court.

**4.05.11 FULL FAITH AND CREDIT**

**1. State Court Orders**

State court orders issued in child custody proceedings as defined under ICWA, involving children over whom the Tribal Court could take jurisdiction under this Code may be recognized by the Court only after a full independent review of such state proceedings has determined:

- a. The state court had jurisdiction over the child;
- b. The provisions of the Indian Child Welfare Act were properly followed;
- c. Due process was provided to all interested persons participating in the state proceeding; and
- d. The state court proceeding does not violate the public policies, customs or common law of the Tribe.

**2. Other Tribal Courts**

Court orders of other Tribal courts involving children over whom the Court could take jurisdiction under this Code shall be recognized by the Court after the court has determined:

- a. That the other tribal court exercised proper subject matter and personal jurisdiction over the parties; and
- b. Due process was accorded to all interested parties participating in the other tribal court proceeding.

**ARTICLE FOUR: PROCEDURES**

**4.05.12 RIGHTS OF PARTIES**

All parties have a right to be represented by an advocate or attorney at their own expense in all proceedings under this Code, to introduce evidence, to be heard on his or her own behalf, to examine witnesses, and to be informed of possible consequences if the allegations of the petition are found to be true. All parties shall be entitled to advance copies of court documents, including petitions and reports, unless deemed inappropriate by the Court.

**4.05.13 EXPLANATION OF RIGHTS**

At the first appearance before the Court, the child and the child's parents, guardian, or other legal custodian shall be fully advised by the Court of their legal rights, including the right to be represented by counsel, at their own expense, at every stage of the proceedings.

#### **4.05.14 REPRESENTATION OF CHILD**

At any stage of the proceeding conducted under this Code the Tribal Court may appoint separate counsel for the child, without affecting the right to counsel of the parents, guardians or other legal custodians, to act as guardian ad litem representing the child's best interests.

#### **4.05.15 REPRESENTATION BY THE TRIBE**

1. The Bear River Band Social Services department is authorized to act as the Tribal Presenting Officer and to represent the position of the Tribe proceedings arising under this Code, and in proceedings in state courts that are subject to transfer of jurisdiction to the Tribal Court under the Indian Child Welfare Act or in which the Tribe has a right to intervene as a party.
2. The Bear River Band Social Services staff shall develop and maintain a file on any proceedings in which Tribal participation is contemplated, as set forth in 1. above. The file shall include copies of all papers filed in the proceedings, and social worker or related assessments, whether or not filed in court.

#### **4.05.16 COURT RULES**

1. Procedures shall be governed by the Bear River Band Rules of Court, which are not in conflict with this Code.
2. Where there is a conflict with the Rules of Court, provisions of this Code will apply.

#### **4.05.17 SOCIAL SERVICES**

The Court shall utilize social services as may be furnished by any Tribal, federal or state agency provided that the services are in the child's best interest and will not interfere with the child's connection to Tribal culture.

#### **4.05.18 CONTRACTS**

The Court may negotiate contracts with Tribal, federal, and state agencies or departments for the care and placement of children before the Court, subject to the approval of Tribal Council.

#### **4.05.19 ADDITIONAL COURT PERSONNEL**

The Court may set qualifications and appoint additional personnel such as guardians ad litem, court appointed advocates (CASA's), Tribal Court advocates, mediators and referees whenever the court decides that it is appropriate to do so.

#### **4.05.20 SOCIAL STUDY AND OTHER REPORTS**

Unless waived by the Court, the Tribal Social Services department or other agency designated by the Court shall conduct a social study and prepare a written report in all children's cases except as stated in subsection 1. and 2. below.

1. If the allegations of a petition filed are denied, the study shall not be made until the court has entered an order of adjudication as provided herein.
2. The study and investigation in all adoptions shall be made as provided in Article Sixteen of this Code.
3. For the purpose of determining proper disposition of a child, written reports and other material relating to the child's mental, physical, and social history may be received and considered by the court along with other evidence. The person who wrote the report or prepared the material shall be required to appear as a witness and be subject to both direct and cross-examination upon either the request of the child, or the child's parent or guardian; or upon a the court's own motion with a finding by the court that the best interests of the child or the interests of justice so require.
4. The social study shall include the following points, and be made available to the court, and the parties as deemed appropriate by the court at least three (3) court days prior to the hearing at which it will be considered:
  - a. A summary of the problems;
  - b. What steps, if any, the parent, guardian, or custodian, have already taken to correct the problems;
  - c. What services and support have been offered to the parent, guardian, custodian and child by Tribal Social Services;
  - d. What services could be of benefit to the parent, guardian, or custodian. but are
  - e. not available in the community;
  - f. A report on how the child is doing in his/her current placement(s) since the last hearing. If there have been any moves, the report shall contain the reason for such moves;
  - g. Dates of contacts, or attempted contacts, method of contact, approximate duration of contact and any subjects discussed during contacts with parents, guardians or custodians and the child since the last hearing,
  - h. If there have been no contacts, what efforts have been made to have them;
  - i. An assessment of when the child is expected to return home;
  - j. If the child's placement is being considered by the court:
    - i. A list of the child's extended family members and a summary of contacts, or attempted contacts, by Tribal Social Services regarding whether those family members are interested in being a placement for the child;
    - ii. Any known barriers to placement in interested extended family members' homes;

- iii. If it is for use at a dispositional or review hearing a case plan and recommendations for the next six (6) months. Such recommendations shall include:
  - 1) A treatment plan for the parents, guardians or custodians who have been found to abuse or neglected the child;
  - 2) Present and future placement of the child; and
  - 3) Any services recommended for the child.

#### **4.05.21 FAMILY GROUP CONFERENCING**

##### **1. Purpose**

Before conducting an adjudicatory hearing in any case, the Court shall provide the child's family with an opportunity to establish a plan which will ensure the safety of the child who has come before the court and thereby potentially eliminate the need for ongoing judicial intervention. This Code recognizes a Tribal cultural preference for family decision making as opposed to judicial intervention and adjudication when possible, and encourages families to take seriously the issues with which they are presented.

##### **2. Participants**

The goal and purpose of the family group conference is to diminish the number of children who must be removed from their homes and families as a result of child abuse or neglect. The following individuals may attend and participate in the Family Group Conference:

- a. All immediate and extended members of the family; and
- b. In cases where there has been domestic or family violence, any support person or advocate who is accompanying the victim of domestic or family violence. If the victim of domestic or family violence does not feel safe for any reason in attending this session, the perpetrator shall not attend the family session and the family shall work with the victim to develop a plan of safety for the child and the victim.

##### **3. Coordinator**

The Court shall designate a mediator who is familiar with the culture and traditions of the child's Tribe who shall serve as coordinator of Family Group Conference.

##### **4. Stages**

Family Group Conferences shall be comprised of the following stages:

- a. Introduction, during which the coordinator shall welcome all participants, explain the purpose of the Family Group Conference, explain the manner in which the conference will be conducted as well as the judicial and social services procedures that will be followed with regard to the conference, and shall establish an agreement with all of the participants regarding the role that each individual shall play and the goal of the conference.
- b. Information sharing meeting, during which time professionals involved in the case shall present to the family facts regarding the safety issues concerning the child and any resources available to resolve those safety issues. The coordinator

shall provide the family with an opportunity to ask questions of the professionals to ensure that the family is well informed before they conduct their private conference.

- c. Family meeting, during which time the family shall discuss the facts and determine whether or not the child was either abused or neglected, and if so, what needs to occur to ensure that the child is properly cared for and protected from future harm.
- d. Proposal of family decision and plan, if any, to the coordinator, the social worker and other professional people involved in the case for approval.
- e. Presentation of family decision and plan to Tribal Court judge.

5. Professionals

During the information sharing stage of the Family Group Conference, the following individuals may be present:

- a. Social worker who conducted the child abuse and neglect investigation;
- b. All other professionals who have facts regarding the case, including law enforcement investigators, officers, medical personnel, school counselors, school teachers, and any other professionals who have information concerning the allegations of abuse or neglect.

6. Family Meeting

During the family meeting everyone other than the child's family members shall leave the room and permit the family to discuss the information privately. The coordinator shall inform the family that they may spend up to two 8-hour days evaluating their decision and plan. The coordinator shall provide the family with a private room for the family meeting, and shall ensure that the family's discussions are completely confidential. The family may request the assistance of the coordinator in reaching agreement on and drafting the terms of the plan, and/or may request information from Tribal Social Services about available services.

7. Veto

Once a family reaches a decision, the social worker, coordinator and any other support people shall return to the meeting, at which time the family shall present and explain the plan. At this stage of the conference, the following individuals have the authority to veto the decision reached by the family, and to request that the family continue their discussion to reach an alternate plan:

- a. Either of the child's parents;
- b. Any current guardian of the child;
- c. Social worker who made the initial referral; and/or
- d. Child's attorney, guardian ad litem or advocate.

Anyone vetoing the proposed plan must explain the reason they believe the plan will not keep the child safe and explain any additional terms they believe are necessary to ensure the child's safety.

8. Presentation

- a. Once the family; the social worker; and the child's attorney, guardian ad litem, or advocate (if any has been appointed) reach an agreement regarding the safety plan for the child, the family and the social worker shall present the plan to the Tribal Court judge who shall review the plan, listen to any argument by any of the professionals or family members involved in the case, and shall approve or disapprove of the plan.
- b. If the judge disapproves the plan, the judge has the discretion to either send the family back for an additional conference or set the case for adjudication hearing.
- c. If the judge approves the plan, the judge may dismiss the petition. The judge must explain to any Respondents present that the petition may be re-filed if they fail to follow through with the family plan.

#### **4.05.22 COURT RECORDS**

1. Oral

The oral portion of all court proceedings shall be recorded verbatim.

2. Files

The contents of all court files, including transcripts of oral proceedings shall be kept confidential, and shall be open to inspection only by the parents or guardian, attorneys, and other parties in proceedings before the court, and to any agency to which legal custody of the child has been transferred; except records of court proceedings in adoption and relinquishment shall be confidential and open to inspection only by court order.

3. Inspection

Upon order of the Tribal Court, records of the court proceedings may be inspected by the child, by persons having a legitimate interest in the proceedings, and by persons conducting pertinent research studies. Probation, wellness court, mental health and all medical records shall not be open to inspection, except by order of court.

#### **4.05.23 DUTY TO REPORT CHILD ABUSE**

1. Duty

Any person who has a reasonable cause to suspect that a child has been abused, neglected or abandoned shall immediately report the abuse, neglect or abandonment to the Tribal Social Services department.

2. Mandatory Reporters

Those persons who are mandated to report suspected abuse or neglect include any physician, nurse, dentist, optometrist, or any other medical or health professional; school principal, school teacher, or other school official; social worker, child day care center worker, or other child care staff including foster parents, residential care or institutional personnel; counselor; court visitation monitor, peace officer or other law enforcement official.

3. Cause to Report

Any person who has a reasonable cause to suspect that a child has been abused, neglected or abandoned shall report the abuse, neglect or abandonment. Those persons reporting, except those specified in subsection 2. above, may remain anonymous.

4. Immunity

All persons or agencies reporting, in good faith, known or suspected instances of abuse or neglect shall be immune from civil liability and criminal prosecution.

5. Failure to Report

Those persons mandated to report a case of known or suspected abuse or neglect who knowingly fail to do so or willfully prevent someone else from doing so shall be subject to a civil cause of action proceeding in Tribal Court. Consequences for a Mandated Reporter failing to report may include a fine of up to \$1000 fine and/or adverse employment consequences for Tribal employees ranging from a written warning to possible termination depending on the severity of the abuse that has gone unreported and the level of knowledge the employee had of the alleged abuse.

6. Oral reports

Those persons mandated to report shall promptly make an oral report to the Tribal Social Services department and then follow with a written report as soon thereafter as possible if required by Social Services.

7. Written Reports

The following shall be included in the written report:

- a. Names, addresses, and Tribal affiliation of the child and his or her parents, guardians or custodian;
- b. The child's age;
- c. The nature and content of the child's abuse or neglect;
- d. Previous abuse or neglect of the child or his or her siblings, if known;
- e. The name, age, and address of the person alleged to be responsible for the child's abuse or neglect, if known; and
- f. The name and address of the person or agency making the report.

8. Photographs and X-Rays

Persons reporting suspected abuse or neglect may photograph or cause x-rays to be taken of the child suspected of being abused, and such photographs or x-rays may be introduced into evidence at a hearing.

9. Registry

The Tribal Social Services shall maintain a central registry of reports, investigations and evaluations made under this Code. The registry shall contain the information furnished by Tribal personnel throughout the Rancheria, including protective service workers, probation officers, caseworkers and Indian Child Welfare Program employees. Data shall be kept in the central registry until the child concerned reaches the age of eighteen (18) years (unless the Tribal Court orders that individual records shall be kept on file beyond that date in order to protect other siblings). Data and information in the central registry shall be confidential and shall be made available only with the approval of the director of the department to the Tribal Court, Social Services agencies, public health and law enforcement agencies, licensed health practitioners, and health and educational

institutions licensed or regulated by the Tribe. A request for the release of information must be submitted in writing, and such request and its approval shall be made part of the child's file.

10. Hearings

All hearings shall be as informal in nature as possible. Interested parties may present evidence relating to the situation. The general public shall be excluded from the proceedings. Only the parties, their counsel, witnesses, the child's extended family and other persons determined to be appropriate by the court shall be admitted. The Court may exclude persons from hearings for good cause including but not limited to the individual being disruptive, the individual being a witness, or sensitive matters such as specific details of sexual abuse being discussed at hearing.

11. Evidence

The Rules of Court shall be followed. However, hearsay evidence shall be admissible, except that a finding of fact cannot be supported by hearsay alone. The Tribal Court may subpoena witnesses on its own motion, or on the motion of a party.

**ARTICLE FIVE: INVESTIGATION, REMOVAL AND NOTICE**

**4.05.24 INVESTIGATION**

All reports of alleged child abuse or neglect shall be investigated by the Tribal social services department or other appropriate agency in a manner that proves to be timely and diligent unless the Tribal Court directs otherwise

**4.05.25 AUTHORITY TO REMOVE AND PLACE IN TEMPORARY CUSTODY**

If the Tribal social worker investigating a report of child abuse or neglect finds that any of the following grounds for removal have been met, the social worker shall remove the child from the home in which the child is residing and place the child in a temporary receiving home, or other appropriate placement without order from the Court:

1. When there are reasonable grounds to believe the child is in immediate risk of being abused or neglected;
2. When the child is abandoned, lost, or seriously endangered in their surroundings and immediate removal appears to be necessary for the child's protection; or
3. When there are reasonable grounds to believe that the child has run away or escaped from his parents, guardian, or legal custodian due to abuse or neglect.

**4.05.26 POWER TO REMOVE**

1. Basis for Removal

Tribal Social Workers shall have the power to remove a child pursuant to this Section provided that:

- a. Reasonable grounds existed at the time of the removal to believe the removal was necessary;

- b. Tribal Social Services ensures the safety and well-being of the child, until such time as the Court assumes control of the matter; and
  - c. Tribal Social Services complies with the notice provisions contained in this Code.
2. Placement Preferences
- Whenever Tribal Social Workers remove a child from their home, they shall follow the placement preferences explained in Article Ten of this Code

**4.05.27        EFFORTS TO PREVENT REMOVAL**

Before taking a child into custody, a social worker shall consider whether the child can remain safely in his or her residence. The consideration of whether the child can remain safely at home shall include, but shall not be limited to, the following factors:

- 1. Whether there are any reasonable services available to the worker which, if provided to the child’s parent, guardian, caretaker, or to the minor, would eliminate the need to remove the child from the custody of his or her parent, guardian, or caretaker.
- 2. Whether a referral to public assistance would eliminate the need to take custody of the child. If those services are available, they shall be utilized.
- 3. Whether a non-offending caretaker can provide for and protect the child from abuse and neglect and whether the alleged perpetrator voluntarily agrees to withdraw from the residence, withdraws from the residence, and is likely to remain withdrawn from the residence.

**4.05.28        NOTICE TO THE PARENT, GUARDIAN OR CUSTODIAN**

Tribal Social Services shall make all reasonable efforts to notify the parents, guardian or custodian, within twelve (12) hours of the department removing the child. Reasonable efforts shall include personal, telephone and written contacts at their residence, place of employment, or other location where the parent, guardian or custodian is known to frequent with regularity. If the parent, guardian or custodian cannot be found, notice shall be given to members of the extended family of the parent, guardian or custodian and/or the extended family of the child.

**ARTICLE SIX: PETITION AND INITIAL HEARINGS**

**4.05.29        CHILD PROTECTION PETITION AND PRELIMINARY INVESTIGATION:**

- 1. Authorization
- Formal child protection proceedings shall be instituted by a Child Protection Petition filed by Tribal Social Services on behalf of the Tribe when the department believes that abuse or neglect of a child has occurred and judicial intervention is necessary to prevent further incidents of abuse or neglect.
- 2. Removal

If the child has been removed from their home, a Child Protection Petition shall be filed with the Tribal Court no later than 12:00 p.m. (noon) of the second court working day following the removal.

#### **4.05.30 CONTENTS OF PETITION**

The child protection petition shall set forth the following with specificity:

1. The name, birth date, gender, residence and Tribal affiliation of the child;
2. The basis for the court's jurisdiction;
3. The specific allegations of abuse, neglect or abandonment;
4. A plain and concise statement of the facts upon which the allegations of abuse, neglect or abandonment are based, including the date, time and location at which the alleged facts occurred;
5. The names, residences and Tribal affiliation of the child's parents, guardians or custodians, if known;
6. The names, relationships and residences of all known members of the child's extended family and all former care givers, if known; and
7. If the child is placed outside of the home, where the child is placed, the facts necessitating the placement, and the date and time of the placement.

#### **4.05.31 SUMMONS, ISSUANCE, CONTENTS, SERVICE**

##### **1. Summons**

After a Petition has been filed, the court clerk shall promptly issue a summons requiring the Respondents to appear at the initial hearing and informing any named Respondents of the following:

- a. A Child Protection Petition has been filed on behalf of the child;
- b. The consequences of the case can include the temporary or long term removal of the child from the Respondents' custody and the potential modification of parental rights;
- c. A Summary of the Respondent(s) legal rights; and
- d. The Tribal Court may appoint a Tribal elder, attorney, guardian ad litem, CASA or other advocate on the child's behalf.

##### **2. Production of Child**

The summons may require the person or persons having the physical custody of the child bring the child to the initial hearing. If the person or persons so summoned are not the parents or guardian of the child, the summons shall also be issued to the parents or guardian, or both, notifying them of the pendency of the case and of the time and place set for the hearing.

##### **3. Joinder**

The Tribal Court, on its own motion or on the motion of any party may join as a Respondent any person it deems necessary to the action and authorize the issuance of a summons directed to such person.

4. Taking Custody of Child

If it appears that the welfare of the child or of the Tribe requires that the child be taken into custody, the court may, by endorsement upon the summons, direct that the person serving the summons take the child into custody at once.

5. Service

a. Personal

The Summons shall be served personally. It shall be sufficient to confer jurisdiction if service is effected not less than two (2) days before the time fixed in the summons for the appearance of the person served.

b. Other

If the parents, guardian, or other legal custodian of the child required to be summoned cannot be found within the Tribal jurisdiction, the fact of the child's presence within the Tribe's jurisdiction shall confer jurisdiction on the Tribal Court as to any absent parent, guardian, or legal custodian, if notice has been given as required by the Rules of Court when personal service is required but not practicable.

6. Contempt

Any person summoned or required to appear who has acknowledged service and fails to appear without reasonable cause may be proceeded against for contempt of court.

7. Initial Hearing

The initial hearing regarding the removal or detention of a child shall be held before the end of the fourth working day following the filing of the child protection petition.

- a. *Purpose.* The purpose of the initial hearing is to determine whether it is reasonable to believe that continuing absence from the home is necessary to protect the wellbeing of the child. During the hearing, the Court shall advise the parties of the reason for the hearing and of their basic rights described in subsection c. below.
- b. *Reports.* Any agency reports, including Tribal Social Service reports, shall be received.
- c. *Explanation of Rights.* The court shall explain to the parties their basic rights listed in Article Four.
- d. *Admission of Denial of Allegations.* The Court must explain the allegations to any Respondents present at hearing. After the Court's explanation, the Respondents shall admit or deny the allegations in the petition.
- e. *Parties.* Missing parties and relatives shall be noted and notice to the parties shall be reviewed.
- f. *Findings.* The Court shall specify why continuation of the child in the home would be contrary to the child's welfare.
- g. *Prevention.* The Court shall specify whether reasonable efforts have been made to prevent the child's out of home placement.
- h. *Visitation.* The Court shall specify the terms of any visitation between the child and any caretakers from whose custody the child was removed, minor siblings with whom the child is not residing, as well as any relatives or other significant

people in the child’s life who are requesting visitation. The Court shall only grant visitation if it is in the child’s best interests to do so.

8. Possible Outcomes of Initial Hearing
  - a. The Child Protection Petition may be dismissed and the child returned to home with direction to the parties concerning future parental conduct and the provision of services to the child and parents; or
  - b. The child may be returned to the home of the parents, guardian or custodian under the supervision of the Court, pending the adjudicatory hearing or a family group conference.

## **ARTICLE SEVEN: ADJUDICATORY HEARING, FINDINGS, ADJUDICATION**

### **4.05.32 TIMING**

The adjudicatory hearing shall be held no later than thirty (30) days following conclusion of the initial hearing or family group conference, whichever occurs later.

### **4.05.33 PURPOSE**

The purposes of this hearing are:

1. To determine whether the allegations in the petition are true;
2. To reassess whether continuing court intervention is necessary to protect the well-being of the child; and
3. To determine whether the child can safely be returned to or remain in the home of the person who is found to have committed abuse or neglect.

### **4.05.34 OUTCOME OF HEARING**

The Tribal Court shall find the allegations of the petition to be true or dismiss the petition, unless the hearing shall be continued to a date certain to allow for the presentation of further evidence.

### **4.05.35 JURISDICTIONAL FACTS**

Jurisdictional matters of the age and residence of shall be deemed admitted by or on behalf of the child, unless specifically denied prior to the adjudicatory hearing.

### **4.05.36 ADDITIONAL MATTERS**

When it appears that the evidence presented at the hearing discloses facts not alleged in the petition, the Tribal Court may proceed immediately to consider such additional or different matters raised by the evidence.

#### **4.05.37 AMENDMENT**

When new allegations or evidence are revealed at hearing, the Tribal Court, on the motion of an interested party or on its own motion, shall order the petition to be amended to conform to the evidence. If the amendment results in a substantial departure from the original allegations in the petition, the court shall continue the hearing on the motion of any interested party, or on its own motion, if it finds it to be in the best interests of the child or any other party to the proceedings.

#### **4.05.38 BURDEN OF PROOF**

The burden of proof lies with Tribal Social Services in cases alleging child abuse or neglect. Tribal Social Services must prove that the allegations raised in the petition are more likely true than not, that is, by a preponderance of the evidence, and that the best interests of the child and the child's Tribe will be served by continued court intervention.

#### **4.05.39 CONTINUANCES**

After making a finding that the court has personal jurisdiction over the parties, but before making adjudication whether abuse or neglect occurred, the Tribal Court may continue the hearing from time to time, allowing the child to remain in their own home or in the temporary custody of another person or agency, subject to such conditions of conduct and of visitation or supervision by the Tribal Social Services department as the Tribal Court may prescribe, if:

1. Consent is given by the child and their parent, guardian, or other legal custodian after being fully informed by the court of their rights in the proceedings, including their right to have an adjudication made either dismissing or sustaining the petition; and
2. Such continuation shall extend no longer than six (6) months without review by the court. Upon review the court may continue the case for an additional period not to exceed six (6) months, after which the petition shall either be dismissed or sustained.

### **ARTICLE EIGHT: DISPOSITIONAL HEARING**

#### **4.05.40 TIMING**

The Dispositional Hearing shall be held no later than thirty (30) days after making an order of adjudication.

#### **4.05.41 PURPOSE**

The purpose of the hearing is for the court to determine the terms of the case plan including where the child will live and what services will be offered or required to address the issues that lead to the abuse or neglect.

#### **4.05.42 EVIDENCE**

The evidence shall include, but not necessarily be limited to the social study and other reports, and such other oral and documentary facts as the parties may present.

#### **4.05.43 CHILD WITNESS**

If the Court determines that it is in the best interests of the child and does not violate the rights of a party, the Court may allow the child to testify by means of a videotape deposition, closed circuit television or other appropriate method. If the Court does allow these methods to be utilized, the Court shall specifically set out the reasons for this determination on the record.

#### **4.05.44 OUTCOME OF HEARING**

The court shall determine:

1. The terms of the case plan, including rehabilitative and/or supportive services that are required for the person(s) who have been found to have committed abuse or neglect, and any supportive services for the child;
2. Where the child should be placed while the case plan is in effect;
3. Whether the plan proposed by Social Services reasonably address the problems and needs of the child and parent; and
4. Whether Social Services has made reasonable efforts to eliminate or prevent the need for placement.

#### **4.05.45 FAMILY MAINTENANCE SERVICES**

The Tribal Court may find that out-of-home placement is not needed to protect the child, but continue Court intervention and supervision due to unresolved problems in the home.

#### **4.05.46 GROUNDS FOR CONTINUED REMOVAL FROM THE HOME**

The Court may find that the child shall remain out of the home. The grounds for continued removal are:

1. The child has no parent, guardian or custodian available, willing and capable to care for the child;
2. The child has suffered, or is likely to suffer a physical injury inflicted upon them by other than accidental means, which creates a substantial risk of death, disfigurement or impairment of bodily functions;
3. The child has not been provided with adequate food, clothing, shelter, medical care, education or supervision by his/her parent, guardian or custodian, which is necessary for the child's health and wellbeing;
4. The child has been sexually abused or sexually exploited; and/or

5. The child, as a result of emotional abuse or neglect, has suffered, or is likely to suffer, emotional damage which causes or creates a substantial risk of impaired development.

#### **4.05.47 CONDITIONS SET FOR RETURN OF CHILD TO PARENT, GUARDIAN OR CUSTODIAN**

Court may find that out-of-home placement is necessary, but with the accomplishment of specified actions by the parent, guardian or custodian, the child may be returned absent good cause to the contrary. The order of the court shall specify actions, and the time frames for such actions, that parents, guardians, or custodians must accomplish before the child is returned. The order shall also specify the responsibilities of any support agency or personnel to be involved.

#### **4.05.48 OUT-OF-HOME PLACEMENT**

The Court may find that out-of-home placement continues to be necessary and further that the child shall not be returned to the home, absent further order of the court. The Court shall specify what steps the parents, guardians or custodians shall take to demonstrate their abilities to care for their child, and specify what factors the Court will consider at a subsequent hearing to determine whether or not the child should be returned.

#### **4.05.49 REHABILITATIVE AND/OR SUPPORTIVE SERVICES**

The Court may order the child, parents, custodians or guardians to attend any of the following, if the court determines they are related to the circumstances which caused the child to come to the attention of the Court; they are likely to promote the best interests of the child; they are will aid the family in reunifying and/or eliminating the need for continued court intervention; and/or they support the child's ongoing connection to their Tribal culture and community:

1. Parenting education classes;
2. Alcohol or substance abuse treatment;
3. Mental Health Counseling;
4. Counseling for victims or perpetrators of domestic violence; or
5. Specific Tribal cultural activities
6. Any other services that the court determines may be useful in aiding family reunification.

#### **4.05.50 CONTINUANCE**

The Court may continue the dispositional hearing, on its own motion or on the motion of any interested party, for a reasonable period to receive reports or for good cause. If the hearing is continued, the court shall make an appropriate order for care of the child during the continuance.

#### **4.05.51 SCHEDULING**

In scheduling investigations and hearings, the Court shall give priority to proceedings concerning a child who has otherwise been removed from their home before an order of disposition has been made.

#### **4.05.52 DEFAULT**

If a parent, guardian or custodian fails to appear for the hearing, the Court may find such parent, guardian or custodian in default, and enter any orders it could otherwise enter.

#### **4.05.53 NOTICE**

Prior to finding a parent, guardian or custodian in default, the Court must be satisfied actual notice has been given or that all reasonable possible steps have been taken to provide such notice.

#### **4.05.54 FINDING**

If the parent, guardian or custodian is found in default, the Court shall specify the facts, grounds and Code Sections upon which it relied to make such finding.

### **ARTICLE NINE: SIX (6) MONTH REVIEW HEARING**

#### **4.05.55 REVIEW REQUIREMENT**

The status of all children shall be reviewed by the Court at least every six (6) months at a hearing to determine whether court supervision shall continue; except that the first review following issuance of dispositional orders shall be held within ninety (90) days thereafter.

#### **4.05.56 RETURN TO HOME**

A child shall be returned home at the review hearing unless the Court finds that a reason for removal as set forth above in this Code still exists. The Court may, due to unresolved problems in the home, continue court intervention, services, and supervision as appropriate for children who are returned home.

#### **4.05.57 WRITTEN ORDER**

If continued court intervention is determined to be necessary, the Court shall set forth the following in a written order:

1. What services have been provided or offered to the parent, guardian, or custodian, to help correct the underlying problem;
2. The extent to which the parent, guardian or custodian is compliant with the Court ordered family plan;

3. Whether the parent, guardian or custodian is ordered to participate in any additional programs to help correct the underlying problem(s);
4. The extent to which the parent, guardian or custodian has visited or contacted the child, any reason why such visitation and/or contact has been infrequent or not otherwise occurred; and
5. When the Permanency Planning hearing will occur.

## **ARTICLE TEN: PLACEMENT PREFERENCES**

### **4.05.58 LEAST RESTRICTIVE SETTING**

If a child cannot be returned home, the child shall be placed in the least restrictive setting which most approximates a family and in which his or her special needs, if any, can most likely be met. The child shall also be placed within reasonable proximity to their home. Taking into account any special needs of the child. The placement restrictions set forth in this Code shall be followed.

### **4.05.59 ORDER OF PREFERENCES**

Whenever appropriate, a child shall be placed in a home with the following characteristics, which shall be given preference in the following order:

1. Members of the extended family;
2. An Indian family of the same Tribe as the child;
3. People who have a relationship with the child, but who are not related to the child;
4. An Indian family; or
5. Any other family which can provide a suitable home for the child.

## **ARTICLE ELEVEN: PERMANENCY PLANNING HEARING**

### **4.05.60 TIMING AND MANNER**

Permanency Planning Hearings shall be held no sooner than twelve (12) months and no later than eighteen (18) months after issuance of the orders of disposition, and periodically thereafter. This will not be a routine hearing and is intended to keep a child from drifting in foster care placements.

### **4.05.61 PURPOSE**

The purpose of the hearing is to determine whether or not the child will be reunified with the caretaker who was found to have abused or neglected them, and if not, where the child shall live on a long term basis.

### **4.05.62 SOCIAL STUDY REPORT**

A social study report meeting the requirements of Section 4.05.20 of this Code shall be prepared.

#### **4.05.63 FINDINGS**

The Court shall make specific findings as to whether:

1. The child is to be returned home on a specific date;
2. The child will be placed with a legal guardian;
3. Placed with a fit and willing relative;
4. Placed in another planned living arrangement. This option can only be ordered if the Court can find there is a compelling reason that none of the prior options are in the child's best interests.

#### **4.05.64 CONTINUANCE OF HEARING**

If a parent has made substantial progress on their case plan, and the Court finds that they will likely successfully complete their case plan if they are given additional time to do so, the Court may continue the permanent plan hearing for up to six (6) months.

### **ARTICLE TWELVE: ORDERS OF PROTECTION**

#### **4.05.65 ORDERS**

The Court may make an order of protection in assistance of, or as a condition of any order of disposition. The order of protection may set forth reasonable conditions of behavior to be observed for a specified period by the parent, guardian, or any other person who is a party to a proceeding.

#### **4.05.66 SPECIFIC ORDERS**

The order of protection may require any restrained person:

1. To stay away from a child and their residence.
2. To permit a parent to visit a child at stated periods and at stated places, and under stated conditions.
3. To abstain from offensive conduct against a child, his or her parent(s), guardian, or any other person to whom custody of a child has been given.
4. To ensure the home is clean enough and has food and necessary utilities available to keep a child safe and comfortable.
5. To cooperate in good faith with an agency:
  - a. Which has been given legal custody of a child;
  - b. Which is providing services to, or protective supervision of, a child by Court Order; or
  - c. To which the child has been referred by the Court.
6. To refrain from actions that tend to make a home an unsafe place for a child.

#### **4.05.67 REHABILITATION**

When an order of protection is made applicable to a parent, guardian or custodian, it may specifically require his or her active participation in the rehabilitation process and may impose specific requirements upon them, subject to the penalty of contempt for failure to comply with such order without good cause.

#### **4.05.68 MODIFICATION**

After notice and opportunity for a hearing is given to a person subject to an order of protection, this order may be terminated, modified, or extended for a specified period of time if the Court finds that the best interests of the child and the Tribe will be served thereby.

#### **4.05.69 CONTEMPT**

A person failing to comply with an order of protection without good cause may be found in contempt of court.

#### **4.05.70 FOREIGN PROTECTIVE ORDERS**

The Tribal Court shall give full and faith and credit to any protective order issued by any other court that affects any party to an action before the Court or any person within Tribal jurisdiction.

### **ARTICLE THIRTEEN: CUSTODIAL RIGHTS AND DUTIES**

#### **4.05.71 GENERAL**

Any individual, agency, or institution vested by the Court with legal custody of a child shall have the rights and duties of a parent; except the right to consent to the adoption of the child, unless that right has been expressly given him by order of the Court.

#### **4.05.72 INFORMATION AND REPORTING**

1. When legal custody or guardianship of the person is vested in any individual, agency or institution, the Court shall transmit, with the Court Order, copies of any information contained in the social studies, clinical reports, and other documents in the Court's file, concerning the care and treatment of the child if the individual has not already received a copy of these documents.
2. Any individual, agency, or institution having legal custody or guardianship of the person shall provide the Court with any reports or other information concerning the care and treatment of the child at any time when required to do so by the Court.

**4.05.73 RESIDENCE**

1. Any individual, agency or institutions vested by the Court with legal custody of a child shall have the right, subject to the approval of the Court, to determine where and with whom the child shall live;
2. No person vested by the Court with legal custody of a child shall remove the child from the state of California for more than thirty (30) days without prior Court approval.

**ARTICLE FOURTEEN: GUARDIANSHIPS**

**4.05.74 WHO MAY FILE**

Any person may file a petition for guardianship. The petition shall be initiated either by the proposed guardian or by the child if at least fourteen (14) years of age.

**4.05.75 CONTENTS OF GUARDIANSHIP PETITION**

The petition for guardianship shall be signed under penalty of perjury by all Petitioners and include the following, to the best information and belief of the Petitioner(s):

1. The full name, address and Tribal affiliation of the Petitioner;
2. The full name, gender, date and place of birth, residence and Tribal affiliation of the proposed ward;
3. The basis for Petitioner's belief that a guardianship is necessary;
4. The relationship of the proposed guardian to the proposed ward;
5. The name and address of the person or agency having legal or temporary custody of the proposed ward;
6. The type of guardianship requested; and
7. If a guardianship of property is requested, a full description and statement of value of all property owned, possessed or in which the proposed ward has an interest.

**4.05.76 TYPES OF GUARDIANSHIP**

The types of guardianship shall include guardianship of property and/or guardianship of the person. The Court may appoint a guardian for the child under such terms and conditions as the Court sets forth in the written order.

1. Guardianship of the Person.  
The Court may appoint a guardian to be responsible for the care and custody of a child.
  - a. The guardian shall have legal and physical custody of the child, however, shall not have control over the child's property unless a guardianship of property is also granted.
  - b. Guardianship provides for custody of a child to someone other than the parent(s), although there is no modification of the parental rights of the parents.
  - c. The guardian has the same responsibilities to care for the child as a parent would.

- d. The guardian has full legal and physical custody of the child and can make all the decisions about the physical care of the child that a parent would make.
- e. The guardian is responsible for supervision of the child and may be liable for any intentional damage the child may cause.
- f. The guardian is responsible for the child's care, including the child's:
  - i. Food, clothing and shelter;
  - ii. Safety and protection;
  - iii. Physical and emotional growth;
  - iv. Medical and dental care; and
  - v. Education and any special needs.

2. Guardianship of Property

The Court may appoint a guardian over the property of a child if necessary, and under such terms and conditions, as the Court deems appropriate.

- a. The guardian shall not have the authority, without express written consent of the Court, to dispose of any real or personal property of the child in any manner, including, but not limited to, the child's individual Indian money account.
- b. The terms and conditions of the guardianship over a child's property shall be set forth in the Court's written order.
- c. Possible terms of the guardianship include:
  - a. The guardian may be required to post a bond in the amount set by the Court;
  - b. The guardian must complete an inventory of any of the child's property or money received and return the property at the time ordered by the Court;
  - c. The guardian must dispose of and manage the estate according to laws and for the best interests of the child;
  - d. The guardian must faithfully discharge their duties in relation to the child's best interests, and in relation to the care, custody and education of the child;
  - e. The guardian must render an account of the child's property and money, all the proceeds or interests derived from the property and money, and of the management and disposition of the same, within three (3) months after the appointment, and at such other times as the Court directs;
  - f. At the expiration of the guardianship, the guardian must settle all accounts with the Court or judge or with the child if they are of full age, or the legal representative, and to pay over all of the child's funds and turn over all of the child's property;
  - g. The guardian may use the child's funds solely for the support and education of the child and the funds shall only be expended by the guardian in a reasonable manner according to the circumstances and station in life of such child, and in such manner as can reasonably be afforded according to the income and estate of said child; and/or

- h. The child's property may not be used for the child's care, but rather is to be managed for the child until they reach the age of eighteen (18) or are emancipated by the Court.

#### **4.05.77 DURATION OF GUARDIANSHIP**

Unless the Court specifies that a guardianship is temporary, the guardian appointed by the Court shall have custody and care of the child and/or management of the child's property, depending on the type of guardianship, until the child reaches the age of eighteen (18) unless any or the following occurs before the child's 18th birthday: the child marries, is emancipated by the Court, dies, or the guardianship is modified or terminated by the Court. There shall be a presumption of continued permanent guardianship in order to provide stability for the child.

#### **4.05.78 REMOVAL**

No legal custodian or guardian of the person may be removed without their consent until given notice and an opportunity to be heard by the Court.

#### **4.05.79 BACKGROUND CHECKS**

Upon the filing of a guardianship petition, the Court shall request that Tribal Social Services complete a fingerprint FBI criminal background check and child abuse central registry check on all adults in the proposed guardian's home. The results of the background checks must be provided to the Court prior to the initial hearing whenever possible, and no later than two (2) weeks from the Court's request unless good cause exists for the Court to extend that time frame.

#### **4.05.80 GUARDIANSHIP REPORT**

1. Upon the filing of a guardianship petition, the Court shall request that Tribal Social Services conduct a guardianship report on the proposed guardian and the child. The guardianship report shall contain all pertinent information necessary to assist the Court in determining the best interests of the child including factors that weigh for or against the proposed guardian's home being the best option of all currently available living situations for the child. The report must include an assessment of whether and how the proposed guardianship supports the child's emotional growth, family, Tribal and cultural ties, health and stability, education, and physical care.
2. No determination of guardianship, other than temporary guardianship, can be made until a guardianship report has been completed and considered by the Court. The guardianship report shall be submitted to the Court no later than ten (10) days before the hearing. The Court may order additional reports, as it deems necessary.

#### **4.05.81 ANNUAL REVIEW**

The Court shall review all guardianships at least once a year. This review may be accomplished through the guardian submitting written reports. The Court must set a review hearing if no

written report is submitted or if the Court has questions based on the contents of the written report. The Court may in its discretion set a review hearing in any case.

#### **4.05.82            MODIFICATION OF GUARDIANSHIP**

Any party or interested person may petition the Court to terminate or otherwise modify the terms of a guardianship upon a showing of good cause or a material change in circumstances. The Court shall only modify the guardianship if the modification is in the child’s best interests based on either the good cause shown or the proven material change in circumstances.

### **ARTICLE FIFTEEN: MODIFICATION OF PARENTAL RIGHTS**

#### **4.05.83            PURPOSE**

The purpose of this Article is to clarify that termination of parental rights is not consistent with Bear River culture and values. The family unit is of most value to the Tribal community and individual family members when that unit remains united and together. Termination of parental rights and the breaking up of Native families was a tool used systemically against Native people to try to eradicate Native people and culture. For these reasons, the Court shall not terminate parental rights.

#### **4.05.84            MODIFICATION**

Modification of parental rights shall only occur when necessary and if the modification is in the child’s best interest. Modification of parental rights is not necessary for guardianship.

Modification is not required for adoption if the parent consents to the adoption, their parental rights have been terminated by another court, or their parental rights have been voluntarily relinquished in another court.

#### **4.05.85            WHO MAY FILE MODIFICATION PETITION**

A petition may be filed by:

1. Either parent when modification is sought with respect to the other parent.
2. A Tribal presenting officer or Tribal social worker.
3. Any other person possessing a legitimate interest in the matter.
4. A parent may file a petition for the voluntary modification of his or her parental rights.
5. No parental rights may be modified unless a petition has first been filed, notice has been given, and a hearing held in accordance with the provisions of this Article.
6. Modification of parental rights may be filed and heard at the same time as a petition for adoption.

#### **4.05.86 CONTENTS OF MODIFICATION PETITION**

The petition for modification of parental rights shall include the following to the best information and belief of the Petitioner:

1. The name, place of residence, Petitioner's relationship to child, Tribal affiliation of the Petitioner (if other than a Tribal presenting officer);
2. The full name, gender, date and place of birth, residence and Tribal affiliation of the child;
3. The names, addresses, Tribal affiliation, and dates of birth of the child's parents;
4. If the child's parent is a minor, the names and addresses of the parents' parents or guardian; and if such parent has no parent or guardian, the members of the parent's extended family;
5. The name and address of the person or agency having legal or temporary custody of the child;
6. The basis for the Court's jurisdiction;
7. An explanation of why modification of parental rights is necessary and in the child's best interests;
8. An explanation of which of the parental rights are being modified and how those rights are being modified;
9. An explanation of whether and how the proposed modification will impact the child's connection to the Tribe; and
10. When any of the facts required by this Section are unknown, the petition shall so state.
11. The Petitioner shall sign and date the petition.

#### **4.05.87 NOTICE**

After a petition for the modification of parental rights has been filed, the Court shall set the time and place for hearing and shall cause notice thereof to be given to the Petitioner, the parents of the child, any guardian of the person of the child, the person having legal or temporary custody of the child, and the child's extended family as determined by the Court. If the child's parent is a minor, notice shall also be given to that parent's parents or guardian of the person unless the Court is satisfied, in exercise of its discretion that such notice is not in the best interest of the parent and that it would serve no useful purpose.

#### **4.05.88 SERVICE**

Notice shall be given by personal service. If service cannot be made personally, the Court may authorize service by certified mail return receipt requested or publication as allowed in the Rules of Court.

#### **4.05.89 WAIVER**

Notice and appearance may be waived by a parent in writing before the Court, or in the presence of and witnessed by a Clerk of the Court, provided that such parent has been apprised of the

meaning and consequences of the modification action. Any parent who has executed such a waiver shall not be required to appear at the hearing. Where the parent is a minor, the waiver shall be effective only upon approval by the Court.

#### **4.05.90 PRE-MODIFICATION REPORT**

The Court may request that social services complete a pre-modification report. The report shall include the circumstances that led to the filing of the petition, a description of the outcome of the social services investigation regarding whether modification of the parent's rights is in the child's best interests, the present condition of the child and parents, proposed plans for the child, and other such facts as may be pertinent to the parent and child relationship. The report shall include a recommendation and the reasons therefore as to whether or not the parent and child relationship should be modified.

1. Timeline for filing Report. The report shall be submitted to the Court no later than ten (10) days before the hearing with copies given to the parents.
2. Additional Reports. The Court may request additional reports where it deems necessary

#### **4.05.91 BURDEN OF PROOF**

The burden of proof lies with the Petitioner to prove that the best interests of the child will be served by modification of parental rights. Pre-modification reports shall be received in evidence so long as the preparer is available to be cross-examined.

#### **4.05.92 MODIFICATION ORDER**

1. Basis for Ordering Modification  
The Court shall make formal findings of fact and conclusions of law as a basis for the written order modifying the parent-child relationship.
2. Explanation of Modified Parental Rights  
The Court's order must state which rights and responsibilities of the parent have been modified. Examples of rights that may be modified include, but are not limited to: the parent's rights to custody of the child, decision making authority for the child, access school and medical records of the child, visitation with the child, to request benefits on behalf of the child and to inherit from the child. Responsibilities of the parent that may be modified include, but are not limited to:
  - a. Child support obligations or legal liability for the child's actions.
  - b. Any child support owed prior to the effective date of the order modifying parental rights shall not be eliminated due to the modification of parental rights unless specifically ordered by the Court that currently has jurisdiction over the support case.
  - c. Modification of the rights of one parent shall not affect the rights of the other parent. A Modification order shall not prevent a child from inheriting property or interest from the parent whose rights were modified.

#### **4.05.93 CHILD'S CONTINUED RIGHT TO BENEFITS**

An order modifying the parent- child relationship shall not disentitle a child to any benefit due the child from any third person, agencies, state or the United States, nor shall any action under this Code be deemed to affect any rights and benefits that the child derives from the child's descent from a member of a federally recognized Indian Tribe.

### **ARTICLE SIXTEEN: ADOPTIONS**

#### **4.05.94 ADOPTIONS**

Adoptions shall be based on Tribal culture, custom and practice. Tribal culture, custom and practice does not recognize completely severing children from their connections to, or knowledge of, their biological parents, or extended Indian family. For these reasons, all of the following are true in Tribal adoptions:

1. Tribal adoptions shall be open adoptions in which the identities of the biological parents shall be known and a relationship between the child and biological family members shall be encouraged unless the safety or wellbeing of the child would be put at risk by those relationships.
2. The adoptive child shall have an absolute right, absent a convincing and compelling reason to the contrary, to information and knowledge about his or her natural family and Tribal heritage.
3. Parental rights shall not be terminated in Tribal adoptions, though they may be modified as necessary to allow the adoptive parents sole decision making authority and right of custody of the child. The natural parents' responsibilities, including child support obligations, shall be terminated.

#### **4.05.95 CONSENT**

1. The parents' written consent to an adoption is not required if:
  - a. The parent has abandoned the child;
  - b. The parent's rights have been terminated by other courts;
  - c. The parent's rights have been modified by the Tribal Court so that they no longer have a right to consent to adoption.
  - d. The parent has relinquished parental rights; or
  - e. The parent has been declared incompetent.
2. Written consent to an adoption is required from the following people:
  - a. The biological mother, unless an exception listed in subsection 1. above applies;
  - b. The biological or acknowledged father, unless an exception listed in subsection 1. above applies;
  - c. The child's legal custodian, if empowered to consent;
  - d. The Court, if the legal custodian is not empowered to consent; and
  - e. The child, if over twelve (12) years of age.

3. Written consent to an adoption shall be executed and acknowledged before the Court. Consent shall not be accepted or acknowledged by the Court prior to ten (10) days after the birth of the child. An interpreter shall be provided if the person consenting to the adoption does not understand English. Consent of a child over the age of twelve (12) years shall be made orally either in open court, or in chambers with only the judge and any other person(s) he or she deems necessary, and the child present.

#### **4.05.96 WHO MAY FILE**

Any person may file a petition for Tribal adoption. The petition shall be initiated by the person proposing to adopt. In the case of married persons maintaining a home together, the petition shall be the joint petition of husband and wife, except that if one of the spouses is the natural or adopted parent of the proposed adoptee, said parent shall not be required to join in the petition.

#### **4.05.97 CONTENTS OF PETITION**

1. Required Information

The petition for Tribal adoption shall include the following, to the best information and belief of the Petitioner:

- a. The full name, address, and Tribal affiliation of the Petitioner;
  - b. The full name, gender, residence, date and place of birth, and Tribal affiliation of the proposed adoptee;
  - c. The name by which the proposed adoptee shall be known if the petition is granted;
  - d. The basis for the Court's jurisdiction;
  - e. If the proposed adoptee is a child, a full description and statement of value of all property owned, possessed or in which the child has an interest;
  - f. The relationship of the Petitioner to the proposed adoptee, and;
  - g. The names and addresses of any person or agency whose consent to aid adoption is necessary.
  - h. A description of how the proposed adoptive parents would ensure the child will be able to participate in Tribal cultural activities and remain connected to the Tribal community.
2. Multiple Adoptees  
Where there is more than one proposed adoptee, and these proposed adoptees are siblings, only one petition shall be required for the Tribal adoption of all or any combination of the siblings, provided that each sibling proposed to be adopted be named in the petition.
  3. Signature Requirements  
All petitions must be signed under penalty of perjury and dated by the Petitioner.

#### **4.05.98 NOTICE**

Notice shall be provided in accordance with the notice procedures set forth in this Code except that the Court may determine that it is unnecessary to give notice to specific individuals, including a parent whose parental rights have been terminated or modified.

#### **4.05.99 HOME STUDIES**

When a petition for the Tribal adoption of a child is filed with the Court, the Court shall immediately request that the Social Services Department or other qualified agency conduct a home study on the Petitioner and report on the child. The home study or report shall not be required where the proposed adoptee is an adult. The home study and report shall:

1. Describe the conditions of the Petitioner's home including all persons living in the home;
2. Assess the Petitioner's ability, both physical and mental, to assume the responsibilities of a parent to the child;
3. Include a background check on all adults residing in the home;
4. Assess whether or not the home most closely resembles that of the child's culture, identity, and where applicable, his or her Tribal affiliation;
5. Assess the Petitioner's understanding of the importance of the child's connection to Tribal culture and willingness to foster the child's ongoing connection the Tribal community; and
6. Any other pertinent information designed to assist the Court in determining the best placement for the child.

#### **4.05.100 TIMING**

No determination can be made on a petition for adoption until the home study has been completed and submitted to and considered by the Court. The home study shall be submitted to the Court no later than ten (10) days before the hearing. The Court may order additional home studies or reports as it deems necessary.

#### **4.05.101 WITHDRAWAL OF CONSENT**

Any consent given under the provisions of this Article may be withdrawn by the person or agency which gave the consent at any time prior to the entry of a final Tribal decree of adoption. No reason need be stated and no hearing need be held on such a withdrawal. All withdrawals must be in writing, with the original being filed with the Court.

#### **4.05.102 VACATING DECREE**

Within two (2) years after the entry of a decree of Tribal adoption, said decree may be vacated upon a petition being filed and a showing that the consent which made the Tribal adoption possible was obtained through fraud or duress. Upon such a showing the Court shall vacate the decree and return the adopted person to that status he or she had prior to the entry of the decree.

#### **4.05.103 ADOPTION PREFERENCES**

The preference of placement in adoption shall be in the following order unless the Court determines that the child's best interests require deviation from the preferences:

1. Extended family member;
2. A Tribal member or person eligible for Tribal membership of the child's Tribe;
3. Other Indian person(s); and
4. If this order of preference cannot be met, then the placement may be made with any person who has some knowledge of the child's Tribal affiliation and special needs.

#### **4.05.104 HEARING PROCEDURES**

1. Timing  
An adoption hearing shall be held within ninety (90) days of receipt of an adoption petition from the prospective parent(s).
2. Best Interests Standard  
The Court shall examine all parties to determine if it is in the best interests of the child to be adopted by the Petitioners. In determining the best interests of the child, the Court shall examine:
  - a. Validity of written consent;
  - b. Whether the biological parents' parental rights have been terminated or modified;
  - c. Length of time of the child's dependency by the Court;
  - d. Special conditions of the child;
  - e. Parental communication with the child;
  - f. Minor's consent to adoption, if over twelve (12) years of age;
  - g. Home studies or other reports; and
  - h. Order of preference of placement.
3. Personal Appearance Required  
The Petitioner and the proposed adoptee shall appear personally at the hearing.
4. Advisement of Rights  
During the hearing the Court shall advise the party(s) of their basic rights as provided in Article Four of this Code.

#### **4.05.105 FACTORS COURT WILL CONSIDER AT HEARING**

The factors to be considered in the determination on whether to grant the Tribal adoption shall include, but not be limited to, the following:

1. Whether the proposed adoption is in the child's best interests;
2. Whether there is a method to maintain the child's connection to family, culture, community and Tribal enrollment status if the adoption is granted; and
3. Whether the proposed adoptive parent(s) is/are available and willing to assume the role of parent for the child.

#### **4.05.106 OUTCOME OF HEARING**

The Court may:

1. Continue the hearing if necessary to allow the parties additional time to present relevant information;
2. Continue the hearing and place the child in the home of the prospective adoptive parent for a period not to exceed six (6) months;
3. Enter a final decree of adoption; or
4. Deny the petition.

#### **4.05.107 DENIAL**

If the Court finds that the adoption will not be in the child's best interest, or that all of the requirements of this Article have not been met, it may deny the petition and make any other order it deems necessary for the care and custody of the child not inconsistent with this Code.

#### **4.05.108 ADOPTION ORDERS OR DECREES**

The final Tribal adoption order or decree shall address the following:

1. That the child is eligible and suitable for adoption.
2. That the adoptive parent is capable of providing proper care for the child.
3. That the child is entitled to the same rights as a biological child of the adoptive parents and that adoptive parents and the adoptive child shall be treated under the law as if the relationship was that of a natural child and parent, except as set forth herein.
4. Changes to the rights and responsibilities of the natural parents. There shall be a conclusive presumption that any parental rights or obligations not specified as remaining with the natural parents shall vest in the Tribal adoptive parents.
5. Visitation, if any, of the parties or others. The adoptive child and members of the child's natural extended family (including parents) shall have a right of reasonable visitation with each other, subject to reasonable controls of the adoptive parents.
6. The specifics of how the child's Cultural and Tribal connections will be preserved under the adoption. This must be specific to the child(ren) being adopted and shall not be standard boilerplate language.
7. That the adoptive parents have no authority to relinquish the child's membership in the Tribe.
8. Where the adoption includes a signed agreement between the adoptive parent(s) (or protective parent) and the biological parent(s), the Court shall incorporate the agreement into its Order to provide judicial review in the event of noncompliance.
9. That the Court will facilitate the change of the child's last name to that of the adoptive parent if it finds that it is in the best interest of the minor to change the last name. The Court will take into consideration the preference of the minor, if appropriate, in determining whether to change the child's last name.

10. The child's inheritance rights:
  - a. Adoption shall not serve to prevent an adopted child from inheriting from their biological parent in the same manner as any other natural child.
  - b. The natural parents shall not be entitled to inherit from an adopted child in the same manner as parents would otherwise be entitled to inherit.
  - c. An adoptive child shall be entitled to inherit from adoptive parents, and vice versa, in the same manner as if natural parents and child.
11. The effective date of the order of adoption.

#### **4.05.109 CHANGES TO BIRTH CERTIFICATE FOLLOWING TRIBAL ADOPTION**

The Court will issue an order of adoption and the Court Clerk will coordinate the amendment of the minor's birth certificate if necessary, according to the following procedures:

1. The Court Clerk will issue a completed Court Report of Adoption Form to the state of California in order to facilitate a new birth certificate. Upon receipt of the Court Report of Adoption Form, the California Department of Public Health Vital Records will be able to issue the new birth certificate.
2. The information provided in the Court Report of Adoption is used to locate and seal the original birth record of the adopted child and to prepare the new birth certificate. The Court Report of Adoption contains the child's original birth name, sex, date and place of birth, physician's or attendant's name, and the natural parents' names, as well as the child's new name and information about the adoptive parents.

#### **4.05.110 ADOPTIVE BIRTH CERTIFICATE**

Within ten (10) days of the issuance of the order of adoption, the Court shall mail the Order of Adoption Form to the California Department of Public Health Vital Records. The Order of Adoption Form shall set forth the full name, sex, date and place of birth, and names of biological parents, in order that a new record of birth in the child's new name and with the name of the adoptive parents may be recorded.

#### **4.05.111 FULL FAITH AND CREDIT**

This Court has the authority to give full faith and credit to adoptions granted under the laws of another Tribe, state, or nation having jurisdiction over the parties and the subject matter including a California Tribal Customary Adoption granted pursuant to California Welfare and Institutions Code § 366.24.

## **ARTICLE SEVENTEEN: AUTHORIZATION OF MEDICAL TREATMENT**

### **4.05.112 AUTHORIZATION**

At any time, whether or not the child is under the authority of the Court, the Court may authorize medical or surgical care for a child when:

1. A parent, legal guardian or custodian is not immediately available and cannot be found after reasonable effort in the circumstances of the case; or
2. A physician informs the Court orally or in writing that in his professional opinion, the life of the child would be greatly endangered without certain treatment and the parent, guardian or custodian refuses or fails to consent. If time allows in a situation of this type, the Court shall cause every effort to be made to grant the parent(s), guardian, or custodian an immediate informal hearing, but this hearing shall not be allowed to further jeopardize the child's life.

### **4.05.113 RELIGIOUS BELIEFS**

In making its order the Court shall give due consideration to any treatment being given the child by prayer through spiritual means alone or through the other methods approved by Tribal customs or traditions or religions, if the child or his or her parent, guardian or legal custodian are adherents of a bona fide religious denomination that relies exclusively on this form of treatment in lieu of medical treatment, or practices in fact the Tribal customs or traditions or religion upon which is relied for such treatment of the child.

### **4.05.114 FINDINGS**

After entering any authorization under this Section, the Court shall state in writing the circumstances; findings and authorization in writing and order that a copy of authorization be given to the physician or hospital, or both, that was involved.

### **4.05.115 ORAL AUTHORIZATION**

Oral authorization by the Court is sufficient for care or treatment to be given and shall be accepted by any physician or hospital. The physician or hospital need not wait for the written findings and order when time is of the essence regarding the child's condition. No physician or hospital nor any nurse, technician, or other person under the direction of such physician or hospital shall be subject to criminal or civil liability in the Court for performance of care or treatment in reliance on the Court's authorization, to any function performed thereunder shall be guarded as if it were performed with the child's and the parent's authorization.

## ARTICLE EIGHTEEN: FOSTER HOME LICENSING PROCEDURES

### 4.05.116 OVERVIEW OF LICENSING REQUIREMENTS

The Bear River Band of the Rohnerville Rancheria, Social Services Department (Department), Naghündat Licensing Program Policies and Procedures were established by the Social Services Department to set forth the home approval standards and procedures for foster homes in which children in out of home care may be placed. The goal of the Program is to create safe, child-centered foster care homes for Bear River children and youth requiring temporary out-of-home placement due to an active child welfare or ICWA case. “Naghündat” means “You are going home” in the language of the people of the Eel River Basin.

The Bear River Band of the Rohnerville Rancheria Social Services Department may approve homes for licensure that are located within the counties of Humboldt, Mendocino, Trinity, and Del Norte. Applicants do not have to be enrolled members of the Tribe, but placement with a family licensed by the Tribe will only be recommended for children and youth that are enrolled in the Tribe or eligible for enrollment.

1. A Naghündat Family must meet the following requirements to be approved by the Bear River Band of the Rohnerville Rancheria Social Services Department (Department):
  - a. Complete an application to be approved as a Naghündat Caregiver.
  - b. Complete a criminal record, child abuse, and other background clearances for each Naghündat Family applicant and all adults residing in, or regularly present in the home.
  - c. Complete a drug test for each Naghündat applicant.
  - d. Meet home health and safety standards and caregiver requirements as documented in a Home Assessment Report.
  - e. Complete all training requirements.
  - f. Sign a Caregiver Agreement, which includes a cultural contract.
  - g. Complete a Child and Family Risk and Compatibility Study for each child/sibling group proposed to be placed in the Naghündat Family’s care.
2. All Naghündat Families must meet the following caregiver requirements:
  - a. Be aged 18 or older.
  - b. Ability within the household to ensure the stability and financial security of the family.
  - c. Ability and commitment to support the Bear River child’s connection to the tribal community and culture.
  - d. Ability and commitment to communicate and collaborate consistently with the Department to provide for the child’s mental, physical, emotional, educational, and developmental needs.
  - e. Ability and commitment to collaborate with the Department to support the child’s connection with their family, including supporting visitation with siblings and other family members.

- f. Commitment to maintain the confidentiality of the child and their family in regard to any court case.
- g. Be in good health as necessary to provide appropriate care for a child.
- h. Ability and commitment to provide safe and proper care for a child including using reasonable and prudent decision making that allows the child to participate in developmentally and culturally appropriate life activities.
- i. Commitment to use appropriate discipline that does not include corporal or emotional punishment.
- j. Ability to provide adequate food, clothing, and shelter for a child in their care.
- k. Ability to provide appropriate supervision for a child in their care.
- l. Commitment to not use drugs, abuse alcohol or marijuana, or smoke in a home or vehicle while caring for a child.
- m. Commitment to allow the child to communicate with the Department and their family as court ordered.
- n. An ability to cultivate nurturing and supportive relationships, open communication and creative problem-solving.
- o. Commitment to communicate with the Department prior to traveling out of state or country with a child placed in the Naghündat Family's home.
- p. Commitment to communicate with the Department about any significant emergencies that may impact the child.
- q. Commitment to communicate with the Department about any household changes including immediate reporting of the addition or removal of any household members, change in residence, criminal activity, or the like.
- r. Ability and commitment to comply with Naghündat Program licensing requirements, including ongoing training requirements and completing all relicensing requirements every three years.

#### **4.05.117 FOSTER HOME REQUIREMENTS**

1. Foster home regulations and processes refer to the Bear River Band of the Rohnerville Rancheria Social Services Department and the Naghündat Licensing Program Policies and Procedures for official Tribal Home Approval (TAH) standards and foster care guidelines. All Naghündat Family applicants will be required to have a home health and safety assessment completed. The home health and safety assessment shall be completed using the Home Health and Safety Guidelines and Checklist in the Tribe's licensing policy. It shall be signed by the applicant(s) and they will be provided with a copy. The signed Home and Health Safety Checklist shall be included in the final Home Assessment Report.
2. Any home health and safety standard can be waived on a case-by-case basis so long as it will not endanger the health and safety of the child and the Department Director has approved the waiver.
3. The Department may be able to assist an applicant in purchasing items necessary for the home to meet the health and safety requirements, such as fire extinguishers or carbon monoxide detectors.

4. The home must meet the minimum health and safety standards including, but not limited to, the following:
  - a. The home shall be safe and sanitary.
  - b. The home shall have one or more working carbon monoxide detectors and functioning smoke detectors.
  - c. The home shall have at least one operable fire extinguisher that is readily accessible.
  - d. Barred windows used for possible exit in case of fire must be fitted with operable quick release mechanisms.
  - e. Child's safety is ensured in homes with fireplaces, open-faced heaters and woodstoves.
  - f. Outdoor tools and equipment, machinery, chemicals, flammable or combustibles shall be stored in a safe manner.
  - g. If telephones are not readily accessible in the home, a written plan shall be made and kept in the caregiver's case file in case of emergencies and to ensure the child has access to their social worker, attorney, and law enforcement.
  - h. Indoor and outdoor halls, stairs, ramps and porches are free of obstructions.
  - i. The home has at least one toilet, sink, and tub or shower in safe, clean operating condition. Bathrooms shall be located inside the home.
  - j. The home shall have adequate lighting, ventilation and proper trash and recycling disposal, if recycling is available.
  - k. Hot water from faucets is delivered at a safe temperature.
  - l. Home must have tamper resistant covers on electrical outlets if necessary, at the discretion of the Department.
  - m. Medications (including prescription), alcoholic beverages, marijuana, poisons, and other dangerous items are stored where inaccessible to children.
  - n. Cleaning solutions should be stored in a safe manner.
  - o. Members of the household who are not law enforcement officers shall store all firearms unloaded in a locked place and all ammunition in a separate locked place. Trigger locks alone are inadequate.
  - p. Members of the household who possess a concealed weapon permit shall provide a copy of the permit to the Department and provide a written plan to keep concealed weapons secure from tribal children in custody when in the home or in vehicles. Tribal children in custody who are hunting or involved in target practice must be supervised by a responsible adult using only lawful firearms and must have completed an approved gun safety course (a course with curriculum that is recognized by local law enforcement as appropriate) and must have the written permission of the Department.
  - q. Home must have a safety evacuation plan in case of emergency, approved by the Department, known to all family members.
  - r. All animals in the home must be properly cared for and vaccinated according to state, tribal and/or local law and caregiver has provided verification of all vaccines.

- s. Any pools, ponds, or other bodies of water will be fenced, gated, or covered and not accessible to children.
- t. Smoking is not allowed inside the home. No child shall be exposed to secondhand smoke in the home or in a car.
- u. Applicant shall have a reliable vehicle with proof of insurance and registration. Vehicles shall contain age-appropriate automobile safety seats for the child. If applicant does not have their own vehicle, they must have a plan approved by the Department on how the child will be transported to school, medical and health facilities, parent’s visitation and social and cultural activities.
- v. Bedrooms: The Naghündat Family shall provide bedrooms in the home that meet, at the minimum, the following requirements:
  - i. Children of the opposite sex sharing a bedroom will be assessed by the Department on a case-by-case scenario to make sure the situation is safe and appropriate.
  - ii. Children shall not share a bedroom with an adult unless approved by the Department.
  - iii. No room commonly used for other purposes shall be used as a bedroom unless approved by the Department.
  - iv. Each child in care must have a safe and adequate sleeping arrangement, which will include education in co-sleeping safely.
  - v. Bedrooms used by children in care must have windows that open from the inside and allow exit, have two unrestricted exits (doors/windows), have any doors with locks on the inside be operable from the outside of the room and not have any locks on the outside of the door which are not operable from inside the room.
- w. The Naghündat Family shall also provide each child with:
  - i. An individual sleeping space that is equipped with clean linens, blankets, and pillows.
  - ii. A safe and sturdy bassinet, crib, traditional basket or cradle board for each infant that is appropriate to the age and size of the child.
- x. The Department will check the California Megan’s Law website to determine whether any registered sex offender lives within 100 yards of the home. If there is a registered sex offender living in proximity to the home, the Department and Naghündat Family will create a plan to ensure that the child will remain safe.

**ARTICLE NINETEEN: TRIBAL COURT APPEALS**

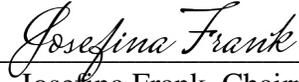
**4.05.118 APPEALS**

1. Any party to a Tribal Court proceeding may appeal a final Court Order.
2. All appeals shall be conducted in accordance with Bear River Band Rules of Court.

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**\*C\*E\*R\*T\*I\*F\*I\*C\*A\*T\*I\*O\*N\***

This is to certify that the Bear River Band of the Rohnerville Rancheria Tribal Council duly assembled in Loleta, CA and adopted the foregoing document on July 22, 2025 by a vote of 6 For, 0 Against, 0 Abstentions and 1 Absent.



Josefina Frank, Chairperson



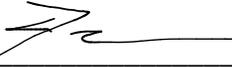
Aileen Meyer, Vice-Chairperson



Dakota McGinnis, Jr., Secretary



Maggie Wortmon, Treasurer



John D. McGinnis, Member-at-Large 1

Edward Bowie, Member-at-Large 2



Derek Bowman, Member at Large 3