

Truancy Ordinance Amendments 2021

ARTICLE V. - TRUANCY

[Historical Note. Previous Article III. Truancy repealed by adoption of Article III. Truancy set forth below pursuant to Resolution No. 2001-44 enacted June 26, 2001. Article III. Truancy was subsequently amended by Resolution No. 2001-57 on August 14, 2001 to more clearly define absences from school and further clarify instances of good cause and the duties and authority of the Truancy Officer. Please refer to the attachment to Resolution No. 2001-57 for a complete description of all changes made by such Resolution. Section 11-51 through 11-59 was amended by Resolution No. McD. 2002-43, effective July 16, 2002.]

11-51. Applicability

*Moved from section 11-53 and placed as 11-51

A. This Truancy Ordinance shall apply to any ~~person~~ parent or guardian, student, or adult student as defined in Section 11-51A1-4 who resides within the exterior boundaries of the Fort McDowell Yavapai Nation.

1. For the purposes of this Article, a "student" shall be defined as any student who has reached the age of five (5) by September 1 in the current school year until the age of nineteen (19) who has not received a high school diploma, a graduate equivalency diploma, or otherwise satisfied the requirements for high school graduation.

2. An "adult student" shall be defined as a student who has reached the age of eighteen (18), but not yet turned nineteen (19) and has not received a high school diploma, a graduate equivalency diploma, or otherwise satisfied the requirements for high school graduation.

3. ~~B.~~ For the purposes of this article, "Parent" includes a natural or adoptive parent, but does not include persons whose parental rights have been legally terminated; nor does it include the unwed father whose paternity has not been legally acknowledged or adjudicated.

*Moved from section 11-52b Parental Responsibility

4. ~~C.~~ For the purposes of this article, "Guardian" is a person assigned by a court of law, other than a parent, having the legal duty and authority to provide care, shelter and control of a student ~~child~~. Guardians include, but are not limited to, those with a power of attorney or educational rights, foster parents, custodians, or any person appointed by a court of law to act in loco parentis.

* Moved from section 11-52c Parental Responsibility

(Sec. 11-53 amended by Resolution No. McD. 2001-57, effective August 14, 2001. Sec. 11-51 amended by Resolution No. McD. 2002-43, effective July 16, 2002.)

(Law & Order Code 2006, § 11-53; Ft. McD. Res. No. 2001-44, eff. 6-26-2001; Ft. McD. Res. No. 2001-57, eff. 8-14-2001; Ft. McD. Res. No. 2002-43, eff. 7-16-2002; Ft. McD. Res. No. 2007-005, § 11-53, adopted 1-23-2007; Ft. McD. Res. No. 2009-42, ex. A, adopted 5-5-2009, eff. 8-1-2009.)

11-52. School Defined

A. It is mandatory that all ~~students children between the age of six (6) and eighteen (18) years~~ **5 by September 1st up to their 19th birthday** residing within the exterior boundaries of the Fort McDowell Yavapai Nation attend:

- 1) An accredited school that monitors attendance every day that school is regularly in session except for those ~~students children~~ who have received a high school diploma or a graduate equivalency diploma or otherwise satisfy the requirements for high school graduation or
 - 2) The Fort McDowell Education Division Academic Recovery Program if ~~that the student child~~ is suspended **for two (2) or more days and/or expelled** from a school.
 - a. **Located at the Fort McDowell Yavapai Nation Education Division Office for the duration of a student's suspension.**
 - b. **The intention is to provide a place of study for students to maintain course work during suspension.**
 - c. **Upon the suspension contact is required between the Truancy Officer and parent, guardian, or adult student as defined in Section 11-51A2 to review the suspension and the Academic Recovery Program requirements. If a student does not attend the Academic Recovery Program, a referral to Wassaja Family Services will be made.**
- B. ~~3.~~ Home Schooling may be recognized upon the prior **written** approval of the Education Division Director. The Education Division Director shall determine the acceptable requirements and standards of home schooling, and shall publish those requirements and standards in the community newsletter on an annual basis.
- a. **Home Schooling is an education platform that requires a core curriculum from an accredited source for the student to meet the Arizona grade level requirements/standards.**
 - b. **Must be reviewed and renewed on an annual basis by the Education Division Director. Student must have passing grades, stay on track to meet graduation requirements, and show progress towards the Arizona grade level requirements/standards, and attend every day that school is regularly in session.**
- C. **Online Education may be recognized upon prior written approval of the Education Division Director.**

- a. Online education is a digital platform from an accredited source that provides student monitoring and access to their specific grade level requirements/standards.
 - b. Must be reviewed and renewed on an annual basis by the Education Division Director. Student must have passing grades, stay on track to meet graduation requirements, and show progress towards the Arizona grade level requirements/standards, and attend every day that school is regularly in session.
- D. If a student or adult student as defined in Section 11-51A2 dis-enrolls from school for any reason or is dropped for ten (10) days of non-attendance, they are required to re-enroll in an accredited school within five (5) school days.
- E. ~~B.~~ All ~~students children~~ described in subsection (A) ~~(a)~~ above shall be enrolled in an accredited school. A ~~student child~~ or adult student as defined in Section 11-51A2 absent from school shall be considered truant unless excused by good cause. The term "absent" means that a ~~student child~~ or adult student as defined in Section 11-51A2 is not in attendance at school. Good cause shall consist of only the following conditions:
- 1) Sickness. A medical doctor's note or nurse practitioner's note is required for two (2) consecutive days of absence from school, and for three (3) non-consecutive days of absence from school during any given thirty (30) day period for which the ~~student child~~ or adult student as defined in Section 11-51A2 is required to attend school;
 - 2) Medical treatment and appointments for the ~~student child~~ or adult student as defined in Section 11-51A2 that cannot be scheduled for non-school hours;
 - 3) Hospitalization. Physical, mental, emotional or behavioral conditions verified by a physician, psychiatrist or psychologist that make instruction inexpedient or impracticable;
*Merged with 11-51B16
 - 4) Death of a family member. Allowable absences under this condition are limited to a period of three (3) school days for the death of an immediate family member unless reasonable cause is provided for a longer absence, and for a period of one (1) school day for the death of an extended family member unless reasonable cause is provided for a longer absence;
 - (a i) An immediate family member means a ~~student's child's~~ or adult student's (as defined in Section 11-51A2) mother, stepmother, father, stepfather, sister, step-sister, brother, step-brother, grandparent, step-grandparent and legal guardian.
 - (b ii) An extended family member means a ~~student's child's~~ or adult student's (as defined in Section 11-51A2) aunt, uncle, and cousin that are

directly related to the ~~student child~~ or adult student as defined in Section 11-51A2.

- 5) Later stage of pregnancy and childbirth. The applicable school's criteria for this condition shall be taken into consideration for determining the appropriate length of time allowable for absence from school;
- 6) Head lice. Only one (1) day of school is authorized for this condition;
- 7) Participation in a school activity authorized by the school for which the ~~student child~~ or adult student as defined in Section 11-51A2 is enrolled;
- 8) Participation in events occurring in official Tribal celebrations where such participation is approved by Tribal Council resolution;
- 9) Required attendance in court;
- 10) Verifiable hazardous road conditions;
- 11) School approved college visitations;
- 12) School approved co-operative programs;
- 13) Verifiable emergencies reasonably preventing attendance at school;
- 14) A ~~student or adult student as defined in Section 11-51A2 child~~ who is a participant in a Tribal cultural or religious ceremony. In order for such absence to be considered good cause, the absence may not be for a period longer than would cause the ~~student or adult student as defined in Section 11-51A2 child~~ to be dropped from a class or ~~losing lose~~ lose credit for a class. Prior to a ~~student or adult student as defined in Section 11-51A2 child~~ being absent from school for this exception, a parent or guardian or ~~adult student as defined in Section 11-51A2~~ must provide the Truancy Officer at least two (2) weeks notice and receive approval by the Truancy Officer;
- 15) Family vacation. In order for such absence to be considered good cause, the absence may not be for a period longer than would cause the ~~student or adult student as defined in Section 11-51A2 child~~ to be dropped from a class or ~~losing lose~~ lose credit for a class. Prior to a ~~student child~~ being absent from school for this exception, a parent or guardian or ~~adult student as defined in Section 11-51A2~~ must provide the Truancy Officer at least two (2) weeks notice and receive approval by the Truancy Officer;
- 16) ~~Physical mental, emotional or behavioral conditions verified by a physician, psychiatrist or psychologist that make instruction inexpedient or impracticable;~~
* Section merged with Sec. 11-52B3

16) Detainment in a juvenile detention facility pursuant to court order. The student shall participate in an educational program unless otherwise ordered by the Fort McDowell Yavapai Nation Tribal Court.

17) Homebound. A student or adult student as defined in Section 11-51A2 who is under a doctor's care and is unable to attend school in person due to a medical condition, however, is able to receive educational instruction. The condition may be physical, mental, emotional or behavioral in nature and must be verified by a physician, psychiatrist or psychologist. The homebound instruction is provided by the student's home school district.

F. ~~C.~~ Suspension or expulsion from school shall not be considered good cause.

1) ~~If upon review of a child's~~ Students with verified disabilities that fall under the Individuals with Disabilities Education Act or the Section 504, Rehabilitation Act of 1973 who have an Individual Education Plan (IEP) or Section 504 Plan may have fines dismissed. ~~by~~ The Truancy Officer, the Special Education Specialist, and the Education Division Director will review the student's ~~child's~~ IEP or Section 504 Plan to determine if the behavior that precipitated the suspension is a function of a ~~physical, mental, emotional or behavioral~~ the student's disability identified in the said IEP and/or Section 504 Plan. If the behavior that precipitated the suspension is a function of the disability fines shall not be levied for that specific suspension.

2) If the review results in recommendations for specific actions to be taken or resources utilized to help the student or adult student as defined in Section 11-51A2 and mitigate further similar behavior, and the student's ~~child's~~ parent/guardian or adult student as defined in Section 11-51A2 refuses to take such actions or utilize recommended resources, parent/guardian or adult student as defined in Section 11-51A2 shall not be exempt from paying fines levied for subsequent suspensions.

3) Students who are expelled from school have five (5) school days to re-enroll in an accredited school.

G. ~~D.~~ Five (5) incidents of unexcused tardiness will be considered as one (1) unexcused absence from school. Fines will be administered accordingly.

H. ~~E.~~ Three (3) incidents of unexcused absence from individual classes or school periods will be considered as one (1) unexcused absence from school.

I. ~~F.~~ Acceptable "excused" absences with one (1) semester are limited to a total of ~~ten~~ (10) nine (9), unless the absence is caused by a verifiable documented emergency at the discretion of the Truancy Officer.

(Sec. 11-51 amended by Resolution No. McD. 2001-44, effective June 26, 2001. Sec. 11-51 amended by Resolution No. McD. 2001-57, effective August 14, 2001. Sec. 11-51

amended by Resolution No. McD. 2002-43, effective July 16, 2002. Sec. 11-51(17) amended by Resolution No. McD. 2002-94, effective August 1, 2002. Sec. 11-51 amended by Resolution No. McD. 2007- 005, effective January 23, 2007. Sec. 11-51 amended by Resolution Ft. McD. 2009-42, effective May 5, 2009.)

(Law & Order Code 2006, § 11-51; Ft. McD. Res. No. 2001-44, eff. 6-26-2001; Ft. McD. Res. No. 2001-57, eff. 8-14-2001; Ft. McD. Res. No. 2002-43, eff. 7-16-2002; Ft. McD. Res. No. 2002-94, eff. 8-1-2002; Ft. McD. Res. No. 2007-005, § 11-51, adopted 1-23-2007; Ft. McD. Res. No. 2009-42, ex. A, adopted 5-5-2009, eff. 8-1-2009)

11-53. Parental Responsibility

A. It is the responsibility of each parent and/or guardian to ensure that their ~~student child~~ or ~~students children~~ attend school, including but not limited to addressing underlying issues causing truancy in accordance with the requirements of this law. **For an adult student as defined in Section 11-51A2, this section shall apply equally to the adult student who shall be responsible to ensure their own school attendance. When the student reaches the age of majority, the parent or guardian shall no longer be responsible.**

B. For purpose of this Article V, it shall be the duty and obligations of each ~~student child~~ and parent or guardian **or adult student as defined in Section 11-51A2** to provide ~~whatever~~ information **that** is reasonably requested by the Truancy Officer as to circumstances, activities, and whereabouts of any ~~student child~~ or **adult student as defined in Section 11-51A2** or other information relating to a ~~student's child's~~ or **adult student's (as defined in Section 11-51A2)** school attendance. **The parent or guardian or adult student as defined in Section 11-51A2) shall provide written documentation signed by an appropriate professional for good cause for absences listed in Sec 11-52E.**

*Note: 11-53B Moved from Section 11-55 Providing Information to Truancy Officer

C. In order for a parent or guardian or adult student as defined in Section 11-51A2 to **be in compliance with this Article V and receive per capita payments or any other Tribal benefits; and for per capita payments to be deposited into the minor's account of an eligible child;** ~~the parent and~~ **or guardian or adult student as defined in Section 11-51A2 must execute a written release an Authorization for Disclosure of Information, at the beginning of each school year, that allows their student's child's school to provide any and all academic, special education, attendance and grade, disciplinary, enrollment, and health records to the Fort McDowell Yavapai Nation Education Department Division.**

*Note: 11-53C moved from Section 11-56G Notice of Truancy and Fines

- 1) The Authorization for Disclosure of Information for each student or adult student as defined in Section 11-51A2 shall be submitted by the end of August of each school year to the Education Division Office. Non-compliance will result in a fine being assessed and/or referral to the Fort McDowell Yavapai Nation Tribal Court.
 - a. A fine of \$250 will be assessed if the disclosure is not submitted by the end of August.

b. An additional fine of \$250 will be assessed if the disclosure is not submitted by the end of the first week of September along with a referral to the Fort McDowell Yavapai Nation Tribal Court.

2) The parent or guardian or adult student as defined in Section 11-51A2 shall provide an updated Disclosure to the Education Division, throughout the given school year for any/all changes of information on the Disclosure to include: change of guardianship, change of phone number or address, and/or change of school enrollment.

(Sec. 11-52 amended by Resolution No. McD. 2001-57, effective August 14, 2001. Sec. 11-51 amended by Resolution No. McD. 2002-43, effective July 16, 2002.)

(Law & Order Code 2006, § 11-52; Ft. McD. Res. No. 2001-44, eff. 6-26-2001; Ft. McD. Res. No. 2001-57, eff. 8-14-2001; Ft. McD. Res. No. 2002-43, eff. 7-16-2002; Ft. McD. Res. No. 2007-005, § 11-52, adopted 1-23-2007; Ft. McD. Res. No. 2009-42, ex. A, adopted 5-5-2009, eff. 8-1-2009)

11-54. Truancy Officer and Duties

A. There is hereby established within the Fort McDowell Yavapai Nation Education ~~Department~~ **Division** the position(s) of Truancy Officer whom shall have the following authority and duties:

1) Verify that all **students and adult students (as defined in Section 11-51A2)** ~~children~~ are enrolled in ~~educational institutions~~ **an accredited school** as required ~~herein~~ **under Section 11-52A;**

2) Verify that all **students and adult students (as defined in Section 11-51A2)** ~~children~~ are attending **an accredited school** as ~~herein~~ required under **Section 11-52A;**

3) Make inquiries of any ~~educational institutions~~ **accredited school** and of any ~~student child~~ and their parent or guardian or **adult student as defined in Section 11-51A2** as to the enrollment and attendance status of **students children** in school;

4) Verify that all **students or adult students (as defined in Section 11-51A2)** ~~children~~ are arriving at ~~school~~ **or beginning school** on time according to school guidelines;

5) Issue notices and fines;

~~6. Take truant children into custody pursuant to the parameters established in this Article III;~~

6) At anytime the Truancy Officer may make a referral to **Wassaja** Family Services if it is deemed necessary;

7) Perform other duties specifically set forth in this Article V.

B. Whenever the Truancy Officer finds or observes that a **student or adult student as defined in Section 11-51A2** ~~child~~ is not attending school during regular school hours, the Truancy Officer shall:

- 1) Inquire ~~at as~~ to the **student's** ~~child's circumstances~~ **absences and/or tardiness from school.** ~~and~~ The **student** ~~child~~ and/or parents or guardian or **adult student as defined in Section 11-51A2** shall explain to the Truancy Officer the reason for the **student's** ~~child's~~ failure to attend school;
- 2) **Monitor the student until the parent or guardian or proper Fort McDowell Yavapai Nation agency takes custody of the student;** ~~Bring the child to the child's home or to Fort McDowell Family and Community Services and hold the child until the Truancy Officer can relinquish custody of the child to the child's parent or guardian and~~
- 3) **If deemed appropriate,** make a report of the truancy incident and send a copy of that report to ~~the applicable Child Protective Services~~ **Wassaja Family Services.**

C. In the event that the **student's** ~~child's~~ parent or guardian is not at home or not available, the Truancy Officer may release the **student** ~~child~~ to ~~Fort McDowell Child Protective Services~~ **Wassaja Family Services** which shall take the **student** ~~child~~ into custody until the parent or guardian becomes available.

D. In the event that a Fort McDowell Police Officer finds or observes a **student** ~~child~~ who is not in the presence or company of his parent or guardian within the territorial boundaries of the Fort McDowell Yavapai Nation during regular school hours, the Police Officer shall notify the Truancy Officer and may detain such **student** ~~child~~ at the Fort McDowell Police Department. ~~until the Truancy Officer takes custody of the child pursuant to the Article V.~~

(Sec. 11-54 amended by Resolution No. McD. 2001-57, effective August 14, 2001. Sec. 11-51 amended by Resolution No. McD. 2002-43, effective July 16, 2002. Sec. 11-54 amended by Resolution No. McD. 2007-00 5, effective January 23, 2007.)

(Law & Order Code 2006, § 11-54; Ft. McD. Res. No. 2001-44, eff. 6-26-2001; Ft. McD. Res. No. 2001-57, eff. 8-14-2001; Ft. McD. Res. No. 2002-43, eff. 7-16-2002; Ft. McD. Res. No. 2007-005, § 11-54, adopted 1-23-2007; Ft. McD. Res. No. 2009-42, ex. A, adopted 5-5-2009, eff. 8-1-2009)

~~11-55.—Providing Information to Truancy Officer.~~

***Moved entire section to 11-53B Parental Responsibility**

~~(Sec. 11-55 amended by Resolution No. McD. 2001-57, effective August 14, 2001. Sec. 11-51 amended by Resolution No. McD. 2002-43, effective July 16, 2002.)~~

(Law & Order Code 2006, § 11-55; Ft. McD. Res. No. 2001-44, eff. 6-26-2001; Ft. McD. Res. No. 2001-57, eff. 8-14-2001; Ft. McD. Res. No. 2002-43, eff. 7-16-2002; Ft. McD. Res. No. 2007-005, § 11-55, adopted 1-23-2007; Ft. McD. Res. No. 2009-42, ex. A, adopted 5-5-2009, eff. 8-1-2009)

11-55. Notice of Truancy and Fines

A. Whenever the Truancy Officer finds or observes a **student child or adult student as defined in Section 11-51A2** outside of school during regular school's hours or information comes to the Truancy Officer from a school or other source that a **student child or adult student as defined in Section 11-51A2** is not attending school during regular school hours without good cause, the Truancy Officer shall serve by regular mail on the parent or guardian **and student or adult student as defined in Section 11-51A2** written notice of such truancy **and associated fines**, and that such truancy violates Tribal law. **The parent or guardian and student or adult student as defined in Section 11-51A2 will have the opportunity to have the fines waived for the first and second violation of this law by successfully completing the Truancy Diversion Program outlined in the Education Division's policies and procedures. The listing of fines is published in the Education Division policies and procedures.**

~~1. Notice of the truancy violation shall also be given to the truant child and shall require the child to attend a truancy diversion program operated by the Nation.~~

~~2. In the event the truant child does not successfully complete the truancy diversion program, a fine will be assessed the truant child in accordance with this article.~~

1) Upon the first notice of violation, the parent or guardian ~~the parent or guardian shall have the option of participating in the truancy diversion program operated by the Nation.~~ **and student or adult student as defined in Section 11-51A2 shall participate in the Nation's Truancy Diversion Program. The fines will be waived upon successful completion of the Truancy Diversion Program and enforced for non-completion.** ~~The parent or guardian that does not opt to participate in the truancy diversion program shall be assessed a fine as provided in this section. Failure of the parent or guardian to successfully participate in and complete the truancy diversion program shall result in the parent or guardian being penalized a mandatory fine of Fifty Dollars (\$50.00) per child per day of absence from school. The first notice shall also inform the parent or guardian that a second violation will result in the parent or guardian being penalized a mandatory fine of One Hundred Dollars (\$100.00) per child per day of absence from school.~~

*Moved from 11-56A

2) ~~B. Upon the~~ **A second violation of this law, within a twelve (12) month period, shall result in the Truancy Officer serving by regular mail on the parent or guardian written notice of such truancy and the imposition of a fine of One Hundred Dollars (\$100.00) per child per day of absence from school. the parent or guardian and student shall participate in the Nation's Truancy Diversion Program. The parent or**

guardian or adult student as defined in Section 11-51A2 shall attend/complete, a minimum of 6 hours, parenting training, counseling, a support group, or any other similar self-help training, classes, etc. the parent or guardian chooses that addresses cause(s) for Truancy. The student, 10 years old and older, shall complete 6 hours of Community Service. The fines will be waived upon successful completion of the Truancy Diversion Program and enforced for non-completion.

- 3) ~~€.~~ A third or subsequent violation of this law within a twelve (12) month period shall result in a referral to Juvenile Court. ~~1. The Truancy Officer serving by regular mail on the parent or guardian written notice of such truancy and the imposition of a fine of One Hundred Fifty Dollars (\$150.00) per child per day of absence from school.~~

~~B. €2.~~ The Truancy Officer shall make a report/referral to ~~Child Protective Services~~ Wassaja Family Services for an assessment/investigation, and/or to Juvenile Court regarding truancy, neglect of student children, educational neglect, incorrigibility, or other issues of dependency in the household as warranted at anytime during the school year. ~~The assessment will evaluate the family situation and may require further intervention and referrals to other resources. The CPS will determine the need for further assistance. A determination of "substantiated" or "unsubstantiated" will be reported back to the Truancy Officer.~~ Wassaja Family Services Staff will report, to the Truancy Officer, the date the follow up occurred.

~~D.~~ Subsequent violations of this law within twelve (12) months period shall result in the Truancy Officer serving by regular mail on the parent or guardian written notice of such truancy and the imposition of a fine of not less than Two Hundred Dollars (\$200) per child per day of absence from school.

~~C. €.~~ In the event fines are not paid within fourteen (14) days from the date the parent or guardian or adult student as defined in Section 11-51A2 is served notice pursuant to this section 11-55, the Fort McDowell Yavapai Nation Finance Department is authorized to deduct the amount of said fine from any Tribal benefit that may be due and payable to the parent or guardian or adult student as defined in Section 11-51A2 including, but not limited to, salary and per capita payments subject to the following restrictions: not more than eight (8%) percent may be deducted from a parent or guardian's or adult student's (as defined in Section 11-51A2) gross monthly per capita distribution and not more than eight (8%) percent may be deducted from a parent or guardian's or adult student's (as defined in Section 11-51A2) gross pay check. No restrictions shall apply to the other Tribal benefits. Deductions set forth in this subsection (~~€~~) shall continue in effect until the entire amount of said fine(s) have been paid in full.

- 1) Where the parent or guardian or adult student as defined in Section 11-51A2 is employed by a subordinate economic Enterprise of the Nation, the Finance Department is authorized to order the Enterprise to deduct the amount of said fine from the parent or guardian's or adult student's (as defined in Section 11-

51A2) paycheck pursuant to the requirements in this subsection (e) and the Enterprise is required to comply with such order.

- 2) Truancy fines must be paid to be in good standing with the Truancy Ordinance to receive funding, incentives, sponsorships, and rewards from the Nation.

~~F. In the event that fines are imposed as the result of this Article V where the truant child is fourteen (14) years or older, an amount equal to that assessed against the parent or guardian shall be withheld and forfeited back to the Nation from any future scheduled payment to the child's per capita minor's account. The notice criteria applicable to parents and guardians set forth in this Section 11-56 shall also apply to the imposition of fines against truant children as set forth in this Subsection (f). Upon notice from the Truancy Officer, the Fort McDowell Finance Department is authorized to withhold from any future scheduled payment to a child's per capita minor's account pursuant to this Subsection 11-56 (f). The withheld amount shall be placed into the Nation's general fund and used to offset the cost of operating the Truancy Diversion Program and enforcing the Truancy Ordinance. The withholding of a child's per capita funds pursuant to Subsection (f) shall not create a claim for damages arising or resulting from the withholding of such funds. The Truancy Office may impose community service requirements for children thirteen (13) years of age and older.~~

~~G. In order for parents and guardians to receive per capita payments or any other Tribal benefits, and for per capita payments to be deposited into the minor's account of an eligible child, parent and guardians must execute a written release that allows their child's school to provide any and all attendance and grade records to the Fort McDowell Education Department~~

~~*Moved to section 11-53C Parental Responsibility~~

~~D. H.~~ The imposition of fines and civil penalties in this Ordinance may be imposed joint and severable against the parents or guardians of truant **students or adult students (as defined in Section 11-51A2) children.**

~~E. F.~~ In instances where the Truancy Officer is unable to reasonably locate the parent, guardian and/or **student or adult student as defined in Section 11-51A2 child** to serve notice upon such individual(s) as required herein, service of notice may occur by the Truancy Officer attaching written notice to the front door of the home, house, or dwelling for which the person or **student child** is last known to reside at.

(Sec. 11-56 amended by Resolution No. Ft. McD. 2001-44, effective June 26, 2001. Sec. 11-56 subsequently amended by Resolution No. Ft. McD. 2002-43, effective July 16, 2002. Sec. 11-56 amended by Resolution No. Ft. McD. 2007-005, effective January 23, 2007. Sec. 11-56 amended by Resolution No. Ft. McD. 2009-42, effective May 5, 2009.)

(Law & Order Code 2006, § 11-56; Ft. McD. Res. No. 2001-44, eff. 6-26-2001; Ft. McD. Res. No. 2001-57, eff. 8-14-2001; Ft. McD. Res. No. 2002-43, eff. 7-16-2002; Ft. McD. Res. No. 2007-005, § 11-56, adopted 1-23-2007; Ft. McD. Res. No. 2009-42, ex. A, adopted 5-5-2009, eff. 8-1-2009)

11-56. Appeals

A. Any parent or guardian, **or adult student as defined in Section 11-51A2** who has received written notice of a fine from the Truancy Officer and wants to contest the fine must within seven (7) days of being served such notice, appeal the fine in writing to the Truancy Officer. The fine shall be upheld except when the parent or guardian **or adult student as defined in Section 11-51A2** provide satisfactory information of proof of good cause occasioning the truancy or information in accordance with section 11-52 (~~b~~**B**). The Truancy Officer shall have three (3) days within which to make a final decision in regard to a timely filed appeal. Any information provided shall be confidential except that it may be disclosed to the Fort McDowell **Yavapai Nation** Tribal Court. ~~on appeal or to the Education Advisory Council.~~

B. Within seven (7) days of a final decision by the Truancy Officer, the parent or guardian, **or adult student as defined in Section 11-51A2** shall have the further right to appeal the Truancy Officer's final decision to the ~~Trial Division of the~~ **Fort McDowell Yavapai Nation** Tribal Court which shall have jurisdiction over the issue. The ~~Trial Division of the~~ Tribal Court shall hold a hearing within thirty (30) days and shall render a decision within five (5) days of the hearing in regard to a timely filed appeal. The ~~Trial Division of the~~ Tribal Court shall give deference to the finding of facts submitted by the Truancy Officer and shall not overturn the findings unless the **Tribal** Court finds an abuse of discretion. The standard of review for the conclusion of law submitted by the Truancy Officer shall be de novo. The decision ~~of the Trial Division of the~~ **Fort McDowell Yavapai Nation** Tribal Court shall be final and is not subject to further appeal.

C. It shall not be a defense to the imposition of any fine, suspension or termination of per capita allowed hereunder that the **student child** is acting without the knowledge or authority of the parent or guardian, or that the parent or guardian was unaware of the truancy or claims to be unable to control their **student child**, as the parent and/or guardian has responsibility for the **student's child's** actions. Illness of the **student child** shall not be defense or an excuse for the violation of this law if the **student child** was: (1) seen or found outside of his residence and apart from the company of the parent or guardian during regular school hours, or (2) seen or found outside of his residence with his parent or guardian without good cause during regular school hours.

~~D. A child who has per capita funds withheld and forfeited to the Nation may also appeal such action pursuant to the rules set forth in this Section 11-57.~~

(Law & Order Code 2006, § 11-57; Ft. McD. Res. No. 2001-44, eff. 6-26-2001; Ft. McD. Res. No. 2001-57, eff. 8-14-2001; Ft. McD. Res. No. 2002-43, eff. 7-16-2002; Ft. McD. Res. No. 2007-005, § 11-57, adopted 1-23-2007; Ft. McD. Res. No. 2009-42, ex. A, adopted 5-5-2009, eff. 8-1-2009)

11-57. Judgments

A. The Truancy Officer shall have authority to have fines assessed pursuant to this Article V entered as a judgment in the Fort McDowell **Yavapai Nation** Tribal Court to facilitate enforcement of such fines within the Fort McDowell Yavapai Nation. ~~and when necessary in Courts outside the territorial boundaries of the Fort McDowell Yavapai Nation.~~

B. Upon the failure of a **student** ~~child~~ to timely fulfill community service requirements imposed pursuant to Subsection 11-5~~5A2~~ ~~11-56~~ ~~(f)~~, the Truancy Officer shall have authority to request **that** the Fort McDowell **Yavapai Nation** Tribal Court ~~to enforce~~ ~~enter~~ the ~~imposition of said~~ community service requirements. ~~as a judgment of the Tribal Court.~~

(Law & Order Code 2006, § 11-58; Ft. McD. Res. No. 2001-44, eff. 6-26-2001; Ft. McD. Res. No. 2001-57, eff. 8-14-2001; Ft. McD. Res. No. 2002-43, eff. 7-16-2002; Ft. McD. Res. No. 2007-005, § 11-58, adopted 1-23-2007; Ft. McD. Res. No. 2009-42, ex. A, adopted 5-5-2009, eff. 8-1-2009)

11-58. Severability

If any section or provision of this Article or amendment made by this Article is held invalid, the remaining sections or provisions of this Article and amendments made by this Article shall continue in full force and effect and such invalidity shall not affect the sovereign immunity of the Nation, its Officials, Officers or Employees.

(Sec. 11-59 added and amended by Resolution McD. No. 2002-43, effective July 16, 2002.)

(Law & Order Code 2006, § 11-59; Ft. McD. Res. No. 2001-44, eff. 6-26-2001; Ft. McD. Res. No. 2001-57, eff. 8-14-2001; Ft. McD. Res. No. 2002-43, eff. 7-16-2002; Ft. McD. Res. No. 2007-005, § 11-59, adopted 1-23-2007; Ft. McD. Res. No. 2009-42, ex. A, adopted 5-5-2009, eff. 8-1-2009)

Secs. 11-59—11-70. - Reserved.