

Title 8 – Juveniles
Chapter 6 – Court Hearings, Parties and Mediation

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Repealed or Superseded:

Juvenile Code, Ord. 68 (12/89), Enacting Res. 89-12-98 (repealing Ord. 40 and all other previous youth ordinances).

Youth Code, Ord. 40 (2/8/83), Enacting Res. 83-2-20, BIA (rescinded 5/5/83, approved 6/25/83) (repealing all previous youth ordinances).

Subchapter I – The Court

8-06.010 Establishment of Youth Court.

There is hereby established for the Swinomish Indian Tribal Community a division of the Swinomish Tribal Court to be known as the Swinomish Youth Court.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-06.020 Judges of Youth Court.

The Swinomish Youth Court shall consist of one or more judges as appointed by the Senate.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-06.030 Qualifications for Youth Court Judges.

The Youth Court judge's qualifications shall be the same as the qualifications for judges who sit on the Swinomish Tribal Court. The rules of disqualification or disability of a Youth Court judge shall be the same as those that govern Tribal Court judges.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-06.040 Powers and Duties of Youth Court Judges.

In carrying out duties and powers enumerated under this Title, judges of the Youth Court shall have the same powers and duties as judges of the Swinomish Tribal Court.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-06.050 Authority of Youth Court.

- (A) The Court is authorized to cooperate fully with any federal, state, tribal, public or private agency to participate in any diversion, rehabilitation or training programs and to receive grants-in-aid to carry out the purposes of this Title.
- (B) The Court may utilize such social services as may be furnished by any tribal, federal, state, or private agency.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-06.060 Telephone Orders.

The Court may issue orders by telephone and facsimile machine and such orders shall have the same force and effect as original written orders. Telephone orders shall be followed by a written order as soon as possible.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-06.070 When to Order a Continuance.

Except as otherwise expressly provided, the Court may continue any proceeding:

- (A) Upon the motion of a party if there is a finding that good reason exists for the continuance, including time to insure proper notice or to produce material evidence or witnesses currently unavailable; or
- (B) Upon the Court's own motion if it considers it to be in the best interests of the youth.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-06.080 Effect of a Continuance.

A continuance suspends the time limits for the holding of hearings and the filing of documents.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-06.090 Confidentiality of Youth in Need of Care Hearings and Conferences.

All tribal youth in need of care hearings and conferences under this Title shall be closed to the public. Only the mediator, the youth court judge, tribal court staff, the Family Services representative, tribal law enforcement officers, the parties to the action, and any persons asked to testify or speak shall be permitted at the hearings and conferences, provided that the parties may agree to allow the presence of other persons.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-06.100 Records Relating to Youths in Need of Care to be Kept Confidential.

- (A) All youth in need of care conference, hearing, Family Services Program, and law enforcement records and files shall be confidential and shall not be open to inspection to any but the following, except as may be ordered by the Court in the youth's best interest:
 - (1) The youth and his or her representative;
 - (2) The parent(s), guardian or custodian;

- (3) The Family Services Representative; or
- (4) The presenting officer.
- (B) Law enforcement records and files concerning a youth in need of care shall be kept separate from the records and files of adults.
- (C) Youth in need of care records and files may be shared with appropriate state and county officials in accordance with any reciprocal agreement made by the Senate to share such records.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-06.110 All Delinquency Hearings Closed, Parents Shall be Present; Healing to Wellness Court Hearings.

- (A) **Delinquency Hearings.** All delinquency hearings or proceedings under this Title shall be closed to all persons except the parties, their counsel, the youth compliance officer, a family services representative, and witnesses called by the parties. The parent(s), custodian(s) or guardian(s) shall be present at all such delinquency hearings or proceedings unless his or her presence is waived by the Court for good cause shown. If a parent, guardian or custodian cannot be present, the Court may appoint a guardian ad litem for the youth at a delinquency proceeding.

[History] Ord. 221 (9/13/04); Ord. 170 (6/30/03); Ord. 68 (12/89).

- (B) **Healing to Wellness Court Hearings.** All Juvenile Healing to Wellness Court hearings or proceedings shall be closed to all persons except to members of the Healing to Wellness Team, juvenile participants in the Healing to Wellness Court, and juvenile participant's family members.

[History] Ord. 221 (9/13/04).

8-06.120 Youth Offender Records and Healing to Wellness Court Records Confidential.

- (A) Records of Tribal Court delinquency cases filed under this Title, Juvenile Healing to Wellness Court records, and law enforcement files on youth offenders shall be confidential except records may be released upon request to:
 - (1) The youth and his or her spokesperson;

- (2) The youth's parent(s), custodian, or guardian(s);
 - (3) The Family Services Representative or other social services employee, as appropriate;
 - (4) Any agency or individual pursuant to a tribal court order, which is in the best interest of the youth;
 - (5) Members of the Swinomish Healing to Wellness Court Team when the juvenile is a participant or is being considered for participation in the Healing to Wellness Court or other individuals and agencies as necessary for the functions of the Healing to Wellness Court;
 - (6) Any agency or individual pursuant to a waiver signed by the youth and a parent, custodian or guardian; and
 - (7) The Tribe's prosecutor and presenting officer.
- (B) Youth offender and delinquency records and files may be shared with appropriate state and county officials in accordance with any reciprocal agreement made by the Senate to share such records.
- (C) Youth offender and delinquency records and files may be shared with appropriate state and county officials when the Tribe or a designated representative refers a juvenile to Skagit County for prosecution.
- (D) Youth offender and delinquency records and files shall be shared with the appropriate state and county officials when an individual is required to register as a sex offender under tribal law or by tribal court order.

[History] Ord. 221 (9/13/04); Ord. 170 (6/30/03); Ord. 68 (12/89).

8-06.130 Definition of Contempt.

Any willful disobedience or interference with any order of the Court shall constitute contempt.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-06.140 Punishment for Contempt.

The Court may hold any individual in civil contempt or in criminal contempt in accordance with the Criminal Code.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-06.150 Record for Appeal.

For purposes of appeal, a record of the proceedings shall be made available to parties to the appeal. The party seeking the appeal shall pay the cost of obtaining this record, unless waived by the Court in accordance with the Rules of Civil Procedure.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-06.160 Time Limit for Appeal.

Any party to a court hearing may appeal a final order or disposition of the case by filing a written notice of appeal with the Court within thirty (30) days of the final order or disposition.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-06.170 Conduct of Proceeding on Appeal.

All appeals shall be conducted in accordance with the Rules of Appellate Procedure.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-06.180 Rights of Parties.

In all proceedings under this Title, the Court shall inform:

- (A) the youth and his or her parent, guardian or custodian that they have the right to have a legal representative advise and represent them but they may have to pay for such representation;
- (B) the parties of the right to request a continuance of the proceeding in order to seek legal representation if a party appears at a proceeding without a legal representative;
- (C) the parties of any available services that provide legal representation at little or no cost to qualified applicants;
- (D) the parties of the opportunity to subpoena witnesses;
- (E) the parties of the opportunity to introduce, examine and cross-examine witnesses;

- (F) the parties of the opportunity to discover, offer and inspect evidence;
- (G) the parties of the opportunity to present arguments and statements; and
- (H) the parties that they need not be a witness against themselves.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-06.190 Jury Trial.

There is no right to trial by jury during any proceeding under this Title.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-06.200 Computation of Time.

Whenever a rule, tribal law or an order of the court requires that an action be taken within a certain number of days, the day of the event from which the time limit runs shall not be counted; but the last day shall be counted unless it is a Saturday, Sunday, or tribal holiday. When the last day is a Saturday, Sunday, or tribal holiday, the deadline shall be the first work day following the day that is not counted. Where the time limit is less than seven days, Saturday, Sunday, and tribal holidays shall not be counted.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

Subchapter II – Judicial Officer

8-06.210 Appointment of Judicial Officers.

The Senate may appoint a judicial officer to carry out the duties and responsibilities set forth in Section 8-06.230.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-06.220 Qualifications of Judicial Officers.

The judicial officer shall have the same qualifications as the Youth Court judge as specified in this Title. The rules of disqualification or disability of a judicial officer shall be the same as those rules that govern Youth Court judges.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-06.230 Duties of Judicial Officers.

The judicial officer shall:

- (A) Issue warrants and custody orders;
- (B) Conduct preliminary inquiries;
- (C) Conduct hearings and make determinations concerning continuances; and
- (D) Perform such other duties as the Court or this Title may require.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-06.240 Appeals.

Any final decision of the judicial officer is subject to review by the Youth Court judge either at the next proceeding concerning the youth or at an independent hearing held for the purpose of reviewing the decision upon the request of any party or officer of the Court.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

Subchapter III - Mediation

8-06.250 Appointment of Mediators.

One or more mediators may be authorized by the Court to carry out the duties and responsibilities set forth in this Title.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-06.260 Qualifications of Mediators.

Mediators shall be knowledgeable, unbiased tribal members committed to the welfare of the Indian youth and the welfare of the community. These individuals shall have an understanding of tribal customs and traditions in regard to child rearing practices and be trained in dispute resolution.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-06.270 Duties of Mediators.

The mediator shall:

- (A) Conduct informal conferences;
- (B) Insure that during each conference all relevant facts are presented and all parties are given an opportunity to speak;
- (C) Encourage the parties involved to reach a voluntary agreement that is acceptable to all;
- (D) Report to the Court concerning the details of the agreement or report to the Court that the parties were unable to reach an agreement; and
- (E) Perform such other duties as the Court or this Title may require.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-06.280 Request for a Mediation Conference.

- (A) A mediation conference under this Subchapter shall be initiated by a Request for Conference form filed by the presenting officer with the Court.
- (B) The Court shall set a conference upon a request within ten (10) days.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-06.290 Notice Requirements.

- (A) Written notice of the mediation conference shall be given to the youth and his or her parent(s), guardian or custodian as soon as the time and place for the conference has been established, but no later than five (5) days prior to the conference.
- (B) The notice shall contain:
 - (1) The name of the Court;
 - (2) A citation to the specific Section of this Title that gives the Court jurisdiction of the proceedings;
 - (3) A brief statement of why a conference would be helpful in serving the youth's best interests; and
 - (4) The date, time and place of the mediation conference.

- (C) A tribal law enforcement officer or appointee of the Court shall deliver the notice. If the notice cannot be delivered personally, the notice shall be delivered by registered mail or any other method reasonably designed to give notice to the necessary persons shall be sufficient.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-06.300 Procedure of Mediation Conference.

- (A) The conference shall be informal and conducted by the appointed mediator(s).
- (B) No substantive information obtained at the conference may be admitted into evidence at a court hearing or any other court proceeding unless all parties agree otherwise. However, the terms of an agreed upon supervision plan are admissible as evidence at a subsequent proceeding involving the care of the youth.
- (C) If a disposition agreement is reached, it shall be set forth in writing, including any conditions or requirements to be performed and filed with the Court by the presenting officer. The youth, the youth's parent(s), guardian or custodian and the presenting officer, on behalf of the Tribe shall, sign the disposition agreement.
- (D) The disposition agreement shall cover a fixed time period.
- (E) Should no agreement be reached during the mediation conference or the parties fail to appear at the scheduled conference, a petition to initiate a court fact-finding hearing may be filed by the presenting officer.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-06.310 Monitoring/Failure to Comply.

- (A) For youth in need of care cases, the Family Services Representative shall monitor compliance with the disposition agreement throughout its term. If the Family Services Representative finds that there has been a failure to comply with the terms of the disposition agreement, he or she may recommend that the presenting officer file a petition.
- (B) For criminal or delinquency cases, the youth compliance officer shall monitor compliance with the disposition agreement throughout its term. If the youth compliance officer finds that there has been a failure to comply with the terms of the disposition agreement, he or she may recommend that the presenting officer file a petition.

- (C) Prior to the filing of a petition, the youth or his or her parent(s), guardian or custodian may challenge, before the mediator(s), the Family Services Representative's finding or the findings of the youth compliance officer that an individual failed to comply with the disposition agreement. The mediator(s) may reverse the Family Services Representative's finding or the findings of the youth compliance officer and allow the disposition agreement to continue in effect.
- (D) After a petition is filed, the youth or his or her parent(s), guardian or custodian may challenge the allegation of non-compliance before the Court. If the Court finds that the relevant individuals have complied with the disposition agreement, it shall dismiss the petition without prejudice and reinstate the agreed disposition.
- (E) The failure of the Tribe to comply with any significant term, condition or duty placed on the Tribe contained in a disposition agreement shall be grounds to have the case closed. A youth or his or her parent(s), guardian or custodian may petition the Court to close the case.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

Subchapter IV – Presenting Officer

8-06.320 Appointment of Presenting Officers.

The Senate shall appoint a presenting officer to carry out the duties and responsibilities set forth in this Title.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-06.330 Qualifications of Presenting Officers.

The presenting officer's qualifications shall be the same as the qualifications for the individual who serves as prosecutor for the Tribal Court.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-06.340 Duties of Presenting Officers.

The presenting officer shall:

- (A) File petitions with the Court as provided in this Title;
- (B) Represent the Tribe in all proceedings under this Title; and

(C) Perform such other duties as the Court or this Title may require.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

Subchapter V – Guardian Ad Litem

8-06.350 Appointment of Guardian Ad Litem.

The Court, under any proceedings authorized by this Title, shall appoint for the purpose of that proceeding a guardian ad litem for a youth where it finds that the youth does not have a natural or adoptive parent(s), guardian or custodian willing and able to exercise sound judgment as to the best interests of the youth.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-06.360 Qualifications of Guardian Ad Litem.

The guardian ad litem must be familiar with the rights of youths and the provisions of this Title.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

8-06.370 Duties of Guardian Ad Litem.

The guardian ad litem shall:

- (A) Represent the youth's best interest in any proceeding as required by the Court;
- (B) Make recommendations to the Court on disposition; and
- (C) Perform such other duties as the Court or this Title may require.

[History] Ord. 170 (6/30/03); Ord. 68 (12/89).

Subchapter VI – Youth Compliance Officer

8-06.380 Appointment of a Youth Compliance Officer.

The Senate shall appoint a youth compliance officer to carry out the duties and responsibilities set forth in this Title

[History] Ord. 170 (6/30/03).

8-06.390 Qualifications of a Youth Compliance Officer.

The youth compliance officer must be familiar with the rights of youths and the provisions of this Title.

[History] Ord. 170 (6/30/03).

8-06.400 Duties of a Youth Compliance Officer.

The youth compliance officer shall:

- (A) Monitor, coordinate, and encourage the compliance by tribal youth with the orders and sentences of the Tribal Court, in addition to any voluntary agreements entered into by a youth and/or the youth's family pursuant to a deferred prosecution, a court authorized mediation or a family services negotiation;
- (B) Develop and maintain accurate files and records of all case related information;
- (C) Prepare cases for court, diversion or dismissal as instructed by the prosecuting attorney;
- (D) Provide testimony and written reports regarding client compliance with court orders and negotiated agreements; and
- (E) Perform such other duties as the Tribal Court or this Title may require.

[History] Ord. 170 (6/30/03).