

TABLED

CHEROKEE COUNCIL HOUSE
CHEROKEE NORTH CAROLINA

Date: DEC 07 2023

ORDINANCE NO.: 51 (2023)

An ordinance to amend C.C. Chapter 115 to make the age of a "compulsory school age child" commensurate with other definitions of a child or juvenile within the Cherokee Code.

WHEREAS, under the Tribe's current education code, codified in Chapter 115 of the Cherokee Code, children between the ages of 6 and 16 shall attend school and their parent, guardian, or custodian shall have the responsibility to make them attend; and

WHEREAS, the overall goal should be to have children attend school until graduation or the end of their childhood as defined under the Code; and

WHEREAS, the terms "juvenile," "minor," and "child" are defined under the Cherokee Code as anyone under the age of 18; and

WHEREAS, having consistent age definitions for children within the Cherokee Code alleviates the potential for confusion or unequal treatment under the law; and

WHEREAS, faculty and staff at Cherokee Central Schools (CCS) have expressed concerns about attendance and education with the current maximum age of a school age child being 16; and

WHEREAS, changing the compulsory school age range to 6-18 provides for a consistent definition of a child under the Code, and makes for a more functional definition for CCS and families.

NOW THEREFORE BE IT ORDAINED, by the Tribal Council of the Eastern Band of Cherokee Indians, in council assembled at which a quorum is present, that Tribal Council hereby amends C.C. Sec. 115-1 to read as follows:

Sec. 115-1. - Compulsory school attendance laws.

- A. Every parent, guardian or custodian residing on tribal trust land having charge or control of a child between the ages of six and ~~16~~ 18 shall cause the child to attend school continuously for a period equal to the time the school where the child chooses to enroll shall be in session. Any six-year old child who is unable to enroll in school due to school policy or law requiring the child's delay in enrollment shall be compelled to attend school at age seven.

1 a. “Compulsory school age” shall mean any person between the ages of 6 and 18 who
2 is enrolled in Cherokee Central Schools or who resides on tribal trust land. It shall
3 also mean any person under the age of 6 who has already enrolled in Cherokee
4 Central Schools.

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6 B. The agents and employees of the State of North Carolina or its political subdivisions are
7 granted permission and authority to enter the Cherokee Indian Reservation for purposes of
8 enforcing the penalties of North Carolina compulsory school attendance laws against
9 Indian children, parents or other persons in loco parentis, as authorized by 25 U.S.C. 231.

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11 C. The parent guardian, or custodian of a child shall notify the school where the child is
12 enrolled of the reason for each known absence of the child, in accordance with the
13 local school board policy.

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15 D. No person shall encourage, entice or counsel any child of compulsory school age to be
16 unlawfully absent from school. Violation of this subsection will result in criminal charges.

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18 E. The threshold limit of accumulated unexcused absences during a school year will be
19 defined by the school board where the child is enrolled in school and shall be enforceable
20 under tribal law. When a child reaches the threshold limit of accumulated unexcused
21 absences the school where the child is enrolled must determine and document whether the
22 parent, guardian or custodian has made a good faith effort to comply with the
23 compulsory school attendance law and notify the Director of Social Services. If
24 the school determines that the parent, guardian or custodian has not made a good faith
25 effort to comply with the compulsory school attendance law the school's designee must
26 notify the Tribal Prosecutor. If the school's designee determines that the parent, guardian
27 or custodian has made a good faith effort to comply with the compulsory school attendance
28 law and the absences occurred without the consent of the parent, guardian or custodian,
29 the school's designee must file a complaint with the juvenile court counselor that the child
30 is habitually absent from school without a valid excuse.

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32 F. Documentation that demonstrates that the parents, guardian, or custodian were notified that
33 the child was in danger of reaching and reached the threshold limit of unexcused absences
34 shall constitute prima facie evidence that the child's parent, guardian or custodian is
35 responsible for the absences.

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37 **BE IT FINALLY ORDAINED**, that all ordinances and resolutions inconsistent with this ordinance
38 are rescinded, and this ordinance shall become effective upon ratification by the
39 Principal Chief.

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41 *Submitted by Cody White, on behalf of Cherokee Central Schools.*