TITLE 14
HOOPA VALLEY TRIBE
CHILD/FAMILY ASSISTANCE CODE

CHAPTER 1 GENERAL PROVISIONS

14.1.01. Short Title

Title 14 is entitled "The Hoopa Valley Tribe Child Protection/Family Assistance Code".

14.1.02. Purpose

The purpose of this Title is to ensure the provision of necessary legal protections and tribal assistance to families to preserve and strengthen them during times of difficulty. The Hoopa Valley Tribe recognizes that families are the core of the community, and that strengthened families result in a stronger community.

Furthermore, this code is enacted to strengthen and reaffirm the inherent right of the Hoopa Valley Tribe to regulate the conduct of its members and persons who consent to its jurisdiction by being physically present within the boundaries of the reservation.

The child/family assistance code shall be liberally interpreted and construed to fulfill the following expressed purposes:

1. To provide for the welfare, care and protection of the children and families on the Hoopa Valley Indian Reservation;
2. To preserve unity of the family, preferably by separating the child from his 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 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 children's court under the provisions of this code;
6. To recognize and acknowledge the tribal customs and traditions of the Hoopa Valley Tribe with regard to child-rearing.

14.1.04 Construction

Chapter 1 through Chapter 23 shall be exempted from the rules of strict construction and shall be liberally construed to give full effect to the objectives and purposes for which they were enacted. The terms and provisions of Chapter 1 through Chapter 23 shall be construed according to the fair import of their terms,

but when the language is susceptible to differing construction, it shall be interpreted to further the general purposes stated in this Chapter. Where a term is not defined herein, it shall be given its ordinary meaning. Any reference to "he," "him" or other masculine terms shall include male and female persons. Any reference to a singular term includes the plural. "Shall" is mandatory and "may" is discretionary

14.1.05 Definitions

(a) "Abandon": The failure of the parent, guardian or custodian to provide reasonable support and to maintain regular contact with a child. Failure to maintain a parental relationship with the child without just cause for a period of six (6) months constitutes a prima facie evidence of abandonment. Custody with extended family members or voluntary consent to placement does not constitute abandonment unless:
(1) the parent has violated the original care agreement and is presently unable or unwilling to comply with the terms of that agreement and the care provider is no longer or able to provide care for the child; or
(2) the parents whereabouts are unknown, despite good faith efforts to locate the parent, and the appointed caretaker is no longer able or willing to care for the child(ren).
A custodial parent's incarceration will not lead to an abandonment case, if the parent can make appropriate arrangements for the child's care.

(b) "Abuse": The infliction of physical, emotional or mental injury on a child, which includes where the child is suffering serious emotional damage, or is at substantial risk of suffering serious emotional damage, evidenced by severe anxiety, depression, withdrawal, or unusually aggressive behavior toward self or others, as a result of the conduct of the parent or guardian or who has no parent or guardian capable of providing appropriate care.

(c) "Adult": A person 18 years of age or older, or otherwise emancipated by order of a court of competent jurisdiction.

(d) "Child": A person who is less than 18 years old and has not been emancipated by order of a court of competent jurisdiction.

(e) "Court" or **"Children's Court"**: The Children's Court of the Hoopa Valley Tribe.

(f) "Custodian": A person, other than a parent or guardian, to whom legal custody of the child has been given.

(g) "Domicile": A person's permanent home, legal home or main residence. The domicile of a child is generally that of the custodial parent or guardian. Domicile includes the intent to establish a permanent home; or where the parent or guardian considers their permanent home.

(h) "Emergency Foster Home": Placement with a family whose home has been licensed to accept emergency placements of children at any hour of the day or night (see "Foster Home").

(i) "Extended Family": Defined according to the tribal customs and traditions of the Hoopa Valley Tribe.

(j) "Family Maintenance Services" Services provide to a family by the Tribe or other governmental entity in order to maintain the child in the home Family maintenance services are available without regard to income to any of the following:

(1) Families whose child or children have been adjudicated abused, neglected, or abandoned, and where the court has ordered the supervision Children and Family Services while the child remains in the child's home.

(2) Families whose child is in potential danger of abuse, neglect, or abandonment, who are willing to accept services and participate in corrective efforts, and where it is safe for the child to remain in the child's home only with the provision of services.

(3) Families in which the child is in the care of a previously noncustodial parent, under the supervision of the juvenile court.

(k) "Family Plan" a document that lists the services to be provided by the Tribe, and the responsibilities of a parent or guardian. The plan must be substantially completed in order for a case filed under this code to be dismissed.

(l) "Foster Home": Placement with a family whose home has been licensed under chapter 19 of this code.

(m) "Foster Home Inspector": A person appointed by the Tribal Council to inspect and license foster homes under chapter seven of this code.

(n) "Guardian": A person assigned by a court of law, other than a parent, having the duty and authority to provide care and control of a child (see "Permanent Guardian," "Temporary Guardian," "Guardian Ad Litem," and "Guardian of Property").

(o) "Guardian Ad Litem": A person appointed by the court to represent the child's interests before the court.

(p) "Indian": Any member of a federally recognized Indian tribe, band or community, or Alaska Natives, or a person considered by the community to be Indian.

(q) "Least Restrictive Alternative": Whenever it is necessary to protect an individual, the least restrictive method of intervention must be used to protect the freedom and independence of the person. The least restrictive alternative is that environment which is the most like the person's home setting and which is most capable of supporting the protected person's physical and mental health and emotional being.

(r) "Neglect": The failure or refusal of the parent, guardian or custodian to provide reasonably adequate food, clothing, shelter, medical care, education or supervision for the child's health and well-being, or the failure or refusal of a parent to protect a child from abuse or mistreatment that the parent knew of or should have known of.

(s) "Parent": Includes a natural or adoptive parent, but does not include persons whose parental rights have been terminated, nor does it include the unwed father whose paternity has not been acknowledged or established.

(t) "Permanency Plan": The long term placement plan for a child who has been found within the jurisdiction of the court because of abuse or neglect.

(u) "Permanent Placement Services" Services provided by Children and Family Services, or another governmental agency, to children who cannot safely live with their parents and are not likely to return to their own homes. Permanent placement services are available without regard to income to children have been adjudicated abused, neglected, or abandoned under this code and the court has determined that reunification, adoption, or guardianship is inappropriate.

(v) "Physical Abuse": The non accidental infliction of serious physical harm on a child. The court may find there is a substantial risk of serious future injury based on the manner in which a less serious injury was inflicted, a history of repeated inflictions of injuries on the child or the child's siblings, or a combination of these and other actions by the parent or guardian which indicate the child is at risk of serious physical harm.

(w) "Permanent Guardian": A guardian who has been granted long term guardianship status as set forth in chapter 22 of this code. This is a judicially created relationship between child and caretaker which is intended to be permanent and self sustaining, as evidenced by the transfer to the caretaker of the following parental rights with respect to the child: protection, education,. care and control of the person, custody of the person, and decision making.

(x) "Protective Services Worker": The social services worker, law enforcement personnel or any person who performs the duties and responsibilities set forth in section 14.2.04 of this code.

(y) "Reservation": The Hoopa Valley Indian Reservation.

(z) "Reunification Services" Services provided to a family by the tribe to reunite the child separated from his or her family because of abuse, neglect or abandonment. Reunification services are available without regard to income where the child or children have been adjudicated abused, neglected, or abandoned under this code, and where the court has ordered Children and Family Services to supervise the reunification efforts of the family. Family reunification services will only be provided when a child has been placed in out-of-home care, or is in the care of a previously noncustodial parent under the supervision of the juvenile court. When a minor has been placed in foster care with a nonparent, family reunification services may be provided to one or both parents.

(aa) "Sexual abuse": Means any of the following:
(1) Any penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is the emission of semen;
(2) Any sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person;
(3) Any intrusion by one person into the genitals or anal opening of another person, including the use of any object for this purpose, except that, it does not include acts performed for a valid medical purpose;
(4) The intentional touching of the genitals or intimate parts (including the breasts, genital area, groin, inner thighs, and buttocks) or the clothing covering them, of a child, or of the perpetrator by a child, for purposes of sexual arousal or gratification, except that, it does not include acts which may reasonably be construed to be normal caretaker responsibilities; interactions with, or demonstrations of affection for, the child; or acts performed for a valid medical purpose;
(5) the taking of photographs or use of other media for preserving images of any of the above acts and/or the reproduction, sales, or other distribution of images of any of the above described acts

(bb) "Substantiated Report": A report of child abandonment, abuse, or neglect that has been investigated and after investigation it appears to the investigator that there is probable cause to believe the allegations are true.

(cc) "Temporary Guardianship": A guardian who has been granted temporary guardianship status as set forth in chapter 22 of this code.

(dd) "Tribal Council": The Tribal Council of the Hoopa Valley Tribe.

(ee) "Unsubstantiated Report": A report of child abandonment, abuse, or neglect that has been investigated and after investigation it appears to the investigator that there is no probable cause to believe the allegations are true.

(ff) "Voluntary Placement" means an out-of-home placement of a minor, by or

with participation of a Tribal or State agency, after the parents or guardians of the minor have requested the assistance of the agency and signed a voluntary placement agreement.

(gg) "Voluntary Placement Agreement" means a written agreement, binding on the parties to the agreement, between the Tribal or State agency, or any other agency acting on its behalf, and the parents or guardians of a minor child which specifies, at a minimum, the legal status of the child and the rights and obligations of the parents or guardians, the child, and the agency while the child is in placement.

14.1.06 Jurisdiction
(a) General
The Court has jurisdiction on all proceedings under this Title over child or family assistance situations occurring within the external boundaries of the Hoopa Valley Reservation to include guardianships, voluntary or court ordered, child abandonment, abuse or neglect as defined by this code, and the emancipation of minors. The jurisdiction of the family court is civil in nature and includes the right to issue all orders necessary to insure the safety of the family, especially children, within the exterior boundaries of the Hoopa Valley Reservation.

(b) Personal
(1) Children
The family court has jurisdiction over the following persons who are alleged to have been, or who have been determined to have been, abandoned, abused, or neglected, as defined in Section 14.1.05 above:

(A) Any Indian child who resides or is domiciled within the exterior boundaries of the Hoopa Valley Reservation who has been abandoned, abused, or neglected, as defined in Section 14.1.05 above, or the sibling of such a child;

(B) Any Indian child who resides or is domiciled within the exterior boundaries of the Hoopa Valley Reservation whose siblings have been abandoned, abused or neglected as defined in section 14.1.05 above, if the court finds that the child is at substantial risk to be abandoned, abused or neglected. The court shall consider the circumstances surrounding the abuse or neglect of the sibling, the age and gender of each child, the nature of the abuse or neglect of the sibling, the mental condition of the parent or guardian, and any other factors the court considers probative in determining whether there is a substantial
risk to the child;

(C) Any child in whose case the Hoopa Valley Tribe has a right to intervene in, or transfer to Tribal Court, under the Indian Child Welfare Act

(D) Any child who is a member of the Hoopa Valley Tribe, or eligible for membership in the Hoopa Valley Tribe, who seeks emancipation

(2) Other persons
In addition, the family court has jurisdiction over the following individuals:

(A) Immediate and Extended family members, or legal custodians or guardians, of a child described in (a) above, provided those family members either live with the external boundaries of the Hoopa valley reservation, or voluntarily submit to the personal jurisdiction of the court. Such jurisdiction includes but is not limited to the power to compel attendance at court or other proceedings related to the disposition of a child's case, or impose restrictions, conditions and requirements relating to the care, guardianship, custody and/or control of a child, and/or to punish the adult for contempt of court.

(B) Any off-reservation person or agency, whether Indian or non-Indian, who has consented to the personal jurisdiction of the court. As a precondition of obtaining or retaining the custody or guardianship of a child pursuant to this Code anyone who resides off reservation must execute a consent form consenting to the personal jurisdiction of the Family Court..

(c) Continuing Jurisdiction
Once the Family Court obtains jurisdiction over family member or a youth, the court retains jurisdiction over children and their extended families who leave the exterior boundaries of the reservation, unless declined by the court or by automatic termination in the following cases:

1. The case is dismissed by the Court; and/or

2. The child turns eighteen (18) years of age

The court retains jurisdiction to collect arrearages of support owed by parents in any case where jurisdiction is automatically terminated.

14.1.07 DECLINE OF JURISDICTION
(a) Grounds
The Tribal Court may decline to exercise its jurisdiction if it finds any of the following exist:

(1) Another court has the jurisdiction to hear the case and it would be more convenient for the parties than the Tribal Court;
(2) One or more of the parties is not a person over whom the Tribal Court may properly exercise its jurisdiction; or
(3) The Hoopa Valley Tribe cannot provide necessary and needed services to the family or child.

(b) Procedure
The Division of Human Services, or the parent; guardian, or child can bring a written motion to dismiss based on the tribe's inability to provide necessary and needed services. The Motion to Dismiss must state:

(1) what services have been offered; and
(2) what services are still needed but not available; and
(3) the factual reasons the services are needed; and
(4) the factual reasons the services are unavailable.

14.1.08 TRANSFER OF JURISDICTION
(a) Application of the Indian Child Welfare Act
The procedural requirements in the Indian Child Welfare Act,25 U.S.C. 1901-1963, are not be binding upon the Children's Court unless specifically provided for in this code.

(b)Transfer to State Court or Other Tribal Court
In any proceeding before the children's court, the court may transfer the proceedings to an appropriate State Court or another Tribal Court where the state or the other Indian Tribe has a significant interest in the child and the transfer would be in the best interest of the child. If the child is known to be, or discovered to be, an enrolled member of another tribe, the case worker must contact the child's tribe to determine if additional services are available to the child through his tribe. If the services available through the child's tribe are better suited to address the child's needs, the case worker, either parent, or the child's legal representative may file a petition for transfer to the other Court.

(c)Transfer from Other Courts
The children's court may accept or decline, under the procedures set forth in this code, transfers of child welfare cases from other Federal, State or Tribal Courts.

(1) Receipt of Notice
The Tribal agent for service of notice of state court child custody proceedings, as defined by the Indian child Welfare act, is the Director of Human Services. The Court clerk will provide the Director with a copy of any notice of a potential transfer case received directly by the Court.

(2) Investigation and Pre-Transfer Report by Human Services
Upon notice of a request for transfer from another court, the Division of Human Services must conduct an investigation and file a written report with the Tribal Court within five (5) days of the receipt of notice. The report must assess whether or not the Tribe can provide adequate services to the parties.

(3) Recommendations for Transfer or Intervention

Within five (5) days of the receipt of the Human Services report, the Children's Court will make a written finding as to whether or not the transfer would be detrimental to the best interest of the child. A copy of these findings will be served upon the parties to the case, and the other court.

(4) Request for Transfer
The Division of Human Services or selected tribal representative must request transfer within five (5) days of receipt of Children's court finding that transfer would be in the best interest of the child. .

(5) Acceptance of Transfer
The Tribal Court will not accept a transfer from State Court unless:

(A) a parent or Indian custodian's petition to State Court for transfer is granted, or;
(B) the Tribe's petition to State Court for transfer is granted, and;
(C) the Tribal Human Services Division's pre-transfer report demonstrates to the Tribal Court that adequate services can be provided by the Tribe.

(6) Hearing(s)
Upon receipt of transfer jurisdiction from State Court, the Division of Human services must file a child protection/family assistance petition, and appropriate hearing(s) will be held in accordance with this code.

14.1.09 INTERVENTION IN STATE COURT PROCEEDINGS

(a) The Tribe may intervene in State Court child custody proceedings, as defined by the Indian Child Welfare Act, at any point in the proceedings, and;

(b) The Tribe shall intervene in such matters unless such intervention would be impracticable under the circumstances of the case.

(c) The Division of Human Services, or selected tribal representative, must file a motion to intervene in the state court within five (5) days of receipt of notice of the state court case.

14.1.10 FULL FAITH AND CREDIT; CONFLICT OF LAWS

(a) State Court Orders

State orders involving children over whom the children's court could take jurisdiction will be recognized by the Children's court only after a full independent review of such state proceedings has determined:

(1) the state court exercised proper subject matter and personal jurisdiction over the parties, and;
(2) the provisions of the Indian Child Welfare Act, 25 U.S.C. 1901-1963, were

properly followed, and;

(3) due process was provided to all interested parties participating in the state proceeding, and;

(4) the State Court proceeding does not violate the public policies, customs, or common law of the tribe.

(b) Court Orders of Other Tribal Courts

Court orders of other Tribal Courts involving children over whom the children's court could take jurisdiction will be recognized by the Children's court after the Court has determined that:

(1) the other Tribal Court exercised proper subject matter and personal jurisdiction over the parties, and;

(2) due process was accorded to all interested parties participating in the other Tribal Court proceeding; and

(3) the other Tribal Court proceeding does not violate the public policies, customs, or common law of the Tribe

14.1.11 SOVEREIGN IMMUNITY PRESERVED

Nothing in Chapter 1 through Chapter 23 shall be deemed to constitute a waiver by the Hoopa Valley Indian Tribe of its sovereign immunity, rights, powers or privileges.

14.1.12 INCONSISTENT PROVISIONS OF OTHER LAW

It is the intent of the Tribal Council to enact this Title to specifically address the jurisdiction of the Tribal Court in cases where allegations of child abuse, neglect abandonment have been made, or where a child seeks an order of emancipation. The procedures in the court shall be governed by the rules of procedure for the tribal court, found in titles 2 and 3 of Hoopa Valley Code that are not in conflict with this code. Any specific procedure within this code shall apply where a conflict exists between the more general procedure of Title 2 and the more specific procedure of this code. If the court finds that a case filed under the provisions of this code is actually a private party child custody dispute, the case must be dismissed under this title, and filed in compliance with the provisions of Title 14A.

14.1.13 SEVERABILITY

If any provision of this code or its application to any person or circumstance is held invalid, the remainder of the Title, or the application of the provision to other persons or circumstances, remains in effect.

14.1.14 RELATIONSHIPS WITH OTHER AGENCIES

(a) Cooperation and Grants

The Children's Court is authorized to cooperate fully with any Federal, State, Tribal, public or private agency in order to participate in any foster care, shelter care, treatment or training program(s) and to receive grants-in-aid to carry out the

purposes of this code. This authority is subject to the approval of the Tribal Council if it involves an expenditure of Tribal funds.

(b) Social Services

The Children's Court will utilize such social services as may be furnished by any Tribal, Federal, or State agency provided that it is economically administered without unnecessary duplication and expense.

(c) Contracts

The Children's Court may negotiate contracts with Tribal, Federal or State agencies and/or departments on behalf of the Tribal Council for the care and placement of children before the children's court subject to the approval of the Tribal Council before the expenditure of Tribal funds.

CHAPTER 2 CHILDREN'S COURT PERSONNEL

14.2.01 CHILDREN'S COURT JUDGE

(a) Appointment

The Children's Court Judge(s) will be appointed or elected in the same manner as the Tribal Court Judge(s). Where so qualified, and if the caseload allows, the Chief Tribal Court Judge may act as the Children's Court Judge.

(b) Qualifications

The general qualifications for Children's Court judge(s) will be the same as the qualifications for Tribal Court Judge(s). In addition, Children's Court Judges must have significant prior training and/or experience in child welfare matters or consult with advisors with such experience.

(c) Powers and Duties

In carrying out the duties and powers specifically enumerated under this Child/Family Protection Code, Judges of the Children's Court have the same duties and powers as Judge of the Tribal Court.

(d) Disqualification or Disability

The rules on disqualification or disability of a Children's Court Judge are the same as those rules that govern Tribal Court Judges.

(e) Judicial Education Requirement

Any Judge appointed to the Children's Court must attend at least one training annually on child welfare issues.

14.2.02 GUARDIAN AD LITEM

At any stage of the proceedings conducted under this code the Children's Court may appoint separate counsel for the child, without affecting the right to counsel of the

parent or guardian, to act as guardian ad litem representing the child's best interests.

14.2.03 ADDITIONAL COURT PERSONNEL

The court may set qualifications and appoint additional juvenile court personnel such as guardians ad litem, court appointed special advocates (CASAs), children's court advocates, and/or mediators whenever the court decides that it is appropriate to do so.

14.2.04 PROTECTIVE SERVICES WORKERS

(a) **Division of Human Services**

Tribal Protective Services workers will be employed by the Division of Human Services. To assist the protective services workers in performing their duties, the head of the Division of Human Services will do the following:

(1) Establish internal policies and procedures for a database of confidential child abuse and neglect records;
(2) Establish internal policies and procedures for the maintaining the confidentiality of child abuse and neglect records.
(3) Establish internal policies and procedures governing the retention of, and access by outside agencies to, the all confidential data held by the Division;
(4) Establish internal policies and procedures governing timelines for actions required by this code, where no timeframe is included in the code;
(5) Establish internal policies and procedures governing the priority of investigation of abuse and neglect reports, where multiple reports are made within close proximity to one another;
(6) Negotiate agreements for services, record sharing, referral, and funding for child welfare services pursuant to placement and service orders.
(5) Establish internal procedures for the Division's acceptance of legal custody of Tribal children when ordered by the Tribal Court.

(b) Power and Duties

Protective Services Workers will possess the following powers and perform the following duties:

(1) Process all Indian Child Welfare ("ICW") notices sent to the Tribe, assist the Tribe in intervening in Indian child custody proceedings, petition for transfer of Indian child
custody proceedings where appropriate, and carry out all other duties and responsibilities regarding all Indian child custody matters pursuant to the instructions or order of the Court;
(2) Receive and investigate reports of suspected child abuse and neglect

involving any Indian child residing within the exterior boundaries of the Hoopa Valley Reservation and determine whether to initiate child protection proceedings;

(3) Determine whether and where an Indian child should be placed pursuant to the emergency provisions of this Code, and provide crisis services necessary to support the family during the intake process;

(4) Make referrals of cases to other agencies and share information with other agencies if their assistance appears to be needed or desirable pursuant to an internally established protocol on the sharing of confidential data;

(5) Make placement and services reports and recommendations to the Court in child protection proceedings, including a plan of family rehabilitation, treatment and care, based on the best interests of the child;

(6) Work together with parents and children, if of suitable age and discretion, to set family plan goals;

(7) Supervise and assist Indian children pursuant to child protection dispositions, offer services to support the family, and make an affirmative effort to obtain necessary or desired services for the child and the child's family;

(8) Initiate petitions for the termination or modification of parental rights;

(9) Be present in Court when cases filed under this code are heard;

(10) Locate, certify, and supervise placements; and

(11) Furnish such other related services as may be directed by the Court.

CHAPTER 3 ABUSE AND NEGLECT REPORTING PROCEDURES

14.3.01 REPORTER AGENCY

The Hoopa Valley Division of Human Services is the agency primarily responsible for investigating allegations of abuse or neglect within the exterior boundaries of the Hoopa Valley Tribe. Law Enforcement personnel can assist such an investigation, or pursue their own investigation when a crime is alleged.

14.3.02 PERSONS SPECIFICALLY REQUIRED TO REPORT

Those persons who are mandated to report suspected abuse or neglect, as defined under this code, include any physician, nurse, dentist, optometrist, or any other medical or mental 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; peace officer or other law enforcement official; judge, attorney- except where it conflicts with attorney client privilege, court counselor, clerk of the court, or other judicial system official.

14.3.03 Anonymous Reports

Any person, other than those specified in section 14.3.02 above, may remain

anonymous when making a report, except where either (1) the protection of the safety of the child requires limited disclosure of the identity; or (2) the reporter consents to disclosure of his identity. The anonymous reporter has the right to petition the Court and be heard at a closed hearing with regard to the issue of disclosure. Where the Court declines to breach the reporter's anonymity, the in court record and any papers filed in connection with the hearing, will be sealed.

14.3.04 Immunity from Liability

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

14.3.05 Penalty for Not Reporting

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 may be subject to immediate removal from their position and/or such other penalties including a fine of up to $500 and any damages as may be allowed under Tribal Law including proceedings in the form of a private civil action under this provision in Tribal Court.

14.3.06 Abuse and Neglect Reports

(a) Form of Report

Those persons mandated to report under section B above must promptly make an oral report to the Tribal Human Services Division and then follow with a written report as soon thereafter as possible and in no event more than three (3) days after such oral report.

(b) Contents of Written Report

The following information must be included in the written report, to the full extent known:

(1) Names, addresses, and Tribal affiliation of the child and his parents, guardian, or custodian;

(2) The child's age and date of birth;

(3) A description of the alleged abuse or neglect, including dates if possible;

(4) Previous abuse or neglect of the child or his siblings;

(5) The name, age, and address of the person alleged to be responsible for the child's abuse or neglect.

(6) The name and address of the person or agency making the report.

(c) Photograph of Visible Trauma

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

CHAPTER 4 INVESTIGATION AND REMOVAL

14.4.01 INVESTIGATION

The child abuse or neglect report must be investigated within a timely and diligent manner which assures, to the greatest degree possible, the continued safety of the child who is the subject of the report.

14.4.02 POSSIBLE OUTCOMES OF INVESTIGATION

(a) Substantiated Reports

Where the report is substantiated, any of the following may occur:

(1)The child may be removed from the custody of the parent or guardian; and a Child Family Assistance Petition filed; /or
(2)The family may be offered voluntary family maintenance services; and/or
(3) A Child/Family Assistance Petition may be filed.

(b) UNSUBSTANTIATED REPORTS

Where the report is unsubstantiated either of the following may occur:
(1) the case may be closed;
(2) the family may be offered voluntary family maintenance services

14.4.03 DECISION TO REMOVE

If the protective services worker investigating a report of child abuse or neglect, or a law enforcement officer in the course of their job duties, find that the grounds for removal, listed below, have been met, the child may be placed in protective custody by a law enforcement officer, and lodged in an emergency placement by the protective services worker, without an order from the Children's Court.

(1) When there are reasonable grounds to believe that failure to remove the child may result in a substantial risk of death, permanent injury, or serious emotional harm; or
(2) When the parent, guardian or custodian is absent and it appears, from the circumstances, that the child is unable to provide for his own basic necessities of life, and that no satisfactory arrangements have been made by the parent, guardian or custodian to provide for such necessities; or
(3) When there are reasonable grounds to believe that failure to remove the child may endanger the child's safety; or
(4) When there are reasonable grounds to believe that the parent has failed to protect the child from acts of abuse, neglect, or gross negligence committed by someone else.

14.4.04 AUTHORITY TO REMOVE

The power to place a child in protective custody is solely vested in law enforcement personnel. A protective services worker must contact law enforcement personnel when the grounds fore removal listed above have been met.

14.4.05 AUTHORITY TO PLACE

The power to place a child in an emergency placement is vested in both law enforcement personnel and protective services workers.

14.5.06 NOTICE OF REMOVAL

The Division of Human Services and/or law enforcement must make all reasonable efforts, through the most efficient means available, to immediately notify the parents, guardian or custodian, of the removal. Reasonable efforts 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.

14.5.07 PLACEMENT PREFERENCES

(a) Least Restrictive Setting

If a child cannot be returned home, or continues in out of home placement, the child must be placed in the least restrictive setting which most approximates a family and in which his special needs, if any, may be met. The child must also be placed within reasonable proximity to his home, taking into account any special needs of the child.

(b) Order of Preferences

Whenever appropriate, a child will be placed in a home according to the following preferences:

(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.
(5) Any other family which can provide a suitable home for such a child.

(c) Limitation on Placement

No child removed from his home for abuse or neglect will be placed in a juvenile or adult facility designed to house alleged or convicted criminal offenders.

CHAPTER 6 VOLUNTARY SERVICES

14.6.01 COOPERATIVE APPROACH

It is the intent of this code to strengthen the unity of the family by increasing the self esteem, and reinforcing the dignity of the members of the family. The Protective Services Worker will assist family members in meeting goals through the provision of tools and skills available through social service and community providers. Wherever possible, the goals should be mutually agreed upon between the parent or guardian, the child, if of suitable age and discretions, and the protective services

worker. Voluntary participation in available services is to be encouraged, and offered to the parent or guardian by the protective services worker wherever such an approach will not endanger the health or welfare of the child.

14.6.02 VOLUNTARY PARTICIPATION

Where the investigation of the allegations is inconclusive or unsubstantiated, but the parent willingly seeks assistance, or where the results of the investigation provide a reasonable suspicion that the abuse, neglect, or abandonment occurred, but did not rise to the level requiring the removal of the child from the home, the Protective Services Worker may enter into written voluntary agreement with the parent, guardian, or custodian before filing any Child/Family Assistance Petition with the Court.

14.6.03 VOLUNTARY PLACEMENT OF CHILDREN OUTSIDE THE HOME

As part of the voluntary agreement, the parent may voluntarily place the child(ren) outside the home. If there appears to be the possibility that the child will remain in voluntary placement longer than 180 days, the family court must find, within the initial 180 days of voluntary placement, that the continued voluntary placement is in the best interests of the child.

14.6.04 CONTENTS OF VOLUNTARY PARTICIPATION AGREEMENT

The agreement must be signed by the parent/guardian/custodian and a Protective Services Worker, and include the following:

(1) A written explanation of the voluntary participation process: it is a voluntary program entered into by the parent/guardian/custodian. The length of the program cannot exceed one year, excluding any wait for acceptance into a program that is not a result of the parent/guardian/custodian's actions. Successful completion of the program will result in one of the following, depending on the circumstances of the case:

(A) the closure of current Human Services case without the filing of a child/family protection petition; or
(B) the dismissal of the Child/Family Assistance Petition without a court decision on whether or not the abuse or neglect allegations occurred.

(2) Unsuccessful completion of the program will result in one of the following, depending on the circumstances of the case:

(3) the filing of a Child/Family Assistance petition; or

(4) a determination hearing at which the court will decide whether or not abuse or neglect of the child occurred, as detailed in the Petition. If, after the determination hearing, the Court finds the allegations of abuse or neglect not true, the case will be

dismissed and the parent/guardian/custodian will be under no obligation to accept any services. If the court finds the allegations of abuse or neglect are true, the parent, guardian or custodian will be subject to Court supervision under a family plan. If the parent or guardian is unable, or unwilling, to meet the family plan goals in a timely manner, the child may be placed in a permanent guardianship and the parent's rights modified, or the parent's rights to the child may be terminated and the child adopted.

(5)A waiver of the parent/guardian/custodian's right to have a Court determination of the truth of any petition filed;

(6) A listing of the mutually agreed upon goals to be accomplished by the parent, guardian custodian in order to successfully complete the voluntary participation program;

(7) A time estimate for the completion of the goals, provided by the parent/guardian/custodian, but not to exceed 1 year (excluding wait for entry into program);

(8) A statement of where the child will be residing for the duration of the parent's voluntary assistance participation

(9) A statement of what non-compliant actions of the parent will terminate diversion and result in the filing of a petition or the adjudication of the previously filed petition, including, but not limited to, the number of appointments or meetings missed; the number of positive substance abuse tests; the failure to complete goals in a timely manner; any substantiated report of new abuse, neglect, or abandonment allegations.

14.6.05 SUBSTANCE ABUSE EVALUATION

The parent/guardian/custodian may be referred to a counselor, substance abuse program, or other service for an evaluation prior to a setting of mutually agreed upon goals for the Voluntary Participation Agreement.

14.6.06 DISQUALIFIERS

(a) Child Removed from Home

The parent or guardian is excluded from Voluntary Participation where the child has been removed from his home on an emergency basis due to an immediate threat to his health or safety, unless all of the following occur:

(1) the protective services specifically recommends voluntary participation;

(2) the parent agrees to voluntarily place the child outside the home, with the understanding that the parent's attempt to regain custody prior to the completion of the voluntary participation agreement will result in the immediate filing of request by the division of human services that the child be court ordered in the care, custody and control of the

division, or into a specific out of home placement;

(3) the court finds that the child's safety will not be jeopardized by the voluntary receipt of services, and includes the reasons for such a finding in a written order;

(4) the court finds that the voluntary receipt of services by the parent or guardian is in the child's best interest, and includes the reasons for such a finding in a written order.

(b) Nature of Allegations

No Voluntary Participation Agreement can be offered when any of the following allegations are substantiated by the Protective Services investigation, or found to be more than likely true (preponderance of the evidence standard) by the Court:

(1) The act of abuse or neglect resulted in serious bodily injury to the child; or

(2) A deadly weapon was used to accomplish the act of abuse; or

(3) The act of abuse or neglect was committed to gratify the abuser's desire for pleasure or excitement, including any pleasure or excitement caused by the infliction of pain on the victim; or

(4) The act of abuse or neglect was committed with exceptional cruelty or caused exceptional pain, irregardless of the presence or absence of a serious bodily injury; or

(5) The act of abuse was sexual in nature.

14.6.07. TERMINATION OF VOLUNTARY AGREEMENT

A voluntary agreement may be terminated by either party to the agreement.

(a) Termination by Parent

The agreement can be terminated by the parent either stating in writing that s/he no longer wishes to participate, or by stating on the record at a court hearing that s/he no longer wishes to participate.

(b) Termination by the Division of Human Services

The Division of Human services can only terminate the agreement by stating in writing the cause for the termination and the effective date of the termination. The parent must be provided with a copy of the termination notice prior to the termination becoming effective.

(c) Required Notice to Parent of Consequences of Action

If the termination of the agreement may result in the filing of a Child/Family Assistance Petition, or the adjudication of a previously filed petition, the Division of Human Services or the Judge, if at hearing, must advise the parent of these possibilities.

CHAPTER 7 FILING CHILD PROTECTION/FAMILY ASSISTANCE PETITION

14.7.01 TIME LIMITATIONS

(a) Removal Cases

If a child has been removed from the home, a Child/Family Assistance Petition must be filed with the court no later than 5pm of the second court working day after the removal.

(b) Non-Removal Cases

If a child remains in the home of the parent or guardian, a Child/Family Assistance Petition must be filed with the court as soon as possible, and in no case later than five working days after the report is deemed substantiated by the case investigator.

14.7.02 CONTENTS OF PETITION

The Child/Family Assistance Petition must include the following:

1. The name, birth date, gender, address, and tribal affiliation of the child;
2. The specific allegations of abuse, neglect or abandonment;
3. 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;
4. The names, addresses and tribal affiliation of the child's parents, guardians or custodians, if known;
5. The names, relationship and addresses of all known members of the child's extended family and all former care givers, if known, and;
6. If the child is placed outside of the home, where the child is placed,
7. The facts necessitating the placement and the date and time of the placement;
8. Any request to allow the protective services worker to redact information from the copy of the petition, and any supporting documentation, to be served upon the parent or guardian under section (D) below, and the factual grounds in support of that request.

14.7.03 EX PARTE REQUEST FOR REDACTION OF DOCUMENTS

Prior to, or a the time of the filing of the Petition with the court, the Protective Services worker may request ex parte an order allowing for a redacted version of the petition or supporting documentation served on the parent where necessary to protect the well being of the child, another party to the case, a witness to the abuse or neglect, a person providing a placement for the child, or a reporter of the abuse or neglect.

14.7.04 SUMMONS

(a) Content

Upon the filing of a Petition, the Clerk of the Tribal Court will issue a notice in the form of a summons directing the parents or guardians of the child to be present in

Court for the initial hearing. The summons must contain the following:

(1) the time and date of the initial hearing; and
(2) a statement of the rights of the parties, and
(3) when appropriate, a statement that the termination of the parent/child legal relationship is a possible outcome of the case if the allegations are proven true.

(b) Service

The Division of Human Services must serve the parent or guardian with a copy of the petition and the original summons according to the provisions of 2 HVTC § 2.3.04, except that in cases of service by publication, only the summons must be published in a paper of general circulation of a three week period. Where the Protective Services Worker has concerns for his or her safety, law enforcement must serve the petition and original summons.

14.7.05 NOTIFICATION OF RIGHTS

All parties have a right to be represented by an advocate/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 are entitled to advance copies of court documents, including petitions and reports, unless access to such documents would be likely to result in either of the following:

(a) the disclosure of confidential information to non-parties; or
(b) an actual danger to the child(ren), parents, social worker, or another party to the case

Where access to documents is limited by court order, the order must specify the reason for the limitation, and the factual basis for such a determination.

14.7.06 SCHEDULING OF CHILD/FAMILY ASSISTANCE CASES

In scheduling investigations and hearings, the court will give priority to proceedings concerning children who have been removed from their homes before an order of disposition has been made.

CHAPTER 8 DEFAULT JUDGMENT

14.8.01WHEN APPROPRIATE

If the parent, guardian or custodian fails to appear for a court hearing, the court may find the parent, guardian or custodian in default, and enter a default order as to that hearing.

14.8.02 NOTICE DETERMINATION

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 notice of the hearing to the parent, guardian, or custodian.

The court must also find that the petitioner can prove the elements required at hearing.

14.8.03 WRITTEN ORDER

If the parent, guardian or custodian is found in default, the court must specify the facts and code sections upon which it relied to enter the default. The Entry of Default Order must advise the parent or guardian if his or her right to file a motion to set aside the default judgment.

14.8.04 SET ASIDE OF DEFAULT JUDGMENT

(a) Timing

Within 10 days of receipt of notice of the entry of a default judgment, the parent or guardian may file a motion asking the court to set aside the default.

(b) Content

The motion must state the reason why the parent or guardian failed to appear.

(c) Good Cause Required

The Court must set aside the entry of the default judgment only upon a showing of good cause.

CHAPTER 9 CONTINUANCE OF HEARING

14.9.01 BEST INTEREST OF CHILD

Upon request of any party or their legal representative, the court may continue any hearing under this chapter beyond the time limit within which the hearing is otherwise required to be held, provided that no continuance will be granted that is contrary to the best interest of the child. In considering the minor's best interests, the court will give substantial weight to a child's need for prompt resolution of his or her custody status, the need to provide children with stable environments, and the damage to a child of prolonged temporary placements.

14.9.02 GOOD CAUSE

(a) Requirement of Good Cause

Continuances will be granted only upon a showing of good cause and only for that period of time shown to be necessary by the evidence presented at the hearing on the motion for the continuance. Whenever any continuance is granted, the facts proven which require the continuance must be included in the written order.

(b) Not Good Cause

No good cause will be found based solely on:

(1) a stipulation between the parties; or

(2) the convenience of the parties

(c) Finding of Good Cause
Good cause will be found where:
(1) a party needs additional time to present necessary evidence; or
(2) a party needs additional time to review a report or other document that was not provided in the time frame required by statute

14. 9.03 Duration of Continuance
A continuance will be granted for the shortest amount of time possible.

14.9.04 Continuances in Removal Cases
Notwithstanding any other provision of law, if a child has been removed from the parent's or guardian's custody, no continuance will be granted that would result in the Family Plan hearing being completed longer than 60 days after the hearing at which the minor was ordered removed or detained, unless the court finds that there are exceptional circumstances requiring such a continuance. The facts supporting such a continuance must be entered upon the minutes of the court.

CHAPTER 10 REMOVAL HEARING

14.10. 01 TIMING
The Removal Hearing must be held as soon as possible, and no later than the end of the next court day after a petition has been filed.

14.10.02 PURPOSE
The purpose of the Removal hearing is to determine:

(1) whether there is a prima facie showing of evidence to support the allegations of abandonment, abuse, neglect, or lack of caretaker for the child; and
(2) whether it is reasonable to believe that the child's continued residence in the parent or guardian's home would be contrary to the child's welfare.

14.10.03 CHILD RETURNED HOME
The child's continuing absence from the home is not necessary where:

(1) evidence is presented that proves to the court's satisfaction it is more likely than not that the acts of abuse or neglect did not occur; or
(2) evidence is presented that proves to the court's satisfaction it is more likely than not that though the acts of abuse or neglect did occur, a lesser remedy exists that would ensure the safety of the child; or
(3) evidence is presented that proves to the court's satisfaction it is more likely than not that since the child's removal the necessary changes have been made in the home to ensure the child's safety.

14.10.04 EXPLANATION OF PROCESS
The court has a duty to explain the following to the parent, guardian, and child, if

present:

(1) the contents and meaning of the petition, including the reasons for the removal of the child;
(2) the child protection court procedure; including the purpose and scope of the removal hearing;
(3) their rights under the Child/Family Assistance code; and
(4) the possible outcomes of the Child/Family Assistance case, if it proceeds

14.10.05 NATURE OF HEARING

This is a closed court, informal hearing. Hearsay evidence is not excluded but cannot be the only evidence supporting the Court's decision. Only the parties, their counsel, witnesses, the child's extended family or other persons determined to be appropriate by the court may be admitted. Any child aged 10 or older has the right to attend the hearing, if s/he so desires.

14.10.06 POSSIBLE OUTCOMES OF THE REMOVAL HEARING

Any of the following outcomes are possible after the removal hearing:

(1) The Child/Family Assistance petition may be dismissed and the child returned to the home; or
(2) The child may be returned to the home of the parent or guardian under the supervision of the court, pending the determination hearing; or
(3) The child may be continued in the out-of-home placement pending the determination hearing.

14.10.07 ORDER FOLLOWING HEARING

The order following hearing must include all of the following:

(1) The name, age, birth date, and tribal affiliation of the child that is the subject of the case;
(2) The name, tribal affiliation, and current mailing and residential addresses for both parents and/or the guardian;
(3) The court's finding as to whether or not a prima facie showing has been made that the child has been abandoned, abused, neglected, or left without a caretaker, and the facts supporting that finding;
(4) The court's finding as to whether it is reasonable to believe that out of home placement is contrary to the child's welfare, and the facts supporting that finding;
(5) The factual basis for the finding where the Court finds that reasonable efforts are not required for any of the reasons found in Section 14.13.08;
(6) The factual basis for a finding as to whether or not the family is an appropriate candidate for a Voluntary Participation Agreement;
(7) If placement is upheld, language that either names a specific temporary legal guardian for the child; or places the child in the care, custody and control of the

division of human services;
(8) A listing of the parent's rights under this code;
(9) Specific terms of visitation for any of the following, if any visitation is granted:

(A) the child's parent or guardian;
(B) the child's siblings
(C) the child's extended family members

The court cannot deny the parent, guardian, or siblings visitation unless it finds by clear and convincing evidence that the visitation would be detrimental to the best interests of the child.

14.10.08 PLACEMENT WITH OTHER PARENT WHERE APPROPRIATE

(a) Requirement that Other Parent be Considered as Placement

Prior to ordering a child removed from the home of a parent or guardian, the court must first determine whether there is a parent of the child, with whom the child was not residing at the time that allegations of abuse, neglect, or abandonment occurred, who desires to assume custody of the child. If that parent requests custody, the court must place the child with the parent unless it finds that placement with that parent would be detrimental to the safety, protection, or physical or emotional well-being of the child.

(b) Conditions of Placement

If the court places the child with the other parent it may do any of the following:

(1) Grant legal and physical custody to that parent and close the child protection case. The custody order will continue unless modified by a subsequent family law order The court may also provide reasonable visitation by the noncustodial parent; or

(2) Order the parent assume custody subject to the jurisdiction of the children's court and require that a home visit be conducted within one month. In determining whether to take the action described in this paragraph, the court must consider any concerns that have been raised by the child's current caregiver regarding the parent. After the social worker conducts the home visit and files his or her report with the court, the court may then take the action described in paragraphs (1) or (3); or

(3) Order the parent assume custody subject to the supervision of the children's court. The court may order:

(A) that reunification services solely be provided to the parent or guardian from whom
the child is being removed; or

(B) that maintenance services be provided solely to the parent who is assuming physical custody in order to allow that parent to retain later custody without court supervision; or
(C) that services be provided to both parents, in which case the court must determine at each review hearing, which parent, if either, will have custody of the child.

(c) Requirement of Written Finding
The court must make a written finding of the basis for its determination under subdivisions (a) and (b). Whenever possible, the court must verbally inform the parties at hearing of the child's placement and the reasons for that placement.

14.10.09 CASE RESOLUTION & FAMILY PLAN MEETING
If the case is not dismissed at the Removal Hearing, the court will order the parents and the Protective Services worker to meet. A mediator may be present as well to facilitate the meeting, if any party so requests, or the court on its own motion so orders.

(a) Purpose
The purpose of this meeting is to encourage cooperation between the family members involved and the Division of Human Services in the resolution of the case. The following topics will be addressed at this meeting:

(1) any possible pre-adjudication case resolution, including the possibility of a Voluntary Participation Agreement for qualifying persons;
(2) the possible components of a Family Plan, if the case proceeds to the point that a Family Plan is necessary. The Protective Services Worker must advise the parent or guardian as to what types of services are available, and ask the parent, what, if any, services s/he would be interested in receiving as part of a Family Plan.

(b) Parent/Guardian Under No Obligation to Accept Services
The Protective Services Worker must explain to the parent that s/he is under no obligation to accept services prior to a court finding of abuse or neglect, but that the services offered to reunify the family may only be offered for only eighteen (18) months starting from the date the child was removed from the home. The worker must assure the parent that whether or not s/he now participates in services, if a finding of abuse or neglect is made, the worker will involve the parent as much as practical in the drafting of the Family Plan.

(c) Admissibility of Statements of Parent
(1) Inadmissible Statements
The parent's statements as to which services s/he would be interested in may not be used at the Determination Hearing.

(2) Admissible Statements

The parent's direct admission of the truth of the allegations may be used at the Determination Hearing.

14.10.10 NEXT COURT DATE

(a) Child Detained

If the child is detained, the court will schedule the determination hearing no more than 15 days of the Removal hearing date.

(b) Child Not Detained/ Non-Removal Cases

If the child is not detained at the Removal hearing, of the child was never removed from the home, the Court will schedule the determination no more than 30 days from the filing of the Petition.

CHAPTER 11 DETERMINATION HEARING

14.11.01 PURPOSE

The purpose of this hearing is for the court to determine all of the following:

(1) whether the allegations of abuse or neglect made in the Child/Family Assistance petition are true; and
(2) Whether the best interests of the child required continued court intervention; and
(3) in removal cases, whether a continued out of home placement is required to protect the child.

14.11.02 PROCEDURE

(a) Nature of Hearing

The determination hearing is a full trial on the merits, subject to the rules of evidence and procedure found in Title 2 of the Hoopa Valley Tribal Codes, with the exception that jury trials are prohibited in these cases. The records of the initial hearing will not be admissible at the determination hearing. This must not be construed to prevent the admissibility of any evidence that was presented at the initial hearing which would normally be admissible under the court's rules of evidence. This hearing must be held within 30 days of the Removal or Court Supervision hearing.

(b) Persons Permitted to Attend Hearing

The general public is 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. Any child age 10 or older, has the right to be present if s/he so desires.

(c) Child Witnesses

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 must specifically set out the reasons for this determination on the record.

(d) Burden of Proof
The burden of proof lies with the Tribe. The Tribe must prove both of the following by clear and convincing evidence:

(1) that the allegations of abuse or neglect in the Child/Family Assistance Petition are true; and
(2) and that the best interests of the child will be served by continued court intervention; and
(3) in out of home placement cases, that a continued out of home placement is necessary to protect the child.

14.11.03 EXPLANATION OF THE PROCESS
The court has a duty to explain the following to the parent, guardian and child, if present:

(1) The allegations of abuse or neglect made against the parent or guardian;
(2) The factual basis listed in the Petition for the allegations of abuse or neglect;
(3) The procedure and possible outcomes of the Best Interests of the Child hearing;
(4) the parties' rights under the Child/Family Assistance code; and
(5) the possible outcomes of the Child/Family Assistance case, if it proceeds.

14.11.04 POSSIBLE OUTCOMES OF HEARING
After hearing the evidence presented by both sides, the court will make whichever of the following findings apply:

(a) Abuse or Neglect Allegations
(1) The Court finds the allegations not true and dismisses the petition; or
(2) the Court finds the allegations true by clear and convincing evidence and upholds the petition

(b)Best interests of the Child
(1) the court finds the best interests of the child do not require continued court intervention; or
(2)the court finds that best interests of the child do not require continued court intervention, so long as the parent signs a Voluntary Participation Agreement with the protective Services worker; or
(3) the court finds the best interests of the child do require continued court intervention and sets a Family Plan hearing date

14.11.05 WRITTEN ORDER- ALLEGATIONS PROVEN TRUE

The court shall state all of the following in its written order:

(1)whether or not the allegations of abuse and neglect were proven true by clear and convincing evidence, and the factual basis supporting this conclusion;
(2) Whether or not reasonable efforts were made to avoid removing the child from the home;
(3) The factual basis for any exception to the reasonable effort requirement under subsection 14.13.06;
(4) Whether or not the best interest of the child requires continued court intervention, and the factual basis supporting that conclusion;
(5) The child's placement pending the Family Plan hearing, and the factual basis supporting this placement;
(6) Whether or not the family is an appropriate candidate for a Voluntary Participation Agreement; and the reasons supporting that finding;
(7) The next court date, if any;
(8) The names, ages, and addresses for both parents. If the location of either parent is unknown, the court must make a finding whether or not due diligence efforts have been made by the case worker to locate the missing parent;
(9) The parties' rights under this code;
(10) Specific terms of visitation for any of the following, if any visitation is granted:

(A)the parent or guardian visitation;
(B) siblings
(c) extended family members

The court cannot deny the parent, guardian, or siblings visitation unless it finds by clear and convincing evidence that the visitation would be detrimental to the best interests of the child.

(11) The date and time the parents and the Protective services worker are to meet to discuss the contents of a Family Plan;
(12) The types of assessments to be completed by the parent, guardian, of child prior to the Family Plan Hearing

14.11.06 Grounds for Continuing Removal from the Home

The court must specify in its order one or more of the following grounds for continuing removal from the home of a parent and the factual basis for the finding:

(1) A child has no parent, guardian or custodian available, willing and capable to care for the child; or
(2) The child's emotional or physical safety is or would be substantially threatened in the home either by the parent or someone the parent is not likely to protect the child from, and there are no reasonable means by which the child can be protected without removing the child from the physical custody of his or her parent or guardian; or

(3) The child is suffering severe emotional damage, as indicated by extreme anxiety, depression, withdrawal, or untoward aggressive behavior toward himself or herself or others, and there are no reasonable means by which the child's emotional health may be protected without removing the child from the physical custody of his or her parent or guardian; or
(4) The child or a sibling of the child has been sexually abused, or is deemed to be at substantial risk of being sexually abused, by a parent, guardian, or member of his or her household, or other person known to his or her parent, and there are no reasonable means by which the child can be protected from further sexual abuse or a substantial risk of sexual abuse without removing the child from his or her parent or guardian, or the child does not wish to return to his or her parent or guardian; or
(5) The parent has failed to change the situation which resulted in the removal of the child

CHAPTER 12 FAMILY PLAN

14.12.01 COOPERATIVE EFFORT

The protective services worker, the parent, the child where age appropriate, or the child's advocate, must meet individually or as a group, depending on the case, to discuss the services requested, or needed, by the parent, child, or other family members. The worker must make reasonable efforts to cooperatively include in the planning process all of the family members who are parties to the case. Only in cases where the family members are unable or unwilling to meaningfully participate in the family planning process, can the Protective Services Worker make unilateral recommendations for services under the Plan. A mediator may be present to facilitate the discussion, if either party so requests, or the court on its own motion so orders.

14.12.02 RESPONSIBILITIES OF THE PARTIES

(a) Social Service Personnel

The social service personnel must:

(1) maintain regular contact with the parent and child to assist them in meeting case plan goals;
(2) locate or provide any and all supportive services necessary for family members to meet the family plan goals

(b) Parent

The Parent must:
(1) Participate in activities and services necessary to meet case plan goals;
(2) Communicate any needs for additional services, or any difficulties in successful completion of case plan goals to social service personnel;
(3) Maintain whatever contact with child allowed under case plan;

(c) Child
The child must:

(1) attend school and participate in all other activities or services included in the case plan;
(2) Communicate any needs for additional services, or any difficulties in successful completion of case plan goals to social service personnel;

(d) Foster Parent or other Caretaker of Child
he foster parent or other caretaker of the child must:
(1) Allow visitation as provided for in the treatment plan;
(2) transport child to required appointments, or activities, including visitation

14.12.03. CONTENTS OF PLAN
The Family Plan must include all of the following points, and be made available to the court, and the parties, as deemed appropriate by the court, three (3) days prior to the Family Plan Hearing.

(1) What steps, if any, have the parent and Social Service personnel already taken to correct the problem(s).
(2) What services are recommended for the parent and the reasons for those recommendations;
(3) What services could be of benefit to the parent but are not available in the community.
(4) What services are recommended for the child, and the reasons for those recommendations;
(5) What services could be of benefit to the child, but are not available in the community.
(6) The child's current placement;
(7) Any plans for future placement of the child;
(8) Recommendations for any visitation by the parent, guardian, siblings, or extended family members
(9) An assessment of when, or if, the child is expected to return home.

14.12.04 REUNIFICATION RECOMMENDATION
The case worker must investigate the circumstances leading to the removal of the child and advise the court whether there are circumstances that indicate that reunification is likely to be successful or unsuccessful and whether failure to order reunification is likely to be detrimental to the child. The following factors, if present, are among those that weigh against a reunification recommendation:

(1) The failure of the parent to respond to previous services; or

(2) the fact that the child was abused while the parent was under the influence of drugs or alcohol, and no evidence is found that the parent has been successful in addressing their use of drugs or alcohol; or
(3) a past history of violent behavior; or
(4) testimony by a competent professional that the parent's behavior is unlikely to be changed by services

14.12.05 REUNIFICATION SERVICES

(a) Duration
Reunification services may be offered for a maximum of 18 months.

(b) Description of Services
Services may include, but are not limited to, all of the following:

(1) Maintaining contact between the parent and child through collect telephone calls, transportation services, or visitation services, where appropriate.
(2) Services designed to eliminate the risk of further abuse, neglect, or abandonment;
(3) Reasonable services to extended family members or foster parents providing care for the child if the services are not detrimental to the child.

14.12.06 FAMILY MAINTENANCE SERVICES

For children who have not been removed from the home, but have been adjudged abused, neglected, abandoned, or left without a suitable caretaker, family maintenance services must be offered in the family plan. Court ordered family maintenance services should not exceed 12 months, unless the parent or guardian is making substantial steps towards completion of the family plan goals, and good cause exists for an extension.

CHAPTER 13 FAMILY PLAN HEARING

14.13.01 TIMING

The Family Plan Hearing will be scheduled no later than twenty one (21) days from the Determination Hearing, and in no event more than sixty (60) days from the initial removal of the child from the home.

14.13.02 PURPOSE

The purpose of this hearing is for the court to determine the following:

(a) In removal cases, whether or not reasonable efforts were made to avoid removing the child from the home;
(b) In all cases, what services must be offered to the parent, child, and other necessary family members as part of the Family Plan in order to assure continued family safety.

14.13.03 PROCEDURE

(a) Nature of Hearing

The hearing is informal in nature. Concerned parties may present evidence relating to the situation. Hearsay evidence will not be excluded at this hearing but must not be the only evidence supporting any Court decision. The general public is excluded from the proceedings. Only the parties, their counsel, witnesses, the child's extended family and another persons determined to be appropriate by the court shall be admitted. Any child aged 10 or older has the right to attend the hearing, if s/he so desires.

(b) Burden of Proof

The Burden of Proof is with the Tribe to prove clearly and convincingly that reasonable efforts were made to avoid removing the child from the home, and that the recommended Family Plan is necessary to assure continued family safety. The parent, child, or child's legal representative may present evidence that other, less intrusive options than removal would have kept the child safe, and/or that changes are necessary to the recommended Family Plan either because some recommendations are not necessary; or because some problems are not addressed in the proposed Plan.

(c) Service Requirement for Family Plan

The Division of Human Services must provide the parent, guardian, and the child or the child's legal representative, with a copy of the recommended family plan at least 3 days prior to the hearing date. A continuance of up to 3 days to review the contents of the plan will be granted when requested by any party or their representative, if a copy of the plan was not provided three days prior to the hearing.

14.13.04 EXPLANATION OF PROCESS

The court has a duty to explain to the parent, guardian, and child, if present, the procedure the court follows under the Child/Family Assistance Code. At this hearing, the court must explain all of the following to the parent or guardian and child, if present:

(1) the contents and meaning of the Family Plan; and
(2) the purpose and scope of the Family Plan hearing; including the possible outcomes of the hearing and
(3) their rights under the Child/Family Assistance code; and
(4) the possible outcomes of the Child/Family Assistance case, if it proceeds

14.13.05 POSSIBLE OUTCOMES OF HEARING

The court may do any of the following after hearing:

(1) Order the child returned home, and close the case, based on evidence that the

child is well adjusted and the family is functioning in a healthy manner;

(2) Order the child returned home, with continued court supervision;

(3) Order a trial home visit;
The Court may order a trial home visit, for no more than six (6) months, unless the Court authorizes them by written order for a longer period. The Court order must explicitly extend the trial home visit. While the child is on a trial home visit, the "clock stops" for the mandatory modification or termination petition filing deadline ("15 of the last 22 months"). If the trial home visit is over seven (7) months long, the clock starts over, and the court must again determine whether or not an out of home placement is in the child's best interest and whether or not reasonable efforts were made to prevent the child's removal.

(4) Order an out of home placement

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

(B) 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 must 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 home

14.13.06 ORDER FOLLOWING HEARING

The order following hearing must include the following:

(1) In removal cases, a finding as to whether reasonable efforts were made to eliminate or prevent the need for removal from the child's home.
(2) A finding as to whether the proposed family plan reasonably address the problems and needs of the child and parent.
(3) A finding as to the appropriate disposition of the case and long-term plan for the child, including any modifications to the proposed treatment plan.
(4) A statement assigning custody of the child to a specific person or the Division of Human Services.

14.13.07 REASONABLE EFFORTS TO PRESERVE THE FAMILY

(a) Obligation to Offer Reunification Services

Whenever it is in the best interests of the child, the Tribe has an obligation to preserve the family, and offer reunification services to parents, except in the

circumstances described in section 14.13.08 below, where the child is removed from the home of the parent. In determining whether or not such services should be offered the court must consider the reunification report of the case worker, as well as all other relevant evidence presented, including the following:

(1) The fact that a parent is no longer living with an individual who severely abused the child may be considered in deciding that reunification services are likely to be successful, provided that the court must consider any pattern of behavior on the part of the parent that has exposed the child to repeated abuse.

(2) If the parent is incarcerated or institutionalized, the court must order reasonable services unless the court determines, by clear and convincing evidence, those services would be detrimental to the child. In determining detriment, the court must consider:

(A)the age of the child;
(B) the degree of parent-child bonding;
(C) the length of the sentence;
(D) the nature of the treatment;
(E) the nature of the crime or illness;
(F) the degree of detriment to the child if services are not offered;
(G) for children 10 years of age or older, the child's attitude toward the implementation of family reunification and services; and
(H) any other appropriate factors

14.13.08 CIRCUMSTANCES IN WHICH REASONABLE EFFORTS ARE NOT REQUIRED TO PREVENT A CHILD'S REMOVAL FROM HOME OR TO REUNIFY THE CHILD AND PARENT.

(a) Circumstances where Reunification Services Not Required

Reasonable efforts to prevent a child's removal from home or to reunify the child and parent are not required if the Court finds by clear and convincing evidence that any of the following circumstances have occurred:

(1) That the whereabouts of the parent or guardian are currently unknown, and have been for at least six (6) months. A finding pursuant to this paragraph must be supported by an affidavit or by proof that a reasonably diligent search has failed to locate the parent or guardian. The posting or publication of notices is not required in that search. If the whereabouts of a parent become known within six months of the out-of-home placement of the child, the court will order the Human Services worker to provide family reunification services.

(2) That the parent or guardian is suffering from a mental incapacity or disorder that renders the parent unable to care for and control the child adequately. A finding pursuant to his section must be supported by the testimony of any two experts, each of whom shall be a physician and surgeon, certified either by the American Board of Psychiatry and Neurology or a licensed psychologist who has a doctoral

degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. The court must order reunification services unless competent evidence from mental health professionals establishes that, even with the provision of services, the parent is unlikely to be capable of adequately caring for the child within twelve (12) months.

(3) That the child or a sibling of the child has been previously adjudicated a ward of a court of competent jurisdiction as a result of physical or sexual abuse, that following that adjudication the child had been removed from the custody of his or her parent or guardian, that the child has been returned to the custody of the parent or guardian from whom the child had been taken originally, and that the child is now being removed due to additional physical or sexual abuse.

(4) That the parent or guardian of the child has caused the death of another child through abuse or neglect.

(5) That the child is under the age of five and has suffered severe physical abuse by a parent, or by any person known by the parent, if the parent knew or reasonably should have known that the person was physically abusing the child. For the purposes of this subdivision, "severe physical abuse" means any of the following: any single act of abuse which causes physical trauma of sufficient severity that, if left untreated, would cause permanent physical disfigurement, permanent physical disability, or death; any single act of sexual abuse which causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness; or the willful, prolonged failure to provide adequate food.

(6) That the child has been adjudicated a ward of the court as a result of severe sexual abuse or the infliction of severe physical harm to the child or a sibling, as defined in this paragraph, by a parent or guardian and the court makes a factual finding that it would not benefit the child to pursue reunification services with the offending parent or guardian.

> (A) A finding of severe sexual abuse, for the purposes of this subdivision, may be based on, but is not limited to, sexual intercourse, or stimulation involving genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between the parent or guardian and the child or a sibling of the child, or between the child or a sibling of the child and another person or animal with the actual or implied consent of the parent or guardian; or the penetration or manipulation of the child's or sibling's genital organs or rectum by any animate or inanimate object for the sexual gratification of the parent or guardian, or for the sexual gratification of another person with the actual or implied consent of the parent or guardian.

(B) A finding of the infliction of severe physical harm, for the purposes of this subdivision, may be based on, but is not limited to, deliberate and serious injury inflicted to or on a child's body or the body of a sibling of the child by an act or omission of the parent or guardian, or of another individual or animal with the consent of the parent or guardian; deliberate and torturous confinement of the child or sibling in a closed space; or any other torturous act or omission that would be reasonably understood to cause serious emotional damage.

(C) As used in this subsection, "sibling" also includes a person whose legal, biological, or
foster parent is the parent of the child.

(7) That the parent is not receiving reunification services for a sibling of the child pursuant to paragraph (3), (5), or (6).

(8) That the child was conceived by means of the commission of an act of sexual abuse. This paragraph only applies to the parent who committed the sexual abuse.

(9) That the parent or guardian of the child willfully abandoned the child, and the court finds that the abandonment itself constituted a serious danger to the child; or that the parent or other person having custody of the child voluntarily surrendered physical custody of the child.

(A) For the purposes of this subsection, "serious danger" means that without the intervention of another person or agency, the child would have sustained severe or permanent disability, injury, illness, or death.
(B) For purposes of this subsection, "willful abandonment" may not be construed as actions taken in good faith by the parent without the intent of placing the child in serious danger.

(10) That the court ordered termination of reunification services for any of the child's siblings because the parent or guardian failed to reunify with the sibling after the sibling had been removed from the parent or guardian, and the parent or guardian has not subsequently made a reasonable effort to treat the problems that led to removal of the child's sibling.

(11) That the parental rights of a parent over any sibling of the child had been permanently severed, and that same parent has not subsequently made a reasonable effort to treat the problems that led to removal of the sibling of that child from the parent.

(12) That the parent or guardian of the child has been convicted of a violent felony, as defined in subdivision (c) of Section 667.5 of the California Penal Code.

(13) That the parent or guardian of the child has a history of extensive, abusive, and chronic use of drugs or alcohol and has resisted prior court-ordered treatment for this problem during a three-year period immediately prior to the filing of the petition that brought that child to the court's attention, or has failed or refused to comply with a program of drug or alcohol treatment described in the family plan on at least two prior occasions, even though the programs identified were available and accessible.

(14) That the parent of the child has advised the court that he or she is not interested in receiving family maintenance or family reunification services or having the child returned to or placed in his or her custody and does not wish to receive family preservation or reunification services.

(A) The court shall advise the parent of any right to services and of the possible consequences of a waiver of services, including the termination of parental rights and placement of the child for adoption.
(B) The court may not accept the waiver of services unless it states on the record its finding that the parent has knowingly and intelligently waived the right to services.

(15) That the parent or guardian has on one or more occasions willfully abducted the child or child's sibling from his or her placement and refused to disclose the child's or child's sibling's whereabouts, refused to return physical custody of the child or child' s sibling to his or her placement, or refused to return physical custody of the child or child's sibling to the social worker.

(b) Permanency hearing Timeline where Reunification Services Not Required

Where the Court has determined under subsection (a) that reasonable efforts to reunify the family are not required, a permanency hearing must be held within 30 days of that determination, unless the requirements of the permanency hearing are fulfilled at the hearing in which the court determines that reasonable efforts to reunify the child and family are not required.

14.13.09. GROUNDS FOR CONTINUING REMOVAL FROM THE HOME

The Court must comply with the requirement of Section 14.13.05 above where it orders the continued removal of a child.

CHAPTER 14 REVIEW HEARINGS

14.14.01 TIMING OF REVIEW HEARINGS

The status of all children subject to the child/family protection code must be

reviewed by the court at least every six (6) months, except that the first review following a formal trial on the issues must be held within ninety (90) days of the formal trial on the issues.

14.14.02 PURPOSE

The purposes of this hearing is to determine:

(1) whether court supervision must continue; and
(2) what services are needed by the family.

14.14.03 PROCEDURE

(a) Nature of Hearing

The hearing will be informal in nature. Concerned parties may present evidence relating to the situation. Hearsay evidence will not be excluded at this hearing but must not be the only evidence supporting any Court decision. The general public is excluded from the proceedings. Only the parties, their counsel, witnesses, the child's extended family and another persons determined to be appropriate by the court will be admitted. Any child aged 10 or older has the right to attend the hearing, if s/he so desires.

(b) Burden of Proof

(1) The Burden of Proof is with the Tribe to prove clearly and convincingly that the recommended Family Plan and placement of the child is necessary to assure continued family safety. A child must be returned home at the review hearing unless the court finds by clear and convincing evidence that the child's continuing absence from the home is necessary to protect the well being of the child

(2) The parent may present evidence that the family members will be safe without continued court intervention, and/or out of home placement. The parent may also present evidence that changes are necessary to the recommended Family Plan either because some recommendations are not necessary or because some problems are not addressed in the proposed Plan.

14.14.04 SOCIAL SERVICES REPORT

(a) Service and Notice of Content of Report

The Protective services worker must complete a report prior to each review hearing. A copy of the report must be served on the parent or guardian and filed with the court at least 5 days prior to the hearing date, and the case worker must make a good faith attempt to meet with the parent or guardian, if their whereabouts are known, and explain the contents of the report prior to the court hearing. In cases where the parent or guardian has not been substantially complaint with the family plan goals, the caseworker must discuss any problems or issues the parent or guardian has with the previously agreed upon goals. If necessary, the caseworker and parent should set new goals, to be submitted to the court at the hearing.

(b) Content of Report
The report must contain the following:

(1) A summary of the identified problem(s) to be addressed.
(2) The active efforts made by the caseworker to help the family move towards reunification;
(3) What steps, if any, have the parent, guardian, custodian, or social services personnel already taken to correct the problem(s).
(4) What services could be of benefit to the parent, guardian or custodian, but are not available in the community.
(5) 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 must contain the reason for such moves.
(6) Dates of contacts with parent, guardian or custodian and the child since the first hearing was held, method of contact, duration and subjects discussed.
(7) If there have been no contacts with the parent, guardian, custodian or child, what efforts have been made to contact such persons.
(8) An assessment of when the child is expected to return home.
(9) A list of the extended family members and a list of dates and times of contacts, or attempts to contact such family members regarding placement of child.
(10) a recommended family plan for the next six (6) months, if continued court involvement is recommended. The recommendations must include:

> (A) clearly stated responsibilities and goals for the parent(s), including the names of any recommended service providers or programs and a time line, if applicable, for the fulfillment of the responsibilities or completion of the goals;
>
> (B) What, if any actions, on the part of the parent will result in the Division of Human Services filing a Petition for Modification or Termination of Parental Rights;
>
> (C) Future placement of the child;
>
> (D) What services should be provided for the child, if services are needed.

(11) The concurrent permanency plan for the child

14.14.05 EXPLANATION OF PROCESS
The court has a duty to explain to the parent and child, if present, the procedure the court follows under the Child/Family Assistance Code. At this hearing, the court must explain all of the following to the parent or guardian and child, if present:

(1) the contents and meaning of the Family Plan;
(2) the purpose and scope of the Review hearing; including the possible outcomes of the hearing and

(3) their rights under the Child/Family Assistance code; and
(4) the possible outcomes of the Child/Family Assistance case, if it proceeds

14.14.06 POSSIBLE OUTCOMES

In addition to the possible outcomes listed under 14.13.05, the court may find that out-of-home placement continues to be in the child's best interests and further that the child must not be returned to the home. The Division of Human Services may be ordered to file a Petition for Modification or Termination of Parental Rights

14.14.07 WRITTEN ORDER

The contents of the written order are the same as required under section 14.13.06, with the additional requirement that in cases where the court orders the filing of a Petition to terminate parental rights, the reasons must appear in the written order.

14.14.08 TWELVE MONTH REVIEW

(a) Alternative Permanency Plan to Reunification

If, at the conclusion of twelve (12) months, the parent or guardian has been unable or unwilling to make substantial effort to comply with the family plan goals, the case worker must propose an alternative permanency plan to reunification.

(b) Notice to Parent or Guardian of Alternative to Reunification

The court must explain to the parent or guardian that an alternative to reunification has been proposed, the reasons for the proposal, and the possibility that reunification will be terminated within six (6) months if the family plan goals are not met. The court must ask the parent or guardian what difficulties they are having meeting the goals, and, if it appears necessary, order the parent or guardian to once again meet again with the case worker to collaborate on a family plan.

(c) Setting of Permanency Plan Hearing

The Court must notice the parent or guardian, and the child, if present, as to the date of the permanency plan hearing. The hearing may be set sooner than six months if the court finds by clear and convincing evidence that the parent will be unable to substantially meet the family plan goals in the remaining six months.

(d). Judicial Determination of Reasonable Efforts

The Court must make a finding at the twelve month review hearing as to whether or not reasonable efforts have been made by Child & Family Services to finalize a permanency plan.

14.14.09 PERMANENCY PLAN HEARING

(a) Timeline

If, at the conclusion of eighteen (18) months the parent has been unable or unwilling to complete the case plan goals necessary to ensure the safety of the child, the reunification efforts of the Tribe will terminate. The permanency plan hearing

may occur sooner, where the court has found that reunification services are not necessary under 14.13.08, where the court has found the parent cannot meet the case plan goals within the allotted time; or where the parent requests termination of reunification services.

(b) Purpose of Hearing
The purpose of this hearing is to establish a permanent plan of placement for the child.

(c) Permanent Plan
(1) Timeline
At least 10 days prior to the permanency hearing, Children and Family Services must file the proposed permanent plan for the child.

(2) Content of Plan
The permanency plan must contain the following:

(A) the length of time services have been offered to the family and/or the length of time the child has been in foster care placement as calculated under 14.15.03(a);
(B) The date, if applicable, the court entered an order finding that reunification services were not necessary under 14.13.08;
(C) the placement history of the child;
(D) the recommended permanent placement for the child and the factual reasons for the recommendation;
(E) any recommended continued services for the child;
(F) Specific terms of visitation for any of the following, if any visitation is granted:

(i)the parent or guardian visitation;
(ii) siblings
(iii) extended family members

The court cannot deny the parent, guardian, or siblings visitation unless it finds by clear and convincing evidence that the visitation would be detrimental to the best interests of the child.

14.14.10 PERMANENT PLACEMENT OPTIONS
(a) Options
The permanent placement options for children are any of the following:
(1) adoption of the child; or
(2) permanent guardianship of the child; or
(3) Long term fostercare;
(4) other placement under the care, custody, and control of the Division of Human Services.

(b) LOCATING PERMANENT PLACEMENTS
A child who is 10 years of age or older, will be asked to identify any individuals, other than the child's siblings, who are important to the child, in order to identify potential adoptive parents, guardians, or other long term care givers.

14.14.11 ADOPTION
(a) Adoption Likely
If the court determines by a clear and convincing standard, that it is likely the child will be adopted, the court must terminate parental rights and order the child placed for adoption, unless an exception under 14.15.03(b) exists. The fact that the child is not yet placed in a preadoptive home nor with a relative or foster family who is prepared to adopt the child, will not constitute a basis for the court to conclude that it is not likely the child will be adopted

(b) Adoption Procedure
If the child is ordered placed for adoption, the prospective adoptive parent must file a petition for adoption, and the court must order that an adoption hearing be set. The court will proceed with the adoption, pursuant to the Tribal Adoption Code, after the appellate rights of the natural parents have been exhausted.

14. 14. 12 RELATIVE OR LONG TERM FOSTERCARE PLACEMENT
If the child is living with a relative or a foster parent who is willing and capable of providing a stable and permanent environment, but not willing to become a legal guardian, the child will not be removed from the home if the court finds the removal would be seriously detrimental to the emotional well-being of the child because the child has substantial psychological ties to the relative caretaker or foster parents.

14.14.13 OTHER PLACEMENT
If, after considering reunification, adoption, legal guardianship or permanent placement with a fit and willing relative, Child and family Services believes that the most appropriate permanency plan for the child is another living arrangement, the permanency plan must document the reasons for the recommendation. Such reasons may include:

(a) the case of an older teen who specifically requests that emancipation be his/her permanency plan; or
(b) the case of a parent and child who have a significant bond but the parent is unable to care for the child because of an emotional or physical disability and the child's foster parents have committed to raising the child to the age of majority and to facilitate visitation with the disabled parent;
(c) The Tribe has found an alternative placement within the Tribe

CHAPTER 15 TERMINATION OF PARENTAL RIGHTS

14.15.01 PURPOSE

It is against the policy and philosophy of the Hoopa Valley Tribe to terminate parental rights for the Tribe's children. This section shall be construed in a manner consistent with federal law, individual due process rights, and the philosophy that the family unit is of most value to the tribal community and individual members when that unit stays intact; and that the parent-child relationship is of such vital importance that termination of parental rights should only be used as a last resort when all other efforts have failed, and the termination is in the best interests of the child.

14.15.02 INVOLUNTARY TERMINATION

A parent's rights may be involuntarily terminated only if, by clear and convincing evidence, the court finds that the termination would be in the best interest of the child based on the occurrence of one of the following:

(1) Abandonment: The presumption of abandonment, as defined in 14.1.01(D), may be overcome by information about efforts to maintain the parent-child relationship, including a showing of regular visits telephone calls, letters or monetary support.
(2) Serious Physical Abuse: Willful and repeated physical injuries to the child, or failure to protect the child from such injuries, despite knowledge of the abuse by another.
(3) Sexual Abuse: Willful and repeated acts of sexual abuse or sexual exploitation, or failure to protect the child from such abuse or exploitation at the hands of another, despite knowledge of the abuse or exploitation.
(4) Severe neglect: Pervasive and uncorrectable failure or refusal to provide proper or necessary subsistence, education, medical care, shelter, a safe environment or any other necessary provision for the child's health and well being.
(5) Serious Emotional Harm: The return of the child may result in serious permanent emotional damage as supported by the best evidence in the field of child development.
(6) Severe Domestic or Family Violence: There is a severe pattern of domestic of family violence that has continued despite all efforts to end it in order to protect the child.

14.15.03 MANDATORY FILING OF INVOLUNTARY TERMINATION PETITION

(a) Required Filing of Involuntary Termination Petition

Children and Family Services, or other legal representative of the Tribe, must file a Termination of Parental Rights Petition in the following circumstances, and concurrently seek to identify, recruit, process, and approve a qualified family for adoption, unless an exception under subsection (2) applies:

(1) Where the child has been in foster care and under the responsibility of the Tribe for at least 15 of the most recent 22 months, as calculated cumulatively where the child has had multiple exists from and entries into foster care during the 22 month

period, and excluding any trial home visits, or periods in which the child is classified as a runaway. In such cases, the Petition for Modification must be filed before the end of the 15th month of the child' foster care placement.; or
(2) where the child has been determined to be an abandoned infant. In such cases the Petition for modification must be filed within sixty (60) days of the judicial determination that the child is an abandoned infant; or
(3) where the parent or guardian has been found guilty of any of the felonies listed under 14.15.03(b).

(b) Exception to Requirement of Termination and Adoption Placement
The Tribe may elect not to file a petition to terminate the parental rights of a parent, and seek an adoption placement of a child if any of the following occur:

(1) At the option of the Tribe, the child is being cared for by a relative;
(2) The Division of Human Services has documented in the case plan (which must be available for court review) a compelling reason for determining that filing such a petition would be detrimental to the individual child, including, but not limited to:

(A) documented and compelling reasons in the case plan why the child is unlikely to be adopted;
(B) documented continuing reasonable efforts to safely return the child within the timeframes allotted under this code;
(C) The parents or guardians have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship.
(D) A child 12 years of age or older objects to termination of parental rights.
(E) The child is living with a relative who is unable or unwilling to adopt the child because of exceptional circumstances, that do not include an unwillingness to accept legal or financial responsibility for the child, but who is willing and capable of providing the child with a stable and permanent environment and the removal of the child from the physical custody of this person would be detrimental to the child.
(F) There would be substantial interference with a child's sibling the nature and extent of the relationship, including, but not limited to, whether the child was raised with a sibling in the same home, whether the child shared significant common experiences or has existing close and strong bonds with a sibling, and whether ongoing contact is in the child's best interest, including the child's long-term emotional interest, as compared to the benefit of legal permanence through adoption.

(3)The Tribe has not provided to the family, consistent with the time period in the case plan, services that the Tribe deems necessary for the safe return of the child to the home, when reasonable efforts to reunify the family are required.

14.15.04 PRE-FILING REQUIREMENTS
Prior to filing for Termination of parental rights, either of the following must occur:

(1) The Court finds that all of the following have occurred:

(a) The child has been removed from his parents care for a period of at least one (1) year at the time of the filing of the petition; and

(b)The Court entered an order which stated what the parent was required to do to correct his or her underlying problem

(c) The Parent had actual notice of the Court order requirements; and

(d)The Division of Human services or other Social Service Agency has made a good faith attempt to offer or provide all court ordered services that are reasonably available in the community and which are capable of helping the parent resolve his or her underlying problem(s); and

(e) The parent has either not substantially complied with the court order, or the services have clearly not ended the abusive or neglectful behavior; and

(f)There is little likelihood that the conditions will be remedied so that the child can be returned to the parent in the near future; or

(2)The court finds that reunification services were not required under 14.13.08

14.14.05 CONTENT OF PETITION

When any of the following facts are known, the petition must state:

(1) name, place of residence and tribal affiliation of the petitioner (if other than tribal agency)

(2) the full name, gender, date and place of birth, residence and tribal affiliation of the child;

(3) The basis for the court's jurisdiction;

(4) the relationship of the petitioner to the child;

(5) Names, addresses, tribal affiliation, and dates of birth for the child's parents;

(6) If the child's parent is a minor, the names and addresses' of the parent's parents or guardian, and if no parent or guardian, the members of the parent's extended family;

(7)The name and address of the person or agency having legal or temporary custody of the child;

(8) The grounds on which the termination is sought under this section (unless voluntary modification)

(9) A statement that the pre-filing requirements have been met; and

(10) A list of the assets of the child together with a statement of the value thereof.

14.15.06 WHO MAY FILE

Any of the following may file a petition to terminate parental rights:

(1) The Division of Human Services or other authorized representative of the Hoopa Valley Tribe

(2) Either parent if termination is sought as to other parent

14.15.07 SERVICE

(a) Petition
The petition must be personally served prior to filing of the termination request, unless the parent resides outside the external boundaries of the Hoopa valley Reservation or where personal service cannot be completed despite good faith efforts. In such cases, the parent or guardian may be served by certified mail, return receipt requested. If the location of the parent is unknown, the petitioner may petition the Court for service by publication. The respondent must be served with a blank response form where service is completed by personal service, or by certified mail return receipt requested.

(b) Hearing
The Court must personally serve the parent with the Notice of Hearing, unless the parent resides outside the external boundaries of the Hoopa Valley Reservation. If the parent resides outside the external boundaries of the Hoopa Valley Reservation, the parent may be served by certified mail, return receipt requested. Service by publication will suffice only if the location of the parent is unknown.

14.15.08 RESPONSE PERIOD

The parent or guardian has 30 days to respond to the petition.

14.15.09 PRE-TERMINATION REPORT

Upon the filing of petition for termination, the Court must order the Division of Human services to file a report at least five (5) days prior to the hearing. The report must include the circumstances of the petition, any investigation related to the petition or response, the present condition of the child and parents, proposed plans for the child, and other such facts as may be pertinent to the parent child relationship. A copy of the report must be served upon the parent prior to filing except in cases where the parent has been served by publication.

14.15.10 HEARING PROCEDURE

The hearing is a full trial on the merits, subject to the rules of evidence found in Title 2 of the Hoopa Valley Tribal Codes, and is closed to the public. Any child aged 10 or older has the right to attend the hearing, if s/he so desires.

14.15.11 BURDEN OF PROOF

The burden is on the petitioner to prove by clear and convincing evidence both:

(1) the allegations in the petition; and
(2) the best interests of the child will be served by the termination.

14.15.12. ORDER

(a) Contents
The court order must include formal findings of fact and conclusions of law as a basis for the written order terminating the parent-child relationship, including:

(1) Which, if any, of the allegations in the petition were found true;
(2) What facts did the court based its determination of the allegations on;
(3) What services have been provided or offered to the parent, or guardian, to help correct the underlying problem(s);
(4) The extent to which the parent has utilized those services;
(5) Whether it would be in the best interest of the child to modify the parent-child relationship, and the factual basis for that conclusion.
(6) A finding that the continuation of the parent-child relationship clearly diminishes the child's prospects for successful placement into a permanent and stable home;

(b) Effect
Upon the termination of parental rights, all rights, powers, privileges, immunities, duties and obligations including any rights to custody, and control, existing between the child and parent are severed, unless the Court order or this Code, otherwise states.

(c) Visitation
No right to visitation survives the termination, unless specifically stated in the order. Any visitation must initially be supervised, and subject to the approval of the child, if of suitable age or discretion, or the child's legal guardian if the child is too young to reasonably consent to visitation with the parent.

(d) Child's Continued Rights to Benefits
An order terminating the parent-child relationship does not disentitle a child to any benefit due to him from any third person, state, or United States, nor shall the order affect any rights and benefits that the child derives from the child's descent from a member of a federally recognized Indian Tribe.

14.15.13 VOLUNTARY TERMINATION
Parental rights may be voluntarily terminated by a parent, in writing, if signed by the parent in the presence of and with the approval of the Court only where the court finds by clear and convincing evidence that the child is likely to be adopted. The court must ensure that the parent understand the consequences of the voluntary termination prior to approving it.

(1) Voluntary termination shall not be accepted or acknowledged by the court prior to ten (10) days after the birth of the child.

(2) In any voluntary proceeding for termination of parental rights to, or adoptive placement of, an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree of termination or adoption, as the case may be, and the child shall be returned to the parent.

CHAPTER 16 MODIFICATION OF PARENTAL RIGHTS

14.16.01 COURTS AUTHORITY TO MODIFY

In all cases in the court has determined that abuse or neglect has occurred, the court may limit the control to be exercised over the child by any parent or guardian.

14.16.02 EXPLANATION TO THE PARENT OR GUARDIAN

At hearing, the court must explain to the parent, guardian, and child, if present, any limitations on the parent's control over the child. Additionally, the written court order must clearly and specifically set forth any limitations of the parent or guardian.

14.16.03 SCOPE OF LIMITATIONS

The limitations may not exceed those necessary to protect the child.

14.16.04 EDUCATIONAL DECISIONS

If the court specifically limits the right of the parent or guardian to make educational decisions for the child, the court must at the same time appoint a responsible adult to make educational decisions for the child until one of the following occurs:

(1) The minor reaches 18 years of age, unless the child chooses not to make educational decisions for himself or herself, or is deemed by the court to be incompetent.

(2) Another responsible adult is appointed to make educational decisions for the minor pursuant to this section.

(3) The right of the parent or guardian to make educational decisions for the minor is fully restored.

(4) A successor guardian or conservator is appointed.

(5) The child is placed into a planned permanent living arrangement at which time the foster parent, relative caretaker, or non-relative extended family member has the right to represent the child in educational matters.

14.16.05 LONG TERM MODIFICATION ORDERS

Where a child as been placed in a permanent placement outside the custody of the parent, and parental rights have not been terminated, the court must state in a written order what, if any, limitations it is imposing on parental rights.

(a) Recommendation of Children and Family Services

Included in the final review report recommending the permanent placement plan for the child, Children and Family Services must recommend any modifications to the parental rights that they deem to be in the best interest of the child.

(b) Hearing

The court will hear the modification request at the permanency plan hearing, unless one of the parties, or the court on its own motion, continues the modification issues to a separate hearing in the interests of justice. If the matter is continued, the

modification hearing will be set no later than 21 days from the permanency plan hearing.

(c) Order

The court order must include the following:

(1)A statement as to whether or not a modification of parental rights is in the best interests of the child and the factual basis for such a finding;

(2) A statement of the specific limitations imposed;

(3) a finding that visitation with the parent would be detrimental to the child, and the factual basis for that finding, if visitation is denied.

CHAPTER 17 MODIFICATION, REVOCATION OR EXTENSION OF COURT ORDERS

14.17.01 MOTION TO MODIFY, REVOKE OR EXTEND COURT ORDER

The court may hold a hearing to modify, revoke or extend a court order under this code at any time upon the motion of any of the following:

1) the child;
2) the child's parent;
3) the prospective adoptive parent(s) upon court order;
4) the child's counsel or guardian ad litem;
5) a legal representative of the tribe;
6) the institution, agency, or person vested with the legal custody of the child or responsibility for protective supervision, or;
7) the court on its own motion.

14.17.02 HEARING PROCEDURE

Any hearing to modify, revoke or extend a court order shall be held in accordance with the procedures established for the order at issue.

14.17.03 REINSTATEMENT OF PARENTAL RIGHTS.

The Court may not reinstate previously terminated or modified parental rights unless it finds by clear and convincing evidence that the reinstatement of parental rights is in the best interests of the child, and specifies in the written order of reinstatement the factual basis for its finding.

CHAPTER 18 AUTHORIZATION OF MEDICAL TREATMENT

14.18.01 COURT'S AUTHORITY

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

14.18.02 UNAVAILABILITY OF PARENT, GUARDIAN OR CUSTODIAN

A parent, legal guardian or custodian is not immediately available and cannot be found after reasonable effort in the circumstances of the case, or;

14.18.03 LIFE ENDANGERMENT

(a) Physician's Opinion

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 other 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.

(b) Spiritual or Cultural Healing Practices

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 other methods approved by tribal customs or traditions or religions, if the child or his 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.

(c) Authorization for Treatment

Oral authorization by the court is sufficient for care or treatment to be given and shall be accepted by any physician or hospital in emergency circumstances where the child's life is endanger or the child is in significant pain. The court must issue a written order and serve a copy of the order on the medical provider as soon as possible after the oral authorization has been given.

14.18.04 LIABILITY FOR MEDICAL PROVIDER ACTING UNDER COURT AUTHORIZATION

No physician or hospital or other medical provider or employee thereof acting within the scope of their employment shall be subject to criminal or civil liability in the court for performance of care or treatment in reliance on the court's authorization, and any function performed with court authorization shall be regarded as if it were performed with the child's and the parent's authorization.

CHAPTER 19 FOSTER HOME LICENSING PROCEDURES

14.19.01 AUTHORIZATION FOR CFS PERSONNEL TO LICENSE AND INSPECT FOSTER HOMES

The Child and Family Services department within the Division of Human Services shall be responsible for the licensing and inspection of foster homes.

14.19.02 ELIGIBILITY FOR FOSTER CARE LICENSING

(a) Geographical limitations on Hoopa Valley Tribal Licensed Foster Homes

The foster home inspector shall examine homes of Tribal members and others who reside both on the reservation and within a seventy-five (75) mile radius of the reservation.

(b) Limitations on Number of Foster Placements per Home

Except under exceptional circumstances, or in order to preserve a family unit, no foster home may accept more than four (4) foster placements.

(c) License Applies only to Current Residence

Any license issued by the foster home inspector shall apply only to the residence(s) where the family is living at the time application for a license is made, and a permanent change of residence automatically terminates the license. The foster care parents are required to notify the foster care inspector whenever a change of residence is contemplated.

14.19.03 Compensation for Foster Parents

Dependant upon the availability of funds, the tribe will compensate foster parents for each foster child placed in their home, at a rate to be determined annually. The Council shall inform human services annually as to the rate of reimbursement for foster care. If no funding is available for fostercare, the Council must notify Human Services at least 30 days prior to the start of the fiscal year.

14.19.04 Foster Home Requirements

(a) Policies and Procedures for Licensing Foster Homes

The Division of Human Services will implement additional necessary policies and procedures regarding foster home licensing requirements. A copy of the policies and procedures must be provided to all prospective foster parents. A foster home inspector must meet with the prospective parents and review the policies and procedures with them, prior to the home licensing visit.

(a) Construction of Home

The home shall be constructed, arranged and maintained so as to provide for the health and safety of all occupants.

(1) Heating, ventilation, and light shall be sufficient to provide a comfortable atmosphere with sufficient fresh air. Furnishings and housekeeping shall be adequate to protect the health and comfort of the foster child.

(2) Comfortable beds shall be provided for all members of the family. Sleeping rooms must provide adequate opportunities for rest. All sleeping rooms must have a window of a type that may be opened readily and may be used for evacuation in case of fire.

(3) Play space shall be available and free from hazards which might be dangerous to the life or health of this child.

(d) Right to Inspect Home
The foster care inspector may, upon twenty-four (24) hours' notice, inspect a foster care dwelling at any time.

14.19.05 The Foster Family

(a) Health of Foster Family
All members of the household must be in such physical and mental health as will not adversely effect either the health of the child or the quality and manner of his care.

(b) Criminal Background Checks
The foster parent(s), and any other adults living in the home, must undergo a criminal background check, and make the results of the check available to the foster home inspector.

(1) Ineligible offense
The foster parent(s), and any other adults living in the home, must never have been convicted of a felony for any of the following:

(A) Child abuse or neglect;
(B) Spousal abuse;
(C) A crime against a child or children (including child pornography); or,
(D) A crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery.

(2) Offenses Ineligible if Committed within 5 years
The foster parent(s) must not have a felony conviction within the last five (5) years for any of the following crimes:

(A) Physical assault;
(B) Battery; or,
(C) A drug-related offense.

(c) Child Rearing Skills
The foster parent(s) must be of suitable temperament to care for the children, shall understand the special needs of the child as an Indian person and shall be capable of bringing the child up as an Indian person who is well adjusted and able to get along both within the Tribal community and in the surrounding non-Indian community as well.

(d) Character of Foster Parents
The foster parent(s) must be responsible, mature individuals who are, in the view of most community members, of good character. Foster parents must be at least twenty-one (21) years old (unless a member of the child's extended family), but there is no upper age level provided the foster parent has the physical and

emotional stamina to deal with the care and guardianship of a foster child. The foster parent must be willing, when necessary, to cooperate with the biological parents and must be willing to help the family re-establish the necessary family ties.

(e) Single Parent Homes
A foster home does not necessarily have to have both a male and female foster parent. The foster care inspector may, at his discretion, certify a foster home with a single foster parent provided that foster parent displays the outstanding qualities necessary to raise a foster child.

(f) Income of Home
The foster parent(s) must have an income sufficient to care for all individuals in the foster home. The foster care inspector can take into account any Tribal or governmental stipend when determining the financial ability of the foster care parents.

(g) Preschool Age Children
Any time a pre-school age or younger foster child is placed in a foster home there must be at least one (1) foster parent in full time attendance. For school age children the foster parent must show the arrangements which will be made for those periods of time when both foster parents are employed. Infants and young children shall never be left alone without competent supervision.

(h) Community Member Interviews
The foster care inspector is authorized to make a complete investigation to determine the adequacy of the foster care home. The inspector shall be authorized to talk to not only the potential foster care parents, but also any other tribal member who is familiar with the applicants and is familiar with the type of care they provide to their children.

(i) Change in Household
The foster care parents must notify the foster home inspector whenever a change in the household occurs. For example, if one of the foster care parents is convicted or is accused of a major crime or if one of the foster parents moves out of the residence, or if any other person moves into the residence, the foster care inspector must be informed within forty-eight (48) hours.

(j) Child's Health
The responsibility for a child's health care shall rest with the foster parents. In case of sickness or accident to a child, immediate notice shall be given to the foster care inspector. Foster care parents may consent to surgery or other treatment in a medical emergency.

(k) Prohibited Disciplinary Practices
The foster care parent(s) shall not subject the child to verbal abuse, derogatory

remarks about himself, his natural parents or relatives, or to threats to expel the child from the foster home. No child shall be deprived of meals, mail or family visits as a method of discipline. When discipline or punishment must be administered, it shall be done with understanding and reason. The method of punishment will be that which is accepted by the people of the Reservation Indian community.

14.19.06 Bill of Rights of Foster Children

Any child placed in Foster care pursuant to this code shall have all of the following rights:

1. To live in a safe, healthy, and comfortable home where he or she is treated with respect.
2. To be free from physical, sexual, emotional, or other abuse, or corporal punishment.
3. To receive adequate and healthy food, adequate clothing.
4. To receive medical, dental, vision, and mental health services.
5. To be free of the administration of medication or chemical substances, unless authorized by a physician.
6. To contact family members, unless prohibited by court order, and social workers, attorneys, foster youth advocates and supporters, Court Appointed Special Advocates (CASA), and probation officers.
7. To visit and contact brothers and sisters, unless prohibited by court order.
8. To have the name and contact information for his or her case manager available to the child.
9. To contact the Division of Human Services regarding violations of rights, to speak to representatives of these offices confidentially, and to be free from threats or punishment for making complaints.
10. To make and receive confidential telephone calls and send and receive unopened mail, unless prohibited by court order.
11. To attend religious services and activities of his or her choice.
12. To maintain an emancipation bank account and manage personal income, consistent with the child's age and developmental level, unless prohibited by the case plan.
13. To not be locked in any room, building, or facility premises, unless placed in a community treatment facility.
14. To attend school and participate in extracurricular, cultural, and personal enrichment activities, consistent with the child's age and developmental level.
15. To work and develop job skills at an age-appropriate level that is consistent with state employment law.
16. To have social contacts with people outside of the foster care system, such as teachers, church members, mentors, and friends.
17. To attend Independent Living Program classes and activities if he or she meets age requirements and such programs are available.
18. To attend court hearings and speak to the judge.
19. To have storage space for private use.

20. To review his or her own case plan if he or she is over 12 years of age and to receive information about his or her out-of-home placement and case plan, including being told of changes to the plan.
21. To be free from unreasonable searches of personal belongings.
22. To confidentiality of all juvenile court records consistent with existing law.
23. To have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.
24. At 16 years of age or older, to have access to existing information regarding the educational options available, including, but not limited to, the coursework necessary for vocational and postsecondary educational programs, and information regarding financial aid for postsecondary education.

CHAPTER 20 EMANCIPATION

A child aged 16 or older may petition the court for emancipation. The court will order a child emancipated when s/he proves to the court that s/he is capable of functioning as an independent and responsible member of the community. In making this determination, the Court must look at any relevant factors, including, but not limited to:

1) The financial status of the child;
2) The housing situation of the child;
3) The education level of the child;
4) The employment status of the child

CHAPTER 21 CHILD/FAMILY PROTECTION RECORDS

14.21.01 Children's Court Records

All children's court records are confidential and will not be open to inspection to any but the following:

1) the child;
2) the child's parent, guardian or custodian;
3) the prospective adoptive parent(s);
4) the child's counsel or guardian ad litem;
5) the children's court personnel directly involved in the handling of the case;
6) any other person by order of the court, having legitimate interest in the particular case or the work of the court.

14.21.02 Law Enforcement and Social Services Records

Law enforcement records and files concerning a child shall be kept separate from the records and files of adults. All law enforcement and social services records shall

be confidential and shall not be open to inspection to any but the following:

1) the child;
2) the child's parent, guardian or custodian;
3) the child's counsel or guardian ad litem;
4) law enforcement and social services personnel directly involved in the handling of the case;
5) the children's court personnel directly involved in the handling of the case;
6) any other person by order of the court, having legitimate interest in the particular case or the work of the court.

CHAPTER 22 GUARDIANSHIP

14.22.01 Voluntary- Nomination of Indian Custodian

Any parent with sole legal and physical custody who is an enrolled member of a federally recognized tribe, or an Alaska Native and a member of a Regional Corporation, may voluntarily name another Indian to be the temporary guardian of an Indian child.

(a) Shared Custody

If the parent shares physical or legal custody of the child with the other parent, both parents must sign the nomination form in order for the appointment of the custodian to be valid.

(b) Duration of guardianship

The guardianship will last for one year and may be renewed annually, unless another time period is stated in the Nomination of Indian Custodian Paperwork.

(c) Form

The court will have Nomination of Indian Custodian forms available for use. Th court will recognize any language whose intent is to establish a voluntary guardianship of a child, regardless of the form of the language provided the following is included:
(1) the name of the child; and
(2) The name and signature of the parents consenting to the guardianship; and
(3) the name of the intended guardian; and
(4) the duration of the guardianship.

14.22.02 Court Appointed

The Court, when it appears in the best interest of the child, may appoint a guardian. The case worker must file a guardianship report, and a hearing must be held prior to the appointment of the guardian.

(a) Guardianship Report
The report shall include the following:

(1) Current search efforts for, and notification of, noncustodial parent;
(2) A review of the amount of and nature of any contact between the child and his or her parents since the filing of the petition.
(3) An evaluation of the child's medical, developmental, scholastic, mental, and emotional status;
(4) A preliminary assessment of the eligibility and commitment of any identified prospective guardian, particularly the caretaker, to include a social history including a screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child's needs, and the understanding of the legal and financial rights and responsibilities of guardianship;
(5) The relationship of the child to any identified prospective guardian and the duration of the relationship;
(6) the motivation of the guardian for seeking guardianship;
(7) and a statement from the child, if of suitable age and maturity, concerning the guardianship;
(8) any other potential placements for the child.

14.22.03 Guardianship Hearing- Court Appointed Guardian
(a) Notice
The court must notice the following parties of the guardianship hearing: the child, the proposed guardian, the parents provided no prior modification of parental rights has occurred, and the case worker.

(b) Purpose of Hearing
The purpose of the hearing is for the court to determine the suitability of the proposed guardian.

(c)Notification of Guardianship Rights and Responsibilities.
At this hearing, the court must notify the potential guardian of his or her rights and responsibilities as the legal caretaker for the child(ren). The case worker, potential guardian, child, and any family of community member with information related to the suitability of the proposed guardian may testify at the hearing, which will be closed to the public.

14.22.04 Guardianship Order
(a) Scope of Order
Guardianship provides for the temporary or permanent custody of a child to someone other than the parent(s), although there is no termination of the parental rights of the parents.

(b) Placement Preferences
The preference for placements of a child in a permanent guardianship situation shall

be in the following order unless the Court determines that the child's best interests require deviation from the preferences:

(1)extended family members
(2) A tribal member or person eligible for tribal membership
(3)Other Indian person(s), and
(4) Where no other suitable placement can be found, any person who has some knowledge of the child's tribal affiliation and his special needs

(c) Presumption of Stability
There is a presumption in favor of permanent guardianship in order to provide stability for the child. A permanent guardianship will only be terminated based upon the unsuitability of the permanent guardian(s) and not the competency or suitability of the parent(s).

(d) Visitation for Family Members
The parent(s) and the child's extended family shall be granted liberal visitation rights unless deemed inappropriate by the Court

14.22.05 TERMINATION OF GUARDIANSHIP
(a) Automatic
A Guardianship will terminate automatically upon:

(1) the child turning eighteen (18);
(2) the child being legally emancipated; or
(3) the expiration date included in the written order

(b) For Cause
The child, if of suitable age and maturity; the case worker; or the guardian may file a motion with the court requesting the termination of the guardianship for good cause. Good cause includes, but is not limited to, the following:

(1) irreparable breakdown in the child-guardian relationship; or
(2) financial difficulties of the guardian which prevent the guardian from caring adequately for themselves, the child, or other children or dependents in the household;
(3) Health issues which arise and leave the guardian unable to adeqtely for the child

CHAPTER 23 CHILDREN'S COURT APPEALS

14.23.01 Who Can Appeal
Any party to a children's court hearing may appeal a final children's court order.

14.23.02 Time Limit for Appeal
Any party seeking to appeal a final children's court order shall file a written notice of

appeal with the court within twenty (20) days of the final order.

14.23.03 Record

For purposes of appeal, a record of proceedings shall be made available to the child, his parent, guardian or custodian, the child's counsel and others upon court order. Costs of obtaining this record shall be paid by the party seeking the appeal.

14.23.04 Stay of Appeal

The court may order a stay of the appealed order pending the outcome of the appeal. No stay may be granted where the child's safety will be jeopardized.

14.23.05 Conduct of Proceedings

All appeals shall be conducted in accordance with the tribal code and tribal court rules of procedure as long as those provisions are not in conflict with the provisions of this children's code.

CERTIFICATION

I, the undersigned, as Chairman of the Hoopa Valley Tribal Council so certify that the Hoopa valley Tribal Council is composed of eight (8) members of which six (6) members were present, constituting a quorum, at a regular meeting thereof; duly and regularly called, noticed, convened, and held this nineteenth day of June, 2008; and that this ordinance was adopted by a vote of five (5) for, zero (0) opposed, and zero (0) abstaining; and that since approval, this ordinance has not been rescinded, amended, or modified in any form.

DATED THIS NINETEENTH DAY OF JUNE, 2008.

Clifford Lyle Marshall, Chairman
Hoopa Valley Tribal Council

ATTEST: Darcy H. Miller
Darcy Miller, Executive Secretary
Hoopa Valley Tribal Council