

**TITLE 5C**  
**LUMMI NATION CODE OF LAWS**  
**HARASSMENT PREVENTION CODE**

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**Table of Contents**

Chapter 5C.01	General Provisions.....	1
5C.01.010	Purpose.....	1
5C.01.020	Jurisdiction.....	1
5C.01.030	Remedies Outside of this Title.....	1
5C.01.040	Immunity from Liability.....	2
5C.01.050	Petitioner’s Liability for False Claims.....	2
5C.01.060	Severability.....	2
Chapter 5C.02	Definitions.....	2
5C.02.010	Definitions.....	2
Chapter 5C.03	Civil Anti-Harassment Order.....	3
5C.03.010	Lummi Tribal Court Authorization.....	3
5C.03.020	Tracking and Confidentiality.....	4
5C.03.030	Commencement of Action.....	4
5C.03.040	Duties of the Court Where Restrained Person is a Minor.....	4
5C.03.050	Service Procedure.....	5
5C.03.060	Contents of a Petition for an Anti-Harassment Order.....	5
5C.03.070	Ex Parte Temporary Anti-Harassment Order Procedure.....	6
5C.03.080	Anti-Harassment Order Hearing Procedure.....	6
5C.03.090	Anti-Harassment Order Contents.....	7
5C.03.100	Effective Date of an Anti-Harassment Order.....	8
5C.03.110	Violations of Anti-Harassment Order.....	8
Chapter 5C.04	Reconsideration, Modification, Termination and Renewal.....	9
5C.04.010	General Procedure.....	9
5C.04.020	Reconsideration of an Anti-Harassment Order.....	9
5C.04.030	Modification of an Anti-Harassment Order.....	9
5C.04.040	Termination of an Anti-Harassment Order.....	10
5C.04.050	Renewal of Anti-Harassment Order Prior to Expiration.....	10
Chapter 5C.05	Full Faith and Credit of Foreign Anti-Harassment Orders.....	11
5C.05.010	Policy.....	11
5C.05.020	Validity of Foreign Anti-Harassment Orders.....	11
5C.05.030	Filing Foreign Anti-Harassment Orders.....	11
5C.05.040	Enforcement of Foreign Anti-Harassment Orders.....	12
5C.05.050	Court May Recognize Additional Foreign Orders.....	12
Anti-Bullying Policy.....		12
5C.06.010	Duties of Lummi Nation School Employees.....	12
5C.06.020	Duties of Lummi Nation School.....	12

**TITLE 5C**  
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**Chapter 5C.01 General Provisions**

**5C.01.010 Purpose**

The purpose of the Harassment Prevention Code is to provide to protect the health and welfare of the Lummi Nation and to provide the Lummi Community with the means to prevent, report, investigate, and respond to incidents of harassment, intimidation, or bullying. The effects of harassment, intimidation and bullying (including hazing), especially on the youth, can include increased absenteeism, lowered academic achievement, increased anxiety, loss of self-esteem and confidence, depression, deterioration of physical health, and suicidal thinking.

This Title adopts standards for the Lummi Nation School to implement an Anti-Bullying Policy and also authorizes the Lummi Tribal Court to hear petitions for protection and issue appropriate anti-harassment orders to protect the health, safety and welfare of all people in the community against harassment, intimidation or bullying.

This Title shall be interpreted and applied to give it the broadest possible scope to carry out these purposes. All people are entitled to protection from unwanted harassment, intimidation or bullying. Harassment, intimidation, and bullying in the home, workplace, school, and throughout the entire Lummi Community will not be tolerated.

**5C.01.020 Jurisdiction**

The Court shall exercise civil jurisdiction to carry out the purposes of this Title. The Court may issue an anti-harassment order under this Title only where one or more acts giving rise to the petition for anti-harassment order occurred within the exterior boundaries of the Lummi Reservation or on lands held in trust for the Lummi Nation by the United States outside the boundaries of the Reservation; and

(1) the respondent is an enrolled member of the Lummi Nation;

(2) the respondent is an enrolled member of a federally recognized Indian tribe who resides within the Lummi Reservation or on lands held in trust for the Lummi Nation by the United States outside the boundaries of the Reservation;

(3) the petitioner is an enrolled member of the Lummi Nation and the respondent is not enrolled in any federally recognized tribe but resides within the Lummi Reservation or on lands held in trust for the Lummi Nation by the United States outside the boundaries of the Reservation; or

(4) the Court otherwise has personal, subject matter, and territorial jurisdiction over the petitioner and respondent pursuant to §1.02.010 of the Lummi Code of Laws and subject to any federal laws restricting civil jurisdiction.

**5C.01.030 Remedies Outside of this Title**

(a) Nothing in this Title precludes a prosecutor from filing criminal charges arising from the same act alleged under this Title. Furthermore, nothing in this Title precludes a person from seeking relief in the Court under other civil remedies, including an injunction or protective order against another person, when such relief is warranted by that person's conduct.

(b) A petition for an anti-harassment order under this Title may be made regardless of whether or not there is a pending lawsuit, criminal complaint, petition, or other action between the parties, except that a parent may not petition for an anti-harassment order on behalf of his or her child against the child's other parent. The petitioner and respondent shall disclose the existence of any other litigation or of any other restraining, protection, or no contact orders between the parties.

(c) Nothing in the Title shall prevent the petitioner from petitioning a court in any other jurisdiction to grant full faith and credit to any

anti-harassment order issued by the Lummi Tribal Court or to seek enforcement of such order by law enforcement and courts of other jurisdictions.

#### **5C.01.040 Immunity from Liability**

The Lummi Nation Police Department, LIBC employees, elected LIBC members, appointed LIBC commission, board, committee, and task force members, and LIBC volunteers, and any employee, contractor or volunteer of the Lummi Nation School, shall have immunity from liability in a civil action brought by a party for any action or omission in good faith under this Title arising from reporting or investigating alleged acts of harassment, intimidation or bullying or a crime involving harassment or stalking. Such immunity shall not apply to any of the above-listed persons when such person is the alleged perpetrator of harassment, intimidation, or bullying.

#### **5C.01.050 Petitioner's Liability for False Claims**

A petitioner who files a false claim shall be liable to the respondent for court costs, attorneys' fees, or any expenses incurred in defending against the claim and for any injuries resulting from being subject to an anti-harassment order arising from the false claim and such order shall be terminated immediately by order of the Court.

#### **5C.01.060 Severability**

If any provision of this Title or its application to any person or circumstance is held invalid, the remainder of this Title, or the application of the provision to other persons or circumstances is not affected, and to this end the provisions of this Title are declared to be severable.

### **Chapter 5C.02 Definitions**

#### **5C.02.010 Definitions**

For the purposes of this Title, unless otherwise provided herein:

(a) "Anti-Harassment Order" means a civil court order, issued after notice and hearing, restricting a person from harassing,

intimidating, or bullying another person and from contacting or approaching that person for a period of time.

(b) "Calendar Days" or "Days" shall mean a full 24-hour period of time beginning at midnight including intermediate Saturdays, Sundays and legal holidays. For purposes of computing time, the last day of the period is included in computation, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday. The day of the event that triggers the period is excluded from computation.

(c) "Elder" has the same meaning as set forth in LCL §5B.01.020.

(d) "Electronic, Written, Verbal or Physical Act" includes, in addition to any other form of communication, contact, or conduct, the sending or posting of an electronic communication or message through the use of telephone, cellular, internet, digital or any other electronic means.

(e) "Employment" shall mean:

(1) self-employment;

(2) any services performed as a temporary or permanent employee of an entity for any compensation, monetary or otherwise;

(3) any services performed as a volunteer of an entity for no compensation; and

(4) any services as an elected or appointed government official including, but not limited to, LIBC council members and members of LIBC commissions, boards, committees, or task forces.

(f) "Entity" shall mean any person, firm, partnership, corporation, joint venture, government, commercial enterprise, or any other natural or artificial person, organization, business, or association of persons or entities.

(g) "Ex Parte" means that notice and an opportunity to contest the facts are not available to the person adversely affected.

(h) "Harassment, Intimidation or Bullying" shall mean:

(1) any conduct defined in LCL §5.01.080; and

(2) any knowing and willful electronic, written, verbal, or physical act, or series of acts, including hazing, directed at another person when that act or series of acts:

(A) physically harms another person or damages that person's property;

(B) places another person in reasonable fear of immediate or future physical or emotional harm to that person or his property;

(C) seriously and unreasonably causes alarm, annoyance, or detriment to another person or which reasonably causes another person to suffer substantial emotional distress;

(D) has the purpose or effect of unreasonably interfering with another person's ability to carry out his employment duties or functions or has the effect of creating an intimidating, hostile, or offensive employment environment for such a person;

(E) has the effect of substantially interfering with a student's education, the educational environment, or the orderly operation of the school;

(F) causes a parent or guardian to reasonably and substantially fear for the wellbeing of his child; or

(G) causes a family or household member, caregiver, or advocate to reasonably and substantially fear for the wellbeing of an elder or vulnerable adult.

(3) For the purpose of this definition, an act "directed at another person" includes an act or acts specifically made in the presence of the protected person or an act or acts indirectly aimed at the protected person through the use of third parties, public forums, meetings or gathering, the internet, on social media, in general circulation publications, on television and radio, and any other similar public mediums.

(i) "Hazing" means an abusive, often humiliating form of initiation into or affiliation with a group, including a school, sports team, or any other organization. Such

actions may endanger the mental or physical health of another.

(j) "LIBC" means the Lummi Indian Business Council, the governing body of the Lummi Nation.

(k) "Minor Child" "Child" and "Minor" means any person under the age of 18 years old.

(l) "Petitioner" refers to the person who files a petition for an anti-harassment order.

(m) "Protected Person" refers to the alleged victim of harassment, intimidation or bullying which may include the petitioner and shall also include any other person on whose behalf a petition is filed.

(n) "Respondent" refers to the alleged perpetrator of harassment, intimidation or bullying and for whom an anti-harassment order is sought to restrain and also includes any minor child alleged to be a perpetrator of harassment, intimidation, or bullying for whom the respondent is the parent, guardian, or custodian.

(o) "Temporary Anti-Harassment Order" means a civil court order, issued ex parte, restricting a person from harassing, intimidating, or bullying another person and from contacting or approaching that person for a period of time not to exceed 14 days unless renewed by the court.

(p) "Vulnerable Adult" has the same meaning as set forth in LCL §5B.01.020.

### **Chapter 5C.03 Civil Anti-Harassment Order**

#### **5C.03.010 Lummi Tribal Court Authorization**

There shall exist a civil action in the Lummi Tribal Court known as a petition for an anti-harassment order in cases of unlawful harassment, intimidation or bullying. The Lummi Tribal Court shall have the authority to issue an anti-harassment order against any person subject to the civil jurisdiction of the Lummi Nation.

### **5C.03.020 Tracking and Confidentiality**

(a) The Court will establish a court case number designation (CIAH) for identifying civil cases that arise from an allegation of harassment, intimidation or bullying.

(b) The Court, at its discretion or upon motion of a party, may close proceedings arising from a petition for an anti-harassment order.

(c) The Court, at its discretion or upon motion of a party, may seal the petitioner's or protected person(s) address or records arising from a petition for an anti-harassment order. If the Court seals said documents and information contained in the file, copies may be released to the petitioner, the protected person(s), law enforcement officers, judicial officers, tribal prosecutor, victim advocates, child protection workers, elder and vulnerable adult protection workers, and school employees. The documents may be released, except for the address and location of the petitioner or protected person(s), to the respondent. The records may also be released to other persons upon order of the Court for good cause shown.

### **5C.03.030 Commencement of Action**

(a) Any person 18 years or older claiming to be a victim of harassment, intimidation or bullying may file a petition for an anti-harassment order.

(b) Any person 18 years or older may file a petition for an anti-harassment order on behalf of any of the following protected persons:

- (1) a minor child, elder or vulnerable adult related by blood, adoption or marriage;
- (2) a minor child (including foster child), elder or vulnerable adult residing in the petitioner's home;
- (3) a minor child, elder or vulnerable adult where the petitioner is the legal or temporary guardian; or
- (4) any other adult who because of age, disability, health or inaccessibility, cannot file the petition.

(c) An attorney or advocate of the Lummi Victims of Crime Office may file a petition for anti-harassment order on behalf of any minor child, elder, or vulnerable adult

claiming to be a victim of harassment, intimidation, or bullying.

(d) a petitioner may only file a petition for anti-harassment order against the respondent who is named in the petition unless the person to be restrained is a minor in which case the respondent shall be that minor's parent, guardian, or custodian if the minor is in the legal custody of another person or agency, unless the minor is emancipated.

### **5C.03.040 Duties of the Court Where Restrained Person is a Minor**

(a) Any person authorized under LCL §5C.03.030 may file a petition for an anti-harassment order to restrain a minor person over the age of 11 years old.

(b) In issuing an anti-harassment order against a minor, the Court shall give primary consideration to:

- (1) the severity of the alleged event(s) of harassment, intimidation and bullying and the risk of continuing physical danger or emotional distress to the alleged victim; and
- (2) if the protected person is also a minor, the substantial effect that harassment, intimidating and bullying has on the youth.

(c) The Court may also consider, but shall not give primary weight to:

- (1) if the harassment, intimidation or bullying is occurring at a school, whether the events have been reported to school officials, what, if any, measures the school took, and whether those measures were unsuccessful in stopping the harassment, intimidation or bullying; and
- (2) the expense, difficulty, and educational disruption that would be caused by a transfer of the restrained minor to another school.

(d) The Court may order that the restrained minor not attend the public or approved private elementary, middle, or high school attended by the protected person. In the event that the Court orders the restrained minor from attending the same school as the protected person, the parent, legal guardian, or legal custodian, of the restrained minor is

responsible for facilitating any school transfer, transportation and other costs associated with the change of school by the restrained minor.

(e) The Court shall send notice of the restriction on attending the same school as the protected person to the school the restrained minor will attend and to the school the protected person attends.

(f) The restrained minor shall comply with this school restriction even if a school official permit or fails to prohibit a restrained minor from attending the same school as the protected person. Any restrained minor who knowingly violates the school restriction may be subject to criminal and/or civil penalties. It is no defense that a school official permitted or failed to prohibit a restrained minor from attending the same school as a protected person.

#### **5C.03.050 Service Procedure**

(a) The petitioner shall be responsible for having the respondent served with the following:

- (1) petition for anti-harassment order;
- (2) any ex parte temporary anti-harassment order issued by the Court;
- (3) any notice of hearing including the date, time and location of the hearing (summons);
- (4) any anti-harassment order issued by the Court, except when service is not required to be effective as provided in LCL §5C.03.100; and
- (5) any motion and order for renewal of an anti-harassment order.

(b) The respondent shall be personally served with any petition, ex parte temporary order, notice of hearing (summons), and motion at least seven (7) calendar days before the hearing unless the Court grants leave to the petitioner to serve by publication.

(c) Where the restrained person is a minor, the petitioner shall serve the parent, legal guardian or custodian if the minor is in the legal custody of another person or agency, unless the minor is emancipated. The restrained minor is deemed to have knowledge of any petition, notice of hearing (summons), order,

or motion issued under this Title if the custodial respondent has received proper service.

(d) All personal service under this Title shall be accomplished as provided in §3.03.030 of this Code. All service by publication under this Title shall be accomplished as provided in §3.03.040 of this Code.

#### **5C.03.060 Contents of a Petition for an Anti-Harassment Order**

A petition for an anti-harassment order shall include:

- (1) the name and address date of birth, and tribal affiliation (including enrollment number if known) of the petitioner and of each protected person;
- (2) if the petitioner is filing on behalf of other persons, a statement of the petitioner's authority under LCL §5C.03.030 to file the petition;
- (3) the name and, if known, the address, date of birth, and tribal affiliation (including enrollment number if known) of the respondent and any restrained minor, and his relationship to the petitioner and each protected person;
- (4) an allegation that harassment, intimidation, or bullying has taken place against the protected person(s);
- (5) a sworn affidavit or declaration filed with the petition, stating the specific facts and circumstances of the alleged intimidation, harassment or bullying, including whether the petitioner believes he or the protected person(s), are in immediate danger of further harassment, intimidation, or bullying,
- (6) a statement listing, if known, each civil or criminal action or proceeding involving both parties, whether past or present; the Court of record for the action or proceeding; and any additional identifying information which may enable the Court to locate those court records;
- (7) a statement listing, if known, any complaints made to the Lummi Nation School or another school, who the complaints were made to, whether the

complaints were formally made under an anti-harassment or anti-bullying policy, and what, if any, outcome there was to the complaints;

(8) a request for the relief sought;

(9) a statement indicating whether the petitioner is requesting an ex parte temporary anti-harassment order; and

(10) a notice of hearing (summons) that includes the date, time and location of the hearing (summons) and notification to the respondent that an anti-harassment order will be issued against him for a minimum of one year from the date of the hearing if he fails to appear at the hearing.

### **5C.03.070 Ex Parte Temporary Anti-Harassment Order Procedure**

(a) When the petitioner files a petition for an anti-harassment order, the petitioner may indicate a request on that petition for the Court to issue an ex parte temporary anti-harassment order immediately prior to the hearing.

(b) The Court may grant an ex parte temporary anti-harassment order if, based on the petitioner's sworn affidavit or declaration, the Court is satisfied that the petitioner has shown evidence of harassment, intimidation or bullying of the protected person by the respondent, and that continued harassment, intimidation or bullying may result if the ex parte temporary anti-harassment order is not granted.

(c) The Court may grant the following relief in the ex parte temporary anti-harassment order:

(1) restrain the respondent from contacting or making any attempts to contact the protected person(s) either directly or indirectly;

(2) require the respondent to stay a stated distance away from the protected person's residence, school, place of employment, or any other specific place the protected person frequently go;

(3) Restrain the respondent from making any attempts to keep the protected person under actual or electronic surveillance; and

(4) Consider restrictions on the respondent's possession or use of any weapon(s).

(d) An ex parte temporary anti-harassment order shall be effective for a fixed period not to exceed 14 calendar days after issuance. However, the court may reissue the ex parte temporary order for additional 14-day periods if the respondent has not received proper service of the petition and notice of hearing (summons) despite the petitioner's good faith efforts to serve the respondent.

(e) Any ex parte temporary anti-harassment order issued by the Court shall contain a notice to the respondent that an anti-harassment order will be issued against him for a minimum of one year from the date of the hearing if he fails to appear at the hearing.

(f) The Court shall set a date for a hearing on the petition for an anti-harassment order regardless of whether the court grants or denies a petitioner's request for an ex parte temporary anti-harassment order. The date for hearing shall be set before the date of expiration of any ex parte temporary anti-harassment order.

(g) The Court may issue an anti-harassment order after a hearing regardless of whether the petitioner requested an ex parte temporary anti-harassment order, and regardless of whether the Court granted or denied a petitioner's request for a temporary ex parte anti-harassment order.

### **5C.03.080 Anti-Harassment Order Hearing Procedure**

(a) The Court shall hold a hearing to determine whether to enter an anti-harassment order within 14 calendar days of receipt of the petition for an anti-harassment order.

(b) The petitioner shall have the burden of proof, by a preponderance of the evidence, that the respondent has engaged in harassment, intimidation, or bullying against the protected person(s).

(c) At the hearing, if the Court finds by a preponderance of the evidence that harassment, intimidation or bullying exists, a civil anti-harassment order shall issue

prohibiting such unlawful harassment, intimidation or bullying.

(d) If the petitioner appears at the hearing, but the respondent does not appear, a default judgment shall be issued by the Court so long as the petitioner demonstrates that he or she effected proper service and the Court finds that it has jurisdiction and that there are sufficient facts to support the issuance of an anti-harassment order. If timely personal service has not been made on the respondent, the court shall set a new hearing date and either require the petitioner to make additional attempts at obtaining personal service or permit service by publication.

(e) If the petitioner and the respondent appear for the hearing, the Court may issue an anti-harassment order regardless of whether the respondent received the petition at least five (5) calendar days prior to the hearing. However, the Court shall grant a continuance at the respondent's request if the respondent was not timely served and advises the Court that he or she needs additional time to prepare.

(f) If the petitioner fails to appear at the hearing, the court shall dismiss the petition unless the petitioner has contacted the Court prior to the hearing and the Court finds good cause for the petitioner's absence. The Clerk of the Court shall send notice of the new hearing date to the parties if the court continues the hearing in lieu of dismissal.

### **5C.03.090      Anti-Harassment      Order Contents**

(a) The Court, in granting an anti-harassment order, shall have broad discretion to grant such relief as the Court deems proper, including but not limited to the following relief:

- (1) order the respondent to not commit or threaten to commit further acts of intimidation, harassment, or bullying;
- (2) restrain the respondent from contacting or making any attempts to contact the protected person(s) either directly or indirectly;
- (3) require the respondent to stay a stated distance away from the protected person's residence, school, place of employment, or

any other specific place the protected person frequently go;

(4) restrain the respondent from making any attempts to keep the protected person under actual or electronic surveillance;

(5) prohibit the respondent from possessing or using any firearm or other weapon specified by the Court, and require that the respondent turn such items in to law enforcement for safekeeping; and

(6) order such other relief as the Court deems necessary to protect and provide for the safety of the protected person.

(b) The court shall not prohibit the respondent from the use or enjoyment of non-trust real property which the respondent owns. Nothing in this subsection prohibits a protected person from commencing a separate legal action to determine title or possession of non-trust real property.

(c) The court shall not limit the respondent's right to care, control, or custody of the respondent's minor child. Nothing in this subsection prohibits a protected person from commencing a separate legal action to determine issues of child care, control or custody.

(d) An order issued under this section shall expire one year from the date the Court grants the order unless the Court finds that any future contact with the protected person(s) would result in the harm from which the petitioner originally sought protection. If the Court so finds, the Court may enter an order to a fixed time exceeding one year.

(e) If the Court issues an anti-harassment order after hearing, the Court shall indicate on the order the following information:

- (1) the date that the order was issued;
- (2) the date that the order expires;
- (3) the petitioner appeared in person for the hearing and received a copy of the order;
- (4) whether the respondent appeared in person for the hearing and received a copy of the order;
- (5) whether the respondent failed to appear;

(6) whether the petitioner demonstrated proper service of the respondent;

(7) whether the order was issued following personal service or service by publication of the respondent;

(8) notice to the respondent that, “Violation of this order is a criminal offense under Title 5 of the Lummi Code of Laws (and also under the laws of jurisdictions outside the Lummi Nation, including but not limited to, the State of Washington, Chapter 10.14 of the Revised Code of Washington) and may subject a violator to arrest and/or prosecution by the Lummi Nation or another jurisdiction. You can be arrested even if any person protected by the order invites or allows you to violate it. You have the sole responsibility to fully comply with all of the order’s provisions. Only the Court may change the order. In addition to criminal penalties, you may incur a civil penalty up to \$5,000, additional orders which may be needed to remedy the contempt, and reasonable attorney fees and costs incurred by the Lummi Nation in bringing a civil contempt action.”

### **5C.03.100 Effective Date of an Anti-Harassment Order**

(a) Any anti-harassment order or ex parte temporary anti-harassment order issued under this Title is effective when one of the following things occurs:

(1) the petitioner has the respondent personally served with the order;

(2) the respondent appeared in person before the Court for the hearing and the order indicates that the respondent appeared;

(3) the respondent fails to appear for the hearing, but was previously personally served with the ex parte temporary anti-harassment order where the material terms of the order have not changed and the ex parte order notified the respondent that an anti-harassment order would be issued against him for a minimum of one year from the date of the hearing if he failed to appear at the hearing; or

(4) the petitioner has the respondent served with the order by publication with leave of the Court.

(b) A respondent is deemed to have knowledge of an anti-harassment order or ex parte temporary anti-harassment order as of the date the order becomes effective as described in subsection (a) above.

(c) When the Court issues any anti-harassment order or ex parte temporary anti-harassment order, the Court shall advise the petitioner that the respondent may not be subjected civil or criminal penalties for a violation of the order unless the respondent knows of the order.

(d) When a law enforcement officer investigates a report of an alleged violation of an anti-harassment order or ex parte temporary anti-harassment order issued under this Title, the officer shall attempt to determine whether the respondent knew of the existence of the anti-harassment order. If the officer determines that the respondent did not or probably did not know about the order, the officer shall make reasonable efforts to obtain a copy of the anti-harassment order and serve it on the respondent during the investigation. If the officer serves a copy of the order on the respondent, the officer shall complete a police report and cause a certificate of service to be filed with the Court.

### **5C.03.110 Violations of Anti-Harassment Order**

(a) Any anti-harassment order, ex parte temporary anti-harassment order, or foreign protection order, shall constitute an order prohibiting contact for purposes of criminal prosecution under LCL §5.07.070(b).

(b) Any person subject to the criminal jurisdiction of the Lummi Nation who knowingly violates an anti-harassment order or an ex parte temporary anti-harassment order issued pursuant to this Title, or a foreign anti-harassment order is subject to the criminal penalties prescribed under Title 5 of this Code.

(c) In addition to criminal penalties, any person subject to the civil jurisdiction of the Lummi Nation who knowingly violates a civil anti-harassment order issued under this Title

or a foreign order prohibiting contact which the Court recognizes may be charged in a civil action for civil contempt pursuant to LCL §4.06.010(d) and LCL §4.06.030, and upon a finding by the Lummi Tribal Court of civil contempt liability, shall subject the violator to a civil penalty in an amount not to exceed \$5,000 (notwithstanding the civil contempt penalty limit established in the Lummi Court Fee Schedule), any additional orders which may be needed to remedy the contempt, and an award of reasonable attorney fees and costs incurred by the Lummi Nation in bringing the civil contempt action.

### **Chapter 5C.04 Reconsideration, Modification, Termination and Renewal**

#### **5C.04.010 General Procedure**

(a) When the Court receives a motion to reconsider, modify or terminate an existing anti-harassment order in accordance with this Chapter, the Court shall set a hearing and the moving party shall be responsible for personally serving the opposing party with the motion and notice of hearing (summons), unless service by publication is authorized by the Court.

(b) If the moving party appears at the hearing, but the opposing party does not appear, a default judgment will be issued by the Court so long as the Court finds that:

- (1) the moving party demonstrates that he or she effected proper service;
- (2) the Court has jurisdiction;
- (3) there are sufficient facts to support the reconsideration, modification or termination an existing anti-harassment order; and
- (4) if the respondent is requesting a modification, that the respondent has establish grounds for modification as set forth LCL §5C.04.030.

(c) In any situation where an order is terminated or modified before its expiration date, the Clerk of the Court shall:

(1) forward on or before the next judicial day a true copy of the modified order or the termination order to the Lummi Nation Police Department; and

(2) mail a certified copy, return receipt requested, and by regular first class mail, to any of the parties who were not present in the Courtroom.

#### **5C.04.020 Reconsideration of an Anti-Harassment Order**

A Respondent may only request reconsideration of an issued anti-harassment order upon a showing to the Court that the Respondent did not receive actual notice of the hearing prior to the entry of the order. The Court shall dismiss any motion for reconsideration by the Respondent where there is proof of proper service to the Respondent.

#### **5C.04.030 Modification of an Anti-Harassment Order**

(a) Either party may request a modification to an anti-harassment order in accordance with the provisions of this Section.

(b) The Court shall only modify an order after a hearing with proper notice to all parties.

(c) The Court shall not modify an order at the request of the respondent unless the respondent shows by a preponderance of the evidence that:

- (1) a substantial change of circumstances in favor of modification has occurred since the time that the provision in the order was entered;
- (2) the provision in the order may be modified without endangering the safety of any person protected under the order; and
- (3) the provision in the order works an unreasonable hardship upon the Respondent.

(d) In determining whether there has been a substantial change in circumstances, the Court shall consider the following:

- (1) Factors that weigh against modification include whether:
  - (A) the respondent has committed or threatened harassment, intimidation or

bullying, or other violent acts (including stalking) since the anti-harassment order was entered;

(B) the respondent has violated the terms of the anti-harassment order, and the time that has passed since the entry of the order;

(C) the respondent has exhibited suicidal ideation or attempts since the anti-harassment order was entered;

(D) the respondent has been convicted of criminal activity since the anti-harassment order was entered; and

(E) the respondent has a continuing involvement with drug or alcohol abuse, if such abuse was a factor in the issuance of the anti-harassment order.

(2) Factors that weigh in favor of modification include whether:

(A) the respondent has either acknowledged responsibility for the acts of harassment, intimidation or bullying that resulted in entry of the anti-harassment order or successfully completed perpetrator treatment or counseling since the order was entered;

(B) the petitioner consents to modifying the anti-harassment order, provided that consent is given voluntarily and knowingly; and

(C) the respondent or petitioner has relocated to an area more distant from the other party, giving due consideration to the fact that acts of harassment, intimidation and bullying may be committed from any distance.

(3) In determining whether there has been a substantial change in circumstances, the court may not base its determination solely on: (i) The fact that time has passed without a violation of the order; or (ii) the fact that the respondent or petitioner has relocated to an area more distant from the other party.

(4) Regardless of whether there is a substantial change in circumstances, the court may decline to modify an anti-harassment order if it finds that the acts of harassment, intimidation or bullying that resulted in the issuance of the anti-

harassment order were of such severity that the order should not be modified.

#### **5C.04.040 Termination of an Anti-Harassment Order**

The Court shall not terminate an anti-harassment order prior to expiration except upon the petitioner's written motion and personal appearance before the Court, and provided that the petitioner is voluntarily and knowingly petitioning the Court.

#### **5C.04.050 Renewal of Anti-Harassment Order Prior to Expiration**

(a) At any time within three months prior to the expiration of the order, the petitioner may apply for a renewal of the order by filing a motion for renewal with the Court. The motion for renewal shall state the reasons why he or she seeks to renew the order. Upon receipt of the motion for renewal, the Court shall order a hearing which shall be held within 14 days from the date of motion.

(b) The Court shall grant the motion for renewal unless the respondent proves by preponderance of evidence that he will not resume harassment, intimidation or bullying of the protected person(s) when the order expires. The Court may renew the anti-harassment order for another fixed period or may enter a permanent order.

(c) The respondent shall be served in accordance with the service procedure set forth in LCL §5C.03.050. If timely service cannot be made, the Court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication.

(d) If the order expires because timely service cannot be made, the court shall grant an ex parte temporary anti-harassment order as provided in this Title.

## **Chapter 5C.05 Full Faith and Credit of Foreign Anti-Harassment Orders**

### **5C.05.010 Policy**

It is the policy of the Lummi Nation to ensure the safety of victims of harassment, intimidation or bullying who are located within the jurisdiction of the Lummi Nation by giving effect to foreign anti-harassment orders.

### **5C.05.020 Validity of Foreign Anti-Harassment Orders**

(a) For the purposes of this Chapter, a “foreign anti-harassment order” is any order, other than a domestic violence protection order, issued by another jurisdiction prohibiting a person from harassing, intimidating or bullying another person regardless of the how the foreign order is captioned or entitled.

(b) A foreign anti-harassment order that appears authentic on its face is presumed to be valid.

(c) Any foreign anti-harassment order, except as noted in (d) below, issued by a court of any Indian tribe, a federal court, a court of any state, or a court of the District of Columbia or other commonwealth, territory or possession of the United States, shall be accorded full faith and credit by the Lummi Tribal Court, and shall be enforced as if it were an order of the Court, if:

(1) the issuing court had jurisdiction over the parties and the matter at the time the order was issued; and

(2) the issuing court gave reasonable notice and an opportunity to be heard to the person the order is issued against, sufficient to protect that person’s right to due process. In the case of ex parte orders, notice and opportunity to be heard were given within a reasonable time after the order is issued.

(d) A foreign anti-harassment order entered against both a petitioner and a respondent shall not be enforceable against the petitioner unless:

(1) the respondent filed a cross or counter petition, complaint or other written

pleading seeking such an anti-harassment order against the petitioner; and

(2) the issuing court made specific findings of harassment, intimidation, or bullying by both the petitioner and respondent and determined that each party was entitled to such an order.

### **5C.05.030 Filing Foreign Anti-Harassment Orders**

(a) A petitioner who obtains a valid foreign anti-harassment order from a court of any Indian tribe, a federal court, a court of any state, or a court of the District of Columbia or other commonwealth, territory or possession of the United States, may file that order with the Lummi Tribal Court if the petitioner believes enforcement of the order may be necessary within the exterior boundaries of the Lummi Reservation

(b) The foreign anti-harassment order may be filed by presenting a certified copy to the clerk of the Lummi Tribal Court or any out-of-state department, agency, or court responsible for maintaining the record of the foreign anti-harassment order, may by facsimile or electronic transmission send a reproduction of the foreign anti-harassment order to the clerk of the Lummi Tribal Court as long as it contains a facsimile or digital signature by an person authorized to make such transmission.

(c) A person may file a foreign anti-harassment order without a fee or cost.

(d) Upon receipt of a foreign anti-harassment order, the Court shall:

(1) issue an order granting full faith and credit to any foreign anti-harassment order that is valid as described in LCL §5C.05.020;

(2) forward a copy of the foreign anti-harassment order and the order granting full faith and credit to the Lummi Nation Police Department; and

(3) provide the petitioner with a copy of the order granting full faith and credit.

**5C.05.040 Enforcement of Foreign Anti-Harassment Orders**

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Any foreign anti-harassment order granted full faith and credit under this Chapter shall be fully enforceable to the same extent as an order issued by the Lummi Tribal Court.

**5C.05.050 Court May Recognize Additional Foreign Orders**

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Nothing in this Title shall prevent the Lummi Tribal Court from entering into agreements, or establishing procedures by which orders of protection from jurisdictions not referred to in this Title may be filed with the Court and be entitled to full faith and credit.

volunteers and provide notice that this policy also applies during participation of all school-sponsored functions. This policy shall also appear in any publication of the student handbook, and any rules, procedures, or standard of conduct for the school.

(c) Nothing in this Chapter shall prohibit the Lummi Nation School from adopting a policy that includes components that are more stringent than the components set forth in this Chapter.

Title5C.Res2017-084

**Chapter 5C.06 Lummi Nation School Anti-Bullying Policy**

**5C.06.010 Duties of Lummi Nation School Employees**

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When any employee, contractor or volunteer of the Lummi Nation School has reasonable suspicion to believe that a child has suffered intimidation, harassment or bullying, he or she shall report such incident pursuant to the Lummi Nation School Anti-Bullying Policy.

**5C.06.020 Duties of Lummi Nation School**

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(a) The Lummi Nation School shall adopt or amend, if necessary, an Anti-Bullying Policy that, at a minimum, contains:

- (1) procedures for reporting and investigating incidents of harassment, intimidation and bullying, including how and when matters are reported to the Lummi Nation Police Department;
- (2) outlines the consequences of failing to report as required in the Anti-Bullying Policy; and
- (3) a prohibition against reprisal or retaliation against any person who reports an act of harassment, intimidation or bullying.

(b) The Lummi Nation School shall make the Anti-Bullying Policy available to parents or guardians, students, employees, contractor and