

TITLE 43
LUMMI NATION CODE OF LAWS
XWLEMI EDUCATION CODE

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TITLE 43
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Chapter 43.01 Purpose and Scope

43.01.01 Title

This Title is hereby entitled the Xwlemi Education Code of the Lummi Nation, and it may be cited as the “Xwlemi Education Code.”

43.01.02 Intent, Purpose, Context, and Cultural Framework

Educational institutions and programs under the jurisdiction of this code of law are situated within the original territory of the Xwlemi people. As such, the core curriculum taught within our educational systems will be situated in ‘place.’

The context for Xwlemi education is a ‘history’ in itself. It includes the atrocities during the government and religious boarding school era. We honor the survival of those individuals who endured the harsh punishments and yet at various levels retained a sense of ‘self.’ We value the individuals who wrote letters to the Bureau of Indian Affairs requesting a ‘day school’ for Xwlemi children to be educated in their homelands. As an act of sovereignty, the Lummi Nation, through the LIBC’s constitutional authority created the Lummi Indian School of Aquaculture and made it a reality. We take into account the challenges and changes of the Lummi Community College – now the Northwest Indian College (NWIC), and reaffirm that Tribal Colleges were created to be locally and culturally based. This cultural framework for all of the Xwlemi Education entities and institutions provides access for building the capacity of students to engage in the crucial work of cultural protection

and self-determination. It is a cultural strategy for revitalization that promotes student development so that each student emerges and grows as a leader in rebuilding Native Nations and who deepens and strengthens our community’s original identity. This framework stands upon the principals of Indigenusness, grounded in our stories, our inherent rights and responsibilities, our language; and Sovereignty, with leadership qualities necessary for the protection of our homelands and people. Unlike mainstream curricula, this curriculum is repositied in place.

We celebrate and commit to memory all the grass root, social justice issues in education that Lummi leaders, past and present, both women and men withstood so that our children will thrive in their own schools.

This is, in part, the Intent, Purpose, Context, and the Framework upon which this Xwlemi Education Code is adopted: Through Self-Determination, Asserting and Reclaiming our own place-based educational sovereignty. It is the intent of the LIBC to assert our Educational Sovereignty by creating a semi-autonomous education system, which will enable the Lummi Nation to determine how we carry out our vision for education.

43.01.03 Authority and Scope

(a) The Lummi Nation retains its inherent sovereign authority to provide a culturally sensitive curriculum to its students.

(b) Education is a Treaty Right and responsibility. In exercising its authority over education on the Lummi Reservation, the Lummi Indian Business Council (LIBC) does not sanction or cause any abrogation of the rights of the Nation or its members based upon federal law or inherent sovereign powers, nor does it

diminish any trust responsibility of the federal government, including but not limited to obligations set forth in the treaty of Point Elliott of 1855, or of the state government or any political subdivision thereof, including but not limited to the obligation to provide a non-discriminatory public education.

(c) In accordance with the Constitution and Bylaws of the Lummi Nation, the LIBC has the power and responsibility to exercise its authority over education by enacting a Xwlemi Education Code applicable to the Lummi Nation's schools and all other educational programs, including but not limited to Chartered educational programs, Chartered schools, distance learning programs, and technical vocational learning programs.

(d) The Xwlemi Education Code applies to local schools with Lummi children and other educational programs. This code applies to all education entities within the jurisdiction of the Lummi Nation, including but not limited to, any public or charter schools teaching Lummi content, justice, health, and social services programs that are providing education or workforce development to the maximum extent of the jurisdiction of the Lummi Nation.

(e) The LIBC hereby formally establishes the Xwlemi Education Board as the entity designated to administer the education system the Lummi Nation. The Xwlemi Education Board and Office of Xwlemi Education shall have the authority to operate independently of the LIBC, within the limits described herein.

(f) The LIBC Chairperson has the authority to call for consultation with the local public schools regardless of the number of students enrolled in the school.

43.02.01 Declaration of Cultural Law

Tse Xwlemi'chosen ongest'le-s et'se Xa'als tle Lhaq'temish exhtelnexw. Tse Xwlemi'chosen-s etse tse Xwlemi elhtelnexw Schelangen. Tse Xwlemi elhtelnexw-s schelangen ongest tse ey'snep, is sxano ey'snep-t tle ngene etse Xwlemi elhtelnexw.

(Translated Version)

Will you listen?"

The *Xa'als* (changer/creator) gave the Xwlemi Language toward the descendants of the *Lha'qt'emish* (survivor of the flood) people. The Xwlemi Language is part of the Xwlemi People's way of life. The Xwlemi peoples' way of life was prescribed with really good advice and really good teachings with regard to the young Indian people.

43.02.02 Xwlemi'Cho'sen (Lummi Language)

Because our *Xwlemi'Cho'sen* or Lummi Language is an essential element of the life, culture, and identity of the Lummi Nation and its members, and because the LIBC recognizes the importance of preserving and perpetuating the language as necessary for the survival of the Nation, the Lummi Nation School curriculum shall include for all grade levels of instruction, *Xwlemi'Cho'sen* or Lummi Language.

43.02.03 Official Orthography

The *Xwlemi'Cho'sen* has always been an oral based system. However, to cover literate base generation we will adopt a written Orthographic system recommended by the Shelangen Division *Xwlemi'Chos'sen* Language Director and outlined within the *Xwlemi'Cho'sen* Policy as the official written system. This Code shall be interpreted to fulfill the purposes described in Title 40.01.030 and satisfy *Chi'lang'elh* and *Oral History or Tradition* as defined in 40.01.040 of the Lummi Code of Laws (Cultural Resources Preservation Code).

Chapter 43.02 Declaration of Cultural Law and Policy

Chapter 43.03 Office of Xwlemi Education

43.03.01 Establishment of the Xwlemi Education Board

(a) The Xwlemi Education Board or the Education Board (Board or XEB), is hereby created to exercise authority over education on the Lummi Nation and shall adopt by-laws under which it shall operate internally, which shall be approved in their initial form by the LIBC. In order to implement this Code, the Education Board shall develop a Transition Plan as well as a written Training and Orientation Plan for the Education Board and its tribal administration and council representatives.

(b) The Education Board, independent of LIBC, shall have full authority to enforce this Code and any regulations or policies promulgated hereunder within the limits described herein.

(c) The Education Board shall consist of seven (7) members, including one LIBC council member chosen by the LIBC, the Xwlemi'Chosen (Lummi Language) Director or delegate, one (1) member appointed by the General Council, and four (4) at-large members, who will apply through the LIBC application process and will then be appointed by LIBC.

(d) The at-large members shall be enrolled members of the Lummi Nation who are residing at the time of their appointments within Whatcom County and at least one (1) must hold a Master's degree or above from an accredited higher education institution and at least three (3) must be parents, guardians, or grandparents of a child within the Lummi Education system at the time they are appointed. For just cause, the LIBC may replace any member of the Education Board at any time. Any board member may notify the LIBC of their resignation at any time.

(e) At-large Education Board members shall be appointed for 3-year terms. In the event that an at-large member is unable to serve out his or her term, the LIBC shall appoint a replacement to serve the remainder of the former member's term. The initial

terms of the at-large Education Board members after the adoption of this Code shall be for 5 years. Thereafter, at-large members shall be appointed for 3-year terms.

(f) One (1) Education Board member shall be appointed by the General Council for a three-year term on the Education Board chosen at the annual meeting of the General Council every three years. In the event that the General Council member is unable to serve their term, a replacement shall be chosen by the General Council to serve the remainder of the former member's term.

(g) A majority of the seated members of the Education Board shall be sufficient to conduct the Education Board's business.

(h) The Education Board shall establish committees and subcommittees to help administer programs within the Office of Xwlemi Education and all education entities within the jurisdiction of the Lummi Nation. Bylaws for each of the subcommittees shall be subject to Education Board approval. The Education Board shall designate one at-large Education Board member to serve as a voting member of each subcommittee. The charters and by-laws of all existing boards and committees under the jurisdiction of this Code shall be revised as needed to comply with the requirements of this Code.

(i) The Education Board shall have the authority to propose new education initiatives within the Office of Xwlemi Education, subject to approval from the LIBC when required by law, compact, or grant requirements.

43.03.02 Responsibilities, Accountability, and Duties of the Xwlemi Education Board

The Education Board shall be the policymaking body of the Office of Xwlemi Education. As the policymaking body, the Education Board shall:

(a) Select, hire, evaluate, and terminate the Superintendent of the Office of Xwlemi Education who shall be the principal administrator and enforcer of this Code;

(b) Require and review regular reporting by the Office of Xwlemi Education regarding the condition, needs, and progress of education on the Reservation.

(c) Establish and formally approve a written Indigenous Framework of education that will apply to all programs, departments, and services;

(d) Actively promote and assist the coordination of LIBC programs, departments, and services with the development, review, and approval of curriculum on education issues that meet the intents, purposes, and policies of this Code;

(e) Have the authority to enter into contracts and Memoranda of Understanding or Agreement with LIBC programs and departments, organizations, consultants or businesses outside of the LIBC, and to do all things necessary to carry out its responsibilities under this Code. However, the Education Board shall not negotiate or enter into any Compact in the name of, or on behalf of, the Lummi Nation unless so authorized by the LIBC;

(f) Have the authority to borrow, in its own name, funds for the operation of the Office of Xwlemi Education, take and give evidence of indebtedness, collateral and other security for loans and advances; provided, however, the Board shall not pledge as security or expose for collection or execution, any assets of the Lummi Nation without prior approval of the LIBC;

(g) Have the authority to apply for funds to the LIBC, Bureau of Indian Affairs, and to any tribal, state, or federal governmental agencies for capital and operational funds. In any such application, it shall be entitled to identify itself as an arm of the Lummi Nation. The Board shall also have the authority to negotiate grants or loans from any non-governmental source, foundation, institution, business or private individual, subject to the limitations contained herein. The Board shall not allow investments by any private individual, but may negotiate grants or loans from private individuals in the regular course of business.

(h) Have the power to enter into litigation as appropriate or necessary to carry out its purpose; provided, however, the Board shall not engage in any litigation which raises or implicates Treaty or other Tribal rights without specific authorization of the LIBC and shall not waive immunity from suit without specific authorization.

(i) Establish and adopt Lummi Standards for Education and Lummi Cultural preparation as defined in Section 43.07(m) of this Code. These standards will not involve either federal or state agencies;

(j) Establish general education standards and assessments equivalent to state and federal standards for all education programming;

(k) Approve reporting procedures for Since Time Immemorial curriculum for all school districts within the jurisdiction of this Code;

(l) Set certification standards for all Xwlemi educators and adopt ethics policies that shall apply to all teachers in all education programs;

(m) Adopt rules recommended by the Superintendent or delegate rulemaking authority to the Superintendent as it deems necessary;

(n) Approve appropriations, operating budgets, and audits for the Office of Xwlemi Education as defined in 43.07(o);

(o) Approve federal, state, and private funding and grants presented by the Office of Xwlemi Education as defined in 43.07(o) for the improvement of education on and off the Lummi Reservation, including funding and grants for research, planning, and evaluation of education services;

(p) Actively promote local control of education under charters consistent with the intents, purposes, and policies of this Code;

(q) Establish advisory committees and subcommittees on education as it deems necessary. Such committees or subcommittees shall serve in an advisory capacity to the Education Board in the

development of tribal education and policies, and in other matters affecting Xwlemi education.

(r) Regularly consider the condition, needs, and progress of education on the Reservation and recommend to LIBC and to General Council of the Lummi Nation for its approval such additional legislation or changes in existing legislation as it may deem necessary;

(s) Approve of research concerning the Office of Xwlemi Education. The Education Board is responsible to see that all research ratifies Lummi Nation sovereignty, treaty rights, self-determination, and the government trust responsibility and is conducted in a professional and culturally appropriate manner, including approval by an Institutional Review Board (IRB).

(t) The Education Board shall develop policies to ensure that all data and intellectual property pertaining to Lummi Nation, including Cultural Intellectual Property, as defined in 43.07(e), developed by or pertaining to the Office of Xwlemi Education or the Lummi Nation shall be protected from misuse or unauthorized dissemination, and shall be shared and utilized only in a manner that benefits the Xwlemi people, protects tribal interests, and/or advances Lummi priorities and positions.

(u) Report to the LIBC at least annually in the form of a written narrative and financial report, including submission of the annual audit under 43.03.04(g). Additional reports may be requested by the LIBC through written communication from the LIBC Chairperson to the Chairperson of the Education Board.

(v) Engage in long-range, strategic planning for the future of formal education on and off of the Lummi Reservation, including the increased use of technology and alternative means of delivering educational services to all Xwlemi students;

(w) Provide oversight to all departments within the Office of Xwlemi Education and all other entities and

programs subject to the jurisdiction of this Code under Section 43.01.03(d);

(x) Administer and enforce this Xwlemi Education Code and all other education laws of the Lummi Nation unless such powers and duties are otherwise delegated;

(y) Oversee compliance with all laws, regulations, compacts, and funding agreements applicable to the Office of Xwlemi Education;

(z) Establish a five-year and twenty-year comprehensive Education Plan for the Xwlemi community and give annual updates to the LIBC on the implementation of the Plan; and

(aa) Propose amendments to this Code to the LIBC.

43.03.03 Responsibilities, Accountability, and Duties of the Superintendent of the Office of Xwlemi Education

Subject to the authority of the Education Board, the Superintendent of Office of Xwlemi Education or his/her designee has the power and duty to:

(a) Oversee the Office of Xwlemi Education;

(b) Coordinate training and orientation on the implementation of this Code for key staff, and provide annual training and orientation sessions with key staff and newly hired staff members, when appropriate or necessary;

(c) Develop a communication system between tribal government and intra-departments for coordination, collaboration, and communications;

(d) Act as a liaison between the Lummi Nation, the State of Washington, and the Federal government on education matters. This shall include but not be limited to attending and interacting at meetings of the Education Board, OSPI, the State legislature, the Bureau of Indian Education, the Bureau of Indian Affairs, the US Department of Education, the US Department of Health and Human Services, and the local public schools. The Superintendent shall serve

on Tribal, State, or Federal committees as approved by the Education Board;

(e) Negotiate cooperative agreements, Memoranda of Agreement and Memoranda of Understanding between the Office of Xwlemi of Education and school boards, the governing bodies of other educational programs, chartered educational programs and chartered schools, and other tribal departments, agencies, offices, entities, and programs; provided, that any agreements negotiated under this section are ineffective unless and until approved by the Education Board;

(f) Inquire into the educational situation of Xwlemi students in any school or program receiving program funds for the education of Xwlemi youth or adults. The authority to make inquiries granted to the Superintendent in this Subsection extends to all affected school sites;

(g) Determine the impact of educational programs on Xwlemi students by inquiring into areas of concern, such as achievement data, test results, budgets, language proficiency, special educational programs, curriculum, health, safety, adequacy and accessibility of facilities, and other areas of inquiry relevant to the educational situation of Xwlemi students;

(h) Report the results of his/her inquiries to the Education Board, the LIBC, and other entities serving the Lummi Nation affected by the subject matter of these inquiries;

(i) Make recommendations in his/her reports for the improvement of Xwlemi education;

(j) Report quarterly to the Education Board on the state of Xwlemi education;

(k) Implement the procedures, policies, directives, and guidance as approved by the Education Board related to the education of Xwlemi children and the enforcement of the Lummi Code of Laws;

(l) Prepare the Office of Xwlemi Education budget for adoption by the Education Board;

(m) Consult with the local public schools regardless of the number of students enrolled in the Lummi controlled programs or schools who are members of a Federally recognized tribe;

(n) Consult with local school districts to implement Since Time Immemorial curriculum aligned with the intent of this Code;

(o) Ensure compliance with all laws, regulations, compacts, and funding agreements applicable to the Office of Xwlemi Education;

(p) Establish and oversee subsidiary departments within the Office of Xwlemi Education to support the Superintendent in carrying out his or her responsibilities under this Code, which shall include a Finance and Accounting Office and a Human Resources Office; and

(q) Employ qualified professional, clerical, and other employees, who may be full-time or temporary, as may be necessary for the administration of the Xwlemi Education Code. The Superintendent shall plan and direct the duties and responsibilities of the Office of Xwlemi Education staff and shall ensure that the staff carries out their duties and responsibilities. The Superintendent shall ensure that the Office of Xwlemi Education staff is qualified and receives appropriate professional training.

43.03.04 Fiscal Management, Responsibility, and Accountability

The Office of Xwlemi Education, including the Superintendent, the Education Finance Office, and Administration shall be responsible for:

(a) Preparing annual written budgets for the operation of the Office of Xwlemi Education. The budget shall include, but not be limited to, all revenue and expenditures anticipated for the next fiscal cycle. Revenue will be based on historical or awarded projections, and expenditures will consist of line items that are separate by direct, non-direct, and indirect services to comply with all Tribal, State, Federal, and all other regulations based on funding;

(b) Submitting the budget along with a written justification to the Education Board;

(c) Preparing any necessary presentations and attending any necessary hearings regarding the budget;

(d) Participating in the preparation of the budgets for other education needs and matters of the Tribe when so authorized by the Education Board;

(e) Engaging the annual appropriation of tribal hard dollars and funding through the Lummi Nation's Self-Governance compact for the operation of the Office of Xwlemi Education and reporting annually in accordance with Title 28 of the Lummi Code of Laws, as well as adhering to applicable Tribal, State, and Federal laws and regulations in administering the appropriation;

(f) Overseeing all Tribal properties assigned to the Office of Xwlemi Education and the proper use thereof;

(g) Ensuring that the financial accounts of the Office of Xwlemi Education are audited annually in a timely manner in compliance with applicable laws and regulations. Annual audits and reports will be submitted by the Superintendent to the Education Board and the LIBC;

(h) Obtaining or providing for the obtaining of adequate fidelity bond coverage for Office of Xwlemi Education officers, agents, or employees authorized to handle cash, sign checks, or make disbursements.

43.03.05 Promulgation of Regulations

(a) The Superintendent shall, under the direction of the Board, promulgate regulations in consultation with the Office of the Reservation Attorney as needed to administer and enforce this Code.

(b) Before final adoption of a regulation by the Education Board, the Superintendent shall post notice of the proposed regulation for public review and comment in at least three public places, inviting written comment and stating a deadline for their

submission of not less than thirty (30) days after the posting of the notice. The notice shall inform the public where copies of the proposed regulations may be obtained. The Superintendent may, but is not obligated to, hold a public hearing; in that event, he or she will announce the time and place at which oral testimony will be heard. If the Superintendent elects to hold a public hearing, the hearing shall be conducted according to the procedures for public hearings under Title 27 of the Lummi Code of Laws.

(c) After the closure of the public notice and comment period or closure of the public hearing, if one is held, the proposed regulations and all comments received shall be presented to the Education Board for its review. The Education Board may adopt, amend, or disapprove of the proposed regulations, or the Education Board may direct the Superintendent to prepare revisions to the proposed regulations and/or provide for further public review and comment.

(d) Upon approval by resolution of the Education Board, a regulation shall become effective on the date specified in the resolution. If no date is specified, the effective date shall be the date the resolution is approved by the Education Board.

(e) A copy of all regulations will be filed and made available for public inspection at the Superintendent's office. If the Education Board finds that immediate adoption of a regulation is necessary for the protection of the public health, safety, or welfare and that complying with the notice and comment requirements of this Code would threaten the health or the public interest of the Lummi nation, the Education Board may dispense with such requirements and immediately adopt a regulation as an emergency regulation. An emergency regulation shall be effective upon the date of its adoption by the Education Board. Notice of the emergency regulation may be posted in a public place, but such posting is solely to inform the public of its adoption, and nothing in this Code shall be construed to prevent the implementation of the emergency regulation upon its adoption by the Education Board

in accordance with this Section. An emergency regulation shall expire one hundred and eighty (180) days after its adoption unless approved as a permanent regulation by the Education Board.

43.03.06 Ownership of Assets

(a) Unless otherwise required by law, all assets acquired by or in the name of the Xwlemi Education Board, Office of Xwlemi Education, or any of their subsidiary departments or programs shall belong to the LIBC on behalf of the Lummi Nation and shall be operated by and managed for the benefit of the Office of Xwlemi Education, provided however, that title to the property which is to become a part of the land, such as building material, will be taken in the name of the United States in trust for the Lummi Nation; and

(b) If a department or program within the Office of Xwlemi Education ceases to exist, its assets shall, as a priority, be designated for use by other departments or programs within the Office of Xwlemi Education, unless otherwise required by law.

43.03.07 Conflict of Interest

All Xwlemi Education Board members and Office of Xwlemi Education employees shall abide by the following conflict of interest standards:

(a) No contract or other financial transaction between the Office of Xwlemi Education and any one of the Board members or the Superintendent, or between the Office of Xwlemi Education and any corporation, partnership, firm, or legal entity in which one or more of the Board members or the Superintendent has an interest, directly or indirectly, shall be valid for any purpose; and

(b) All Board members and employees shall avoid all conflicts of interest in any financial activity of the Office of Xwlemi Education.

43.03.08 Ethics

Subject to the authority of this Code, every education entity governed by this Code and their employees shall be subject to the following ethics:

(a) While working with children and vulnerable adults, all employees, including Board members shall be subject to extensive background checks and regular drug and alcohol testing;

(b) All employees and Board members shall adhere to all laws and regulations governing confidentiality and protecting the rights of employees, minor children, vulnerable adults, and education entities;

(c) All employees and Board members shall adhere to all child protection laws, including the Lummi Children's Code and each employee and Board member shall complete training on mandatory reporting of child abuse and neglect; and

(d) No employee or Board member shall use any information gained through their position for personal gain or self-interest.

Chapter 43.04 Community and General Council

43.04.01 Input and Support

The Office of Xwlemi Education shall hold an annual public hearing at a time designated by the Education Board to hear community concerns related to student educational opportunities, requests for additional or different services from the Office of Xwlemi Education, or other schools that affect educational opportunities. Title 28 Satisfaction or Dissatisfaction procedures shall be utilized during the annual public hearing to identify program improvements and address any need to change or update the Education Code.

43.04.02 Grievance Procedure

The Education Board shall establish policies and procedures for a formal grievance process to address complaints brought by a Parent regarding a school or

other program within the Office of Xwlemi Education.

Chapter 43.05 Other Entities

43.05.01 Chartered Entities

(a) All tribally Chartered entities under the jurisdiction of this Code shall ensure their charters and by-laws are amended as necessary to comply with this Code. In the event of a conflict between the provisions of an entity's charter or by-laws and those of this Code, the provisions of this Code shall control.

(b) The Education Board shall have policy oversight over all Chartered entities under the jurisdiction of this Code that are not a part of the Office of Xwlemi Education as follows:

(i) The Education Board shall have the right to review and comment on all reports required to be submitted by such Chartered entities to the LIBC pursuant to their charters. The Education board shall be provided a copy of such reports at least 14 days prior to such reports being submitted to the LIBC;

(ii) The Education Board shall consider the needs of all such Chartered entities when establishing the Indigenous Framework for education;

(iv) The Education Board shall create a comprehensive Education Plan, and all such entities shall incorporate the goals and principles of the Indigenous Framework and comprehensive Education Plan into their strategic planning and policies;

(v) Unless authorized by the LIBC, the Education Board shall not have the authority to contract, borrow, litigate, or apply for funding on behalf of such Chartered entities, nor shall it have any authority over the administration, day-to-day

operations, employment decisions, or budgets of such Chartered entities.

(iv) The policy oversight of the Education Board under this Code is not intended to replace, duplicate, or diminish the powers and duties of any Chartered entity's board of trustees or the powers of the LIBC in relation to such entities.

43.05.02 Foundations and Non-Profit Organizations

(a) All foundations and non-profit organizations under the jurisdiction of this Code shall have their articles of incorporation, Charter and by-laws reviewed and approved by the Education Board prior to filing.

(b) All such foundations and organizations shall annually submit written narratives and financial reports to, the Education Board.

(c) Each foundation or organization shall specify in its articles of incorporation and by-laws that, upon dissolution, all property owned by the foundation or organization, after the payment of any liabilities, shall be distributed to the Office of Xwlemi Education or the Chartered entity with which it is associated.

Chapter 43.06 General Provisions

43.06.01 Construction of Tense Used

In construing the provisions of the Xwlemi Education Code, the present tense includes the past and future tenses, and the future tense includes the present.

43.06.02 Non-Discrimination

(a) The Education Board and the Office of Xwlemi Education shall not discriminate in any programs or activities on the basis of sex, race, creed, religion, color, national origin, age, veteran or military status, sexual orientation, gender expression or identity,

disability, or the use of a trained dog guide or service animal; and

(b) Notwithstanding subsection (a) of this Section, the Education Board and the Office of Xwlemi Education may grant admissions preference to Lummi Nation members or members of other federally recognized tribes and as is required in Policy 203 Lummi/Indian Preference of the LIBC Human Resources Personnel Policy Manual in regards to hiring decisions.

43.06.03 Nation Building and Self-Determination

(a) All education entities under the jurisdiction of this Code shall, to the extent permissible by law, ensure that Lummi/Indian Preference policies are applied to all employment decisions in accordance with the LIBC Human Resources Personnel Policy manual; and

(b) The Education Board shall establish policies and procedures for identifying and developing current employees with the potential to fill positions within the Office of Xwlemi Education with an emphasis on developing capacity of Lummi tribal members to fill key leadership roles.

43.06.04 Reference to Code Includes Amendments

When reference is made to any portion of the Xwlemi Education Code, the reference shall apply to all amendments and additions made hereafter.

43.06.05 Severability

If any part of the Xwlemi Education Code is invalidated by a court of competent jurisdiction, all valid parts that are severable from the invalid part remain in effect. If a part of the Code is invalid in one or more of its applications, that part remains in effect in all valid applications that are severable from the invalid applications.

43.06.06 Sovereign Immunity

As governmental entities created by this Title, the Xwlemi Education Board and Office of Xwlemi

Education expressly retain the sovereign immunity of the Lummi Nation. Nothing in this Code shall be interpreted as a waiver or modification of sovereign immunity of the Lummi Nation in any form.

Chapter 43.07 Definitions

Unless the Xwlemi Education Code otherwise expressly indicates, the following definitions apply:

(a) “Charter” or “Chartered” means all education entities chartered by the LIBC, including but not limited to Northwest Indian College.

(b) “Code” means the Xwlemi Education Code of the Lummi Nation.

(c) “Compact” shall mean an agreement between the Lummi Nation and another jurisdiction. The term “Compact” shall not include cooperative agreements or Memoranda of Agreement/Understanding as described under Section 43.03.03(e) of this Code.

(d) “Culture” means Sche’lang’en, our way of life. Culture emerges from our Xwlemi’Chosen and its oral histories, the time of creation has been passed to younger generations since time immemorial. Culture includes, our means of survival, our relationship to the land and each other, our spiritual relationships, our values and beliefs, our social rules, language, our educational systems and how we develop our young people, how we use our knowledge and pass it down to future generations.

(e) “Cultural Intellectual Property” means any knowledge that emerges from Xwlemi histories, language, values, and culture, as defined in Chapter 43.07(d), belongs to the Lummi Nation and is the responsibility of the Nation to protect.

(f) “Curriculum” means any planned education experience provided for students.

(g) “Education Standards” means minimum levels of performance that local schools and other educational programs must attain or minimum requirements that

local schools and other educational programs must meet to provide and document quality curriculum and educational policies and programs.

(h) “Educational Policies and Programs” include but are not limited to policies or programs other than curriculum that develop strong student or parent knowledge of, skills in, or involvement with schools, their students, and their curricula.

(i) “Educators” includes but is not limited to: teachers, administrators, counselors, paraprofessionals, and other professional staff of local schools and other educational programs.

(j) “General Council” means the General Council of the Lummi Nation as defined in Article III of the Lummi Constitution.

(k) “Indigenous Framework” means a structure that provides guidance for all Lummi Nation education entities. The framework encompasses all knowledge as defined in Chapter 43.07(d).

(l) “Lummi Indian Preference” means that first preference shall be given to qualified members of the Lummi Nation, second preference shall be given to qualified members of other federally recognized tribes, and third preference shall be given to qualified non-members.

(m) “Lummi Standards of Education and Cultural Preparation” means a certain level of competence that encompasses all areas as defined in Chapter 43.07(e), and shall include testing, culturally relevant assessment, K-12 language standards, native teacher preparation, curriculum, policies, and programs in accordance with this Code.

(n) “Memorandum of Agreement/Understanding” means a written document that outlines an agreement or understanding between two or more entities, including between departments within the Office of Xwlemi Education.

(o) “Office of Xwlemi Education” shall include Lummi Nation Schools, Early Childhood Education, the Scholarship Program, Student Assistant

Programs, and Johnson O’Malley programs, and additional educational programs as authorized by LIBC.

(p) “Oversee” means to watch over in order to ensure a satisfactory outcome or performance, to supervise, and superintend.

(q) “Parent” means anyone who is a parent or legal guardian of a student and includes parent groups and committees established under federal, state, and tribal education laws. This term does not include foster parents unless they are legal guardians.

(r) “Parent Advisory Committee” or “PAC” means the Parent Advisory Committees of programs under the Office of Xwlemi Education as defined in Chapter 43.07(o).

(s) “Parenting and Family Life” includes but is not limited to: family responsibilities, child growth and development, childbirth and child care, prenatal and postnatal care for infants and mothers, prevention of child abuse, and related topics.

(t) “Reservation” means all land, waters, and waterways within the exterior boundaries of the Lummi Reservation and to the full extent of the Lummi Nation’s jurisdiction including all reserved rights and unceded territory.

(u) “School” is a place, program, or process for formal teaching and learning.

(v) “Self-Governance” means the Lummi Nation’s authority to exercise all necessary functions of regulation and programming as determined by its members. Self-governance allows the Nation to be in control of our future, our children’s education, our decision making, and our destiny.

(w) “State” or “State Government” means the State of Washington or any political subdivision thereof.

(x) “Student” means anyone who is enrolled or is prospectively enrolled in an educational program.

(y) “Superintendent” means the Superintendent of the Office of Xwlemi Education.

(z) “Trust Responsibility” means the United States government’s responsibility to protect Indian Tribes, support tribal self-governance, and respect tribal sovereignty.

(aa) “Xwlemi Education Board” or “Education Board” means the entity that shall oversee the Office of Xwlemi Education. The term Education Board means the Xwlemi Education Board.