

**A BY-LAW FOR THE CARE
OF OUR INDIAN
CHILDREN:**

**SPALLUMCHEEN INDIAN
BAND
BY-LAW #3 – 1980**

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1. RECOGNIZING the special relationship which exists among band members to care for each other and to govern themselves in accordance with the five basic principles of Indian government:

(i) WE ARE THE ORIGINAL PEOPLE OF THIS LAND AND HAVE THE ABSOLUTE RIGHTS TO SELF-DETERMINATION THROUGH OUR OWN UNIQUE FORMS OF INDIAN GOVERNMENTS (*BAND COUNCILS*).

(ii) OUR ABORIGINAL RIGHT TO SELF-DETERMINATION THROUGH OUR OWN UNIQUE FORMS OF INDIAN GOVERNMENTS ARE TO BE CONFIRMED, STRENGTHENED AND EXPANDED OR INCREASED, THROUGH SECTION 91(24) OF THE BRITISH NORTH AMERICAN ACT.

(iii) OUR INDIAN RESERVE LANDS ARE TO BE EXPANDED TO A SIZE LARGE ENOUGH TO PROVIDE FOR THE ESSENTIAL NEEDS OF ALL OUR PEOPLE.

1. Tslaxastap tas q¹asts us ta knucwatwacwup wa⁷ kanmes re ctsu⁷etnkt. K¹wasltnkt xwexwayt swat. Tsilkst res lleq¹ emalts re kukpi⁷ met¹ a tkwami¹plantn. Yi⁷ana ma⁷ res tsq¹ays;

(i) ULL NUWI⁷S RE SNXETAQS
T¹7ALYA, TELRI⁷ US PE
TKWAMI¹PLENTSUTET NE
KUKPI⁷.

(ii) ULL NUWI⁷S KUC RE
SECTSWILCS ES YIGWATEM
ES TSETSATS RE CTSU⁷ETNS
KUC ES TKWAMI¹PLENTSUTS.

(iii) RE TMICWS KUC TSUT ES
XYAWILCTS MA⁷ PUTES NES
XWEXWAYTS KUC.

(iv) ADEQUATE AMOUNTS OF LAND, WATER, FORESTRY, MINERALS, OILS, GAS, WILDLIFE, FISH, AND FINANCIAL RESOURCES ARE TO BE MADE AVAILABLE TO OUR INDIAN GOVERNMENTS ON A CONTINUING BASIS AND IN SUFFICIENT QUANTITIES TO ENSURE DOMESTIC, SOCI-ECONOMIC SELF-DETERMINATION FOR PEACE, ORDER AND GOOD GOVERNMENT OF INDIAN PEOPLE.

(v) OUR INDIAN GOVERNMENTS (*BAND COUNCIL*) OR LEGISLATURES ARE TO HAVE THE AUTHORITY TO GOVERN THROUGH MAKING LAWS IN RELATION TO MATTERS COMING WITHIN SPECIFIED AREAS OF JURISDICTION THAT HAVE BEEN DEFINED BY OUR PEOPLE.

AND RECOGNIZING OUR AUTHORITY TO CARE FOR OUR CHILDREN WITHIN THE TERMS OF THE INDIAN ACT R.S.O. 149 S. 81 AND IN PARTICULAR .P.1 (a) (e) (d) AND ANCILLARY POWERS IN S. 81 (g)

The Spallumcheen Indian Band finds:

(a) that there is no resource that is more vital to the continued existence and integrity of the Indian Band than our children.

(iv) MA7 PUT RES KECTAS KCC
RE SAMA7 TĒ KUKPI7S A
TMICWS KUC,
SAWLLKWA, SXT7SAY,
TSQWASCA7,
CTAKAWI7LATN T7SI7,
SWAWLL, ALL SQLAW,
TUKWA7MITA7 MA7
LA7ES XWEXWAYT KUC
AS MUTS.

(v) KECTAM KUC RE KUKPI7
METĀ TKWAMIPLATN ES
YUGWYUGWTS ES
QUOWELUTS WA7
STAMES K XWEXWISTAM.

ULL NUWI7S MA7
TKWAMIPLENTA RE
STSMALTS KUC.

Re Splatsinac tsloxastas:

(a) re stsmalts kuc res
snximams te xwexwayt
stam.

(b) that an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by non-band agencies.

(c) that the removal of our children by non-band agencies and the treatment of the children while under the authority of non-band agencies has too often hurt our children emotionally and serves to fracture the strength of our community. Thereby contributing to social breakdown and disorder within our reserve.

2. In this by-law, unless the context otherwise requires:

“**Indian Band**” means the band members of the Spallumcheen Indian Band, as defined under the **Indian Act** and by band custom.

(b) t'ekwa7m7uy t'e glmuc
ac re kellawses re sama7
us re tskwactmes t'e
stsmalts.

(c) re stsmamlt all re
stetexam' ac re
kwyusmes us re
tskwanstmes t'e sama7.
Me-yaws re qlmuculucw
res qwnuxws.

2 N tkwamiplatn a ta7us es
tsqays yi7ana ma7 tsloxastax.

“**Glmuc**” ma7 yac re Splatsinac
k stoqwalutasts.

“Indian” means a person recognized as an Indian by the Band Council.

“Indian Child” means a band member of the Spallumcheen Indian Band, as defined under the **Indian Act** under the age of 21 years, and unmarried.

“Extended Family Member” shall be defined by the law and custom of the Spallumcheen Indian Band and shall be a person who is the Indian child’s grandparent, aunt or uncle, brother or sister, brother-in-law or a sister-in-law, niece or nephew, first or second cousin or step-parent.

“Family” means the unit within which the Indian child is a permanent member and usually resides.

“Indian Custodian” means any person who has legal custody of an Indian child under custom or under this by-law or whose temporary physical care, custody and control has been transferred by the parent of such child.

“Glmucu7iy” ma7 yac n7al ac re mutes ne glmuculucw.

“Cglmucwicwlt” ma7 yac re Splatsinac re stsmalts a ta7us k stsmelahms all a twiwtes (sallupekst all nku7)

“Kwsaltktn” ma7 yac xwexwayc ull sla7as meta qya7as, tu7mas, sis7as, smastas, uqwis, stsacts, skaws, stuncs, stamats all s7illew te tskwatstn.

“Kwsaltktnuy” ma7 yac us ne mutes ne qllmins.

“Tutilatn” ma7 yac ac re yucwmanilames wa7 yaws re kukpi7, a yaws re qllmins niri7 k kectames.

“Parent” means any biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom.

“Band Council” means the Chief and Councillors of the Spallumcheen Indian Band, either elected by custom or under the **Indian Act**.

“Reservation” means the reservation of lands reserved by Her Majesty the Queen for the use and benefit of the Spallumcheen Indian Band as defined under the **Indian Act**.

“General Band Meeting” means a meeting of the band membership, as defined by the provision of the **Indian Act** and by band custom and law.

“Child Custody Proceeding” shall mean and include:

- (a) any action relocating an Indian child from the home of his/her parents, extended family member or Indian custodian for placement in another home.

“Gllmin” ma7 yac swati7 k kulentmes, a swatis k pell sectucpilt.

“Tkwamipla” ma7 yac re kukpi7 all re knucwtns.

“Glmuculucw” ma7 yac re tmicw us ne mu tes re glmuc tes kectam te sama7s snkukpi7s.

“Sqw7al” ma7 yac us re plulkwes re qlmuc meta kukpi7 all re knucwtns.

“Scqwlallcwu ne Stsmalt” ma7 tslxastac;

- (a) a kwantmes re cqlmucwicwlt te kwsaltktns, te qllmins, te tutilatn ma7 tntames ne ticwell t ek tsitcw.

(b) and the maintenance of the Indian child in the home of the Indian custodian.

(b) all a pell knucwtns re
cqlmucwicwlt ne tsitcw
re tutilatn.

(c) and the return of the Indian child to the home of the Indian child's family.

(c) all a tsuntmes es
plq'atam ne
kwsltktnuys.

3. (a) The Spallumcheen Indian Band shall have exclusive jurisdiction over any child custody proceeding involving an Indian child, notwithstanding the residence of the child.

3. (a) Tskuk ull Splatsinac ma7
pell tkwamiplatn ne
stsmamlt p7acw te qllmins.

4. (a) The Band Council shall see that the Provisions of this by-law are carried out and may exercise such powers as are necessary to carry out this by-law including:-

4. (a) Re, tkwamipla ma7
yucwemins xwexwayt nray
te ts'qay es tsetsats kes
tnmins.

(b) The Appointment of such persons to act on behalf of the Band Council in the performance of any of the duties under this by-law as the occupation may require, and

(c) The making of such regulations as, from time to time may be necessary to carry out the provisions of this by-law, including but not limiting, regulations:

(i) governing the creation of special programs designed to aid in any child custody proceeding and in fulfilling the purposes of this by-law.

(ii) governing the expenditure of band money designed to aid in any child custody proceeding and fulfilling the purposes of this by-law.

(iii) governing the conduct of Indian children, Indian guardians, parents, or extended family members, or any person acting on behalf of any band member in a child custody proceeding which may be necessary for the proper working of this by-law.

(b) All as kwamas wa7
swatis as alksts wa7
nehanis.

(c) All as nak¹as re
tkwami¹platn a ta7us
kes tsetsats.

(i) as knucwas re
stsmamlt wa7 nek
stames es lleq¹ematas.

(ii) all as knucwas ne
sqlaw¹ wa7 swates a
tsutes ase¹qwelallcwu
ne stsmalts.

(iii) as yucwemins re
ctsu7atns re stsmamlt,
re tutilatn, re qllmins,
re kwsaltktns, wa7
swates k
yucwamin¹stmes Re
stsmamlt as tsetsats
re tkwami¹platns

5 The Chief and Council shall be the legal guardian of the Indian child, who is taken into the care of the Indian Band.

6 The Chief and Council and every person authorized by the Chief and Council may remove an Indian child from the home where the child is living and bring the child into the care of the Indian Band, when the Indian child is in need of protection.

7 An Indian child is in need of protection when:

(a) a parent, extended family member or Indian guardian asks the Indian Band to take care of the child.

(b) the child is in a condition of abuse or neglect endangering the child's health or well-being, or

5 Re kukpiy me'ta knucwtns
ma7 tsqay ne cqlmucwicwlt
a kwantmes te Splatsinac
es yucwamins.

6 Re kukpi7 me'ta knucwtns all
wa7 swates a kwlmatns ma7
k wans re cqlmucwicwlt us
ne mutes ma7 ts7ukwases te
Splatsinac es yucwaminta a
ta7us kes lecaksts us ne
mutes.

7 Ma7 knucwata re
cqlumcwicwlt:

(a) re qllmins, re tutilatn a
yaws re kwsaltktn a
sawases re Splatsinac.

(b) a ta7us kes la7s kes
yucwamins re stsmamlt,
us a k7apes.

(c) the child is abandoned, or

(c) a llwalentmes¹ t'e
xwexwayt swat.

(d) the child is deprived of
necessary care because of
death, imprisonment or
disability of the parents.

(d) a snankus, a cke7ates
all a k7apes re qllmins.

8. A person who removes an Indian
child from his/her home may place
the child in a temporary home, to
be chosen at the discretion of the
person removing the Indian child.

8. Wa7 swates a kwantmes re
cqlmucwicwlt te tsitcws ma7
yac awi7s a tntames¹ tca7a
ma7 la7es kes muts.

9. A person who removes an Indian
child from his/her home shall
within seven days bring the child
before Chief and Council.

9. Nek tsutslkask¹qt ma7 ukwas
re cqlmucwicwlt t'e kukpi7
ma7 tk'wamiplentmas.

10. Before deciding where the Indian
child should be placed, Chief and
Council should consider and be
guided by Indian customs and the
following preferences:

10. Xetaqs all ma7 k'wanemes
esmutens re cqlmucwicwlt
ma7 ptinesmas yirana:

(i) the wishes of the Indian
child, whenever, in the
opinion of Band Council,
the child is old enough to
appreciate his/her
situation.

(i) re p'usmas re
cqlmucwicwlt as
k'wenacatsuts a
lexlaxes awi7s.

(ii) wherever possible, help should be given to rebuild the family, of the Indian child.

(iii) in the absence of placement with the family, a preference for placement shall be given in this order to:

1) a Parent

2) a member of the extended family living on the reserve.

3) a member of the extended family living on another reserve, although not a reserve to the Indian Band.

4) a member of the extended family living off the reserve.

5) an Indian living on a reserve.

6) an Indian living off a reserve.

7) only as a last resort shall the child be placed in the home of a non-Indian living off the reserve.

(ii) a la7es xwexwayt stam, as knucwas re qllmins ma7 plq¹atames ne k¹wasltktenuys.

(iii) a t¹7us esla7s e smuts ne qllmins:

1) ma7 mut ne qi7cas, a yaws re qa7tsas.

2) ma7 mut ne k¹wasltktns.

3) ma7 mut ne k¹wsal¹tktns nek ticwell te qlmuculucw.

4) ma7 mut ne k¹wsal¹tktns ne sm7ulucw.

5) ma7 mut ne glmuc ne qlmuculucw.

6) ma7 mut ne glmuc ne sm7ulucw.

7) tsuk a ta7us pell ckwanamas ma7 tntames nek sama7 ne sm7ulucw.

(iv) in all cases, the best interests of the child should be the deciding consideration.

11. The Chief and Council shall place the child in a suitable home.
12. Any band member of any parent or member of any parent or member of the Indian child's extended family or Indian guardian may review the decision made by the Band Council to remove the Indian child from his/her home or the placement of the child by the Band Council.
13. The person seeking a review shall notify in writing the Band Council at least 14 days before the next band meeting.
14. Upon receiving the written notice to review, Band Council shall put the question before the Indian Band at the next General Band Meeting.
15. The Indian Band, by majority vote of the band members attending at the General Band meeting shall decide on the placement of the Indian child. The decision of the Indian Band shall be governed by the considerations stated in S. 10 of this by-law.

(iv) wa7 stames ma7
llukmins re c1tnmins
re cqlmucwicwit.

11. Re kukpi7 meta knucwtns ma7
tntas re cqlmucwicwlt ne la7
tek tsitcw.
12. Wa7 swates te Splatsinac, a
yaws re gllmins, re tutilatn, a
yaws re kwsaltktns a ta7us kes
xwexwistas re tkwamiplatn ma7
cqw1allewu cu7tsa.
13. A cta7a7alltsus kswat ma7
qi7am ne kukpi7 nek upekst all
musasqt te sitqt all ma7
ow7ales re glmuc.
14. A kwa7wanses re stsqay re
kukpi7 ma7 xlitens re Splatsinac
cu7tsa es qw7als.
15. Re Splatsinac a qw7ales, a
stames k pusmas ma7 yaws ri7
k tkwamiplen.

16. The Chief and Council shall ensure that the child's family be advised of important changes and events in the life of the child while the child is in the care of the band.

Wherever possible the responsibility for such communications shall be delegated to the Indian guardian.

17. The Chief and Council shall ensure that an assistance programme be established from time to time, which may be necessary to facilitate the stable placement of an Indian child.

18. The Indian child, the parent, member of extended family of Indian guardian may, at any time seek a decision from Band Council concerning the return of the Indian Child to his/her family, or the removal of the Indian child to the home of another Indian guardian.

19. Upon receiving written notice of an application to return or remove the Indian child, the Band Council shall consider the placement, guided by the consideration under S. 10 of this by-law to return the Indian child to his/her family or maintain the Indian child with the Indian guardian or place the Indian child in another home.

16. Wa7 stames k ctsu7etns re
cqlmucwicwlt, re kukpi7 me7a
knucwtns all ac re tutiluws ma7
lxcits re kwsaltktns.

17. A tlucwes re cqlmucwicwlt, re
kukpi7 me7a knucwtns ma7
knucwata wa7 nek stames.

18. Wa7 ne hanes, re cqlmucwicwlt,
reqlmins, re kwsaltktns, a yaws
ac re tutiluws ma7 nas ne kukpi7
es nak as re tkwamiple7a. Ma7
Plqilcwes re stsmamlt ne qllmins
a yaws ne kwsaltktns.

19. Put na7 qi7cita re kukpi7 all ma7
tkwamiplentmes cu7tsa as
plqilcs.

20. Any Band member, parent,
member of the child's extended

family of Indian guardian may review Band Council's decision under S. 19 of the by-law.

21. The person reviewing shall notify Band Council in writing at least 14 days before the next General Band Meeting.

22. Upon receiving written notice to review, Band Council shall put the question before the Indian Band at the next General Band Meeting.

23. The Indian Band by majority vote of the Band Members attending the General Band meeting, shall decide on the placement of the Indian child. The decision of the Band shall be made and governed by the considerations under S. 10 of this by-law.

20. Wa7 swates a ta7 as secu7tsis ma7 qw7alcu7tsa.

21. Yiri7 tek, glmuc ma7 qi7am neks upekst all musasqt te sitq t te kukpi7 xetaqs all ma7 qw7ales.

22. A kwa7wans re stsqay re kukpi7 ma7 tsunets re Splatsinac neha7a ma7 qw7ales cu7tsa.

23. Stami7 re Splatsinace re pusmas ma7 tsuncts re glmuc ma7 yaws ri7 re tkwamiplatns.