

CHEYENNE RIVER SIOUX TRIBAL COURT  
CHEYENNE RIVER INDIAN RESERVATION  
EAGLE BUTTE, SOUTH DAKOTA

SUPERIOR COURT  
Eagle Butte, SD

CHEYENNE RIVER SIOUX TRIBE,

Civil Case No: 23044

Plaintiff,

v.

EMERGENCY PETITION FOR  
EXCLUSION AND REMOVAL OF  
SARAH SHAFF, CINDY LINDSKOV,  
AND KEITH FODNESS FROM THE  
CHEYENNE RIVER SIOUX INDIAN  
RESERVATION

SARAH SHAFF, CINDY LINDSKOV,  
AND KEITH FODNESS,

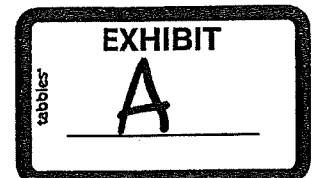
Defendants.

COMES NOW Plaintiff Cheyenne River Sioux Tribe, by and through undersigned counsel, and for its Emergency Petition for Exclusion and Removal of Sarah Shaff, Cindy Lindskov, and Keith Fodness from the Cheyenne River Sioux Indian Reservation states and alleges as follows:

**PRELIMINARY STATEMENT**

1. This is an action for the exclusion and removal of non-Tribal members Sarah Shaff, Cindy Lindskov, and Keith Fodness (collectively, "Defendants"), from the Cheyenne River Sioux Indian Reservation for jeopardizing the welfare of children on the Cheyenne River Sioux Indian Reservation, and for seriously threatening the peace, health, safety, morals, and general welfare of the Tribe and its members.

2. The Cheyenne River Sioux Tribe is a federally recognized Indian tribe that reserved its inherent, sovereign right to self-government through the Fort Laramie Treaty of 1851, 11 Stat. 749 (Sept. 17, 1851), and the Fort Laramie Treaty of 1868, 15 Stat. 635 (Apr. 29, 1868).



3. The Fort Laramie Treaty of 1868 provides that the territory of the Sioux Nation was “set apart for the absolute and undisturbed use and occupation” of the Sioux Indians as a “permanent home.” 1868 Treaty, Arts. II, VI.

4. The exterior boundaries of the Cheyenne River Sioux Indian Reservation were established by the Act of March 2, 1889, § 4 (25 Stat. 888).

5. Dupree School District 64-2 is located within the exterior boundaries of the Cheyenne River Sioux Indian Reservation.

6. The Cheyenne River Sioux Tribe has sovereign authority over its members and its territory, and it has the right to make its own laws and be ruled by them. *See Merrion v. Jicarilla Apache Tribe*, 455 U.S. 130, 140 (1982); *United States v. Mazurie*, 419 U.S. 544, 557 (1975); *Williams v. Lee*, 358 U.S. 217, 220 (1959).

7. The Cheyenne River Sioux Tribe is organized pursuant to a Constitution and Bylaws adopted under the Indian Reorganization Act of 1934, 48 Stat. 984, with the approval of the Secretary of the United States Department of the Interior.

8. The Tribal Constitution provides that the Tribe has the power to “provide by ordinance, subject to review by the Secretary of the Interior, for removal or exclusion from the territory of Cheyenne River Sioux Tribe of any non-member whose presence may be injurious to the members of the tribe morally or criminally.” C.R.S.T. Const., Art. IV, § 1(k).

9. The Tribal Constitution further provides that the Tribe has the power to “promulgate ordinances for the purpose of safeguarding the peace and safety of the Residents of the Cheyenne River Indian Reservation . . . .” C.R.S.T. Const. Art. IV, § 1(k).

10. Under these authorities, the Tribe has adopted Title XI of the Law and Order Code, which establishes the procedure for excluding and removing non-members from the Reservation.

11. Title XI, Section 11-1-1 of the Law and Order Code provides that the Tribe may “protect itself, its members, and other persons living on the Reservation, from people whose presence on the Reservation is harmful to, or threatens the peace, health, safety, morals, and general welfare of the Reservation,” and that exclusion of such persons is deemed necessary to “protect the cultural identity of the Tribe, and to protect those residents of the Reservation who may be imposed upon, harmed, or otherwise disadvantaged.”

12. Title XI, Section 11-1-2 of the Law and Order Code provides that: “All persons who are not owners of land located within the exterior boundaries of the Reservation may be removed from all or any portion of the Reservation as provided herein.”

13. Under Title XI of the Law and Order Code, persons are subject to exclusion and removal from all territory within the jurisdiction of the Cheyenne River Sioux Tribe for many reasons, including “[d]oing or threatening to do any act upon the Reservation which seriously threatens the peace, health, safety, morals and general welfare of the Tribe, its members, or other persons living on the Reservation.” C.R.S.T. Law and Order Code § 11-1-3(8).

14. Title XI of the Law and Order Code provides that “[u]pon complaint by the Attorney General’s Office of the Cheyenne River Sioux Tribe,” the Tribal Court may determine whether the exclusion of an individual is warranted. On request of the Cheyenne River Sioux Tribe, the undersigned serves as submitting on behalf of the Attorney General’s Office for this matter.

#### **PARTIES**

15. The Cheyenne River Sioux Tribe brings this action for and on behalf of its members, Lance Frazier and Harold Hollow, and other unnamed members whose peace, health, safety, morals, and general welfare are harmed by the actions of the Defendants.

16. Upon information and belief, Defendant Sarah Shaff is not a member of the Cheyenne River Sioux Tribe and does not possess a permanent residence within the exterior boundaries of the Cheyenne River Sioux Reservation, as established by the Act of March 2, 1889, § 4 (25 Stat. 888).

17. Upon information and belief, Defendant Cindy Lindskov is not a member of the Cheyenne River Sioux Tribe and does not possess a permanent residence within the exterior boundaries of the Cheyenne River Sioux Reservation, as established by the Act of March 2, 1889, § 4 (25 Stat. 888).

18. Upon information and belief, Defendant Keith Fodness is not a member of the Cheyenne River Sioux Tribe and does not possess a permanent residence within the exterior boundaries of the Cheyenne River Sioux Reservation, as established by the Act of March 2, 1889, § 4 (25 Stat. 888).

#### **JURISDICTION**

19. The Cheyenne River Sioux Tribal Court has jurisdiction over this matter and all parties pursuant to the Tribal Constitution and Bylaws, Bylaws Art. V, § 1(c), and the Tribal Law and Order Code, Art. XI § 11-1-4.

20. The Tribal Council authorized and directed this action pursuant to a Tribal Council Motion on July 21, 2023. *See Exhibit A.*

#### **COUNT I—EXCLUSION AND REMOVAL OF SARAH SHAFF**

21. Defendant Sarah Shaff is an elementary school teacher for Dupree School District 64-2. In the course of her employment, Ms. Shaff intimidates, bullies, and abuses minor children in her classroom under the guise of “discipline.”

22. Students described Ms. Shaff yelling, banging her hands on the students' desks, punching them, and squeezing them to the point of causing pain.

23. In some instances, Ms. Shaff would give treats to her students. She targeted specific students by throwing their treats on the ground and ordering the student to "fetch it."

24. Ms. Shaff is employed by the Dupree School District 64-2, within the exterior boundaries of the Cheyenne River Indian Reservation, in a position that allows her to have direct contact with many children who are enrolled in the Cheyenne River Sioux Tribe. If she is allowed to remain on the reservation, she will continue to intimidate, bully, and abuse minor children in her classroom.

25. Ms. Shaff's actions seriously threaten the peace, health, safety, morals, and general welfare of members of the Cheyenne River Sioux Tribe—particularly enrolled children and children of enrolled members.

26. These actions are grounds for exclusion under Section 11-1-3(8) of the Law-and-Order Code.

27. By her actions, Ms. Shaff has violated the laws, terms, and conditions under which non-Tribal members are permitted to enter and remain within the exterior boundaries of the Cheyenne River Indian Reservation.

#### **COUNT II—EXCLUSION AND REMOVAL OF CINDY LINDSKOV**

28. Defendant Cindy Lindskov is the principal of Dupree School District. As an employee of the District, Ms. Lindskov has a duty as a Mandatory Reporter to immediately report suspected abuse or neglect of a child by a parent or other person to the Department of Social Services or law enforcement. *See Exhibit B.*

29. On October 17, 2022, Lance Frazier and Harold Hollow met with Ms. Lindskov and Ms. Shaff to report Ms. Shaff's abusive treatment of minor children. Upon this report, Ms. Lindskov was required, as a Mandatory Reporter, to contact the Department of Social Services or law enforcement.

30. Ms. Lindskov did not initiate an investigation into Ms. Shaff's behavior, nor did she report the suspected abuse as was her duty as a Mandatory Reporter. Instead, Ms. Lindskov verbally berated Lance Frazier and Harold Hollow and accused Ms. Shaff's students of lying.

31. Ms. Lindskov failed to abide by her duties as a Mandatory Reporter and failed to protect the children in her school. These actions seriously threaten the peace, health, safety, morals, and general welfare of the members of the Cheyenne River Sioux Tribe—particularly enrolled children and children of enrolled members.

32. These actions are grounds for exclusion under 11-1-3(8) of the Law and Order Code.

33. Through her actions, Ms. Lindskov has violated the laws, terms, and conditions under which non-Tribal members are permitted to enter and remain within the exterior boundaries of the Cheyenne River Sioux Reservation.

### **COUNT III—EXCLUSION AND REMOVAL OF KEITH FODNESS**

34. Defendant Keith Fodness is the Superintendent of Dupree School District 64-2. Following the failed attempt to resolve the issue of Ms. Shaff's conduct with Ms. Lindskov, Lance Frazier and Harold Hollow met with Mr. Fodness in another attempt to ensure the safety of their minor children.

35. As an official of the school district, Mr. Fodness has a duty as a Mandatory Reporter to immediately report suspected abuse or neglect of a child by a parent or other person to the Department of Social Services or to law enforcement.

36. After being informed of Ms. Shaff's abusive behavior, Mr. Fodness did not initiate an investigation nor report the suspected abuse.

37. Mr. Fodness failed to abide by his duties as a Mandatory Reporter and failed to protect the children in his school district. These actions seriously threaten the peace, health, safety, morals, and general welfare of the members of the Cheyenne River Sioux Tribe—particularly enrolled children.

38. These actions are grounds for exclusion under Section 11-1-3(8) of the Law-and-Order Code.

39. By his actions, Mr. Fodness has violated the laws, terms, and conditions under which non-Tribal members are permitted to enter and remain within the exterior boundaries of the Cheyenne River Indian Reservation.

#### **PRAYER FOR RELIEF**

WHEREFORE, the Cheyenne River Sioux Tribe respectfully requests that the Court:

1. Issue an immediate Notice and Order of Exclusion and Removal of the Defendants from the Cheyenne River Indian Reservation, pursuant to Section 11-1-5 of the Law and Order Code;
2. Schedule a hearing on the Petition for Exclusion and Removal of the Defendants from the Cheyenne River Indian Reservation "not less than three days from the date of service" of the petition on Defendants, in accordance with Section 11-1-6(1) of the Law and Order Code;
3. Provide adequate notice of the hearing to all parties; and

4. After the hearing, enter an Order of Exclusion and Removal against the Defendants.

Respectfully submitted this 18th day of August 2023.

By: 

Lillian M. Alvernaz

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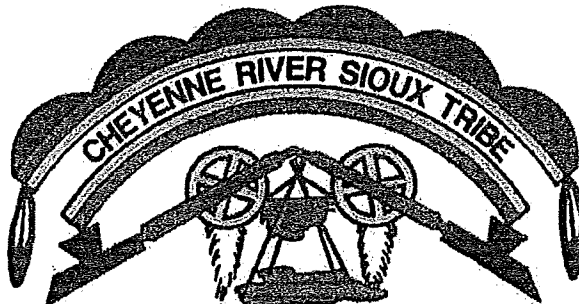
Email: [lalvernaz@bigfirelaw.com](mailto:lalvernaz@bigfirelaw.com)

*Counsel for Plaintiff Cheyenne River Sioux  
Tribe*



**EXHIBIT A**

**CHAIRMAN**  
Ryman LeBeau  
**SECRETARY**  
EvAnn White Feather  
**TREASURER**  
Kevin C. Keckler  
**VICE-CHAIRMAN**  
Robert "Bob" Walters



P.O. Box 590  
Eagle Butte, South Dakota 57625  
Phone: (605) 964-4155  
Fax: (605) 964-4151

**TRIBAL COUNCIL MEMBERS**

**DISTRICT 1**  
Bryce In The Woods  
VACANT  
**DISTRICT 2**  
Theodore Knife, Jr.  
**DISTRICT 3**  
John C. Kessler  
Kenric Dupris  
**DISTRICT 4**  
Sharon F. Lee  
VACANT  
Kelsie K. Haskell  
Thad Rose  
**DISTRICT 5**  
Derek Bartlett  
VACANT  
Joseph J. Brings Plenty, Sr.  
Robert "Bob" Walters  
**DISTRICT 6**  
Ronald Rousseau  
Tuffy Thompson

**TRIBAL MEMORANDUM                    \*CORRECTED MEMORANDUM**

**DATE**            : 7/21/23  
**TO**                : Ryman LeBeau, Tribal Chairman  
**FROM**            : Ev Ann White Feather, Tribal Secretary *KR/EWA*  
**SUBJECT**        : Exclusion Order re: Sarah Schaff, Cindy Lindskov and Keith Fodness

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The Cheyenne River Sioux Tribal Council during Special Session on July 12 2023 approved of a motion to exclude Non-Tribal Members Sarah Schaff, Cindy Lindskov and Keith Fodness from the Cheyenne River Sioux Reservation effectively immediately.

Cc: Chairman  
Treasurer  
Administrative Officer  
Tribal Comptroller  
Central Records  
Law & Order Committee Chairman  
Legal Department  
Law Enforcement  
Judicial Department  
Prosecutor Office  
Public Defender  
Committee Secretary  
District Officers/6  
File/2

The blue represents the thunderclouds above the world where live the thunder birds who control the four winds. The rainbow is for the Cheyenne River Sioux people who are keepers of the Most Sacred Calf Pipe, a gift from the White Buffalo Calf Maiden. The eagle feathers at the edges of the rim of the world represent the spotted eagle who is the protector of all Lakota. The two pipes fused together are for unity. One pipe is for the Lakota, the other for all the other Indian Nations. The yellow hoops represent the Sacred Hoop, which shall not be broken. The Sacred Calf Pipe Bundle in red represents Wakan Tanka - The Great Mystery. All the colors of the Lakota are visible. The red, yellow, black and white represent the four major races. The blue is for heaven and the green for Mother Earth.

<b>Dupree School District</b>	<b>NEPN Code: JHG</b>
<b>Policy Manual</b>	

### **Reporting Child Abuse**

The term, abused or neglected child, means a child:

1. Whose parent, guardian, or custodian has abandoned the child or has subjected the child to mistreatment or abuse;
2. Who lacks proper parental care through the actions or omissions of the child's parent, guardian, or custodian;
3. Whose environment is injurious to the child's welfare;
4. Whose parent, guardian, or custodian fails or refuses to provide proper or necessary subsistence, supervision, education, medical care, or any other care necessary for the child's health, guidance, or well-being;
5. Who is homeless, without proper care, or not domiciled with the child's parent, guardian, or custodian through no fault of the child's parent, guardian, or custodian;
6. Who is threatened with substantial harm;
7. Who has sustained emotional harm or mental injury as indicated by an injury to the child's intellectual or psychological capacity evidenced by an observable and substantial impairment in the child's ability to function within the child's normal range of performance and behavior, with due regard to the child's culture;
8. Who is subject to sexual abuse, sexual molestation, or sexual exploitation by the child's parent, guardian, custodian, or any other person responsible for the child's care;
9. Who was subject to prenatal exposure to abusive use of alcohol, marijuana, or any controlled drug or substance not lawfully prescribed by a practitioner; or
10. Whose parent, guardian, or custodian knowingly exposes the child to an environment that is being used for the manufacture, use, or distribution of methamphetamines or any other unlawfully manufactured controlled drug or substance.

Any teacher or other school employee, who suspects that a child under 18 years of age has been neglected or abused by a parent or other person, will report orally or in writing this information to the building Principal or Superintendent. The Principal or Superintendent shall immediately report this information to the department of social services, or to local law enforcement. The teacher or other school employee who witnessed the disclosure or evidence of the abuse or neglect must be available to answer questions when the initial report is made. If the Principal or Superintendent does not confirm to the teacher or other employee within 24 hours that the report has been submitted, the employee will report the information directly to the department of social services, or to local law enforcement.

The report will contain the following information: name, address, and age of child, including DOB; name and address of parent or caretaker; nature and extent of injuries or description of neglect; and any other information that might help establish the cause of injuries or condition.

School employees, including administrators, will not contact the child's family or any other persons to determine the cause of the suspected abuse or neglect. It is not the responsibility of the school employees to prove that the child has been abused or neglected, or to determine whether the child is in need of protection, but only to report suspicions of abuse or neglect.

Anyone who participates in making a report in accordance with the law and in good faith is immune from any civil or criminal liability that may otherwise arise from the reporting, or from any resulting judicial proceeding, even if the suspicion is proved to be unfounded.

**NEPN Code: JHG**  
Page 2 of 2

Information or records concerning reports of suspected abuse or neglect are confidential. The release to persons other than those provided by law is a class one misdemeanor. Failure to make a report of abuse or neglect is a class one misdemeanor.

Copies of this policy will be distributed by the Superintendent to all school employees at the beginning of each school term, and to new employees when they begin employment if at a different time than the beginning of the school term.

**Legal References:**

SDCL 22-6-2

SDCL 26-8A (§§3 & 6-15)

Misdemeanor classes and penalties

Protection of children from abuse or neglect

Reviewed: 10 June 2019  
Adopted: 10 June 2019  
Adopted: 8 March 1993