

An Act

LEGISLATIVE ACT NO. 20 -96

AN ACT AMENDING CHEROKEE NATION CODE, TITLE 51, CHAPTER TEN, EMPLOYEE ADMINISTRATIVE PROCEDURES ACT

BE IT ENACTED BY THE COUNCIL OF THE CHEROKEE NATION:

SECTION ONE. Title. This Act shall be referred to as An Act Amending the Employee Administrative Procedures Act.

SECTION TWO. Purpose. The purpose of this Act is to amend the Employee Administrative Procedures Act in order to delay the effective date of the Act until December 1, 1996, and to make other minor corrections clarifying the intent of the Act.

SECTION THREE. Legislative History. The Rules Committee of the Cherokee Nation approved this amendment of the Employee Administrative Procedures Act, Legislative Act 12-96, at a Rules Committee meeting held on October 8, 1996.

SECTION FOUR. TITLE 51, § 1004(4) IS HEREBY AMENDED TO READ AS FOLLOWS:

(4) "Employee of the Cherokee Nation" or "Employee" shall mean a person who has been directly employed by the Cherokee Nation on a regular permanent full-time basis for at least one continuous year immediately prior to termination of employment, including such employees who have renewable contracts with the Cherokee Nation. For purposes of employee termination appeals under this Act this term shall not include employees of any corporation for profit or other business entity owned and operated by the Cherokee Nation, such as, but not limited to Bingo Outpost, Cherokee Nation Enterprises and Cherokee Nation Industries; nor to specialized authorities and entities created by the legislature, such as, but not limited to, the Arkansas Riverbed Trust Authority.

SECTION FIVE. TITLE 51, § 1004(12) IS HEREBY AMENDED TO READ AS FOLLOWS:

"Parties to an Appeal" shall mean the employee who has been terminated from the employment with the Cherokee Nation and the Human Resources Director or his/her designee acting as the client representative of the employer Cherokee Nation.

SECTION SIX. TITLE 51, § 1004 IS HEREBY AMENDED TO RE-NUMBER THE DEFINITIONS ALL IN ALPHABETICAL ORDER, AND TO ADD THE FOLLOWING NEW DEFINITION:

"Human Resources Director" shall mean the Human Resources Director of the Cherokee Nation.

SECTION SEVEN. TITLE 51, § 1006 E. IS HEREBY AMENDED TO CHANGE THE PHRASE "an Cherokee Nation employee..." to read: "a Cherokee Nation employee..."

SECTION EIGHT. TITLE 51, § 1010 IS HEREBY AMENDED TO STRIKE THE PHRASE "and located at the Cherokee Nation Capitol Complex."

SECTION NINE. THE FIRST TWO SENTENCES OF TITLE 51, § 1012 ARE HEREBY AMENDED TO READ AS FOLLOWS:

A termination action may be initiated by the employer's ~~supervisor~~ ~~Executive or Division Director~~; but policy concurrence for the action shall be obtained in advance of the action by the Human Resources Director. The written notice of dismissal must be given to the employee, and must describe the reasons involved and a statement apprising the employee of his or her right fight to appeal the termination.

SECTION TEN. THE FIRST SENTENCE OF TITLE 51, § 1013 A. IS HEREBY AMENDED TO READ AS FOLLOWS:

A Former Employee may request review and reconsideration of the termination by the Human Resources Director in writing delivered to the Human Resources Director within ~~five (5)~~ ten (10) working days after receipt of the termination decision.

SECTION ELEVEN . TITLE 51, § 1013 B. IS HEREBY AMENDED TO READ AS FOLLOWS:

B. The Human Resources Director shall thereafter review the Former Employee's or ~~applicant's~~ request, documents included with the request, and relevant documents in the employee's personnel file, and issue a written decision within ten (10) working days of receipt of the request for review.

SECTION TWELVE. TITLE 51, § 1014(4) IS HEREBY AMENDED TO READ AS FOLLOWS:

A Former Employee must deliver to the Cherokee Nation Human Resources Office and to the Employee Appeals Board Clerk a written Notice of Appeal of Termination Decision no later than ~~five (5)~~ ten (10) working days from the date the ~~Disciplinary Action Form~~ containing notice of termination the Human Resource Director's decision upholding the termination was received by the Former Employee The Notice of Appeal shall state the date of the termination and the reasons why the Former Employee believes the termination was without cause.

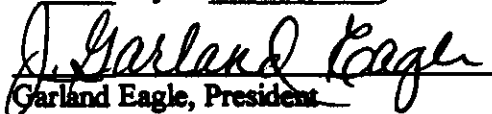
SECTION THIRTEEN. TITLE 51, § 1015 C. IS HEREBY AMENDED TO STRIKE THE PHRASE "at the Cherokee Nation Courthouse" FROM THE SECOND SENTENCE.

SECTION FOURTEEN. TITLE 51, § 1025 D. IS HEREBY AMENDED TO READ AS FOLLOWS:

D. In any proceedings for review brought by a party aggrieved by a final Employee Appeals Board order the responding party may be entitled to recover against such appealing party any court costs and reasonable attorney fees, but if the court determines that the appeal brought by the other party is frivolous.

SECTION FIFTEEN. TITLE 51, § 1031 IS HEREBY AMENDED TO CHANGE THE EFFECTIVE DATE OF THE ACT FROM "October 1, 1996" TO "December 1, 1996."

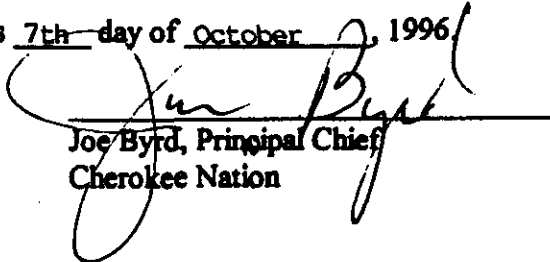
Enacted by the Council of the Cherokee Nation on the 7TH day of OCTOBER, 1996.



Garland Eagle, President
Cherokee Nation Council

ATTEST:

Mary Cooksey, Secretary
Cherokee Nation Council

Approved and signed by the Principal Chief this 7th day of October, 1996


Joe Byrd, Principal Chief
Cherokee Nation

ATTEST:

Jennie Battles, Secretary-Treasurer
Cherokee Nation

YEAS AND NAYS AS RECORDED:

Troy Poteete YEA
Sam Ed Bush YEA
Mary Cooksey YEA
Harold DeMoss YEA
Paula Holder YEA
Barbara Conness YEA
William Smoke YEA
Barbara Starr-Scott YEA

Dora Mae Watie YEA
Nick Lay ABSENT
Bill Baker YEA
Don Crittenden YEA
Tina Glory ABSENT
Charles "Chuck" Hoskins YEA
Harold "Jiggs" Phillips YEA